

Introduction:

**Independence, Global Entanglement and the Co-Production of
Sovereignty**

Special Issue of *Global Constitutionalism*

K.M. Fierke

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In September 2014 the residents of Scotland went to the polls to decide whether they would remain a part of the United Kingdom or forge a separate course as an independent state. A year later, at the University of St. Andrews, a group of scholars, not only from Scotland but from across the world, met to engage in a broader discussion of independence.¹ The idea for the workshop arose from a number of observations regarding the impact of the larger national, regional and international context on the Scottish referendum campaign. The numerous comparisons generated in the global media to other independence campaigns, ranging from Quebec and Catalonia to Kosovo, Tibet, Hong Kong and Kashmir, as well as historically to the United States, Africa or Ireland, among others, were a further inspiration. The scholarly contributions raised conceptual questions about what it means to be ‘independent’ in a deeply entangled global space, comprised of multiple and intersecting legal and political regimes, as well as the political, cultural and constitutional implications of re-imagining these relationships. The wide variety of cases and theoretical approaches together demonstrated that traditional grammars of the right to self-determination are increasingly unable to either understand or respond appropriately to the challenges of state-building and state-fragmentation at the beginning of the 21st century.

This special issue draws on a selection of papers from the interdisciplinary workshop, which related to international law and international relations. While building on broader concerns raised during the workshop, the contributions here focus more explicitly on a question of how intersecting legal regimes, as well as power relations and competing legitimacies at the local, national, regional and international levels, have shaped or inhibited the construction of ‘independence’ in practice as well as the conceptual or theoretical implications of approaching analysis from this angle. It thus brings together two questions posed by the larger workshop. The first regards the constitutional dimensions of independence and partnership, given the intersecting legal regimes involved. The second regards the power dimensions of independence given entanglement in a set of external relationships, which have arisen in very different contexts, from decolonization to long-standing conflict or, in the case of Scotland, democracy.

¹ I would like to thank the Centre for Cultural Relations at the University of Edinburgh and the School of International Relations at the University of St. Andrews for their support in organizing the workshop, which was the necessary condition for this special issue.

The focus on ‘independence’ is inseparable from questions of *Global Constitutionalism*. First, in so far as the idea of constitutionalism sits at the *intersection* between law and politics, the contributions that follow explore questions of independence in a global context at this intersection. While legal scholars may highlight the function of rules and laws in relation to questions of independence, scholars of politics and international relations, may look more to the function of power, including the power of language, in these cases. In this respect, the word ‘regimes’ is used in the broader sense, including not only more formalized political and legal institutions, but the role of norms and language, often relating to sovereignty and human rights or dignity, among others, in legitimizing or delegitimizing claims to independence. Second, the contributions examine processes of *contestation* surrounding bids for independence as they relate to national, regional and international regimes. This highlights the idea that global and other forms of constitutionalism are inherently contested, which is a theme that has had an important place in the journal, and how, within this contested space, local, national, regional and international agents interact in multiple and sometimes confusing ways. At the heart of this contestation is a question of how the global nature of political life forces a reconsideration of core constitutional concepts such as sovereignty. Third, this special issue focuses on independence campaigns not only within Europe, but outside as well, in places that have historically been or presently are subject to forms of colonial domination or great power politics, respectively.²

The rest of this introduction explores some conceptual issues raised by calls for independence in a context of global entanglement, beginning with some relevant observations that arose in the context of the Scottish campaign. It further highlights a more theoretical concern regarding the tension between the individualist ontology that has underpinned modern international relations theory, and the more relational ontology of an entangled global space. The special issue seeks to explore a claim that independence is a ‘co-production’ arising at the intersection between these two ontologies. The second section then explores the interconnectedness of the specific contributions, moving from Scotland within the United Kingdom to the larger European context of the independence campaign in Catalonia, to the periphery of Europe and questions raised by Kosovo’s Unilateral Declaration of Independence, and further afield to the post-colonial context of Colombia and the role of indigenous claims to greater autonomy. From here, we shift to the Asian context, to explore

² The latter point addresses what has been a gap in the submissions to *Global Constitutionalism* (Editors 2013, 4).

issues of independence that arise against the backdrop of China's rise to power, examining four separate claims to independence within China. While there are numerous other cases in the larger global context that could be explored, not least in the Middle East and Africa, the hope in presenting these five is less to have the final word on this question than to initiate a more global conversation about what it means to be independent in an entangled global space. The final contribution, by way of conclusion, returns to this question in a more broad-based theoretical analysis.

Conceptual Concerns

Several observations that arose in the context of the Scottish referendum campaign highlight some of the conceptual issues that surround questions of independence. First, the Scottish National Party (SNP) framed independence in terms of a range of UK, regional and global 'partnerships,' which raised questions about the meaning of independence in practice. While some pundits, at the time, asked whether independence in partnership could ever mean independence in practice, this more embedded notion of independence is arguably expressed in European ideas about subsidiarity. The SNP focus on independence and partnership assumes a relational ontology, which can be contrasted with the more individualist ontology of International Relations theory. The latter has often treated the sovereign state as an isolated entity, surrounded by impermeable boundaries that separate politics inside the state from the larger world of war outside (Walker 1993). But the idea that sovereign communities are hermetically sealed and separate from a larger regional or global environment, aside from their engagement in war, arises from an assumption that the boundaries that separate communities are ontologically 'real' as distinct from historically specific social construction. Diplomacy, for instance, is a form of relationality that has found expression throughout the history of human communities and has, in different times and places, expressed very different degrees of partnership or conflict.

The conception of sovereignty as isolation and separation was drawn on to warn Scottish voters of the potential dangers of independence. Voices outside of Scotland, from political elites of the major UK parties to representatives of banks and businesses, the European Union and NATO reiterated that the decision was for the Scottish people to make, while suggesting that a 'yes' vote would potentially endanger various existing partnerships, thereby constructing a bleak economic and political future for the country if it voted for

independence.³ In the weeks prior to the vote, following the publication of opinion polls suggesting that the vote would be very close, ‘no’ came to be equated with continuing ‘partnership’ within the United Kingdom and ‘yes’ with separation and isolation. The latter raised questions not only about the degree to which these interventions influenced the decision of voters, but also about the impact of the global context more generally.

A second issue that is worth mentioning in this context is the tension between the perception of the Scottish National Party (SNP) as a ‘nationalist’ party, which would potentially be exclusive and define identity in terms of ‘Scottishness,’ and a campaign that largely defined ‘belonging’ in terms of residency rather than ethnic nationality. Indeed, any focus on nationality raised a question of ‘independence for whom’ in so far as those who might define themselves as Scottish are scattered across the UK or world while the voters of Scotland originate from any number of geographical or cultural locations. The ‘nationalist’ image was also in tension with the SNP policy toward migration that was far more open than that of the UK Cameron government. Following the Scottish referendum, Prime Minister Cameron opened the door to an UK-wide referendum about membership in the European Union. The decision was in part a response to the growing popularity of UKIP (United Kingdom Independence Party), which sought to limit immigration to the UK. In the 23 June 2016 referendum, Scottish voters, unlike their English counterparts, expressed a clear preference for staying within the European Union and the devolved government sought, in the aftermath of the Brexit vote, to retain a place for Scotland in this regional configuration.

Perhaps the central message of the Scottish campaign was one of popular sovereignty, which was expressed through claims that Scotland, particularly in the post-Thatcher era, was lacking any effective say over major decisions that impact on the lives of people living there. The emphasis on participation was one of the most impressive elements of the campaign. With the reinvigoration of democracy, debates dominated not only television screens and newspapers but public halls and conversations on the street. All of these observations raise larger conceptual questions about what it means to be ‘independent’ in a deeply entangled global economy and multicultural political space as well as the political, cultural and constitutional implications of re-imagining these relationships.

³ These same arguments were used again in the 2016 referendum regarding UK membership within the EU, where, it is worth mentioning, the ‘leave’ campaign did articulate a more traditional conception of sovereignty and UK independence from Europe.

Independence and Sovereignty

The observations above relate not only to independence, but sovereignty, nationalism and democracy as well. These three form the core of Western political theory and are represented in substantial and long-standing literatures. Rather than review this literature, which space does not allow, my intention is first to highlight how the post-Westphalian conception of sovereignty produces the problem of independence, followed by an attempt to situate this problem in the context of various historical and contemporary global entanglements, as a way of setting the stage for the cases that follow.

While theoretical formulations of Westphalian sovereignty go back to the sixteenth century, independence is a modern concept, closely linked to popular or national sovereignty. Born along with the U.S. Declaration of Independence in 1776, it became, according to David Armitage (2007), the keystone of a new kind of global architecture, based on the idea that, internally, the ‘people’ would constitute and consecrate a system of self-rule, which, externally, needed to be recognized by other states, which would acknowledge the subjectivity of the participants of international relations who would then accept a commitment to non-interference in the internal affairs of others. At the core of claims to independence is the idea of the self-determining community that constitutes the rules by which a people will be governed.

If sovereignty, as a constitutional framework, involves a form of social recognition that states extend to one another, the absence of recognition of or agency by communities who are ‘sovereign-less’ has fuelled many campaigns for independence and the conflicts surrounding them. As argued by James Mitchell (2014), the complex problem of the nation that is not a state has been articulated by stateless nations who have re-asserted themselves against the backdrop of the state system, raising a question about the meaning of self-government and autonomy, and whether independence, secession and state-formation are synonymous processes that imply the same institutional outcomes (Moreno 2015). Sovereignty is an expression of the presence of independence but the latter has not always applied equally, giving rise to questions of independence precisely because of its absence for some. Humiliation and human dignity, both of which have developed an international normative and legal status since World War II, form the conceptual heart of many struggles for independence (Fierke 2015).

Many independence movements assert the absence of human dignity and autonomy, a possibility that has been facilitated by the incorporation of human dignity into the UDHR since World War II. The codification of these norms has provided social legitimacy for struggles for recognition in a world that has been divided into territorially fixed sovereign spaces. These sovereign spaces have often been uneven in recognising basic human dignity, thereby lowering the value or excluding portions of the population that have suffered a loss of autonomy within state boundaries, which were artificially imposed during a colonial or imperial era. Independence is a powerful concept that has underpinned and been the focus of campaigns of many different kinds, ranging, on the one hand, from Scotland or Catalonia, where independence is sought within the framework of an existing democracy, but where, for a variety of both historical and political reasons, influence in practice has been limited, to, on the other hand, cases from Vietnam to Tibet to Northern Ireland to Israel/Palestine, where political conditions have limited the forms of political expression and organization available to some.

Independence has been embedded in the legal entity of the modern state, which particularly since the 19th century has been bound up with the nation and thus, more or less explicitly with ethnicity. In this respect, ‘sovereignty’ has in practice constructed the problem of independence, which has been most notable in the African context, where the borders of newly independent states with decolonization, were established by European imperial powers, and did not, for the most part, correspond with more indigenous local demarcations of identity. But it is also a by-product of the colonial migration of white settlers, who, as Buzan and Lawson (2015: 169) note, all but eliminated more indigenous populations or subordinated them within the colonial state, as slaves or contract workers. Perhaps the most systematic attempt to eliminate a people, which was defined in ethno-national terms, took place within the context of Europe itself, giving rise in its aftermath to the Universal Declaration of Human Rights and Genocide conventions, as well as legitimating the creation of Israel as an independent state. The problem of independence arises in part from a historical memory or on-going experience of suffering by large portions of the global population.

Entangled Political Configurations

The conundrum that claims to independence and human dignity are a by-product of an international system defined in terms of sovereign states sets the stage for two further points about global entanglement. The first rests on the argument of Buzan and Lawson (2015) that

modernity is not a uniquely European development, arising from within and self-generating, that is, the framework of one particular historical order that may be replaced by ‘an equally unsatisfying Sino-centric or Eurasian centric explanation.’ Rather the modern state system is the product of ‘entangled histories’ and ‘multiple vectors’, which combined in the nineteenth century to elevate Western states to a position of global dominance. Global modernity, in their argument, and the nineteenth century configuration of industrialisation, rational state building and ideologies of progress, constituted a fundamentally unequal view of social relations, while buttressing claims by states to monopolistic control over the use of legitimate force within a particular territory (Buzan and Lawson 2015: 34). Akin to a much earlier shift from hunter-gatherers to agricultural societies some 12,000 years ago, they argue that we are now witnessing a shift away from a Western-centric global order to a more global de-centred order.

Modernity, driven by European states, has been defining of the Western-centric global order (Buzan and Lawson 2015). The emerging de-centred system brings a much longer entangled history into view. At the beginning of the global transformation, Asian power produced 60.7% of the world’s DGP, and Europe and the United States only 34.2%. By the beginning of the twentieth century, the latter held 68.3% of global GDP and Asia only 24.5% (Maddison, 2001: 127, 263), thereby supplanting a previous global order, as manifested, for instance, in the ancient Silks Roads, which were based on a much different configuration of identity and power. While Buzan and Lawson focus on the globalizing impulses of the nineteenth century, many would argue that globalization extends back much further and the ancient Silk Roads are one such example (see, for instance, Frankopan 2015). The Silk Road was coined in the nineteenth century by a German explorer Baron Ferdinand von Richthofen (Millward 2013), although Chinese sources suggest that use of concept goes back much further. The term Silk Road, recently revived by Chinese President Xi Jinping, among others,⁴ encapsulates a sprawling trade network which for millennia criss-crossed Asia, connecting East to West and North to South, on land and at sea.⁵ Tea and porcelain also came

⁴ It was also earlier introduced by former Secretary of State Clinton who, along with German Foreign Minister Guido Westerwelle and Afghan Foreign Minister Zalmay Rassoul, issued a joint statement on the sidelines of the UN General Assembly Conference on 22 September 2011, calling for a revival of the ancient Silk Road via a combination of modern highways, rail links and energy pipelines running across Central Asia as a way of preparing the Afghan economy for the pull out of coalition forces from the country in 2014 (Lin 2011: 1).

⁵ Silk, which has long been considered a symbol of luxury, elegance and sacredness, was among the most important commodities on the Silk Road. In antiquity, in travel conditions that were primitive

out of the East, ivory, textiles and spice from the south and precious metals, wine and carpets from the West. Ideas and technologies that have had a fundamental impact on the world, from the making of paper, to printing and the manufacture of gunpowder, among others, made their way across Asia to Europe via the Silk Road (see Hobson 2004). The huge cross-continental exchange involved artisans, merchants, explorers, monks, refugees and soldiers, who carried religious and cultural ideas, along with animals, plants and fruits, and often plagues and diseases as well. The Silk Road is a symbol of cross-cultural exchange of religions, commodities and technology, a symbol that has long been enshrined in East Asia. Trade also had a power political dimension given its reliance on the protection, and subsequent control of a powerful government, such as the Sui dynasty in China (AD 581-618) (Ma 2005: 1).

These two global systems rest on different ontological premises. Within the modern system, the globe is carved up into territorial spaces that are treated as fixed and the central focus of interaction is assumed to be either conflict or cooperation between ontologically distinct identities, governed by a mechanistic notion of a balance of power. As discussed earlier, this too is a relational and social construct that is specific to an historical era, albeit one that, in constituting the separateness of the units as ontologically ‘real,’ ignores the social dimension of identity and recognition, and broader relational practices of diplomacy, economy, etc. The ancient ‘proto-globalization’ of the Silk Road rests on a more explicitly relational ontology, where multiple centres of power are linked through systems of roads and connectivity upon which an encounter with diversity is the motor of growth.⁶ The two ‘histories’ of globalization are themselves entangled. While the Global Transformation of the nineteenth century pushed much indigenous thought and practice from sight, these ancient traditions continue to influence practice and co-exist with more modern forms of governance, a co-existence that is likely to become more evident as states that were previously victims of

and treacherous, silk had a very high value relative to its weight and could thus be easily carried, stored and packed (Ma 2005: 1). The production of silk began in China between 5000 and 3000 BC (Fan and Jin 1993: 2). While silk was the central symbol of the road, it was by no means the only commodity that passed along it.

⁶ An individualist ontology is compatible with the assumptions of Newtonian physics, which, as Alexander Wendt (2015) argues, unpins most social science. A relational ontology makes more sense within the framework of quantum physics, in which the idea of entanglement has a central place. Physicists going back to Niels Bohr (1958) have pointed to a family resemblance between quantum theory and Eastern wisdom. Actively suppressed or marginalized for the past several centuries (Frankopan 2015), the epistemological, ontological and cosmological insights of the latter are arguably being rediscovered by physicists.

imperialism become major powers. Datta Ray (2015), for instance, argues that Indian foreign policy and diplomacy rests on a hybridity of the modern conception of the state and diplomacy, on the one hand, and more ancient Indian traditions, translated in political terms more recently by Mohandas Gandhi. This hybridity is also evident in Wang's article in this special issue. He identifies contradictory elements of Chinese policy that arise from the co-existence of modern state practice, within the current system of International Relations, on the one hand, and more Confucian notions of political governance, resting on *Tianxia*.⁷

Entangled Legal Configurations

A second conceptual point regards the deepening entanglement that arises from the emergence of intersecting legal regimes from the local to the global level. While the emergence of modern international law with Grotius in the seventeenth century evolved hand in hand with the emerging concept of the sovereign state as a legal entity, the complexity of the intersections has increased with the emergence of a much larger array of legal actors. The list is endless, spanning from sub-national devolved governments such as Scotland to the regional dimension as expressed by the European Union, or the global, expressed first by the League of Nations and later replaced by the UN. There are any number of transnational or global economic actors, from the G8 to the World Bank, the World Trade Organization or the recent Asian Infrastructure Investment Bank to multinational corporations, as well as security organizations such as NATO or ASEAN, not to mention the broad array of INGOs and NGOs focusing on every conceivable issue, from the environment to migration to humanitarian aid. As Neil Walker (2015) notes, processes of globalization point to a widespread belief and a strong movement away from 'the local' and the territorially defined state as the main point of reference for many areas of human organization, to a process of redefining and deepening. While globalization can alternatively be associated with the Grand Transformation of the 19th century or an earlier 'proto-globalization,' as expressed by the earlier Silk Road, the idea of 'global law', he argues, reaches beyond the Westphalian 'duo' of domestic and international law. Legal space is not a series of self-contained and clearly demarcated jurisdictions between different states or between domestic and international. Rather it looks more like a pattern of 'heavily overlapping, mutually connected and openly extended institutions, norms and processes' (Walker 2015: 16). While the national

⁷ For a discussion of *Tianxia*, and its influence on contemporary Chinese policy, see also Zhao (2009); Callahan and Barantbatseva (2012).

level remains the most important source of law within this ‘global mosaic,’ national law, far from self-contained and self-reliant, is increasingly dependent on the catalyst, guidance, support, moderation or challenge of regulatory forms that are located beyond the national jurisdiction, whether these be legal rule-making sites or decision-making forums.

From this perspective, while independence remains an important concept, it cannot be thought about in strictly demarcated spatial terms, in which a domestic space of politics and law is surrounded by impermeable boundaries that separate it from an external world, primarily characterised by war. In a world of entangled legal structures, many of which rest on conflicting normative or legal claims, contestation is often more the rule than the exception. Antje Wiener (2014), in constructing a theory of contestation, distinguishes between contestation as a norm-generating social practice, on the one hand, and as a meta-organizing principle of governance in the global realm, on the other. This takes as its starting point an agreement that the norms, rules and principles of governance are contested and that, indeed, regular contestation is essential for them to work. Critical discursive practice is, in this argument, constitutive of normative changes, while facilitating regular forms of contestation in different sectors of governance, which provides a way to theorize legitimate and just governance in conditions of globalization and ‘internationality’ (Wiener 2014: 79).

Entanglement and Belonging

Within the historical and contemporary expressions of political entanglement, the modern and more indigenous co-exist. With the movement toward a more de-centred world, there is an increasingly dense normative and legal entanglement, from which nodes of contestation emerge, among others, at the intersection between domestic and international. The two together provide a framework for thinking about the meaning of independence and how it is co-produced out of the tension between the individualist and relational ontologies that have become constitutive of global space. Far from the static picture of territorially demarcated spaces with absolute power over a territory attached to the sovereign state, claims to independence express contestation through which not only norms but identity and forms of relationality and entanglement are produced through processes of co-constitution. This background presents a further conceptual problem of belonging.

In the traditional model, sovereignty is the container of belonging, as illustrated on the famous cover of Hobbes *Leviathan*. Relationality, while far from absent, is defined, at least in part, in negative terms. The Hobbesian state draws clear lines of distinction between

those who belong and those who do not. The latter, as discussed at the beginning of this section, has been the source of numerous forms of violence toward those ‘outside,’ and, in the present global context, is highly problematic in both empirical and ethical terms. Migration, which is not a focus of this special issue, is a case in point. Global humanitarian law, in particular as it relates to human or indigenous rights, rests on a notion of human rights and dignity that belong to all people regardless of their status as citizens of a state. In so far as belonging, and more concrete legal rights continue to be defined by membership in a state, this not only creates a problem for those who, through the historical drawing of boundaries, find themselves second class citizens within a state, but also for those who, due to their statelessness find themselves lacking in any kind of belonging or positive relationality and dignity. The global figures express a shocking reality.⁸ According to the UNHRC (2016), one in every 113 human beings in the world is at present either a refugee, internally displaced or seeking asylum. A problem of this proportion highlights the need for a fundamental rethinking of belonging and relationality in an entangled world.

Conceptualising independence and global entanglement requires a more relational ontology and a more performative notion of independence. Here Derrida (2002), in his famous article on the American Declaration of Independence, is perhaps insightful.⁹ In his argument, ‘the people’ are radically indeterminate and only come into being through the act of signing the very constitution by which they are constituted as a people. The argument both undermines the assumption that states or state institutions have ‘foundations,’ but also illustrates the conditions of possibility by which these entities come into being, thereby displacing the assumptions upon which they rest. As Derrida (2002: 49) puts it ‘the people’:

do *not* exist as an entity, the entity does not exist *before* this declaration, not *as such*. If it gives birth to itself, as free and independent subject, as possible signer, this can hold only in the act of the signature. The signature invents the signer.

The representatives sign on behalf of the people but ‘the people’ do not exist before the signature, which means that representative’s only come to represent something after the signature itself. This displaces the idea that a people act with intention to create a

⁸ A stateless child is born every ten minutes. While it is difficult to gather precise statistics on the number of stateless people, the UNHCR estimates it is over 10 million, which is almost twice the population of Scotland. The number of forcibly displaced refugees is closer to 60 million.

⁹ His text, which was published as ‘Declarations of Independence’ in *Negotiations* (2002) was first present in 1976 at the University of Virginia in Charlottesville as a preface to a lecture on Nietzsche.

constitution, replacing it with the suggestion that the speech act (whether written or spoken) has ‘a life outside that in which they were originally circumscribed’ (Matthews 2013). The utterance, even at the point it is made, functions in the *absence* of the author, which has not yet come into being, as well as in the absence of a grounding that is the condition of possibility for meaningful communication. In a globally entangled world, composed of fixed territorial spaces, claims to independence are performative, but become a site of contestation, as is evident in the case of Kosovo’s unilateral declaration. Or, in the Scottish case, which is the first article of this special issue, the performance involves a reconstitution of ‘the people’ through their participation in the constitutional process.

The Content

This special issue is less concerned with the Scottish referendum per se than independence in a global context. The first article, which is the only one that focuses on Scotland, takes the question of participation, mentioned in the observations from the Scottish referendum, and its role in the co-production of sovereignty, as its point of departure. Silvia Suteu (Law, Edinburgh) explores the participatory turn in UK constitution-making, including the promise of a citizen assembly-style constitutional convention, to the end of facilitating direct citizen engagement, and highlights the paradox, articulated by Derrida, that ‘the people’ do not exist prior to their performance as independent subjects in the act of signing the constitutional agreement which brings them into being. The second article more explicitly addresses the meaning of independence in the context of European subsidiarity. Luis Moreno (Sociology, Spanish National Research Council) highlights the shared emphasis of the Scottish and Catalan campaigns on the desirability of further Europeanization. The author examines the challenges of regional political and legal entanglement that European subsidiarity, multi-level government and the preservation of the European Social Model (ESM) imply for stateless nations like Catalonia, while articulating a concept of ‘cosmopolitan localism’ that might optimize both independence and interdependence in global context.

Moving out of the European context, the question of independence and partnership becomes more complex. The context of the European Union provides a framework for understanding shared sovereignty in which independence does not conform to strict insides and outsides. Even while membership within the European Union could not be taken for granted in the case of a ‘yes’ vote in the Scottish referendum, in practice it is hard to imagine

in practice that Scotland would have been left to ‘go it alone.’ The UK Brexit vote has raised questions about the need for another independence vote in Scotland, in light of a perception, articulated by Scottish First Minister Nicola Sturgeon, that the Scottish population is being taken out of the EU against its will. There are numerous European states who express various forms of relationship to the EU, and not least the UK, which before the Brexit vote was not a member of the Schengen Agreement, or those countries that belong to the European Free Trade Area, but not the European Union itself.

Beyond Europe, different and more multi-layered forms of relationality emerge. The unilateral declaration of independence by Kosovo, at the periphery of Europe, has to be placed within a longer history of both Serbian independence from the Ottoman empire in 1878 as well as the dissolution of the former Yugoslavia, following the end of the Cold War, after which Serbia became a sovereign state. In Scotland, the question of ‘independence for whom’ was framed against the backdrop of a history of parliamentary democracy and a tendency toward more inclusive civic notions of nationalism. By contrast, Kosovo’s declaration took place in the context of a recent ethno-nationalist war and the imposition of more regional and international regimes of governance since. The third paper, by Alexander Orakhekashvili (Law, Birmingham), is interdisciplinary in its examination of the intersection between law and political power and their interaction in predictable as well as less predictable manner. In the context of Kosovo, the author examines the multiplicity of regimes, including the local agents (Kosovo Albanians), the regional framework (EU) and universal regimes (the UN), as well as the allocation of competence between the various regimes and their legitimacy, and the factors that have motivated revisionism, including the power element and the manipulation of regimes.

The fourth paper, by Pablo Rueda Saiz (Law, Colombia), explores tensions in the post-colonial space of Colombia. Colombia, which achieved its independence in 1810, is a case where the modern transformation of the global system, the creation of a territorial sovereign space, and the European colonization that preceded it, had serious consequences for more indigenous peoples. His argument highlights the dynamics of the co-production of sovereignty against the backdrop of more historical and global legal and political entanglements. International Relations as well as International Law take a system of already existing states as their point of departure. Within this fixed territorial map, claims to independence present a threat to domestic and international order. However, as suggested in the last section, the presumption of a stable order revolving around state sovereignty is

relatively recent when considered against the longer-term backdrop of human communities. As Buzan and Lawson (2015) note, this order rested on forms of ‘scientific racism’ which constructed a clear hierarchy between core and periphery as well as legitimizing either the assimilation or extermination of indigenous communities, which in some white settler states resulted in the elimination of up to 95% of the native population. Since Colombia declared independence, state-building has been marked by expanding economic frontiers, in order to secure the territorial sovereignty of the state. Within this, a process of defining the nation’s cultural and ethnic boundaries has had implications for indigenous populations, which the author situates in relation to a concept of neoliberal multiculturalism (Hale 2006). Resulting policies have celebrated cultural differences without significantly redistributing resources. Rueda explores how the degree of autonomy granted to indigenous peoples in Colombia has been shaped by processes of legal mobilization, from the indigenous population to the state to the international level, which highlights several points of interest. The first is the extent to which the indigenous populations have become part of the process of state-making, rather than simply subordinate to it. Within this, their claims to autonomy have been part of the co-production of state sovereignty, with impacts on regional power balances and economic production. The second is the extent to which this agency is facilitated by the recognition of indigenous rights at the international level, and thus the range of intersecting regimes involved in a continuous process of co-constitution and the ‘making’ of identity in the Colombian context.

The hybridity of these processes of co-constitution is even more evident when moving to the Asian context and to China, which places the global transformation against the backdrop of a much longer global history, in which a previous imperial power, suffered the intervention of European powers from the sixteenth century on and Japan during World War II. While China, particularly since the Maoist-Marxist revolution in the 1940s has joined in this transformation to modernity, its contemporary practice, as noted by Hung-Jen Wang (Politics, Taiwan), is also informed by a much older tradition of political thought, which centres around a concept of *Tianxia* or ‘All under Heaven.’ The result is a push and pull between two alternative conceptions of political order, that is of the individual ontology of international relations, composed of national states, and more regional and global forms of entanglement. This produces inconsistencies in their attempt to establish a ‘unilateral consensus’ in relation to claims to independence or autonomy. The concept of ‘unilateral consensus,’ which has been sought at the intersection of *Tianxia* and Westphalian

governance, is, the author argues, blocking the development of the peaceful relationships that China claims to desire.

In the Asian context claims to independence have been shaped by both a colonial past in relation to the West and the present dominance of the People's Republic of China. Wang explores the very different and troubled bilateral relationships that have been formed between Mainland China and Tibet and Xinjiang, both of which seek greater autonomy within China, and Hong Kong and Taiwan, which have a historical and/or contemporary relationship to Western powers. He explores the stronger calls for a shared identity against the backdrop of China's rising international status, as well as the failure to develop a positive response in each of these bilateral relations.

The final piece, by Noe Cornago (Politics and Law, Basque Country), returns to some of the larger conceptual and theoretical concerns raised by independence in a world of global legal and political entanglements. He draws on a number of cases since the historical formation of modern states, to demonstrate that the agonistic accommodation of political and territorial pluralism within political communities is a timeless political imperative. Cornago argues that 'constituent diplomacies' were crucial not only to the formative processes of modern national states, but also for the configuration of wider regional and international systems. In so doing, the author demonstrates the mutual co-determination of evolving forms of domestic political order within sovereignty and the changing contours of the international realm. The process of mutual accommodation goes beyond the negotiation of political recognition between different groups, however, to be influenced by the wider context, and not least the rise of global capitalism. Through an examination of both the normative predicaments and functional imperatives of this process over time, the article presents a new understanding of the relationship between diplomacy, state-building and state-fragmentation that provides a unique and critical point of departure for examining the co-production of sovereignty.

This introduction, including the description of the various contributions to this special issue, highlights a number of themes that run throughout, including the performative nature of independence; the intersection between law and politics in a global context; processes of contestation surrounding bids for independence; the ways in which independence expresses forms of global (or regional) entanglement, including particular forms of legal or political entanglement (e.g. historical political entanglements related to colonialism or contemporary

legal and political entanglements within the EU), and the dynamics of the co-production of sovereignty at the intersection between individual states and an entangled global system.

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