

# NATIONAL SOVEREIGNTY AS A PRINCIPLE OF THE ECONOMIC CONSTITUTIONAL ORDER UNDER FOUCAULT'S GOVERNMENTALITY PERSPECTIVE

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## LA SOVRANITÀ NAZIONALE COME PRINCIPIO DELL'ORDINE ECONOMICO COSTITUZIONALE NELLA PROSPETTIVA DELLA GOVERNAMENTALITÀ DI FOUCAULT

- **ASTRATTO:** Questo articolo promuove una riflessione sulla sovranità nazionale come principio dell'ordine economico, dalla prospettiva della governamentalità e dell'arte del governo così come sono state tratteggiate da Foucault. Lo studio sottolinea l'importanza di comprendere le implicazioni della sovranità come principio guida dell'articolo 170 della Costituzione federale, attraverso una riflessione alla luce del pensiero foucaultiano. A tal fine, il metodo di ricerca utilizzato è quello deduttivo, con ricerche bibliografiche e legislative. Da questa prospettiva, l'articolo esamina innanzitutto le idee di Foucault sul governo, la governamentalità e il potere. Successivamente, analizza l'evoluzione del concetto di sovranità nazionale e le conseguenze della sua inclusione come principio dell'ordine economico. Infine l'articolo sottolinea l'importanza di un dialogo tra la dimensione della sovranità e la prospettiva della governamentalità, concludendo che è necessaria una cooperazione tra gli Stati, che dovrebbero rinunciare a quote di potere.

**PAROLE CHIAVE:** Governo; governabilità; Foucault; sovranità nazionale; ordine economico.

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- **ABSTRACT:** This article promotes a reflection on national sovereignty, as a principle of economic order, from the perspective of governmentality and the art of government portrayed by Foucault. The study is justified by the importance of understanding the implications of sovereignty as the guiding principle of article 170 of the Federal Constitution, having as an innovative aspect its reflection in the light of Foucault's conceptions. Therefore, the research method employed was the deductive one, with bibliographical and legislative research. The article first addresses Foucault's ideas about government, governmentality and power from this perspective. Next, the research focuses on the evolution of the concept of national sovereignty and the consequences of its inclusion as a principle of economic order. Finally, as a result of the research carried out, the article promotes a dialogue between the current dimension of sovereignty and the perspective of governmentality, concluding the need for cooperation between States, with the resignation of a portion of power, with a view to global preservation.
- **KEYWORDS:** Government; governmentality; Foucault; national sovereignty; economic order.

## A SOBERANIA NACIONAL COMO PRINCÍPIO DA ORDEM CONSTITUCIONAL ECONÔMICA SOB A ÓPTICA DA GOVERNAMENTALIDADE DE FOUCAULT

- **RESUMO:** O presente artigo promove uma reflexão da soberania nacional, como princípio da ordem econômica, na perspectiva da governamentalidade e da arte de governo retratadas por Foucault. O estudo se justifica diante da importância da compreensão das implicações da soberania como princípio norteador do artigo 170 da Constituição Federal, tendo como aspecto inovador sua reflexão à luz das concepções de Foucault. Para tanto, o método de pesquisa empregado foi o dedutivo, com a realização de pesquisas bibliográfica e legislativa. Nessa perspectiva, em um primeiro momento, o artigo aborda as ideias de Foucault acerca do governo, da governamentalidade e do poder. Na sequência, a pesquisa se debruça na evolução do conceito de soberania nacional e nas consequências de sua inserção como princípio da ordem econômica. Por derradeiro, como resultado da pesquisa realizada, o artigo promove um diálogo entre a



atual dimensão da soberania e a perspectiva da governamentalidade, concluindo pela necessidade de uma cooperação entre os Estados, com renúncia a uma parcela do poder, com vistas à preservação global.

- **PALAVRAS-CHAVE:** Governo; governamentalidade; Foucault; soberania nacional; ordem econômica.

## 1. Introduction

National sovereignty is a principle that sustains the economic order, enshrined in Article 170 of the Federal Constitution, alongside private property, social function, free competition, consumer protection, environmental protection, reduction of inequalities, the pursuit of full employment and favored treatment for small businesses incorporated under the laws of Brazil.

Furthermore, it should be noted that national sovereignty, in addition to constituting a principle of the economic order to be observed in the legal system, is, at the same time, one of the foundations of the Federative Republic of Brazil, which is constituted as the Democratic State of Law, according to article 1, item I, of the Federal Constitution.

In this way, as it is the foundation of the Republic and the guiding principle of the economic constitutional order, national sovereignty must be respected and implemented, including for the very maintenance of the Democratic State and the realization of the human and fundamental rights of individuals.

The understanding of sovereignty, however, has undergone several transformations throughout history. Therefore, the notion that we currently have of the term differs from that idea that prevailed during the Middle Ages, for example. This is because its concept has been adapted to suit social, political and economic needs; therefore, understanding its current dimension is essential.

To this end, the doctrine developed by Foucault, during his studies and writings on governmentality, can contribute to the understanding of sovereignty as an integral part of the State and the art of governing as the tactics used to meet the needs of the population, which to be seen as the purpose of government.

Thus, this article has as its general objective the analysis of national sovereignty as a principle of economic order, considering the perspective of governmentality and

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the art of government portrayed by Foucault, in order to verify how it can be understood, currently, based on this context.

As specific objectives, it seeks to analyze the conception of power, government and governmentality in Foucault's view, to verify the evolution of the notion of sovereignty, until the present day, to, in the end, correlate the two institutes and promote a reflection of sovereignty as the principle of the present economic order.

For that, research and bibliographic and legislative review were carried out using the deductive method, considering that the study started from general premises about the concepts of government, governmentality, and power to reflect national sovereignty as a guiding principle order Brazilian economic constitution.

Thus, in the first topic, Foucault's ideas about government, governmentality and power are addressed to create a solid theoretical basis to discuss the issue of national sovereignty and the evolution of its context throughout the story, which is accomplished in the second topic.

Next, the study focuses on the economic constitutional order, focusing on the principle of national sovereignty, to finally explain its current conception and reflect on it, from the perspective of Foucault's governmentality.

Therefore, considering the relevance of the theme for understanding the economic order and the innovation of the presented approach, consistent with the correlation between governmentality and the evolution of the meaning of sovereignty, this research intends to help interpreters and enforcers of the law, contributing to the doctrine on the subject.

## 2. Governmentality according to Foucault

The idea of governmentality was worked on by Michel Foucault (2008, p. 143-144) in his class on Feb. 1st, 1978, when, when analyzing the relations between State, power and territory, he concluded that it was a process or, instead, the result of the process by which the State of justice in the Middle Ages, which in the 15th and 16th centuries became the administrative State, was little by little "governmentalized".

In this way, the concept of governmentality is intrinsically linked to the basic definitions of power and government, not only in the political sense, but also in the way it is exercised, for example, within families, communities, souls, meaning that it was used until the 16th century (ALCADIPANI, 2008, p. 98).



Thus, the vision of government from that period, that is, from the 16th century (Middle Ages), is different from the one we have in the 21st century. There was, in this sense, an evolution of conceptions, in such a way that, currently, the idea of government, in general, is attributed in the political sense of the term, related, therefore, to the ideas of the exercise of power by the State.

Governmentality permeates the concept of power, as governmentality tries to explain the various practices and/or governmental actions, as well as their predictability from the emergence of the State. It is worth mentioning here that, for Foucault (2004, p. 193), the concept of power is systemic, that is, it is exercised in a network, since individuals not only circulate, but also have the prerogative to exercise such power. In this sense, power transits and permeates individuals.

It is clear, therefore, that Foucault (2004) adopted an expanded idea of government, inserted in the most varied types of places, such as the government exercised in the family, the community, the religious order, and other segments of society. This organicity, consequently, is reflected in the State's own way of acting, as we will see below.

Furthermore, Foucault sought to verify the historical emergence of the specific population problem, which led him to the relationship between the government, the population and security. According to the author, there would be several problems of government, which emerged in the sixteenth century, and which would concern the multiplicity of its facets – government of oneself, of souls and conduct, of children, of States by princes (FOUCAULT, 2004, p. 277).

It appears from reading his considerations that government would be, for Foucault (2012, p. 13-14), an activity that would cover a diversity of situations and should be considered in its broadest sense, and indeed an ancient one, unfolding in mechanisms and procedures designed to lead men and direct their conduct.

Thus, as the government is a way of conducting conduct, the individual can govern himself, determining his actions to achieve certain objectives, in the same way that the government, or the State, launches guidelines, programs and projects for the achievement of certain purposes, intending to provide the common good.

When dealing with governmentality, Foucault (2012) highlights the exercise of power through the correspondence of forces that continuously lead to states of power characterized by instability. It is an analysis of government behavior from two dimensions: technological, through which it is understood as an aggregated set of individuals, institutions and instruments for the direction of a given action, and

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programmatic, related to programs and rationales of the government (AVELINO, 2010, p. 144-145).

The analysis and reflection on governmentality worked by Foucault started from the lessons of La Perrière and La Mothe Le Vayer. Considering that the government would exist in the moral form (of itself), of the economy (of the family and the house) and of politics (of the State), the objective of Foucault, in his studies, was to verify how to insert the question of the economy in the level of State.

In this sense, Foucault (2008, p. 121) points out, concerning the art of governing, when analyzing the writings of Guillaume de La Perrière, that the government could exist in different places and that, with that, individuals can govern, with the figure of The Prince, by Machiavelli, being just one of the modalities of government.

In turn, when discussing Le Vayer's work, Foucault (2008, p. 125) points out that the art of governing seeks continuity between existing powers, be it upward (that is, to govern the State requires, first, to know how to govern oneself and the family) or descendant (the State is well governed when individuals and families are also well-governed).

The lessons brought by Foucault in the analyzes he carried out allow us to draw a parallel with the current configuration of the State. After all, the idea of governmentality translates precisely into the practice of governing, which requires attention focused on the three forms pointed out by Le Vayer, both moral and economic and political.

Alcadipani (2008, p. 98) points out that this governing practice is related to exercising a political sovereignty concerned with people while seeking to govern them. It is a totalizing management, as it seeks to involve the entire population, and also individualizing, focused on the concern for each individual.

For Fonseca (2015, p. 24), the rationality of government starts to have the population as a kind of clipping, and, for this reason, Foucault sought to relate governmentality to the population problem. In this way, the population would be a character that emerged through the forms and techniques of government.

Foucault (2001, p. 980) then understood that the government was not related to the territorial question, nor to normative coercion that comes from the State to individuals, but rather to a type of relationship with oneself or with others that guides the action, by delimiting its possibilities, and, in this way, produces power relations, since it operates directly in the other a certain quality. From this perspective, the government would be a way of disposing of things to be governed for an adequate purpose aimed at the common good.

The government, therefore, would symbolize the art of exercising power in accordance with the original meaning of the economy, which, as explained earlier, would concern the government of the family and the home for the common good.

This evidences the author's concern regarding verifying how it would be possible to insert the government of the house and the family, that is, the question of the economy for the common good at the state level, related to the political question. Therefore, the analysis of La Perrière's art of governing and the forms of government portrayed by Le Vayer were fundamental for developing his thoughts on governmentality (FOUCAULT, 2008, p. 125).

It is true that, in his work *Security, Territory and Population*, Foucault (2008) mainly sought to conduct a study on what he called biopower, but his reflections invariably turned to the issue of governmentality and the problem of population as the focus of government (KROETZ; FERRANO, 2019, p. 78).

It is no coincidence that, for Goulart (2019, p. 92), the idea of governmentality is directly related to biopower, as it is one of its operation types, articulating mechanisms of political economy and power, which is why it is a complex set.

Indeed, governmentality brings together the techniques related to the art of governing, allowing the understanding of how the State of government emerged and, in this way, how individuals can become governable subjects. This was only possible with the study of the notions of men's governments and their evolution throughout human history.

Bezerra (2019, p. 56), in this sense, explains that governmentality is a neologism that encompasses, focusing on the population, practices of control, government intervention and surveillance. Thus, the exercise of power takes place through control devices in which government practices tend to vigilance over human conduct and a correction with the population problem.

Governmentality concerns the correspondence between the techniques of power, which guide people's behavior, and the techniques of the self, which enable individuals to operate certain actions on the body, soul, thoughts, either on their own or with others. Third-party assistance.

So, the objective of working with governmentality is to understand the way in which individuals can be governed, through the adoption of control, intervention, and surveillance practices, thus leading the behavior of the population.

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With the notion of the State, rulers use power to control the population through mechanisms of regulation and correction from the perspective of economic and administrative management of the lives of individuals. Thus, little by little, societies undergo a regulatory process and make government control devices legitimate (BEZERRA, 2019, p. 45).

The normativization of power, as a social control mechanism, permeates Foucault's (2005) concept of disciplinary power, which can be translated as a power that, instead of appropriating and withdrawing, has the greater function of "training": or undoubtedly training to withdraw and appropriate even more and better. He does not bind forces to reduce them; he seeks to connect them to multiply them and use them as a whole (FOUCAULT, 2005, p. 143).

Such control mechanisms are exercised, throughout life, in the most diverse institutions, such as what happens in families, schools, and professional and leisure environments, among others. In this sense, the analysis and understanding of power are necessarily related to forces centered in the social field, in which the population is composed of moral individuals who have a direct relationship with the strategies and with the State itself (GOULART, 2019, p. 93).

Individuals in society are continually being disciplined, and, to that extent, disciplinary power is a mechanism, although not specific to the State, but which serves to exercise its control. Biopower is present in the life of the population, which remains submissive to power indirectly through the set of disciplinary techniques of the State.

Through disciplinary techniques and control mechanisms, sovereign power, which we will discuss in the next topic, can be exercised explicitly or implicitly. Whether through one or the other, the State must keep society cohesive around the norms it edits.

The look at self-government, and self-care, is an important element because it establishes the way individuals perceive themselves and how they act on themselves, indicating a powerful way of thinking about the connection between power and government, dealing with this issue in a more complex way, such as our social fabric, crosses a mosaic of practices that form our ways of conducting ourselves in society and being what we are (GOULART, 2019, p. 94).

In summary, we can assert that the idea of governmentality is born, in Foucault's perspective (2005, p. 293), from an archaic-pastoral model of government, is later supported by a diplomatic-military technique, a synonym of the own art of governing,



and, in a contemporary way, it sustains itself from the implementation of very particular instruments, including what he calls the police.

The population, then, becomes the frontier, that is, what delimits the scope of governmental action, becoming a matter of government. In this way, governmentality “implies the analysis of the rationality that puts into operation, in precise contexts, the activities of managing human behavior, cross the State and uses it as an instrument of government” (FONSECA, 2015, p. 24).

Governmentality refers to the administration of people and things in the conception of the State, whose focus of the government becomes turned to the problem of the population, mainly with its control and regulation of its behavior. The State, therefore, is no longer an end but an instrument of government, with the population as its object.

Therefore, governmentality became the instrument for controlling the population, with which the State began to relate more directly, with a discourse focused mainly on economic and political issues. Social institutions then began to be organized, focusing on the population, for which control strategies were launched using security devices.

Oliveira (2019, p. 49), in summary, proposes that governmentality can be defined as the regime and characteristics of power with a focus, from the 18th century onwards, on the population, also referring to the way in which human conduct were conducted, being used to explain the process that led to the emergence of the State of government.

However, even with all the discussions around governmentality, sovereignty, and discipline, as forms of power, were not eliminated from the system, even though governmentality has been the predominant type of exercise of power from the 18th century onwards (KROETZ; FERRANO, 2019, p. 78).

Therefore, considering these main premises, it is necessary to carry out a reflection on the articulation between governmentality and the notion of sovereignty as forms of exercising power in order to understand, from the Foucauldian perspective, national sovereignty as an explicit principle in Article 170, I, of the Federal Constitution.

To this end, the next topic will address the historical context and the concept of sovereignty, highlighting the evolution suffered by the term throughout history and seeking to understand the meaning attributed to the economic order enshrined in article 170, the item I, of the Federal Constitution, articulating it with Foucault's conceptions of government and governmentality.

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### 3. National sovereignty and the constitutional economic order

The idea of sovereignty, as will be explained, has undergone adaptations and changes throughout history, taking into account the social, political, and economic reality of each period. Thus, although initially linked to the very notion of territory and element of the State, its meaning began to be increasingly incorporated into the idea of the population as its holder.

This invariably reflects on the understanding of the economic order since, as can be seen when reading article 170, item I, of the Federal Constitution, national sovereignty is listed as a general principle, which justifies an analysis of its implications, notably in the face of globalization and the intensification of international relations.

The conception of sovereignty, resulting from divine or popular will, has always been related to the question of the struggle for power, being used as the foundation of domination and always being present in political debates. It is even for this reason that his doctrine went through crises in periods of transformation of institutions and loss of influence of dominant groups.

The notion of sovereignty has no counterpart in the Ancient State, considering that it was conceived with the Modern State. Thus, for example, in Aristotle, only the idea of superiority and self-sufficiency of the city-state is noted, without, however, indicating any supremacy of power (DALLARI, 2013, p. 82).

It is observed, then, that although power and domination were present in antiquity, through emperors, kings, pharaohs, and monarchs, for example, the concept of sovereignty as a defining element of the State was not yet adopted, precisely because of the fact that, in that period, the very meaning of the State was still being consolidated.

Ferrer and Silva (2003, p. 102) point out that sovereignty emerged with the idea of the Modern State, given the concern with neutralization in a scenario, at the end of the Middle Ages, characterized by political, economic, and social instabilities, whose genesis, among other factors, refers to disputes between temporal and spiritual powers.

Sovereignty constituted one of the bases and was important for the definition of the Modern State. Moreover, it is a characteristic element of the notion of the State, which is why it still exerts influence today. However, its notion is complex and requires an overview of the historical context in which it was developed.

That is why several doctrines have sought to explain its meaning, and the evolution of these ideas has followed the different political contexts in which they occurred. However, we can consider that, initially, the idea of sovereignty was linked to the figure of the monarch, and with the evolution of liberal ideas, it came to be understood as relating to the power of the people and the nation (MATIAS, 1972).

Thus, when the first manifestations of sovereignty were made, this was seen as something inherent to the figure holding power, representing the State and justifying domination and intervention in private life in search of the common good. Gradually, it was verified that, in fact, the State would only possess this power because it would be legitimized by the population, and, for this reason, this would be the holder of sovereignty.

Dallari (2013, p. 86) points out that, despite the numerous existing theories, what is verified is that sovereignty has always been referred to as the idea of power. The distinction between these notions can be understood by moving from a political to a legal sense of the term.

In the political sense, sovereignty concerns the full and absolute effectiveness of power, that is, the idea that there are no spaces for confrontations with the sovereign. In turn, in the legal sense, sovereignty is understood as the decision-making power, ultimately, regarding the incidence and effectiveness of the law and norms in concrete cases.

In fact, the idea of sovereignty has always been intertwined with the exercise of power. This power can be contextualized in two ways. Thus, it may concern the notion that the sovereign is the holder of decisions on a given territory and that, therefore, his will cannot be contradicted, but it may also correspond to the conception that it is the sovereign power that should guide the elaboration and the application of rules for social interaction, coercing the population to comply with them.

Since it emerged, the meaning of sovereignty has always been the subject of great controversy. Some saw it as an absolute power, even if, in fact, this had never been observed in practical life, and as the dynamics of social reality and political and economic needs demanded, its notion was increasingly endowed with transnational integration (NEVES, 2020, p. 115).

In order to better illustrate this finding, it is relevant to make some considerations about how the concept of sovereignty was constructed throughout history, especially the notion that the classics had about sovereign power, to then contextualize it in the context of current ideas and verify, with this, the evolution of these perceptions.

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In this sense, Jean Bodin (2011), the precursor of this concept, understood sovereignty to be a perpetual power, given the lifelong power of the monarch that was transmitted to successors and absolute since only the sovereign would be able to edit or suppress laws. Bodin (2011, p. 195) believed that only with the strengthening of the State in the figure of a monarch would it be possible to prevent social chaos, making the Republic orderly and supported by legislation.

Bodin (2011) aimed, with his work, to establish a concept of power without divine origin, but resulting from the human will of the sovereign. The monarch, evidently, should observe the natural and divine laws, but his power would not be subordinated to any other. This power would encompass both the decree of war and peace and the appointment to positions, judgments, and the elaboration and imposition of laws (MATIAS, 1972).

It is for this reason that Bodin (2011) considered sovereignty as a power of the Republic (which today is equivalent to the figure of the State), perpetual and absolute since sovereign power would not be exercised with a certain duration and could not suffer limitations of another power, office, or time. The only limitations to sovereign power would be the divine and natural laws to which everyone would be subject (DALLARI, 2013, p. 84).

Here, a critique of Bodin's conception of sovereignty deserves to be elucidated. After all, the author attributes to sovereignty the quality of absolute at the same time that he states that the monarch, holder of this power, should obey divine laws and natural laws since all individuals should submit to them. It is noted, then, that this sovereign power cannot be said to be absolute in view of its relativization by other types of power.

Even so, following the same line of reasoning, Thomas Hobbes (2011, p. 241) also considered sovereignty as imperative and absolute, praising the supreme power of the State. The State, then, came to be considered as an artificial person, a figure alien and independent of the rulers and the ruled, called Leviathan.

This is justified in the view of Hobbes (2011) because men, in nature, are on equal terms with others, having the same rights in relation to the preservation of life, which is why they become warriors. In this scenario, the war, which is continuous, establishes the fear that forces individuals to establish a contract and elect a sovereign, transferring power to him so that he gives them, in return, security (HOBBS, 2011, p. 242).

The State and the idea of sovereign power arise from the impossibility of man constantly living in his state of nature, where insecurity and wars are inevitable, especially considering the plurality of ideas and values.

This artificial person, the State - Leviathan, appears precisely to establish social order and, therefore, is at the service of the population, being able to resort to force to preserve the common good.

The state of nature generates insecurity for individuals, and, in this way, power is attributed to an entity - the State, a product of the rational will of these subjects in the search for peace and security and authorized to make use of force and means. Resources available to ensure the defense of all. It is, in his view, a contract in which individuals transfer their natural rights (MATIAS, 1972).

Later, Rousseau (1999), in *The Social Contract*, emphasized the idea of sovereignty, transferring, however, its ownership to the people and no longer limited to the person of the ruler. In this work, Rousseau (1999, p. 33) still claims that sovereignty is endowed with the characteristic of inalienability, as it constitutes the exercise of interest collective and indivisibility, as it requires everyone's participation to meet the general will.

Therefore, the concept of sovereignty begins to approach the prevailing view today, in which the population is seen as its owner, and, in this perspective, the State is an instrument for satisfying its needs and observing its general will.

As can be seen, considering the needs and adapting to the reality of each historical context, the notion of sovereignty has been transformed throughout history. Therefore, just as the current idea of sovereignty would not correspond to the needs of the Middle Ages, the classical concepts are also not suitable for the circumstances of the new social order.

Making a general overview of the concepts of sovereignty, Dallari (2013, p. 85-86) teaches that some authors understand it as a kind of State power, while others understand it as one of its qualities. For example, the author mentions that, for Kelsen, sovereignty is the expression of the unity of order, while, for Reale, it is a quality of the State.

In any case, what prevails today is the idea of popular sovereignty; that is, the population is seen as the holder of sovereign power and attributes to the State the legitimacy to make decisions in favor of the public interest, considering the democratic will and strengthening order and social peace.

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In this sense, Ferrer and Silva (2003, p. 102) consider sovereignty as the conversion of force into a legitimate power, or, using other terms, it is the transformation of power in the factual plane into power in the real world. Law plan. That is why it is a kind of authority with which the State manages to maintain order, edit norms, and administer justice.

In the Brazilian legal system, sovereignty is provided for in the Federal Constitution, concomitantly, as a foundation of the Republic, in Article 1, item I, and as an explicit principle of the economic order, stamped in Article 170, item I. In both devices, the position of sovereignty highlights the importance and, therefore, the need for its observance.

It should be noted that the principles are norms of the legal system that allow the unity and coherence of the law, being, in it, inserted and integrated. Constitutional interpretation, due to the required complexity, underlies knowledge and the incidence of principles as hermeneutic criteria (GRAU, 2018, p. 161).

There is no legal device in Brazilian law that defines what principles are, and, despite the various concepts existing in the doctrine, it is possible to consider them as, in addition to the origin or source of law, types of values that, incorporated in the conscience of individuals, serve as a guideline for normalization and social regulation.

It is for this reason, even, that we can assert that the principles are elements that make up the law and that have a generic, abstract value, serving, in this way, for the direction of legal hermeneutics and the incidence of norms and rules to concrete cases.

In simple terms, we can say that the rules come from the principles, which, in addition to guiding their elaboration and application through interpretive practice, provide the foundations for the structuring of legal institutes and constitutional orders, among which the one referring to the legal order. Economical.

Thus, the economic constitutional order used rules for the alignment of the economic functions of the State, individuals, and also transnational entities according to social valuations. National sovereignty - in this context, a directive norm - was inserted as one of its general principles (NEVES, 2020, p. 114).

In this way, alongside private property, the social function of property, free competition, consumer and environmental protection, the reduction of regional and social inequalities, the pursuit of full employment, and favored treatment for EPP with headquarters and administration in the country, national sovereignty integrates the list of principles expressed in article 170 of the Federal Constitution and which underlie the economic order.

Petter (2008, p. 162) emphasizes that, despite the provisions of Article 170 and the following of the Constitution, there are other precepts throughout the entire constitutional text related to the economic order. For the author, this set integrates the so-called economic constitution, which is responsible for regulating the factual situations that affect the economic way of being of the social fabric.

In the same sense, Grau (2018, p. 169-170) teaches that the Brazilian Federal Constitution is a leader, enunciating guidelines, programs, and purposes and that many other constitutional provisions, which are not included in the title “Of the economic and financial order”, operate the economic order which, for the author, is the world of being.

Now, the fact that some constitutional provisions were not included in the economic order of the 1988 Constitution does not exclude the economic character to which they may refer. This is the case, for example, of the Republic’s own objectives, such as national development, the eradication of poverty and marginalization, and the reduction of inequalities, as well as some social rights, which have a clear economic nature.

Evidently, the fundamental objectives of the Federative Republic of Brazil are directly related to the exercise of economic activity and, in this condition, are part of the economic order, even though they are not part of Title VII of the Federal Constitution.

With these considerations in mind, let us now move on to the analysis of the foundations and objectives of the economic order, and then we will dwell on the analysis of national sovereignty as one of its principles. This is justified because, as well highlighted by Grau (2018, p. 188-190), the Constitution is a system endowed with coherence, and, therefore, its principles must be considered globally.

The caput of article 170 of the Federal Constitution is categorical in establishing that the economic order has the purpose of “assuring everyone a dignified existence, according to the dictates of social justice [...]” (BRASIL, 1988).

By demanding that everyone be assured a dignified existence, the economic order invariably harmonizes with one of the foundations of the Republic: the dignity of the human person, a value that must be a constant search for all agents of society in the most varied activities.

Thus, all economic activity must be exercised with respect for human and fundamental rights that allow man a dignified existence, with needs met in the right way and at the right time. Thus, the purpose of economic activity must be to offer instruments for the comfort and convenience of human beings with respect for their values and conditions.

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In the conception of Grau (2018, p. 192),

[...] the economic order mentioned by art. 170, caput, of the constitutional text - that is, the world of being, economic relations or economic activity (in a broad sense) - must be streamlined with a view to promoting a dignified existence that everyone should enjoy.

When dealing with the economic order, Petter (2008, p. 188-189) maintains that the Constitution seeks, primarily, to give effect to the principle of human dignity since this is, according to the author, the source value from which come all others. All actions, including economic activities, must be aimed at guaranteeing this dignity, the foundation of the Republic.

The dignity of the human person, as expressed in the Federal Constitution, whether as the foundation of the Republic or as the purpose of the economic order, must be considered as the structural core of fundamental rights, being a derivation of the right to life itself, since this cannot be consecrated without that one.

Furthermore, the Federal Constitution is categorical in establishing that dignity must be guaranteed based on social justice, which refers to the concept of collective dignity. That is why the economic order must also be understood as a framework for reducing the social, economic, and cultural inequalities that plague the country.

Grau (2018, p. 222) understands that social justice is, in the Constitution, an ideological fact. In this context, it implies corrections of injustice in the distribution and sharing of the economic product, which, over time, became a requirement of capitalist economic policy.

When analyzing the title of the economic order, Petter (2008, p. 206) points out that the constituent made clear the option for the capitalist model of production, in which there is free competition, on the part of the agents, in the market economy. However, even so, there is a certain hybridization of this model with state interventionism.

As a guideline and element for the hermeneutics of this economic order, national sovereignty was enshrined in the Federal Constitution as a general principle. Therefore, its exercise must take place in the manner outlined by the constituent when structuring the entire constitutional diploma, but in particular, Title VII.

Sovereignty is the element of the State that allows it to assert itself as such. In other words, through the exercise of its sovereignty, the State holds the power of political



decision and choice of the directions of the nation, having as background the search for the realization of the collective interest (DEL MASSO, 2016, p. 614).

In the same sense, being an attribute of the State and a guiding principle of the economic order enshrined in the Federal Constitution, sovereignty must be understood as the possibility of choosing its own destiny by the nation in the direction of its economic policy.

It is through its sovereignty that the nation defines its policies and strategies for the development and progress of the country, with the purpose of realizing rights and guarantees and the realization of the collective interest, with a view to promoting the dignity of the human person, a value that must guide all actions by the State.

The teachings of Grau (2018, p. 223) are highlighted, for whom, without sovereignty, there is no State. National sovereignty is an imposing constitutional principle that constitutes a means for guaranteeing a dignified existence and is also a guideline insofar as it is also a particular objective to be achieved by the State.

Evidently, national sovereignty is what characterizes the State, since the population, as a way of living in a harmonious society, transferred the protection of rights, political choices, and the resolution of conflicts to the State, which, despite the duty of observance, the limits of the popular will, it is who, in fact, exercises sovereignty, even if its ownership belongs to the people themselves.

However, considering the historical evolution previously portrayed, it is imperative to highlight the position of Del Masso (2016, p. 614), according to which there is nothing more to talk about, given the current stage of globalization and the intensification of international relations, in the absolutization of sovereignty as taught by Paupério (1958, p. 19), for which this element of the State would have an absolute character, without the possibility of gradations.

In fact, currently, there are no more watertight societies isolated from each other as they were configured in ancient times. Today, globalization and new technologies have completely reconfigured the dynamics of interactions between people from different cultures and different nations, culminating in a scenario of internationalization of social and economic relations.

Given this new configuration and the consequences arising from it, national sovereignty must be seen as a guarantee of self-determination and independence, but with a relativized bias in relation to political decision-making since these now operate

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on a transnational level. How, then, can Foucault's governmentality be contextualized in this scenario?

#### 4. National sovereignty today from the perspective of Foucault's governmentality

The law must focus on meeting the aspirations of society, and the dynamic instrument capable of fulfilling such aspirations is the Federal Constitution. The law must evolve and adapt to the social reality so that its application requires continuous adaptation of the norms for its efficiency and practical effectiveness.

As explained in the first topic, the State must have its action focused on the population, and, therefore, what matters is its governmentalization, that is, a different look at this element. This situation is compounded by the government's tactics, through which the State's parameters of action, interventions, and competencies are defined.

Through the studies carried out by Foucault (2008, p. 124), the "art of government" consisted of governing a house, governing souls, governing children, governing a province, governing a family, demonstrating from the political point of view that the arts of governing are multiple and that "there are, therefore, many governments in relation to which, that of the prince who governs his State, is only one of the modalities" (FOUCAULT, 2008, p. 124).

It is, in other words, about reflecting on the tactics of government, instruments through which the idea of governmentalization of the State materializes, more focused on the question of the population and not the territory, as it was before, in the 16th to 18th centuries. And in this sense, it is worth saying that the exercise of power and governmentality touch the principles brought in the Brazilian Federal Constitution enshrined in article 170, among them that of sovereignty.

By the way, national sovereignty, as it is characterized as a general principle of order economically, has a valid meaning, as noted by Grau (2018, p. 162): "variable in time and space, historically and culturally". In this way, reading sovereignty as a principle of law requires an analysis of social reality so that it can adapt to the aspirations of the community and fulfill the function of development and integration of the nation.

This also happened with the very evolution of the definition of government, which, before, had a purpose focused on the territory. Subsequently, La Perrière observes and points to the population as the purpose of government, and this vision has

several implications, starting with the need to recognize the plurality of specific purposes of the State (FOUCAULT, 2008, p. 284).

Contextualizing the Brazilian Constitution, the caput of article 170 determines that the purpose of the economic order is to ensure a dignified existence. There is, therefore, a focus on the population in this device, and this is what the art of governing demands. Thus, the economic order, in communion with the purpose of the State itself, aims to ensure the dignity of the human person for all.

The performance of the government, as highlighted by Foucault (2008, p. 284), when recognizing the multiplicity of its purposes, must occur as a way of “making the greatest possible wealth be produced, that people are provided with sufficient means of subsistence, and even in the greatest possible amount, that the population can multiply, etc.”

To this end, one of the pillars on which the economic constitutional order rests is national sovereignty, whose conception, it should be noted, has been altered throughout history and is currently more flexible as it has become more diluted, notably with globalization and international relations. Today, the concept of sovereignty is different from what happened in Machiavelli's time since the focus of the government is no longer the territory.

Evidently, the process of globalization is intensifying more and more, and with that, the greater hegemony of capital and the accelerated growth of transnationals become clear. The production process itself was, in a way, internationalized; trade intensified, and new market practices began to be used, thus having repercussions on the sovereignty of the State (PETTER, 2008, p. 211).

The strategy of separating legal sovereignty from factual and economic sovereignty was launched aiming to adapt its concept to current requirements, “as if it were possible to separate law from reality or economics. However, it is not this fragmentary (and somewhat artificial) sense that animates art. 170, item I. A deeper study essentially points to two different meanings” (NEVES, 2020, p. 115).

The idea of sovereignty has undergone adaptations over time to adapt to the changing social reality. Initially seen as an absolute and unlimited power, it was increasingly marked by the idea of transnationality, notably in the context of global communication that the world is experiencing.

Fonseca (2015, p. 26) well contextualizes the notion of national sovereignty with the conception of governmentality worked by Foucault by stating that, when we verify

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the context of sovereignty today, and as a principle of the economic order, it is important to have the perception that, in governmentality, there is a concern to consider the international relations of the State, with other States, in addition to those that take place within it.

From this point of view, the State cannot, and should not, close in on itself since the exercise of its sovereignty depends, directly or indirectly, on the observation of international policies, which interfere in its interior in the face of the transnationalization of human activities and relationships.

In this sense, Petter (2008, p. 212) points out that the State cannot just limit itself to aspects of its internal development. Even though self-determination is the pillar of the system, it is imperative that the effects on the strategies of international politics be observed by the planning of the State's economic activity.

Following the same line of reasoning, Grau (2018, p. 225) maintains that national sovereignty should not be an instrument of economic isolation but, on the contrary, of promoting the country's participation in the international market and in equal conditions for the country itself. Development.

The world is going through a process of constant interactivity, and sovereignty, in this context, cannot be an obstacle to economic integration. Part of sovereignty is dissolved in the face of relations between States, coating itself with a supranational character, which in the search for the realization of human rights and promotion of international harmony, relativize this power.

Foucault (2008, p. 284) portrays this paradigm shift by emphasizing that what allows sovereignty to achieve its purpose is the use of more tactics than the law or the use of it as a State tactic. In other words, imposing a law on individuals is not enough.

It is necessary for the government to have tactics that allow people to feel that their needs are being met, conferring the legitimacy of action in decision-making by the State, which implies the establishment of international relations and the opening of the economic system.

There was, with globalization, mitigation of national sovereignty. A good example is the context of the pandemic experienced worldwide, the way out of which is the establishment of cooperation between States, that is, a kind of global social contract, in which countries give up part of their sovereignty in favor of global preservation.

Finally, sovereignty is no longer seen as an end in itself. We can see, currently, that the conception has been changed to an idea that the purpose of the government

consists of the things directed by it, whose focus becomes the population and the fulfillment of its needs. The law, therefore, becomes its instrument, not its purpose.

## 5. Conclusion

From governmentality, Foucault sought to understand the development of the government of men by society and the main changes suffered by this idea throughout history. The author also studied the historical emergence of the specific population problem, and this led him to the existing relationship between the government, the population and security.

The conception of government adopted by Foucault was much broader than the prevailing one in his time since he considered government in its multiple facets in the most varied types of places, such as the family, community, and religious order. This organicity reflected, for him, the State's own way of acting.

Foucault, when studying the definition of the government of the State, opposed literature to the conception of government portrayed in *The Prince*, by Machiavelli, according to which the objective was the maintenance of the principality. That is why Machiavelli, in his theory, focuses on the issue of territoriality. This, in the anti-Machiavelli literature presented by Foucault, is replaced by the "art of governing", whose focus becomes the population.

The idea of governmentality is embedded in the conception of biopower since this was Foucault's object of study. Governmentality is a neologism used by the author to refer to government surveillance and intervention practices focusing on the population. It is the techniques of power that guide the behavior of individuals.

There are, for Foucault, micropowers that maintain the system through mechanisms of social control required by life in society, which are exercised by the most varied institutions. The population is permanently being disciplined, and, with the control mechanisms, the sovereign power must keep society cohesive around the edited norms.

For the control of individuals, the State began to use the notion of governmentality and, with that, to relate more with the population, with a discourse focused on economic-political issues. Even so, the idea of sovereignty was not extirpated from the system, despite its definition having undergone changes throughout history.

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Sovereignty, in the reflection of the constitutional text and from the reading of the governmentality proposed by Foucault, is visualized under a new focus, in which a country cannot close in on itself since it must integrate with other nations in order to enable its economic development.

The current conception of sovereignty is that the State has its legal order and its power but also owes compliance with international treaties and other transnational issues, such as economic blocs and international agreements. National sovereignty, today, has another reading, and this is mainly due to the need to promote the economic integration of the nation.

In summary, in the light of Foucault's governmentality, focusing on the population as a principle of the economic order, national sovereignty currently requires the establishment of cooperation between states through a global social pact in which, by renouncing to a portion of power, nations act with a view to global preservation.

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