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Why The State

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Why the State?

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Abstract: The paper provides a broadly sketched argument about the importance of state-law and its limits, and the way current developments in international relations and international law tend to transform it without displacing its key position among legal systems in general.

1. The Question

I offer two questions for the price of one: why do so many jurisprudential theories focus on the state? And what is it about the State that gives it a special place in our social arrangements? I do not mean these to address all aspects of states. They are questions about the law or legal systems of states.

We have to be open to a negative answer to the second question, thus being critical of jurisprudential theories that focus more or less exclusively on the state. That need not deny that states have their own legal systems. It could merely amount to denying them privileged status in the philosophy of law, placing them as one of various legal formations. Furthermore, once we understand the relations between state law and other kinds of law-related systems we may well conclude that even if state law is in some ways theoretically and practically the most challenging or the most important kind of legal system, it is better understood alongside other such systems rather than through theories that focus on it to the exclusion of the others. Even if state-law is in some ways the pre-eminent form of law we may find in the course of the inquiry, that by examining it alongside other forms of law, our understanding of state-law as well as of law in general changes. That in itself could be an important outcome. It will inevitably change the way we see state-law and its relations to other kinds of laws.

Current, state-focused, legal theories build their account of the law out of deliberately chosen building blocks. Just as these theories diverge in their conclusions so their building blocks may differ; though I believe that there is much greater agreement about the building blocks than about the shape of the complete edifice. A radical inquiry into our questions may jettison the building blocks, searching for alternatives. My search is not that radical. I will rely on many of the common ingredients of current theories, and examine possibilities of reaching different conclusions that will be sustained by the same building blocks. Therefore I start by reminding us of what we all know, namely of some

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of these ingredients or building blocks. I do not assume that we all agree that they are the right ones to start from. The proof of the pudding is meant to be in the eating.

2. Anticipation

First, a vague indication of the direction of travel: Plato's and Aristotle's theories of law did not focus on the State. They were discussing the Polis. This is not surprising, given that at the time there were no states, in the modern sense, in Greece. What is common to jurisprudential theories generally, whether or not they are focused on the State, is that they take what they consider to be **the most comprehensive legally-based social organization of the day** as their focus. We are used to legal theory focusing, sometimes exclusively, on the State because for quite some time now the State has been, or was assumed to be, the most comprehensive law-based social organization in the contemporary world.

Is that to say that this explains (causally) why many theorists have focused almost exclusively on state law? Is it to say that is a sufficient reason for that concentration? Both 'Yes' and 'No'. I will be hazarding various empirical statements in this paper, but I regard them all as speculative. This one is a speculation about what may be one part of the explanation for theorists' focus on state-law. Once this trend is established people keep the focus simply because that is how theory is done, and those who are interested in the theory of state-law flock to do legal philosophy for that reason. Others take advantage of the fact that because state-law is practically important there are more jobs and more money for those who study it, including its theory. And there may be many other factors contributing to the sought-after explanation.

More interestingly, from a theoretical point of view, a legal system that is the most comprehensive legally-based organisation of its day presents more challenging theoretical puzzles. I will not enumerate them, but some will emerge in the sequel. That it is the most complex legal system is not itself theoretically interesting (though it may be related to features that are). That state-law is important in the life of those subject to it forces on us practical ethical issues, and the theory of state-law may help in tackling them. None of this need justify the degree of concentration on state-law and the neglect of other law-like phenomena that we are witnessing. Whether this is justified remains to be seen. And I will suggest that the answer is 'No'.

But what does it mean that states are or were the most comprehensive law-based social organization? Naturally, it is not a precise concept. Nor are we looking for a precise characterisation, if that means one that necessarily captures the law of all states and nothing but state-law (when applied to the periods when state law did meet this condition). The test is meant to explain and guide people's theoretical orientation in the world they live in and it is successful if it discriminates successfully between state-law and other legal structures in the central cases that actually exist during those periods.

The test I am suggesting consists in the combination of **two factors (1) an extensive**

responsibility within its domain and (2) freedom from external legal constraints.

Even though much of legal philosophy takes state-law as its starting point, writers are aware of the existence of other kinds of law, and I do not mean laws of nature, mathematics or grammar. I mean laws that are uncontroversially normative. They include international law, or the law of organizations like the European Union, but also Canon Law, Sharia law, Scottish law, the law of native nations, the rules and regulations governing the activities of voluntary associations, or those of legally recognized corporations, and more, including many very transient phenomena, like neighbourhood gangs. What does it mean that they had less extensive responsibility within their domain, and were subject to external legal constraints? That is part of what the paper is about.

3. Building Blocks: Practice-based Rules

We proceed by using features that are familiar to all of you. One familiar point is that the existence of rules (norms, principles, etc.), whether practice-based or not, is too basic a phenomenon to be distinctively law-related. True, laws are norms of conduct. But the existence of norms is essential for the life of any social animals of any of the advanced species. Practice-based norms of conduct are a most pervasive phenomenon; those that are laws, or belong with systems of law, are a special subclass.

However, it is helpful to remind ourselves of some characteristic features of normative practices of any kind. Both in the life of individuals, and in the history of societies, people learn that certain forms of conduct are required, learn that there are reasons, addressed to them, to conduct themselves in certain ways, before they acquire the ability to understand the point or justification of those rules, and the possibility that they are not justified. People normally learn of rules and reasons largely through processes of habituation and socialisation within the groups in which the rules are practised, whether as children growing up there or as migrants into those communities. Their knowledge of the rules and their attitudes to them are both being shaped by the practices that contribute to the socialization of people, just as those attitudes contribute to the forming and reforming of those very practices. To point to one example: as most people are born within families that live among and interact with other families, they acquire, as part of their early socialization, knowledge, mostly implicit, of the roles, status, rights and duties that members of families have within their families, as determined by practice-based rules.

But what sort of things are we talking about when talking of 'rules'? Different things in different contexts, is the inevitable answer. For current purposes I do not distinguish between rules, standards, principles etc. They all refer to or express purported

normative conditions, whose content when expressed reasonably explicitly² is expressed in normative propositions, namely propositions that non-redundantly³ employ normative concepts, such as that someone has a right, a duty, ought or has reason to do something, enjoys privileges or immunities, and the like. Propositions that express rules express a normative condition, which exists if they are true propositions, e.g. that it is wrong to deceive people, and does not exist if they are false propositions, e.g. that one has a right to deceive people.

They are practice-based rules for their content is fixed by a social practices.⁴ Being a practice consists of patterns of behaviour that are fairly general and well known to be general, and to be known to be so known. They include behaviour conforming to the rule, but even more crucially, behaviour expressing (sincerely or insincerely) attitudes that imply that the rule is to be taken as binding, and as providing a strong reason for action by those to whom it applies, and to be acknowledged as binding by others. I have in mind conduct such as advising people to conform, admonishing them for non-conformity, extolling conformity, or just expressing the view that the rule is binding.⁵ The content of a practice identifies (and individuates) the content of a rule, and that rule is practice based. It is not implied that the rule derives truth, validity or justification from being practice-based.

We commonly point out that the content of practice-based rules is known and known to be known. More accurately we should say that the core of the content of the rule is known and known to be known. I say the core of the rule to allow for disagreement about its content. There are two kinds of such disagreements. Sometimes people who disagree do not care whether the rule they believe in is practice-based or not. In principle they are willing to claim that that is the rule (namely a true or valid rule) even

² The content of practice-based rules being determined by the practice itself cannot be easily captured and expressed by propositions about their content. Stating such propositions may be adequate for its purpose and in its context, but it is not to be taken to be a completely explicit and exhaustive representation of the content of the rules. Perhaps such a representation is possible, but in practice it is most unlikely. Knowledge of the content of the rule exceeds people's ability to state it exhaustively and accurately, and many have no ability to state it in abstract terms, being able merely to assent or dissent to various putative examples of its application. Indeed, often the most informative way of conveying the content of the rule is by examples, real or hypothetical. These, when their informative character is undisputed, are sometimes regarded as paradigm cases. The important point is that using them to state the rule imports an implied understanding of the way one is meant to extrapolate from them to other cases.

³ This implies the rejection of semantic reduction of normative terms. A normative expression is used redundantly when it can be replaced without change of meaning by a non-normative expression, or when the proposition's content remains the same when the expression is removed from the sentence used to express it.

⁴ Even so, the rule is not identical with the practice. See *Practical Reason and Norms*.

⁵ I referred to conduct expressing certain propositional attitudes rather than to the existence of those attitudes themselves to allow for the possibility of insincere expressions. Hence the cautious formulation in the text.

though at least in some respects it is not practice based. We are not concerned with this kind of dispute. The other kind is where people may in principle be uncommitted as to whether the rule states a real or a merely putative normative condition (whether people really have a certain right, or whether it is merely a social rule that they have it). But they insist or deny that that is the content of the practice-based rule.

Now, the common claim is that those who share the practice know the core content of the rule based on it. This feature is important to the understanding of their functioning. It implies, among other things, that the people concerned, the people whose practice it is (and they may or may not include those to whom the rule applies) know of each other, though not necessarily in personal terms, and that knowledge is of some significance to their social attitudes, as well as their attitudes to themselves. That implies that practice-based rules are not stand-alone isolated factors influencing people's conduct. Rather, they are embedded in a web of social relations, and our attitudes to them. The existence of norms contributes to the shaping of those social relations, as well as being affected by them, a bidirectional process that is mediated by people's attitudes.

This brings us to the second implication regarding the significance of the fact that these rules are practice-based. People's attachments to members of their families, as well as their resentments and rebellious attitudes towards their families or some of their members, are almost inevitably associated with attachments to or alienation from (or with more complex, more ambivalent, attitudes) to the institution of the family and the practices that underlie it. During their life, they will be influenced by the norms, both in conformity and in rebellious rejection, as well as when manifesting a variety of attitudes in between. And in forging their own path they will exert pressure towards changes in the norms, and the patterns of family life that they underlie.

The interaction among various factors displayed in the family example generalises, with natural modifications, to other kinds of practice-based rules.

Furthermore, our sense of who we are and what we are like is bound up with our attitudes to our ways of life, and the norms that underlie them. So that what is often called our 'sense of identity' is constituted in part by our affirmative or resentful attitudes, our loyalty and attachment to or our alienation from the norms we have become so familiar with.

Needless to say the combination of these factors underlies our willingness or unwillingness to conform to these norms. I do not wish to deny that incentives can affect degrees of conformity to norms. But they are additional, superimposed factors, reinforcing or counteracting the deeper more stable attitudes we have to those norms as a result of the kind of factors I mentioned.

One final, but crucial point, before we turn to the law. Practice-based rules can be assessed normatively, their good points and their blemishes can be identified and

criticised. Pressures for change and modification are sometimes motivated by (correct or incorrect) judgements about their shortcomings and ways in which they can be improved, though it is vital to remember that much change comes about independently of such evaluations. Yet, it is crucial to remember that critical assessment normally comes second to habituation and socialisation through which one comes to accept most of the practice-based rules in one's group. Both in the evolution of the species and in the development of each individual it is reasonable to assume that people are habituated into familiarity with various practice-based rules, first acquire habits and attitudes (including some of rejection) unreflectively, before they begin gradually to reflect on the meaning and merits of the practices and the rules. Moreover, it is plausible that the capacity for critical reflection is largely innate in members of some species, though in various forms and degrees. Yet its expression is learnt, and nourished by material embedded in the practice-based rules themselves.

4. Building Blocks: Institutions

What are law-related features? The law, we say, and I do not mean just state law, is a normative social institution. The traditional view, which is mine as well, sees the new element, additional to those present in all practice-based rules, in the institutional aspect that is essential to anything legal. The institutions I have in mind are themselves rule governed, ultimately governed by practice-based rules that determine if not all at least the most important aspects of their constitution, powers, and mode of operation. Perhaps the most elementary powers legal institutions have are enforcement and adjudicative powers, namely the powers to take measures to enforce other rules and to adjudicate disputes about their applicability.⁶ Where these powers are wide ranging and their exercise regular, the activities of these institutions inevitably affect the content of the rules that they apply, leading to, and constituting, changes in the content of these rules. But of course, there can exist legal institutions whose primary function is to amend and develop rules, and even to introduce completely new ones. For different purposes the institutions that mark the existence of law or of legal elements in the relevant social situation can be classified in various ways. What makes them institutions with legal flavour is their ability to perform actions and issue decisions and rulings that are binding even if mistaken.

Practice-based rules are generally clamped together by their subject matter. Some deal with relations within families, others with relations among neighbours, etc. Some of

⁶ Readers familiar with Hart's *Concept of Law* may think that I am merely borrowing his distinction between primary and secondary rules, which is the basis of his distinction between pre-legal and legal normative regimes. I have criticized Hart's distinction elsewhere. Unlike his theory my observations here are not based on the character of the rules involved. There are power-conferring and right-granting rules (secondary in his terms) that are ordinary practice-based rules, and that are independent of the existence of any institutions.

these rules are logically inter-related, as, for example, the rules granting rights to some people are related to rules granting permissions to disregard these rights in some circumstances to other people. Social normative institutions bring with them another type of relations among rules and that in two steps.

First, the rules that constitute some institutions may establish relations among them, as when we have a hierarchy of courts with rights of appeal from some to others, or institutions with duties to execute the decisions of courts, or, of course, institutions whose operations are subject to review by other institutions. Second, the rules of some of the institutions that are, in some ways or to some degree, subordinated to others (allowing appeal to higher courts, or review by other institutions) recognise and accept their subordination. Some rules are under the jurisdiction of some sets of inter-related institutions, while others are not.

So, legal systems are sets of rules under the jurisdiction of an inter-related set of institutions. This is an inflationary characterisation of legal systems, as it allows for many types of inter-relationships and for rules to be part of more than one system at a time. This is at it should be. As we wish to investigate whether the focus on the state law is justified we should keep in view a whole range of legal phenomena that may compete with the state for theoretical attention. At this stage being inflationary and not too precise over details is an advantage. Similarly, I will not attempt to offer sufficient or necessary conditions for the sort of institutions and inter-relations that make a system. There are many kinds of systems, and all of them admit of indeterminacy about what is in and what is out of them.⁷

In this sense, both the rules of the Roman Republic and those of the University of Wales (disbanded 2011) just as the rules of the U.S. and of Columbia University are legal systems. But only the last two are existing legal systems for only they are actually practised and followed by functioning normative institutions.

We need, however, to remind ourselves that once we move from mere clusters of practice-based rules to law-like institutionalised systems of rules, the connection between the rules and social practices changes. As noted even without institutions specifically entrusted to make and change rules, and certainly with them, the rules applied and enforced by the institutions change through their activities, and not merely as a result of changes in social practices. Whether, and if so to what degree, the changed rules are or become backed by specific practices, practices of following that now changed rule, is a contingent matter. The rule is now part of the system due to the fact that the institutions are entrusted with its application and enforcement. The distinction between existing and dead systems relates more to the degree that the activities of the institutions as a whole are respected by the people to whom the rules and decisions

⁷ It may be worth mentioning that whatever criteria there are for the identity of a law-like system will include among them the attitudes of the population, or parts of it, to these institutions.

apply, than by the degree to which the individual rules are practice-based. This is a familiar point that, as you recognise, I introduce in the way that Hart presented it.

One point some of you may remark on is that I identified law-like systems by the relations between rules, and not by relations among people, or rules and people. I believe that there is no difference of substance here, as rules apply to people and I was merely identifying the people who are relevant by reference to the rules that apply to them. This way of defining the notion of a law-like system appears to lend itself to simpler formulations, and accommodates well the desire for the notion to apply to many different ways in which people are brought together under rules. There can be law-based systems governing members of a profession, co-religionists, inhabitants of a certain territory, and so on.

One pit, into which many theorists enthusiastically fall, is to characterise law-like systems by what they are good for, or what their functions are. The broad and vague characterisation that I gave helps reduce the temptation of that pit. Law-like systems may be good or bad for many reasons and in many ways, and can be used for many purposes, and fulfil many functions. Nevertheless we can discern certain human tendencies that are likely to be expressed by attitudes to such systems. One of them, noted already regarding practice-based rules, is the tendency to form attitudes of attachment or resentment towards normative arrangements. In as much as law-like systems apply to groups, united by the rules, such as members of a university, a sports club, a profession, or a locality, law-like systems often become the focus of feelings of loyalty and attachment or of alienation and estrangement when people's attitudes to the relevant groups become attached to the system or the institutions that govern them. And they can be objects of resentment etc. when it is felt that they are not serving the group well in the ways they are meant (by their content) to do.

The formation of attitudes of pride, identification, loyalty, and the like towards the central institutions of legal systems is now mediating between people and the law-like rules, which need no longer be practice-based. The dialectical process continues: people's attitudes and conduct are shaped by the rules, as well as influencing their content. But this time much of that process is mediated by the institutions: through their influence on the activities of institutions people's attitudes affect the content of the rules, and through people's loyalty etc. to the institutions the rules affect people's conduct and attitudes. Though mere acceptance of the institutions may be sufficient for their existence and functioning, respect towards and loyalty to them becomes vital to the smooth and efficient functioning of law-like systems.

5. The Most Comprehensive Legal System within its Domain

We can now explain 'the most comprehensive law-based social organization of the day'. I will use the term to express a complex property that can be possessed by law-based systems. I suggested that it has two components: **(I) an extensive responsibility**

within its domain and (2) freedom from external legal constraints.

The first condition is **relative to a domain**: the domain may be extensive, e.g. the population of China, or all corporations throughout the world, or rather small, e.g. the population of Lichtenstein or the fencing clubs of Riverdale, NY. Being relative to a domain the notion of an extensive responsibility within a domain is indifferent to the size or extent of the domain.

I use '**Responsibility**' in this context to refer to a combination of three factors: **(a) Normative power** (to issue binding decrees, to change rules, enforce and apply them, to adjudicate their application etc.); **(b) coupled with duties to exercise them in certain circumstances or for certain purposes, (c) that are accepted as reason-giving by those subject to them.** In most states' legal systems there are, e.g., courts with jurisdiction over certain disputes, and a duty to hear and decide complaints falling within their jurisdiction, when certain additional conditions are met.

The extent of a legal system's responsibility is a matter of degree. Some law-like systems have very limited responsibility, e.g. they can be confined to adjudicating whether elections conducted within organisations that asked for their supervision were fairly conducted or not (The Electoral Reform Society in the UK), or who won a series of sporting events that they are in charge of. Others can have much more extensive responsibilities, e.g. to oversee the peace, personal and property security and the fairness of all interpersonal transactions within a certain population.

Finally, a legal system's claim to normative power over people or institutions may be denied or rejected by those people or institutions. In some such cases the strength of those supporting the claim, military, economic strength, or strength deriving from other sources, make these claims prevail in practice. Our inquiry concerns only cases in which the powers claimed are acknowledged by those subject to them to create reasons. This condition is indifferent to the grounds that lead people to accept the authorities. It does not require them even to have any grounds. They may never have contemplated why they take the decrees of the authority to be binding, or they may take them as reasons for themselves because they believe that it is in their interest to do so, or for any other reason).

What constitutes an institution making claims to have power or responsibility over people or institutions? And what constitutes an acknowledgement of its legitimacy over other institutions? As we are dealing with normative phenomena and their inter-relations, the answer is in the content of the rules governing the various institutions. A claim of responsibility is constituted by rules giving executive, adjudicative or legislative powers over other institutions or over certain people and the law-like rules that apply to them. Acknowledgement of the authority of so-to-speak higher institutions is expressed in rules constituting and regulating the so-to-speak subordinate institutions that incorporate the determinations of the higher ones as binding on the people or

institutions they oversee or supervise. This allows for cases in which one institution, say, claims authority over another and the second (namely the rules that constitute and govern it) is silent regarding the claim. Absence of acknowledgement does not constitute acknowledgement

What is that independence or freedom? It denotes a normative relationship, and we have already encountered its opposite. It consists simply in not acknowledging that any institutions or rules of other law-based systems bind it. This condition itself admits of degrees. A legal system may acknowledge the normative powers of some institutions of another legal system over some aspects of its affairs, while denying it general power. Conflict of law rules are an example of such limited power granted to other legal systems. But there are many others, some of which will be mentioned later on.⁸

It will be obvious that the various ideas I brought together to explain responsibility over a domain can be combined in different ways, possibly with additional factors, to provide different configurations of the relations among institutions, and the law-like system of which they are the core. The reason for singling out the structure that I did lies in its relevance to answering the question why the state? The state I claim was made the focus of theories of law because it is, or was taken to be, the most extensive law-like system that is independent or free from external constraint.⁹ This is a partial explanation at best, and an idealised one. It is idealised in seeking theoretically significant features of state law, whose presence, it is here conjectured, however dimly or incompletely conceived, influenced the tendency to focus on state law. It is incomplete as it is probable that other factors contribute to the focus on state law, though perhaps, unlike those other features, being the most comprehensive legal system within its domain is a necessary feature of states as we conceive them today. It is not a sufficient feature. As I mentioned the Greek Polis was not a state. Interestingly, a close rival in today's world are some religious legal systems, and the adherents of some of them have difficulty in conceiving of them as not being the laws of states (or states in waiting).

6. Why the State? – The Past

I will assume that the fact that a legal system is, relative to a certain domain, the most comprehensive law-based social organisation at a given time makes it important and

⁸ In all its aspects the test admits of degrees, vagueness and conflicts (i.e. more than one candidate with good credentials to be the most comprehensive legal system within its domain). That, I suggest, is part of its strength. It is not meant as a definition of anything, and is not meant to provide necessary and sufficient conditions for the existence of anything. It aims to single out for attention important features that should play a part in our understanding of various legal systems and their inter-relations.

⁹ The two components of 'the most comprehensive legal system within its domain' are logically independent, and arguably the presence of either of them would make legal systems that possess it worthy of theoretical attention. States, however, were perceived to have both, and quite likely do have both, subject to the points made below.

deserving of special theoretical attention for reasons that are obvious and require but little explanation. So if state law is in these terms the most comprehensive legal social organisation relative to its domain, namely relative to the state of which it is the law,¹⁰ then we have a partial answer to the two questions I set out to examine (though not necessarily a justification of the almost exclusive concentration on state law that we witness in some contexts).

But is it? There is reason to think that things are in this regard in a flux. We are in the middle of a process of change of great speed and momentum. So it is better to break up this question into two:

First: Has state law been until recently the most comprehensive legally-based organisation within its domain?

If the answer is yes then the second question comes into its own:

Second: Is it likely to remain so?

Needless to say the degree to which states meet the test may vary over time and between states. My remarks relate to the contemporary concept of the state, and therefore to European states, which led to its development, and to all 'new' states, from say American independence, which were influenced by the European traditions. There is a strong case for an affirmative answer to the first question. The case may have been weaker in, let's say, medieval Europe, before the emergence of the contemporary concept of the state, with Church and baronial, and various other local institutions, with their laws, being at least partly independent of the state, and to a degree superior to it. The consolidation of the powers of the state and its authority since the 17th century proceeded along two lines of development. First, states assumed and secured power to control and regulate all other organisations within their territory. Second they acquired an ever-expanding authority over more and more aspects of the life of those subject to them, coupled with duties to use it.

Neither process is complete. Some states acknowledge absence of jurisdiction, or limited jurisdiction over religious organisations, or over the territory and governance of native people. The United Nations and its organs enjoy extra-territorial status in various countries, etc. Perhaps more interesting, morally speaking, are the vicissitudes of claims to authority and attitudes to the scope of the state's authority over its 'ordinary' subjects and its duties towards them.

At various periods it was taken for granted that states have limited jurisdiction and philosophers like Locke and Kant were among many theorists who advanced various accounts of what those limits should be. But of course, there were always theories and practices that assigned the state powers and duties to protect and promote the wealth

¹⁰ To be the most comprehensive law-like system within its domain it has to be, within its domain, more comprehensive than systems whose domain may be greater than its own.

and welfare of its subjects, or some of them, and/or the salvation of their immortal souls. Over the last hundred years or so, in a more secular vein, such attitudes spread, perhaps I should say: spread again, leading to views that regard the state as having responsibility to guarantee adequate education for all, to curtail unemployment, to ward off the threat of disease, to secure medical care and protection from misfortunes and deprivation from any source. Many of these duties are nowadays enshrined in international treaties, their violations exposing states to adverse international action, at least in principle. There are of course powerful reactions against those trends and in favour of what is called 'small government'. But by and large their recent history and current standing reinforces rather than casts doubt on the fact that the dominant currents, in practice as well as in theory, assign the state extremely wide powers coupled with demanding duties.

A theoretical question of some difficulty is lurking here: suppose it is true that the state is not entitled to unlimited authority within its domain. That would not establish that it does not claim to have such authority. What determines the authority that the state claims to have? The preceding suggests that the answer is to be found in the authority assigned to its institutions in its law. But what is that authority? It is not limited to the matters currently regulated by state law. Suppose that no law regulates people's use of their private property so long as that use does not amount to a criminal offence. It does not follow that tomorrow the state cannot set limits to the non-criminal use of people's property. Perhaps tomorrow it will pass a law that they are not allowed to use it in any way that has deleterious effects on the interest of third parties. Shall we assume that the limit of the state's claim to authority is set by its constitution? Some constitutions may not limit it at all, but others may, perhaps in the way that the American so-called bill of rights does. But constitutions can also be amended, and there are constitutional means of amending them. Therefore, current constitutional limits do not appear to set a limit to the state's authority. Furthermore, even if the constitution does not provide for ways of amending some of its provisions, they can be lawfully amended by its courts using creative interpretation to do so. And if the courts are not currently acknowledged to have the power to do so, who is to say that entirely lawful developments of its constitutional common law would not endow them with such powers?¹¹

There is therefore a case for arguing that states' authority is, by their very nature, unlimited.¹² Furthermore, even if the state is subject to external legal control could it not

¹¹ The same is true of constitutions that explicitly prohibit the amendment of some of their provisions. They may still be changed via judicial interpretation, a major source of legal development in most countries. You may argue that this or that decision should not be made for it changes the constitution, but given that by existing law the decision is binding even if it should not have been made, there are even in these cases legal means for changing these constitutional provisions. Some commentators believe that certain recent decisions by the German Federal constitutional court exemplify this very process.

¹² That is the view I took in *Practical Reason and Norms*

free itself from that subjugation by repealing the laws that recognise the external jurisdiction?¹³ The lesson from this chain of reasoning is that if one is to deny that the state necessarily has unlimited authority one had better resort not to formal legal constraints on its authority, but to a common social understanding of what limits there are. In some respects such a test is unpromisingly vague, as well as being – like any legal test – liable to change over time. Its superiority, for our current purpose, is that it relates to the social reality underlying the legal phenomena and expressing the common understanding of their meaning by those subject to them. It is on such standards that I was relying when tracing the expanding authority of the state and its wider scope compared with other law-like systems.

This is the case for an affirmative answer to the first half of the first question, relating to the state's domestic responsibilities. The Peace of Westphalia (1648) put the seal on the state's independence from any external authority beyond it. It affirmed the principle of equality of all states, and of non-interference by any state in the affairs of any other. Or so it was generally understood. What is that independence or freedom? It denotes a normative relationship, and we have already encountered its opposite. It consists simply in not acknowledging that any institutions or rules of other law-based systems apply to it. As was noted above, this condition itself admits of degree, and legal systems may acknowledge the normative powers of some institutions of another legal system over some aspects of its affairs, while denying it general power. Such very partial recognitions were understood to be consistent with the overall independence of states from external legal authorities.

We may wish to examine further the case for an affirmative answer to the first question later on. For now we should accept it as presumptively sufficient.

7. Why the State? – The Future

What about the second? Is the state likely to remain the most comprehensive legal social organisation within its domain? Various developments give room for doubt. To examine the question we need (a) to identify the relevant developments (b) to assess their prospects: are they here to stay, progressing, perhaps even accelerating over time? Or, are they likely to be arrested at their current level or even reversed? (c) Assuming that they are going to stay with us and to develop even further, we need to interpret their significance for our question.

I can say little on the second question. The trends I will point to are, I believe, here to stay. They seem to be related to what we loosely call globalisation, by which I mean not only the growing number and power of multi-national corporations, but more broadly: developments of the means of travel and in telecommunication that make, as we say, the

¹³ Needless to say, this argument can be applied to any law-like system showing that all of them can claim limitless authority.

world smaller. Information about the conditions in far-away places is readily available, thus bringing inequalities of wealth, services and security to the vivid attention of many, as well as opening up technological possibilities of travel and migration. And of course the changes in methods of production and marketing foster much more integrated economic activities across the globe. But all this is beyond my competence to describe, let alone analyse, and I will confine myself to stating that as globalisation is likely to remain a dominant trend so will the legal changes that attend it.

But what are they? I will mention three important lines of development. First, the emergence of international organisations with independent law-making powers that are not conditional on consent by states subject to them. Second, changes in the way new international law rules emerge. Third, the extended range of agents with powers of action in international law, including individuals.

It has always been the case that in some ways international law limited the independence of states. From the point of view of our inquiry there is no case for making much of the distinction between states that allow international law direct application within their jurisdiction and states that deny it direct application, so that it applies only if incorporated by domestic legislation or similar measures. Both recognise that they are bound by it – there are of course states that may not do so, but we will ignore them. Traditional international law theory recognises two sources of law in international law: custom and treaty.¹⁴ Custom is binding without the consent of the state, but does not involve submission to any external organ. Treaties are like contracts. They bind because, it is said, they embody the will of the state, and its consent. They do not limit its independence any more than a promise limits a person's independence.

Things are very different in contemporary international law. I will illustrate the change with three examples that exemplify the two features to which I want to draw your attention. First, the UN: It is a treaty-based organisation. However, unlike ordinary or traditional treaties it is a multi-purpose organisation comprehensive in membership. Opting out of it would be very isolating. Remaining in it is as free as remaining in your home country. You can emigrate (sometimes) but it is a life-changing decision. And in the case of the UN there is no alternative to go to. The alternative is more like going to a desert island. How difficult it is for a country to leave the UN depends on its situation, but it is a very high-cost decision for any country. Furthermore: decisions of the Security Council taken under Chapter 7 of the UN Charter are binding on all member

¹⁴ It is common to regard Article 38 of the Statute of the ICJ as definitive of the sources of international law, which it takes to be: a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states; b. international custom, as evidence of a general practice accepted as law; c. the general principles of law recognized by civilized nations; d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

states for the purpose, and only for the purpose, of maintaining international peace and security.¹⁵ For a long time the Security Council had a modest interpretation of its authority under Chapter 7. Recently, however, the interpretation of that power became very inflationary. Yet it has not been challenged, with the result that the Security Council now has extensive power to override state governments over a range of issues. One significant extension is the decision to allow Chapter 7 resolutions based on the so-called responsibility to protect.¹⁶ But perhaps the most dramatic extension of the powers of the Security Council is the most recent one: in determining that the Ebola outbreak in Africa constituted a threat to international peace and security, it assumed Chapter 7 powers to interfere in the internal affairs of member states in matters affecting the Ebola outbreak.¹⁷ Parallel reasoning could establish that *a fortiori* the economic crisis of 2008 constituted a threat to international peace and security, and the Security Council can declare so, and assume powers to regulate banking and economic affairs world-wide. I am not suggesting that it is about to do so. Only that it has removed many principled barriers to intervention in the domestic affairs of member

¹⁵ Article 39 states that ‘The SC shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.’

¹⁶ SC **Resolution 1706** (31 August 2006), calling for the deployment of UN peacekeepers to Darfur, applied the R2P principle to a particular context for the first time:
Recalling also its previous resolutions [...] and 1674 (2006) on the protection of civilians in armed conflict, which reaffirms inter alia the provisions of paragraphs 138 and 139 of the 2005 United Nations World Summit outcome document....

E. World Summit Outcome Document , September 2005. Heads of state and government attending the 60th Session of the UN General Assembly agreed as follows:

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

¹⁷ Security Council resolution number 2177 (2014)

states.

My second example is the World Trade Organisation. Its importance and dominance in various aspects of international trade makes membership highly prized, and exit is very costly. The WTO dispute settlement bodies, as well as the general council through their interpretation of the treaties continuously develop and advance the trade law that is binding on all members.

My third example relates to the emergence of regional organisations, of which the EU is the most developed. It combines the two features I mentioned: difficulty of exit, and autonomous legal development, independent of assent of member states. There are doubts whether being outside the EU is a drawback, or about the degree to which it is a drawback. But there is very little doubt that the process of leaving the Union is highly disruptive and unpredictable.

Two other developments in international law must be briefly mentioned. First, traditionally custom was the main source of general international law, treaties binding only the countries that ratified them. And custom is established by the common practice extended over time. In recent times there has been a marked tendency to recognise emerging customary rules, rules that emerge over a short period of time. The main route to customary standing is through multilateral treaties. A few years after the coming into effect of a multilateral treaty its existence is taken as evidence for the emergence of a new custom. An auxiliary but important other element consists of opinions and resolutions of various international conferences, non-state bodies, academics and experts. In a way there is nothing new here, for state custom has always been legally binding. But the quantity and speed of the emergence of new rules makes a difference, as does the mode of their emergence: states that ratify treaties impose, you may say, their will on states that do not ratify them, or that enter reservations to some aspects of the treaties.

The final development to which I wanted to draw attention is the granting of standing to individuals to instigate judicial proceedings in international law. Not surprisingly one of the areas where this development is particularly important is in international human rights law. I will mention only two examples: the ability of individuals to bring human rights cases to the European Court of Human Rights which oversees the application of the European Treaty on Human Rights, and their ability to bring various cases, not only human rights ones, before the European Court of Justice.

Various commentators affirm or deny that examples such as these and the trends that they evidence mark a fundamental change in international law. My purpose is different. There is the sheer extent of international law, the range of topics it covers and the

detail with which it covers them, which continuously erode the freedom of states to regulate matters as they see fit. And it is coupled with the erosion of the significance of consent by states to be bound by international treaties. That happens due to the fast emergence of customary rules, which are not consent-based, by the fact that more of the multinational treaties are adhered to by states in conditions that approach duress, given the cost of declining to adhere to them, and the fact that the quantity and significance of international law made by international bodies is accelerating. True, these bodies derive their authority from treaties, whose legal standing derives from being ratified by states. However, no sound normative theory of the conditions under which consent is binding will allow that the rights and obligations created by these bodies derive from the consent of those subject to them.¹⁸

The cumulative effect of these changes and the trends that they mark show a significant change in the standing of states. Their freedom is more limited, hemmed in by pervasive and invasive international regulations, and no longer are states free from the legal authority of bodies not under their control. These changes are part of the case for a negative answer to my second question: will state law retain its standing as the paradigm of law, and as the focus of legal philosophy?

8. On the Theory of State Law

Do these trends herald the disappearance of the state, with the loss of its position as the most comprehensive law-based organisation within its domain? There is no sign of that. Most importantly, there is no single institution that appears likely to replace the state. We witness the subjection of the state to the jurisdiction of a number of specialised organisations and institutions, with no single one that rivals states in its standing and importance. Currently the only challenge often discussed comes from the European Union. Generally, regional organisations are the most likely to absorb and replace the states as we know them, and the European Union is the most developed and powerful of the regional organisations. However, the powerful centrifugal political sentiments within most Union states must raise doubts about the prospect of the Union displacing its member states within their domain. I will come back to that.¹⁹

¹⁸ This is of course a large and controversial subject. For my view on consent see, e.g., 'The Problem of Authority: Revisiting the Service Conception' *Minnesota Law Review* 90 (2006) 1003, 1038. I am writing about changes in the law only. A number of scholars argue that things have changed even more radically than I indicate, basing their conclusions, among other things, on the pressures forcing states or other actors to conform to international standards not set by them, even though they are not bound to do so in international law (e.g. Eyal Benvenisti *The Law of Global Governance*, 2014). Needless to say, the divide between political and legal constraint is particularly hard to pinpoint regarding international law.

¹⁹ Looking more broadly, while the state's freedom within its domain is increasingly restricted by international regulations, international law itself is not a highly unified system. Many observers remark on its growing fragmentation. However, unifying processes are also at work and it is

States face change but not displacement. Does that change suggest a revision of the theory of state legal systems? To answer that question requires a brief reminder of the theory of state law. As one would expect the theory of state legal systems traces in legal terms the property that makes them special, namely being the most comprehensive legal system within their domain. It consists in a combination of two properties: Legitimacy and Sovereignty. State law and legal institutions are or claim to be legitimate, to have legitimate authority within their domain. They also claim to be sovereign, that is not subject to any authority outside themselves. I will consider briefly each property and the degree to which the trends we traced present theories based on these two features with a challenge.

We expect of the law not merely that its codes, rules and regulations should be sensible and defensible, or that their implementation would be fair and sensible. We expect that its standards be produced and overseen by institutions and processes with legitimate authority. I, along with many, though not all, writers on the subject, think that such legitimacy imports a duty to obey. That is the quality we identify with the legitimacy of the law, and of the government.

That makes legitimacy special. A legitimate government not only oversees a sensible and good legal system. We all have reason to respect the good laws not only of our country, but of every country. And they may well affect what conduct is required of us. Legitimacy has an additional side to it: it is a relationship between a government and those subject to it. It places the subjects under an obligation to obey the government's legitimate laws. Legitimacy acknowledges a power in the government to impose obligations and confer rights on those subject to it, and to do so by deciding to do so. There is nothing special in the fact that the existence, fortunes and conduct of other people affect what we ought to do. If someone is standing on the road we have to walk around him rather than into him, and so on and so forth. Similarly, if France has a good legal system I should refrain from doing anything that undermines it, and on appropriate occasions I should support it. But I am not resident in France. To the residents if their government is legitimate, it can impose obligations on them. (Governments may have jurisdiction over non-residents. I refer only to their jurisdiction over residents for illustrative purposes). In fact my obligations towards French law are in part dependent on those subject to French law having the obligation to obey their own law because their government is legitimate.

That is where legitimacy (of governments) comes in. It stands for the special power that governments should have over those subject to them. Legitimacy entitles those in government to affect what we (those subject to it) have a duty to do by deciding that we should have a duty to do so. That is special and problematic, not only in theory but

premature to hail or lament its fragmentation.

in social life as well – we confront challenges to that ability, to the right of governments to govern, partial or thorough challenges to the legitimacy of government, all the time. I should add that while not all governments have legitimate authority, all of them claim to have legitimate authority – this is one of the defining marks of governments.²⁰

Let me turn from legitimacy to sovereignty. I am using the term in a somewhat stipulative meaning: ‘state sovereignty’ signifies the idea that states are free from certain kinds of interference by other states and other international actors in what we call their internal affairs. The term can signify a moral doctrine, that morally states are free from certain kinds of interference in their internal affairs. But I will use it here to signify a legal claim, which may or may not be morally defensible. The explanation of sovereignty involves three main components: (a) the characterisation of types of acts or other measures that are invasive or inappropriate interference in matters relating to the sovereign state; (b) the characterisation of kinds of bodies that may not take those measures; (c) a general international legal recognition (either in international law, or in the domestic laws of various states and other organisations) of these limits. Sovereignty can admit of degrees; it consists of recognised limits of interference in matters relating to the state by other states or organisations. But it is common to think that there is a basic standard of sovereignty that is enjoyed or possessed by all states.

It is said that it used to be thought that sovereign states have absolute freedom from interference by other states, and other organisations. These matters are delicate and can degenerate into verbal issues: different understandings of what counts as ‘interference’ would yield different scopes of sovereignty. The narrower one’s conception of interference the wider is the resulting doctrine of morally justified sovereignty. Beyond asserting that sovereignty is not absolute either legally or morally I will not inquire into its proper limits, though some of my observations bear on the issue.

It has to be admitted that the scope of either legal or moral sovereignty is far from clear. It is continuously changing with changing international conditions. Unfortunately the topic is often neglected by normative political theorists, and many states have a vested interest in its obscurity and uncertain boundaries. For my purposes all that matters is that there is a general recognition that there is legal sovereignty, and that within some bounds it is morally defensible.

There is a trivial principle of non-intervention. It simply states that one should not intervene in correct, morally sound, actions. The doctrine of sovereignty is of a different kind. It protects states from intervention even when their actions are not morally sound

²⁰ There are of course various accounts of legitimate authority. Mine can be found in *The Morality of Freedom* (OUP 1986), and with some modifications in ‘The Problem of Authority: Revisiting the Service conception’. But my argument here does not require accepting that particular account. It merely relies on the claim that necessarily state law claims to have legitimate authority.

(so long as they meet certain conditions set in the doctrine of sovereignty). We are accustomed to principles of this kind in individual morality. We think of them as principles protecting the autonomy of individuals. Typically, J.S. Mill concludes his statement of the Harm Principle writing: ‘over himself, over his own body and mind, the individual is sovereign’.²¹ Mill does not mean only that one may not coercively interfere with individuals when there is nothing wrong with their actions. The Harm Principle protects them from interference even when their actions are wrong or otherwise undesirable (so long as they do not harm others). That is why it is a principle of sovereignty.

9. The Relations between Sovereignty and Legitimacy

An intriguing question arises: how is legitimacy related to sovereignty? **The perfect match** thesis would have it that the limits of legitimacy are the limits of sovereignty, namely that states are immune from interference by other international agents in all matters that fall within the legitimate jurisdiction of their governments and in nothing else. However, this is a mistake. There is no principled reason why outside agents, say an authorised and competent international body, should not be allowed to override a decision of a government that falls within its legitimate jurisdiction. Of course, no such interference would be justified if the decision is just as it should be. But the legitimate authority of governments, their right to rule, means that their rulings are binding – i.e. remain within their jurisdiction – even if mistaken. Think of courts’ decisions: they are binding even when mistaken – though some of them are subject to appeal, appeal based not on lack of jurisdiction but on the fact that the decision was mistaken. In principle conditions may arise under which some external organ may have such power of appeal (overriding state-sovereignty) when governments take ill-advised decisions without exceeding their jurisdiction. Indeed, this was the situation within the British Commonwealth regarding matters over which the Judicial Committee of the Privy Council had jurisdiction, and it still has such jurisdiction regarding a few independent states. It may well exist elsewhere in international relations – perhaps where there are duties to resort to international arbitration, and such like cases.

Contrariwise, state sovereignty may well apply and prevent external intervention even when the governments of those states act beyond their legitimate authority. I am talking about the moral doctrine of state sovereignty, that is about what the legal doctrine should be.

When we think of the ‘sovereignty’ of individuals two considerations come to mind: First and foremost, the duty to respect their autonomy, and secondly, the fact that interference by others may be based on mistaken understanding or even on a conscious

²¹ J.S. Mill, *On Liberty*, ed. by E. Rapaport (Indianapolis: Hackett, 1978) p.9.

or unconscious willingness to abuse and take advantage of the person in whose affairs the outsider intervenes.

The second of these considerations applies in broadly the same way to states: history, old and recent, shows how time and time again the claimed right to intervene is abused.

The first consideration, the protection of individual autonomy, does not apply in that form, but in the relations between states it has an analogue: if you believe, as I do, that social groups should be able to develop autonomously – a difficult notion that requires distinguishing between external influences that are acceptable or even desirable and external domination that is distorting and alienating – then a measure of sovereignty is to be recognised as a condition of such autonomous development. Needless to say, this topic connects with the way what is valuable can be universal while access to the valuable and the manifestations of values vary among cultures.

These two considerations may extend sovereignty in a way that prohibits outside interference even when the government exceeds its legitimate authority.

10. States with Limited Sovereignty

Recalling the developments in international law canvassed earlier it is evident that they challenge previous theory and reality regarding the scope both of states' legitimate authority and of their sovereignty.

The growing scope and intrusiveness of international law challenges the extent of the state's legitimate authority, though it does so in a special way. It is common practice in international law that the primary responsibility for complying with and enforcing its provisions (when they apply to non-state agents) falls on the states. So the growing volume of international law does not curtail the range of topics that fall within the legitimate authority of states, but it requires them to use their authority in conformity with international law, and that limits their discretion in exercising their authority. This is analogous to one form of subordination of local authorities or provinces in a federal state to federal law. In some areas provinces or towns do not lose their jurisdiction to the state but they are legally bound to exercise it in conformity with superior state law.

The growth of international institutions with power over states that is not based on consent and includes law-making powers restricts the sovereignty of states.

The challenge to legal philosophers is to revive and explore theories of a limited state, one that is situated within the legal framework of international law – and here it does not matter whether international law forms a unified legal system or is fragmented beyond unity. There are plenty of similar phenomena in the legal world, though in the past they were mostly systems that are subordinated to state law, such as the law of native nations. Nowadays we need to explore in more detail the ways in which state law is limited, and the ways it is integrated within international laws and institutions.

You now have my speculative answer to my questions. State law was special in the past and is likely to remain special in the future, because it is likely to remain the most comprehensive law-based social organisation. But exclusive concentration on state law was, it now turns out, never justified, and is even less justified today. In part, though not only, we need to rethink the relations of state-law to other legal systems, as the scope both of the authority and of the sovereignty of states has diminished and is likely to diminish still further, and the ways states integrate within the emerging international law is going to confront us with practical and theoretical problems.

11. Conclusion: The Individual in his State in the Future

Even though my discussion included a sprinkling of normative considerations, it belongs essentially to what we may call speculative analytical jurisprudence – speculative because it attempted to evaluate some of the dominant trends in analytical jurisprudence in light of likely developments. I will conclude with a few remarks about the promise and the dangers of these developments, remarks that also draw attention to other possible developments, and are therefore themselves speculative.

Throughout the paper, while not assuming that all states are governed by legitimate institutions, I was assuming that they could be. Similarly, while not assuming that all international bodies enjoy legitimate authority, I was assuming that international bodies can enjoy such authority. My account of authority applies to them as well.

Let us return to the empowering of individuals to address international tribunals. It opens up the possibility that at least regarding some legal areas, e.g. human rights, residents of states can view state-law as just one of several legal systems that apply to them. Far from being the supreme legal system it can come to be seen as subordinate to, accountable to the organs of some international tribunals. This can bring about a shift in allegiances. First, oppressed and discriminated against individuals and groups may feel at least as much pride in and loyalty to international bodies as to their state governments, and later this attitude may spread to many in the general population. Moreover, growing respect for human rights, coupled with the desire of rich countries to limit immigration, and the dynamics of a global economic market, may gradually improve health and living conditions across much of the globe, reinforcing the sense of respect for the international legal order that fostered such developments.

When I hear myself express these sentiments I say to myself: 'Dream on'. True, we can discern some movement in these directions. But the evidence is mixed, and much of it bears a much darker message. In various parts of the world human rights activists, and more importantly the invocation of human rights by powerful nations, aggravated dispute, perpetuated bloodshed and made compromise impossible. And all too often the invocation of human rights blinded their advocates to the complexity of conflicts,

encouraged attitudes of winner takes all, leading to the oppressed becoming oppressors. On top of that, the development of international standards all too often conflicts with local cultures and traditions that command the loyalty of local populations, a problem made worse by the fact that international organisations are disproportionately influenced by the perspectives of powerful countries, and managed and run by their citizens or members of other nationalities that converted to their culture and ideals. The result is that international tribunals and other international organisations have largely so far failed to attract the respect and loyalty of people around the world. One of the most important facts that made state law central in life as well as in theory is that with all their faults and with all due acknowledgement of exceptions and reservations, states have engendered over their history a strong sense of identity and loyalty among their inhabitants. We are a long way from the international legal order and its institutions enjoying a similar standing. Absent respect, their legitimacy is in question, for many of the more important international institutions cannot be legitimate without their directives being accepted and respected by people generally. It is true that much of the best work in the evolving international system is done by technical bodies, whose efficiency and legitimacy does not depend on general respect and acceptance, indeed the general public is not aware of their existence, and that need not undermine their beneficial functioning. But institutions like the United Nations, or like the European Union cannot function well, and cannot secure the benefits their existence is meant to secure when people generally, or in the relevant regions or groups, disrespect them and are alienated from them. They must gain the respect and loyalty of people around the world if they are to secure the improvements in quality of life, and in instilling standards of mutual respect across the world, which is the promise they hold.