

The making of the political subject: subjects and territory in the formation of the state

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Abstract The article explores the historicity of political subjecthood, making the case that through a process of subjectification “subjects of the king” gradually became the political subjects of the state. This in turn contributed to reconstitute the state as an abstract notion that nevertheless was real through the allegiance owed to it by its subjects. Addressing the making of subjecthood in relation to state formation helps fill an important lacuna in the literature on state formation, namely the double oversight of subjecthood. Either studies of state formation have taken both territory and subjecthood—the two objects of state power—for granted, or, more recently, they have assumed that changes in subjecthood were a function of changes in territoriality. I propose to address this by inquiring into early modern subjecthood in its own right, through a historical exploration of the emergence of political subjecthood in English statutes during the Tudor period (1485–1602). Through gradual yet incremental changes in the relation between subject/king and subject/state, the political subject’s allegiance to the state changed and acquired a “taken-for-grantedness”—maintained and reinforced through constant legal reiteration.

Keywords State formation · Subjects · Subjectification · Territory · Territorialization · Early modern England

“But there are no patients, Humphrey! ... A brand new hospital with over five hundred administrators and no patients!”¹

¹From the television series *Yes Minister* (Season 1, Episode 2, “The Compassionate Society”). The first time I approached the topic of state formation was as a graduate student at the New School for Social Research in 1998, where Gianfranco Poggi was teaching a class on the topic. The first thing he said to us then was that there were two ways of understanding politics and the state: reading Max Weber or watching *Yes Minister*.

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“Come and play with me,” proposed the little prince. . . . “I cannot play with you,” the fox said. “I am not tamed.” “Ah! Please excuse me,” said the little prince. “What does that mean—‘tame’?” “It is an act too often neglected,” said the fox. It means to establish ties.”²

Theories of state formation have paid little attention to individuals or people as subjects. In fact, states emerging from the long sixteenth century in command of both territory and subjects seem to acquire these in an unproblematic fashion. The focus of extant theories is largely on the emergence of a state apparatus, a bureaucracy, and a capacity to extract taxes and wage war, at the expense of explorations of the formation of the ties between state and subjects—the politicization of subjects, so to speak, or *subjectification*.

To be sure, until recently this was the case with territory as well, until it was pointed out that the state formation literature was entrapped in its notions of territoriality—taking them for granted and not exploring their historical emergence. As a consequence, recent studies have historicized state and territory, resulting in historically sensitive accounts that problematize how states came to control space and in the process offer new ways of understanding the process of state formation and illuminating avenues for reflection around future developments of the state under globalization. Yet, as noted above, states have *two* objects of rule. And the historicity of the subjects of the state is still largely unexplored, or, even worse, now subsumed into the historical process of territorialization: overshadowed, so to speak, by the emergent hegemony of territoriality. For, to the extent that historical explorations of the politicization of space do pay attention to the political subject, they explain its emergence by extension of the spatial reach of the state. States made territories, and territories made states. (And territories made subjects too).

I propose to address this lacuna here, by offering a historical exploration into the emergence of political subjecthood in England during the Tudor period (1485–1602). Through an in-depth study of English laws during the period, I explore the historicity of political subjecthood, making the case that through a process of subjectification “subjects of the king” gradually became the political “subjects of the state.”

I am not making the case here for the early emergence of a nation-state.³ Nor is my argument about the emergence of an abstract “population” in a Foucauldian sense. Rather, I explore how a (diverse) group of individuals or (direct) subjects of the ruler were gradually turned into a homogeneous group of political subjects owing their primary allegiance to the abstract notion of the state.⁴ The argument deployed here is that through gradual and

² Antoine de Saint-Exupéry, *Le Petit Prince*, Chapter XXI.

³ For that, quite a different type of empirical enquiry would be necessary. For such a line of argument, see the literature that points to the importance of religion and confessionalization in the making of the early modern (nation-) state: Gorski (1993); Rae (2002); Fukase-Indergaard and Indergaard (2008); de Carvalho (2014); and de Carvalho and Paras (2015). This literature also to some extent addresses the question of the political subject. However, it does so less in terms of the making of the political subject than through discipline.

⁴ The question of terminology in relation to the emergence of the state is a complicated one. In the texts examined here, the term employed is generally “realm.” I nevertheless choose to employ the term “state” even for the state in its formative period. While a solution to this impasse could be the use of the concept of “polity” as suggested by Yale Ferguson and Richard Mansbach (1996, pp. 33–35), this would not contribute to the overall purpose of this article, which is to understand the emergence of a relationship of domination peculiar to the modern state. Moreover, as Alexander Passerin d’Entrèves has argued, it does not follow from the absence of the language of the state that there was no conceptual apparatus of the state (1967, p. 29). My usage of the term “state,” however, does not imply any claims as to as to the “completed” character of the state itself. For a discussion, see Skinner (1987); Alford (2002); Nederman (2009); Hindle (2002); Clanchy (2002); and Harding (1994).

incremental changes in the relation between subject/king and subject/state the political subject's allegiance to the state changed, and acquired a "taken-for-grantedness"—maintained and reinforced through constant legal reiteration. I call this process the *subjectification* of people, as a corollary of the territorialization of space. In fact, both processes—albeit addressing different objects of rule—concern the same basic change: how the state came to gain control over its objects of rule and how this reconstituted these objects as well as the state itself. Thus, subjecthood was made into a unitary concept, one that owed its allegiance to the state. Understanding this change is central to our understanding of the conditions of possibility of central phenomena today—such as nationalism, the governance of the population, changes in sovereignty and extraterritoriality under globalization—which all flowed from this change in subjecthood. Through subjectification, the political subject was normalized and states became compulsory associations into which one was born without the need to give active allegiance, and from which there were but a few ways out.

This shift in conceptions of subjecthood was a gradual one, and is therefore seldom the object of studies seeking to demonstrate how the shift in modes of subjection took place. Joseph Strayer has claimed that the long-term development in the period from 1100 to 1600 that lead to the subject's shift in loyalty from a myriad of institutions to the state "is usually so gradual that the process is hard to document; it is impossible to say that at a certain point on the time scale loyalty to the state becomes the dominant loyalty" (1970, p. 10). This is precisely where this article seeks to contribute, as I demonstrate the shift that took place in the legal discourse of the state. This is not to say that this shift was fully accomplished in practice—Thomas Hobbes in his *Leviathan* was, after all, (still) making the case for allegiance to the state rather than the person of the ruler half a century after the period I study here. However, once the shift had taken place in law, it became a new tool through which the state could govern its citizens and inscribe this relationship of subjection onto its subjects. As Strayer has pointed out, "At the end of the process, subjects accept the idea that the interests of the state must prevail, that the preservation of the state is the highest social good" (1970, p. 9).

The central argument of this article is based on the observation that around the time of the Henrician Reformation in England (in the 1530s) there is a noticeable change in how "subjects" are referred to in the acts passed by the Parliament of England (compiled in the *Statutes of the Realm*)⁵: the term "subjects of the realm" is introduced, and does not figure before that—save for one exception. This assertion is based on my compilation of every single usage of "subjects" in the period ranging from the reign of Henry VII (1485) through the Henrician Reformation of the 1530s and the last Parliament under Elizabeth I in 1601.⁶ The subjectification of people—a gradual process linking people and land more closely to the state⁷—is shown through the increased importance of the category of "subjects of the realm" in the statutes. Governance of subjects was a central task of the early modern state and, through gradual innovations in conceptions of rule and discursive changes, the personal subjects of the monarch gradually became a category of the

⁵ The Statutes of the Realm is an authoritative collection of Acts of the Parliament of England until 1707, and Acts of the Parliament of Great Britain passed until 1714. The collection was published between 1810 and 1825 by the Record Commission.

⁶ Anthony Goodman provides an excellent overview over the historiography of the English Monarchy before 1534 in Goodman (1988). For developments under Henry VII, see Watts (1995).

⁷ See the excellent discussion of state authority, territoriality and population in the first pages of Thomas (2004).

subjects of the state (Realm) and eventually of the subjects *tout court* (or “population”, as it was later referred to), political subjecthood acquiring the taken-for-granted character that we are familiar with today.

This article proceeds in five parts. I begin with a discussion of the extent to which people and the historicity of subjecthood are accommodated in the literature on state formation, before discussing the emerging literature on the territorial dimension of the emergence of the state. I argue that, to the extent that theories of state formation today take into account the historicity of the objects of rule of the state, it is through historicizing territory at the expense of subjecthood. The second part of the article is dedicated to problematizing the relationship between territoriality and subjecthood, and I make the case for them being two distinct processes. In the third section I discuss laws as a site for exploring processes of political change—and subjecthood in particular—before addressing the politicization of subjecthood in the fourth section. Through the period in question, I demonstrate that there is a gradual yet clear shift in conceptions of subjecthood—a move from “subjects of the king” to subjects of the state. Finally, I address the wider implications of this shift. Based on changing notions of treason, I argue that through subjectification the state is reconstituted as the locus of a new type of power. Once allegiance is “normalized” the means through which allegiance was secured can be redeployed beyond the narrow scope of securing obedience.

Landless states without people

In spite of there being a broad range of definitions of the state, it is generally taken for granted that the state has two conceptually distinct objects over which it dominates: territory and population.⁸ Yet, as hinted at above, accounts of state formation have generally not explored the historical processes that link territory and population to the state. As a consequence, we have a limited understanding of the processes through which heterogeneous space became the ordered and homogenized territory of the state. Equally, there is little understanding of how a multitude of individuals—often with crisscrossing patterns of (multiple) allegiances—became the unified and homogeneous group of political subjects of the state.

To the extent that there is an understanding of the latter process, it is as an epiphenomenon of territorialization, which has gained prominence in studies of state formation over the past decade or so. This, again, is problematic as it assumes—generally implicitly, but sometimes also in explicit terms—that territory is of primary importance and that the subjects’ political allegiance to the state flows from their ties to the territory of the state. As I argue here, such an understanding does not stand up against scrutiny. Territorialization and subjectification were two analogous, yet distinct and parallel processes—and if one of them anteceded the other, there are strong indications that it was the latter rather than the former. Allegiance to the state emerged independently of the politicization of space.

⁸ Consider for instance: “When I speak of the state, I conceive of it in the conventional manner as the polity characteristic of the modern West, a political entity with a claim to sovereignty, a bounded territory and a population which might be more or less plausibly called a ‘nation.’” (Poggi 2003, p. 39); or Quentin Skinner who understands the state in its modern sense “as the sole source of law and legitimate force within its territory, and as the sole appropriate object of its citizen’s allegiance” (1978, p. x).

States as engines of exploitation

Ever since state formation was brought into the field of vision of historical sociologists again in the mid-1970s, there has been a bias towards seeing the emergence of the state as the result—or bi-product—of rulers' increasingly elaborate and refined mechanisms of coercion and capital extraction.⁹ While the Weberian notion of a nexus between coercion and extraction in the making of the state did not originate in the works of Charles Tilly and his colleagues, their work makes a clear distinction between the material and ideal factors in the formation of the state, opting to focus on the former as it made it possible for them to operate with greater conceptual clarity (1975a, p. 6). The state whose emergence sociologists study has therefore largely been a “soulless” state, as the activity of incorporating subjects into the apparatus of rule is generally understood to have started much later, and only once the state was more or less fully developed.¹⁰ To borrow the words of G. R. Elton, the emergence of the state has for the most part been understood mainly as the crystallization of a specific sort of “engine[s] of exploitation” (Elton 1977).

In spite of the importance of the coupling between nation and state after the Age of Nationalism, the literature on state formation is conspicuously silent on the relationship between state and people—or between state and subjects—in the early modern period. Accordingly, a clear temporal and analytical distinction has emerged between the formation of the state and formation of ties to its subjects, thereby bracketing out explorations of early modes of governance of people.

Whether in the Marxist or the Weberian tradition, historical sociological accounts of the emergence of the state share instead a common focus on institutions and the emergence of the fiscal and military monopolies of the state,¹¹ and “a one-sided conceptualization of state formation as a process of political and administrative centralization” (Gorski 1993, p. 266). While Tilly's earlier work acknowledges that states aimed at “homogenizing” their populations,¹² this does not become part on any theoretical framework for understanding the efforts early modern rulers made to consolidate their dominions into states (e.g. Tilly 1975b; see the discussion in de Carvalho 2015). The same holds equally true for most accounts of state formation.¹³ In social theory, states often appear like the St. Andrews Hospital in the television series

⁹ See Andersen (2012) for a good overview.

¹⁰ There is generally widespread agreement as to dating this emergence of nationalism to the late 1700s (see e.g. Gellner 1998; Mayall 1993).

¹¹ Gianfranco Poggi points out that “oddly enough, however, scholars who appealed chiefly ... to Marx's legacy, [have] also moved toward the same [Weberian] themes, in spite of the fact that previously the Marxist tradition had de-emphasized them” (2004, p. 96).

¹² Tilly argues that “the homogeneity of the subject population was, by contrast, no more than a contributing factor. The *presence* of a culturally homogenous population no doubt lowered the cost of state-making by making uniform administrative arrangements feasible, by promoting loyalty and solidarity of the subject population ...” (1975, p. 42, emphasis added; see also Tilly 1999). Tilly also argued further that “In one of their more self-conscious attempts to engineer state power, rulers *frequently* sought to homogenize their populations in the course of installing direct rule. From a ruler's point of view, a linguistically, religiously, and ideologically homogenous population presented the risk of a common front against royal demands But homogeneity had many advantages: within a homogenous population, ordinary people were more likely to identify with their rulers ... [and] were more likely to unite against external threats” (1992, pp. 106–107; emphasis added).

¹³ See Ertman (2005) for a discussion. For examples, see for instance the accounts of Anderson (1974); Ertman (1997); Mann (1997) Spruyt (1994); and van Creveld (1999).

Yes Minister: it has a fully developed and functional administration, but no patients. It has a bureaucracy, it is a place, but there are no people.

Historicizing territory

In spite of the wealth of macro-sociological literature on state formation, the spatiality of the territorial state remained for a long time conspicuously absent. Charging against this omission, John Agnew (1994) contended that the literature on state formation—and International Relations particularly—had fallen into a “territorial trap” by taking the spatial dimension of the state for granted (see also the critique in Ruggie 1993). Accordingly, he argued, “state territories have been reified as set or fixed units of sovereign space. This has served to dehistoricize and decontextualize processes of state formation and disintegration” (1994, p. 59). Jens Bartelson followed suit, charging that “when it comes to defining the object of inquiry, macrosociologists in general seem to agree that the state ultimately consists of military control over a territory.” With no adequate understanding of the processes through which space is politicized (Bartelson 1995, p. 40). Finally Stuart Elden has asserted that territory has been “unhistorically accepted, conceptually assumed, and philosophically unexamined” (2005, p. 10). Still today, Elden argues, “there is little that investigates the term *territory* conceptually or historically” (2013, p. 3; emphasis original). The problem is that when territory is defined, it is often assumed to be either the end result of a process of territorialization—rendering the concept ahistorical—or as “bounded space”—thus assuming rather than inquiring into the how such a configuration came about (*ibid.*). There are notable exceptions, to be sure,¹⁴ but on the whole, the emergence of space as territory remains under-examined (see Shah 2012 for a recent discussion).

As Jeppe Strandsbjerg notes, territoriality is thereby relegated to “a physical backdrop to the state” (2010, p. 7). This is problematic, he argues, as “space is not a stable category” and “a ‘territorially demarcated area’ is not simply about demarcation and boundaries, but about the production of space itself; how it was possible to draw boundaries in a specific way; and what kind of space was ‘contained’ within these boundaries” (2010, p. 11). Thus, the fact that “space is missing in established accounts of state formation ... illustrates the problem concerning territorial space and why space has yet to be included in the analysis as something whose transformation itself was an important aspect of state formation” (2010, p. 8). Furthermore, space did not unproblematically turn into political territoriality; rather, this is the result of a process through which “political space comes to be abstracted from particular, or local social experiences and reconfigured in terms of a universal notion of particular sovereign space” (Strandsbjerg 2010, p. 13).¹⁵ Such abstractions have contributed to “erase[d] differences within the territory and constructed territory as a universal homogeneous space within its boundaries” (*ibid.*).

The question of space and the territorial dimension of state formation are not our primary concern here. Yet, a discussion of this dimension is important as it highlights the extent to which accounts of the formation of the state have largely taken the state’s object of rule for granted and not questioned how states came to have such a control

¹⁴ See, for instance, Sahlins (1989). See also Kratochwil (1986); Walker (1993).

¹⁵ See also Vandergeest and Peluso (1995).

over their sovereign space, their territory. For, as Bruno Latour has pointed out, social interaction takes place in concrete categorized spaces, not abstract ones (1999, p. 14). To understand how space was politicized, social scientists must investigate, “the specific production of space as an abstract, yet real, category.” Only then, Stransbjerg posits, can one hope to understand the workings of “a spatial reality that, in turn conditions possible social action” (2010, p. 14). As I argue below, the same holds for the second blind spot of the state formation research agenda: how states established their rule over people, turning the relation between ruler and ruled into a taken-for-granted and unquestioned notion.

It is worth dwelling on the roots of the word “territory,” as it may give us cues as to the process through which territory is constituted as such, and by extension gain insight into the parallel process of subjectification. While there is no unambiguous etymology of the noun, territory has traditionally been understood as coming from the Latin *territorium*, which “was formed by adding to *terra* (‘earth’ or ‘land’ in Latin) the suffix *torium*, which seems to have meant ‘belonging to’ or ‘surrounding.’” This is the meaning of territory as “the land or country belonging to or under the dominion of a ruler or state” (Gottman 1973, p. 16).¹⁶

A few studies have taken on the exploration of how states territorialized space and what the consequences of this process were for the state. Karl Appuhn (2009), for instance, has emphasized the extent to which state’s attempts at mastering space contributed to the formation of the state itself. Appuhn shows how Venice’s need for lumber drove the Venetian Republic to develop new and innovative techniques for governing nature, changing in the process the relationship between the Republic and the space surrounding it. Through the development and implementation of novel techniques of governance and administration of forests, Venice became “inextricably entwined with its mainland state” developing from an insular city state to a regional state (2009, pp. 1–19). As Appuhn points out, “the combination of new reserves [of lumber], new laws, and the ever-expanding geographical scope of Venice’s reach for critical forest resources irrevocably altered the manner in which Venetian officials conducted forest inspections” (2009, p. 158). In showing how this change took place, Appuhn problematizes political space and the techniques to govern it, showing how these changes happened gradually and how they were the result of processes of gradual imposition and resistance. In fact, he argues that between 1471 and 1548 the gradual imposition of new techniques and modes of administration on the governance of forests and the “imposition of laws restricting local practices” gradually gave these innovations, and Venice’s rule over forests far beyond its center, a taken-for-granted quality. Measures that in 1471 were contentious and required long and detailed elaborations and

¹⁶ But as is noted in the *Online Etymology Dictionary* with reference to Michiel de Vaan’s *Etymological Dictionary of Latin and the other Italic Languages*, “since *-torium* is a productive suffix only after verbal stems, the rise of *terri-torium* is unexplained.” As others have pointed out, there is another possible etymology to the word, namely a derivation of *terrere*, to frighten: With reference to Roby’s *A Grammar of the Latin Language*, Stuart Elden notes that “the formation of *territorium* may indeed derive from *terrere*, and is therefore ‘a place from which people are warned off.’” (2009, pp. xxix) The implied etymology of the word would then be *terrere* and the suffix *orium*, which denotes place. The latter etymology is attractive to many scholars today as it makes an intrinsic connection between space and violence, between state and terror. It seems to me that the former etymology (*terra* + *torium*) is more likely, as the derivation from *terrere* would have to stem from *terrere* + *orium* (place), which combined would lead to *terrorium* rather than territory.

justifications required none in 1548: “they simply took them for granted” (2009, pp. 146; 142).

In a similar vein, Chandra Mukerji has shown how processes of imposing state rule on the land—territorialization—contributed to shape and change France’s practices of territorial governance. In order to “claim and manage a vast and complex territory,” she argues, “place and power had to be allied in a new way.” The state initiated a vast series of campaigns aimed at increasing the knowledge about its lands. As James Scott has pointed out, for consolidating states in the early modern period, the task was a challenging one to overcome as “the premodern state was, in many crucial respects, partially blind; it knew precious little about its subjects, their wealth, their location, their very identity. It lacked anything like a detailed ‘map’ of its terrain and its people” (1998, p. 2). This new knowledge was used either in reshaping the land, or provided the basis for new representations of the state, making France a “political *location*” (1997, p. 3) Through these knowledge practices and the governance and administration of space,

what was produced ... was a state territory; it was not natural and it was not just locally known or used. It was an order of things, not in Foucault’s sense of language-based categorization of the natural world, but a political order realized on the land. It was made with the aqueducts running across fields. It was embodied in the border fortress cities ... that told the ordinary traveler where the land changed political hands. It was dug into the canals that linked major rivers in France, and was felt by all those whose lives were transformed for good and bad by the new trade running along them, This material order structured a social order that was felt everywhere, and nonetheless had a center where the engineering was being managed through the institution of the state. The France that was produced this way was not a political concept, a title for a regime, or the product of an imagined history. It was a place (1997, p. 324).

Through practices of intervention on the land, the state was made to seem homogeneous and unitary to its inhabitants and to those outside of its borders. As Mukerji points out, the building of a state apparatus directly contradicted prior understandings of the origins of the legitimacy or rule by divine right, as not only kings were now in possession of state power, but also the agents of the state. She asks, how could such a crisis of legitimacy be overcome? The state gained its legitimacy because it became taken for granted; through territorialization, “the state was made to seem natural” (1997, p. 20).

Yet, the problem with giving territory such a central place in accounts of state formation, is that it brackets out the historicity of people and the forging of ties of political subjecthood. They are assumed to follow into the fold of the state as an epiphenomenon of the process of territorialization. Michael Mann, for instance makes the case that the “power of the state depended to a large degree on *trapping* its subjects into particular spaces and roles” (1997, p. 290; emphasis original). With reference to Bartolus, Elden points out that “it becomes clear that the territory is the essential object of rule, and that things happen within, and people located within, are subject to the jurisdiction” (2013, p. 221). Elden makes the point even more forcefully with reference to Rousseau: “by holding the land [*terrain*],” monarchs “are quite sure of holding the inhabitants” (quoted in Elden 2013, p. 329). As Elden points out, “to be in the territory is to be subject to sovereignty; you are subject to sovereignty while in the territory, and

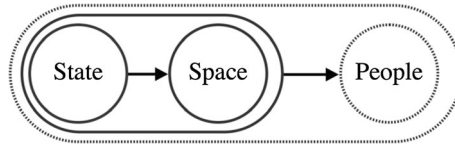


Fig. 1 The primacy of territory in explaining the formation of the state

not beyond; and territory is the space within which sovereignty is exercised Sovereignty, then, is exercised over territory; territory is that over which sovereignty is exercised” (ibid.).¹⁷ The model of state formation that follows is schematically represented in Fig. 1.

But while this state of affairs may describe the world today, whether it is an accurate claim with reference to the period where neither territory nor population was fixed to the state is far from consolidated. In fact, Elden operates with an unproblematic and assumed concept of political subjecthood, one that depends almost entirely upon its link to political space. In fact, such a notion of the relationship between the two is problematic, as attempts to overcome the “territorial trap” have inadvertently stumbled into a “territorial monism” where the problem of establishing rule or dominion is conceived of solely in territorial terms. In what is to follow, I seek to address this lacuna by examining ways in which early modern states sought to impose their rule on people, thereby constituting them as political subjects.

Disentangling subjects from territory: historicizing the political subject

Understanding the emergence of the state therefore requires a focus on both processes of territorialization and subjectification, as states have two interlinked yet distinct objects of rule. As Charles Tilly pointed out, “states always grow out of competition for control over territory and population” (1992, p. 4). This echoes Weber’s seminal ideal typification of the state in terms of the means peculiar to it as “a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory.” Note that “territory” is one of the characteristics of the state” (1958, p. 78). Furthermore, Weber argues, conceptually speaking, “the modern state is a compulsory association which organizes domination” (1958, p. 82). Here, too, we see the state’s double object of rule that makes up that state: a human community and a territory, joined together through organized domination. It is difficult to assess why territory has become seen as *the* object to problematize in understanding the emergence of the state, while people—or the “human community”—have remained relatively unexplored. This omission is problematic, as it generates the false assumption that people are brought into the fold of the state, turned into subjects, so to speak, by an extension of modes and processes of territorial governance. As I discuss below, this assumption is both empirically unfounded and problematic.

¹⁷ With reference to the discussion of Elden below, it is important to note that what he does here is to conflate obedience to laws and obedience to commands. In fact, there is a conceptual distinction between following laws when traveling in a country of which one is not a subject, on the one hand, and owing allegiance to that state, on the other.

People were not turned into subjects through the territorialization of space. Rather, they gradually became subjects of the state through a similar yet distinct process—albeit not aimed at the regulation or governance of space—that ran in parallel with the process of territorialization, but that should not be conflated with it: *subjectification*. This realization is itself not entirely novel, as I discuss below. Yet, little has been done in terms of exploring how the process of subjectification worked in practice and how it was first established, let alone investigating the change empirically. As a consequence, to my knowledge, there is no established vocabulary in the state formation literature to describe the process through which this politicization of subjecthood—a corollary to territorialization—took place. I have called it “subjectification” here largely following Erik Ringmar (1996; see discussion below), but also to follow the translation of Foucault’s usage of *assujettissement*—although his terminology was somewhat inconsistent over the years.¹⁸

And while this does not entail my adopting here a Foucauldian take on the process, my understanding of subjectification is analogous to Foucault’s analysis from “*Society Must Be Defended*” (2003) in which he is interested in subjects “constituted as subjects by power-effects” (2003, p. 29; see also the discussion in Kelly 2009). The central aim in Foucault’s theory of dominations is, through investigating relationships of domination, to “see how that relationship itself determines the elements to which it is applied.” Such an approach, he argues, can show “how actual relations of subjugation manufacture subjects” (2003, p. 45). He further summarized the process as follows: “Confronted by a power that is law, the subject who is constituted as subject—who is ‘subjected’—is he who obeys. To the formal homogeneity of power in these various instances corresponds the general form of submission in the one who is constrained by it A legislative power on one side, and an obedient subject on the other” (1978, p. 85).

The double meaning of subjectification mentioned above is also noted by Erik Ringmar, who ties the subjectification of people to the emergence of modern subjectivity.¹⁹ It is worth dwelling on Ringmar’s argument as it bears on the argument in this article:

There were, however, strict limits to the Renaissance man’s ability to fashion his own self, and neither individuals nor states could in practice be whatever they wanted to be. As soon became obvious, the freedom of each individual was strictly limited by the power which the state exerted upon him or her, and the power of each state was in turn strictly limited by the power of other states. Perhaps we could say that the identity of both man and state were formed through a process of *subjectification*—man became a subject and aware of the unity of his

¹⁸ To the extent that the importance of subjectification has been theorized, it is by Michel Foucault (see Karsenti 1992). Foucault uses different terms, speaking of *assujettissement* as the complex process through which individuals are subjected to state power. This process is for Foucault a double one, as it also involves the *subjectivation* of individuals—a mode of construction of the self by the social self. This process is also the noted by Erik Ringmar below. Largely flowing from Foucault, and possibly also due to Judith Butler’s use (e.g., Butler 1993) of the conceptual framework—incidentally, Butler is also inconsistent in her usage, using at times “subjectivation,” “subjection”—as well as Gilles Deleuze and Félix Guattari (see Murray 2013). The term and conceptual apparatus are also used in other settings involving the governance of the subject, such as childhood and education (e.g., Davies 2006; Kallio and Jouni 2011), religion (e.g., Pettersson 2012), citizenship (e.g., Pettersson 2011), feminism (e.g., Fraser 1999), disenfranchisement and resistance (e.g., Ryan 2015), and even a passing reference in the IR literature of power (Berenskoetter 2007).

¹⁹ See also Epstein (2013), who addresses the emergence of the agency of the subject.

self as he was *subject to* the techniques of power employed by the state, and the state became a subject and aware of the unity of its self as it was *subject to* the techniques of power of other states (1996, pp. 444–445; emphasis original).

Ringmar's take on subjectification dovetails with Michel Foucault's endeavor broadly speaking. As Foucault wrote, "My objective ... has been to create a history of the different modes by which, in our culture, human beings are made subjects" (1982, p. 777). Foucault further elaborates on how people are linked to the state: "I don't think that we should consider the 'modern state' as an entity which was developed above individuals, ignoring what they are and even their very existence, but, on the contrary, as a very sophisticated structure, in which individuals can be integrated, under one condition: that this individuality would be shaped in a new form and submitted to a set of very specific patterns" (1982, p. 782). Yet, investigating the emergence of the abstract notion of population from a multitude of people, Foucault does not explore the subjectification process upon which the abstraction of population rests; that is, the move from a heterogeneous multitude of allegiances to a homogenized community of subjects of the state.

Ringmar also alludes to the etymology subject: "the noun 'subject' is derived from the Latin *subjectus* meaning 'lying under or near', 'adjacent', 'exposed' or 'inferior', and is in turn derived from the past participle of the Latin *subicere*, 'to place under.'"²⁰ The etymology given by *Etymonline.com*, an online etymology dictionary edited by Doug Harper, helps us further understand the roots of "subject," via the following entry:

early 14c., 'person under control or dominion of another,' specifically a government or ruler, from Old French *sogit*, *suget*, *subget* 'a subject person or thing' (12c., Modern French *sujet*), from noun use of Latin *subiectus* 'lying under, below, near bordering on,' figuratively 'subjected, subdued,' past participle of *subicere*, *subiicere* 'to place under, throw under, bind under; to make subject, subordinate,' from *sub* 'under' ... + combining form of *iacere* 'to throw' (see *jet* (v.)). In 14c., *sugges*, *sogetis*, *subgit*, *sugette*; form re-Latinized in English 16c. Meaning 'person or thing regarded as recipient of action, one that may be acted upon' is recorded from 1590s.

The relevance of this etymology is not only to emphasize the combination of "to throw" (*jet*) and "under, below" (*sub*), but also to highlight the roots of the noun that are independent of territory. In fact, there is little in the etymology that indicates any primacy of territory or spatial belonging as a precondition for the domination of the state. As I mentioned in the introduction, it is my contention that the state established its dominion in parallel upon space and people. Through this process, as Appuhn and Mukerji have emphasized with respect to the territorialization of space (see the discussion above), the nature of the object of rule changed—as did the state itself. It is therefore interesting to note the emergence of a different meaning of "subject" in the

²⁰ Ringmar's references are *The Barnhart Dictionary of Etymology* (1988) and "Subject" in Johnson 1755/1968, Vol. II.

1590s, as something malleable, an abstract conception that could be the recipient of action.²¹

Two prominent studies have recently shed light on the processes of subjectification, with important implications for its relation to the spatial dimension of politics.²² As such, the historicity of the political subject claimed here—and with it the conceptual distinction between territorialization and subjectification—is also in line with recent explorations of the emergence of the modern state. Lauren Benton has pointed to what she calls “the portability of subjecthood” (2010, pp. 3, 286) as a premise of early modern theories of sovereignty. Indeed, she argues that, in the early modern period, it was less the territory an individual might be in than ties of allegiance that mattered in determining under whose authority that person was and which laws that person was bound by: “Legal cultures traveled with imperial officials, merchants, sailors, sojourners, settlers, captives, and even pirates—agents in empire who positioned themselves as subjects and often as representatives of distant sovereigns while interacting with locals and representatives of competing empires” (2010, p. 3). Only later, Benton shows, did subjecthood come to be conceived as territorially bounded. In fact, “the problem of subjecthood corresponded in interesting ways to the imagined political significance of subjects moving through space. The presence of European subjects itself implied the extension of law” (2010, p. 31). According to her account, subjecthood worked to political space in the early modern period, rather than being an extension of territoriality. As a case in point, Benton mentions the fact that Bodin gives little attention to and does not even mention territory in his tracts on sovereignty. Benton notes that this omission was no oversight on Bodin’s part, but that his view instead was “consistent with an early modern construction of sovereignty as spatially elastic. Because subjects could be located anywhere, and the tie between sovereign and subject was defined as a legal relationship, legal authority was not bound territorially” (2010, p. 288).

In a related study, Annabel Brett touches upon the distinctive processes of subjectification and territorialization, showing that notions of political subjecthood antedated and conditioned the emergence of territorially bounded authority. Brett shows that the major political thinkers in the early modern period “showed very little interest either in the concept of territory, or in place more generally. Situation or locality remained on the fringes of their conception of the state” (2011, p. 170). As Brett shows, the concern with the spatial dimension of state authority antedated the establishment of ties of allegiance between subjects and the state. In fact, it was the “profusion of human beings moving outside the borders of the commonwealth” that prompted the concern about the spatiality of state authority in the seventeenth century. Relevant questions were the extent to which subjects were still bound by the laws of the commonwealth when residing “outside” of it, and whether subjects of other states were bound by the law of the state in which they were (2011, pp. 170–171).

Accordingly, she argues that the territorial extent of sovereign authority is a concern that emerges in the early seventeenth century; after the period of subjectification studied here. On the question of which persons were to be judged members of the community,

²¹ The citation of subject as “one that may be acted upon” is from 1592, in Shakespeare’s *Romeo and Juliet* (III.v.212). Harper further wrote that “probably it is not the coinage of that sense, but it is the earliest that has been identified” (personal correspondence, March 17, 2014).

²² See also the forthcoming Epstein (2016), which dovetails nicely with the argument in the present article.

for instance, Suarez replied in *De legibus* (1612) that “just as in a natural body, its actual members are constituted by their proportionate union with such a body, by means of which they are subjected to the motion of the whole body; just so, in the political body, the members are constituted through a moral junction” (quoted in Brett 2011, p. 176). *De legibus* was published later than the period that I examine here, yet, as Brett points out, “territoriality is under-theorized in a conception of the commonwealth that centers on the *moral* incorporation of human beings” as Suarez borrows his analysis of the limits of political authority from the law and the organization of the church (2011, p. 176).²³

The territorial limits of subjecthood and political allegiance thus become a contested issue in early modern political theory. However, the debate does not emerge from a discussion of what constitutes subjecthood or how allegiance is established, but rather in later considerations of cases of travellers. As Brett points out “it is apparently *not* place alone that constitutes a subject” (2011, p. 180; emphasis original): to theorists in the mid-sixteenth century, locality or situation is an essential presupposition of the way they think about sovereignty and subjection. However, it is at the same time something that emerges only obliquely as they consider particular figures away from home such as travellers, migrants, fugitives, or ambassadors” (2011, p. 195.) This is illustrated in the writings of Grotius who argues that the primary subject of *imperium* is human beings; “place, which is called territory” is only a secondary concern (quoted in Brett 2011, p. 200). In consequence, as Brett points out, “there can therefore be *imperium* over human beings without *imperium* over place Moreover, we should note that there is no *imperium* over place if there is no *imperium* over people, the one being a secondary consequence of the other” (2011, p. 200).

Whether dominion over space was established as a secondary concern of subjecthood or as a separate and parallel process is beyond the scope of this article. Yet, it is important to note the extent to which subjecthood and territoriality were conceived of as distinct processes and that subjecthood, at any rate, was not understood to follow territorial space. Yet, while the making of the political subject is explored in the writings of Benton and Brett—in Benton’s case through a study of empire and in Brett’s case in political theory—this is not explored empirically with reference to the state, nor is the issue of how *subjectification* happened in practice a central concern to them. I address this below. Society and territory relate to the state in similar ways, as states presuppose them. As Alexander Wendt has stated, “no society, no state” and “no territory, no state.” (1999, p. 211). The central question to the historically minded scholar is how this relationship is established in the first place; or, how a preexisting spatial order and bounds of allegiance are tied into the state to the point where this new arrangement is taken for granted. As I show below with reference to the state’s legal statements, this process consisted largely of a gradual discursive inscription or

²³ Brett notes one passage where Suarez refers to the primacy of territory and where leaving the territory would no longer oblige a subject (Brett 2011, p. 176), as “the law is generally passed for such a territory, as we suppose. Therefore it obliges all who are actually staying there for the time that they do so” (quoted in Brett 2011, 177). Yet, Suarez distinguishes between law and command, and it is only the former that he claims to be a function of territory, the latter obliging “the inhabitants of the *terra* and true and permanent subjects.” Furthermore, Brett points out that even Suarez recognized the fact that his views on the limits of political authority may seem “at odds with his analysis of law, which is passed upon subjects understood as members of a moral community, not a place” (Brett 2011, p. 177).

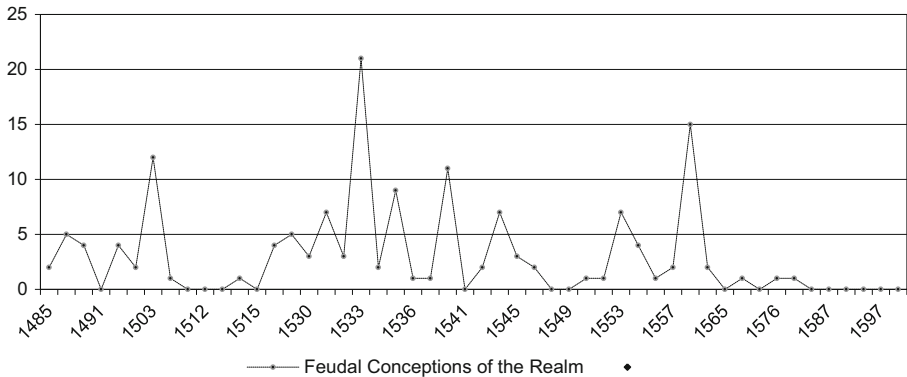


Fig. 2 The gradual decline of feudal conceptions of “realm” in the public Statutes of the Realm, 1485–1601

imposition of new relationships, largely in turning problematic or contingent entities into “natural,” unproblematic, or “given” ones.

Laws and statutes as a site of inquiry: the significance and extent of discursive change

The relationship between different conceptions of rule is generally understood as ruptures rather than continuous innovations. In fact, the move from a “feudal” personal conception of rule to the impersonal modern conception, characterized by the absolute sovereignty of the state over its population within territorial boundaries, is generally understood to have taken place through a clear break from the “feudal” conception of rule characteristic of the Middle Ages.²⁴ Yet, understanding this process as a revolutionary break rather than incremental reformations and innovations in political discourse masks the continuous character of social and political change, thereby hindering a full understanding not only of how conceptions of politics change, but also of how our modern notion of the state emerged. In fact, as illustrated by Fig. 2 (and underlying Appendix 1),²⁵ the move from feudal conceptions of rule (in this case from the feudal conception of the king’s realm to the realm *tout court*) to a modern one was a gradual and non-linear process.

A thorough examination of the Acts of Parliament shows how, around the time of the reformation, a new conception of the relationship between rulers and ruled emerged. This is a significant shift as it made possible the emergence and deployment

²⁴ I refer to “feudal” in the present article as a shorthand for a conception of rulership based on personal ties rather than the impersonal concept of rule associated with the modern state. In so doing I do not seek to reify feudalism as a unitary and unproblematic period. I do so as a way to contrast the discourse about subjecthood before the reformation period with that following the reformations. For a problematization of temporization and feudalism, see the excellent Davis (2008).

²⁵ All the figures have been compiled by the author. I compiled these data by combing through the *Statutes of the Realm*, recording every mention of the terms studied here. The underlying numbers are provided in the appendices below. The data were collected through three careful readings of all English statutes passed between 1485 and 1601. The first reading was undertaken in order to get an understanding of the texts. The second was undertaken in order to collect data, listing all occurrences of the terms analyzed and storing them with their context, while the final reading was undertaken in order to control the data collection. Finally, the data were checked against a (by then only!) digitalized copy of the *Statutes of the Realm* on Google Books.

of new forms of governance of the subject, based not on their (direct) relationship with the ruler, but on their direct ties to the state (Realm). Let us examine some examples by way of illustrating the significance of these changes.

Consider for instance this feudal relationship between *ruler and ruled* from 1279: “our Part is through our Royal Seigniorie straitly to defend Force of Armour and all other Force against our Peace at all Times when it shall please us and to punish them which shall do contrary according to our Laws and Usages of our Realm”. Or the relationship between ruler and state here: “Laws and Customs of the said [his] Realm”.²⁶ The same can be found in 1341: “Laws and Customs of our Realm,”²⁷ and the ruler is still the central character in the wake of the reformations: “laws of the King.”²⁸ However, this relationship changes gradually after the reformations. “Laws of the Realm of England” appears for the first time in 1542²⁹ where it figures five times. Furthermore, “Laws of this Realm” is a very rare exception up until 1522.³⁰ From then on it appears in statutes enacted by every single parliament in the period studied. With the reformation, the term appears 14 times in one parliament. Until the 1530s, statutes still read “his Subjects of this his Realm”³¹ and phrases such as “Common Weal of this his Realm and Subjects”³² or “the King’s Subjects of this Realm”³³ are much more common. After the 1530s, we see the introduction of a new conception illustrated by phrases such as “Subjects of this Realm.”³⁴

Finally, the same change is apparent in the relationship between ruler and the state. Whereas feudal usages of the realm appear almost throughout the early period studied, they have entirely disappeared from 1585 onwards. The discursive change takes place towards a more impersonal and abstract conception of the state, with the gradual fading of the association of ruler and realm. The feudal relationship is apparent in phrases such as “the King’s Realm,”³⁵ or “of his Realm,”³⁶ while towards the end of the period studied we encounter “into this Realm of England” or “within the Realm of England”,³⁷ and “the Policy of this Realm” and “the Wealth of the Realm.”³⁸

It is the discursive practices of the state itself that underpin the argument of this article. As Philip Corrigan and Derek Sayer argue, understanding the practices of the state requires us to take into account the state’s statements. The state states, they argue: “They define, in great detail, acceptable forms and images of social activity and individual and collective identity; they regulate, in empirically specifiable ways, much ... of social life.”³⁹ As Annabel Brett has argued, “the primary way in which the commonwealth commands its subjects is through the medium of its laws” (2011, p. 142). And through these laws, new sets of connections and concepts emerge and are reified. In

²⁶ 1307, 35 Edw. I, st. 1.

²⁷ 1341, 15 Edw. III.

²⁸ 1455, 33 Henry VI, c. 2.

²⁹ 34 & 35 Hen VIII, c. 26.

³⁰ 22 Hen VIII, c. 14.

³¹ 1495, 11 Hen. VII, c. 1.

³² 1515, 6 Hen VIII, c. 12.

³³ 1533, 25 Hen VIII, c. 13.

³⁴ 1536, 28 Hen VIII, c. 16.

³⁵ 1531, 22 Hen VIII, c. 10.

³⁶ 1485, I Hen VII, c. 1.

³⁷ Both in 1597, 39 Eliz I, c. 17.

³⁸ Both in 1601, 43 Eliz I, c. 12.

³⁹ “States, if the pun be forgiven, state; the arcane rituals of a court of law, the formulae of royal assent to an Act of Parliament, visits of school inspectors, are all statements” (Corrigan and Sayer 1985, p. 3).

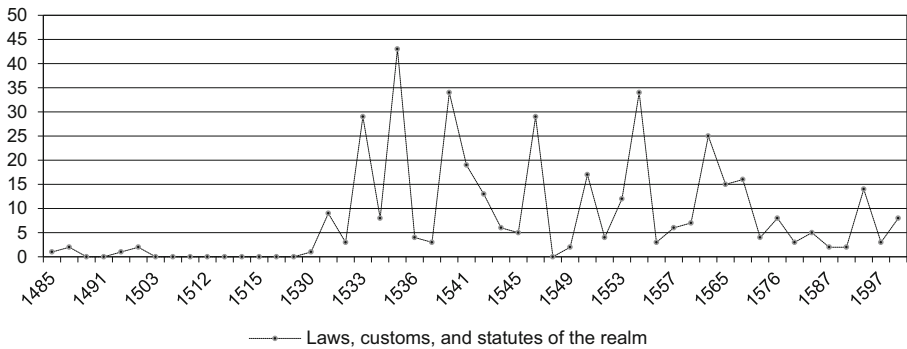


Fig. 3 The increased link between state and law

fact, as Foucault points out, “the West has never had another system of representation, of formulation, and of analysis than that of the law, the system of the law” (quoted in Davidson 2003, p. xvii).

For texts are not autonomous from the phenomena they refer to, but mutually constitutive. Texts to some extent describe pre-existing phenomena, but also define them and impose new descriptions or prescriptions. Following Friedrich Kratochwil (1989) and Nicolas Onuf (1989) “speech acts” are understood here as not only describing social phenomena, but also constituting them. This is even more so in the case of legal statements. Recalling Agamben, “the law has a regulative character and is a ‘rule’ not because it commands and proscribes, but because it must first of all create the sphere of its own reference in real life and *make that reference regular*” (1998, p. 26; emphasis original) The law was increasingly turned into an instrument of governance peculiar to the state (see Fig. 3 and the increased usage of “laws of the realm”) and through which the state inscribed and sought to impose a specific, homogenous, standardized identity upon its objects of rule.

From “subjects of the king” to “subjects of the realm”

In terms of the relationship between ruler and subjects, the 1530s mark a shift, as “subjects” tout court and “subjects of the realm” rather than the feudal “king’s subjects”

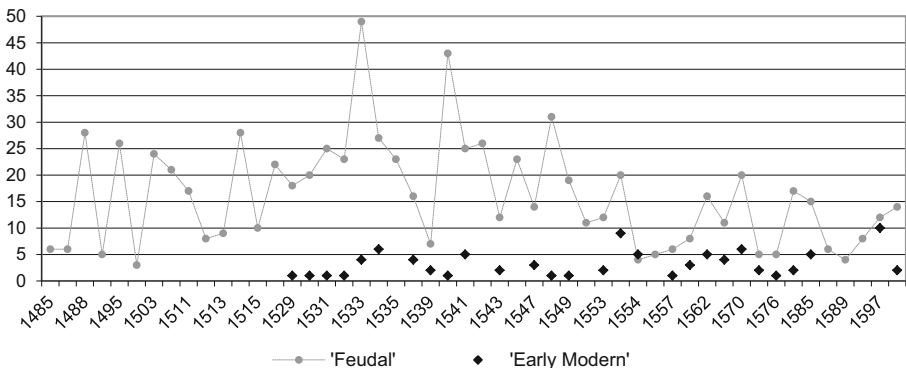


Fig. 4 Feudal and early modern usages of ‘subjects,’ 1485–1601

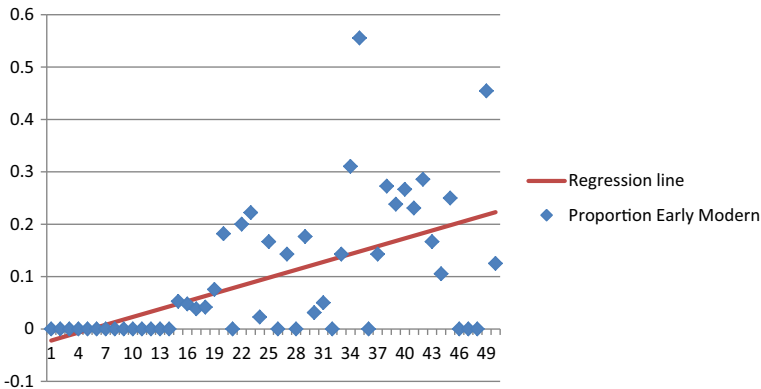


Fig. 5 Regression line of feudal and early modern usages of “subjects,” 1485–1601. In order to confirm the interpretation of the data compiled in Appendix 3 and visualized in Fig. 4, I undertook a regression (See Fig. 5). The substantive interpretation of the analysis is that the proportion of “early modern” to “feudal” usages of “subjects” increases, linearly and on average, by 0.005 for each time a new parliament convened. The regression line was selected using the ordinary least squared (OLS) method, and is shown as a normal linear equation ($y = ax + b$)—in this case: $Y = .005x - 0.22$. The line describes the data fairly well, with R -square = .286, as the regression accounts for 28.6 % of the total variance in the scatterplot. In terms of significance, the b -coefficient for the time variable (a in $y = ax + b$) is significant to .000, meaning that the probability that the observed phenomenon is random is less than 0.01 %, indicating a clear gradual increase in the “early modern” usage of “subjects”

or “liege men” are mentioned for the first time (see Figs. 4 and 5, as well as Appendix 3). With reference to the usage of “realm” *tout court*, the shift is obscured by the prior use of the term as well. Yet, here too, the decrease in usage of the “feudal” terminology can be argued to reflect the emergence of a more “modern” conception of the state, as the usage of the “king’s realm” (and related terminology) gradually fades out. Between 1562 and 1601, the feudal terminology appears only four times, while it figures 112 times between 1522 and 1562 (see Fig. 2 and Appendix 1).

Reference to “the Realm” or “realm” *tout court* can, for instance, be found in an act passed in 1553 that represents an especially telling example, as the preamble mentioned how the “glory and honour of God in Heaven (who is the author of truth and truth itself)” is necessary for the “profit and special benefit of the Universal People and Body of a Realm [to be] maintained.”⁴⁰ While it would be a stretch to see this as an example of the emergence of an understanding of “population” rather than subjects, it nevertheless shows an emerging awareness of the people being a specific group within the state, and not only subjects of the ruler. As such, the thinking around political membership seems to have made a crucial shift from the semi-feudal understanding prevalent under Henry VIII. Another example of a more modern conception of subjects not as subjects of the ruler in the sense of a suzerain, but as subjects of the state can be found in the same act, as it mentions “the Joy and Comfort of all the Subjects of this Realm.”⁴¹

Furthermore, an act passed in 1554 deplored the fact that the “natural-born subjects of this realm” had introduced and preached erroneous doctrines.⁴² Here too, the notion of “being subject” was not linked to the feudal concept of suzerainty, but to the political entity of the state. As exemplified above, the emergence of “subjects of the realm” can

⁴⁰ (1553) 1 Mary, st. 2, c. 1. (emphasis added).

⁴¹ *Ibid.*

⁴² (1554) 1 & 2 Philip and Mary, c. 8. (emphasis added).

be argued to reflect an evolving understanding of subjects of an abstract corporation rather than of the ruler in person. The abstract ties of membership characteristic of the modern state that “subject of the realm” characterizes were first articulated in the 1530s. Towards the mid-1550s we can further discern how such an understanding is reflected also in the discourse on membership to the state: ‘we may as children repentant be received into the bosom and unity of Christ’s Church, so as this noble realm with all the members thereof may in this unity and perfect obedience to the See Apostolic and popes for the time being serve God and your Majesties.’⁴³

The point can be argued from the above statute that these instances reflect an evolving understanding of membership to the political association as flowing from the modern idea of membership to the abstract entity of the state, rather than from a feudal personal connection between subject and lord. Indeed, it refers to the “realm with all the members thereof” rather than the “subjects of the Queen” or any similar phrase. An act passed in 1562 also illustrates the argument, as it declared it treasonable to alter any coins, on the grounds that this had caused “great Loss and Damage of the good Subjects of this Realm.”⁴⁴ The same is found in another act of the same parliament in which “the Destruction of the Persons and Goods of their Neighbors and other Subjects of this Realm” is mentioned.⁴⁵

In 1571, we find “every person or persons ... being the natural born Subjects of this Realm of England or other Dominions, being under the Obeisance of the Queen ... or being Denizens of this Realm,”⁴⁶ which also illustrates the emergence of a new discourse on rule and the subjects of political authority, as the “surety and preservation of the Queen’s most Royal Person, in whom consists all the Happiness and Comfort of the whole State and Subjects of the Realm” as well as the “most happy State and present Government of this Realm.”⁴⁷ Furthermore, the act illustrates how political allegiance was gradually moving away from a feudal understanding of political authority: “Forasmuch as the duty of every Subject consists in readiness at all times to attend to the service of his Prince and Sovereign Governor and of his Country, when he shall be commanded, either within the realm or without.”⁴⁸ Given the turmoil of 1571, in the aftermath of the papal Bull *Regnans in Excelsis* which excommunicated Elizabeth, it was seen fit to enact that “none ought depart [the Realm] without special Licence of the Prince.”⁴⁹ The act further constitutes the subject in opposition to the ruler, as well as rearticulating the duties of the subjects:

divers and sundry persons, contrary to the duty of good and lawful Subjects, as though they were Sovereign Rulers themselves and not under Rule and Commandment, casting away most willfully and obstinately the Service, Duty, Obedience and Defence of their Prince and Country⁵⁰

⁴³ Ibid. (emphasis added).

⁴⁴ (1562-3) 5 Elizabeth I, c. 11.

⁴⁵ (1562-3) 5 Elizabeth I, c. 16.

⁴⁶ A “denizen” denotes an alien granted certain rights of citizenship. (1571) 13 Elizabeth I, c. 3.

⁴⁷ (1571) 13 Elizabeth I, c. 1.

⁴⁸ (1571) 13 Elizabeth I, c. 3 (emphasis added).

⁴⁹ Ibid.

⁵⁰ Ibid. (emphasis added).

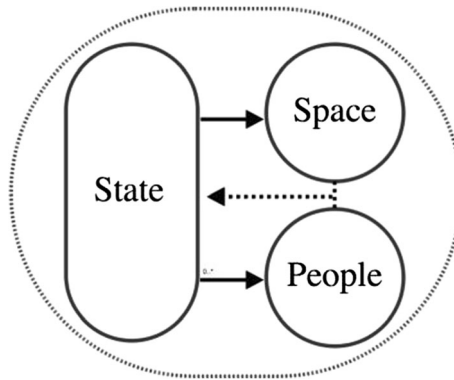


Fig. 6 State formation through territorialization and subjectification

A new conception of political subjecthood emerged through the increased use of “subjects of the realm,” achieved by joining “subject” and “realm” directly in the discourse. Through this new articulation, a person became a political subject by virtue of being tied to the state rather than through giving personal allegiance to the ruler. These discursive articulations, however, could not break completely with former conceptions, as they had to nest on these in order to be legible. The fact that these discursive articulations were nested on pre-existing discourses is also what legitimated them. As such, the state’s discourse bears witness to the discursive innovation within the existing discourse. From owing allegiance to the ruler, political subjects were now tied directly to the state. This, in turn, had effects on the conception of the state. With its subjects tied directly to an abstract notion of the state, the state emerged as the site of a new type of power from which new modes of governance could be deployed to establish, define, and maintain, a political community, beyond securing the obedience and allegiance of the political subject.

A new site of power and new modes of governance

Through processes of subjectification and territorialization the state as an abstract entity emerged as the locus of the deployment of a new type of power over land and people, one which came to govern these objects as abstract categories rather than in their specificities (see Fig. 6). As land and subject became tied to the state, the state emerged as an abstract yet “real” entity with contents: land and people.⁵¹ As Appuhn (2009) and Mukerji (1997) have shown (see discussion above)⁵² this rendered possible a range of new techniques of intervention onto nature and land and normalized interventions that

⁵¹ The emergence of the state as an abstract notion is apparent in many statutes of the period. In 1571, for instance, we find references to “the secret of this Realm” and to the “common Treasure of the Realm” The act stated that a number of subjects “depart this Realm of England . . . into foreign Parts and Dominions of other Princes, under whose Obeisance and Protection they submit themselves and become their Subjects” to the “great Peril and Danger,” not only of the queen, but also the “State of this whole Realm of England” (1571, 13 Elizabeth I, c. 3).

⁵² See also Carroll (2006).

thereunto had been contentious. Given the focus of this article, I do not dwell here on new modes of governance enabled through territorialization, but rather on those made possible through the politicization of the subject. I illustrate this through changing understandings of treason and the boundaries of political community.

Changes in the law of treason and what new practices they enabled are central in understanding the changes undergone by the state. As D. Alan Orr argues, “the development of the idea of the state and the growth of the law of treason in England were codeterminous and interdependent processes that cannot be considered in isolation from one another” (Orr 2002, p. 45). Through the period studied here, the English treason law underwent transformations that went hand in hand with changes in the relationship between ruler and ruled—between king and subjects, and later between state and subjects. As John Bellamy has noted, “concepts of treason never flourish in a vacuum [but] depend greatly on the prevailing thesis of government” (1970, p. 9). Treason was the central test of someone’s breach of allegiance, and became a weapon of choice for a state eager to secure the allegiance of its subjects and consolidate and redefine its power over the political community.

From the immediate aftermath (1534) of the Henrician Reformation and onwards, subjects were asked to swear an oath in front of the king or his representative. Subjects were compelled to swear the oath under threat of treason. As noted by Elton, “the ultimate legal defense of Crown and realm depended on the treason law. High treason was regarded as the final denial of the divine order of things as established in the body politic and defined in the oath of allegiance” (1968, p. 59). As Alan Orr has noted, the “law of treason was inextricably bound up with contemporary ideological debates concerning the nature of sovereignty and what was increasingly denoted as ‘the state’” (2002, p. 2).

Indeed, treason throughout the period studied was reconstituted from a feudal crime against the ruler to a crime against the ruler and realm, towards a crime against a more abstract notion of the state. Our understanding of treason as a crime against the abstract notion of the state has remained remarkably stable. For, just as contemporary usage of the term “treason” is fairly straightforward and unambiguous, the same understanding can be found already at the end of the sixteenth century. However, at the beginning of the sixteenth century, the prevalent definition of treason in England was that of a *personal* crime against the king, an understanding that still rested largely on a statute from 1352. Yet, in 1549, the crime of treason had become one against king *and* state, as subjects were convicted as “Traitor to the King and to the Realm.”⁵³ Charges of treason were also brought against people for “betrayal of the kingdom’s welfare” and to “the great peril of the state of this realm.” (Dunham 1951, p. 73) Finally, in 1607, treason was established as a crime against the abstract concept of the state.⁵⁴ John Cowell (1554–1611) explained in his book *The Interpreter* that treason “singifieth an offence committed against the amplitude and maiestie of the commonwealth” (quoted in Orr 2002, p. 30).

In fact, the gradual transition from subjects of the monarch to the subjects of the realm contributes to constituting the realm/state as an abstract entity, an entity that one

⁵³ (1549–50) 3 & 4 Edward VI, c. 5. (emphasis added).

⁵⁴ Such an understanding of treason as a crime against the state can be found in 1589 in the works of the Dutch political thinker Justus Lipsius, who had lamented that “They who are traitors to their own countrie, to whom and when will they ever be honest?” (quoted in Leira 2008, p. 679).

can conceivably commit crimes against. The condition of possibility of this is the emerging understanding of subjecthood as allegiance to the state. There is some debate as to when to date the emergence of this development. William Dunham has argued that already towards the fourteenth century “Englishmen had become aware ... of a second loyalty, to the kingdom—the community of the realm” (1951, p. 41). Yet, as I have shown above, the legal language of the state did not reflect such a development until the mid-1550s. In fact, Dunham concedes that “rules about subjection” were still “unfixed” in the fifteenth century (1951, p. 68). In the early 1500s, according to Dunham, “as the Englishman’s loyalty to the body politic ... grew more intense, and ... treason to the realm became a more meaningful consideration. Many a man’s loyalty to the kingdom began to surmount this allegiance to the king’s person.” And while this fact may have been obscured by the personality of Henry VIII, during the reigns of Edward VI and Mary “many men felt a stronger attachment to the commonwealth” (1951, p. 73). And the obligations of subjects towards the state changed alongside this. As a case in point, when Lord Seymour of Sudeley was charged with treason in 1549, many of the charges against him concerned his “betrayal of the kingdom’s welfare” and to “the great peril of the state of this realm” (1951, p. 73). Yet it was not until the reign of Elizabeth that “loyalty to the commonwealth supplemented the legal rule of fidelity to the prince.” Some, Dunham argues, even “elevated the realm above the prince” (1951, p. 71).

This change was not the product of some specific legal innovation. Rather, this shift in the meaning of treason dovetailed the politicization of subjecthood and the constitution of the state as an independent and abstract locus of allegiance distinct from the ruler. Initially nested on the feudal understanding of the Great Treason Act of 1352, the discourse on treason is rearticulated as to reflect the changing relationships among subjects, king, and state. This was a gradual process, as emerging conceptions nested on prior conceptions, and new ones were articulated as “hybrids” in order to be legitimated (see Bartelson 1997).

And once the category of crimes against the state had been developed at home, it could be deployed beyond the seas. As Lauren Benton has shown, the recourse to treason law was central in the process of establishing imperial rule over spaces beyond the seas: “At home, treason was invoked for crimes such as aiding enemies or usurping crown jurisdiction, as well as for an array of other acts defined as disruptive of the peace of the realm. Both its flexibility and symbolic power recommended treason as a legal and political tool in nascent political communities far from home.” Establishing imperial rule in “distant regions of unsettled sovereignty” required leaving a spatial imprint as well as securing the allegiance of new subjects and “as settlements became better established and could exert their own claims to allegiance, treason charges reinforced campaigns for the regional dominance of colonial polities over hinterlands” (2010, p. 42). As Benton points out, “Treason was too useful and powerful a charge—and too deeply ingrained in political and legal culture—to be left behind on European shores” (2010, p. 65). Emphasizing the close relation between subjecthood and treason, Benton argues that “men suspected of treason were implicitly accused of having placed themselves outside the political community by renouncing loyalty, a condition of membership. Ironically, the capacity for treason itself depended on that membership. Many Indians, most Africans, and even some Europeans and locals ... could not easily be defined or prosecuted as traitors” (2010, p. 101).

The rearticulation of the treason law constituted new limits of membership to the political community of the state, as treason implied being placed outside of the body politic by transgressing the outermost boundaries of legal behavior and loyalty to the state. Treason being the ultimate political crime, the treason law came to define the ultimate limits of subjecthood and belonging. Committing treason was a negation of the allegiance to the state and set the culpable outside of the political community.

To summarize: subjectification allowed for the development of the concept of crimes against an abstract conception of the state. This in turn dramatically increased the power of the state and became not only the state's ultimate weapon for securing the allegiance of its subjects, but allowed the state to deploy its legal apparatus to ensure compliance on a broader set of issues, threatening non-compliance with treason for acting against the interests of the realm or commonwealth. Yet, this change was only possible through the politicization of subjecthood. The importance of treason is therefore not the straightforward point that it became a crime against the state instead of the king. The point here is that conceiving of treason as a crime against the state *could not have been possible* without the turn from subjects of the monarch to subjects of the realm. As such, the changing nature of subjecthood is what allows the deployment of a new arsenal of legal techniques or modes of governance beyond securing allegiance: a new type of power.

Concluding comments

The emergence of new conceptions of political subjection linking subject to the state constituted the state—the realm—as an impersonal and abstract notion in which lies the locus of sovereign power, rather than the feudal dominion of the ruler. A precondition for this new technique of government to appear, however, was the process of subjectification—the making of the political subject.

As I have argued throughout this article, understandings of the formation of the state need to be sensitive to the importance of this process in constituting the state as we know it. I have sought to demonstrate that this process was distinct from the process of controlling political space and that it had a range of different effects on the making of states.

Turning now to my initial claim, namely that we ought to understand the emergence of the state as more than the crystallization of fiscal and military monopolies, I have shown that early modern state building was also a matter of linking subjects to the emerging state. This of course does not amount to arguing that material accounts are less important and should be dismissed. However, in showing that state formation consisted of more than material centralization, I have implicitly made the case for another story to be told about the emergence of the state—one that emphasizes both territorialization and the making of the political subject.

As sociological accounts have focused on the making of the state apparatus, and geographers have emphasized the importance of the governance of space, I have sought to make the case for studying the making of the political subject in conjunction with state formation. Yet, while conceptually useful, we cannot speak in practice of the state as an a priori unit that territorializes and subjectifies, but must keep in mind that the state itself is (re)constituted through those processes. And while these were conceptually distinct processes, they did also interact in practice (see Fig. 6). An important

element of territorialization entailed “fixing” political subjects onto the territory. Conversely, subjectification also happened with reference to the importance of the territory. Rather than assessing the primacy of one process over the other, be it administrative centralization, territorialization, or subjectification, future research ought to explore how these processes interplayed and the extent to which they were mutually constitutive to the point where all three—state apparatus, territory, and population—became a bundle that could be taken for granted. Only through understanding how these processes interplayed will we gain a better understanding of state formation.

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Appendix

Table 1 The decline of feudal conceptions of “realm” in the Statutes of the Realm, 1485–1601

Year	Reign	‘Feudal’ [ruler’s realm]	Total
1485–1486	1 Hen VII	2	24
1487	3 Hen VII	5	30
1488–1489	4 & 5 Hen VII	4	31
1491	7 Hen VII	–	1
1495	11 Hen VII	4	18
1496–1497	12 Hen VII	2	9
1503–1504	19 Hen VII	12	30
1509–1510	1 Hen VIII	1	6
1511–1512	3 Hen VIII	–	10
1512	4 Hen VIII	–	4
1513–1514	5 Hen VIII	–	6
1514–1515	6 Hen VIII	1	8
1515	7 Hen VIII	–	–
1522	14 & 15 Hen VIII	4	21
1529	21 Hen VIII	5	16
1530–1531	22 Hen VIII	3	34
1531–1532	23 Hen VIII	7	63
1532–1533	24 Hen VIII	3	34

Table 1 (continued)

Year	Reign	'Feudal' [ruler's realm]	Total
1533–1534	25 Hen VIII	21	175
1534	26 Hen VIII	2	43
1535–1536	27 Hen VIII	9	104
1536	28 Hen VIII	1	20
1539	31 Hen VIII	1	10
1540	32 Hen VIII	11	83
1541–1542	33 Hen VIII	–	53
1542–1543	34 & 35 Hen VIII	2	35
1543–1544	35 Hen VIII	7	23
1545	37 Hen VIII	3	22
1547	1 Edw VI	2	51
1548	2 & 3 Edw VI	–	39
1549	3 & 4 Edw VI	–	14
1552	5 & 6 Edw VI	1	52
1553	7 Edw VI	1	15
1553	1 Mariæ, 1, 2, 3	7	59
1554	1 & 2 Phil & Mar	4	129
1555	2 & 3 Phil & Mar	1	17
1557	4 & 5 Phil & Mar	2	45
1558	1 Eliz I	15	103
1562	5 Eliz I	2	106
1565	8 Eliz I	–	42
1570	13 Eliz I	1	113
1572	14 Eliz I	–	38
1576	18 Eliz I	1	21
1581	23 Eliz I	1	39
1585	27 Eliz I	–	45
1587	29 Eliz I	–	3
1589	31 Eliz I	–	20
1593	35 Eliz I	–	40
1597	39 Eliz I	–	56
1601	43 Eliz I	–	27

Table 2 The law and the realm

Year	Reign	Laws of this/the realm	Statute(s) of this/the realm	Customs of this/the realm	Laws of this/the land
1485–1486	1 Hen VII	1	–	–	–
1487	3 Hen VII	–	–	–	2
1488–1489	4 & 5 Hen VII	–	–	–	–
1491	7 Hen VII	–	–	–	–
1495	11 Hen VII	–	–	–	1
1496–1497	12 Hen VII	–	–	–	2
1503–1504	19 Hen VII	–	–	–	–
1509–1510	1 Hen VIII	–	–	–	–
1511–1512	3 Hen VIII	–	–	–	–
1512	4 Hen VIII	–	–	–	–
1513–1514	5 Hen VIII	–	–	–	–
1514–1515	6 Hen VIII	–	–	–	–
1515	7 Hen VIII	–	–	–	–
1522	14 & 15 Hen VIII	–	–	–	–
1529	21 Hen VIII	–	–	–	–
1530–1531	22 Hen VIII	1	–	–	–
1531–1532	23 Hen VIII	4	1	1	3
1532–1533	24 Hen VIII	2	–	1	–
1533–1534	25 Hen VIII	14	5	7	3
1534	26 Hen VIII	5	1	1	1
1535–1536	27 Hen VIII	28	8	6	1
1536	28 Hen VIII	2	1	1	–
1539	31 Hen VIII	3	–	–	–
1540	32 Hen VIII	25	9	–	–
1541–1542	33 Hen VIII	16	3	–	–
1542–1543	34 & 35 Hen VIII	11	–	2	–
1543–1544	35 Hen VIII	4	1	1	–
1545	37 Hen VIII	5	–	–	–
1547	1 Edw VI	18	8	3	–
1548	2 & 3 Edw VI	–	–	–	–
1549	3 & 4 Edw VI	2	–	–	–
1552	5 & 6 Edw VI	12	3	–	2
1553	7 Edw VI	3	1	–	–
1553	1 Mariæ, 1, 2, 3	9	1	2	–
1554	1 & 2 Phil & Mar	26	8	–	–
1555	2 & 3 Phil & Mar	3	–	–	–
1557	4 & 5 Phil & Mar	5	1	–	–
1558	1 Eliz I	6	1	–	–
1562	5 Eliz I	21	3	1	–
1565	8 Eliz I	8	4	2	1
1570	13 Eliz I	13	3	–	–

Table 2 (continued)

Year	Reign	Laws of this/the realm	Statute(s) of this/the realm	Customs of this/the realm	Laws of this/the land
1572	14 Eliz I	3	1	–	–
1576	18 Eliz I	7	1	–	–
1581	23 Eliz I	2	1	–	–
1585	27 Eliz I	4	1	–	–
1587	29 Eliz I	1	1	–	–
1589	31 Eliz I	2	-	–	–
1593	35 Eliz I	7	7	–	–
1597	39 Eliz I	2	1	–	–
1601	43 Eliz I	5	3	–	–

Table 3 Changing conceptions of “subjects” in the public statutes of the realm

Year	Reign	'Feudal'				'Early modern'			Sum	
		[Ruler's] liege people/men	Ruler's subjects	[Ruler's/] subjects of [Ruler's] realm	Subjects of realm	Subjects [unspecified]	'Feudal'	'Early modern'		
1485–1486	1 Hen VII	2	3	1	–	–	6	–		
1487	3 Hen VII	4	2	–	–	–	6	–		
1488–1489	4 & 5 Hen VII	4	22	2	–	–	28	–		
1491	7 Hen VII	–	3	2	–	–	5	–		
1495	11 Hen VII	6	14	6	–	–	26	–		
1496–1497	12 Hen VII	1	2	–	–	–	3	–		
1503–1504	19 Hen VII	7	10	7	–	–	24	–		
1509–1510	1 Hen VIII	1	20	–	–	–	21	–		
1511–1512	3 Hen VIII	3	11	3	–	–	17	–		
1512	4 Hen VIII	–	4	4	–	–	8	–		
1513–1514	5 Hen VIII	2	4	3	–	–	9	–		
1514–1515	6 Hen VIII	1	24	4	–	1	29	1		
1515	7 Hen VIII	–	10	–	–	–	10	–		
1522	14 & 15 Hen VIII	1	18	1	–	–	20	–		
1529	21 Hen VIII	–	14	4	–	1	19	1		
1530–1531	22 Hen VIII	1	18	1	–	–	20	1		
1531–1532	23 Hen VIII	1	22	2	–	–	25	1		
1532–1533	24 Hen VIII	1	18	4	–	–	23	1		
1533–1534	25 Hen VIII	2	42	5	–	–	49	4		
1534	26 Hen VIII	2	17	8	–	–	27	6		
1535–1536	27 Hen VIII	–	18	5	–	–	23	–		

Table 3 (continued)

Year	Reign	'Feudal'			'Early modern'			Sum	
		[Ruler's] liege people/men	Ruler's subjects	[Ruler's/] subjects of [Ruler's] realm	Subjects of realm	Subjects [unspecified]	'Feudal'	'Early modern'	
1536	28 Hen VIII	–	15	1	4	–	16	6	
1539	31 Hen VIII	1	3	3	1	1	7	2	
1540	32 Hen VIII	5	33	5	1	–	43	1	
1541–1542	33 Hen VIII	1	22	2	4	1	25	5	
1542–1543	34 & 35 Hen VIII	–	20	6	–	–	26	–	
1543–1544	35 Hen VIII	–	10	2	1	1	12	2	
1545	37 Hen VIII	2	18	3	–	–	23	–	
1547	1 Edw VI	–	14	–	–	3	14	3	
1548	2 & 3 Edw VI	1	30	–	–	1	31	1	
1549	3 & 4 Edw VI	–	19	–	1	–	19	1	
1552	5 & 6 Edw VI	–	10	1	–	–	11	–	
1553	7 Edw VI	–	10	2	2	–	12	2	
1553	1 Mariae, 1, 2, 3	1	17	2	5	4	20	9	
1554	1 & 2 Phil & Mar	–	4	–	4	1	4	5	
1555	2 & 3 Phil & Mar	–	4	1	–	–	5	–	
1557	4 & 5 Phil & Mar	–	3	3	1	–	6	1	
1558	1 Eliz	–	7	1	1	2	8	3	
1562	5 Eliz	–	3	13	3	2	16	5	
1565	8 Eliz	–	10	1	3	1	11	4	
1570	13 Eliz	–	12	8	3	3	20	6	
1572	14 Eliz	–	5	–	2	–	5	2	

Table 3 (continued)

Year	Reign	'Feudal'			'Early modern'			Sum	
		[Ruler's] liege people/men	Ruler's subjects	[Ruler's/] subjects of [Ruler's] realm	Subjects of realm	Subjects [unspecified]	'Feudal'	'Early modern'	
1576	18 Eliz	–	2	3	–	1	5	1	
1581	23 Eliz	–	11	6	1	1	17	2	
1585	27 Eliz	1	12	2	5	–	15	5	
1587	29 Eliz	–	5	1	–	–	6	–	
1589	31 Eliz	–	3	1	–	–	4	–	
1593	35 Eliz	–	6	2	–	–	8	–	
1597	39 Eliz	–	11	1	6	4	12	10	
1601	43 Eliz	–	13	1	–	2	14	2	

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