THE RULE OF INTERLEGALITY

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To have the rule of law, people subject to law need to be able to recognise law's claim to justly administer public standards for a community, law's claim to authority, and law's use of coercion. Without such recognition, law's claims are received as mere force. Where Lon Fuller's and related versions of the rule of law support a relation of reciprocity between subjects and officials, a 'recognition model of legality' grounds legality upon recognition within official-subject relations at the heart of legality.

Plural overlapping claims to the status of legality however, may disrupt the recognition of official and subject statuses, and the relations between officials and subjects. Focusing upon interactions of state and Indigenous legal orders, the present chapter asks whether legality and law's legitimate authority can be rescued from the recognition deficits that arise from the imposition of state law upon Indigenous law. It argues that normative practices of recognition are not only central to legality, understood in distinction from mere force; but also to central interlegality as a non-forceful response to interactions between legal orders. It defends the centrality of recognition of relations between legal orders, for the preservation of legality itself.

The chapter first presents and responds to the limitations of understanding recognition as the mere identification of law (e.g. the 'labelling' or 'folk-law' approach offered by Brian Tamanaha); mutual recognition between legal orders (as in Ralf Michaels' 'tertiary' rule of recognition); and unilateral doctrinal recognition (found in both conflict of laws approaches to foreign law, and common law tests for the recognition of custom). It then argues that, instead of settling for less than legality and denying law's legitimate authority, or submitting one legal order to another's recognition, forms of interlegality make the relationship between legal orders – rather than each legal order on its own – the key object of recognition and the key target of the rule of law, reframed as the rule of interlegality.

LEGALITY BEYOND THE STATE

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Abstract:
Inquiry into law beyond the state, or indeed within it, necessarily presupposes a concept of law. Consider, for example, H.L.A.'s account of international law. Hart famously characterizes law in terms of a union of primary and secondary rules. Understood in functional terms, primary rules govern actions, while secondary rules govern rules. Hart also pays particular attention to a special class of secondary rules, namely those that create specific offices whose occupants are empowered to identify, alter, apply, and enforce a society's rules. An advanced legal system, then, is a practice of holding accountable constituted by both a hierarchy of norms – primary rights and duties, and secondary powers and immunities – and a hierarchy of agents – rulers and ruled. On the basis of this conceptual framework and his observation of international legal practice, Hart concludes that international law is a legal order but not a legal system.

Though certainly insightful, I worry that Hart's functional account of law sweeps too broadly. Specifically, it fails to distinguish between three forms of social order, or practices of holding accountable, in which rules figure centrally: the legal, the managerial, and the economic forms of human relationship. Therefore, I propose to categorize practices of holding accountable on the basis of normative criteria, namely their satisfying to some minimally adequate degree, and perhaps much better than that, a formal ideal-type of human relationship. I will then detail some of this conceptual framework's advantages for productive inquiry into human affairs, focusing in particular on the contemporary international order – a practice of holding accountable (though perhaps not a legal one) beyond (though not apart from) the state.

I characterize the aforementioned ideal-typical forms of human relationship – the legal, the managerial, and the economic – in terms of a regulative ideal that informs or structures the relationship. The ideal provides a fundamental or foundational characterization of the agents and the relationship they bear to one another. These are properties conferred on the agents by the practice; so, for example, a legal order constitutes legal subjects as responsible and autonomous agents.

Various higher-order principles "flow" from – i.e., are justifiably, but not deductively, inferred from – the regulative ideal definitive of a particular form of human relationship. A threshold level of fidelity to these higher-order principles is necessary for any particular practice of holding accountable to be a token of the relevant ideal-typical form of human relationship. The regulative ideal and the higher-order principles that flow from it inform concrete, historically-located, attempts to realize a particular form of human relationship – a token of the type. We can look to commonalities and differences in (the interplay between) technological development (in a very broad sense) and the natural environment to account for the presence or absence of relatively specific norms or institutions in different tokens of the same type.

The proposed typology provides the basis for a critical inquiry into the nature and normativity of the contemporary international order, one that incorporates Hart's analysis of law but ultimately proves more fruitful – or so I maintain. For example, I draw on the proposed typology to make the case for

international legal skepticism: there are plausible, and perhaps even compelling, reasons to doubt that the existing international state-centered practice of government is even a minimally adequate token of the legal form of social order. If so, this has implications for the practical reasoning of participants in that practice of holding accountable, since to play one's role well (i.e., to reason well as an agent) one must recognize the game one is playing.

Relatedly, the proposed typology figures centrally theorizing international transitional justice – a normative account of how to justly pursue the transformation of the international political order from a token of a non-legal form to a token of a legal form of social order. A small sample of the questions such a theory must address include: What kind of social order is the existing state-centered practice of international government? Might it be a mix of different ideal-types, or is that impossible (or only a transitory stage in the evolution of any practice of holding accountable)? How should we distinguish attempts to reform existing practices so that they better approximate the ideal type of which they are a token, and attempts to substitute a different ideal-typical relationship for the one presently (imperfectly) instantiated in an existing practice of holding accountable? How can we leverage the insight that practices or relationships are dynamic, always evolving toward or receding from conformity to a regulative ideal, to generate new insights into the nature of legitimate rule? The answers to all of these questions depend upon a well-worked out account of the ideal-typical forms of human relationship.

THE SHAKY DEMOCRATIC LEGITIMACY OF COSMOPOLITAN LAW AND ITS DESTINY IN TIMES OF CRISIS

by Sergio Dellavalle
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Abstract

Cosmopolitan law is that part of international law that is binding on states beyond their explicit consent. For that reason, it faces specific challenges with reference to its legitimacy. Given that the legitimacy resource based on unanimity is not available for cosmopolitan law, it is quite evident that its legitimation must resort to strategies which are similar to those applied to constitutional law, where the citizens' support of the rules is also implicitly assumed. However, some constitutional law strategies cannot be used for cosmopolitan law as a matter of principle, and all others are difficult to implement. The consequence is inevitably that the legitimacy of cosmopolitan law is even weaker than that of international law — which does not mean, yet, that no reasonable solution can be envisaged. The contribution discusses these solutions, while also addressing the question of the feasibility of cosmopolitan laws in times in which the idea of the existence of universal values seems to be in mortal danger.

IS INTERNATIONAL LAW PROGRESSIVE?

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The progressive nature of international law is an almost complacent assumption of much international legal scholarship. The idea that the existence of international law is attached to, or underpinned by, universal human values has a long pedigree stretching at least as far back as Kant's project for perpetual peace. In more recent times, international law has been associated with a kaleidoscope of seemingly incontestably 'good things' such as the protection of human rights, global distributive prosperity through fair trade, the flourishing of autochthonous cultures and ways of life through the rights of indigenous peoples as well as the flourishing of our natural surroundings in the form of the protection of the environment and the mitigation of human-made climate change. This progressive narrative of the nature and existence of international law has long co-existed with a counterpoint, of course. Marxist-inspired accounts of international law have long bemoaned the relationship between international law and global capital; and more recent Third World Approaches to International Law have critiqued the extant institutions and structures of international law for supporting and perpetuating the abusive imperialism of Western states. Yet even within these - at times trenchant - critiques, there is a glimmer of hope that international law and the international legal system holds out some promise of redemption – that only if the right institutional changes were made, the right people(s) included and the right procedures followed, the long-promised progressive goods of international law could be achieved. Even here, then, the link between international law and progressivism is retained.

The rise of authoritarian populism in recent years has raised the question of whether this automatic link between international law and progressivism can be maintained. Tom Ginsburg has recently argued for the rise of what he calls 'authoritarian international law' which clearly and deliberately attempts to sever the link between international norms and progressivism. (Ginsburg 2020) This paper will critically examine this category of authoritarian international law to determine whether it provides an example of non-progressive international *law*. The paper argues that the types of authoritarian international law identified by Ginsburg struggle to qualify as *law* precisely because the 'hard' international law of the formal international treaty-type tends to come into conflict with authoritarians' fixation on regime survival. Rather, the relationship between the rise of authoritarian populism and international law is better explained, the paper argues, according to more traditional strategies such as disengagement (not entering into international agreements), stonewalling through the liberal use of vetos, and non-compliance. Nonetheless, the dubious law-like nature of this 'authoritarian international law' is suggestive of a link, the paper concludes, between international law and basic progressive human values through an international rule of law. (Bustamante 2023)

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ARBITRATION AS A PORTAL TO STATELESS LAW-IN-ACTION LEGAL REGIMES: **QUESTIONS OF DISEMBEDDEDNESS AND QUIET POLITICS**

Thomas Schultz

Thomas Schultz (Professor of Law, King's College London; Professor of International Arbitration, University of Geneva; Visiting Professor of International Law, Graduate Institute of International and Development Studies, Geneva; Editor-in-Chief, Journal of International Dispute Settlement)

This article seeks to explores the fertility of thinking about arbitration as a portal to stateless legal regimes. Using the distinction between law in books and law in action, as well as the concepts of social and political disembeddedness and quiet politics, it argues that under the current paradigm of arbitration, it operates as a porous portal, getting corporate and natural citizens to escape into stateless law-in-action legal regimes (though in practice not into a law-in-books stateless legal regime). This raises questions of control of and accountability for the political effects of such stateless law-in-action legal regimes on the rest of society.

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PRIVATE ENVIRONMENTAL REGULATION:

ARE STATES STRIKING BACK?

Errol Meidinger

The rapid expansion of global trade over the past three decades brought a parallel expansion of non-state ('private') environmental regulatory (PER) programs. Addressing a wide range of substantive issues, these programs promulgate and revise regulatory standards, monitor, assess, and certify compliance, sanction non-compliance, and sometimes even regulate state activities. Over time they have formed extensive and complex transnational governance agglomerations encompassing environmental certification, corporate social responsibility (CSR) and environment-society-governance (ESG) programs, typically intertwined with various governmental and intergovernmental regulatory programs. While state and non-state programs have coexisted and interacted for decades, recently there have been a series of attacks on ESG by authoritarian-leaning political parties and governments, particularly in Republican-controlled states of the US. This paper uses the examples of private forest and climate change regulation to assess possible changes in state treatment of PER. To lay foundations, it first describes the rise of PER, its primary forms and characteristics, and several approaches to understanding the complex private-public arrangements that exist. Preliminary findings regarding state reactions are mixed. Some developed country governments, especially the European Union and to a lesser extent the United States, are actively incorporating PER in their regulatory programs and seeking to direct it toward their ends. At the same time, growing divisions within those political systems threaten to limit the effectiveness of PER, apparently often with a deregulatory agenda. While Russia and China traditionally have used PER programs to bolster their environmental trade legitimacy, Russia's situation is in abeyance due to its attack on Ukraine. China continues to do so, even encouraging program expansion while also keeping PER within strict limits. Most developing countries, whether authoritarian-tending or not, appear content to leave PER in place for now.
SUNY Distinguished Professor Emeritus and Margaret W. Wong Professor of Law Emeritus, The State University of New York at Buffalo. Thanks to Todd Agaard, Robin Kundis Craig, Anthony Moffa, Paul Rink, Amber Polk, Ed Richards, Jim Salzman, and Michael Vandenbergh for comments on a very early draft.

WAVES OF FREEDOM: A KANTIAN DEFENCE OF THE RIGHT TO RESCUE ON THE HIGH SEAS

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Abstract: In January 2021, the UN Human Rights Committee issued a communication finding that Italy, by failing to come expeditiously to the rescue of stateless migrants on the Mediterranean whose vessel was sinking, had violated its obligations under the International Covenant on Civil and Political Rights. This marked the first time a human rights body had officially recognized the existence of a 'human' right to a rescue on the high seas, corresponding to a legal obligation upon flag states of nearby vessels, on grounds of a 'special relationship of *dependency'* arising from, among other things, the receipt of a distress signal.

The decision appears to contradict commonplace understandings of obligations under the international law of the sea and international human rights law. It is particularly difficult to reconcile with most accounts of the extraterritorial application of human rights treaties. This includes my own Kantian-inspired account, on which 'human rights jurisdiction' emerges when, and only when, a state holds itself out as an *authority* over a claimant, where authority-subject relations in public law are juridically analogous to those between fiduciaries and principals in private law. Simply put, it is difficult to describe a state as holding itself out as an authority/fiduciary over seafarers imperilled outside territorial waters, if, upon receipt of their distress signal, its coastguard, or naval vessels speed away in the opposite direction.

This conclusion is wrong. It only appears unavoidable on the Grotian model of the high seas as 'commons'; that is, a remnant of an imagined primaeval condition before the advent of property and sovereignty. In this paper, I draw upon the legal and political writings of Immanuel Kant – especially the notion of 'Hospitality' underlying the category of Cosmopolitan Right in the essay *Toward Perpetual Peace* (1795) – to argue that far from being lawless wastes that must proactively be brought under regulation, the high seas, as 'global public goods' through which the nations of the world interact with one another on terms of independence, are *always already* zones of jurisdiction.

The high seas are international analogues of roads in a domestic order that must be provided and maintained *publicly* to constitute rights of free movement for its members. Similarly, persons travelling upon the high seas have cosmopolitan rights to maritime assistance analogous to domestic legal rights to compulsory service by innkeepers, ferry operators, and other 'public' carriers, who have all traditionally been regarded as fiduciaries of their guests. Such rights extend to stateless individuals, who must be presumed to be members of a legal order somewhere.

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WHY COSMOPOLITAN PLURALIST GOVERNANCE NEED NOT SUBVERT DEMOCRACY

Paul Schiff Berman

Discussions of "law beyond the state" almost inevitably run into objections from those who believe that sub- or supra-national legal orders subvert local democratic governance. Self-proclaimed populists and others express concern that the 'will of the people' will be unduly subjected to the dictates of 'cosmopolitan elites' or local factions, or corporate capture.

These objections range across the political spectrum. Those on the right tend to focus on concerns that transnational orders will impose human rights or immigration rules on a national polity, while those on the left worry about trade regimes that might impose local labor or environmental harms, allow too much industry self-governance, and so on. But at root level, most of the critiques reflect concerns that non-state regimes are inherently illegitimate as a matter of national democracy or state interest.

The result of this distrust is dire. In Europe and the United States, the institutions of interlocking governance and democratic coexistence that have been carefully nurtured since 1945 are under attack. Over the past decade, nationalism, tribalism, xenophobia, and racism have fueled right-wing populist revolts against this legal order despite the fact that the period since 1945 has seen rises in health, longevity, prosperity, and peace that are perhaps unparalleled in human history.

Most fundamentally, we are in grave danger of losing sight of the core values that were forged out of the ashes of World War II and its unimaginable horrors. Those values include the very idea of democratic dialogue, international cooperation, protection of human rights, respect for diversity, the moral worth of each individual, the idea of limits on what nation-states can do to pursue their self-interest, and so on. Witnessing the first two decades of the twenty-first century, it seems that those values, as well as the institutions needed to help protect them, may be far more fragile than perhaps most of us realized. And so they need to be articulated and defended, again and again. By everyone and anyone.

Paradoxically and tragically, this move towards greater insularity and tribalism comes at a time when many of the problems facing the world increasingly require coordinated solutions and *more* interaction among legal and political systems, not less. Such problems include: issues of how we will effectively maintain life on this planet (climate change, biodiversity, ecosystem losses, and water deficits); issues of how human beings will sustain themselves on it (poverty, conflict prevention, and global infectious diseases); and issues of how we will develop global cooperative rules for living together given that much human activity crosses territorial borders (nuclear proliferation, toxic waste disposal, data protection, trade rules, finance and tax regimes, and so on). These sorts of problems cannot plausibly be addressed solely within one legal system. Thus, the legal challenge of our time is how to build mechanisms for engagement among legal, political, or cultural systems that recognize at least a limited set of shared values and promote mutual respect, dialogue, and cooperation without requiring all systems to be homogenized into one universalistic legal order. We must create what David Held has called 'the ethical and political space which sets out the terms of reference for the recognition of people's equal moral worth, their active agency and what is required for their autonomy and development.' But at the same time, we must recognize that the meaning of principles such as equal concern and regard, human dignity, and so on cannot be specified once and for all, separate from the diversity of traditions, beliefs, histories, and cultures that make up human societies. In the end, what we need are institutions, procedures, and practices that allow for dialogue and cooperation under conditions of diversity.

Developing these institutions, procedures, and practices requires a form of constitutionalist thinking, focusing on the systemic structures that foster the sort of interactions among communities that are required. And this cosmopolitan pluralist constitutionalist thinking will be stymied from the start if we cannot imagine any institutions beyond the nation-state just because we are in the thrall of thinking that the nation-state and only the nation-state can be the repository of democratic legitimacy or the protection of liberal values.

Therefore, instead of shrugging off criticisms that non-state governance necessarily subverts democratic self-governance, this chapter takes such criticisms seriously and points to possible responses. In particular, I argue that cosmopolitan pluralist institutions, processes, and practices, if properly designed, can actually strengthen liberal democratic values, so long as democracy is not confused with simple majoritarianism. The arguments I make are not novel, and many have been much discussed by legal and political philosophers. But it still might be useful to summarize these arguments for a readership focused on economic constitutionalism. At the very least, these important arguments and concerns should be part of the design thinking that needs to be undertaken in order to build a functional constitutionalism that aims to address increasingly global problems without attempting to erase diversity or lose its benefits.

'THE CIVIL CONDITION AND ITS DUTIES'

Pavlos Eleftheriadis

WHEN EUROPEAN STATES AUTHORITIES FACE "TRAVELLING NORMATIVITIES": A DECOLONIAL APPROACH

Sandrine Brachotte[1]

Abstract: As "law beyond the State", this article considers the normativities that govern the life the citizens coming from postcolonial states, which may have a precolonial (religious or customary) origin and are then distinct from state law. It further focuses on situations where these normativities travel to European States (hence they are called 'travelling normativities'), largely in the migration context, and are discussed in relation to the application of foreign law or the recognition of foreign status – an issue that is largely governed by private international law (PIL). Then, this article takes a decolonial approach to these situations, mainly based on Latin-American decolonial theory. This approach consists in highlighting the decolonial or colonial character of the court cases concerned – that is, first, the way they grant easily or not legality to precolonial norms compared to state norms, and, second, the way they do or do not make room for the personal or collective experiences of the citizens coming from postcolonial states, which can involve a claim for the application of travelling normativities, including precolonial law, or instead their rejection. Its purpose is to propose ways to make legal rules and reasoning overall less colonial. Methodologically speaking, it requires endorsing a case-by-case approach, notably because it demands considering: first, the parties' experience, without automatically searching for the application of precolonial norms instead of state law, nor for the application of postcolonial state law instead of the law of the European forum; second, the idiosyncratic, official and unofficial legal pluralism that characterizes the postcolonial state concerned; and, third, the fact that, irrespective of the applicable, more or less colonial, legal framework, the judge can pragmatically follow a legal reasoning that is less or more so. Hence, the article offers a decolonial analysis of a few recent judgments, coming respectively from the UK, Germany and Belgium, which involve travelling normativities coming from Nigeria, Iran and Somalia. This analysis leads to propose some alternative ways to consider the issues of the conception of foreign law as law or fact, the proof of foreign law or status; and the forum's use of the public policy exception against the latter, when European state courts are facing claims coming from citizens originating from postcolonial states, which pertain to travelling normativities.

Keywords: Legal Theory, Decolonial Theory, Private International Law, Foreign Law, Foreign Status, Public Policy

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THE POSTNATIONAL ASPIRATIONS OF EUROPEAN LAW[2]

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In its PSPP judgment of May 2020, the German Federal Constitutional Court (FCC) declared the European Central Bank's Public Sector Purchase Programme to be ultra vires and thereby refused to accept the justification of the program offered by the Court of Justice of the European Union (CJEU). In its own judgment at the end of 2018, the CJEU in Weiss had responded to questions posed by the Second Senate of the FCC in a request for a preliminary ruling and held that the PSPP conformed to the ECB's mandate and did not violate he prohibition of monetary financing. In PSPP, the FCC concluded that the CJEU's acceptance of the programme was 'objectively arbitrary', failed to scrutinize whether the PSPP satisfied the 'principle of proportionality', and thereby 'result[ed] in a structurally significant shift in the order of competences to the detriment of the Member States'. The FCC expressed particular concern that the ECB's approach allows for the bailout process to evade the conditionality stipulations that, under the FCC's interpretation of EU and German law, legitimate it. The Court accordingly held that the CJEU judgment 'itself constitutes an ultra vires act and thus has no binding effect [in Germany]' and obliged the German Bundesbank to end participation in the PSPP on its present terms. The Bundesbank subsequently intervened to seek assurances from the ECB that would bring the programme back into line with the Constitutional Court's expectations under the Basic Law, and the PSPP survived. But the damage to the integrity and autonomy of European Union law, to the comity that had for quite some time seemed to guide European constitutional practice, and to the perceived accountability and legitimacy of Europe's highest institutions was palpable.

Commentators were divided, often stridently, over how to interpret the ruling, with most crying foul for the Court's partial defense of German interests; some bemoaning the failure of constructive dialogue; others suggesting milder interpretations that viewed the Court's turn to proportionality review as a valuable tool to seek accountability in the halls of the ECB; and still others calling for a focus on the underlying structural economic dilemmas that were laid bare, if not by the FCC's reasoning itself, then by the stark fact of such a confrontation among the highest European institutions. But the analysis perhaps of greatest interest to legal and constitutional theory came in an essay authored by Ulrich Haltern in defense of the judgment. Haltern believed that the FCC had acted within the powers of its office, and properly so, given the divergent grounds of legitimacy and forms of legal imaginations by which national constitutional courts and European institutions are understood to make claims under public law. Haltern's intervention is noteworthy because of his trained willingness to take constitutional law—national and supranational—seriously as a matter of legal culture. It is further instructive because the kind of legal culture Haltern reconstructs remains, in explicit but also understated ways, a culture of the national democratic state. In studying Haltern's argument, I ask what we might learn about the limits of such a legal culture and about the forms of legal imagination that might yet characterize a postnational form of constitutional law.

This essay begins from this particular place to open onto questions of how to conceive political freedom beyond the nation-state, about the structure of postnational constitutionalism and its purposes; and finally about the role of courts within that structure and in light of those aspirations. In making his argument, Haltern relies on theoretical assumptions that constrain his thinking about Europe as a postnational legal order. Assuming that political freedom is essentially a self-referential articulation of identity, he conflates democratic self-authorship with the pursuit of control (Section I). Assuming that constitutional legitimacy must trace the social embeddedness of law, he neglects the process by which constitutionalism and society alike respond critically to change and the possibility of reform (Section II). And, finally, assuming that courts as legitimate institutions must channel the voice of the popular sovereign, he sees little possibility for them to reframe the context in which that voice understands itself to speak and be heard (Section III).

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[2] This essay includes material and themes drawn from Paul Linden-Retek, Postnational Constitutionalism: Europe and the Time of Law (Oxford University Press 2023).

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THE CONSTITUTION OF THE EARTH

Luigi Ferrajoli

Professor Ferrajoli's paper is the English translation of part of his most recent book, *The Constitution of the Earth* (published in Italian and Spanish), including the 100 articles of the proposed Earth's constitution. In the publication only.

DIALOGICAL SOVEREIGNTY II

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This piece is in part an analytical bookend to a conference paper written by Scott 30 years ago, called "Dialogical Sovereignty: Preliminary Metaphorical Musings" (CCIL, *State Sovereignty: The Challenge of a Changing World*, Proceedings of the Canadian Council on International Law 1992 [Ottawa: CCIL, 1993] 267-293; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1653952). It both revisits the major exemplar in that 1992 paper – namely, the transnational legal positionality of both Indigenous peoples and members of Indigenous societies – and extends the piece's dialogistic take on normativity to the question of 'beyond the state', self-determining mutual recognition in the Israel-Palestine context.

The revisiting of the Indigenous context will involve an integration of reflections on the normative significance of the empirical and interpretive conclusions in two recent books, Pekka Hämäläinen, *Indigenous Continent: The Epic Contest for North America* (New York: Liveright / W W Norton, 2022) and Gregory D. Smithers, *Reclaiming Two-Spirits: Sexuality, Spiritual Renewal and Sovereignty in Native America* (Boston: Beacon Press, 2022).

The extension to Israel-Palestine will be in conversation with Iris Marion Young's posthumously published volume, *Global Challenges: War, Self-Determination, and Responsibility for Justice* (London: Polity, 2006). In Part I of that volume, between chapters on the Iroquois Confederacy (ch. 1) and what Young discussed as "Palestine/Israel" (ch. 3), she sets out a framework for a relational political theory of self-determination ("Two Concepts of Self-Determination", ch. 2). The discussion of the latter context will deepen the theoretical bases for the premises found in Scott's 2019 brief policy piece, "Moving forward with Palestine, the state: If Canada truly believes in a two-state solution, it should reframe the issue as two states negotiating solutions," *OpenCanada.org* (March 15, 2019)

Young's "Two Concepts of Self-Determination" chapter was itself a response to the relational understanding of the interactive construction of state and non-state sovereignty presented by Scott in an intervention at a UN meeting, which was subsequently published verbatim as "Indigenous Self-Determination and Decolonization of the International Imagination: A Plea" (1996) 18 *Human Rights Quarterly* 814-820. Young's development of schematic ideas in "A Plea" was not aware of, and thus could not engage, the earlier less schematic (while still more suggestive than rigorously developed) ideas in the 1992 "Dialogical Sovereignty: Preliminary Metaphorical Musings." "Dialogical Sovereignty II" thus returns to a genesis point for Scott's own thinking by both responding to and building on Young.

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