

THE REPUBLIC OF LOMAR

SOVEREIGNTY, AND INTERNATIONAL LAW



The name "Republic of Lomar" was incorporated into the constitution of 1997 and confirmed by the legal incorporation of a non-profit representative entity in 1998. The diplomatic long-form name is "The Sovereign Non-Territorial Republic of Lomar" and reflects its autonomous extra-territorial Sovereignty. This legal brief is based on a document by Guy Stair Saintry which discussed that same issue regarding the Sovereign Military Order of the Knight of Malta (S.M.H.O.M).

Historically the Republic is founded on the tradition of the Kingdom of Lomar (located in the Polar regions). Nevertheless, it is clearly admitted that this affiliation is only philosophical and literary, not directly territorial or historical. All the same, it is interesting to note that the Polar regions are difficult to "claim territorially" in any credible manner. Please refer to the University of Texas internet sites for more information about this issue. It is not excluded that in the long term a territorial claim could be made by the Republic of Lomar on a polar area if such a claim is supported by the Assembly of Citizens and especially if environmental issues are at stake.

More directly relevant is the claim of the Republic of Lomar as a sovereign entity based on the following facts:

- a Sovereign non-territorial non-controllable jurisdiction of representation on the Internet
- a population/citizenry that is supranational
- a Sovereign government
- an international network of embassies and representatives
- the issuing of internationally acceptable passports and identification documents
- the existence of the Lomar immigration program that allows oppressed people worldwide to relinquish their existing citizenship and freely adopt as only citizenship and jurisdiction the Republic of Lomar
- the likely establishment of full or partial diplomatic relations with other Sovereign States within the next 5 years

THE RIGHT OF DIPLOMATIC LEGATION

The active and passive right to establish and exchange diplomatic relations is a prerogative enjoyed only by Sovereign States. The principal relevant international conventions refer solely to States. [\[3a\]](#) In more recent times, however, such privileges have also been exercised by bodies such as the European Union which has not only accorded diplomatic privileges to the representatives of member States, but has established diplomatic delegations to non-member States. The essential difference between the protocols established by international organizations is that they are not governed by International

Law, as are those between States, but by the specific legislation pertaining to those organizations, and agreements between the organization and the State (as with the European Union and non-member States).

In determining the status of the Republic of Lomar in International Law today, it is necessary to examine the historic development of concepts of Sovereignty in International Law. In doing so it is evident that the practical recognition of what Sovereignty and statehood mean has been continually developing. In determining whether or not a State is considered to be Sovereign, the world community has historically determined such status by practical means, rather than relying exclusively on historic theoretical interpretations. It has recognized the existence or otherwise of such Sovereignty and statehood in international agreements and treaties, and in the decisions of competent courts. Such determinations have frequently advanced legal definitions and have been criticized by International Law specialists for so doing. Nonetheless, International Law is the creation of Sovereign and non-Sovereign subjects of International Law, and not of legal theorists. In determining what is the actual interpretation of Sovereignty, it is necessary to examine past legal precedents and their present application, rather than rely on restrictive theories that impose a narrower interpretation. In establishing these precedents and the current State of International Law in relation to Sovereignty and Statehood, it is worthwhile tracing its development and examining the commentaries of eminent authorities on the subject.

EARLY DEFINITIONS OF SOVEREIGNTY

"That Nation is free which is not subject to any government of any other Nation." [7] The word Sovereignty did not exist in ancient Greece or Rome, but was understood to be the equivalent of "liber" and libertatis", which together combined to encompass Proculus's doctrine. Hugo Grotius, in *De Jure Belli ac Pacis*, supported this concept.[8] Jean Bodin,[9] however, argued that "Sovereignty" was subject to the limitations of Divine Law and Natural Law, and by those obligations contracted on the basis of Sovereign Will to other Sovereigns or individuals.

This may be further defined in two ways: (1) Sovereignty is the essence of a State, and conditions its creation and existence; (2) Sovereign is he who has supreme power over a territory and its inhabitants, unrestrained by any law or rule made by any other power on earth. This supreme power is limited by (a) the Laws of God, and (b) obligations to other States or individuals.[10] A further classic definition of Sovereignty is expressed as the State exercising sole authority on its territory; having monopoly of legislation; monopoly of constraint on its nationals; and monopoly of jurisdiction. These latter definitions, however, suggest that States necessarily possess territory and populations, despite the fact that International Law has conceded the qualities of Sovereignty and statehood to entities that possess neither. A more recent writer has stated that "while the emergence of the State as a form of rule is a necessary condition of the concept of Sovereignty it is not a sufficient condition of it." [11]

P. Isoart has defined three essential characteristics for the birth of a State: (a) population, (b) territory, (c) juridical, without acknowledging the broader interpretations recognized in International law. [12] Again, by limiting statehood to entities that enjoy all of these three aspects of Sovereignty, Isoart ignores the practical interpretation of International Law in determining the qualities of a State.

SOVEREIGNTY AND THE HOLY SEE

The lack of any Sovereign territory is not an impediment to full recognition. Under the 1871 Law of Guarantees the Italian State unilaterally declared the Holy See^[13] to be "a subject of international law" and the Vatican as Italian territory. From 1870 until the Lateran treaty of 1929, the Holy See was without territory under Italian law, occupying the Vatican Palaces de facto but without Sovereign authority.^[14] The Kingdom of Italy considered the Vatican to be part of Italy, and this position was unchallenged by many of the Powers. Nonetheless, a number of Sovereign States, including Austria-Hungary, Prussia, Bavaria, Belgium, Bolivia, Brazil, France, Ecuador, Nicaragua, Guatemala, Monaco, Peru, Portugal, and San Salvador (and later Chile, Spain, Argentina, Colombia, Costa Rica, Dominican Republic, Haiti, Russia and Uruguay) recognized the Holy See as Sovereign, albeit with no territorial Imperium, exchanging reciprocal relations. In the period between 1870 and the signing of the Lateran Treaty, the Holy See signed thirteen Concordats, being treated by each contracting State as a Sovereign State in International Law. Great Britain had accredited ministerial representatives to the Pope until 1874, and the United States ministerial representatives until 1867 and consular until 1872, after the loss of territorial Sovereignty.

The Lateran treaty established the basis for exchanging reciprocal diplomatic relations between Italy and the Holy See. It also established the existence of the "City of the Vatican" as the "Sovereign Territory" of the Holy See. The treaty made special provision for those customarily resident in the Vatican, acknowledging that even while they retained other citizenship, they were subject to the Sovereign authority of the Holy See while on the territory of the Vatican City. The Treaty was intended to solve the "Roman Question", whose existence the Holy See did not acknowledge until the signature of the Treaty on 11 February 1929. This apparent change in the status of the Holy See did not lead to any "upgrading" of relations with those States that were already accredited to the Supreme Pontiff. Thus, the status of the Holy See as a Sovereign Power was apparently unaffected by its loss of territory and population in 1870, and by its subsequent acquisition of both in 1929. Great Britain and the United States subsequently accredited diplomatic representatives at a Ministerial rather than Ambassadorial level, accepting Apostolic delegates whose responsibilities were limited solely to ecclesiastical, and not State matters. Full reciprocal relations were delayed until the 1980s, when (Pro-) Nuncios were accredited from the Holy See and Ambassadors sent to the Vatican. The decision to institute full reciprocal relations, after some internal political controversy, may be attributed more to a wish to improve relations with the Head of the Catholic Church than any perception of a change in status of the Holy See.

That the Holy See does not exchange diplomatic relations on the basis of its possession of the Vatican City State, but by virtue of its historic status, was argued successfully by the US State Department when the decision of the United States to exchange full diplomatic relations was challenged.^[15] The establishment of the "City of the Vatican" in the Lateran Treaty did not create a new Sovereign subject of International Law, since the new territory was subordinated to the Sovereignty of the Holy See, which already existed as a Sovereign State before the signing of the Treaty. The Holy See is a member of the international postal union and uses Italian currency. Thus the same principal that is applied in recognizing the Sovereignty of the Holy See may be applied to other jurisdictions, whether or not the latter actually possesses "Sovereign territory".

"Sovereignty implies independence of the State of the Will of any other Power and the sole right of Sovereign decisions in all matters concerning the State."^[16] "Sovereignty means independence and independence means Sovereignty...."^[17] "Sovereignty, meaning supreme power, may only exist with independent States inside but not outside the State, and

therefore may not be "external" (which is the definition of "independence").^[18] But Sovereignty is "not a basic element of the State ... rather an autonomy of the State" and the needs of the international community are today placed above those of individual States.^[19] "Sovereignty in International Law is defined as the Supreme Power of the State over its territory and inhabitants, and independent of any external authority. As such it constitutes a criterion of the State as a subject of International Law".^[20]

These forthright definitions, each found in the work of a recent scholar,^[21] are nonetheless limited by the decisions of bodies competent to determine such matters. They are also incompatible with the recognition of the attributions of Sovereignty recognized by States in their dealings with the Holy See from 1870-1929, and in subsequent agreements between the Holy See and other States when establishing diplomatic relations. Decisions by the International Court of Justice and its predecessor, and by other competent bodies, allow for a more extensive definition of Sovereignty and statehood, one which may be expressly limited in some way, or which may not enjoy the more visible aspects of statehood: territory and population. "The concept of absolute Sovereignty is condemned and definitively rejected as inconsistent with the existence of International Law as a legal discipline".^[22]

DEFINITIONS OF SOVEREIGNTY IN THE MODERN ERA

The narrow historic definitions of Sovereignty given above, if applied to many of the States, both large and small, which compose the membership of the United Nations, would surely lead to the conclusion that many had to some degree forfeited the qualities necessary for true Sovereignty. "If the concept of Sovereignty is only a restatement of the permanent problem of deciding the basis of government and obligations within a political community, it is also nothing more – but is nothing less – than the restatement of that problem which is made where the political community and its governance judged to be necessary to each other and sufficient unto themselves...".^[23]

This presents us with a basis for determining a broader definition of what comprises Sovereignty, and what may limit it without the status of Sovereignty being forfeited altogether. **The most common limitation of the exercise of Sovereignty is imposed by world economic interdependence.** "Economic independence is irrelevant to the legal issue of Sovereignty, since economic interdependence is an overriding fact."^[24] The Republic of Lomar is not a trading nation, but is self-supporting, enjoying considerable revenues in freely given contributions from its members and also by issuing collectible post stamps. Thus it is not subject to the restrictions of the exercise of Sovereignty imposed by the various international agreements on trade.

Legal dependence in International law may of itself limit Sovereignty, but not destroy it, as is demonstrated by the dependency of certain States within the European Union on financial subsidies from the other member States through the medium of the Brussels commission. If a treaty stipulates that a State is economically and politically dependent on another State, however, a legal dependence is established, which could quantitatively diminish Sovereignty to such a degree that independence was directly threatened. There is no such thing, according to Kozowicz, as a "limitation of Sovereignty", only a "limitation of the exercise of Sovereignty... Sovereignty may be limited in a quantitative sense, but not a qualitative one".^[25] **The State remains independent as long as it has not abandoned its independence of any other State; a body "which is subjected to International Law through the intermediary of a foreign State is not a Sovereign State under International Law".^[26] By virtue of its supranational existence and "population"**

(citizenry would be the proper term), the Republic of Lomar is a direct subject of International Law, and has neither abandoned its independence to another State, nor is it subject to the intermediary of any State, nor dependent economically on another State.

Sovereignty can be limited by practical necessity and by treaty. The National or Municipal (internal) law of States can be limited by International law, e.g. Diplomats (the representatives of foreign States) enjoy diplomatic immunity, which is freedom of communication, and jurisdictional immunity from internal law. It is also generally considered that treaties which are properly ratified and approved are superior authority to national law (i.e. as provided in Article 55, of the French Constitution, 4 Oct 1958). For example, diplomats in the service of the S.M.H.O.M. are given the same privileges of freedom of communication and diplomatic immunity as the representatives of other Sovereign States, and it concedes similar privileges to those representatives of foreign States accredited to it. The Republic of Lomar is engaged as party to ratify several international agreements and treaties, and in treating with other powers (for example, in negotiating the initiation of diplomatic relations or the status of its NGO entities within those States), is generally treated as an equal, in accordance with international practice.

"A State which renounces its absolute equality of rights in individual relations faces – depending on the extent of these renunciations – its own annihilation as a State under International Law."^[27] International Law,^[28] however, has twice provided that the right of a State to so limit its Sovereignty by entering into certain treaty obligations may be prohibited. The Peace of Saint Germain of 10 Sep 1919, Article 88, declared that Austria's independence would be violated if there was any limitation of its right of decision in all matters economic, political, financial or other as "different aspects of Independence being in practice one and indivisible".^[29] This article specifically declared, furthermore, that the independence of that country was inalienable, unless consent to the contrary was obtained from the Council of the League of Nations. On 4 Oct 1922, Austria, Great Britain, France, Italy and Czechoslovakia signed a joined declaration under which Austria pledged not to alienate its independence (breached by the Anschluss in 1938).

The second occasion also concerned Austria. The State Treaty for the Re-Establishment of an Independent, Democratic Austria (Vienna, 15 May 1955, in force 27 July, 1955), between the U.S.S.R., the U.K., the U.S.A., France and Austria, prohibited political or economic union between Austria and Germany and no treaty was permitted between Austria and Germany which could "impair its territorial integrity or political or economic independence."^[30] Thus International Law imposed an obligation on Austria (to prevent its union with Germany) which, while designed to prevent the de facto loss of Austrian Sovereignty, at the same time limited its practical exercise of that Sovereignty by prohibiting it from doing something which other States could do with freedom. Nonetheless, Austria was not considered to have forfeited its independence or Sovereign status (which had been temporarily impeded by the Allied occupation from 1945-55), by virtue of being subjected to such a restriction of Sovereignty. Such a limitation is self-evidently at odds with the effects of the various treaties that have brought into existence the European Union, and various other international free trade associations.

It has been asserted that International Law permits the existence of **semi-Sovereign or non-fully Sovereign States**.^[31] It would be preferable, however, to recognize that historic narrow definitions of "Sovereignty" and "statehood" have been replaced in practice by broader definitions which permit the existence of both concepts, even when seemingly limited to some degree in the exercise of Sovereignty. This problem arose towards the end

of the colonial era, when certain States which evidently manifested many of the characteristics of Sovereignty, had nonetheless ceded to a more powerful State, control over some seemingly **essential elements of statehood – such as external relations**. "It is obvious that for Sovereignty there must be certain amount of independence, but it is not in the least necessary that for Sovereignty there should be complete independence. It is quite consistent with Sovereignty that the Sovereign may in certain respects be dependent upon another Power; the control, for instance, of foreign affairs, may be completely in the hands of a Protecting Power,^[32] and there may be agreements or treaties, which limit the powers of the Sovereign even in internal affairs without entailing a loss of the position of a Sovereign Power".^[33]

It is interesting to compare here the positions of those dependencies of the British crown which, however, despite enjoying Sovereignty over their own territory, control of their population, judicial administration, and fiscal independence, are not considered "Sovereign" States. The Channel Islands - Jersey, Guernsey, Alderney and Sark, are each united in a personal union with the British Monarch, and each enjoy their own individual jurisdictions entirely free of the control of the British Parliament.^[34] The only attributes of Sovereignty they do not enjoy, however, are **the faculty to make international agreements, and to enjoy any right of legation. Hence they are not considered "Sovereign subjects" of International Law.**

The case of the German Protectorates of Bohemia and Moravia has also been cited in this regard. These had been parts of the Czech Republic, which had first lost the Sudeten Land^[35] to Germany and later a large part of Slovakia to Hungary, before these two provinces, returned to ancient names although not their ancient boundaries, were subsumed by the German Reich. Article 6, of the German Decree of 16 March 1939 provided that these provinces remained subjects of International Law, despite the loss of the right of maintaining relations with other States, and their virtually total subordination to German rule. To admit that these provinces could claim statehood would be mistaken, however. Following the end of the War substantial claims were made against Germany for the conduct of the governments of these so-called Protectorates, and not against the successor State, the re-established independent Czechoslovakia. Nonetheless, even if a State has partially cut off its competence by conferring certain powers either on international organs, or even on a foreign State, and if for all other matters it maintains the competence to act in an autonomous way, "international politics will admit that Sovereignty exists".^[36]

Korowicz, has argued that a mere claim to Sovereignty cannot of itself be considered to be evidence of Sovereignty, even if that claim represents the continuation of once existing Sovereignty over the territory in question.^[37] The Sultan of Turkey's claim to Sovereignty over the island of Crete, entirely lost de facto in 1899, was considered by theorists to be the "ghost of a hollow Sovereignty" which could not obscure the realities. That argument is not universally sustainable, however, since the majority of the members of the United Nations have determined that the Republic of (Mainland) China is Sovereign of the Island of Taiwan, although in fact it has no control over the Island's territory, or population, and no internal jurisdiction. Nonetheless, on the basis that Taiwan was historically part of Mainland China, **the Republic of China (Taiwan) was expelled from membership of the United Nations. The latter Republic clearly fully exercises those elements of Sovereignty defined above by Isoart and others, but is not considered the equal of other Sovereign States by the world community.** The Republic of Lomar has never based its prerogative of Sovereignty or statehood on the basis of claimed Sovereignty over territorial areas.

Recognition of Sovereign rights, without actual exercise of Sovereign jurisdiction over territory (or even population), was a feature of relations between certain States during the Second World War, from 1939-1945. The German invasions of Poland, Latvia, Estonia, Lithuania, Luxembourg, and the Netherlands in 1939, and of Norway, Greece and Yugoslavia in 1940, led to the establishment of **governments-in-exile** and of puppet regimes in the occupied States. In each of these cases both Great Britain and the United States continued to exchange mutual diplomatic relations with these governments-in-exile, despite the latter's loss of the exercise of Sovereignty over both territory and populations, and that their claims to Sovereignty were mere "ghosts of a hollow Sovereignty." The United States, nonetheless, maintained diplomatic relations with Germany until 1941, but without recognizing the legitimacy of the occupations of neighboring States, nor their incorporation into the Reich. In continuing recognition of the governments-in-exile, a position followed not only by Great Britain and the United States but by many other States which had accredited representatives to the occupied countries before 1939, their lack of territory, population, and jurisdiction was not considered any impediment to recognition. A number of States have also accorded recognition to **the Palestinian Authority** as if it was a State, and in some cases this recognition was accorded when the **Palestinian Liberation Organization** was an exile group claiming legal authority over the Palestinian population governed de facto from 1967 by the government of Israel.

The UN is founded on the principle of "equal Sovereignty of all its members" (art 2, para 1, of UN Charter). Hence, there must be a presumption that all States that have been admitted to full membership of the United Nations General Assembly enjoy the attributes of Statehood and Sovereignty in equal measure. A Sovereign State has "the fundamental right to demand that other States treat it on a perpetually equal footing."^[38] This must be so even if it may appear that their Sovereignty is limited in a way which classic definitions of Sovereignty would consider sufficient to impeach their claims to Sovereignty or independent status. The initial draft of the Charter defined the basis of membership as "Sovereign equality." This was in turn defined in the US State Department Report on the Charter, 1944, as "(1) all States are juridically equal; (2) each State enjoys the rights inherent in full Sovereignty; (3) the personality of the State is respected as well as its territorial integrity and political independence; and (4) that each State should under International Law comply faithfully with its international duties and obligations".

In defining Sovereignty, and statehood, it is necessary therefore to determine "how far the limitations of Sovereignty of a State may go without the abolition of its character as a State under International Law."^[39] States can voluntarily surrender their Sovereignty, for example, by joining a Federation, but recent precedent suggests that such an act does not automatically forfeit Statehood. Article 13 of the Constitution of the Soviet Union of 1936, as amended in 1944 and 1947, provided that the Soviet Union was a Federal State. Nonetheless, by Article 18 (a), of 1 Feb 1944, "each Union Republic has the right to enter into direct relations with foreign States, and to contract agreements, and exchange diplomatic and consular representation with them." By virtue of this latter article, Byelorussia and the Ukraine, before the breakup of the Soviet Union, were both admitted to full membership of the United Nations. Despite the fact that in no other regard did these States enjoy the elements considered historically necessary to comprise Sovereignty, they were **admitted as Sovereign States purely on the basis of the right of legation and to commit to international agreements as independent subjects of International Law.** That this was accepted by the other member States in practice as a matter of political expediency,^[40] to insure Soviet co-operation, does not negate the fact that the other members of the United Nations, in accordance with the Charter, treated these two States as equals. Another example of a federated State enjoying the prerogatives of Sovereignty,

including the right of legation, was the Kingdom of Bavaria between 1870 and 1918, which was part of the German Empire but maintained, and accredited, an international diplomatic corps. **The Republic of Lomar certainly enjoys greater factual independence than either Byelorussia or Ukraine before the breakup of the Soviet Union.**

A further example may be found in a case concerning France and its Protectorate, Morocco.^[41] The General Act of Algeciras of 7 April 1907 governed relations between France and Morocco. This guaranteed three essential principles: "the Sovereignty and the Independence of His Majesty the Sultan, the Integrity of his Domains, and economic liberty without inequality". Morocco had surrendered to France the right to institute administrative, juridical, educational, economic, financial and military reforms. France could occupy the country militarily without permission, approve or not approve any decree of the Sultan, and the Sultan could not conclude any international agreement or treaty without the consent of the French government, nor contract any public or private loans or grants. There was no time limit on these restrictions, nor any possibility of their denunciation by the Sultan. Korowicz argued that Morocco had clearly surrendered the qualities of Sovereignty, and statehood, to France, despite the guarantee of the three principles stated above.^[42] Nonetheless, the Treaty of Fez of 1912 was considered an agreement between States, and the Public Court of International Justice stated "it is not disputed by the French Government that Morocco, even under Protectorate, has retained its Personality as a State in International Law...." In finding that Morocco remained a Sovereign State, the Court maintained that it had voluntarily made an arrangement of a contractual character whereby France undertook to exercise certain Sovereign powers in the name and on behalf of the Sultan, in regard to both internal and external affairs.

An issue that arose in the post-World War II era, and which finds parallels elsewhere, is the "satellization" of States. This has been interpreted as "the subjection by a State, using its overwhelming power and military pressure, of a weaker State, the organization and separate personality of which are maintained".^[43] Korowicz stated that where satellization has led to inequality and subordination, the lesser State might not be considered Sovereign, defining this here as "independence, equality, and co-ordination with other Sovereignities".^[44] In order to maintain the nominal independence of satellite States, care was taken (by the U.S.S.R.) to eliminate from its relations with the satellite States anything which could be interpreted as legal dependence, inequality, subordination, and thus lack of Sovereignty, even if this was in fact a fiction (as the events before and after the invasions of Hungary in 1956, and Czechoslovakia in 1968, amply demonstrated). Jurists will make a clear distinction between "factual" and "legal" satellization, as a "Jurist looks to at the legal rules governing the intercourse of States, and if he finds nothing in them which indicate a legal dependency of a State on another's will and control, he can assume Sovereignty".^[45]

The Principality of Monaco is in practical terms a satellite of the Republic of France. When it became clear after World War One that the eventual heir to the Principality was a German national, France stated that unless the succession law was changed, France would absorb Monaco and the latter lose its independence. The Principality consequently changed its law, and the Prince adopted as his heir a French national who would not have been able to succeed under the historic succession laws of Monaco. Although relations between Monaco and France are governed by a series of agreements between States, the terms of these agreements impose various limitations on the Principality's exercise of Sovereignty which would be considered by many jurists to so diminish its Sovereign status as to destroy it altogether.

"Subjects of International Law may be defined as legal or physical persons upon whom International Law directly imposes duties and confers rights. Sovereign subjects of International Law are Sovereign States. They may also be called original subjects, Sovereignty being inherent in them, stemming from them, and unconditionally applying to them".^[46]

Here then we may find a definition that may be applied without qualification to the Republic of Lomar. The latter is not limited by Korowicz's definitions of a "non-Sovereign subject of International Law." Such entities are defined by him as created by and dependent on the will of Sovereign (original) subjects, and may, like the latter, create International Law, but are mere recipients of rights and duties under International Law whose international personality, in its scope and duration, depends on the will of Sovereign subjects or of non-Sovereign law-creating subjects.^[47] International persons "may be divided into Sovereign and non-Sovereign There is no Sovereignty of a subject of International Law whose international personality may be abolished at any time whenever these Sovereign States which have created it decide that it should be abolished".^[48] Clearly the Republic of Lomar does not fall into this category, and even without active claims to a historical territory, it was not the possession of such territory which conferred upon the Republic its Sovereign status, nor was it conferred by concessions by any other Sovereign State.

Although Sovereign, the Republic of Lomar does not have (a) have territory,^[49] or (b) a territorial population, both of which have been usually characterized as essential attributes of Sovereignty. **In fact, the Republic of Lomar does have a non-territorial population and the distinction between territorial and non-territorial population is not taken seriously by the majority of other Sovereign states.** The (partial) lack of these attributes has been held by some States to be an obstacle to according Lomar full diplomatic recognition. Similarly, since it is not a member of the International Postal Union (unlike the Vatican), its postage stamps are not valid for actual use except to countries with which postal agreements would be established. These limitations, however, are common to the position of the Holy See between 1870 and 1929, and indeed the latter, while possessing a territory (the Vatican City), is not accorded international recognition by virtue of that territory. **The Holy See does not have a population in the ordinary sense, or citizens, even though it accords passports to some of those resident in the Vatican or employed in its service and Italy guarantees the Holy See's control of those persons ordinarily resident on its territory. These Vatican personnel, with the sole exception of the Pope himself, who is not a citizen of any State, are citizens of a variety of States and as such potentially subjects to the laws of other States.** In a similar fashion, **most Lomar citizens, including the members of the Sovereign Council, are likewise citizens of other States.** They are nevertheless entitled to Lomar passports and diplomatic passports are usually accorded to members of the Sovereign Council, to members of the Republic's diplomatic service and, on occasion, to senior administrative officials. States or territories with which the Republic enjoys relations and others with which it has no relations at all have accepted these passports. The lack of population or territory has not proved to be an impediment to the Republic's recognition as a Sovereign State nor, to it treating with other States as an equal.

THE STATUS OF THE REPUBLIC OF LOMAR AS A SOVEREIGN ENTITY IN INTERNATIONAL LAW

Although it has been described as a Sovereign State, it can also be characterized as a Sovereign persona, since it does not possess any territorial imperium.^[58] It has been

proposed that like the Order of Malta, the Republic of Lomar is "a public international organization, (non-Governmental in nature - applies to S.M.H.O.M), recognized in International Law as having a personality in which inhere a number of rights and privileges, distinctive in character..... For example, the international personality of the Order of Malta is firmly established in International Law by its recognition on the part of States (...), and impending recognition of the Republic of Lomar by Sovereign states entails the same meaning.^[59] This definition, however, is surely overly restrictive, as the lack of a territorial imperium has not impeded its treatment as a State in the past, nor that of other Sovereign States (i.e. the Holy See from 1870-1929).

The United Nations itself enjoys all the privileges of Sovereignty as a Sovereign subject of International Law, but has neither territory, nor population. The European Union has also acquired a similar status, without having territory or population, and has established its own diplomatic corps that enjoys the privileges of immunity and freedom of communication accorded to the Representatives of States. Laws of the European Union are now superior in several regards to the Laws of States that are themselves members of the Union.

The Republic of Lomar issues its own passports, which have been accepted as valid identification and/or travel documents, even by States with which it does not exchange diplomatic relations. It also has its own postal service and stamps and plans to sign local postal agreements.^[60]

Our non-territorial entity of reference, the Order of Malta, enjoys full, mutual diplomatic relations with seventy-five States and lesser relations with five other States.^[61] It has been accorded the status of Observer at the United Nations since 1994, enjoying the same privileges as the Red Cross which include the right to address the Assembly, although not to vote in its proceedings.^[62]

The Relationship between the Republic of Lomar and the United States is irrelevant in determining its international juridical status, since the Republic's jurisdictional citizenry and officials are not in majority situated in that particular country - even though the Republic operates legally in the US through a non-sovereign entity called "Republic of Lomar Foundation".

Ultimately, it is the opinion and conviction of the Sovereign Council that other Sovereign nations will declare Lomar "a sovereign international entity, equivalent in all respects, even though without territory, to a foreign State, and with which we have normal diplomatic relations, so that it is beyond doubt that it is entitled to the juridical treatment accorded to foreign States and thus also to the jurisdictional exemption within the aforementioned limits and with regard to the activity concerning the performance of its public objectives" (wording from an Italian Supreme court ruling on the status of the S.M.H.O.M).

The non-existence of full diplomatic relations between the Republic of Lomar and other States does not necessarily imply that those States do not recognize the Order's sovereign status.^[66] Relations between the Republic of Lomar and other States may exist at a formal level without diplomatic recognition.

The Republic of Lomar has appointed Official Representatives to several UN-member nations and International Organizations.

In conclusion it may be stated that there are historical precedents for asserting that recognition of Sovereignty is not dependent on a State enjoying possession of supreme power over a territory, or supreme authority over a population. In the case of the Republic of Lomar, its Sovereign status in international law derives from its exercise of self-government, its possession of a Chief of State,^[68] its jurisdiction over a significant and growing population of citizens, its independent powers of legation, its issuance of passports according to international standards. Unlike the Order of Malta (S.M.H.O.M), the Republic of Lomar does not currently maintain full diplomatic relations with other sovereign nations but this situation is obviously temporary and due to the short history of the Republic and linked to the recent emergence of new technological paradigms affecting the meaning of national Sovereignty.

FOOTNOTES

3a Annex XVIII, 19 March 1815, to the final text of the proceedings of the Congress of Vienna of 9 June 1815; the Aix-la-Chapelle protocol of 21 November 1918, and the Vienna convention of 18 April 1961. See Pezzana, op. cit. p. 3.

4 This tradition has since been superseded by the modern convention of according precedence by the date of the letters of credence, the only exception being the Apostolic Nuncio who, in Catholic States, is given the position of doyen automatically.

5 Details to be elaborated.

6 Details of this treaty and its implications to be added.

7 Proculus, Digest, LIX, 157.

8 1625, I. I. C.2., para 21.

9 Les six livres de la République" of 1576.

10 M. S. Korowicz, in *Some Present Aspects of Sovereignty in International Law*, Leyden, 1961.

11 F. H. Hinsley, *Sovereignty*, London, 1966, p. 21.

12 For the State to exist he argues that it is necessary that the "comportment de la population sur une territoire soit déterminer ou ordonner par une puissance indiscutée La Souveraineté est donc l'expression juridique de cette puissance. Le Souveraineté est alors un pouvoir autonome et supérieur, reconnu dans un cadre territorial, déterminé à un appareil d'État de donner du direction et des ordres à une population et d'en assurer l'exécution par la contrainte. ..La définition proposée fait apparaître une première distinction entre les gouvernements qui donnent des ordres et les gouvernés que les exécutent." *Le Souveraineté en XXième siècle*, Paris, 1971, p. 14.

13 The Holy See is those persons and bodies which comprise together the governance of the Roman Catholic Church.

14 Indeed, the Law of Guarantees of 13 May 1871, established by the newly united Italy to provide a framework for a solution to the Roman Question, was never accepted by the Holy See. This law, while recognizing the qualities of a Sovereign in the person of the Supreme Pontiff, merely permitted him the occupation of the Apostolic Palaces, rather than recognizing either his proprietorship, or his ownership.

15 The State of Israel had claimed that its agreement to exchange diplomatic relations with the Holy See was, in fact, an exchange with the Vatican City State, and that it did not recognize the Roman Catholic Church. The Holy See does not accept this position. Consequently relations between the Holy See and Israel have now been renegotiated, and as of November 1997, Israel has accorded full recognition to the Roman Catholic Church and to the authority that the Holy See enjoys over its institutions and priests.

16 Korowicz, op. cit., 9-10.

17 Korowicz, op. cit., p. 12.

18 Korowicz, op. cit., p. 15.

19 Korowicz, op. cit., p. 17.

20 Korowicz, op. cit., p. 108.

21 Korowicz, op. cit.

22 Korowicz, op. cit., p. 108.

23 Hinsley, op. cit., p. 26.

24 Korowicz, op. cit., p. 15.

25 Korowicz, op. cit., p. 108.

26 Korowicz, op. cit., p. 108.

27 Korowicz, op. cit., p. 35.

28 International Law means, "international rules accepted by Sovereign States." Korowicz, op. cit. p. 18. It is created by Sovereign States, by Treaties and International agreements.

29 Public Court of International Justice, decision of the advisory committee on the "Customs Regime between Germany and Austria" 5 Sep 1931.

30 Article 4, "Prohibition of Anschluss".

31 L. G. Starke, An Introduction to International Law, London, 1954, p. 86.

32 As was the case until recently of the Principality of Liechtenstein, which had ceded to Switzerland control of its relations with States.

33 *Duff Development Co. v. Government of Kelantan*, Viscount Finlay, House of Lords 1924.

34 They are outside the European Union, for example, and are therefore not subject to the jurisdiction of Brussels, like the United Kingdom.

35 The former Duchy of Teschen that had opted for union with Germany in 1919 but had been forcibly united with the new Czech Republic.

36 Henri Rolin, *Les Principes de Droit International Public*, Hague Rec, vol 77, 1950, p. 326, cited in Korowicz, *op. cit.*, p. 89.

37 Korowicz, *op. cit.*, p. 90.

38 Korowicz, *op. cit.*, p. 35.

39 Korowicz, *op. cit.*, p. 86

40 It was considered that the U.S.S.R. needed two extra votes to balance the majority, who were thought to be associated with the "Western" block.

41 *The Rights of Nationals of the U.S.A. in Morocco*, in *France v. U.S.A.*, 1952, International Court of Justice, Rep, 1952, p. 183, Judgement of 27 Aug, 1952.

42 *Op. cit.*, p. 92-93.

43 Korowicz, *op. cit.*, p. 94.

44 Korowicz, *op. cit.*, p. 95.

45 Korowicz, *op. cit.*, pp. 96-97.

46 Korowicz, *op. cit.*, p. 102.

47 Korowicz, *op. cit.*, p. 102.

48 Korowicz, *op. cit.*, p. 103.