



EPISTEMOLOGIES OF THE SOUTH

Decolonizing Constitutionalism

Beyond False or Impossible Promises

Edited by Boaventura de Sousa Santos,
Sara Araújo and Orlando Aragón Andrade



DECOLONIZING CONSTITUTIONALISM

The modern state, law, and constitution result from a legal canon that (re) produces the abyssal lines dividing the world that is validated from the world whose humanity and epistemological validity are denied. This book aims to contribute to a post-abyssal reflection on law and constitutionalism by considering the structural axes of power that are constitutive of modern law “capitalism, colonialism, and heteropatriarchy” alongside the legal plurality of the world. Is it possible to decolonize, decommodify, and depatriarchalize the constitution? The authors speak from multiple geographies, raise different questions, resort to differentiated theoretical approaches, and reveal varying levels of optimism about the possibilities of transforming constitutions. The readers are confronted with critical perspectives on the Eurocentric legal canon, as well as with the recognition of anti-capitalist, anti-colonial, and anti-patriarchal legal experiences. The horizon of this publication is the expansion of the possibilities of legal and political imagination.

Boaventura de Sousa Santos is Emeritus Professor of Sociology at the University of Coimbra (Portugal) and Distinguished Legal Scholar at the University of Wisconsin-Madison. He is also Director Emeritus of the Center for Social Studies at the University of Coimbra. He has written and published widely on the issues of sociology of law and the state, epistemology, intercultural democracy, social movements, postcolonialisms and global citizenship. Among his most recent publications in English are: *Epistemologies of the South: Justice against Epistemicide* (Paradigm Publishers, 2014); *If God Were a Human Rights Activist*, Stanford University Press (Stanford University Press, 2015); *The End of the Cognitive Empire: The Coming of Age of Epistemologies of the South* (Duke University Press, 2018); *Toward a New Legal Common Sense. Law, Globalization, and Emancipation*

(Third edition, Cambridge University Press, 2020); *Decolonising the University: The Challenge of Deep Cognitive Justice* (Cambridge Scholars Publishing, 2021).

Sara Araújo is a researcher at the Centre for Social Studies (CES) and invited assistant professor in sociology at the Faculty of Economics, University of Coimbra. She holds a PhD in Law, Justice and Citizenship in the 21st century and co-founded the PhD Programme in Sociology of the State, Law and Justice (CES and FEUC) that she now co-coordinates. After four years at the Permanent Observatory for the Portuguese Justice (2000–2004), she was part of the research team of the Legal and Judicial Training Centre of Mozambique (2005–2006) and associated researcher at the Centre for African Studies of the Eduardo Mondlane University (2008–2010) (Mozambique). In 2015, she was a visiting scholar at the Law School of the University of Wisconsin-Madison (USA). Between 2011 and 2016, she was a member of the Coordination Board of the ERC Alice project, which was transformed into the Research Programme in Epistemologies of the South (CES). Within this, Sara co-coordinated four editions of the Epistemologies of the South Summer School and co-organized several workshops of the Popular University of Social Movements (UPMS).

Orlando Aragón Andrade is a professor and researcher at the National Autonomous University of Mexico (in Morelia) where he is the coordinator of the Laboratory of Legal Anthropology and of the State. His research focuses on the study of indigenous peoples' collective rights, legal pluralism, counter-hegemonic uses of law, law's decolonization, epistemologies of the South and, relevantly, the construction of a militant legal anthropology. Along his academic work, he is also a legal advisor and accompanies several autonomy and self-government processes in Mexico, as part of the Emancipations Collective, of which he is a founding member.

Epistemologies of the South

The Global North has faced growing difficulty in making sense of the broad changes sweeping the world, from the financialization and neoliberalization of the world economy to the growth of inequality on an unknown scale in its persistence, extension and diversification of segregation, discrimination and violence. Uneasiness has been growing within the social sciences at the feeling of inadequacy and even irrelevance of current work and established theory in its attempt to get to grips with such a world.

The main idea underlying this series is that the experience of the world is much broader than the Eurocentric understanding, and what is known as the Global South has been for centuries – and remains in contemporary times—an inexhaustible source of experiences, knowledges, political and social innovations, and celebrations of difference. Challenging the canonical and Eurocentric epistemological tradition, including the social sciences and humanities themselves, this series innovates through the encounter and dialogue with other epistemologies that have historically emerged in the South.

Series Editor: **Boaventura de Sousa Santos**, University of Coimbra (Portugal)

The Pluriverse of Human Rights

The Diversity of Struggles for Dignity

Edited by Boaventura de Sousa Santos and Bruno Sena Martins

From the Pandemic to Utopia

The Future Begins Now

Boaventura de Sousa Santos



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

DECOLONIZING CONSTITUTIONALISM

Beyond False or Impossible Promises

*Edited by Boaventura de Sousa Santos,
Sara Araújo and Orlando Aragón Andrade*

Cover Image: “Golden Future”, Mário Vitória 2013

First published 2024

by Routledge

605 Third Avenue, New York, NY 10158

and by Routledge

4 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 2024 Boaventura de Sousa Santos, Sara Araújo and Orlando Aragón Andrade

The right of Boaventura de Sousa Santos, Sara Araújo and Orlando Aragón Andrade to be identified as authors of this work has been asserted in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

Trademark notice: Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

ISBN: 9781032490311 (hbk)

ISBN: 9781032490274 (pbk)

ISBN: 9781003391920 (ebk)

DOI: 10.4324/9781003391920

Typeset in Bembo

by Newgen Publishing UK

CONTENTS

<i>Preface</i>	<i>xi</i>
<i>Boaventura de Sousa Santos, Sara Araújo and Orlando Aragón Andrade</i>	
<i>Acknowledgements</i>	<i>xv</i>
 Introduction: The Constitution, the State, the Law and the Epistemologies of the South	 1
<i>Boaventura de Sousa Santos, Sara Araújo and Orlando Aragón Andrade</i>	
 PART I	
The Vast Landscape of Constitutionalisms	27
 1 Do Constitutions Matter?: The Dilemma of a Radical Lawyer	29
<i>Issa G. Shivji</i>	
 2 Healing a Wounded Islamic Constitutionalism: Sharia, Legal Pluralism, and Unlearning the Nation-State Paradigm	34
<i>Asifa Quraishi-Landes</i>	
 3 Nihilisms, Contradictions, and Anomie in New Constitutionalisms: A View from India	60
<i>Upendra Baxi</i>	

- 4 Indigenous Women: Towards a New Transformative Constitutionalism? 80
Rosalva Aída Hernández Castillo
- 5 Modern Constitutionalism, Legal Pluralism and the Waste of Experience 101
Sara Araiújo

PART II
Post-Colonial Transitions: The Case of South Africa 123

- 6 Legacies and Latitudes: Past, Present and Future in South Africa's Post-colonial Legal Order 125
Heinz Klug
- 7 Shared Experiences from South Africa Constitutional Court 148
Albie Sachs
- 8 On Settler Colonialism and Post-Conquest *Constitutionness*: The Decolonising Constitutional Vision of African Nationalists of Azania/South Africa 168
Tshepo Madlingozi

PART III
The Return of the Abyssally Excluded?: The Indigenous Constitutional Struggles in Latin America 193

- 9 Can Silence Be a Constituent?: A Reading of the Indigenous Communitarian Constitutionalism of Bolivia 195
Salvador Schavelzon
- 10 Plurinational Constitutionalism: Plurinationality from Above and Plurinationality from Below 214
Raúl Llasag
- 11 Transformational Constitutionalism, Interculturality and the Reform of the State: Looking through the Eyes of the Orinary Peoples 240
Nina Pacari

12	Participation and Presidentialism in the Ecuadorian Constitution of 2008 <i>Agustín Grijalva</i>	255
13	Transforming Transformative Constitutionalism: Lessons from the Political-Legal Experience of Cherán, Mexico <i>Orlando Aragón Andrade</i>	271
14	The Law of the Excluded: Indigenous Justice, Plurinationality and Interculturality in Bolivia and Ecuador <i>Boaventura de Sousa Santos</i>	288
	Conclusion	323
	<i>Index</i>	325



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

PREFACE

*Boaventura de Sousa Santos, Sara Araújo
and Orlando Aragón Andrade*

The epistemologies of the South are based on two basic premises which are very relevant to the theme of this collection. The first premise is that our understanding of the world is much broader than the European understanding. The second premise rests on the fact that the available epistemological diversity is infinite and no general theory can aim to understand and explain it. This means that it is not possible to offer a universal response to the questions that will be raised or to exhaust those questions that are relevant.

As a cosmopolitan epistemological and pedagogical project, the epistemologies of the South have staked their claims on the possibility of social groups or movements, academics, political actors and others working in different regions of the world being able to share political agendas, experiences and knowledge by recognizing and celebrating diversity and promoting exercises in reciprocal learning. For this to be possible, it is necessary to recognize that all knowledge is incomplete, thereby challenging the hierarchies that have naturalized Western options and legitimized the exclusion of everything that lies beyond the limits of the Eurocentric canon. In other words, it is necessary to recognize and learn from the diversity that has been classified by default and crystallized through the negative impact of modern dichotomies (the ignorant, the primitive, the traditional, the local, the unproductive, the barbarian, the savage, the underdeveloped).

The epistemologies of the South propose to denaturalize Eurocentric theories with their outdated questions and binomials, subjecting them to a sociology of absences which seeks to identify their limits. On this basis, a sociology of emergences becomes viable, one that validates other knowledges (and with it the possibility of links with scientific knowledge), promotes the expansion of the canon of knowledge and, by identifying and recognizing anti-capitalist, anti-colonial and anti-patriarchal experiences, contributes to extending the possibilities

of liberation and self-determination. The horizon which this publication sets out to enhance is the extension of the possibilities of legal and political imagination.

The concept of the abyssal line, which represents a denial of humanity and the epistemological validity of the experience of much of the world, is of central importance to this book. Constituted through a shifting combination of capitalism, colonialism and patriarchy, the impact of the abyssal line is evident not only in the physical violence meted out to those isolated by the divide but also in the knowledge and experiences they have. The 14 chapters within this publication contribute to a post-abyssal reflection on law and constitutionalism. The authors come from various backgrounds, raise different questions, resort to differentiated theoretical approaches and reveal varying levels of optimism regarding the possibilities of decolonizing, decommodifying and depatriarchalizing constitutions. Some chapters present reflections on the development of democratic legal cultures, open to intercultural dialogue and operating within the framework of the rule of law. Others assert the need to radicalize discussion and practices, holding modern constitutional principles up to the cruel mirrors of the colonialist and patriarchal capitalist world in which we live. The issues range from the degree of success or failure of the constitutional struggles waged by excluded groups and their allies, aimed at enlarging and deepening social inclusion, to the possibilities of reframing a constitution by dismantling the modern hierarchies that structure the legal plurality of the world.

The title reflects the complexity and ambition of the general objective which permeates the book: to explore the experiences of the world, beyond incomplete or unambitious projects or impossible promises sustained by the belief that it is possible to decolonize without eliminating the hierarchies imposed by modernity. The contribution to the debate is thus based on two exercises: (1) Reflection on what we can learn from imperfect experiences, identifying absences and developing the progressive dimensions; (2) Identifying ambitious questions that challenge modern hierarchies, enabling us to formulate possibilities for promoting decolonization, decommodification and the depatriarchalization of law and justice.

The book is not only aimed at those who are dedicated to sociolegal studies but also students and academics from other fields, including sociology and political economy, world activists, jurists, magistrates, politicians, NGO members, officials from international organizations and all those interested in understanding the power which legal institutions exert and which enables them to reproduce the modern oppressive triad – capitalism, colonialism and patriarchy – and in reflecting on the possibilities of decolonizing, decommodifying and depatriarchalizing societies and their institutions.

This is one of the eight volumes¹ in the collection ‘Epistemologies of the South’, in which the results of the Alice project – *Strange Mirrors, Unsuspected Lessons*² – are presented and questions are raised that continue to fuel discussions and debates within the Epistemologies of the South research program hosted by the Center for Social Studies (CES) at the University of Coimbra, coordinated by

Boaventura de Sousa Santos, with Bruno Sena Martins, Cristiano Gianolla, João Arriscado Nunes, José Manuel Mendes, Maria Paula Meneses, Sara Araújo and Teresa Cunha.

Our profound thanks are extended to activists and academics around the world who have collaborated in the various volumes that make up the 'Epistemologies of the South' collection and have thus responded to the challenge of establishing an emancipatory science that is capable of defending dignity and restoring hope. The authors of the chapters in this book have our immense admiration and gratitude. However, the people who contributed to the realization of this publication are not limited to those named above. Various activities have played a key role in the realization of the Alice project, the reflections that have led to this collection, including academic meetings, the workshops of the Popular University of Social Movements (UPMS), the 'Conversations of the World', discussion forums and countless individual and collective interviews. We wish to thank all the people, movements and organizations who agreed to participate in, share and launch the challenges.

Special mention should be made of the Center for Social Studies, given that it is the institutional space in which the Alice Project has been based, but above all for the generous support of the scientific and administrative structures that have contributed to the success of the project and its subsequent materialization as a research program. We also wish to highlight the dedicated collaboration of Lassaete Paiva and the tireless work of Rita Kácia Oliveira, who has given her heart and soul to the philosophy of the project and made an invaluable contribution to its realization. With specific reference to this volume, we would like to extend our special gratitude to our colleagues Agustin Grijalva, Bryan Vargas, Bruno Sena Martins, José Luis Exeni, José Manuel Mendes, Maria Paula Meneses and Patrícia Branco and, last but not least, a word of thanks to Victor Ferreira for his diligent and competent revision of the texts, as well as to Neil Walker for translating works written in other languages into English.

Notes

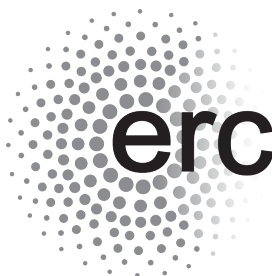
- 1 The books are published in Portuguese, Spanish and English. The following volumes are published in Portuguese: *Demodiversidade – Imaginar Novas Possibilidades Democráticas*, coordinated by Boaventura de Sousa Santos and José Manuel Mendes (Lisbon: Issue 70, 2017; Belo Horizonte: Authentic Editor, 2018); *O Pluriverso dos Direitos Humanos: A Diversidade das Lutas pelas Dignidade*, coordinated by Boaventura de Sousa Santos and Bruno Sena Martins (Lisbon: Issue 70, 2019; Belo Horizonte: Authentic Publishing House, 2019). The following are published in Spanish: *Demodiversidad. Imaginar Nuevas Possibilidades Democráticas*, coordinated by Boaventura de Sousa Santos and José Manuel Mendes (Ciudad de México: Akal, 2017) and *El Pluriverso de los Derechos Humanos*, coordinated by Boaventura de Sousa Santos and Bruno Sena Martins (Madrid: Akal, 2019). The following are published in English: *Knowledges Born in the Struggle. Constructing the Epistemologies of the Global South*, coordinated by Boaventura de Sousa Santos and Maria Paula Meneses (New York and London: Routledge, 2019); *Demodiversity: Toward Post-Abyssal Democracies*, coordinated by Boaventura de Sousa

Santos and José Manuel Mendes (New York and London: Routledge, 2020) and *The Pluriverse of Human Rights: The Diversity of Struggles for Dignity*, coordinated by Boaventura de Sousa Santos and Bruno Sena Martins (Routledge, 2021). Volumes on other economies, methodology and health are to be published subsequently.

- 2 *Alice – Strange Mirrors, Unsuspected Lessons; Leading Europe to a New Way of Sharing World Experiences*, coordinated by Boaventura de Sousa Santos, with funding from the European Research Council – 7th European Union Framework Programme (FP/2007–2013)/ERC Grant Agreement no. [269807] and realized between 2011 and 2016 at the Center for Social Studies (CES) at the University of Coimbra <www.alice.ces.uc.pt>.

ACKNOWLEDGEMENTS

This book was developed in the context of the research project ALICE – Strange Mirrors, Unsuspected Lessons – coordinated by Boaventura de Sousa Santos at the Centre for Social Studies of the University of Coimbra, Portugal, between 2011 and 2016. The project was funded by the European Research Council, 7th Framework Program of the European Union (Fp/2007-13)/ERC Grant Agreement n. [269807].





Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

INTRODUCTION

The Constitution, the State, the Law and the Epistemologies of the South

*Boaventura de Sousa Santos, Sara Araújo
and Orlando Aragón Andrade*

The concept 'epistemologies of the South' was coined in a special issue of the *Revista Crítica de Ciências Sociais* in 2008, but the background to the proposal dates back to Boaventura de Sousa Santos' ethnographic experience of legal pluralism in a Rio de Janeiro favela in the 1970s (Santos, 1977). In the division between Pasargada law and asphalt law presented in this first work, we can see what would, decades later, come to be formulated as a constitutive concept of the epistemologies of the South, namely the abyssal line which divides the world that counts from the one which, in light of the five monocultures constituting modern thought,¹ is irrelevant, local, residual, inferior and non-productive (Santos, 2014, 2018).

As such, legal pluralism was not only a theoretical and analytical issue but also an epistemological and political problem concerning the definition of what counts as truth:

What is the truth or validity of an official scientific-legal knowledge which considers that which is 'of worth' to vast sectors of the popular classes, as another law or alternative legal knowledge, to be non-law or ignorance of the law?

Santos, 2003: 43

The aim of this book is to extend the debate, bringing together a set of post-abyssal reflections in the field of socio-legal studies with an emphasis on discussions concerning the limits and possibilities of critical constitutionalism.

The South, as the founding metaphor of an emerging subjectivity, appears in a 1995 publication in a chapter entitled 'Don't Shoot the Utopist' (Santos, 1995). It established a challenge in three phases: learning that there is a South, learning to go South and learning from the South (Santos, 1995: 508). Learning from the South

is currently the greater challenge. It requires a process of unlearning the social sciences which have divided the world between those who produce knowledge and those who are the object of study. Making this statement is different from proclaiming the irrelevance of the knowledge produced in the geographic North or romanticizing the South. The South is a metaphor for knowledge born of capitalist, colonial and patriarchal violence, and the social struggles that have opposed them (Santos, 2014, 2018). Unlearning the North involves questioning the hierarchies imposed by the Eurocentric canon and provincializing theories which, due to their distorted self-image, start from a premise of immunity to context (Chakrabarti, 2000; Santos, 2014, 2018).

The epistemologies of the South, which are incompatible with general theories, do not offer a formula but propose a combination of epistemological instruments that serve not only to denounce epistemicide (Santos, 1995) and juricide (Santos, 2011) but also to identify silenced knowledge and expand the political imagination. The social sciences are, from the outset, invited to develop a sociology of the absences in theories, concepts and long-established questions, and to raise questions and identify concepts that allow for the production of a sociology of emergences.

When Boaventura de Sousa Santos defines the concept of the abyssal line, he identifies absences produced through the regulation/emancipation dichotomy hitherto central to his work:

Indeed, the regulation/emancipation dichotomy only applied to metropolitan societies. It would be unthinkable to apply it to colonial territories. There, another dichotomy would apply, the appropriation/violence dichotomy which, in turn, would be inconceivable if applied on this side of the line.

Santos, 2014: 119

The tension between regulation and emancipation is relevant where the social contract is valid. The other side of the abyssal line is the state of nature, the zone of non-being (Fanon, 2008 [1952]), which can be subjected to violence and appropriated, either through the elimination of subjects or through a civilizing process (Santos, 2014). This dividing line was identified by Mamdani Mamdani, in the context of the African continent, as a 'bifurcated state', a colonial heritage separating humans and lesser humans, linguistic discourse and vernacular conversation, art and crafts, modern law and customary law: in short, the civilized and the savage (Mamdani, 1996: 61). The abyssal division, however, crosses other locations, namely the geographical North. In Europe too, the development project was based on the elimination of the Souths, with all the knowledges and alternatives they contained. This waste of experience is constitutive of modernity, which only recognizes the knowledge of a science favourable to capitalist development and the capitalist order, as an exportable legal model compatible with this project.

Having identified the abyssal line, the incompleteness of the theory of regulation and emancipation becomes visible. Hence, a core question is revealed as incomplete: can the law be emancipatory? (Santos, 2002). This question is formulated from this side of the line, a sphere in which cultural differences fit within modern codes of interpretation and inequalities can be translated into modern legal language. It is not a case of declaring the question irrelevant, but of arguing for the need to broaden its terms. Legal thinking must consider both sides of the line and the three structural axes of power within modernity that are constitutive of modern law – capitalism, colonialism and patriarchy. Thus, the question has become: is it possible to build a post-abyssal law? In other words, is it possible to decolonize, decommodify and depatriarchalize the law? This is a very broad question which can be translated into multiple questions, whose answer can only be found in the convergence of very different knowledges.

1.1 Epistemologies of the South and Constitutionalisms

The modern-Western hegemonic project identifies the constitution as a set of basic elements that establish and regulate political and legal agreements in the social life of a given community and sees it as the legal scale *par excellence* for political unity within Western modernity: the nation state. In turn, the modern state, which began to be constructed in Europe in the seventeenth century, was mainly conceived as a machine for political and social engineering from the mid-nineteenth century onwards. Its formal, mechanical and artificial constitution has given it a strength and plasticity unprecedented in any other political entity. Its plasticity resulted from its virtually infinite institutional and legal manoeuvrability, which provided the state with the ability to define the normal and abnormal means, as well as the normal and abnormal ends, of social transformation (Santos, 2000: 170). The modern state, as an exclusive unit of social intelligibility and political imagination, reduced law, which had previously been plural, diverse and dispersed, to a single monolithic type of law, namely state law. This reduction was safeguarded by scientifically legitimized codification processes (Santos, 1995, 2014).

The constitution has been predominantly conceived of as an expression of a united dualism, composed of ‘the legal’ and ‘the political’, a privileged place for perceiving the relationship between politics and law (Bobbio, 1984).² Constitutions are imagined as a more or less crystallized synthesis of the legal and political bases that uphold the life of a given community as a collective. Most approaches in the dominant field of Western legal studies are characterized by the technical-scientific reductionism of the constitution. This reductionism fails to take into account the political projects and divergent social forces interested in the success or failure of the constitution and ignores or devalues the asymmetric power relations that globally traverse past and contemporary constitutions and constitutionalisms.

The state, the law and the constitution, as well as the strong interconnections they establish, are the central pillars in the construction of the economic, social and political structure generated by the dominant modern-Western project. From the perspective of the epistemologies of the South that we have been proposing (Santos, 2014, 2018), this project is based on three main forms of domination: capitalism, colonialism and patriarchy. Thus, much of what is present in and around contemporary constitutions reproduces the capitalist (classist), colonialist (racist) and patriarchal (sexist) dynamics that characterize this project. Thinking about the state in this context involves, on the one hand, finding ourselves situated in the field of a legal sociology of absences – the sociology of absences is one of the main conceptual devices of the epistemologies of the South – and assuming a hermeneutic of suspicion in relation to the alleged neutrality and technical superiority attributed to the modern state and law, thereby positioning them within a colonial, capitalist and patriarchal civilizational project. On the other hand, it involves engaging with the sociology of emergences and identifying legal alternatives based on the wide range of legal maps of the world that pave the way for the construction of new utopias. These are supported by real experiences and knowledges which have been thought through and constructed by those who have personally suffered the effects of structural violence while engaging in political struggles against the various forms of oppression (Santos, 2014, 2018).³

When commencing with a study of the constitution, we are confronted, on the one hand, with the paradoxical conjunction between the polysemic and contentious nature of the term itself and, on the other hand, the constitutional homogeneity which produces abyssal exclusions. The polysemy results from the possibility of understanding, and even contesting, the constitution in different ways. For example, from some standpoints it is seen as a reflection of a minimum consensus on the basic norms governing community life, while others consider it from the viewpoint of dissent; there are those who see it as a mechanism for preserving a particular social agreement or *status quo* and others who see it as the basis for transformation or innovation; there are also those who consider it the foundation of ‘unity’ and those who, in contrast, interpret it as recognition of plurality and diversity beyond homogenizing unitarisms. In short, the same word can assume different and even contradictory meanings.⁴

Hence, the constitution is a disputed term.⁵ The origins, understanding, contours, potentialities and usefulness of the constitution, as well as the problems associated with it, are controversial. In this sense, its meanings depend to a large extent on the social actors who dispute them and the power relations synthesized in a given context that ultimately configure what is considered to be a constitution. It is a dispute which implies that the political, theoretical and epistemic positions and projects, and even the world views of the dominant social and political subjects, carry significant weight. The understanding of what is, or what may be, a constitution is structurally traversed by dynamics that reveal ethnocentrism and

the hegemony of the global North. Thus, what is considered part of the ‘minimum elements of validity’ of a constitution, as well as its purposes and objectives, is also traversed by abyssal dynamics (Santos, 2010a, 2014, 2018). This condition translates, on the one hand, into the invisible status of conceptions, experiences and practices that do not fit within the dominant Western ‘constitutional canon’, or the impossibility of these ‘other forms’ and ‘other experiences’ becoming known and valued. At best, they are reduced to mere ‘particularisms’, relevant only to thinking about the reality of countries and regions of origin, but not for thinking about constitutions or constitutionalism on a global level.⁶

1.2 The Hegemonic Constitutional Project

Constitutionalism, which establishes the limits and form of the state, is based on the ideas of unity, uniformity and homogeneity: one state, one nation, one law. The nation is the set of individuals who belong to the same geopolitical space and share a culture. However, the homogeneity of the nation state was artificially constructed, resulting from a violent rupture with the past. Although immersed in a fictional account of inclusion and homogeneity, the history of the relationship between vast social groups and the modern nation state is constituted by violence which targets different social groups or dissidents and a monocultural understanding that covers up the destruction or marginalization of nations, laws, cultures and identities that coexisted in the same geopolitical territory (Chatterjee, 1991, 1998; Yuval-Davis, 1993; Tully, 1995; Marx, 2002; Comaroff and Comaroff, 2003; Anderson, 2006; Roy, 2008; Santos, 2014, 2017).

Modern law is administered by the state, operating exclusively on a national scale and presiding over a bureaucratic and professional administration. Compatible with the fiction of the homogeneous nation, law is a globalized localism (Santos, 2008), that is to say, a Western initiative that acquired the status of universality through colonial power. In the words of Peter Fitzpatrick (1992), the law is a Eurocentric myth, allegedly immune to context and politics, which sustains the claim of Western superiority and linear historical narrative, progressing from disorder to order and combining the latter with the rule of law.

According to the author,

[M]odern law emerges, in a negative exaltation, as universal in opposition to the particular, as unified in opposition to the diverse, and as omniscient in contrast to the incompetent, and as controlling of what has to be controlled [...]. Law is imbued with this negative transcendence in its own myth of origin where it is imperiously set against certain ‘others’ who concentrate the qualities it opposes. Such others are themselves creatures of an Occidental mythology, a mythology which denies its own foundation by consigning myth in general to the world of these others. This combined denial of myth does not mean that

the mythology which operates in the West is qualitatively different from that attributed to these other ignorants.

Fitzpatrick, 1992: 10

For James Tully,

The great tragedy of the modern constitutionalism is that most European philosophers followed Hobbes and turned their backs on dialogue just when non-European peoples were encountered and dialogue and mediation were needed to avert the misunderstanding and inhumanity that followed.

Tully, 1995: 116

The jurist Kenneth B. Nunn, co-founder of the Center for the Study of Race and Race Relations, a law school centred on the issue of race, argues that Western European culture, when compared to others, is highly materialistic, competitive, individualistic, narcissistic and focused on the consumption of natural resources and material goods, and that law is part of a broader cultural effort that promotes European values and interests at the expense of everyone else (1997). Law is understood by Nunn to be a 'European enterprise' which affirms and celebrates the Eurocentric cultural experience, contributing to its hegemony:

Law contributes to Eurocentric hegemony in three concrete ways. First, law 'controls the beast' by organizing and directing white institutions and cultural practices. Second, law 'polices' white culture. That is, law operates to help determine which ideas and practices are valued in Eurocentric culture and which can be identified as 'threats' subject to the use of coercion or force. Third, law works to legitimate white institutions and practices by helping to place the imprimatur of universality on European practices and champion the desirability and inevitability of white dominance.

Nunn, 1997: 351

Although there are examples of social achievements through law in the history of the twentieth century, the truth is that it was conceived as an instrument for protecting private property and for collective submission to the terms of capitalist productivity as conceived by the bourgeoisie in the West (Abel, 1990; Santos, 2002, 2017; Castro-Gómez, 2005; Roy, 2008). It is characterized by a set of assumptions essential to the ambitions of this economic model, such as uniformity (applied invariably), universality (reproducible and predictable), territoriality (law is territorial and non-personal) and logical-formal rationality (borrowed from modern science) (Galanter, 1966; Wolkmer, 1994; Santos, 2000). Its allegedly rational, neutral, objective and fair language promotes a fictionalized natural order legitimizing the values and goals of capitalism.

In the book *Colonial Lives of Property*, Brenna Bhandar (2018) shows how the appropriation of indigenous lands was based on ideologies that claim European racial superiority and on legal narratives that equate civilized life with private property. The evolution of modern property laws and the justifications for the possession of private property 'were articulated through the attribution of value to the lives of those defined as having the capacity, will and technology to appropriate, which in turn was contingent on prevailing concepts of race and racial difference' (Bhandar, 2018: 4). For the author,

The colonial encounter produced a racial regime of ownership that persists into the present, creating a conceptual apparatus in which justifications for private property ownership remain bound to a concept of the human that is thoroughly racial in its makeup.

Bhandar, 2018: 4

Moreover, the link between capitalism and patriarchy has long been the subject of research work and feminist theories. In Silvia Federici's well-known study *The Witch and Caliban*, the author presents what the epistemologies of the South would call a sociology of the absence of the role of women. It advocates the importance of reading events not only from the point of view of production but also in terms of reproduction, and shows the intersection between women's history – the naturalization and devaluation of their role, the violence targeted at their bodies and the social struggles they have fought – that is, the history of the other (in another modern artificial dichotomy) and the history of capitalism (Federici, 2009; Federici, 2014).

The transformation of women's bodies into machines that produce workers required universal, formal, binding legislation and complicit institutions that would ensure abortion was penalized and would only recognize binary bodies and a bourgeois, heteronormative family design at the service of a single productivity (Peterson, 2013; Federici, 2014). It was this form of productivity that established itself as one of the five monocultures of modernity: the capitalist monoculture (Santos, 2014). Naturalizing the heteropatriarchal family model means denying the history of the power relations at the origins of capitalism and the construction of states. The type of relationships constituted in extended family networks was based on different kinds of relationship and logics of authority, respect and resources. As V. Spike Peterson argues,

[E]ffective centralization required a reconfiguration of social arrangements, which typically involved states establishing relatively independent heteropatriarchal 'family'/households as the basic socio-economic unit; the latter facilitated resource extraction, military conscription, regulation of property (including women), and centralized control more generally.

Peterson, 2013: 57–59

The modern legal paradigm survived the national independence processes, which failed to change the way the West viewed the colonies. The world order negotiated by the United Nations at the end of World War II was based on a Charter of Rights and a set of principles which reflected European history, even though they were granted universal validity. The model state law was presented as a neutral device, the universal archetype of a linear development project (Mattei and Nader, 2008; Roy, 2008; Madlingozi, 2010; Araújo, 2016). The 'other' could only aspire to independence and recognition by the Westphalian international order when it conformed to the only state model recognized, the nation state (Roy, 2008). Within the same project, civil society was created, in many contexts an entity even more artificial than the state itself. The many social processes (ethnic divisions, local cultures, legal pluralism, etc.) that were excluded from civil society were translated by the hegemonic powers into explanatory factors for the 'weakness' of civil society (Santos, 2000), the same type of approach that often resulted in the classification of states as fragile, failed or collapsed (Barros-Varela, 2017).

As Dianne Otto states, 'to become a member of the UN community and to obtain full international citizenship and sovereign legal personality, an entity must generally qualify as a state' (1996: 341). She continues: 'Decolonization repeated imperialism, but with a new legal and moral appearance' (1996: 343). Despite all their differences, the countries of Eastern Europe and those of the West converged in recognizing the Eurocentric canon and saw history as a global evolutionary movement, whether in the direction of global capitalism or international socialism. In both cases, Europe symbolized the most advanced stage of development (Otto, 1996: 340). The international principle *utis possidetis juris* (the inalterability of colonial frontiers), a construct as colonial as that of the nation state, ensured the continuity of highly artificial borders, ignoring the affinities and forms of organization that existed prior to colonial invasion (Roy, 2008; Otto, 1996).

In a text on the rule of law in African contexts, Makau Mutua summarizes the continuity of the colonial scenario in one paragraph:

Soon after Africa's independence, cadres of Western academics and policy-makers believed that Africa's new states would be 'civilised' by the rule of law. Western thought viewed pre-colonial Africa as pre-law, and thus argued that emergent states needed formal Western legal regimes to enter modernity. No credit was given to pre-existing African legal systems, which were often referred to as 'customary law', 'traditional', 'savage' or 'uncivilized'.

Mutua, 2016: 163

Contemporary legal transplants are fuelled by the disparity within modernity between experiences and expectations, an unbalanced form of management that results from the great unfulfilled promises based on the idea of progress and

abstract prognoses (Galindo, 2014). In this introduction, we will not detail the complexity resulting from these top-down processes which fail to recognize what exists and produce unexpected results. The excessive weight attributed to international agents and their impositions, marked in legal historiography, was called the ‘diffusionist model of reception’ because it is based on blindness to the complexity of legal encounters (Duve, 2014: 8, 9).

Colonialism is translated into academically validated, apparently neutral concepts, as is the case with ‘transitional justice’. Mechanisms designed to depoliticize the past, the present and the future are hidden beneath the celebration of the rule of law. Transitional justice rests on a legality that promotes a less controversial version of the past. ‘Transitional justice entrepreneurs’ occupy the space dedicated to local voices and seek to reconstruct the world in the image of Western liberal democracies (Madlingozi, 2010). Sociopolitical claims tend to remain in the background in a debate that is now about criminal facts, in which clashes based on race and class are tempered by a legal language that brings victims and perpetrators face to face (Bowsher, 2018).

Our arguments are not concerned with the intentions of the people involved in these cases, which certainly vary. The purpose of this reading, and many others we have addressed, is to foreground a part of the narrative that the hegemonic version of modernity has rendered invisible. The monoculture of modern science, which has infected the sphere of law, has narrowed our perception of the world, alienating people and knowledges and reducing the political imagination to a very controlled sphere. Law has been increasingly contaminated by economics, in turn increasingly recognized as an exact science, promoting what Capra and Mattei (2015) call an ‘obsolete mainstream view, rooted in the duopoly of property and state’, which ‘feeds ecologically destructive practices’. According to the authors, ‘So-called economic laws produce major distortions because they are based on the assumption that it is natural and desirable for an institution to set growth targets that induce extractive individual behavior while discouraging virtuous practices’ (Mattei and Fritjof, 2015: 8).

Neoliberal globalization has not been questioning the capitalist, colonial and heteropatriarchal model, despite the advances (and setbacks) in social struggles. The alleged neutrality of modern law has always been sustained through science oriented towards the domestication of nature and people, and this linear path has not been eroded. Ugo Mattei and Marco de Morpurgo refer to an ‘imperial rule of law’ which lies above the state, ‘a dominant layer for the worldwide legal systems’ (Mattei and Morpurgo, 2009). This law, presented as neutral, scientifically legitimated and produced in the interests of international capital by a huge variety of institutions, both public and private, has been fuelling important discussions on legal pluralism on a global scale, as well as global economic constitutionalism (Santos, 2002; Schneiderman, 2008; Michaels, 2009; Berman, 2012; Peters, 2015). The impact of global legal systems is not homogeneous, that is to say, it is not a

question of scale, but of power camouflaged beneath the idea of good economic governance (Baxi, 2013):

With all the profusion of General Comments of the UN human rights treaty bodies and the MDG, and the right to development talk, there exists no human right against fiscal and monetary policy regimes. Thus, there is no human right directed against price-rise (inflation) which mocks the smooth languages of the right to affirm, protect and promote socio-economic rights. There is no human right whatsoever against policies and programmes of 'structural adjustment' or 'devaluation' of national currency which ruins the everyday lives of millions of peoples in the global South.

Baxi, 2013: 41

In this context, what is the role of the constitution? What is the role of the state? The erosion of the state has been highly selective, considering only the components of the social state that regulate markets and promote distribution. The old values of private property, the individual, and contractual security are celebrated, and distribution practices are presented as an attack on the rule of law. More than ever, law assumes the form of a neutral technology, while political intervention is identified as a legal correction (Mattei and Morpurgo, 2009). The state is the instrument for applying neoliberal economics presented through technocratic language, cloaked in a neutral and universal appearance. In the case of classical liberalism, the state should have limited intervention; in the case of neoliberalism, the state must be regulated internally and externally by the logic of the market (Ferreira, 2016). A recent comparative study on austerity discourses in Europe concludes that

Since 2010, Europe has converged to a neoliberal vision in overcoming the crisis and promoting competitiveness, becoming increasingly aligned with international institutions such as the IMF in terms of structural adjustment and austerity measures. Therefore, for most countries of the EU, namely those under the Troika interventions, or others under IMF Stand-By Arrangements, the recipe has become similar.

Meneses et al., 2018

As Robert Knox points out, 'the anti-statist and "free market rhetoric" of the original theorists of neoliberalism is vastly at odds with the expansion and reconfiguration of state power that was needed to birth and secure it' (2017:93). In the same vein, Brabazon argues that

if the state is increasingly acknowledged – at least in academic circles – to have been restructured in the neoliberal period rather than restrained, this is

typically seen as a re-orientation of the state away from social concerns and toward facilitating market transactions: ‘profit over people’.

Brabazon, 2017: 5

In this context, public law is modelled according to the principles of private and market law, as the public and the private merge within the concept of governance (Tzouvala, 2017: 132).

1.3 The Dilemmas of Critical Constitutionalism

Within the hegemonic project, constitutionalism can be understood as a field of legal and political knowledge anchored in the historical processes of Eurocentric modernity, in which the legitimate differences between the continental European and the Anglo-Saxon are accommodated (McIlwain, 1947: 1–22; Bobbio, 1986: 124; Fioravanti, 2001: 85–100; Comanducci, 2002: 90–93; Bovero, 2006: 22–23; Wittington, 2009: 1–2; Ferrajoli, 2011: 16–21; Medici, 2016: 29–30). When viewed from this perspective, constitutionalism can be considered a set of doctrines, namely an intellectual and political movement which aimed to build a series of ideas that would explain, and even legitimize, the centrality of the constitution as a way of restricting public power by imposing on governments respect for the rule of law over force, as well as limiting the exercise of power. This positioning is also constructed from the primacy of the individual over the community and the state, hence the importance of establishing some form of respect for the rights of the individual vis-à-vis state power. Based on the epistemologies of the South and the concept of the abyssal line, it can be affirmed that all these developments occurred in the metropolitan area and that modern constitutionalism comprised the juridification of relations of domination, violence and appropriation on the ‘other side of the line’, in the colonial zone. This is why the dominant modern-Western project, with strong roots in individualism and liberalism, necessarily coexists with the dynamics of capitalist, sexist and colonial oppression.

In limiting ourselves to more recent times, it is important to mention the constitutional designs after World War II: the neoconstitutionalisms. It should be emphasized that, in tracing the path of modern constitutional history, changes have affected the metropolitan area. This is why the debates taking place have paid very little attention to the colonial issue, even though much of the African continent remained under the colonial rule while they were in progress. The prefix ‘neo’ refers to the need to go beyond previous constitutional designs, which were not sufficient to prevent the atrocities committed during World War II. For this reason, neoconstitutionalisms coincide with the need to defend the constitutional principles of justice and, as a rule, do not deny the connection between law and morals, while defining fundamental rights as insurmountable limits for public

authorities (Dworkin, 1996; Comanducci, 2002: 96–112; Zagrebelsky, 2013; Alterio, 2014: 232–253). This relates to the aforementioned constitutional rigidity, which plays a key role in the expression of the ‘unbreakability’ of the protection of fundamental rights. It also explains the attention paid to guaranteeing fundamental rights by various means which are difficult to modify, precisely in order to ensure that this protection is maintained. Thus, guarantee-based constitutionalism is conceived of as a reinforced positivism (Ferrajoli, 2011: 24–34). The role of judges in ensuring constitutional supremacy and exercising constitutional control is central in this design for the constitutional system.

Another of the relevant contemporary proposals is founded on the so-called ‘popular constitutionalism’ which, instead of advocating the ‘closure’ of constitutional issues (as in ‘legal constitutionalism’), advocates opening up these issues to popular participation. It should be clarified that such participation is, as a rule, restricted by an understanding that limits it to the representation of the legislative power. The emphasis is placed on questioning the democratic legitimacy of the constitutional designs for legal constitutionalism (Kramer, 2004; Waldron, 2006, 2012), and it can be said that it provides for (1) a loosening of the constitution and its exercise; (2) the challenging of judicial supremacy and, in certain cases, even the challenging of some form of judicial control over constitutionality; (3) the extrajudicial interpreting of the constitution; (4) democratization and participation in political and economic institutions; and (5) recovering the relationship between law and politics (Alterio, 2014: 253–255).

In short, it can be said that popular constitutionalism focuses its attention on questioning several of the central postulates associated with positions that can be considered ‘elitist’ because they close constitutional issues to public debate and democratic challenges. However, it is necessary to question the extent to which popular constitutionalism ‘opens up’, since, as previously mentioned, several interpretations of this constitutionalism do not seem to question the fact that popular participation only occurs through the state legislative power, thereby excluding many other possibilities for participation in constitutional issues.

In addition to neoconstitutionalisms and popular constitutionalism, there are other variants which come under the category of the ‘constitutionalism of diversity’ (Uprimny, 2011), a reference to the social and cultural diversity in different regions of the world. Specifically in the case of Latin America, with its emphasis on the relationship between indigenous peoples and the state, a kind of constitutional progression⁷ was contemplated, which developed from a ‘multicultural constitutionalism’, far more embodied in the Western liberal paradigm, to a ‘pluricultural constitutionalism’ and finally a ‘plurinational constitutionalism’ (Yrigoyen, 2011). Obviously, these constitutional designs and reflexive proposals can have systemic impacts, at least in the case of plurinational constitutionalism, since while directly questioning colonial law, it also questions the foundations of the state, both in its nineteenth-century liberal form and the social form of the twentieth century (Yrigoyen, 2011: 139–141). However,

it is important to question how far these constitutional recognitions have effectively reconfigured the pillars of constitutionalism. From the perspective of epistemologies of the South, it is also important to determine the extent to which plurinational constitutionalism calls into question or denounces the abyssal line separating the metropolitan area from the colonial zone. It is necessary to devote increasing attention to establishing and regulating the exercise of public power and to verifying whether or not this design helps to address social problems that extend beyond the dominant modern–Western paradigm.

Another discussion that may be relevant to this theme involves questioning the purpose and social function of constitutions. In this regard, a ‘conservative constitutionalism’ would become evident, rather than an ‘aspirational constitutionalism’. The former intends that the constitution and constitutional dynamics should serve to ‘preserve’ a certain state of affairs and a certain agreement on the functioning of social relations. In this sense, constitutions resemble a ‘reflection of what really exists’. In contrast, aspirational constitutionalism does not view constitutions as a reflection of reality, but as a set of minimal bases that point towards what reality needs to be. This is a constitutionalism which resonates strongly in contexts where there is ‘a great dissatisfaction with the present and a strong belief in the possibilities of a better future’ (García Villegas, 2013: 77).

Finally, ‘transformative constitutionalism’, which is found in the global South and has a strong presence in Latin America, seeks to establish constitutional dynamics, evolving through instruments that aim to bring about social transformation and human emancipation, set against capitalist, colonialist and patriarchal oppression. In Latin America, this is known as new Latin American constitutionalism (NCLA). Since the 1990s, in different latitudes of Latin America, social mobilizations have emerged and developed, managing, through democratic means, to assume state power with the aim of transforming it, resulting in new constitutional texts with such distinctive characteristics that they may be considered pioneers of something different. For this reason, the expression NCLA is used by several authors (Gargarella and Curtis, 2009; Uprimny, 2011; Viciano Pastor and Martínez Dalmau, 2011). Other authors, focusing on the expression of a counter-hegemony, prefer the term ‘transformative constitutionalism’ (CT) (Santos, 2010b). NCLA began to be theorized mainly through constitutional law, while transformative constitutionalism takes the theoretical work of Boaventura de Sousa Santos as its gravitational centre. Both perspectives provide important elements, either for a structural analysis of the political implications of the content of the new constitutional texts or for thinking about counter-hegemonic social transformations, that is, the need for a new political and legal culture that seeks to overcome forms of sexist, colonial and capitalist systemic oppression.

These social processes find their maximum expression in the constitutions of Ecuador (2008) and Bolivia (2009).⁸ Understanding them as expressions of transformative constitutionalism requires placing special emphasis on plurinationality, decolonization, depatriarchalization and legal, cultural,

political and linguistic pluralism as principles that emerge when subalterns, namely those that are historically invisible, come to power with the aim of overhauling the state. They require new ways of understanding law and politics, both inside and outside the constitutions, which are often opposed to the liberal and Eurocentric legal culture that prevails in several countries in the global South.

Regarding the constitutions of Ecuador and Bolivia, textual recognition of the reality of legal pluralism entails the challenge of making visible what abyssal thinking has actively produced as invisible (Santos, 2010a) or, in other words, visualizing indigenous justices and understanding them as one of the cornerstones of the new plurinational states (Santos, 2007, 2010b, 2012). It also implies a change in ordinary justices, to enable an ecology of legal knowledges to emerge, built from an intercultural dialogue with indigenous justices (Grijalva Jiménez and Exeni Rodríguez, 2012). It is therefore necessary for intercultural translation to be produced not only in relation to the knowledge of indigenous justices and ordinary justice but also in relation to their practices (Bazurco Osorio and Exeni Rodríguez, 2012), in order to build a 'legal culture of conviviality', the ideal expression of legal pluralism as classified by Boaventura de Sousa Santos (Santos, 2012).

As with the 'constitution', 'constitutionalism' is expressed in multiple ways through contemporary reflections and realities. These expressions are not always compatible, given that they emphasize different aspects, focus on the various problems with different degrees of concern and attribute different levels of centrality to the various subjects. However, it can be argued that, as a whole, they represent a mosaic or collage of the constitutional reflections present today in various parts of the world.⁹ As previously mentioned, just as there have been voices and proposals which try to explain or justify constitutional projects in line with the dominant modern constitutional paradigm, there have also been several critical voices. Some criticisms, even within the dominant constitutional canon, recognize the great limitations of constitutional designs in addressing contemporary problems and the need to control powers affecting people's lives which exceed those which have been constituted (Grimm, 2016: 249–251). Others denounce the functional relationship between the dominant constitutional design and relations based on capitalist domination, arguing that it has coexisted alongside inequality and the exclusion of multiple realities and social subjects which the system considered disposable (De Cabo Martín, 2014). Finally, voices critical of constitutional North-centrism, emanating specifically from Africa and Latin America, have singled out the importance of extending beyond the dominant constitutional canons, encouraging the construction of refocused proposals, as a constitutionalism of the global South (Medici, 2016). The chapters included in this book are critical voices associated with the latter, with varying nuances.

1.4 The Chapters

The chapters are organized into three parts. The five chapters that make up the first part theoretically situate the discussion around the decolonization, decommodification and depatriarchalization of constitutions. The second part combines the perspectives of three South African authors with different experiences and approaches, comprising a reflection on the constitutional processes that came after apartheid. The third part contains six chapters, two by indigenous Ecuadorian authors, on the recent constitutional processes in Latin America.

The first chapter, by Issa Shivji, introduces the theme by asking the question: Do constitutions matter? The author believes there is a lack of clarity in the idea that constitutions are a terrain for struggle, yet stops short of rejecting this conviction, instead choosing to focus on lawyers outside elitist circles who are driven by a passion for social justice and the struggle for the rights, dignity and livelihoods of those who work. Shivji recognizes the limits of bourgeois law and constitutions, while also recognizing the possibilities and identifying the conditions by which radical lawyers can be involved in the struggle for the recognition of rights, thus keeping a passion for social justice and social transformation alive.

In Chapter 2, Asifa Quraishi-Landes outlines the plurality which formed the basis of the constitutional structure of Islamic societies before the European model of the nation state superimposed itself. The Islamic conception of law is structurally different from the Western one. Classical *sharia* does not constitute a singular monolithic code and, as such, is far removed from the process of configuring law in the strict Western sense, which only recognizes the centralist logic. The state has never held the exclusive role of producing and imposing law associated with *sharia*. Before colonial intervention, *sharia* was based on a non-centralist structure, accommodating legal plurality through two types of law, two branches of *sharia*, two components of a holistic rule of law structure and two sources of legitimacy charged with different purposes: *fiqh* (law not codified by the state but created by legal experts through a heterogeneous, plural interpretation of scripture) and *siyasa* (law based on the authority of the state, unrelated to personal life). In addressing a dimension of a history that has effectively been rendered invisible, Asifa Quraishi-Landes positions herself beyond the nation state, within the renowned ‘*many rooms*’ of the law. In this sense, her position poses a question that Western pluralists rarely manage to ask: What would a constitution look like if it started with the idea of legal pluralism as its founding principle, rather than as an add-on critique of existing legal monism? The author argues that the strong presence of legal pluralism throughout the history of Islamic law shows the extent to which it is possible to build a constitutional system without the premises of uniformity embedded in the nation state and where the balance between equality and difference can be achieved without subsuming every right to the authority of the state. In this sense, she proposes that modern Islamic constitutionalism

should be inspired by the deep legal pluralism of pre-colonial *sharia*, comprising two pillars: (1) state lawmaking (*siyasa*) based on the public good; (2) the plurality of *fiqh* (and other religious rights), available as a voluntary opt-out from state law.

In Chapter 3, Upendra Baxi reflects on old and new constitutionalisms, formulates a set of issues that deepen the debate on decolonizing constitutionalism and proposes theoretical instruments that consolidate the analysis. Recognizing the importance (and the enormous challenge) of studying constitutionalisms from a subaltern or worm's-eye view, Baxi engages with the proposal of the epistemologies of the South, analysing how the concept of abyssal line might be useful in addressing theories of constitutionalism. In this sense, a broad question is maintained as a common thread in the text: Do constitutions matter at all for what Franz Fanon called the 'wretched of the earth' or Boaventura de Sousa Santos called the abyssally excluded? The author recognizes the multiplicity of forms of subaltern constitutionalism and the fragility of the 'new constitutionalism' category, as well as acknowledging that comparative constitutional studies (COCO) compare the incomparable. Interpreting the Indian context, Baxi argues that constitutionalism itself and all 'new' constitutions are faced with contradictions which can be studied on the following levels: aspirational/institutional; normative/institutional; civilizational/cultural; material/symbolic or performative. Constitutional innovation has traditionally been attributed to the West, whose civilizational mission led to the spread of the four Cs – conquest, Christianity, commerce and civilization. Among the set of questions raised in the context of COCO, this study focuses on the following: How are we to grasp the varieties of postcolonial experience? Are the constitutionalisms of non-Euro American others always mimetic and never otherwise? Where can we place certain astonishing examples of judicial creativity in the global South? May we conceive of the world as a Western shopping mall or arcade from which countries in the non-West assemble their constitutions? Do history and context matter and if so, how? Can anomie and contradiction be transplanted, transferred and compared? What kinds of constitutionalism does a movement-led struggle produce? How do we reconcile the imperatives of the global market with those of elite or mass-conceived religion? Is constitutional secularism the best possible answer? How far may the constitutional courts impose their demos prudence over their jurisprudence? What may be the future constitutional promise and peril of this different modernity? For the author, what matters is perhaps not the way constitutions are written, but the contradictions of constitutionalism and, crucially, the forms of 'insurgencies' that characterize life under the constitutions.

In Chapter 4, Rosalva Aída Hernández Castillo combines a feminist and pluralistic approach to transformative constitutionalism, extending the boundaries of the Latin American debate beyond the experiences of Bolivia and Ecuador to include the voices of indigenous women who have been protagonists in internal and external political debates. Drawing on experiences in the Mexican states of Chiapas and Oaxaca – the former an autonomous entity not recognized by

the state, where Zapatista support bases pursue their own justice with no state intervention; the latter a space that has recognized legal autonomy in the context of the constitutional reforms that have taken place in Oaxaca within the last decade – Hernández identifies sites for legal and political dispute where resistance strategies are discussed and indigenous and gender identities are negotiated. By refuting an essentialist conception of local legal structures, she develops a sociology of emergences, highlighting the dynamic nature of indigenous constitutions and the possibilities that result from interlinked struggles.

In Chapter 5, Sara Araújo discusses the possibilities and limits of the concept of legal pluralism expanding the recognized legal reality and the possibilities of political imagination. Building on the challenges and conceptual instruments of the epistemologies of the South, she explores the extent to which theories and empirical studies of legal pluralism, as well as different recognition policies, have contributed to decolonizing the Eurocentric legal canon. By adding categories to Sally Engle Merry's widely accepted typology, five approaches to legal pluralism are defined: classical legal pluralism, new legal pluralism, global legal pluralism, instrumental legal pluralism and intercultural legal pluralism. The chapter concludes by discussing the possibilities of constructing a post-abyssal legal thinking through a sociology of emergences which addresses the diversity of legal maps of the world.

The second part brings together three distinct reflections on recent constitutionalism in South Africa. In Chapter 6, Heinz Klug introduces the discussion, arguing that it is not possible to understand the complexity of the present without considering the legal continuities of colonialism and apartheid, the legacy of anti-apartheid social struggles and the form which the process of democratic transition has assumed. The author begins by situating the discussion within some of the main concepts and theoretical developments associated with the state and constitutionalism in Africa, recognizing the common colonial legacy, as well as the historical, cultural and constitutional heterogeneity of the continent. Klug focuses on a set of conditions that result from continuities with the past, which marked the first 20 years of post-apartheid governance: social inequality; the preservation of apartheid in the public sector; the extension of non-democratic transition to local government; recognition of the traditional authorities; the limited role of the Truth and Reconciliation Commission. For the author, the constitution, 'the crowning achievement of that historic moment', represents an opportunity for social transformation, with the potential to act as an instrument for anti-corruption and anti-nepotism.

In Chapter 7, Albie Sachs presents an exercise in self-reflection regarding his work as a judge in the South African Constitutional Court. Sachs actively participated in the drafting of the democratic Constitution of the Republic of South Africa and was appointed a Constitutional Court judge by Nelson Mandela. In this text, which draws on his own experience, Sachs discusses the limits and possibilities of law as an instrument for social transformation. In

sharing cases in which he intervened as a judge and defender of the new post-apartheid constitutional order, the author reflects on transformative constitutional jurisprudence and the possibilities for establishing social and economic rights, as well as the construction of a true interculturality, respecting the right to equality and the right to difference. For the author, the constitution should function as an active source of regulation – combining common law and customary law, and allowing for emancipatory readings in situations in which constitutional principles are at odds with each other (such as dignity and private property, or the right to equality and the recognition of customary law).

In Chapter 8, Tshepo Madlingozi presents a highly critical reading of what he describes as neo-apartheid constitutionalism. The author links the concept of the abyssal line to the South African philosopher Mogobe Ramose's proposal for a post-conquest constitution. Seeking not to lose sight of the perspective of the historical victims of settler colonialism, Madlingozi is not optimistic with regard to the horizon of possibilities unlocked by the 1994 Constitution. Neo-apartheid constitutionalism, he argues, shifts the abyssal line without overcoming it, promoting a transition from settler domination to settler hegemony. The author examines the extent to which a constitution can embody the decolonizing project and its sensibilities. In deliberating on what remains to be deconstitutionalized in the world created by the colonizer, Madlingozi reflects on the possibilities of building a constitution that promotes epistemic justice, sustains its authority through Ubuntu philosophy and replaces the monoculture of constitutional law with intercultural dialogue.

The final part, which focusses on constitutional processes in Latin America, is introduced by Salvador Schavelzon. In Chapter 9, the author offers a detailed narrative of the constituent process in Bolivia, based on the ethnographic record of the debates within the Constituent Assembly and the identification of the translational challenges involving different civilizational, epistemological and ontological universes. A number of topics are addressed in this text, including the following: the issue of recognition for multiple historically excluded identities (namely class and ethnicity); problems with the process for approving the constitution; colonial continuities; challenges regarding the implementation or interpretation of the constitutional text, such as issues related to recognition of indigenous justice and demodiversity; and modern criticisms of plurinationality. Through the idea of a 'constituent silence', the author illustrates the difficulties inherent in constructing dialogues based on different world views when colonial hierarchies are not definitively questioned and the modern legal language retains the power to impose limits on the dialogue.

In Chapter 10, Raúl Llasag, a Quechuan jurist from Cotopaxi, views plurinational constitutionalism from a highly critical perspective, distinguishing between plurinationality from above, which is a Eurocentric continuity, and plurinationality from below, arguing that it cannot be built on the basis of modern-Western theories of constitutionalism or understood through colonial conceptions

of modern social sciences. For Raúl Llasag, plurinationality from above is not an end in itself but a transitional tool which must be monitored without losing sight of the initial proposal, namely plurinationality from below. This proposal does not focus on taking state power, but on exercising autonomy in the daily life of grassroots communities, and on expanding these bases beyond indigenous spaces with a view to simplifying life and recovering political, economic and epistemological autonomy.

In Chapter 11, Nina Pacari, a Quechuan jurist from Cotacachi and a former judge in the Constitutional Court of Ecuador, provides another critical reading of constitutional advances in Ecuador from the perspective of indigenous peoples. It is a testimonial and a critical reflection constructed from her experience as a jurist, an activist working for the recognition of indigenous peoples, and a member of the National Constituent Assembly, the National Assembly of Ecuador and the Constitutional Court. Pacari draws attention to the continuity of power structures based on Western hegemony imposed on the originary peoples and seeks to show the epistemic complexity underlying indigenous claims. She discusses the processes of deconstitutionalization, the construction of plurinationality, the recognition of legal pluralism and the challenges to the independence of the Constitutional Court, arguing that interculturality has to involve an epistemic dialogue in plurinational societies which will oblige the state to implement consultation procedures through an exercise in ‘command obeying’.

In Chapter 12, Agustín Grijalva discusses the relationship between participation, (hyper)presidentialism and extractivism in the context of the NCLA, specifically analysing the case of Ecuador a decade or so after the great constitutional change. The 2008 Constitution nominally strengthened citizen participation in public management, monitoring and combatting corruption. However, the reality failed to correspond to the expectations provided by law. Grijalva introduces an important distinction between participation as legitimation and participation as democratization. In order to illustrate the difference, the author examines the popular consultation of 2011 convened by Rafael Correa, as President of Ecuador, and the blocking of other consultations, such as the one concerning the Yasuní-ITT project. In the end, Grijalva argues that extractivism is not just a model for economic policy, but also influences policy fields as diverse as participation, education, labour and the justice system. From a position compatible with that of other authors, Grijalva argues that the constitution is not the end, but rather the beginning of a process for social change. It must therefore be seen as a political program to be defended at any given moment.

Chapter 13, by Orlando Aragón Andrade, broadens the discussion on Latin American transformative constitutionalism, questioning the limits of the debate and the horizons of possibilities imposed by colonial legal terms. Extrapolating the terms of Eurocentric scientific research in assuming his dual role as a lawyer and militant academic, Andrade discusses the possibilities of building transformative constitutionalism from below on a national scale, based on a local Mexican

experience: the insurrection of the Pureecha people of San Francisco Cherán and the establishment of a new municipal government founded on local organizational principles. The author challenges the limits of abyssal legal thinking, proposing a broadening of the constitutional discussion through local legal diversity and the construction of an ecology of trans-scale legal knowledges. What makes constitutionalism transformative? Does Cherán's Constitution have the potential to become part of a transformative constitutionalism project? Is it possible to say that indigenous justices have their own constitutions? Can a local constitution challenge the hegemonic model of the nation state?

In the final Chapter 14, Boaventura de Sousa Santos shows the relevance of research on law and justice as a window to understanding the dynamics of social transformation. The indigenous struggles aimed at constructing plurinational societies are addressed in light of the author's extensive theoretical work in the sociology of law, together with his proposal for the epistemologies of the South, presenting an overview of the main concepts. Among the tensions he analyses, the following are the most salient: judicial monism and judicial pluralism; multicultural liberalism and interculturality; the nation and the plurination; Eurocentric political pluralism and intercultural political pluralism; dependent developmental capitalism and *Sumak Kawsay* or *Suma Qamaña*. The construction of a plurinational state will have to challenge the cognitive, economic, social and political injustice at the core of the nation state. This is a slow path which involves suffering and struggle and also requires transforming dualisms into ecologies of judicial knowledges. Santos concludes the chapter with a set of lessons derived from the processes that were studied, which can serve as beacons along this path.

Notes

- 1 On the monoculture of valid knowledge, the monoculture of linear time, the monoculture of social classification, the monoculture of the superiority of the universal and the global and the monoculture of productivity, see Santos (2018).
- 2 Although the author does not make explicit reference at this point to the constitution, he does refer to 'politics' and 'law' as being two sides of the same coin (Bobbio, 1984).
- 3 We will return to these concepts later when outlining the socio-juridical proposal of the epistemologies of the South.
- 4 Another reference to constitution and complexity can be found in Medici (2016).
- 5 One reflection on the constitution as a space that includes several 'fundamentally controversial concepts' can be found in Waldron (1994). In the same vein, see Ortega Soriano (2017).
- 6 An eloquent example is provided by the work *Constitutionalism: Past, Present and Future* published by the Oxford University Press in 2016. In this 400-page volume, Grimm makes less than ten references to constitutions and constitutionalisms of the state beyond the global North, although several years have elapsed since constitutions such as those of Ecuador and Bolivia, considered relevant from other perspectives on a constitutional present and future, were promulgated (Grimm, 2016: 249–251).
- 7 This progression should not necessarily be read in terms of 'evolutionism' or 'improvement' since, on many occasions, all these 'constitutionalisms of diversity' coexist in the same country, in the same region and, of course, in the world.

- 8 For further discussion on the similarities and differences regarding the premises of neoconstitutionalism and other constitutional developments, see Uprimny (2011) and Alterio (2014: 275–293).
- 9 For a more focused approach to debates on the reality of the United States of America, see Wittington (2009), where normative constitutionalism, descriptive constitutionalism and empirical constitutionalism are distinguished. For constitutional reflections aimed at a dialog between Europe and the Latin American region, see von Bogdandy (2015). Although the latter focuses on Latin America, reflecting on exclusion and inequality, he uses a comparative perspective in analysing the dynamics of institutions and law.

References

- Abel, Richard L. (1990), 'Capitalism and the Rule of Law: Precondition or Contradiction?' *Law & Social Inquiry*, 15(4): 685–697. DOI: <https://doi.org/10.1111/j.1747-4469.1990.tb00600.x>.
- Alterio, Ana Micaela (2014), 'Corrientes del Constitucionalismo Contemporáneo a Debate', *PROBLEMA. Anuario de Filosofía y Teoría del Derecho*, 8: 227–306. DOI: <https://doi.org/10.22201/ij.24487937e.2014.8.8166>.
- Anderson, Benedict (2006), *Imagined Communities*. London: Verso.
- Araújo, Sara (2016), 'O Primado do Direito e as Exclusões Abissais: Reconstruir Velhos Conceitos, Desafiar o Cânone', *Sociologias*, 43(18): 88–115. DOI: <https://doi.org/10.1590/15174522-018004304>.
- Barros-Varela, Odair (2017), *Crítica da Razão Estatal. Estado Moderno em África nas Relações Internacionais e Ciência Política. O caso de Cabo Verde*. Praia: Pedro Cardoso Livraria.
- Baxi, Upendra (2013), 'Preliminary Notes on Transformative Constitutionalism', in Oscar Vilhena, Upendra Baxi, Frans Viljoen (eds.), *Transformative Constitutionalism. Comparing the Apex Courts of Brazil, India and South Africa*. Pretoria: Pretoria University Press.
- Bazurco Osorio, M.; Exeni Rodríguez, J. L. (2012), 'Bolivia: Justicia Indígena en Tiempos de Plurinacionalidade', in B. de S. Santos and J. L. Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad y Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala, 49–144. HDL: <http://hdl.handle.net/10316/44166>.
- Berman, P. S. (2012), *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders*. New York: Cambridge University Press.
- Bhandar, Brenna (2018), *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership*. Durham, NC: Duke University Press.
- Bobbio, Norberto (1984), 'El Poder y el Derecho', in Norberto Bobbio and Michelangelo Bovero (eds.), *Origen y Fundamentos del Poder Político*. Mexico: Grijalbo, 19–36.
- Bobbio, Norberto (1986), *El Futuro de la Democracia*, Mexico: FCE—Fondo de Cultura Económica.
- Bovero, Michelangelo (2006), 'Prefacio', in Pedro Salazar Ugarte (ed.), *La Democracia Constitucional. Una Radiografía Teórica*. Mexico: FCE, IJ- UNAM.
- Bowsher, Josh (2018), 'Law & Critique: Transitional Justice as "Omnus et Singulatim"', *Critical Legal Thinking*. Available at <http://criticallegalthinking.com/2018/06/07/law-critique-transitional-justice-as-omnus-et-singulatim>.
- Brabazon, Honor (2017), 'Introduction. Understanding Neoliberal Legality', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 1–21.
- Capra, Fritjof; Mattei, Ugo (2015), *The Ecology of Law. Toward a Legal System in Tune with Nature and Community*. Oakland, CA: Berrett-Koehler.

- Castro-Gómez, Santiago (2005), 'Ciências Sociais, Violência Epistêmica e o Problema de "Invenção do Outro"', in Edgardo Lander (ed.), *A Colonialidade do Saber: Eurocentrismo e Ciências Sociais. Perspectivas Latino-Americanas*. Buenos Aires: CLACSO, 169–186. Available at <http://biblioteca.clacso.edu.ar/ar/libros/lander/pt/lander>.
- Chakrabarty, Dipesh (2000), *Provincializing Europe. Postcolonial Thought and Historical Difference*. Princeton, NJ: Princeton University Press.
- Chatterjee, Partha (1991), 'Whose Imagined Community?' *Millennium*, 20(3): 521–525. DOI: <https://doi.org/10.1177/03058298910200030601>.
- Chatterjee, Partha (1998), 'Beyond the Nation? Or Within?', *Social Text*, 56: 57–69. JSTOR: www.jstor.org/stable/466770.
- Comanducci, Paolo (2002), 'Formas de (Neo)Constitucionalismo: Un Análisis Metateórico', *Isonomía*, 16.
- Comaroff, Jean; Comaroff, John (2003), 'Reflections on Liberalism, Policulturalism and ID-ology: Citizens and Difference in South Africa', *Social Identities*, 9(4): 445–473. DOI: <https://doi.org/10.1080/1350463032000174632>.
- De Cabo, Martín (2014), *Pensamiento Crítico. Constitucionalismo Crítico*. Madrid: Trotta.
- Duve, T. (2014), 'Introduction', in T. Duve (ed.), *Entanglements in Legal History: Conceptual Approaches*. Frankfurt am Main: Max Planck Institute for European Legal History, 3–25. DOI: <https://doi.org/10.12946/gplh1>.
- Dworkin, Ronald (1996), *Freedom's Law*. Oxford: Oxford University Press.
- Fanon, Frantz (2008 [1952]), *Black Skin. White Masks*. New York: Grove Press.
- Federici, Silvia (2009), *Caliban and the Witch*. New York: Autonomedia.
- Federici, Silvia (2014), 'The Making of Capitalist Patriarchy: Interview with Silvia Federici', in Tessa Echeverría and Andrew Sernatinger (eds.), *The North Star*, 24 February. Available at: <https://marxismocritico.com/2014/02/24/the-making-of-capitalist-patriarchy>.
- Ferrajoli, Luigi (2011), 'Constitucionalismo Principialista y Constitucionalismo Garantista', *DOXA, Cuadernos de Filosofía del Derecho*, 34: 15–53. DOI: <https://doi.org/10.14198/DOXA2011.34.02>.
- Ferreira, António Casimiro (2016), *Política e Sociedade. Teoria Social em Tempo de Austeridade*. Porto: Vida Económica.
- Fioravanti, Maurizio (2001), *Constitución. De la Antigüedad a Nuestros Días*. Madrid: Trotta.
- Fitzpatrick, Peter (1992), *The Mythology of Modern Law*. London: Routledge.
- Galanter, Marc (1966), 'The Modernization of Law', in Miron Winer (ed.), *Modernization*. New York: Basic Books.
- Galindo, G.R.B. (2014), 'Legal Transplants between Time and Space', in T. Duve (ed.), *Entanglements in Legal History: Conceptual Approaches*. Frankfurt am Main: Max Planck Institute for European Legal History, 3–25. DOI: <https://doi.org/10.12946/gplh1>.
- García Villegas, Mauricio (2013), 'Constitucionalismo Aspiracional', *Araucaria. Revista Iberoamericana de Filosofía, Política y Humanidades*, 15(29): 77–97. Available at: www.redalyc.org/pdf/282/28225781004.pdf.
- Gargarella, R.; Courtis, C. (2009), 'El Nuevo Constitucionalismo Latinoamericano: Promesas e Interrogantes', *Políticas Sociales*, 153. HDL: <http://hdl.handle.net/11362/6162>.
- Grijalva Jiménez, Agustín ; Exeni Rodríguez, J. L. (2012), 'Coordinación entre Justicias, ese Desafío', in B. de S. Santos and J. L. Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala, 699–732. HDL: <http://hdl.handle.net/10316/44166>.

- Grimm, Dieter (2016), *Constitutionalism. Past, Present, and Future*. Oxford: Oxford University Press.
- Knox, Robert (2017), 'Law, Neoliberalism and the Constitution of Political Subjectivity. The Case of Organised Labour', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 92–118.
- Kramer, Larry (2004), 'Popular Constitutionalism, circa 2004', *California Law Review*, 92(4): 959–1011. DOI: www.jstor.org/stable/3481314.
- Madlingozi, Tshepo (2010), 'On Transitional Justice Entrepreneurs and the Production of Victims', *Journal of Human Rights Practice*, 2(2): 208–228. DOI: <https://doi.org/10.1093/jhuman/huq005>.
- Mamdani, Mamhood (1996), *Citizen and Subject. Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.
- Marx, Anthony W. (2002), 'The Nation–State and Its Exclusions', *Political Science Quarterly*, 117(1): 103–126. DOI: <https://doi.org/10.2307/798096>.
- Mattei, Ugo; Morpurgo, Marco (2009), 'Global Law and Plunder: The Dark Side of the Rule of Law', *Bocconi School of Law Student-Edited Papers*, No. 2009-03/EN. DOI: <https://doi.org/10.2139/ssrn.1437530>.
- Mattei, Ugo; Nader, Laura (eds.) (2008), *Plunder: When the Rule of Law Is Illegal*. Malden, MA: Blackwell.
- McIlwain, Charles H. (1947), *Constitutionalism. Ancient and Modern*. New York. Cornell University Press.
- Medici, Alejandro (2016), *Teoría del Nuevo Constitucionalismo Latinoamericano*. Aguascalientes/ San Luis Potosí: Centro de Estudios Jurídicos y Sociales Mispat Maestría en Derechos Humanos de la UASLP.
- Meneses, Maria Paula; Araújo, Sara; Ferreira, Silvia; Safradin, Barbara (2018), 'Comparative Report on the Types of Distributive Claims, Interests and Capabilities of Various Groups of the Population Evoked in the Political and Economic Debates at the EU and at the Nation State Level', *ETHOS, Work Package 6, D6.2*. HDL: <http://hdl.handle.net/10316/87019>.
- Michaels, Ralf (2009), 'Global Legal Pluralism', *Annual Review of Law & Social Science*, 5: 243–262. DOI: <https://doi.org/10.1146/annurev.lawsocsci.4.110707.172311>.
- Mutua, Makau (2016), 'Africa and the Rule of Law', *Sur* 23, 13(23): 159–173. Available at: <https://sur.conectas.org/wp-content/uploads/2016/09/13-sur-23-ingles-makau-mutua.pdf>.
- Nunn, Kenneth, B. (1997), 'Law as a Eurocentric Enterprise', *Law & Inequality: A Journal of Theory and Practice*, 15(2): 323–371. Available at: <https://scholarship.law.umn.edu/lawineq/vol15/iss2/2>.
- Ortega Soriano, Ricardo A. (2017), *La Seguridad Jurídica en el Estado Constitucional: Hacia la Renovación de un Ideal*. PhD thesis. Universidad Nacional Autónoma de México, Mexico (UNAM), Mexico City. Available at: <https://repositorio.unam.mx/contenidos/64954>.
- Otto, Dianne (1996), 'Subalternity and International Law: The Problems of Global Community and the Incommensurability of Difference', *Social & Legal Studies*, 5(3): 337–364. DOI: <https://doi.org/10.1177/096466399600500304>.
- Peters, A. (2015), 'Global Legal Constitutionalism', in M. T. Gibbons (ed.), *The Encyclopedia of Political Thought*. Wiley. Available at: www.mpil.de/files/pdf5/Peters_Global_Constitutionalism_Encyclopedia_of_Political_Thought_20151.pdf.
- Peterson, Spike V. (2013), 'The Intended and Unintended Queering of States/Nations', *Studies in Ethnicity and Nationalism*, 13(1): 57–68. DOI: <https://doi.org/10.1111/sena.12021>.

- Roy, Alpana (2008), 'Postcolonial Theory and Law: A Critical Introduction', *Adelaide Law Review*, 29: 315–357. Available at: <http://classic.austlii.edu.au/au/journals/AdelLawRw/2008/10.html>.
- Santos, Boaventura de Sousa (1977), 'The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada', *Law & Society Review*, 12(1): 5–126. JSTOR: www.jstor.org/stable/3053321.
- Santos, Boaventura de Sousa (1995), *Toward a New Common Sense. Law, Science and Politics in the Paradigmatic Transition*. New York: Routledge.
- Santos, Boaventura de Sousa (2000), *A Crítica da Razão Indolente. Contra o Desperdício da Experiência*. Porto: Edições Afrontamento.
- Santos, Boaventura de Sousa (2002), *Toward a New Legal Common Sense*. London: Butterwords.
- Santos, Boaventura de Sousa (2003), 'Introduction', in Santos, Boaventura de Sousa (ed.), *Conhecimento Prudente para uma Vida Decente. 'Um Discurso sobre as Ciências' Revisitado*. Port: Afrontamento, 15–54.
- Santos, Boaventura de Sousa (2007), 'La Reinención del Estado y el Estado Plurinacional', *OSAL*, 22: 25–46.
- Santos, Boaventura de Sousa (2008), 'The World Social Forum and the Global Left', *Politics & Society*, 36(2): 247–270. DOI: <https://doi.org/10.1177/0032329208316571>.
- Santos, Boaventura de Sousa (2010a), *Para Descolonizar Occidente: Más Allá del Pensamiento Abismal*. Buenos Aires: CLACSO/Prometeo Libros. HDL: <http://hdl.handle.net/10316/44177>.
- Santos, Boaventura de Sousa (2010b), *Refundación del Estado en América Latina: Perspectivas desde una Epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad. HDL: <http://hdl.handle.net/10316/44161>.
- Santos, Boaventura de Sousa (2011), *Para uma Revolução Democrática da Justiça*. São Paulo: Cortez.
- Santos, Boaventura de Sousa (2012), 'Cuando los Excluidos Tienen Derecho: Justicia Indígena, Plurinacionalidad e Interculturalidade', in B. de S. Santos and J. L. Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala, 11–48. HDL: <http://hdl.handle.net/10316/44166>.
- Santos, Boaventura de Sousa (2014), *Epistemologies of the South*. Boulder, CO: Paradigm.
- Santos, Boaventura de Sousa (2017), 'The Resilience of Abyssal Exclusions in Our Societies: Toward a Post-Abyssal Law', *Tilburg Law Review*, 22(1–2): 237–258. DOI: <https://doi.org/10.1163/22112596-02201011>.
- Santos, Boaventura de Sousa (2018), *O Fim do Império Cognitivo*. Coimbra: Almedina.
- Schneiderman, David (2008), *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promises*. Cambridge: Cambridge University Press.
- Tully, James (1995), *Strange Multiplicity. Constitutionalism in an Age of Diversity*. Cambridge: Cambridge University Press.
- Tzouvala, Ntina (2017), 'Continuity and Rupture in Restraining the Right to the Strike', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 119–139.
- Uprimny, R. (2011), 'Las Transformaciones Constitucionales Recientes en América Latina: Tendencias y Retos', *Revista Pensamiento Penal*, 122: 1–22. Available at: www.pensamientopenal.com.ar/system/files/2011/04/doctrina28469.pdf.

- Viciano Pastor, R.; Martínez Dalmau, R. (2011), 'El Nuevo Constitucionalismo Latinoamericano: Fundamentos para una Construcción Doctrinal', *Revista General de Derecho Público Comparado*, 9: 1–24. Available at: www.researchgate.net/publication/349029222_El_nuevo_constitucionalismo_latinoamericano_fundamentos_para_una_construccion_doctrinal.
- von Bogdandy, Armin (2015), 'Ius Constitutionale Commune na América Latina: Um Olhar para um Constitucionalismo Transformador', *Revista Derecho del Estado*, 34: 3–50. DOI: <https://doi.org/10.18601/01229893.n34.01>.
- Waldron, Jeremy (2006), 'The Core of the Case Against Judicial Review', *The Yale Law Journal*, 115(6): 1346–1406. JSTOR: www.jstor.org/stable/20455656.
- Waldron, Jeremy (2012), 'Constitutionalism: A Skeptical View', *Public Law and Legal Theory Research Papers Series*, 10–87. Available at SSRN: <https://ssrn.com/abstract=1722771>
- Whittington, Keith (2009), 'Constitutionalism', in Gregory A. Caldeira, R. Daniel Kelemen, and Keith E. Whittington (eds.), *The Oxford Handbook of Law and Politics*. Oxford: Oxford University Press, 281–299.
- Wolkmer, Antônio Carlos (1994), *Pluralismo Jurídico. Fundamentos de uma Nova Cultura do Direito*. São Paulo: Editora Alfa Omega.
- Yrigoyen Fajardo, Raquel (2011), 'El Horizonte del Constitucionalismo Pluralista: Del Multiculturalismo a la Descolonización', in César Rodríguez Garavito (ed.), *El Derecho en América Latina. Un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo Veintiuno Editores, 139–159.
- Yuval-Davis, Nira (1993), 'Gender and Nation', *Ethnic and Racial Studies*, 16(4): 621–632. DOI: <https://doi.org/10.1080/01419870.1993.9993800>.
- Zagrebelsky, Gustavo (2013), 'Constitucionalismo', *Derechos y Libertades*, 29 (Época II): 19–38.

Introduction

- Abel, Richard L. (1990), 'Capitalism and the Rule of Law: Precondition or Contradiction?' *Law & Social Inquiry*, 15(4): 685–697. DOI: <https://doi.org/10.1111/j.1747-4469.1990.tb00600.x>.
- Alterio, Ana Micaela (2014), 'Corrientes del Constitucionalismo Contemporáneo a Debate', *PROBLEMA. Anuario de Filosofía y Teoría del Derecho*, 8: 227–306. DOI: <https://doi.org/10.22201/ij.24487937e.2014.8.8166>.
- Anderson, Benedict (2006), *Imagined Communities*. London: Verso.
- Araújo, Sara (2016), 'O Primado do Direito e as Exclussões Abissais: Reconstruir Velhos Conceitos, Desafiar o Cânone', *Sociologias*, 43(18): 88–115. DOI: <https://doi.org/10.1590/15174522-018004304>.
- Barros-Varela, Odair (2017), *Crítica da Razão Estatal. Estado Moderno em África nas Relações Internacionais e Ciência Política. O caso de Cabo Verde*. Praia: Pedro Cardoso Livraria.
- Baxi, Upendra (2013), 'Preliminary Notes on Transformative Constitutionalism', in Oscar Vilhena, Upendra Baxi, Frans Viljoen (eds.), *Transformative Constitutionalism. Comparing the Apex Courts of Brazil, India and South Africa*. Pretoria: Pretoria University Press.
- Bazurco Osorio, M.; Exeni Rodríguez, J. L. (2012), 'Bolivia: Justicia Indígena en Tiempos de Plurinacionalidad', in B. de S. Santos and J. L. Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad y Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala, 49–144. HDL: <http://hdl.handle.net/10316/44166>.
- Berman, P. S. (2012), *Global Legal Pluralism: A Jurisprudence of Law Beyond Borders*. New York: Cambridge University Press.
- Bhandar, Brenna (2018), *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership*. Durham, NC: Duke University Press.
- Bobbio, Norberto (1984), 'El Poder y el Derecho', in Norberto Bobbio and Michelangelo Bovero (eds.), *Origen y Fundamentos del Poder Político*. Mexico: Grijalbo, 19–36.
- Bobbio, Norberto (1986), *El Futuro de la Democracia*, Mexico: FCE—Fondo de Cultura Económica.
- Bovero, Michelangelo (2006), 'Prefacio', in Pedro Salazar Ugarte (ed.), *La Democracia Constitucional. Una Radiografía Teórica*. Mexico: FCE, IJ- UNAM.
- Bowsher, Josh (2018), 'Law & Critique: Transitional Justice as "Omnus et Singulatim"', *Critical Legal Thinking*. Available at <http://criticallegalthinking.com/2018/06/07/law-critique-transitional-justice-as-omnus-et-singulatim>.
- Brabazon, Honor (2017), 'Introduction. Understanding Neoliberal Legality', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 1–21.
- Capra, Fritjof Mattei, Ugo (2015), *The Ecology of Law. Toward a Legal System in Tune with Nature and Community*. Oakland, CA: Berrett-Koehler.
- Castro-Gómez, Santiago (2005), 'Ciências Sociais, Violência Epistêmica e o Problema de "Invenção do Outro"', in Edgardo Lander (ed.), *A Colonialidade do Saber: Eurocentrismo e Ciências Sociais. Perspectivas Latino-Americanas*. Buenos Aires: CLACSO, 169–186. Available at <http://biblioteca.clacso.edu.ar/ar/libros/lander/pt/lander>.
- Chakrabarty, Dipesh (2000), *Provincializing Europe. Postcolonial Thought and Historical Difference*. Princeton, NJ: Princeton University Press.
- Chatterjee, Partha (1991), 'Whose Imagined Community?' *Millenium*, 20(3): 521–525. DOI: <https://doi.org/10.1177/03058298910200030601>.
- Chatterjee, Partha (1998), 'Beyond the Nation? Or Within?', *Social Text*, 56: 57–69. JSTOR: www.jstor.org/stable/466770.
- Comanducci, Paolo (2002), 'Formas de (Neo)Constitucionalismo: Un Análisis Metateórico', *Isonomía*, 16.
- Comaroff, Jean Comaroff, John (2003), 'Reflections on Liberalism, Policulturalism and ID-ology: Citizens and Difference in South Africa', *Social Identities*, 9(4): 445–473. DOI: <https://doi.org/10.1080/1350463032000174632>.
- De Cabo, Martín (2014), *Pensamiento Crítico. Constitucionalismo Crítico*. Madrid: Trotta.
- Duve, T. (2014), 'Introduction', in T. Duve (ed.), *Entanglements in Legal History: Conceptual Approaches*. Frankfurt am Main: Max Planck Institute for European Legal History, 3–25. DOI: <https://doi.org/10.12946/gplh1>.
- Dworkin, Ronald (1996), *Freedom's Law*. Oxford: Oxford University Press.

Fanon, Frantz (2008 [1952]), *Black Skin. White Masks*. New York: Grove Press.

Federici, Silvia (2009), *Caliban and the Witch*. New York: Autonomedia.

Federici, Silvia (2014), 'The Making of Capitalist Patriarchy: Interview with Silvia Federici', in Tessa Echeverría and Andrew Sernatinger (eds.), *The North Star*, 24 February. Available at: <https://marxismocritico.com/2014/02/24/the-making-of-capitalist-patriarchy>.

Ferrajoli, Luigi (2011), 'Constitucionalismo Principialista y Constitucionalismo Garantista', *DOXA, Cuadernos de Filosofía del Derecho*, 34: 15–53. DOI: <https://doi.org/10.14198/DOXA2011.34.02>.

Ferreira, António Casimiro (2016), *Política e Sociedade. Teoria Social em Tempo de Austeridade*. Porto: Vida Económica.

Fioravanti, Maurizio (2001), *Constitución. De la Antigüedad a Nuestros Días*. Madrid: Trotta.

Fitzpatrick, Peter (1992), *The Mythology of Modern Law*. London: Routledge.

Galanter, Marc (1966), 'The Modernization of Law', in Miron Winer (ed.), *Modernization*. New York: Basic Books.

Galindo, G.R.B. (2014), 'Legal Transplants between Time and Space', in T. Duve (ed.), *Entanglements in Legal History: Conceptual Approaches*. Frankfurt am Main: Max Planck Institute for European Legal History, 3–25. DOI: <https://doi.org/10.12946/gplh1>.

García Villegas, Mauricio (2013), 'Constitucionalismo Aspiracional', *Araucaria. Revista Iberoamericana de Filosofía, Política y Humanidades*, 15(29): 77–97. Available at: www.redalyc.org/pdf/282/28225781004.pdf.

Gargarella, R. ; Courtis, C. (2009), 'El Nuevo Constitucionalismo Latinoamericano: Promesas e Interrogantes', *Políticas Sociales*, 153. HDL: <http://hdl.handle.net/11362/6162>.

Grijalva Jiménez, Agustín ; Exeni Rodríguez, J. L. (2012), 'Coordinación entre Justicias, ese Desafío', in B. de S. Santos and J. L. Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala, 699–732. HDL: <http://hdl.handle.net/10316/44166>.

Grimm, Dieter (2016), *Constitutionalism. Past, Present, and Future*. Oxford: Oxford University Press.

Knox, Robert (2017), 'Law, Neoliberalism and the Constitution of Political Subjectivity. The Case of Organised Labour', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 92–118.

Kramer, Larry (2004), 'Popular Constitutionalism, circa 2004', *California Law Review*, 92(4): 959–1011. DOI: www.jstor.org/stable/3481314.

Madlingozi, Tshepo (2010), 'On Transitional Justice Entrepreneurs and the Production of Victims', *Journal of Human Rights Practice*, 2(2): 208–228. DOI: <https://doi.org/10.1093/jhuman/huq005>.

Mamdani, Mamhood (1996), *Citizen and Subject. Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.

Marx, Anthony W. (2002), 'The Nation-State and Its Exclusions', *Political Science Quarterly*, 117(1): 103–126. DOI: <https://doi.org/10.2307/798096>.

Mattei, Ugo Morpurgo, Marco (2009), 'Global Law and Plunder: The Dark Side of the Rule of Law', *Bocconi School of Law Student-Edited Papers*, No. 2009-03/EN. DOI: <https://doi.org/10.2139/ssrn.1437530>.

Mattei, Ugo Nader, Laura (eds.) (2008), *Plunder: When the Rule of Law Is Illegal*. Malden, MA: Blackwell.

McIlwain, Charles H. (1947), *Constitutionalism. Ancient and Modern*. New York: Cornell University Press.

Medici, Alejandro (2016), *Teoría del Nuevo Constitucionalismo Latinoamericano*. Aguascalientes/San Luis Potosí: Centro de Estudios Jurídicos y Sociales Mispat Maestría en Derechos Humanos de la UASLP.

Meneses, Maria Paula Araújo, Sara Ferreira, Sílvia Safradin, Barbara (2018), 'Comparative Report on the Types of Distributive Claims, Interests and Capabilities of Various Groups of the Population Evoked in the Political and Economic Debates at the EU and at the Nation State Level', *ETHOS, Work Package 6, D6.2*. HDL: <http://hdl.handle.net/10316/87019>.

Michaels, Ralf (2009), 'Global Legal Pluralism', *Annual Review of Law & Social Science*, 5: 243–262. DOI: <https://doi.org/10.1146/annurev.lawsocsci.4.110707.172311>.

Mutua, Makau (2016), 'Africa and the Rule of Law', *Sur*, 23, 13(23): 159–173. Available at: <https://sur.conectas.org/wp-content/uploads/2016/09/13-sur-23-ingles-makau-mutua.pdf>.

Nunn Kenneth, B. (1997), 'Law as a Eurocentric Enterprise', *Law & Inequality: A Journal of Theory and Practice*, 15(2): 323–371. Available at: <https://scholarship.law.umn.edu/lawineq/vol15/iss2/2>.

Ortega Soriano, Ricardo A. (2017), *La Seguridad Jurídica en el Estado Constitucional: Hacia la Renovación de un Ideal*. PhD thesis. Universidad Nacional Autónoma de México, Mexico (UNAM), Mexico City. Available at: <https://repositorio.unam.mx/contenidos/64954>.

Otto, Dianne (1996), 'Subalternity and International Law: The Problems of Global Community and the Incommensurability of Difference', *Social & Legal Studies*, 5(3): 337–364. DOI: <https://doi.org/10.1177/096466399600500304>.

Peters, A. (2015), 'Global Legal Constitutionalism', in M. T. Gibbons (ed.), *The Encyclopedia of Political Thought*. Wiley. Available at: www.mpil.de/files/pdf5/Peters_Global_Constitutionalism__Encyclopedia_of_Political_Thought_20151.pdf.

Peterson, Spike V. (2013), 'The Intended and Unintended Queering of States/Nations', *Studies in Ethnicity and Nationalism*, 13(1): 57–68. DOI: <https://doi.org/10.1111/sena.12021>.

Roy, Alpana (2008), 'Postcolonial Theory and Law: A Critical Introduction', *Adelaide Law Review*, 29: 315–357. Available at: <http://classic.austlii.edu.au/au/journals/AdelLawRw/2008/10.html>.

Santos, Boaventura de Sousa (1977), 'The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada', *Law & Society Review*, 12(1): 5–126. JSTOR: www.jstor.org/stable/3053321.

Santos, Boaventura de Sousa (1995), *Toward a New Common Sense. Law, Science and Politics in the Paradigmatic Transition*. New York: Routledge.

Santos, Boaventura de Sousa (2000), *A Crítica da Razão Indolente. Contra o Desperdício da Experiência*. Porto: Edições Afrontamento.

Santos, Boaventura de Sousa (2002), *Toward a New Legal Common Sense*. London: Butterwords.

Santos, Boaventura de Sousa (2003), 'Introduction', in Santos, Boaventura de Sousa (ed.), *Conhecimento Prudente para uma Vida Decente. 'Um Discurso sobre as Ciências' Revisitado*. Port: Afrontamento, 15–54.

Santos, Boaventura de Sousa (2007), 'La Reinención del Estado y el Estado Plurinacional', *OSAL*, 22: 25–46.

Santos, Boaventura de Sousa (2008), 'The World Social Forum and the Global Left', *Politics & Society*, 36(2): 247–270. DOI: <https://doi.org/10.1177/0032329208316571>.

Santos, Boaventura de Sousa (2010a), *Para Descolonizar Occidente: Más Allá del Pensamiento Abismal*. Buenos Aires: CLACSO/Prometeo Libros. HDL: <http://hdl.handle.net/10316/44177>.

Santos, Boaventura de Sousa (2010b), *Refundación del Estado en América Latina: Perspectivas desde una Epistemología del Sur*. Lima: Instituto Internacional de Derecho y Sociedad. HDL: <http://hdl.handle.net/10316/44161>.

Santos, Boaventura de Sousa (2011), *Para uma Revolução Democrática da Justiça*. São Paulo: Cortez.

Santos, Boaventura de Sousa (2012), 'Cuando los Excluidos Tienen Derecho: Justicia Indígena, Plurinacionalidad e Interculturalidad', in B. de S. Santos and J. L. Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala, 11–48. HDL: <http://hdl.handle.net/10316/44166>.

Santos, Boaventura de Sousa (2014), *Epistemologies of the South*. Boulder, CO: Paradigm.

Santos, Boaventura de Sousa (2017), 'The Resilience of Abyssal Exclusions in Our Societies: Toward a Post-Abyssal Law', *Tilburg Law Review*, 22(1–2): 237–258. DOI: <https://doi.org/10.1163/22112596-02201011>.

Santos, Boaventura de Sousa (2018), *O Fim do Império Cognitivo*. Coimbra: Almedina.

Schneiderman, David (2008), *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promises*. Cambridge: Cambridge University Press.

Tully, James (1995), *Strange Multiplicity. Constitutionalism in an Age of Diversity*. Cambridge: Cambridge University Press.

Tzouvala, Ntina (2017), 'Continuity and Rupture in Restraining the Right to the Strike', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 119–139.

Uprimny, R. (2011), 'Las Transformaciones Constitucionales Recientes en América Latina: Tendencias y Retos', *Revista Pensamiento Penal*, 122: 1–22. Available at: www.pensamientopenal.com.ar/system/files/2011/04/doctrina28469.pdf.

Viciano Pastor, R.; Martínez Dalmau, R. (2011), 'El Nuevo Constitucionalismo Latinoamericano: Fundamentos para una Construcción Doctrinal', *Revista General de Derecho Público Comparado*, 9: 1–24. Available at: www.researchgate.net/publication/349029222_El_nuevo_constitucionalismo_latinoamericano_fundamentos_para_una_construccion_doctrinal.

von Bogdandy, Armin (2015), 'Ius Constitutionale Commune na América Latina: Um Olhar para um Constitucionalismo Transformador', *Revista Derecho del Estado*, 34: 3–50. DOI: <https://doi.org/10.18601/01229893.n34.01>.

Waldron, Jeremy (2006), 'The Core of the Case Against Judicial Review', *The Yale Law Journal*, 115(6): 1346–1406. JSTOR: www.jstor.org/stable/20455656.

Waldron, Jeremy (2012), 'Constitutionalism: A Skeptical View', *Public Law and Legal Theory Research Papers Series*, 10–87. Available at SSRN: <https://ssrn.com/abstract=1722771>

Wittington, Keith (2009), 'Constitutionalism', in Gregory A. Caldeira, R. Daniel Kelemen, and Keith E. Whittington (eds.), *The Oxford Handbook of Law and Politics*. Oxford: Oxford University Press, 281–299.

Wolkmer, Antônio Carlos (1994), *Pluralismo Jurídico. Fundamentos de uma Nova Cultura do Direito*. São Paulo: Editora Alfa Omega.

Yrigoyen Fajardo, Raquel (2011), 'El Horizonte del Constitucionalismo Pluralista: Del Multiculturalismo a la Descolonización', in César Rodríguez Garavito (ed.), *El Derecho en América Latina. Un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo Veintiuno Editores, 139–159.

Yuval-Davis, Nira (1993), 'Gender and Nation', *Ethnic and Racial Studies*, 16(4): 621–632. DOI: <https://doi.org/10.1080/01419870.1993.9993800>.

Zagrebel'sky, Gustavo (2013), 'Constitucionalismo', *Derechos y Libertades*, 29 (Época II): 19–38.

Healing a Wounded Islamic Constitutionalism

Ahmad, Ahmad Atif (2005), "Structural Interrelations of Theory and Practice in Islamic Law: A Study of Takhrij Al-Furu 'Ala Al-Usul Literature". PhD Thesis, Cambridge, MA: Harvard University.

Ahmad, Ahmad Atif (2006), *Structural Interrelations of Theory and Practice in Islamic Law: A Study of Six Works of Medieval Islamic Jurisprudence*. Leiden: Brill.

Ahmed, Dawood I.; Ginsburg, Tom (2014), "Constitutional Islamization and Human Rights: The Surprising Origin and Spread of Islamic Supremacy in Constitutions", *Virginia Journal of International Law*, 54(3), 615–695. Available at www.researchgate.net/publication/274636400_Constitutional_Islamization_and_Human_Rights_The_Surprising_Origin_and_Spread_of_Islamic_Supremacy_in_Constitutions.

An-Na'im, Abdullahi Ahmed (1996), *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*. Syracuse, NY: Syracuse University Press.

Benda-Beckmann, Franz von (2002), "Who's Afraid of Legal Pluralism", *The Journal of Legal Pluralism and Unofficial Law*, 34(47), 37–82. DOI: <https://doi.org/10.1080/07329113.2002.10756563>.

Buskens, Leon (2014), "Sharia and the Colonial State", in Rudolph Peters and Peri Bearman (eds.), *Ashgate Research Companion to Islamic Law*. Surrey: Ashgate, 209–222.

Calder, Norman (1996), "Law", in S. H. Nasr and O. Leaman (eds.), *History of Islamic Philosophy*. London: Routledge, 979–998.

Calder, Norman (2010), *Islamic Jurisprudence in the Classical Era*. Cambridge: Cambridge University Press.

Emon, Anver M. (2004), "Human Legislative Authority in Islamic Law", *Yale Critical Islamic Reflections Conference*, Yale University, New Haven.

Emon, Anver M. (2008), "The Limits of Constitutionalism in the Muslim World: History and Identity in Islamic Law", in Sujit Choudhry (ed.), *Constitutional Design for Divided Societies*:

Integration or Accommodation? Oxford: Oxford University Press, 258–285.

Esposito, John Mogahed, Dalia (2008), *Who Speaks for Islam: What a Billion Muslims Really Think*. New York: Gallup Press.

Fadel, Mohammad H . (2007), "Public Reason as a Strategy for Principled Reconciliation: The Case of Islamic Law and International Human Rights Law", *Chicago Journal of International Law*, 8(1), 1–20. Available at <http://chicagounbound.uchicago.edu/cjil/vol8/iss1/3>.

Fadel, Mohammad H . (2008), "The Challenge of Human Rights", *Seasons: the Journal of the Zaytuna Institute*, 5(1), 59–80.

Forsyth, Miranda (2007), "How to 'Do' Legal Pluralism", 1–12. DOI: <https://doi.org/10.2139/ssrn.993617>.

Galán, Alexis Patterson, Dennis (2013), "The Limits of Normative Legal Pluralism: Review of Paul Schiff Berman, *Global Legal Pluralism: A Jurisprudence of Law beyond Borders*", *International Journal of Constitutional Law*, 11(3): 783–800. DOI: <https://doi.org/10.1093/icon/mot029>.

Galanter, Marc (1981), "Justice in Many Rooms: Courts, Private Ordering and Indigenous Law", *Journal of Legal Pluralism*, 13(19), 1–47. DOI: <https://doi.org/10.1080/07329113.1981.10756257>.

Griffiths, John (1986), "What Is Legal Pluralism?" *Journal of Legal Pluralism*, 18(24), 1–55. DOI: <https://doi.org/10.1080/07329113.1986.10756387>.

Hallaq, Wael B . (2009), "Colonizing the Muslim World and its Shari'a", in *An Introduction to Islamic Law*. Cambridge: Cambridge University Press, 85–114.

Hill, Ryan W . (2010), "Legal Pluralism in the Liberal State: A Defence of the Archbishop of Canterbury or a Human Rights Impasse?" *Law & Justice—Christian Law Review*, 165, 124–143.

Imber, Colin (1997), *Ebu's-Su'ud: The Islamic Legal Tradition*. Stanford: Stanford University Press.

Jackson, Robert H . (1955), "Foreword", in Majid Khadduri and Herbert J. Liebesny (eds.), *Law in the Middle East*. Washington, DC: The Middle East Institute, v–ix.

Jackson, Sherman A . (1996), *Islamic Law and the State: The Constitutional Jurisprudence of Shihab Al-Din Al-Qarafi*. Leiden: Brill.

Jackson, Sherman A . (2003), "Shari'ah, Democracy, and the Modern Nation-State: Some Reflections on Islam, Popular Rule, and Pluralism", *Fordham International Law Journal*, 27(1), 88–107. Available at <https://ir.lawnet.fordham.edu/ilj/vol27/iss1/5>.

Jackson, Sherman A . (2013), "Islamic Reform between Islamic Law and the Nation-State", in John L. Esposito and Emad El-Din Shahin (eds.), *Oxford Handbook of Islam and Politics*. Oxford: Oxford University Press.

Kamali, Mohammad Hashim (1996), "Methodological Issues in Islamic Jurisprudence", *Arab Law Quarterly*, 11(1), 3–33. DOI: <https://doi.org/10.2307/3381731>.

Stilt, Kristen (2012), *Islamic Law in Action: Authority, Discretion, and Everyday Experiences in Mamluk Egypt*. Oxford: Oxford University Press.

Lombardi, Clark B . (2013), "Constitutional Provisions Making Sharia 'A' or 'The' Chief Source of Legislation: Where Did They Come From? What Do They Mean? Do They Matter?" *American University International Law Review*, 28(3), 733–774. Available at <https://digitalcommons.wcl.american.edu/auilr/vol28/iss3/3>.

March, Andrew F . (2009), *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*. Oxford: Oxford University Press.

Merry, Sally Engle (1988), "Legal Pluralism", *Law & Society Review*, 22(5), 869–896. DOI: <https://doi.org/10.2307/3053638>.

Mnookin Robert H . ; Kornhause, Lewis (1979), "Bargaining in the Shadow of the Law: The Case of Divorce", *The Yale Law Journal*, 88(5), 950–997. Available at <https://digitalcommons.law.yale.edu/ylj/vol88/iss5/4>.

Moustafa, Tamir (2013), "Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia", *Law and Social Inquiry*, 38(1), 168–188. DOI: <https://doi.org/10.1111/j.1747-4469.2012.01298.x>.

Pew Research Center—Religion & Public Life (2013), "The World's Muslims: Religion, Politics and Society", *Pewforum.org*, April 30. Available at www.pewforum.org/the-worlds-muslims-2013.

Quraishi, Asifa (2012), "The Separation of Powers in the Tradition of Muslim Governments", in Rainer Grote and Tilmann Röder (eds.), *Constitutionalism in Islamic Countries: Between Upheaval and Continuity*. New York: Oxford University Press, 63–73.

Quraishi-Landes, Asifa (2015a), "The Sharia Problem with Sharia Legislation", *Ohio Northern University Law Review*, 41, 545–566. Available at <https://ssrn.com/abstract=2652896>.

Quraishi-Landes, Asifa (2015b), "Islamic Constitutionalism: Not Secular. Not Theocratic. Not Impossible", *Rutgers Journal of Law & Religion*, 16, 553–579.

Reza, Sadiq (2007), "Torture and Islamic Law", *Chicago Journal of International Law*, 8(1), 21–41. Available at <https://chicagounbound.uchicago.edu/cjil/vol8/iss1/4>.

Santos, Boaventura de Sousa (1987), "Law: A Map of Misreading: Toward a Postmodern Conception of Law", *Journal of Law and Society*, 14(3), 279–302. DOI: <https://doi.org/10.2307/1410186>.

Sayyid, Salman (2014), *Recalling the Caliphate: Decolonisation and the World Order*. London: Hurst.

Schachar, Ayelet (2001), *Multicultural Jurisdictions: Cultural Differences and Women's' Rights*. Cambridge: Cambridge University Press.

Van Niekerk, Gardiol (2001), "State Initiatives to Incorporate Non-State Laws into the Official Legal Order: A Denial of Legal Pluralism?" *Comparative and International Law Journal of Southern Africa*, 34(3), 349–361. Available at https://hdl.handle.net/10520/AJA00104051_206.

Viellechner, Lars (2012), "Constitutionalism as a Cipher: On the Convergence of Constitutionalist and Pluralist Approaches to the Globalization of Law", *Goettingen Journal of International Law*, 4(2), 599–623. Available at www.gojil.eu/42-abstract-viellechner.

Vogel, Frank E. (2000), *Islamic Law and Legal System: Studies of Saudi Arabia*, vol. 8. Leiden: Brill.

Walker, Neil (2002), "The Idea of Constitutional Pluralism", *Modern Law Review*, 65(3), 317–359. DOI: <https://doi.org/10.1111/1468-2230.00383>.

Weiss, Bernard G. (1978), "Interpretation in Islamic Law: The Theory of Ijtihad", *American Journal of Comparative Law*, 26(2), 199–212. DOI: <https://doi.org/10.2307/839668>.

Weiss, Bernard G. (2010), *The Search for God's Law: Islamic Jurisprudence in Writings of Sayf Al-Din Al-Amidi*. Salt Lake City: University of Utah Press.

Nihilisms, Contradictions, and Anomie in New Constitutionalisms

Ackerman, Bruce (2004), "The Emergency Constitution", *The Yale Law Journal*, 113(5), 1029–1091. DOI: <https://doi.org/10.2307/4135710>.

Ambedkar, Bhim Rao (1949), "Speech to the Constituent Assembly on November 25, 1949", *Constituent Assembly Debates (India)*, vol. XI, 972–981. Available at www.constitutionofindia.net/constitution_assembly_debates/volume/11/1949-11-25.

Babbitt, Eileen F.; Lutz, Ellen (eds.) (2009), *Human Rights and Conflict Resolution in Context: Colombia, Sierra Leone, and Northern Ireland*. Syracuse, NY: Syracuse University Press. JSTOR: www.jstor.org/stable/j.ctt1j2n95m.

Barreto, José-Manuel (2014), "Epistemologies of the South and Human Rights: Santos and the Quest for Global and Cognitive Justice", *Indiana Journal of Global Legal Studies*, 21(2), 395–422. JSTOR: www.jstor.org/stable/10.2979/indjglolegstu.21.2.395.

Barrow, Clyde W. (2005), "The Return of the State: Globalization, State Theory, and the New Imperialism", *New Political Science*, 27(2), 123–145. DOI: <https://doi.org/10.1080/07393140500098235>.

Baxi, Upendra (1967), "'The Little Done, The Vast Undone': Reflections on Reading Granville Austin's *The Indian Constitution: Cornerstone of the Nation*", *Journal of Indian Law Institute*, 9(3), 323–430. JSTOR: www.jstor.org/stable/43949944.

Baxi, Upendra (2008), "Renascent Access Notion", in Ayesha Kadwani Dias and Gita Honwana Welch (eds.), *Justice for the Poor: Perspectives on Accelerating Access*. Delhi: Oxford University Press/UNDP, 72–122.

Baxi, Upendra (2009a), "The Promise and Peril of Transcendental Jurisprudence: Justice Krishna Iyer's Combat with the Production of Rightlessness in India", in C. Raj Kumar and Chockligam (eds.), *Human Rights, Justice, and Empowerment*. Delhi: Oxford University Press,

Baxi, Upendra (2009b), "Judging Emmanuel Levinas? Some Reflections on Reading *Levinas, Law, Politics*", *The Modern Law Review*, 72(1), 116–129. JSTOR: www.jstor.org/stable/20533227.

Baxi, Upendra (2013), "Preliminary Notes on Transformative Constitutionalism", in Oscar Vilhena, Upendra Baxi and Francois Viljon (eds.), *Transformative Constitutionalism*. Pretoria: Pretoria University Press, 19–47.

Baxi, Upendra (2014), "Preface", in Mayur Suresh and Siddharth Narrain (eds.), *The Shifting Scales of Justice: The Indian Supreme Court in Neoliberal India*. Delhi: Orient Blackswan.

Baxi, Upendra (2015), "Demosprudence versus Jurisprudence: The Indian Judicial Experience in the Context of Comparative Constitutional Studies", *Macquarie Law Journal*, 14, 3–23. Available at www5.austlii.edu.au/au/journals/MqLawJl/2014/13.htm.

Baxi, Upendra (2016a), "Some Newly Emergent Geographies of Injustice: Boundaries and Borders in International Law", *Indiana Journal of Global Studies*, 23(1), 15–37. JSTOR: www.jstor.org/stable/10.2979/indiglolegstu.23.1.15.

Baxi, Upendra (2016b), "Demosprudence and Socially Responsible/Response-able Criticism: The NJAC Decision and Beyond", *NUJS Law Review*, 9(3–4), 153–172. Available at <http://14.139.214.185/handle/123456789/273>.

Bhattacharya, Krishna Chandra (1954 [1931]), "Swaraj in Ideas", *Visvabharati Quarterly*, 20, 103–114.

Canguilhem, George (1991), *The Normal and the Pathological*. New York: Zone Books.

Comaroff, Jean Comaroff, John L. (2013), "Writing Theory from the South: The Global Order from an African Perspective", *The World Financial Review*, Sept.–Oct. 2013: 17–20. Available at <https://worldfinancialreview.com/writing-theory-south-global-order-african-perspective>.

Derrida, Jacques (1986), "Declarations of Independence", *New Political Science*, 7(1), 7–15. DOI: <https://doi.org/10.1080/07393148608429608>.

Diamantides, Marinos (2007), "Levinas and Critical Legal Thought: Imbroglio, Opera Buffa, Divine Comedy?", in Marino Diamantides (ed.), *Levinas, Law, and Politics*. Abingdon: Routledge-Cavendish. DOI: <https://doi.org/10.4324/9780203945087>.

Dixit, Avinash (2006), "Predatory and Failed States: An Agency Perspective", CEPS Working Paper No 131. Available at <https://gceps.princeton.edu/wp-content/uploads/2017/01/131dixit.pdf>.

Elazar, Daniel Judah (1998a), *Constituting Globalization: The Postmodern Revival of Confederal Arrangements*. New York: Rowman and Littlefield.

Elazar, Daniel Judah (1998b), *Covenant and Civil Society: The Constitutional Matrix of Modern Democracy*. New York: Transactional Press.

Escobar, Arturo (1992), "Imagining a Post-Development Era? Critical Thought, Development and Social Movements", *Social Text*, 31/32, 20–56. JSTOR: www.jstor.org/stable/466217.

Fitzpatrick, Peter (2006), "'The New Constitutionalism': The Global, the Post-Colonial and the Constitution of Nations", *Law, Democracy & Development*, 10(2), 1–20. Available at www.ajol.info/index.php/ldd/article/view/138332.

Frankenberg, Günter (ed.) (2013), *Order from Transfer: Comparative Constitutional Design and Legal Culture*. Cheltenham: Edward Elgar.

Ghai, Yash (2000), "Universalism and Relativism: Human Rights as Framework for Negotiating Interethnic Claims", *Cardozo Law Review*, 21, 1095–1102. Available at <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cdozo21&div=45&id=&page=>.

Gill, Stephen (1995), "Globalization, Market Civilisation, and Disciplinary Neoliberalism", *Millennium: Journal of International Studies*, 24(3), 399–423. DOI: <https://doi.org/10.1177/03058298950240030801>.

Gill, Stephen Law, David (1989), "Global Hegemony and the Structural Power of Capital", *International Studies Quarterly*, 33(4), 475–499. DOI: <https://doi.org/10.2307/2600523>.

Gill, Stephen Law, David (1993), "Global Hegemony and the Structural Power of Capital", in S. Gill (ed.), *Gramsci, Historical Materialism and International Relations*, Cambridge: Cambridge University Press. 93–124. DOI: <https://doi.org/10.1017/CBO9780511558993.005>.

Greg Albo, Greg Fanelli, Carlo (2014), *Austerity Against Democracy: An Authoritarian Phase of Neoliberalism?* Toronto: The Centre for Social Justice. Available at www.socialjustice.org/publication/austerity-against-democracy.

Hart, Vivien (2003), "Democratic Constitution Making", United States Institute of Peace Special Report 107. Washington, DC: USIP. Available at www.usip.org/publications/2003/07/democratic-constitution-making.

Heidegger, Martin (1982), *Nietzsche Volume IV: Nihilism*. New York: Harper & Row. Translated by Frank A. Capuzzi.

Hemming, Laurence Paul Costea, Bogdan Amiridis, Kostas (eds.) (2011), *The Movement of Nihilism: Heidegger's Thinking After Nietzsche*. London: Continuum.

Hirschl, Ran (2000), "The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from Four Constitutional Revolutions", *Law & Social Inquiry*, 25(1), 91–149. DOI: <https://doi.org/10.1111/j.1747-4469.2000.tb00152.x>.

Hirschl, Ran (2004), *Towards Juristocracy—the Origins and Consequences of the New Constitutionalism*. Cambridge, MA: Harvard University Press.

Hirschl, Ran Tate, Neal ; Ginsburg (2003), *Tom Judicial Review in New Democracies—Constitutional Courts in Asian Cases*. Cambridge: Cambridge University Press.

Katz, Stanley Nider (2006), "Democratic Constitutionalism after Military Occupation: Reflections on the United States' Experience in Japan, Germany, Afghanistan and Iraq", *Common Knowledge*, 12(2), 181–196. DOI: <https://doi.org/10.1215/0961754X-2005-001>.

Lacan, Jacques (1991), *The Seminar of Jacques Lacan. Book II. The Ego in Freud's Theory and in the Technique of Psychoanalysis, 1954–1955*. New York: W. W. Norton.

Leys, Colin (2008), *Total Capitalism: Market Politics, Market State*. London: Merlin Press.

Lubin, Judy (2012), "The 'Occupy Movement': Emerging Protest Forms and Contested Urban Spaces", *Berkeley Planning Journal*, 25(1), 184–197. DOI: <https://doi.org/10.5070/BP325111760>.

Mallat, Chibli (2009), "Constitutions for the 21st Century: Emerging Patterns—the EU, Iraq, Afghanistan ...", *Center for International & Comparative Law Occasional Papers*, 1, 41–62. Available at https://scholarship.law.duke.edu/faculty_scholarship/1940.

Manto, Sahib Singh (2008), "The New Constitution" in *Bitter Fruit*. Delhi: Penguin Books. Translated by Khalid Hasan.

Marchart, Oliver (2007), *Post-Foundational Political Thought: Political Difference in Nancy, Lefort, Badiou and Laclau*. Edinburgh: Edinburgh University Press.

Mindus, Patricia (2010), "Sorting out Modern Constitutional Emergencies: A Taxonomic Framework", *Redescriptions: Political Thought, Conceptual History and Feminist Theory*, 14(1), 107–132. DOI: <https://doi.org/10.7227/R.14.1.7>.

Minow, Martha Ryan, Michel Sarat, Austin (eds.) (1995), *Narrative, Violence and the Law: The Essays of Robert Cover*. Ann Arbor, MI: The University of Michigan Press.

Mitchell, W. J. T. Harcourt, Bernard E. ; Taussig, Michael (2013), *Occupy: Three Enquires in Disobedience*. Chicago: University of Chicago Press. DOI: <https://doi.org/10.7208/chicago/9780226042886.001.0001>.

Mulqueen, Tara Tataryn, Anastasia (2012), "Don't Occupy This Movement: Thinking Law in Social Movements", *Law and Critique*, 23, 283–298. DOI: <https://doi.org/10.1007/s10978-012-9103-z>.

Negri, Antonio (2009), *Insurgencies: Constituent Power and the Modern State*. Minneapolis, MN: University of Minnesota Press. Translated by Maurzia Boscagli.

Okoth-Ogendo, H. W. O. (1993), "Constitutions without Constitutionalism: Reflections on an African Political Paradox", in Douglas Greenberg, Stanley N. Katz, Melanie Beth Oliviero and Steven C. Wheatley (eds.), *Constitutionalism and Democracy: Transitions in the Contemporary World*. New York: Oxford University Press, 65–82.

Ortiz, Isabel Cummins, Matthew (2013), "The Age of Austerity: A Review of Public Expenditures and Adjustment Measures in 181 Countries", *Initiative for Policy Dialogue and the South Centre Working Paper*. DOI: <https://doi.org/10.2139/ssrn.2260771>.

Parlevliet, Michelle (2002), "Bridging the Divide—Exploring the Relationship between Human Rights and Conflict Management", *Track Two*, 11(1), 8–43. Available at <https://hdl.handle.net/10520/EJC111535>.

Parlevliet, Michelle (2010), "Rethinking Conflict Transformation from a Human Rights Perspective", in Véronique Dudouet and Beatrix Schmelzle (eds.), *Human Rights and Conflict Transformation: The Challenges of Just Peace*. Berlin: Berghof Conflict Research, 15–46. Available at <https://berghof-foundation.org/library/human-rights-and-conflict-transformation-the-challenges-of-just-peace>.

Pound, Roscoe (1960), *Law Finding Through Experience and Reason: Three Lectures*. Athens, GA: University of Georgia Press.

Prasad, Vijay (2008), *The Darker Nations: A People's History of the Third World*. New York : The New Press [reprint].

Prasad, Vijay (2014), *The Poorer Nations: A Possible History of the Global South*. London: Verso.

Rai, Shirin Reinelt, Janelle (eds.) (2015), *The Grammar of Politics and Performance*. London: Routledge.

Ramírez Martínez, Álvaro (2009), "The Mexican Constitution and its Safeguards against Foreign Investments", Cornell Law School Inter-University Graduate Student Conference Papers 39. Available at https://scholarship.law.cornell.edu/lps_clacp/39.

Rawls, John (1993), *Political Liberalism*. New York: Columbia University Press.

Salomon, Margot E . (2015), "Of Austerity, Human Rights and International Institutions", LSE Law, Society and Economy Working Papers, 2, 2–29. DOI: <https://doi.org/10.2139/ssrn.2551428>.

Samuels, Kirsti (2006), "Post-Conflict Peace-Building and Constitution-Making", *Chicago Journal of International Law*, 6(2), 663–683. Available at <https://chicagounbound.uchicago.edu/cjil/vol6/iss2/10/>.

Santos, Boaventura de Sousa (2007), "Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges", *Review (Fernand Braudel Center)*, 30(1), 45–89. JSTOR: www.jstor.org/stable/40241677.

Santos, Boaventura de Sousa (2014), *Epistemologies of the South: Justice Against Epistemicide*. London: Routledge. DOI: <https://doi.org/10.4324/9781315634876>.

Santos, Boaventura de Sousa (2015), *If God Were a Human Rights Activist*. Redwood City, CA: Stanford University Press. DOI: <https://doi.org/10.1515/9780804795036>.

Schneiderman, David (2004) "Habermas, Market-Friendly Human Rights, and the Revisibility of Economic Globalization", *Citizenship Studies*, 8(4), 419–436. DOI: <https://doi.org/10.1080/1362102052000316007>.

Schneiderman, David (2006), "Investment Rules and the New Constitutionalism", *Law & Social Inquiry*, 25, 757–787. JSTOR: www.jstor.org/stable/829135.

Schneiderman, David (2008), *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promise*. Cambridge: Cambridge University Press.

Schneiderman, David (2013), *Resisting Economic Globalization: Critical Theory and International Investment Law*. Basingstoke: Palgrave Macmillan. DOI: <https://doi.org/10.1057/9781137004062>.

Sen, Amartya K . (1977), "Rational Fools: A Critique of the Behavioural Foundations of Economic Theory", *Philosophy & Public Affairs*, 6(4), 317–344. JSTOR: www.jstor.org/stable/2264946.

Sen, Amartya (2000), *Development as Freedom*. New York: Anchor.

Siddiqui, Osama (2013), *Pakistan's Experience with Formal Law: An Alien Justice*. Cambridge: Cambridge University Press. DOI: <https://doi.org/10.1017/CBO9781139814508>.

Supiot, Alain (2008), *The Spirit of Philadelphia: Social Justice vs the Total Market*. London: Verso. Translated by Saskia Brown.

Teitel, Ruth G . (2000), *Transitional Justice*. New York: Oxford University Press.

Teubner, Gunther (2015), "Transnational Economic Constitutionalism in the Varieties of Capitalism", *The Italian Law Journal*, 1(2), 219–248. Available at www.theitalianlawjournal.it.

Therborn, Göran (2013), *The Killing Fields of Inequality*. Cambridge: Polity Press.

Tully, James (2004), *Strange Multiplicity: Constitutionalism in an Age of Diversity*. Cambridge: Cambridge University Press [5th reprint].

Tully, James (2008), *Public Philosophy in a New Key*. Cambridge: Cambridge University Press. DOI: <https://doi.org/10.1017/CBO9780511790744>.

Vattimo, Gianni (2004), *Nihilism & Emancipation: Ethics, Politics, & Law*. New York: Columbia University Press. Translated by William McCuaig.

Walker, Neil (2002), "The Idea of Constitutional Pluralism", *The Modern Law Review*, 65(3), 317–359. JSTOR: www.jstor.org/stable/1097577.

Young, Robert (2001), *Postcolonialism: An Introduction*. London: Blackwell.

Zitter, Andrej (2014), "Arab Spring—State of Emergency and Constitutional Reform", *Air and Space Power Journal*, 5(2), 48–65. Available at <http://hdl.handle.net/11370/e7f71a4a-047e->

Indigenous Women

- Álvarez, Carmen (2005), 'Cosmovisión Maya y Feminismo. Caminos que se unen?' Ponencia Presentada en la Mesa 'Mayanismos y Feminismos', Congreso de Estudios Mayas, Guatemala, August.
- Assies, Willem Van Der Haar, Gemma; Hoekema, André J. (eds.) (2000), *The Challenge of Diversity: Indigenous Peoples and Reform of the State in Latin America*. Amsterdam: Thela Thesis.
- Barnet, Bruno Mora, Mariana Stahler-Sholk, Richard (2011), *Luchas 'Muy Otras': Zapatismo y Autonomía en las Comunidades Indígenas de Chiapas*. Mexico City: UAM/CIESAS.
- Bolivia (2009), 'Constitución Política del Estado', *Gaceta oficial del Estado Plurinacional de Bolivia*, February 7th. Available at www.contraloria.gob.bo/portal/Uploads/PDFportal/20121217_318.pdf
- Buenrostro, Manuel (2013), 'Reformas Legales, Espacios y Modalidades de la Justicia Indígena de los Mayas en Quintana Roo', in Teresa Sierra, R. Aída Hernández and Rachel Sieder (eds.), *Justicias Indígenas y Estado. Violencias Contemporáneas*. Mexico: FLACSO-Ciesas, 89–121.
- Chirix García Delfina, Emma (2003), 'Alas y Raíces, Afectividad de las Mujeres Mayas. Rik'in Ruxik 'y Ruxe' il, Ronojel Kajowab'al Ri Mayab 'Taq Ixoqi'. Guatemala City: Grupo de Mujeres Mayas Kaqla, Nawal Wuj.
- Cumes, Aura (2007a), 'Las Mujeres son 'Más Indias': Género, Multiculturalismo y Mayanización. Esquivando o Retando Opresiones?' in Santiago Bastos and Aura Cumes (eds.), *Mayanización y Vida Cotidiana. La Ideología Multicultural en la Sociedad Guatemalteca*, Vol 1. Guatemala: FLACSO-CIRMA-Cholsamaj, 155–185. Available at http://glefas.org/download/biblioteca/estudios-descoloniales/Aura-Cumes.-Las_mujeres_son_mas_indias_de_Cumes.pdf.
- Cumes, Aura (2007b), 'Multiculturalismo y Unidad Nacional en Guatemala: Dinamic de Mayanización en un Contexto Turbulento e Ideologizado'. Release presented at the Coloquio Internacional Multiculturales de América. Migraciones, Relaciones Interétnicas y Etnicidad, Monterrey, Nuevo León, Mexico, October 29th to 31st.
- Ecuador (2008), 'Constitución de la República de Ecuador', *Official Records*, No. 449, October 20. Available at www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.
- Engle Merry, Sally (2006), *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: University of Chicago Press.
- Gabriel Xiquín, Calixta (2004), 'Liderazgo de las Mujeres Mayas en las Leyendas y Mitologías según su Cosmovisión' (unpublished manuscript). City of Guatemala.
- González, Mary Lisbeth (1994), 'How Many Indigenous People?' in George Psacharopoulos and Harry Anthony Patrinos (eds.), *Indigenous People and Poverty in Latin America: An Empirical Analysis*. Washington, D.C.: World Bank. DOI: <https://doi.org/10.1596/0-8213-2958-8>.
- Grupo de Mujeres Mayas Kaqla (2000), 'Algunos Colores del Arco Iris, Realidad de las Mujeres Mayas', debate paper. City of Guatemala: Grupo de Mujeres Mayas Kaqla.
- Grupo de Mujeres Mayas Kaqla (2004), *La Palabra y el Sentir de las Mujeres Mayas de Kaqla*. City of Guatemala: Cholsamaj.
- Gutiérrez Chong, Natividad (ed.) (2004), *Mujeres y Nationalismos en América Latina. De la Independencia a la Nación del Nuevo Milenio*. Mexico: Universidad Nacional Autonoma de México.
- Hale, Charles (2002), 'Does Multiculturalism Menace? Governance, Cultural Rights and the Politics of Identity in Guatemala', *Journal of Latin American Studies*, 34 (3), 485–524. JSTOR: www.jstor.org/stable/3875459.
- Hale, Charles (2005), 'Neoliberal Multiculturalism: The Remaking of Cultural Rights and Racial Dominance in Central America', *Political and Legal Anthropology Review*, 28 (1), 10–28. DOI: <https://doi.org/10.1525/pol.2005.28.1.10>.

Hernández Castillo , Rosalva Aída (ed.) (2007), *Historias a Dos Voces: Testimonios de Luchas y Resistencias de Mujeres Indígenas*. Mexico: IMC/CDI.

Hernández Castillo , Rosalva Aída (ed.) (2008), *Etnografías e Historias de Resistencia. Mujeres Indígenas, Procesos Organizativos y Nuevas Identidades Políticas*. Mexico: CIESAS-PUEG.

Hernández Castillo , Rosalva Aída (2016), *Multiple Injustices. Indigenous Women, Law and Political Struggle*. Tucson, AZ: University of Arizona Press.

Hernández Castillo , Rosalva Aída Caligaris, Anna Garza (1995), 'En Torno a la Ley y la Costumbre: Problemas de Antropología Legal y Género en los Altos de Chiapas', in *Traditiones y Costumbres Jurídicas en las Comunidades Indígenas de México*. Mexico, D.F.: CNDH, 217–227.

Hernández Castillo , Rosalva Aída Sierra, Teresa Peace, Sarela (eds.) (2004), *El Estado y los Indígenas en Tiempos del PAN: Neoindigenismo, Legalidad e Identidad*. Mexico: CIESAS-Porrúa.

Hernández Castillo , Rosalva Aída Terven, Adriana (2017), 'Methodological Routes: Towards a Critical and Collaborative Legal Anthropology', in Rachel Sieder (ed.), *Demanding Justice and Security. Indigenous Women and Legal Pluralities in Latin America*. New Brunswick: Rutgers University Press, 265–288.

López, Alma (2005), 'Aciertos y Desaciertos de la Participación Política de las Mujeres Mayas Kichés: Un Reto Histórico de Nosotras', in Marta Sánchez (ed.), *La Doble Mirada: Luchas y Experiencias de las Mujeres Indígenas de América Latina*. Mexico City: UNIFEM/ILSB, 23–31.

Martínez, Juan Carlos (2013), 'Oaxaca: Un Paso Atrás: Reforma Neoliberal y Regresión en el Reconocimiento de Derechos Autonómicos de los Pueblos Indígenas; El Caso de Tlahuiloteppec', in María Teresa Sierra , Rosalva Aída Hernández Castillo and Rachel Sieder (eds.), *Justicias Indígenas y Estado: Violencias Contemporáneas*. Mexico: FLACSO-CIESAS, 123–153.

Méndez, Georgina (2013), 'Mujeres Mayas-Kichwas en la Apuesta por la Descolonización de los Pensamientos y Corazones', in Georgina Méndez , Juan López Itzin , Sylvia Marcos and Carmen Osorio (eds.), *Senti-pensar el Género. Perspectivas desde los Pueblos Indígenas*. Mexico: Editorial Casa del Mago/Red INPIIM A.C./Red de Feminismos Descoloniales, 27–63.

Mexico (1998), 'Ley de Derechos de los Pueblos y Comunidades Indígenas del Estado de Oaxaca', *Official Journal of the State of Oaxaca*, June 19. Available at www.osfeoxaca.gob.mx/documentos/marcolegal/estatal/19LeyDerechosPueblos.pdf.

Millán, Margara (2008), 'Nuevos Spatios, Nuevas Actores. Neozapatismo y su Significado para las Mujeres Indígenas', in R. Aída Hernández (ed.), *Etnografías e Historias de Resistencia. Mujeres Indígenas, Procesos Organizativos y Nuevas Identidades Políticas*. Mexico: CIESAS-PUEG/UNAM, 217–248.

Mora Bayo, Mariana (2008), *Decolonizing Politics: Zapatista Indigenous Autonomy in an Era of Neoliberal Governance and Low Intensity Warfare*. Master's thesis, University of Texas, Austin. Available at <http://hdl.handle.net/2152/18194>

Mora Bayo, Mariana (2013), 'La politización de la Justicia Zapatista Frente a la Guerra de Baja Intensidad', in María Teresa Sierra, Rosalva Aída Hernández Castillo and Rachel Sieder (eds.), *Justicias Indígenas y Estado. Violencias Contemporáneas*. Mexico: FLACSO/CIESAS, 195–224.

Mora Bayo, Mariana (2014), 'Repensando la Política y la Decolonización en Minúscula: Reflexiones sobre la Praxis Feminista desde el Zapatismo', in Marga Millán (ed.), *Más allá del Feminismo: Caminos para Andar*. Mexico: Pez en el Agua/Red de Feminismos Descoloniales, 155–182. Available at www.academia.edu/8620234/Repensando_la_pol%C3%ADtica_y_la_descolonizaci%C3%B3n_en_min%C3%BAscula_Reflexiones_sobre_la_praxis_feminista_desde_el_zapatismo?auto=download.

Painemal, Millaray (2005), 'La Experiencia de las Organizaciones de Mujeres Mapuche: Resistencias y Desafíos Ante una Doble Discriminación', in Marta Sánchez (ed.), *La Doble Mirada: Luchas y Experiencias de las Mujeres Indígenas de América Latina*. Mexico City: UNIFEM/ILSB, 77–87.

Robles, Sofía Cardoso Jiménez , Rafael (comp.) (2007), *Floriberto Díaz. Comunalidad Energía Viva del Pensamiento Mixe*. Mexico: UNAM.

Roseberry, Williams (1994), 'Hegemony and the Language of Contention', in James Scott , Gilbert M. Joseph and Daniel Nugent (eds.), *Everyday Forms of State Formation: Revolution and the Negotiation of Rule in Modern Mexico*. Durham, NC: Duke University Press, 355–366.

DOI: <https://doi.org/10.1215/9780822396666-012>.

Sánchez, Martha (ed.) (2005), *La Doble Mirada: Luchas y Experiencias de las Mujeres Indígenas de América Latina*. Mexico: UNIFEM/ILSB.

Sánchez Botero, Esther (1998), *Justicia y Pueblos Indígenas de Colombia. La Tutela como Medio para la Construcción del Entendimiento Intercultural*. Bogotá: Unijus.

Santos, Boaventura de Sousa (2012), 'Cuando los Excluidos Tienen Derecho: Justicia Indígena, Plurinacionalidad e Interculturalidad', in Boaventura de Sousa Santos and Agustín Grijalva Jiménez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Abya Yala, 13–50.

Santos, Boaventura de Sousa Grijalva Jiménez, Agustín (eds.) (2012), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Abya Yala.

Santos, Boaventura de Sousa Rodríguez-Garavito, César (2007), 'El Derecho, la Política y lo Subalterno en la Globalización Contrahegemónica', in Boaventura de Sousa Santos and Cesar Rodríguez Garavito (eds.), *El Derecho y la Globalización desde Abajo. Hacia una Legalidad Cosmopolita*. Barcelona: Anthropos, 7–28.

Sieder, Rachel (ed.) (2002), *Multiculturalism in Latin America: Indigenous Rights, Diversity and Democracy*. London: Palgrave Press.

Sieder, Rachel (org.) (2017), *Demanding Justice and Security. Indigenous Women and Legal Pluralities in Latin America*. New Brunswick: Rutgers University Press.

Sieder, Rachel Witchell, Jessica (2001), 'Impulsando las Demandas Indígenas a Través de la Ley: Reflexiones sobre el Proceso de Paz en Guatemala', in Pedro Pitarch Ramon and Julián López García (eds.), *Los Derechos Humanos en Tierras Mayas: Política, Representaciones y Moralidad*. Madrid: Sociedad Española de Estudios Maya, 55–82. Available at <https://dialnet.unirioja.es/servlet/articulo?codigo=2775724>.

Sierra, María Teresa (1997), 'Esencialismo y Autonomía: Paradojas de la Reivindicaciones Indígenas', *Alteridades*, 7 (14), 131–143. Available at <https://alteridades.izt.uam.mx/index.php/Alte/article/view/517>.

Sierra, María Teresa (2004), 'Diálogos y Prácticas Interculturales. Derechos Humanos, Derechos de las Mujeres y Políticas de Identidad', *Desacatos*, 15–16, 126–147. DOI: <https://doi.org/10.29340/16.1075>.

Sierra, María Teresa Hernández Castillo, R. Aída Sieder, Rachel (2013), *Justicias Indígenas y Estado. Violencias Contemporáneas*. Mexico: FLACSO-CIESAS.

Speed, Shannon Hernández Castillo, R. Aída Stephen, Lynn (2006), *Dissident Women. Gender and Cultural Politics in Chiapas*. Austin, TX: University of Texas Press.

Van Cott, Donna (2000), *The Friendly Liquidation of the Past: The Politics of Diversity in Latin America*. Pittsburgh, PA: University of Pittsburgh Press.

Vianey Vargas, Liliana (2011), *Las Mujeres de Tlahuitoltepec Mixe, Frente a la Impartición de Justicia y el Uso del Derecho Internacional 2000–2008*. Mexico: INMUJERES.

Villa, Rufina (2012), 'Las Mujeres Nahuas y su Experiencia del Juzgado Indígena de Cuetzalan, Puebla', in Rosalva Aída Hernández Castillo and Andrew Canessa (eds.), *Género, Complementariedades y Exclusiones en Mesoamérica y los Andes*. Lima: International Work Group for Indigenous Affairs (IWGIA)/Abya Yala Press/The British Academy of Science, 346–352.

Yashar, Deborah (2005), *Contesting Citizenship in Latin America: The Rise of Indigenous Movements and the Postliberal Challenge*. New York: Cambridge University Press. DOI: <https://doi.org/10.1017/cbo9780511790966>.

Yuval Davis, Nira (1997), *Gender and Nation*. London: Sage Press.

Zylberberg Panebianco, Violet (2008), 'Queriendo se Puede Cambiar Todo?: Un Acercamiento al Proceso de Discusión y Cambio que se Vive al Interior de una Comunidad Zapatista', in R. Aída Hernández Castillo (ed.), *Etnografías e Historias de Resistencia. Mujeres Indígenas, Procesos Organizativos y Nuevas Identidades Políticas*. Mexico: CIESAS-PUEG/UNAM, 287–330.

Modern Constitutionalism, Legal Pluralism and the Waste of Experience

*

- Abel, Richard (1982), 'Introduction', in Richard Abel (ed.), *The Politics of Informal Justice*. Vol.1: *The American Experience*. New York: Academic Press, 1–13.
- Agamben, G. (2005), *State of Exception*. Chicago: The University of Chicago Press.
- Araújo, Sara (2008), 'Pluralismo Jurídico em África. Ficção ou Realidade?', *Revista Critica de Ciências Sociais*, 83: 121–139.
- Araújo, Sara (2010), 'Legal Pluralism and Interlegality: The Role of Community Justices in Mozambique', in Manfred O. Hinz Mapaure Clever (eds.), *In Search of Justice and Peace. Traditional and Informal Justice in Africa*. Windhoek: Namibia Scientific Society.
- Araújo, Sara (2012), 'Toward an Ecology of Justices: An Urban and Rural Study of Mozambican Plurality', in Kyed Helene Coelho João ; Paulo Borges Souto Amélia Sara Araújo (eds.), *The Dynamics of Legal Pluralism in Mozambique*. Maputo: Kapicua.
- Araújo, Sara (2016), 'O Primado do Direito e as Exclusões Abissais: Reconstruir Velhos Conceitos, Desafiar o Cânone', *Sociologias*, 43(18): 88–115. DOI: <https://doi.org/10.1590/15174522-018004304>.
- Benda-Beckmann, Keebet Turner, Bertram (2018), 'Legal Pluralism, Social Theory, and the State', *The Journal of Legal Pluralism and Unofficial Law*, 50(3): 255–274. DOI: <https://doi.org/10.1080/07329113.2018.1532674>.
- Berman, Paul Schiff (2007), 'Global Legal Pluralism', *Southern California Law Review*, 80(6): 1155–1238. Available at: <https://southerncalifornialawreview.com/2007/09/04/global-legal-pluralism-article-by-paul-berman>.
- Bohannon, Paul (1997), 'Ethnography and Comparison in Legal Anthropology', in Laura Nader (ed.), *Law in Culture and Society*. Berkeley, CA: University of California Press, 401–418 [2.^a ed.; orig. 1969]. DOI: <https://doi.org/10.1525/9780520341807-023>.
- Brabazon, Honor (2017), 'Introduction. Understanding Neoliberal Legality', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 1–21.
- Butler, Judith (2016), *Frames of War. When Is Life Grievable?* London: Verso.
- Capra, Fritjof Mattei, Ugo (2015), *The Ecology of Law. Toward a Legal System in Tune with Nature and Community*. Oakland: Berrett-Koehler Publishers.
- Carruthers, Bruce G. (2020), 'Law, Governance, and Finance: Introduction to the *Theory and Society* Special Issue', *Theory and Society*, 49: 151–164. DOI: <https://doi.org/10.1007/s11186-020-09390-5>.
- Chanock, Martin (1991), 'Paradigms, Policies and Property: A Review of the Customary Law of Land Tenure', in Roberts Richard Mann Kristin (eds.), *Law in Colonial Africa*. Portsmouth: Heinemann Educational Books.
- Chanock, Martin (1998), *Law, Custom and Social Order. The Colonial Experience in Malawi and Zambia*. Portsmouth: Heinemann.
- Darian-Smith, E. (2001), 'Postcolonial Law', in Neil J. Smelser ; Paul B. Baltes (eds.), *International Encyclopedia of Social & Behavioral Sciences*. Oxford: Pergamon, 11841–11844.
- De Kock, Leon (1992), 'Interview with Gayatri Chakravorty Spivak: New Nation Writers Conference in South Africa', *ARIEL: A Review of International English Literature*, 23(3): 29–47. Available at: <https://journalhosting.ucalgary.ca/index.php/ariel/article/view/33464>.
- Ehrlich, Eugen (2002 [1913]), *Fundamental Principles of the Sociology of Law*. New Brunswick, NJ: Transaction Publishers.
- Fanon, Frantz (2008 [1952]), *Black Skin. White Masks*. New York: Grove Press.
- Ferreira, António Casimiro (2016), *Política e Sociedade. Teoria Social em Tempo de Austeridade*. Porto: Vida Económica.
- Fitzpatrick, Peter (1992), 'The Impossibility of Popular Justice', *Social & Legal Studies*, 1(2): 99–215. DOI: <https://doi.org/10.1177/096466399200100205>.
- Galanter, Marc (1981), 'Justice in Many Rooms: Courts, Private Ordering and Indigenous Law', *Journal of Legal Pluralism and Unofficial Law*, 13(19): 1–47. DOI: <https://doi.org/10.1080/07329113.1981.10756257>.
- Gillissen, Jaques (org.) (1971), *Le Pluralisme Juridique*. Brussels: The Free University of Brussels.

Gluckman, Max (1955), *The Judicial Process among the Barotse of Northern Rhodesia*. Manchester: University Press.

Gluckman, Max (1997) [1969], 'Concepts in the Comparative Study of Tribal Law', in Laura Nader (org.), *Law in Culture and Society*. Berkeley: University of California Press [2.^a ed.], 349–373.

Griffiths, John (1986), 'What is Legal Pluralism?', *Journal of Legal Pluralism*, 18(24): 1–55. DOI: <https://doi.org/10.1080/07329113.1986.10756387>.

Gurvitch, George (1935), *L'Expérience Juridique et la Philosophie Pluraliste du Droit*. Paris: Éditions A. Pedone.

Isser, Deborah H. (ed.) (2011), *Customary Justice and the Rule of Law in War-Torn Societies*. Washington, D.C.: USIP Press Books.

Janse, Ronald A (2013), 'Turn to Legal Pluralism in Rule of Law Promotion?', *Erasmus Law Review*, 6(3/4): 181–190. DOI: <https://doi.org/10.5553/ELR.000010>.

Knox, Robert (2017), 'Law, Neoliberalism and the Constitution of Political Subjectivity. The Case of Organised Labour', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 92–118.

Krieken, Robert (2001), 'Legal Informalism, Power and Liberal Governance', *Social & Legal Studies*, 10(1): 5–22. DOI: <https://doi.org/10.1177/a016320>.

Madlingozi, Tshepo (2010), 'On Transitional Justice Entrepreneurs and the Production of Victims', *Journal of Human Rights Practice*, 2(2): 208–228. DOI: <https://doi.org/10.1093/jhuman/huq005>.

Maldonado-Torres, Nelson (2009), '*A Topologia do Ser e a Geopolítica do Conhecimento: Modernidade, Império e Colonialidade*', in Boaventura de Sousa Santos ; Maria Paula Meneses (eds.), *Epistemologias do Sul*. Coimbra: Almedina, 337–381.

Malinowski, Bronislaw (1926), *Crime and Custom in Savage Society*. London: Kegan Paul.

Mamdani, Mamhood (1996), *Citizen and Subject. Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.

Mathews, Roger (1988), 'Reassessing Informal Justice', in Roger Mathews (ed.), *Informal Justice?* London: SAGE, 1–24.

Mattei, Ugo Morspurgo, Marco (2010), 'Global Law and Plunder: The Dark Side of the Rule of Law', Bocconi School of Law, Student-Edited Papers, No. 2009-03/EN: 1–19. Consulted on 08.07.2018, at <https://doi.org/10.2139/ssrn.1437530>.

Meneses, Maria Paula Araújo, Sara Ferreira, Sílvia (2020), 'Welfare, Labour and Austerity: Resistances and Alternatives through Women's Gaze', in Trudie Knijn ; Dorota Lepianka (eds.), *Justice and Vulnerability in Europe: An Interdisciplinary Approach*. Cheltenham: Edward Elgar, 178–196. DOI: <https://doi.org/10.4337/9781839108488.00018>.

Meneses, Maria Paula Araújo, Sara Ramos Gonçalves, Marisa Carvalho, Beatriz (2017), *Para uma Justiça de Matriz Timorense: O Contributo das Justiças Comunitárias*. Dili: CES and CRL.

Merry, Sally Engle (1988), 'Legal Pluralism', *Law and Society Review*, 22(5): 869–896. DOI: <https://doi.org/10.2307/3053638>.

Merry, Sally Engle Milner, Neal (1993), 'Introduction', in Sally Engle Merry ; Neal Milner (eds.), *The Possibility of Popular Justice*. Ann Arbor, MI: University of Michigan Press, 3–30.

Michaels, Ralph (2009), 'Global Legal Pluralism', *Duke Law School Public Law & Legal Theory, Research Paper No. 259*. Available at: <https://ssrn.com/abstract=1430395>.

Moore, Sally Falk (2000) [1978], *Law as a Process. An Anthropological Approach*. Hamburg: LIT.

Moore, Sally Falk (2001), 'Certainties Undone: Fifty Turbulent Years of Legal Anthropology, 1949–1999', *The Journal of the Royal Anthropological Institute*, 7(1), 95–116. DOI: <https://doi.org/10.1111/1467-9655.00052>.

Nunn Kenneth, B. (1997), 'Law as a Eurocentric Enterprise', *Law & Inequality: A Journal of Theory and Practice*, 15(2): 323–371.

Ranger, Terence (1994 [1983]), 'The Invention of Tradition in Colonial Africa', in Eric Hobsbawm ; Terence Ranger (eds.), *The Invention of Tradition*. Cambridge: Cambridge University Press, 211–262 [2. ^a ed.].

Roy, Alpana (2008), 'Postcolonial Theory and Law: A Critical Introduction', *Adelaide Law Review*, 315–357. Available at SSRN: <https://ssrn.com/abstract=2620107>

Santos, Boaventura de Sousa (1977), 'The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada', *Law & Society Review*, 12(1): 5–126. DOI:

<https://doi.org/10.2307/3053321>.

Santos, Boaventura de Sousa (1987), 'Law: A Map of Misreading. Toward a Postmodern Conception of Law', *Journal of Law and Society*, 14(3): 279–302. DOI:

<https://doi.org/10.2307/1410186>.

Santos, Boaventura de Sousa (2002), *Toward a New Legal Common Sense*. London: Butterwords.

Santos, Boaventura de Sousa (2009), *Sociología Jurídica Crítica*. Madrid: Trotta.

Santos, Boaventura de Sousa (2010), *Refundación del Estado en América Latina. Perspectivas desde una Epistemología del Sur*. Quito: Abya Yala.

Santos, Boaventura de Sousa (2011), *Para uma Revolução Democrática da Justiça*. São Paulo: Cortez.

Santos, Boaventura de Sousa (2014), *Epistemologies of the South*. Boulder, CO: Paradigm.

Santos, Boaventura de Sousa (2017), *As Bifurcações da Ordem. Revolução, Cidade, Campo e Indignação*. Coimbra: Almedina.

Santos, Boaventura de Sousa (2018), *The End of the Cognitive Empire. The Coming of Age of Epistemologies of the South*. Durham, NC: Duke University Press.

Sousa Júnior, José Geraldo (2019), 'O Direito Achado na Rua: Condições Sociais e Fundamentos Teóricos', *Revista Direito e Práxis*, 10(4): 2776–2817. DOI:

<https://doi.org/10.1590/2179-8966/2019/45688>.

Tamanaha, Brian Z. ; Sage, Caroline Woolcock, Michael (eds.) (2013), *Legal Pluralism and Development. Scholars and Practitioners in Dialogue*. Cambridge: Cambridge University Press.

Teubner, Gunther (2004), 'Global Private Regimes: Neo-spontaneous Law and Dual Constitution of Autonomous Sectors in World Society', *Globalization and Public Governance*. Ashgate: Aldershot, 71–87.

Twinning, William (2010), *Normative and Legal Pluralism: A Global Perspective*, 20 *Duke Journal of Comparative & International Law*, 473–518. Available at:

<http://scholarship.law.duke.edu/djcil/vol20/iss3/8>.

Tzouvala, Ntina (2017), 'Continuity and Rupture in Restraining the Right to the Strike', in Honor Brabazon (ed.), *Neoliberal Legality. Understanding the Role of Law in the Neoliberal Project*. Abingdon: Routledge, 119–139.

UN Women, PNUD, UNICEF (2012), *Informal Justice Systems. Charting a Course for Human Rights-based Engagement*. UN Women, PNUD, UNICEF.

Valenzuela Gascón, Ricardo (2019), 'Constitutional Sociology and Corporations. A Conversation with Gunther Teubner', *Tempo Social*, 31(1): 323–334. DOI:

<https://doi.org/10.11606/0103-2070.ts.2019.146006>.

Walsh, Catherine (2014), 'Interculturalidad Crítica y Pedagogía Decolonial', *Red de Interculturalidad Network*. Available at:

<https://redinterculturalidad.files.wordpress.com/2014/02/interculturalidad-crc3adtica-y-pedagogc3ada-decolonial-walsh.pdf>.

Wojkowska, Ewa (2006), *Doing Justice: How Informal Justice Systems Can Contribute*. United Nations Development Programme, Oslo Governance Centre. Available at:

www.un.org/ruleoflaw/files/UNDP%20DoingJusticeEwaWojkowska130307.pdf.

Wolkmer, Antônio Carlos (1994), *Pluralismo Jurídico. Fundamentos de uma Nova Cultura do Direito*. São Paulo: Editora Alfa Omega.

Wolkmer, Antônio Carlos (2013), 'Pluralismo Crítico e Perspectivas para uma Novo Constitucionalismo na América Latina', in Antônio Carlos Wolkmer and Milea Petters Melo (eds.), *Constitucionalismo Latino-americano. Tendências Contemporâneas*. Curitiba: Juruá, 19–42.

Yrigoyen Fajardo, Raquel (2011), 'El Horizonte del Constitucionalismo Pluralista: Del Multiculturalismo a la Descolonización', in César Rodríguez Garavito (ed.), *El Derecho en América Latina. Un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo Veintiuno Editores, 139–159.

Yrigoyen Fajardo, Raquel (2017), 'Qué es el Pluralismo Jurídico Igualitario?', *Revista Alertanet*, 10–25. Available at: www.derechoysociedad.org/revista-alertanet.

Legacies and Latitudes

- Atkinson, Doreen (2007), "Taking to the streets: has developmental local government failed in South Africa?" in Sakhela Buhlungu, John Daniel, Roger Southall and Jessica Lutchman (eds.), *State of the Nation: South Africa 2007*. Cape Town: HSRC Press, 53–77. Available at www.hsrcpress.ac.za/books/state-of-the-nation-south-africa-2007.
- Basson, Dion (1995), *South Africa's Interim Constitution: Text and Notes*. Kenwyn: Juta [rev. ed.].
- Bayart, Jean-Francois (1993), *The State in Africa: The Politics of the Belly*. London: Longman.
- Chanock, Martin (2001), *The Making of South African Legal Culture 1902–1936: Fear, Favour and Prejudice*. Cambridge: Cambridge University Press.
- Chanock, Martin (2010), "Constitutionalism, Democracy and Africa: Constitutionalism Upside Down", *Law in Context*, 28(2): 126–144. Available at <https://search.informit.org/doi/10.3316/agispt.20124155>.
- Chanock, Martin (2016), "African Constitutionalism from the Bottom Up", in Heinz Klug and Sally Engle Merry (eds.), *The New Legal Realism: Studying Law Globally*. Cambridge: Cambridge University Press, 13–31. DOI: <https://doi.org/10.1017/CBO9781139683432.003>.
- Constitution of the Republic of South Africa (1993), *Constitution of the Republic of South Africa Act 200 of 1993*. Available at www.gov.za/documents/constitution/constitution-republic-south-africa-act-200-1993.
- Constitution of the Republic of South Africa (1996), *Constitution of the Republic of South Africa No. 108 of 1996*. Available at www.gov.za/sites/default/files/images/a108-96.pdf.
- Dia, Mamadou (1996), *Africa's Management in the 1990s and Beyond: Reconciling Indigenous and Transplanted Institutions*. Washington, D.C.: World Bank. DOI: <https://doi.org/10.1596/0-8213-3431-X>.
- Du Bois, Francois Du Bois-Pedain, Antje (eds.) (2008), *Justice and Reconciliation in Post-Apartheid South Africa*. Cambridge: Cambridge University Press.
- Dugard, John (1998), "The new constitution: a triumph for liberalism? A positive view", in R. W. Johnson and David Welsh (eds.), *Ironie Victory: Liberalism in Post-Liberation South Africa*. Cape Town: Oxford University Press, 23–29.
- Ellmann, Stephen (1992), *In a Time of Trouble: Law and Liberty in South Africa's State of Emergency*. Oxford: Clarendon Press.
- Ellmann, Stephen (2010), "A Bittersweet Heritage: Learning from The Making of South African Legal Culture", *Law in Context*, 28(2): 76–94. Available at <https://search.informit.org/doi/10.3316/agispt.20124152>.
- Englebert, Pierre (1997), "The Contemporary African State: Neither African nor State", *Third World Quarterly*, 18(4): 767–775. DOI: <https://doi.org/10.1080/01436599714759>.
- Fowkes, James (2016), *Building the Constitution: The Practice of Constitutional Interpretation in Post-Apartheid South Africa*. Cambridge: Cambridge University Press.
- Friedman, Steven (ed.) (1993), *The Long Journey: South Africa's Quest for a Negotiated Settlement*. Johannesburg: Ravan Press.
- Ghai Yash Galli, Guido (2006), *Constitution Building Processes and Democratization*. Stockholm: International IDEA. Available at: www.idea.int/sites/default/files/publications/constitution-building-processes-and-democratization.pdf.
- Keller, Bill (1993), "Mandela's Group Accepts 5 Years of Power-Sharing", *New York Times*, February 19. Available at www.nytimes.com/1993/02/19/world/mandela-s-group-accepts-5-years-of-power-sharing.html.
- Klug, Heinz (2000), *Constituting Democracy: Law, Globalism and South Africa's Political Reconstruction*. Cambridge: Cambridge University Press.
- Klug, Heinz (2010), *Constitution of South Africa: A Contextual Analysis*. Oxford: Hart Publishing.
- Letsholo, Sydney (2006), "Democratic Local Government Elections in South Africa: A Critical Review", *EISA Occasional Paper Number 42*. Available at www.eisa.org/pdf/OP42.pdf.
- Makgetla, Neva Seidman (2007), "Local government budgets and development: a tale of two towns", Sakhela Buhlungu, John Daniel, Roger Southall and Jessica Lutchman (eds.), *State of*

the Nation. Cape Town: HSRC Press, 146–167. Available at www.sahistory.org.za/archive/state-nation-south-africa-2007-edited-sakhela-buhlungu-john-daniel-roger-southall-jessica.

Mamdani, Mahmood (1996), *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.

Mamdani, Mahmood (2001), *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*. Princeton, NJ: Princeton University Press.

Mamdani, Mahmood (2002), "Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)", *Diacritics*, 32(3–4): 32–59. JSTOR: www.jstor.org/stable/1566444.

Marx, Karl (1973), "The eighteenth brumaire of Louis Bonaparte", in David Fernbach (ed.), *Karl Marx. Surveys from Exile. Political Writings, Vol. 2*. London: Allen Lane [orig. 1852].

Meierhenrich, Jens (2008), *The Legacies of Law: Long-Run Consequences of Legal Development in South Africa, 1652–2000*. Cambridge: Cambridge University Press.

Meintjies, Marvin (2015), "Motsepe, Ramaphosa 'sold their black skin' to become rich: Malema", *Times Live*, November 26. Available at www.timeslive.co.za/politics/2015-11-26-motsepe-ramaphosa-sold-their-black-skin-to-become-rich-malema.

Ndletyana, Mcebisi Makhalemele, Philiana Oupa Mathekga, Ralph (2013), *Patronage Politics Divides Us: A Study of Poverty, Patronage and Inequality in South Africa*. Johannesburg: Mapungubwe Institute for Strategic Reflection (MISTRA). DOI:doi.org/10.2307/j.ctv13qfwfh.

Ndulo, Muna (2001), "Constitution-making in Africa: Assessing Both the Process and the Content", *Public Administration and Development*, 21(2): 101–117. Available at <https://scholarship.law.cornell.edu/facpub/57>.

Nolutshungu, Sam (1991), "The constitutional question in South Africa", in Issa Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES Trust, 91–100.

OAU—Organization for African Unity (1989), *Declaration of the OAU AD-HOC Committee on Southern Africa on the Question of South Africa*. Harare: OAU. Available at <https://archives.au.int/handle/123456789/6823>.

Okoth-Ogendo, H. W. O. (1991), "Constitutions without constitutionalism: reflections on an African political paradox", in Issa Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES Trust, 3–25.

O'Meara, Dan (1996), *Forty Lost Years: The Apartheid State and the Politics of the National Party, 1948–1994*. Johannesburg: Ravan Press.

Pieterse, Edgar (2002), "From Divided to Integrated City? Critical Overview of the Emerging Metropolitan Governance System in Cape Town", *Urban Forum*, 13(1): 3–37. DOI: <https://doi.org/10.1007/s12132-002-0001-6>.

Reno, William (1995), *Corruption and State Politics in Sierra Leone*. Cambridge: Cambridge University Press.

Shivji, Issa (1991a), "State and constitutionalism: a new democratic perspective", in Issa Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES Trust, 27–54.

Shivji, Issa (1991b), "Contradictory class perspectives in the debate on democracy", in Issa Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES Trust, 253–260.

Sloth-Nielsen, Julia Mwambene, Lea (2010), "Talking the Talk and Walking the Walk: How Can the Development of African Customary Law Be Understood?" *Law in Context*, 28(2): 27–46. Available at <https://search.informit.org/doi/10.3316/ielapa.753115674053276>.

Spitz, Richard Chaskalson, Matthew (2000), *The Politics of Transition: A Hidden History of South Africa's Negotiated Settlement*. London: Hart Publishing.

Suttner, Raymond (2016), "Did Mandela 'Sell Out' the Struggle for Freedom?" *Polity*, March 8. Available at <http://m.polity.org.za/article/did-mandela-sell-out-the-struggle-for-freedom-2016-03-08>.

Thornhill, Chris (2011), *A Sociology of Constitutions: Constitutions and State Legitimacy in Historical-Sociological Perspective*. Cambridge: Cambridge University Press. DOI: <https://doi.org/10.1017/CBO9780511895067>.

UN—United Nations (1989), "Declaration on Apartheid and Its Destructive Consequences in Southern Africa", UN General Assembly A/RES/S-16/1, 14 December 1989. Available at <https://digitallibrary.un.org/record/84666>.

Van Marle, Karin Le Roux, Wessel (2007), "Introduction", in Karin van Marle and Wessel le Roux (eds.), *Post-Apartheid Fragments: Law, Politics and Critique*. Pretoria: University of South Africa Press.

Widner, Jennifer (2001), *Building the Rule of Law: Francis Nyalali and the Road to Judicial Independence in Africa*. London: W.W. Norton.

World Bank (1989), *Sub-Saharan Africa: From Crisis to Sustainability*. Washington, D.C.: World Bank Group. Available at <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/498241468742846138/from-crisis-to-sustainable-growth-sub-saharan-africa-a-long-term-perspective-study>.

Young, Crawford (1994), *The African Colonial States in Comparative Perspective*. New Haven, CT: Yale University Press.

Young, Crawford (2012), *The Postcolonial State in Africa: Fifty Years of Independence, 1960–2010*. Madison, WI: University of Wisconsin Press.

Zibi, Songezo (2015), "Unembargoed: Claim Mandela Sold Out Is Easy but Ahistorical", *BDlive*, December 7. Available at <https://historymatters.co.za/content/unembargoed-claim-mandela-sold-out-easy-ahistorical-songezo-zibi-bdlive-07-december-2015>.

On Settler Colonialism and Post-Conquest Constitutionness

Abahlali baseMjondolo (2014), "UnFreedom Day 2014: We Mourn Twenty Years of UnFreedom", *Abahlali.org*, April 26. Accessed on 29.4.2016 at www.abahlali.org/node/13640.

Alexander, Neville (2002), *An Ordinary Country: Issues in the Transition from Apartheid to Democracy in South Africa*. Pietermaritzburg: University of Natal Press.

Alexander, Peter Runciman, Carin Maruping, Boitumelo (2015), "South African Police Service (SAPS) Data on Crowd Incidents: A Preliminary Analysis", Social Change Research Unit, University of Johannesburg. Accessed on 20.9.2016 at <https://africacheck.org/wp-content/uploads/2015/06/South-African-Police-Service-Data-on-Crowd-Incidents-Report.pdf>.

Barolsky, Vanessa (2012), "'A better life for all', social cohesion and the governance of life in post-apartheid South Africa", *Social Dynamics*, 38(1), 134–151. DOI: <https://doi.org/10.1080/02533952.2012.698951>.

Baxi, Upendra (2013), "Preliminary notes on transformative constitutionalism", in Oscar Vilhena, Upendra Baxi and Frans Viljoen (eds.), *Transformative Constitutionalism: Comparing the Apex Courts of Brazil, India and South Africa*. Pretoria: PULP, 19–47.

Cabral, Amílcar (1973), *Return to the Source: Selected Speeches of Amílcar Cabral*. New York: Monthly Review Press.

Chanock, Martin (2015), "African constitutionalism from the bottom up". Accessed on 16.8.2016 at www.customcontested.co.za/wp-content/uploads/2015/04/Chanock-PublicLecture-2015.pdf.

Comaroff, John Comaroff, Jean (2004), "Policing culture, cultural policing: Law and social order in postcolonial South Africa", *Law and Social Inquiry*, 29(3), 513–535. DOI: <https://doi.org/10.1111/j.1747-4469.2004.tb00999.x>.

de Kock, Leon (2004), "Sitting the civilisational test: The making(s) of a civil imaginary colonial South Africa", in Leon de Kock *et al.* (eds.), *South Africa in the Global Imaginary*. Pretoria: UNISA Press.

Fanon, Frantz (1963), *The Wretched of the Earth*. New York: Grove Press.

Fanon, Frantz (1967), *Toward the African Revolution*. New York: Grove Press.

Gerhart, Gwendolen (1978), *Black Power in South Africa: The Evolution of an Ideology*. California: University of California Press.

Gordon, Lewis (2015), *What Fanon Said: A Philosophical Introduction to His Life and Work*. New York: Fordham University Press.

Halisi, C. R. D. (1999), *Black Political Thought in the Making of South African Democracy*. Bloomington, IN: Indiana University Press.

Hirschl, Ran (2004), "Political Origins of the New Constitutionalism", *Indiana Journal of Global Legal Studies*, 11(1), 71–108. JSTOR: www.jstor.org/stable/10.2979.

Klare, Karl (1998), "Legal Culture and Transformative Constitutionalism", *South African Journal on Human Rights*, 14(1), 146–188. DOI: <https://doi.org/10.1080/02587203.1998.11834974>.

Leballo, Potlako (1957), "The Nature of the Struggle Today", *The Africanist*, December.

Lembede, Anton (2015), *Freedom in Our Lifetime: The Collected Writings of Anton Muziwakhe Lembede*. Cape Town: Kwela Books.

Mafeje, Archie (1986), "South Africa: The Dynamics of a Beleaguered State", *The Journal of African Political Economy*, 1(1), 95–119. JSTOR: www.jstor.org/stable/23500221.

Magubane, Bernard (1996), *The Making of a Racist State: British Imperialism and the Union of South Africa, 1875–1910*. Trenton, NJ: Africa World Press.

Mamdani, Mahmood (1996), *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. London: James Currey.

Mamdani, Mahmood (1998), "When does a settler become a native: Reflection on colonial citizenship in Equatorial and South Africa". Accessed on 10.7.2016 at <http://citizenshiprightsafrika.org/wp-content/uploads/1998/05/mamdani-1998-inaugural-lecture.pdf>

Mandaza, Ibbo (1991), "Perspectives on Armed Struggle and Constitutionalism: The Zimbabwe Model", in Issa G. Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPEs, 71–89.

Mbeki, Thabo (1996), "Speech at the Adoption of the Constitutional Bill, 8 May 1996". Accessed on 12.6.2016 at www.anc.org.za/content/i-am-african-thabo-mbekis-speech-adoption-republic-south-africa-constitution-bill.

Mbeki, Thabo (1998), "Statement of Deputy President Thabo Mbeki at the Opening of the Debate in the National Assembly on Reconciliation and Nation Building", National Assembly Cape Town, 29 May 1998.

Mostert, Noel (1993), *Frontiers: The Epic of South Africa's Creation and the Tragedy of the Xhosa People*. London: Pimlico.

Motlhabi, Mokgethi (1984), *The Theory and Practice of Black Resistance to Apartheid: A Social-ethical Analysis*. Johannesburg: Skotaville Publishers.

Murungi, John (2004), "The Question of an African Jurisprudence: Some Hermeneutic Reflections", in Kwasi Wiredu (ed.), *A Companion to African Philosophy*. Malden, MA: Blackwell, 519–526.

Ngũgĩ, wa Thiong'o (2009), *Re-member ing Africa*. Nairobi: East African Educational Publishers.

NPC—National Planning Commission (2014), *Medium-Term Strategic Framework 2014 to 2019—Outcome 14: National Building and Social Cohesion*. Accessed on 15.7.2016 at www.dpme.gov.za/keyfocusareas/outcomesSite/MTSF%201/Outcome%2014%20Nation%20Building%20MTSF%20Chapter.pdf.

Okoth-Ogendo, H.W.O. (1991), "Constitutions without Constitutionalism: Reflections on an African Political Paradox", in Issa G. Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPEs, 3–25.

Oomen, Barbara (2005), *Chiefs in South Africa: Law, Power and Culture in the Post-Apartheid Era*. Oxford: James Curry.

Oswin, Natalie (2007), "The End of Queer (as we knew it): Globalization and the Making of Gay-friendly South Africa", *Gender, Place and Culture*, 14(1), 93–110. DOI: <https://doi.org/10.1080/09663690601122358>.

PAC—Pan-Africanist Congress (1965), "The PAC Manifesto", in PAC (ed.), *The Basic Documents of the Pan Africanist Congress of Azania*. Johannesburg: PAC.

Raboroko, Nkutseou (1960), "Congress and the Africanists: (I) the Africanist Case", SAHO, Accessed on 11.5.2016 at www.sahistory.org.za/sites/default/files/DC/asapr60.5/asapr60.5.pdf.

Ramose, Mogobe (1991), "Self-determination in Decolonisation", in William Twinning (ed.), *Issues of Self-determination*. Aberdeen: Aberdeen University Press. 25–32.

Ramose, Mogobe (1992), "African Democratic Tradition: Oneness, Consensus and Openness", *Quest*, 6(2), 69–83.

Ramose, Mogobe (1999), *African Philosophy through Ubuntu*. Harare: Mond Books.

Ramose, Mogobe (2003a), "Justice and Restitution in African Political Thought", in P. H. Coetzee and A.P.J. Roux (eds.), *The African Philosophy Reader*. London: Routledge, 541–589.

Ramose, Mogobe (2003b), "The Struggle for Reason in Africa", in P. H. Coetzee and A.P.J. Roux (eds.), *The African Philosophy Reader*. London: Routledge, 1–9.

Ramose, Mogobe (2003c), "Transforming Education in South Africa: Paradigm Shift or Change?" *South African Journal of Higher Education*, 17(3), 137–143. DOI: <https://doi.org/10.4314/sajhe.v17i3.25413>

- Ramose, Mogobe (2006a), "Philosophy and Africa's Struggle for Economic Independence", *Politeia* 25(1), 3–17.
- Ramose, Mogobe (2006b), "The King as Memory and Symbol of African Customary Law", in Manfred Hinz (ed.), *The Shade of New Leaves: Governance in Traditional Authority a Southern African Perspective*. Berlin: LIT VERLAG, 351–373.
- Ramose, Mogobe (2007), "African Philosophy as Bridge towards Intercultural Philosophy", *International Journal of the Humanities*, 4(9), 123–132. DOI: <https://doi.org/10.18848/1447-9508/CGP/v04i09/43434>.
- Ramose, Mogobe (2009), "Ecology through Ubuntu", Munyaradzi F. Murove (ed.), *African Ethics: An Anthology of Comparative and Applied Ethics*. Scottsville: University of Kwazulu-Natal Press.
- Ramose, Mogobe (2012), "Reconciliation and Reconciliation in South Africa", *Journal of African Philosophy*, 5, 20–39.
- Ramose, Mogobe (2014), "Ubuntu: Affirming a Right and Seeking Remedies in South Africa", in Leonhard Praeg and Siphokazi Magadla (eds.), *Ubuntu: Curating an Archive*. Scottsville: University of KwaZulu-Natal Press, 121–136.
- Ramose, Mogobe Maphala, Tshepo Makhabane, Thabo (1991), "In Search of a Workable and Lasting Constitutional Change in South Africa", *Quest*, 5(2), 5–31.
- Sarkins, Jeremy (1998), "The Effect of Constitutional Borrowings on the Drafting of South Africa's Bill of Rights and Interpretation of Human Rights Provisions", *Journal of Constitutional Law*, 1(2), 176–204.
- Santos, Boaventura de Sousa (1995), *Toward a New Common Sense: Law, Sciences and Politics in a Paradigmatic Transition*. New York: Routledge.
- Santos, Boaventura de Sousa (2007), "Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges", *Review*, (1), 45–89.
- Scott, David (2004), *Conscripts of Modernity: The Tragedy of Enlightenment*. Durham, NC: Duke University Press.
- Sekyi-Otu, Ato (1996), *Fanon's Dialectic of Experience*. Cambridge, MA: Harvard University Press.
- Shivji, Issa (1991), "State and Constitutionalism: A New Democratic Perspective", in Issa G. Shivji (ed.), *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES, 27–54.
- Sobukwe, Robert (1977a), "Future of the Africanist Movement Questions and Answers by R. M. Sobukwe", in Thomas Karis and Gwendolen Carter (eds.), *From Protest to Challenge: A Documentary History of African Politics in South Africa 1882–1964. Vol. 3: Challenge and Violence, 1953–1964*. Stanford, CA: Hoover Institution Press, 506–510.
- Sobukwe, Robert (1977b), "Opening Address at Inaugural Convention 4–6 April 1959", in Thomas Karis and Gwendolen Carter (eds.), *From Protest to Challenge: A Documentary History of African Politics in South Africa 1882–1964. Vol. 3: Challenge and Violence, 1953–1964*. Stanford, CA: Hoover Institution Press, 510–517.
- Sobukwe, Robert (1977c), "The State of the Nation on National Heroes Day 2 August 1959", in Thomas Karis and Gwendolen Carter (eds.), *From Protest to Challenge: A Documentary History of African Politics in South Africa 1882–1964. Vol. 3: Challenge and Violence, 1953–1964*. Stanford, CA: Hoover Institution Press, 542–548.
- South African Native Congress (1972), "'Questions Affecting the Natives and Coloured People Resident in British South Africa', Statement by the Executive of the South African Native Congress, 1903", in Thomas Karis and Gwendolen Carter (eds.), *From Protest to Challenge: A Documentary History of African Politics in South Africa 1882–1964. Vol. I*. Stanford, CA: Hoover Institution Press, 8–29.
- Veracini, L. (2010), *Settler Colonialism: A Theoretical Overview*. New York: Palgrave Macmillan.
- Wamba-dia-Wamba, Ernest (1991), "Discourse on the National Question", in Issa G. Shivji (ed.), *State and Constitutionalism: An African debate on Democracy*. Harare: SAPES, 57–69.

Can Silence Be a Constituent?

- Clavero, Bartolomé (2006), 'Estado de Derecho, derechos colectivos e presencia indígena en América', in Pietro Costa and Danilo Zolo (eds.), *O Estado de Direito. História, teoria e crítica*. São Paulo: Martins Fontes, 649–685.
- Clavero, Bartolomé (2008), *Geografía Jurídica de América Latina. Pueblos Indígenas entre Constituciones Mestizas*. Mexico: Siglo XXI.
- Clavero, Bartolomé (2011), 'Estado Plurinacional o Bolivariano: Nuevo o Viejo Paradigma Constitucional Americano' (Borador), Clavero.DerechosIndígenas.org, 2nd May. Available at <https://wayback.archive-it.org/org-354/20111031021543/http://clavero.derechosindigenas.org/wp-content/uploads/2011/05/Estado-Plurinacional.pdf>.
- Garcés, F. (2010), *El Pacto de Unidad y el proceso de construcción de una propuesta de Constitución Política del Estado. Sistematización de la experiencia*. La Paz: Pacto de Unidad/NINA/CEFREC/Caritas/CEJIS/CENDA/Agua Sustentable. Available at www.museo.umsu.edu.bo/wp-content/uploads/2015/08/Garces-F-2010-El-pacto-de-unidad-y-el-proceso-de-construccion-de-una-constitucion.pdf.
- Lazarte, Jorge (2008), 'Etnocracia y democracia'. *La Razón*, 3rd December D. La Paz.
- Lazarte, Jorge (2011), 'La Asamblea Constituyente de Bolivia. El Pacto era necesario, ¿Por qué no fue posible?' in Moira Zuazo Oblitas and Cecilia Quiroga San Martín (Coords.), *Lo que unos no quieren recordar es lo que otros no pueden olvidar. Asamblea Constituyente, decolonización e interculturalidad*. La Paz: FES-ILDIS, 319–431. Available at <https://library.fes.de/pdf-files/bueros/bolivien/08870.pdf>
- Los Tiempos* (2008), 'La Esencia del proyecto del MAS', 31st October. Available at <http://eju.tv/2008/10/la-esencia-del-proyecto-del-mas>
- Martínez Dalmáu, Rubén (2008), *El Proceso Constituyente Boliviano (2006–2008)*. En el marco del Nuevo Constitucionalismo Latinoamericano. La Paz: Oxfam Great Britain.
- Mesa Gisbert, Carlos D. (2012), 'Tres grandes aplazos', *Página Siete*, 26th May. Available at <https://carlosdmesa.com/2012/05/28/tres-grandes-aplazos>
- Molina, Fernando (2009), *La Ideología de la Constitución*. La Paz: CIPE, Fundación Milenio.
- Molina, Fernando (2011), 'El puré ideológico del Gobierno', *Página Siete*, 7th August. Available at <http://eju.tv/2011/08/el-pur-ideologico-del-gobierno>.
- República de Bolivia (2009), *Constitución Política del Estado*. Available at www.procuraduria.gob.bo/images/docs/marcolegal/cpe.pdf
- Rojas Tudela, Farit (2012), 'Constitucionalismo Plural', Unpublished article, mimeo.
- Santos, Boaventura de Sousa (1997), 'Por uma concepção multicultural dos Direitos Humanos', *Revista Crítica de Ciências Sociais*, 48, 11–32. Available at <https://ces.uc.pt/rccs/index.php?id=628>
- Santos, Boaventura de Sousa (2003), 'Poderá o direito ser emancipatório?' *Revista Crítica de Ciências Sociais*, 65, 3–73. DOI: <https://doi.org/10.4000/rccs.1180>
- Santos, Boaventura de Sousa (2010), *Refundación del Estado en América Latina: Perspectivas desde una epistemología del Sur*. Lima: The International Institute on Law and Society. www.boaventuradesousasantos.pt/media/Refundacion%20del%20Estado_Lima2010.pdf.
- Schavelzon, Salvador (2012), *El nacimiento del Estado Plurinacional de Bolivia: Etnografía de una Asamblea Constituyente*. La Paz: PLURAL/CLACSO/IWGIA/CEJIS. Available at <http://biblioteca.clacso.edu.ar/clacso/coediciones/20130214112018/ElnacimientoodelEstadoPlurinacional.pdf>.
- Schavelzon, Salvador (2013), 'El Pacto de Unidad como Encuentro Cosmopolítico', *Revista Boliviana de Investigación*, 10, 235–261.
- Schavelzon, Salvador (2014), 'Mutaciones de la identificación indígena durante el debate del censo 2012 en Bolivia: Mestizaje abandonado, indigeneidad estatal y proliferación minoritaria', *Journal of Iberian and Latin America Review*, 20 (3), 328–354. DOI: <https://doi.org/10.1080/13260219.2014.995872>.
- Schavelzon, Salvador (2015), *Plurinacionalidad y Vivir Bien/Buen Vivir. Dos conceptos en formación leídos desde Bolivia y Ecuador post-constituyente*. Quito: Abya Yala/CLACSO. Available at www.clacso.org.ar/libreria-latinoamericana/contador/sumar_pdf.php?id_libro=1073.
- Schavelzon, Salvador (2016a), 'La Justicia Comunitaria en Bolivia y la ocupación de la casa de Víctor Hugo Cárdenas', *Dereito e Democracia*, 17 (1), 43–63. Available at www.periodicos.ulbra.br/index.php/dereito/article/view/2811.

Schavelzon, Salvador (2016b) 'Comunidad cosmopolítica, feminismo comunario y ontologías en Bolivia: Registro de algunas debates y posibilidades constituyentes', *Revista de Antropología*, 59 (3), 115–149. DOI: <https://doi.org/10.11606/2179-0892.ra.2016.124810>.

Schavelzon, Salvador (2016c), 'Cosmopolítica y Yuxtaposición en la Propuesta de Estado Plurinacional de Bolivia', *Revista de Antropología de Chile*, 33 (1), 87–101. Available at <https://revistadeantropologia.uchile.cl/index.php/RCA/article/view/43391>.

Stefanoni, Pablo (2010a), '¿Adónde nos lleva el pachamamismo?' Página 7, 27th April and 4th May. Available at www.sinpermiso.info/textos/adnde-nos-lleva-el-pachamamismo.

Stefanoni, Pablo (2010b), 'Pachamamismo ventriloco', *Rebelión*, 29th May. Available at www.rebelion.org/noticia.php?id=106771.

Tapia, Luis (2011), 'Sociedad abigarrada. Repensando la democracia multicultural en Bolivia'. *Revista Estudiantil Latinoamericana de Ciencias Sociales*, 1 (1). Available at <http://relacso.flacso.edu.mx/node/15>.

Urenda, Juan Carlos (2009), *El Estado Catoblepas. Un Estudio Didáctico sobre la Constitución. Las contradicciones destructivas del Estado Boliviano*. Santa Cruz de la Sierra: Editorial El País [Bilingual edition (Spanish-English)].

Viciano Pastor, Roberto Martínez Dalmau, Rubén (2010), 'Los Procesos Constituyentes Latinoamericanos y el Nuevo Paradigma Constitucional', *IUS. Revista del Instituto de Ciencias Jurídicas de Puebla A.C.*, 4 (25), 7–29. Available at www.revistaius.com/index.php/ius/article/view/214.

Plurinational Constitutionalism

Albó, Xavier Barrios, Franz (2006), *Por una Bolivia Plurinacional e Intercultural con Autonomías*. La Paz: UNDP.

Albornoz, Oswaldo (1971), *Las Luchas Indígenas en el Ecuador*. Guayaquil: Claridad Editorial.

Arrighi, Giovanni (2007), *Adam Smith en Pekín. Origen y Fundamentos del Siglo XXI*. Madrid: Ediciones Akal.

Ávila, Ramiro (2011), *El Neoconstitucionalismo Transformador. El Estado y el Derecho en la Constitución de 2008*. Quito: Abya Yala.

Bodin, Jean , (1997), *Los Seis Libros de la República*. Madrid: Tecnos [orig. 1576].

Bonilla, Heraclio (1977), 'Estructura Colonial y Rebeliones Andinas', *Apuntes, Revista de Ciencias Sociales*, 7: 91–99. DOI: <https://doi.org/10.21678/apuntes.7.555>.

Borja, Ramiro (1979), *Derecho Constitucional Ecuatoriano, Tome IV*. Quito: Instituto Geográfico Militar.

Chakrabarty, Dipesh (1995), 'Postcoloniality and the Artifice of History', in Bill Ascroft , Gareth Griffith and Helen Tiffin (eds.), *The Post-colonial Studies Reader*. London: Routledge, 383–390.

Cholango, Humberto (2012), *Movimiento Indígena del Ecuador su Participación en la Asamblea Constituyente de Montecristi, y la Lucha por el Estado Plurinacional*. Thesis prior to obtaining the third level degree, Universidad Politécnica Salesiana del Ecuador.

Chuquimia, René (2012), 'Historia, Colonia y Derecho de los Pueblos Indígenas', in Boaventura de Sousa Santos and José Exeni (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. La Paz: Abya Yala and Fundación Rosa Luxemburg, 151–200. www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-bolivia.

Clavero, Bartolomé (2016), *Constitucionalismo Latinoamericano: Estados Criollos entre Pueblos Indígenas y Derechos Humanos*. Santiago de Chile: Olejnik.

Cordero, Sofía (2012), 'Estados Plurinacionales en Bolivia y Ecuador, Nuevas Ciudadanías, ¿Más Democracia?', *Revista Nueva Sociedad*, 240 (julio – agosto), pp. 134–148. <https://nuso.org/revista/240/democracias-en-ebullicion>.

Dussel, Enrique (2007), *Política de la Liberación, Historia Mundial y Crítica, Tome 1*. Madrid: Trotta Editorial.

Dussel, Enrique (2009), *Política de la Liberación, Tome 2*. Madrid: Trotta Editorial.

García, Álvaro (s.d.) , *Las Tensiones Creativas de la Revolución: La Quinta Fase del Proceso de Cambio*. La Paz: Vice-presidency of the Plurinational State. www.vicepresidencia.gob.bo/IMG/pdf/tensiones_revolucion.pdf.

Gargarella, Roberto (2011), 'Pensando sobre la Reforma Constitucional en América Latina', in César Rodríguez Gravitó (coord.), *El Derecho en América Latina, un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo XXI, 87–108.

Grijalva, Agustín (2012), *Constitucionalismo en Ecuador*. Quito: Constitutional Court of Ecuador.
http://bivicce.corteconstitucional.gob.ec/bases/biblo/texto/Constitucionalismo/Constitucionalismo_en_Ecuador.pdf.

Guamán Poma de Ayala, Felipe (1980), *Nueva Crónica y Buen Gobierno*. Mexico: Siglo XXI Editores.

Hegel, Georg W.F. (2001), *Philosophy of Right*. Kitchener: Batoche Books [orig.1821].

Hobbes, Thomas (1984), *Leviatán*. Madrid: Sarpe [orig.1651].

Hobbes, Thomas (2000), *De Cive: Elementos Filosóficos sobre el Ciudadano*. Madrid: Alianza [orig.1642].

Llasag, Raúl (2008), 'Plurinacionalidad: una Propuesta Constitucional Emancipadora', in Ramiro Ávila (ed.), *Neoconstitucionalismo y Sociedad*. Quito: Ministry of Justice and Human Rights of Ecuador, 311–355.

Llasag, Raúl (2011), 'Derechos de la Naturaleza: Una Mirada desde la Filosofía Indígena y la Constitución', in Carlos Gallegos and Pérez, Camilo (eds.), *Los Derechos de la Naturaleza y la Naturaleza de sus Derechos*. Quito: Ministry of Justice, Human Rights and Worship, 75–92.

Llasag, Raúl (2012), 'Movimiento Indígena del Ecuador a partir del Siglo XX: Visibilizando el Resurgir, sus Avances y Retrocesos', in Boaventura de Sousa Santos and Agustín Grijalva (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en el Ecuador*. Quito: Abya Yala and Fundación Rosa Luxemburg, 83 – 156. www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador.

Llasag, Raúl (2014), 'Constitucionalismo Plurinacional e Intercultural de Transição: Equador e Bolívia', *Meritum*, 9(1): 265–294. www.fumec.br/revistas/meritum/article/view/2497/1487.

Locke, John (2007), *Segundo Tratado do Governo*. Lisbon: Calouste Gulbenkian Foundation [orig. 1680]. <https://gulbenkian.pt/publication/segundo-tratado-do-governo>.

Medici, Alejandro (2012), *La Constitución Horizontal, Teoría Constitucional y Giro Decolonial*. San Luis de Potosí, Mexico: Centro de Estudios Jurídicos y Sociales Mispat.

Pisarello, Gerardo (2012), *Un Largo Termidor, Historia y Crítica del Constitucionalismo Antidemocrático*. Quito: Constitutional Court of Ecuador.

Quijano, Hannibal (2008), 'Coloniality of Power, Eurocentrism, and Social Classification', in Mabel Moraña, Enrique Dussel, Carlos A. Jáuregui (eds.), *Coloniality at Large: Latin America and the Postcolonial Debate*. London: Duke University Press.

Reinaga, Faust (2013), *La Revolución India*. La Paz: WA-GUI.

Restrepo, Eduardo Rojas, Axel (2010), *Inflexión Decolonial: Fuentes, Conceptos y Cuestionamientos*. Popayán, Colombia: University of Cauca.

Rodríguez, Eduardo Rojas, Farit (2011), *Lectura(s) Plural (es) de la Constitución: Ductilidad, Porosidad, Despliegue y Deconstrucción. Un Acercamiento desde los Estudios Constitucionales*. La Paz: Bolivarian Catholic University 'San Pablo', Faculty of Law and Political Sciences, Center for Constitutional and Political Studies.

Santos, Boaventura de Sousa (1995), *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition*. New York: Routledge.

Santos, Boaventura de Sousa (2006), *Conocer desde el Sur. Para una Cultura Política Emancipatoria*. Lima: Editorial Universidad Bolivariana.

Santos, Boaventura de Sousa (2007), *La Reinención del Estado y el Estado Plurinacional*. Santa Cruz de la Sierra, Bolivia: CENDA, CEJIS and CEDIB.

Santos, Boaventura de Sousa (2009), *Una Epistemología del Sur*. Buenos Aires: CLACSO.

Santos, Boaventura de Sousa (2010a), *Para Descolonizar Occidente, más allá del Pensamiento Abismal*. Buenos Aires: CLACSO.

Santos, Boaventura de Sousa (2010b), *Refundación del Estado en América Latina, Perspectivas desde una Epistemología del Sur*. Quito: Abya Yala.

Second, Moreno Yáñez (2003), *Alzamientos Indígenas en la Audiencia de Quito, 1534–1803*. Quito: Campaña Nacional Eugenio Espejo por el Libro y la Lectura.

Uprimny, Rodrigo (2011), 'Transformaciones Constitucionales Recientes en América Latina: Tendencias y Desafíos', in César Rodríguez Gravitó (coord.), *El Derecho en América Latina, un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo XXI Editores, 109–137.

Vice-presidency of the Plurinational State of Bolivia (2012), *Enciclopedia Histórica Constitucional*, Tome 5. La Paz : Vice-presidency of the Plurinational State of Bolivia.

Walsh, Catherine (2009), *Interculturalidad, Estado, Sociedad: Luchas (de) Coloniales de Nuestra Época*. Quito: Abya Yala.

Weber Max , (1979), *El Político y el Científico*. Madrid: Alianza Editorial.

Yrigoyen, Raquel (1999), *Pautas de Coordinación entre el Derecho Indígena y el Derecho Estatal*. Guatemala: Fundación Myrna Mack.

Yrigoyen, Raquel (2006), 'Hitos del Reconocimiento del Pluralismo Jurídico y el Derecho Indígena en las Políticas Indigenistas y el Constitucionalismo Andino', *in* Mikel Berraondo (coord.), *Pueblos Indígenas y Derechos Humanos*. Bilbao: Universidad de Deusto, 337–567.

Yrigoyen, Raquel (2011), 'El horizonte del constitucionalismo pluralista: del multiculturalismo a la descolonización', *in* César Rodríguez Garavito (coord.), *El Derecho en América Latina, un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo XXI Editores, 139–159.

Zaffaroni, Raúl Alagia, Alejandro Slokar, Alejandro (2000), *Derecho Penal. Parte General*. Buenos Aires: Ediar.

Transformational Constitutionalism, Interculturality and the Reform of the State

Ecuador (1998), 'Constitución Política de la República del Ecuador', The Official Register 1, of 11th August. Available at www.cancilleria.gob.ec/wp-content/uploads/2013/06/constitucion_1998.pdf.

Ecuador (2008), 'Constitución de la República de Ecuador', The Official Register No. 449, of 20th October. Available at www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

ECUARUNARI (2012), *Una Mirada a Nuestra Historia*. Movimiento Nacional Ecuador Runakunapk Rikcharimuy. Quito: Confederación de Pueblos de la Nacionalidad Kichwa – ECUARUNARI.

Participation and Presidentialism in the Ecuadorian Constitution of 2008

*

Ahumada, María de los Ángeles (2009), 'Neoconstitucionalismo y Constitucionalismo' *in* Paolo Comanducci, María de los Angeles Ahumada and Daniel González (eds.), *Positivism Jurídico y Neoconstitucionalismo*. Madrid: Fundación Coloquio Legal Europeo.

Andrade, Pablo (2012), 'El Reino (de lo) Imaginario: Los Intelectuales Políticos Ecuatorianos en la Construcción de la Constitución de 2008', *Ecuador Debate*, 85: 35–47. Available at <http://hdl.handle.net/10469/3993>.

Castro, José Luis (2014), *La Silla Vacía como Mecanismo de Participación Ciudadana*. Thesis for obtaining the title of lawyer, Pontificia Universidad Católica del Ecuador, Quito.

Constitución de la República del Ecuador (2008), Official Registry No. 449, 20th October. Available at www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/registro-oficial/item/4864-registro-oficial-no-449.html.

Cordoba, Holguer (2013), *Derechos sin Poder Popular*. Quito: Centro Andino de Estudios Estratégicos.

Cunill Grau, Nuria (1997), *Repensando lo Público a Través de la Sociedad*. Caracas: Editorial Nueva Sociedad.

FIDH—Federación Internacional de Derechos Humanos (2015), *Criminalización de la Protesta Social Frente a Proyectos Extractivos en Ecuador*. Available at www.fidh.org/IMG/pdf/equateur666espagn2015hd_1_.pdf.

Fung, Archon Wright, Eric Olin (2003), *Democracia en Profundidad: Nuevas Formas Institucionales de Gobierno Participativo con Poder de Decisión*. Bogotá: Universidad Nacional de Colombia.

Gargarella, Roberto (2014), *La Sala de Máquinas de la Constitución*. Buenos Aires, Katz Editors. DOI: <https://doi.org/10.2307/lj.ctvm7bcjw>.

Grijalva, Agustín (2010), 'Régimen Constitucional de Biodiversidad, Patrimonio Natural, Ecosistemas Frágiles, y Recursos Naturales Renovables', in Agustín Grijalva, Efraín Pérez and Rafael Oyarte (eds.), *Desafíos del Derecho Ambiental Ecuatoriano Frente a la Constitución Vigente*. Quito: Centro Ecuatoriano de Derecho Ambiental (CEDA).

Grijalva, Agustín (2015), 'Nuevo Constitucionalismo, Democracia e Independencia Judicial', *Cálamo – Revista de Estudios Jurídicos*, 3: 27–38. Available at www.calamo.ec/number/3.

Malacatus, Edwin (2016), *La Revocatoria del Mandato, como Derecho Establecido en la Actual Constitución y Legislación del Ecuador, Respecto a sus Alcances, Requisitos y Limitaciones*. Master's thesis in Law, Area of Constitutional Law, Universidad Andina Simón Bolívar, Quito.

Noguera, Albert Navas, Marco (2016), *Los Nuevos Derechos de Participación Derechos Constituyentes o Constitucionales?* Valencia: Tirant lo Blanch.

Orrantia Parra, Daniela (2015), *Análisis Crítico de la Planificación Participativa en la Elaboración del Plan Nacional del Buen Vivir 2013-2017*. Master's thesis in Latin American Studies, Politics and Culture, Area of Social and Global Studies, Universidad Andina Simón Bolívar, Quito.

Ortíz, Richard (ed.) (2017), *Reforma Electoral en Ecuador*. Quito: Udl.

Ospina, Pablo (2013), 'La Participación Ciudadana en Ecuador (2009–2012)', in Gina Benavides and María Gardenia Chávez (eds.), *Horizonte de los Derechos Humanos – Ecuador 2012*. Quito: Universidad Andina Simón Bolívar, 147–161. Available at <http://hdl.handle.net/10644/4105>.

Pásara, Luis (2014), *Independencia Judicial en la Reforma de la Justicia Ecuatoriana*. Washington: DPLF.

Santos, Boaventura de Sousa (2010), *Refundación del Estado en América Latina*. Quito: Ediciones Abya Yala.

Santos, Boaventura de Sousa Grijalva, Agustín (eds.) (2012), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Fundación Rosa Luxemburg.

Uprimny, Rodrigo (2011), 'Las Transformaciones Constitucionales Recientes en América Latina: Tendencias y Desafíos', in César Rodríguez Garavito (ed.), *El Derecho en América Latina: Un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo Veintiuno Editores, 109–137.

Corte Constitucional del Ecuador, Sentencia Nro. 113-14-SEP-CC Case Nro. 0731-10-EP.

Transforming Transformative Constitutionalism

Anaya Muñoz, Alejandro (2006), *Autonomía Indígena, Gobernabilidad y Legitimidad en México. La Legalización de Usos y Costumbres Electorales en Oaxaca*. Mexico DF: Ibero-American University/Plaza y Valdes.

Aragón Andrade, Orlando (2013), 'El Derecho en Insurrección. El Uso Hegemónico del Derecho en el Movimiento Purépecha de Cherán', *Journal of Studies & Research on the Americas*, 7 (2), 37–69. Available at <http://periodicos.unb.br/index.php/repam/article/view/20220>.

Aragón Andrade, Orlando (2015), 'El Derecho Después de la Insurrección. Cherán y el Uso Hegemónico del Derecho en la Suprema Corte of Justicia de México', *Sortuz: Oñati Journal of Emergent Socio-Legal Studies*, 7 (2), 71–87. Available at <http://opo.iisj.net/index.php/sortuz/article/view/702>.

Aragón Andrade, Orlando (2016), 'Otra Democracia es Posible. Aprendizajes para una Democracia Radical en México desde la Experiencia Política de Cherán'. Conference presented at the University of California, Berkeley, on November 4, 2015, in the '*Mexico at the Crossroads*' cycle.

Beals, Ralph Larson (1992), *Cherán: Un Pueblo de la Sierra*. Zamora: The College of Michoacán.

Calderón Mólgora, Marco Antonio (2004), *Historia, Procesos Políticos y Cardenismos*. Zamora: The College of Michoacán.

Castile, George Pierre (1974), *Cherán: La Adaptación de una Comunidad Tradicional*. Mexico DF: The National Indigenist Institute.

Clavero, Bartolomé (2008), *Geografía Jurídica de América Latina. Pueblos Indígenas entre Constituciones Mestizas*. Mexico DF: Siglo XXI.

Fioravanti, Maurizio (2001), *Constitución. De la Antigüedad a nuestros Días*. Madrid: Trotta.

Gargarella, Roberto (2011), 'Pensando sobre la Reforma Constitucional en América Latina', in César Rodríguez Garavito (ed.), *El Derecho en América Latina. Un Mapa para el Pensamiento Jurídico del Siglo XXI*. Buenos Aires: Siglo XXI, 87–108.

Griffiths, John (1986), 'What Is Legal Pluralism?', *The Journal of Legal Pluralism*, 18 (24), 1–55. DOI: <https://doi.org/10.1080/07329113.1986.10756387>.

López Bárcenas, Francisco (2014), 'Normas y Principios Jurídicos entre los Nñuú Savi', *Diarios de Campo*, 4–5, 42–47. Available at www.revistas.inah.gob.mx/index.php/diariodecampo/article/view/5722.

Martínez, Juan Carlos (2007), 'La Crisis Interna de Santiago Amoltepec. Reflexiones sobre las Relaciones de Poder y la Formalidad en el Campo Jurídico en una Localidad Oaxaqueña', in Jorge Hernández-Díaz (ed.), *Ciudadanías Diferenciadas en un Estado Multicultural: Los Usos y Costumbres en Oaxaca*. Mexico: Siglo XXI/The Benito Juárez Autonomous University of Oaxaca, 229–249.

Negri, Antonio (2015), *El Poder Constituyente*. Madrid: Traficantes de Sueños.

Recondo, David (2007), *La Política del Gatopardo. Multiculturalismo y Democracia en Oaxaca*. México DF: Center for Research and Advanced Studies in Social Anthropology.

Santos, Boaventura de Sousa (2002), *A Crítica da Razão Indolente. Contra o Desperdício da Experiência*. Porto: Afrontamento.

Santos, Boaventura de Sousa (2003), 'Poderá o Direito ser Emancipatório?' *Revista Crítica de Ciências Sociais*, 65, 3–76. DOI: <https://doi.org/10.4000/rccs.1180>.

Santos, Boaventura de Sousa (2009), *Una Epistemología del Sur. La Reinvention del Conocimiento y la Emancipación Social*. Mexico: Siglo XXI.

Santos, Boaventura de Sousa (2010), *Refundación del Estado en América Latina. Perspectivas desde una Epistemología del Sur*. Lima: International Institute of Law and Society.

Santos, Boaventura de Sousa (2012), 'Cuando los Excluidos Tienen Derecho: Justicia Indígena, Plurinacionalidad e Interculturalidad', in Boaventura de Sousa Santos and Agustín Grijalva Jiménez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Abya Yala, 13–50.

Santos, Boaventura de Sousa (2015), 'Para que Servem as Constituições?' Master Class at the Faculty of Economics of the University of Coimbra, April 10.

Santos, Boaventura de Sousa Rodríguez-Garavito, César (2007), 'El Derecho, la Política y lo Subalterno en la Globalización Contrahegemónica', in Boaventura de Sousa Santos y César Rodríguez-Garavito (coords.), *El Derecho y la Globalización desde Abajo. Hacia una Legalidad Cosmopolita*. Barcelona: Anthropos, 7–28.

Sierra, María Teresa (2011), 'Pluralismo Jurídico y Interlegalidad. Debates Antropológicos en Torno al Derecho indígena y las Políticas de Reconocimiento', in Victoria Chenaut, Magdalena Gómez, Héctor Ortiz y María Teresa Sierra (coords.), *Justicia y Diversidad en América Latina. Pueblos Indígenas ante la Constitución*. Quito: FLACSO/CIESAS, 385–406. Available at https://biblio.flacsoandes.edu.ec/shared/biblio_view.php?bibid=126754&tab=opac

Sierra, María Teresa Chenaut, Victoria (2002), 'Debates Recientes y Actuales en la Antropología Jurídica: Las Corrientes Anglosajonas', in Esteban Krotz (ed.), *Antropología Jurídica: Perspectivas Socioculturales en el Estudio del Derecho*. Barcelona: Anthropos/The Metropolitan Autonomous University—Iztapalapa, 113–170.

Tamanaha, Brian (1993), 'The Folly of the "Social Scientific" Concept of Legal Pluralism', *Journal of Law and Society*, 20 (2), 192–217. DOI: <https://doi.org/10.2307/1410167>

The Law of the Excluded

Acosta, Alberto Martínez, Esperanza (eds.) (2009), *El buen vivir. Una vía para el desarrollo*. Quito: Ediciones Abya Yala.

Albó, Xavier (2002), 'Bolivia: from Indian and Campesino Leaders to Councillors and Parliamentary Deputies', in Rachel Sieder (ed.), *Multiculturalism in Latin America: Indigenous Rights, Diversity and Democracy*. New York: Palgrave Macmillan, 74–102.

Albó, Xavier Barrios, Franz (2006), *Por una Bolivia plurinacional e intercultural con autonomías*. La Paz: PNUD.

Almaraz, Alejandro (2015), "Luchas Políticas y Legales por la Tierra en Bolivia: Las Luchas Indígenas y Campesinas en los Dos Ciclos de la Reforma Agraria", in Fundación Tierra (ed.), *Recientes Transformaciones Agrarias en Bolivia*. La Paz: Fundación Tierra, 49–54. Available at www.ftierra.org/index.php?option=com_mtree&task=att_download&link_id=141&cf_id=77.

Aragón Andrade, Orlando (2016). *De la "vieja" a la "nueva" justicia indígena*. Transformaciones y continuidades en las justicias indígenas de Michoacán. Michoacán: Ediciones del Lirio.

Aricó, José (2017), *Dilemas del Marxismo en América Latina*. Buenos Aires: CLACSO.

Assies, Willem (2006), "La 'Media Luna' sobre Bolivia: Nación, Región, Etnia y Clase Social", *América Latina Hoy*, 43, 87–105. Available at <https://dialnet.unirioja.es/ejemplar/147862>.

Ávila Santamaría, Ramiro (2011), *El Neoconstitucionalismo Transformador*. El Estado y el Derecho en la Constitución de 2008. Quito: Universidad Andina Simón Bolívar/Abya-Yala.

Ávila Santamaría, Ramiro (2012), "¿Debe Aprender el Derecho Penal Estatal de la Justicia Indígena?", in Boaventura de Sousa Santos and Agustín Grijalva (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Fundación Rosa Luxemburg/Abya Yala, 279–304. Accessed in May 2018, at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador.

Ayala Mora, Enrique *et al.* (eds.) (1992), *Pueblos Indios, Estado y Derecho*. Quito: Corporación Editora Nacional.

Barrera, Anna (2011), "Turning Legal Pluralism into State-Sanctioned Law: Assessing the Implications of the New Constitutions and Laws in Bolivia and Ecuador", *GIGA Working Papers No. 176*. DOI: <https://doi.org/10.2139/ssrn.1920297>.

Bautista, Rafael (2010), "¿Qué Significa el Estado Plurinacional?", in Gonzálo Gosálvez and Jorge Dulon (eds.), *Descolonización en Bolivia: Cuatro Ejes para Comprender el Cambio*. La Paz: Vicepresidencia del Estado/Fundación Boliviana para la Democracia Multipartidaria, 169–206.

Bazurco Osorio, Martín Exeni Rodríguez, José Luis (2012), "Bolivia: Justicia Indígena en Tiempos de Plurinacionalidad", in Boaventura de Sousa Santos and José Luis Exeni Rodríguez (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya Yala, 49–144. Accessed in May 2018, at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador.

Becker, Marc (2011), "Correa, Indigenous Movements, and the Writing of a New Constitution in Ecuador", *Latin American Perspectives*, 38(1), 47–62. DOI: 10.2307/29779306.

Belinda Fontana, Lorenza (2014), "Indigenous Peoples vs Peasant Unions: Land Conflicts and Rural Movements in Plurinacional Bolivia", *Journal of Peasant Studies*, 41(3), 297–319. DOI: <https://doi.org/10.1080/03066150.2014.906404>.

Bengoa, José (2007), *La Emergencia Indígena en América Latina*. Santiago de Chile: Fondo de Cultura Económica.

Benton, Laura (2005), *Law and Colonial Cultures*. Cambridge: Cambridge University Press.

Bhandar, Brenna (2018), *Colonial Lives of Property. Law, Land, and Racial Regimes of Ownership*. Durham, NC: Duke University Press.

Bonilla Maldonado, Daniel (ed.) (2013), *Constitutionalism of the Global South: The Activist Tribunals of India, South Africa, and Colombia*. Cambridge: Cambridge University Press. DOI:10.1017/CBO9781139567114.

Burman, Anders (2011), " *Chachawarmi*: Silence and Rival Voices on Decolonisation and Gender Politics in Andean Bolivia", *Journal of Latin American Studies*, 43(1), 65–91. DOI: <https://doi.org/10.1017/S0022216X10001793>.

Centellas, Miguel (2016), "The Santa Cruz *Autonomía* Movement in Bolivia: A Case of Non-indigenous Ethnic Popular Mobilization?", *Ethnopolitics*, 15(2), 245–264. DOI: <https://doi.org/10.1080/17449057.2015.1018710>.

Cevallos Vivar, Fabián A. (2019), *Travesías dentro y fuera del Estado*. Contribuciones de las Waorani del Yasuní frente al desarrollismo neo-extractivo en Ecuador. PhD thesis submitted to Coimbra University, Doctoral program in Postcolonialisms and Global Citizenship.

Chakrabarty, Dipesh (2000), *Provincializing Europe: Postcolonial Thought and Historical Difference*. Princeton, NJ: Princeton University Press.

Choque Aldana, Marlene Torres García, Isabel Goyes Quelal, Solanda (2013), *La Apuesta por la Paridad: Democratizando el sistema político en América Latina*. Los casos de Ecuador,

Bolivia y Costa Rica. Stockholm: International IDEA.

Chuquimia Escobar , René Guery (2012), "Historia, Colonia y Derecho de los Pueblos Indígenas", in Boaventura de Sousa Santos and José Luis Exeni Rodríguez (eds.), Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia. Quito: Fundación Rosa Luxemburg/Abya Yala, 151–200. Accessed in May 2018, at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador. Clavero, Bartolomé (2016), *Constitucionalismo Colonial*. Economía de Europa, Constitución de Cádiz y más acá. Madrid: UAM Ediciones. DOI: <https://doi.org/10.15366/const.colonial2016> CONAIE—Confederación de Nacionalidades Indígenas del Ecuador (1989), *Las Nacionalidades Indígenas del Ecuador. Nuestro proceso organizativo*. Quito: Ediciones Tincui/Abya Yala.

Dangl, Benjamin (2010), *Dancing with Dynamite: States and Social Movements in Latin America*. Edinburgh: AK Press.

Dangl, Benjamin (2019), *The Five Hundred Year Rebellion: Indigenous Movements and the Decolonization of History in Bolivia*. Edinburgh: AK Press.

Dávalos, Pablo (2005) (ed.), *Pueblos indígenas, Estado y democracia*. Buenos Aires: Clacso Libros.

Eichler, Jessika (2019), "Neo-extractivist Controversies in Bolivia: Indigenous perspectives on global norms", *International Journal of Law in Context*, 15(1), 88–102. DOI: <https://doi.org/10.1017/S1744552318000150>.

Encalada, Karla (2012), "Racismo en la Justicia Ordinaria", in Boaventura de Sousa Santos and Agustín Grijalva (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Fundación Rosa Luxemburg/Abya Yala, 185–205. Accessed in May 2018, at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador.

Encalada, Karla (2016), *Rusticidad, Indígenas en la Cárcel y Racismo Legal: Una Etnografía del Sistema de Justicia Estatal y las Élites en Riobamba, Ecuador*. Buenos Aires: Antropofagia.

Escobar, Arturo (2016), "Sentipensar con la Tierra: Las Luchas Territoriales y la Dimensión Ontológica de las Epistemologías del Sur", *AIBR—Revista de Antropología Iberoamericana*, 11(1), 11–32. DOI: <https://doi.org/10.11156/aibr.110102>.

Espinosa Miñoso, Yuderlys Gómez Correal, Diana Ochoa Muñoz, Karina (eds.) (2014), *Tejiendo de Otro Modo: Feminismo, epistemología y apuestas descoloniales en Abya Yala*. Popayán, Colombia: Editorial Universidad del Cauca. Available at [www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/498EDAE050587536052580040076985F/\\$FILE/Tejiendo.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/498EDAE050587536052580040076985F/$FILE/Tejiendo.pdf).

Exeni Rodríguez , José Luis (2017), "A Longa Caminhada das Autonomias Indígenas na Bolívia: Demodiversidade plurinacional en exercício", in Boaventura de Sousa Santos and José Manuel Mendes (eds.), *Demodiversidade: Imaginar Novas Possibilidades Democráticas*. Lisboa: Edições 70, 545–570.

Fitzpatrick, Peter (1992), *The Mythology of Modern Law*. London: Routledge.

García Linera, Álvaro (2008), "Empate Catastrófico y Punto de Bifurcación", *Crítica y Emancipación: Revista Latinoamericana de Ciencias Sociales*, 1(1), 23–33. Available at <http://bibliotecavirtual.clacso.org.ar/ar/libros/secret/CyE>.

Gargarella, Roberto (2013), *Constitutionalism, 1810–2010. The Engine Room of the Constitution*. Oxford: Oxford University Press.

Gargarella, Roberto Courtis, Christian (2009), *El Nuevo Constitucionalismo Latinoamericano: promesas e interrogantes*. Santiago de Chile: CEPAL.

Godoy, Scarlett O'Phelan (2012), *Un Siglo de Rebeliones Anticoloniales: Perú y Bolivia, 1700–1783*. Lima: Institut français d'études andines/Instituto de Estudios Peruanos.

González, Miguel Burguete Cal y Mayor, Araceli Ortiz-T., Pablo (eds.) (2003), *La Autonomía a Debate. Autogobierno indígena y Estado plurinacional en América Latina*. Quito: FLACSO/GTZ/IWGIA/CIESAS/UNICH. Available at https://biblio.flacsoandes.edu.ec/shared/biblio_view.php?bibid=122516&tab=opac.

Gotkowitz, Laura (2012), *La Revolución antes de la Revolución. Luchas indígenas por tierra y justicia en Bolivia, 1880–1952*. La Paz: Plural.

Grijalva, Agustín (2012), *Constitucionalismo en Ecuador*. Quito: Corte Constitucional del Ecuador.

Guamán Anilema , María Nelly (2015), *Caso La Cocha II análisis de la problemática de la justicia indígena y justicia ordinaria en el contexto ecuatoriano, a partir de la sentencia de La*

Corte Constitucional en la que establece límites a la justicia ancestral. Thesis submitted to the Universidad San Francisco de Quito, Colegio de Jurisprudencia.

Gudynas, Eduardo (2011), "Buen Vivir: Today's tomorrow", *Development*, 54(4), 441–447. DOI: <https://doi.org/10.1057/dev.2011.86>.

Hernández Castillo, R. Aída (2002), "Indigenous Law and Identity Politics in Mexico: Indigenous Men's and Women's Struggles for a Multicultural Nation", *Political and Legal Anthropology Review*, 25(1), 90–109. DOI: <https://doi.org/10.1525/pol.2002.25.1.90>.

Human Rights Watch (2018), *Amazonians on Trial. Judicial Harassment of Indigenous Leaders and Environmentalists in Ecuador*. Accessed in May 2019, at www.hrw.org/sites/default/files/report_pdf/ecuador0318_web.pdf.

ILO—International Labour Organisation (1989), *Convention Concerning Indigenous and Tribal Peoples in Independent Countries*. Geneva: ILO. Accessed in May 2018, at www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169.

Jackson, Jean E. ; Warren, Kay B. (2005), "Indigenous Movements in Latin America, 1992–2004: Controversies, Ironies, New Directions", *Annual Review of Anthropology*, 34, 549–573. DOI: <https://doi.org/10.1146/annurev.anthro.34.081804.120529>.

Keal, Paul (2003), *European Conquest and the Rights of Indigenous Peoples: The Moral Backwardness of International Society*. Cambridge: Cambridge University Press.

Kennemore, Amy Pachaguaya Yurja , Pedro Celestino Salazar Nieves , Cynthia Berenice Almeida, Marina Correa Marcani Yapura , Juan Carlos Telésforo, João (2017), "El Derecho de Acceso a la Justicia a partir de la Constitución Política del Estado Plurinacional de Bolivia de 2009: El pluralismo jurídico como nuevo escenario", in Juan José Martínez Layuno (ed.), *Derecho de Acceso a la justicia: Aportes para la construcción de un acervo latinoamericano*. Santiago de Chile: CEJA—Centro de Estudios de Justicia de las Américas, 403–448. Accessed in June 2019, at <http://biblioteca.cejamericas.org/handle/2015/5551>.

Koenig, Kevin (2017), "Indigenous Mobilization Results in Steps to End Criminalization in Ecuador", *Amazonwatch*, May 31, 2017. Accessed in May 2019, at <https://amazonwatch.org/news/2017/0531-indigenous-mobilization-results-in-steps-to-end-criminalization-in-ecuador>.

Liss, Sheldon B. (1984), *Marxist Thought in Latin America*. Berkeley, CA: University of California Press.

Llasag Fernández, Raúl (2012), "Justicia Indígena ¿Delito o Construcción de la Plurinacionalidad? La Cocha", in Boaventura de Sousa Santos and Agustín Grijalva (eds.), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Fundación Rosa Luxemburg/Abya Yala, 321–372. Accessed in May 2018, at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador.

Llasag Fernández, Raúl (2014), "Constitucionalismo Plurinacional e Intercultural de Transición: Ecuador y Bolivia", *Revista Meritum de Direito da Universidade FUMEC*, 9(1), 295–319. Available at www.fumec.br/revistas/meritum/article/view/2498.

Llasag Fernández, Raúl (2018), *Constitucionalismo Plurinacional desde los Sumak Kawsay y sus Saberes. Plurinacionalidad desde abajo y plurinacionalidad desde arriba*. Quito: Huaponi Ediciones/INIGED.

Luhmann, Niklas (1995), *Social Systems*. Stanford, CA: Stanford University Press.

Mariatégui, José (2008), *Sete Ensaios de Interpretação da Realidade Peruana*. São Paulo: Expressão Popular and CLACSO [orig. 1928]. Available in Spanish at https://es.wikisource.org/wiki/7_ensayos_de_interpretación_de_la_realidad_peruana.

Maybury-Lewis, David (2002), "Conclusion", in David Maybury-Lewis (ed.), *The Politics of Ethnicity: Indigenous Peoples in Latin American States*. Cambridge, MA: Harvard University Press, 347–361.

Nolte, Detlef Schilling-Vacaflo, Almut (eds.) (2012), *New Constitutionalism in Latin America: Promises and Practices*. Burlington, VT: Ashgate.

Orias Arredondo, Ramiro (2015), *Reforma Judicial en Bolivia. Elementos para el diagnóstico y desafíos*. La Paz: Friedrich Ebert Stiftung-Bolivia. Available at <https://library.fes.de/pdf-files/bueros/bolivien/11647.pdf>.

Pallares, Amalia (2002), *From Peasant Struggles to Indian Resistance: The Ecuadorian Andes in the Late Twentieth Century*. Norman, OK: University of Oklahoma Press.

Porto-Gonçalves, Carlos Walter Betancour, Milson (2013), *Encrucijada Latinoamericana en Bolivia: el conflicto del TIPNIS y sus implicaciones civilizatorias*. La Paz: Autodeterminación.

Postero, Nancy (2017), *The Indigenous State: Race, Politics, and Performance in Plurinational Bolivia*. Oakland, CA: California University Press.

Premo, Bianca (2017), *The Enlightenment on Trial. Ordinary Litigants and Colonialism in the Spanish Empire*. New York: Oxford University Press.

Ramírez-Cendrero, Juan M. ; García, Santiago Santillán, Alejandro (2017), “ *Sumak kawsay* in Ecuador: The Role of Communitarian Economy and the Experience of the Rural Communities in Sarayaku (Ecuadorian Amazonia)”, *Journal of Rural Studies*, 53, 111–121. DOI: <https://doi.org/10.1016/j.jrurstud.2017.05.018>.

Ramírez Gallegos, René (2014), *La Vida (Buena) Como Riqueza de los Pueblos: Hacia una Sociecoología Política del Tiempo*. Madrid: Viejo Topo.

Reinaga, Fausto (2013), *La Revolución India*. La Paz: WA-GUI.

Restrepo Botero , Darío I.; Peña Galeano , Camilo Andrés (2017), “Territories in Dispute: Tensions between ‘Extractivism’, Ethnic Rights, Local Governments and the Environment in Bolivia, Colombia, Ecuador and Peru”, in Gilles Carbonnier , Humberto Campodónico and Sergio Tezanos Vázquez (eds.), *Alternative Pathways to Sustainable Development: Lessons from Latin America*. Leiden: Brill Nijhoff, 269–290. DOI: https://doi.org/10.1163/9789004351677_013.

Rivera Cusicanqui, Silvia (1987), *Oppressed but not Defeated: Peasant Struggles among the Aymara and Qhechwa in Bolivia, 1900–1980*. Geneva: United Nations Research Institute for Social Development.

Rodríguez Garavito, César (ed.) (2011), *El Derecho en América Latina, un Mapa para el Pensamiento Jurídico del siglo XXI*. Buenos Aires: Siglo XXI.

Santos, Boaventura de Sousa (1995), *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition*. New York: Routledge.

Santos, Boaventura de Sousa (2002), *Toward a New Legal Common Sense. Law, Globalization, and Emancipation*. London: Butterworths.

Santos, Boaventura de Sousa (2006), “The Heterogeneous State and Legal Pluralism in Mozambique”, *Law & Society Review*, 40(1), 39–76. DOI: <https://doi.org/10.1111/j.1540-5893.2006.00258.x>.

Santos, Boaventura de Sousa (2007), *Para uma Revolução Democrática da Justiça*. São Paulo: Editora Cortez.

Santos, Boaventura de Sousa (2008), *A Gramática do Tempo: para uma Nova Cultura Política*. São Paulo: Editora Cortez.

Santos, Boaventura de Sousa (2009a), *Sociología Jurídica Crítica. Para un Nuevo Sentido Común en el Derecho*. Madrid: Editorial Trotta.

Santos, Boaventura de Sousa (2009b), *Una Epistemología del Sur*. México DF: Siglo XXI Editores.

Santos, Boaventura de Sousa (2010), *Refundación del Estado en América Latina. Perspectivas desde una Epistemología del Sur*. La Paz: Plural Editores.

Santos, Boaventura de Sousa (2014a), *Epistemologies of the South. Justice against Epistemicide*. Boulder, CO: Paradigm.

Santos, Boaventura de Sousa (2014b), *A Justiça Popular em Cabo Verde*. Coimbra: Almedina.

Santos, Boaventura de Sousa (2015), *O Direito dos Oprimidos*. Coimbra: Almedina.

Santos, Boaventura de Sousa (2018), *The End of the Cognitive Empire: The Coming of Age of Epistemologies of the South*. Durham, NC: Duke University Press.

Santos, Boaventura de Sousa Exeni Rodríguez, José Luis (eds.) (2012), *Justicia Indígena, Plurinacionalidad e Interculturalidad en Bolivia*. Quito: Fundación Rosa Luxemburg/Abya-Yala. Available at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-bolivia.

Santos, Boaventura de Sousa Gomes, Conceição (1998), *Macau: O Pequeníssimo Dragão*. Porto: Afrontamento.

Santos, Boaventura de Sousa Grijalva, Agustín (eds.) (2012), *Justicia indígena, Plurinacionalidad e Interculturalidad en Ecuador*. Quito: Fundación Rosa Luxemburg/Abya Yala. Available at www.rosalux.org.ec/producto/justicia-indigena-plurinacionalidad-e-interculturalidad-en-ecuador.

Santos, Boaventura de Sousa Mendes, José Manuel (eds.) (2017), *Demodiversidade: Imaginar Novas Possibilidades Democráticas*. Lisboa: Edições 70.

Santos, Boaventura de Sousa Trindade, João Carlos (eds.) (2003), *Conflito e Transformação Social: Uma Paisagem das Justiças em Moçambique*. Porto: Afrontamento.

Santos, Boaventura de Sousa Van Dúnen , José Octávio Serra (eds.) (2012), *Sociedade e Estado em Construção: Desafios do Direito e da Democracia em Angola*. Coimbra: Almedina.

Santos, Boaventura de Sousa Villegas, Mauricio García (2001), *El Caleidoscopio de las Justicias en Colombia*. Bogotá: Ediciones Uniandes-Siglo del Hombre.

Silverston-Scher, Melina (2001), *Ethnopolitics in Ecuador: Indigenous Rights and the Strengthening of Democracy*. Coral Gables, FL: North-South Center Press.

Thomas, Marc Simon (2017), *The Challenge of Legal Pluralism: Local Dispute Settlement and the Indian-State Relationship in Ecuador*. Abingdon, Oxon: Routledge.

Ticona, Esteban (2000), *Organización y Liderazgo Aymara. La experiencia indígena en la política boliviana, 1979–1996*. La Paz: Universidad de la Cordillera/AGRUCO.

Twining, William (2012), “Legal Pluralism 101”, in Brian Z. Tamanaha , Carol Sage and Michael Woolcock (eds.), *Legal Pluralism and Development: Scholars and Practitioners in Dialogue*. Cambridge: Cambridge University Press, 112–128.

Tzul Tzul, Gladys (2018), *Gobierno Comunal Indígena y Estado Guatemalteco: algunas claves críticas para comprender su tensa relación*. Ciudad de Guatemala: Instituto Amaq/Ediciones Bizarrras.

UN—United Nations Organization (2007), *Declaration on the Rights of Indigenous Peoples* . Resolution adopted by the General Assembly on September 13, 2007. New York: UN. Accessed in April 2018, at www.un.org/development/desa/indigenouspeoples.

Urioste, Miguel (2015), “La Contrarreforma Agraria en Bolivia”, Página 7, July 31, 2015. Accessed in May 2019, at www.paginasiete.bo/ideas/2015/8/2/contrarreforma-agraria-bolivia-65019.html.

Van Cott, Donna Lee (2003), “Andean Indigenous Movements and Constitutional Transformation: Venezuela in Comparative Perspective”, *Latin American Perspectives*, 30(1), 49–69. DOI: <https://doi.org/10.1177/0094582X02239144>.

Van Cott , Donna Lee (2005), *From Movements to Parties in Latin America: The Evolution of Ethnic Politics*. Cambridge: Cambridge University Press.

Waldron, Jeremy (2004), “Property and Ownership”, in *The Stanford Encyclopedia of Philosophy*. Accessed on June 2019, available at <https://plato.stanford.edu/archives/win2016/entries/property>.

Walsh, Catherine (2009), *Interculturalidad, Estado, Sociedad: luchas (de)coloniales de nuestra época*. Quito: Abya Yala.

Warren Kay B .; Jackson, Jean E . (2002), “Introduction”, in Kay B. Warren , Jean E. Jackson (eds.), *Indigenous Movements, Self-Representation and the State in Latin America*. Austin: University of Texas Press, 1–46.

Wily, Liz Alden (2018), “Collective Land Ownership in the 21st century: Overview of Global Trends”, *Land*, 7(2), 68. DOI: <https://doi.org/10.3390/land7020068>.

Yashar, Deborah (2005), *Contesting Citizenship in Latin America: The Rise of Indigenous Movements and the Postliberal Challenge*. New York: Cambridge University Press.

Yates, Donna (2017), “‘Community Justice’, Ancestral Rights, and Lynching in Rural Bolivia”, *Race and Justice*, 10(1), 3–19. DOI: <https://doi.org/10.1177/2153368717713824>.

Yrigoyen Fajardo , Raquel Z. (ed.) (2010). *Pueblos Indígenas, Constituciones y Reformas Políticas en América Latina* . Lima: IIDS.