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The demise of state legitimacy: is globalisation the villain of the piece?

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The legitimacy of the state has traditionally been a core element in how we understand the relationship between individuals and institutions in modernity. Its demise is therefore an important subject of analysis. The concept of globalisation has provided an important theoretical framework which explains many of the profound challenges to the legitimacy, and even existence, of the state. However, this framework risks perpetuating modernity's tendency towards oversimplification by focusing too much on the state in particular and geopolitics in general, over other sites and processes of governance. The complexities of the problems must be reflected in theories proposing to answer them.

INTRODUCTION

The nation-state could be said to be a defining element of the modern era. In theory "the modern state is a sovereign state... internally supreme over the territory it controls".[1] However, modernity's concept of the state, and even modernity itself, has become problematic, "coming under pressure from claims that we live in a time of globalisation", and that its "universalizing tendencies and transnational structural transformations" pose significant problems.[2] It is far

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[1] Mark Beeson, "Sovereignty under Siege: Globalisation and the State in Southeast Asia", *Third World Quarterly*, Vol. 24, No.2 (2003): 359 (quoting Laski, writing in 1925).
[2] Scott Veitch, Emilios A. Christodoulidis and Lindsay Farmer, *Jurisprudence: Themes and Concepts* (London: Routledge-Cavendish, 2007), 53; William I. Robinson, "Social

It is far

from certain whether the processes "discussed under the rubric of globalisation represent the demise of the paradigm of modernity", or simply mark a sub-paradigmatical shift *within* modernity.[3] In either case, there appear to be definite signs that the concept of the state is undergoing a "legitimation crisis" and in light of this it should be asked what impact the processes of globalisation have had on the legitimation of state power.[4]

THE PROCESSES OF GLOBALISATION

Defining globalisation can be difficult as what it "exactly means, the nature, extent, and importance of the changes bound up with the process, is hotly debated".[5] Despite, or perhaps because of, this, an analysis of globalisation is "acquiring a critical importance for the academic" whereas traditionally it has been the domain of the economist or international legal practitioner.[6] An account of globalisation should not define it purely negatively, in terms of the vacuum left by the decline of the state or the failure of traditional legitimacy, for power – "and Michel Foucault was not the only one to teach us this – fears and despises a vacuum".[7] Globalisation exists empirically and conceptually as presence, not absence. David Held defines globalisation as "a process (or set of processes) which embodies a transformation in the spatial organisation of social

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Theory and Globalization: The Rise of a Transnational State", *Theory and Society*, Vol. 30, No. 2. (2001): 157.

[3] Veitch et al., *Jurisprudence*, 198-9.

[4] Manuel Castells, *The Information Age: Economy, Society and Culture – Vol. II: The Power of Identity* 2nd ed. (Oxford: Blackwell, 2004), 334 (quoting Habermas).

[5] Difficult linguistically, as well as theoretically, for Santos refers to globalisation (singular) throughout his works yet has also claimed that there is no single process: "There are, rather, globalisations, and we should use the term only in the plural". Boaventura de Sousa Santos, *Toward a New Legal Common Sense* (London: Butterworths Lexisnexis, 2002), 178; Robinson, *Social Theory and Globalization,* 157.

[6] Robinson, *Social Theory and Globalization*, 157.

[7] Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2000), 13.

relations and transactions… generating transcontinental or interregional flows and networks of activity, interaction, and the exercise of power".[8]

One such globalising process is identified by Ulrich Beck in his theory of Risk Society as the "*globalisation of contingency*", the contingency consisting of the end of humanity by the hand of humanity, the exponential increase in the "*self-generated risks of technologised civilisation*", both real and imagined.[9] Risk possesses "an *inherent tendency towards globalisation*" because, not being generated by pathological community interactions which may be delineated territorially, it naturally transcends cæsurae between national and international, being felt not only at global but also local levels.[10] This led Beck to coin the term 'glocal', and indeed this 'glocality' is crucial to many analyses of globalisation and its effects on the state. Mathew Dillon's account of biopolitics is also centred on *contingency* but, *contra* Beck, does not categorise 'the contingent as risk' as some "epiphenomen[on] of the social that gives rise to something called risk society".[11] Instead, it is "the very principle of formation for the social" and while Beck argues that the social form itself is at risk, Dillon claims that "almost all of his examples, however, prove to the contrary" as modern capitalism appears capable of incorporating these risks into its logic.[12] This has generated the claim that globalisation is nothing new because

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[8] David Held, Anthony McGrew, David Goldblatt and Jonathan Perraton, *Global Transformations: Politics, Economics and Culture* (Stanford, California: Stanford University Press, 1999), 16.

[9] Risk Society is a reflexive second-modernity wherein "the problems and conflicts relating to distribution in a society of scarcity overlap with the problems and conflicts that arise from the production, definition and distribution of techno-scientifically produced risks." To further complicate matters, the perception of risk may be as important as risk itself. Ulrich Beck, *Risk Society:Towards a New Modernity* (London: Sage, 1992), 19; Ulrich Beck, *Power in the Global Age* (Polity Press, Cambridge, 2005), 250. Emphasis in original; Ibid., 252. Emphasis in original; Ibid., 257.

[10] Beck, *Risk Society*, 36. Emphasis in original; Beck, *Power in the Global Age*, 249.

[11] Michael Dillon, "Governing Terror: the State of Emergency of Biopolitical Emergence", *International Political Sociology* Vol.1, Issue 1 (2007): 9.

[12] Ibid., 9; ibid., 16.

modernity is *inherently* globalising: "capitalism has always functioned as a world economy, and therefore those who clamour about the novelty of its globalization today have only misunderstood its history".[13] Nevertheless, transnational interactions have undergone "dramatic intensification" in recent decades and no longer follow "the modernist pattern of globalisation as homogenisation", now displaying complexification and connectivity with other transformations irreducible to globalisation.[14] Whether this qualitative shift is an "epochal crisis" caused by a violent breaking-away from modernity or simply "structural adjustment within – rather than beyond – the confines of capitalism" is, however, unclear.[15]

Globalisation's ambiguity has led to numerous interpretations of its effects on modernity. Boaventura de Sousa Santos categorises these as belonging to either a *paradigmatic reading* or a *sub-paradigmatic reading*, prompted by two ideal-type audiences; the 'transformative' and 'adaptive', respectively. The transformative audience is the "more apocalyptic in the evaluation of fears" yet also the "more ambitious as to the range of historical possibilities and choices" that are opening up, although Beck's thesis, while self-situated within modernity (granted, an altered second-modernity), is both apocalyptic and ambitious.[16] Susan Marks, in contrast, provides a tripartite metatheoretical analysis of 'strong globalisation', 'globalisation scepticism' and 'weak globalisation' theses. 'Strong globalisation', asserts only that "the constraints within which national authorities operate have in some respects tightened", and thus is neither radical nor paradigmatic.[17] 'Globalisation scepticism' takes the position that *even this* goes too far in underplaying arguments for the empirical, and desirable, continuation of state power. It considers the 'strong globalisation' thesis to be ideological, creating "pathology of over-diminished expectations" to

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[13] Hardt and Negri, *Empire*, 8.

[14] Santos, *New Legal Common Sense*, 165; ibid., 166.

[15] Ibid., 175; ibid., 174.

[16] Ibid., 175; ibid.

[17] Susan Marks, The Riddle of all Constitutions: International Law, Democracy, and the Critique of Ideology (Oxford: Oxford University Press, 2000), 79.

discredit national strategies in light of international markets.[18] Between these poles, Marks describes the 'weak globalisation' thesis which, "while recognising the enduring powers and responsibilities of national governments", is sensitive to the non-national contexts of state decision and action.[19]

Santos, however, recognises that these readings are not necessarily mutually exclusive, and do not coexist merely at the theoretical level. Empirically, some processes are predominantly subparadigmatic and others predominantly paradigmatic, which leads to an element of chaos that mixes "both uncontrollable dangers and unsuspected emancipations".[20] Nevertheless, globalisation produces distinctly non-chaotic results, evident in the repetition of balanced dualisms: *globalised localism* and *localised globalism*, and also the phenomena of *subaltern cosmopolitanism* and the *common heritage of mankind*.[21] The complexities of interactions between these concepts – they "may apply to different phenomena, but they may also be different dimensions of the same phenomena" – highlight the subtleties involved in a convincing account of globalisation.[22]

Santos' definition of globalisation as "the process by which a given local condition or entity succeeds in extending its reach over the globe and, by doing so, develops the capacity to designate a rival social condition or entity as local" is at the core of this first dualism.[23] Globalised localism is the process by which a local phenomenon becomes globalised. This necessarily entails other potentially-globalisable phenomena being rendered 'local', and one globalised localism being imposed on other localities (which often leads to the criticism that globalisation is neo-colonialism, as the local roots of many globalisms are

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[18] Ibid., 80.

[19] Ibid., 80.

[20] Santos, *New Legal Common Sense*, 177.

[21] This term seems more appropriate than 'dichotomies' insofar as it reflects the rejection of mutual exclusivity.

[22] Santos, *New Legal Common Sense*, 179.

[23] Ibid., 178.

found in Western modernity). This argument is strengthened by the fact that core, Western, countries "specialise in globalised localisms, while upon the peripheral countries is imposed the choice of localised globalisms".[24] Santos therefore claims that globalisation could just as correctly be called *localisation* and that only "because hegemonic scientific discourse tends to prefer the story of the world as told by the winners" do we prefer one term over another.[25] Yet is our choice not because globalism is the defining characteristic of globalisation? While local phenomena may exist without globalism, the opposite is not true.

The final dualism, *subaltern cosmopolitanism* and the *common heritage of mankind*, is, conversely, paradigmatic. The former describes "counter-hegemonic practices and discourses" only possible in the progressive coalitions between *local* sites and people in the periphery of the capitalist world-system, though to some extent local sites are no longer distinct and "we continually find the First World in the Third, and Third in the First".[26] 'Common heritage' refers to issues which cannot be geographically bounded except at the level of the world as whole and which may create the space for new counter-hegemonic vocabularies of their own. Santos' fascination with emancipation is also clear when he says that even though globalisation has "created new terrains hospitable to tolerance, ecumenism, world solidarity and cosmopolitanism, it is no less true that new forms of intolerance, chauvinism and imperialism have likewise developed".[27]

This imperialism may be seen in Michael Hardt and Antonio Negri's account of globalisation as 'empire'. The term is not meant to elicit a simplistic comparison between contemporary globalisation and European colonialism. Neither does it indicate that globalisation is reducible to the present reality of America's international hegemony, for not even America can control a global order

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[24] Ibid., 179.
[25] Ibid., 178.
[26] Ibid., 180; Hardt and Negri, *Empire*, xi-xvi.
[27] Santos, *New Legal Common Sense*, 172.

defined by its "acephalous, anonymous and partly deterritorialised character".[28] The term instead indicates the emergent political order involved in the processes of globalisation. This order, this new sovereignty-of-the-whole, "manages hybrid identities, flexible hierarchies, and plural exchanges through modulating networks of command".[29] Santos would describe it as paradigmatic, certainly, but it sits uncomfortably with his dualisms for it is involved in the dissolution of all divisions and boundaries. "Empire posits a regime that effectively encompasses the spatial totality", reducing nations to locales, the *Other* to the internal-other and the enemy state to the *rogue state*.[30] Beyond geopolitics, totality is also present in Empire's presentation of itself as without temporal boundaries, an order that "suspends history and thereby fixes the existing state of affairs for eternity". [31] In keeping with this, totality is always-already in a crisis of coincident construction and corruption (in the classical sense) and is always-already being rendered legitimate in its construction of self-validating "social fabrics that evacuate or render ineffective any contradiction".[32]

LEGITIMATION OF STATE POWER

There are a number of grounds which can be added to Max Weber's original tripartite exposition of 'legitimate domination'.[33] Although Weber described the nation-state legitimacy as being of the 'rational' type, in many cases appeals to tradition (and claims that globalisation negatively affects such tradition) are also made. Tradition is a factor which has never been unproblematic, and which is not necessarily dependent on globalisation for its decline: the nation-state

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[28] Susan Marks, "Three Concepts of Empire", *Leiden Journal of International Law,* Vol.16, Issue 4 (2003): 904.

[29] Hardt and Negri, *Empire*, xii-xiii.

[30] Ibid., xiv.

[31] Ibid., xiv-xv.

[32] Ibid., 34.

[33] Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (2 vols.) (University of California Press, California, 1968), 215. This is the *Rational*, *Traditional* and *Charismatic* forms of authority.

captured "historical time through its appropriation of tradition and the (re)construction of national identity", though the result is an 'invented tradition', incapable of serious legitimation.[34]

It may also be argued that states "need something other than just democracy on which to ground the legitimacy of their domination".[35] States, according to Fritz W. Scharpf, instead have both democratic 'input-legitimation', and 'output-legitimation' based on the efficient production of solutions.[36] This interpretation is echoed in Ian Loader and Neil Walker's view of the state as the most democratic *and effective* security-provider, and their wish to foster "virtuous circles within which [democratic] legitimacy and effectiveness become, and are seen as being, mutually reinforcing".[37] Yet, according to Beck, the state is fundamentally unable to guarantee security for its citizens in the face of the "*perceived threat to humanity from the self-generated risks of technologised civilisation*".[38] Legitimation tied to the nation-state undergoes a crisis wherein "the citizens' duty of obedience *becomes null and void*".[39] At least, insofar as obedience is due to 'output-legitimation', for national-democratic legitimacy would appear unaffected by the failure of its, essentially ademocratic and not *necessarily* national, counterpart. That the state is in crisis at all is a claim some authors reject. Loader and Walker distinguish between 'pedigree' and 'priority', arguing that while there are many pedigree lines – "many forms of original authority" sitting alongside the state – this does not mean that "the state does not possess a stronger pedigree and should not prevail in the final instance".[40] Michel Foucault, however, would argue that this fails to

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[34] See, Eric Hobsbawm and Terence Ranger, ed.,*The Invention of Tradition* (Cambridge: Cambridge University Press, 1983); Castells, *Information Age*, 303.

[35] Beck, *Power in the Global Age*, 252.

[36] Input-legitimation is referred to by Scharpf as 'domination *by* the people'; output-legitimation as 'domination *for* the people'; ibid.

[37] Ian Loader and Neil Walker, *Civilising Security* (Cambridge: Cambridge University Press, 2007), 222.

[38] Ibid., 252. Emphasis in original.

[39] Ibid., 255. Emphasis in original.

[40] Loader and Walker, *Civilising Security*, 189; ibid., 190.

recognise that the techniques of government are visible in a plurality of relations not restricted to the state. For him the important process of modernity is "not so much the statization [*étatisation*] of our society, as the 'governmentalization' of the state" where 'government' for Foucault is simply a form of power, having as its object the surveillance and control of complex relations between people and things.[41]

That such governmentalisation may be seen in humanitarianism, once the preserve of states but now dominated by NGOs, undermines another possible source of state legitimacy; its place in the struggle for emancipation.[42] Santos describes this struggle as the tension between the two 'pillars' of modernity, emancipation and regulation. Regulation – of which the *state*, *market* and *community* are constitutive elements – functions to guarantee stability, establishing a limit for the possible (and thus legitimate) expectations generated by the vocabularies of emancipation. The collapse of emancipation into regulation, the crisis of modernity, has been brought about partly by the colonisation of emancipation by science/technology, which we know from Beck is fraught with risk, partly by the "overdevelopment of the principle of the market" to the detriment of the state, and partly by the hubris of modernity as a paradigm that seeks to develop both competing pillars in a simultaneous and self-sustaining process of progress.[43] As the nation-state becomes unable to "deliver its promise of greater emancipation", it loses both its legitimacy from effectiveness *and* from its place-in-emancipation.[44] The resulting increase in generalised contingency renders not only the dialogue between regulation and emancipation untenable, but also regulation itself as an element of state power for reasons which would be recognisable to a subscriber to Risk Society theory.

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[41] Michel Foucault "Governmentality", in *The Foucault Effect*, ed. Graham Burchell, Colin Gordon and Peter Miller (London: Harvester Wheatshear, 1991), 103.

[42] Insofar as one does not take the Marxist position on emancipation which sees emancipation-through-the-state as only partial, and even potentially harmful, as it does not emancipate man *from* the state. See Karl Marx, "On the Jewish Question", in *Karl Marx: Selected Writings*, ed. David McLellan (Oxford: Oxford University Press, 1977.)

[43] Santos, *New Legal Common Sense*, 9.

[44] Veitch et al., *Jurisprudence*, 199.

For Beck, however, this is not *necessarily* negative for where "experiential spheres and horizons of expectation become separated from one another" the re-opening of emancipation can be found.[45]

THE STATE OF THE STATE

Globalisation has certainly had profound effects on the legitimacy of state power, and on the "state of the state" itself.[46] The main effect, almost by definition (and it may be that the term 'globalisation' itself overdetermines analysis by invoking an inherently anti-national concept), is the displacement of the state from the centre of the global order to a position "in a network of interaction with supranational macro-forces and subnational micro-processes" as well as altogether *a*national processes.[47] Alongside the state, for example, Santos posits new 'structural time-spaces' of "the householdplace, the workplace, the marketplace, the communityplace, the citizenplace and the worldplace" into which politics is relocated.[48] These places map, to some degree, onto Foucauldian disciplinary institutions, and as well as being propagated by globalisation, are simultaneously rendered problematic by it. It becomes the case that "one is always still in the family, always still in school, always still in prison, and so forth" as these spaces elide, yet "the institutions work even though they are breaking down – and perhaps they work all the better the more they break down", becoming part of the omnicrisis of Empire.[49]

The effect of globalisation is not only the problematising of *place* (and geopower) but also the emergence of new forms of power, including Achille Mbembe's 'necropower'. An important geopolitical dynamic of this is the logic of fragmentation, visible in the occupation of Palestine, which involves rethinking traditional territoriality and embracing the "creation of three-

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[45] Beck, *Power in the Global Age*, 254.

[46] Ibid., 18.

[47] Castells, *Infomration Age*, 365.

[48] Santos, *New Legal Common Sense*, 17.

[49] Hardt and Negri, *Empire*, 197; ibid.

dimensional boundaries across sovereign bulks".[50] This creates a new 'politics of verticality' consisting of separations (and contestations) between the separate geographies of airspace, ground and subterrain that are coimposed on the same landscape. Globalisation-age wars become necropolitical *par excellence* as they break radically from the "conquer-and-annex territorial wars of modernity".[51] Rather than bounded colonies, the resulting political spaces are inextricably tangled patchworks of "overlapping and incomplete rights to rule" in which "plural allegiances, asymmetrical suzerainies, and enclaves abound".[52] Finally, the dialectic between outside and inside collapses; globalisation-as-empire "will no longer confront its Other and no longer face its outside, but rather will progressively expand its boundaries to envelop the entire globe as its proper domain" and in so doing reformulate war from seeking-conquest to the service of peace (further strengthening empire's legitimacy).[53]

The enemy, therefore, becomes "at once banalized (reduced to an object of routine police repression) and absolutized (as the Enemy, an absolute threat to the ethical order)".[54] National armies become, or compete with, *war machines* – "polymorphous and diffuse organisations... characterised by their capacity for metamorphosis" and spatial mobility – while the nation-states themselves are dissolved by globalisation into a plurality of "forms of the state in the second modernity".[55] Rather than replacing the nation-state, these sit alongside it and bring with them both insecurities and "opportunities opened up by cooperative transnational sovereignty", such as the counter-hegemonic globalisations of Santos.[56] Yet is this really an effect of globalisation? Historically, plurality of form appears the rule, rather than the exception: "the modern nation-state had a number of 'competitors' (city-states, trading pacts, empires)... which did not

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[50] Achille Mbembe, "Necropolitics", *Public Culture* Vol. 15, Issue 1 (2003): 27-28.

[51] Ibid., 31.

[52] Ibid.

[53] Hardt and Negri, *Empire*, 189.

[54] Ibid., 13.

[55] Mbembe, *Necropolitics*, 32; Beck, *Power in the Global Age*, 257-267.

[56] Ibid., 262.

disappear, but coexisted with the nation-state throughout its development in the modern age.[57] Although it has been claimed that the "metamorphosis of 'the real world' has generally had surprisingly little impact on the way international relations are conceptualised at a formal, theoretical, level", the traditional, Westphalian, theory of states as isolated sovereign entities that are the most important actors in the international arena has ceased to be dominant (if indeed it ever was).[58] Theorising, however, remains important because "the international system is a potentially fluid environment in which even the most seemingly fundamental 'structures' are to some extent discursively realised through the inter-subjective generation of meta-norms and values" – to critique globalisation may very well be more than a *merely* theoretical exercise.[59]

Beck also uses globalisation as an argument to extend political legitimacy by including what is necessarily removed from nation-states: the self-generated risks of modernity. Risks provide legitimation where political actors "are able to claim that they are working to avert" them because their shocking nature is "capable of creating a global consensus that in turn creates global power", though a consensus not tied to participation, and a power of highly ambiguous consequence.[60] Sufficient pressure is created to close the 'consensus gap' in democratic legitimacy; the distance between the difficulty in achieving consensus – which increases precisely as the political actors involved become more numerous – and the need to find such a consensus.[61] Yet this new

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[57] Castells, *Information Age*, 356.

[58] It is right here for 'real world' to appear as a qualified term, for just as traditional Westphalian internationalism is a discourse, so too is its critique, which may be argued has no more possibility of reaching the 'real' than what it critiques. As Jacques Derrida has said, *il n'y a pas de hors texte*. Beeson, *Sovereignty under Seige*, 359. Hardt and Negri, *Empire*, 4. See also *The Invention of Tradition*.

[59] Beeson, *Sovereignty under Seige*, 361.

[60] Beck, *Power in the Global Age*, 253.

[61] The term 'political actors' does not, here, refer only to states, as is the current trend with the term 'national actors'. The term 'national actors' *as state-synonym* is used to contrast states with supranational bodies: "an analytical convenience rather than a

legitimacy is inherently *a*democratic, procedurally (because of its 'globality') and because – here the ambiguous consequences appear – "as the perceived danger to humanity grows, so too does the people's willingness to cast off the fetters of democracy".[62] In comparison to this new "*global populism of defence against risk*" (where "political decision making has migrated from systems of national governance into economic, technological and scientific domains") traditional participatory democracy is presented as an idyllic relic.[63] Legitimacy-from-risk is also a radical break from legitimacy-from-efficiency, for *in*efficiency not only fails to diminish risk, but also exacerbates and even creates problems, and thus even more legitimacy wherein "a wrong response can cleanse itself of its wrongdoing in the waters of the problems to which it has contributed".[64] The continued existence of the state, rather than providing solutions, becomes an active cause of mistakes. Paradoxically, "as the mistakes that multiply people's woes increase, so too does threatened humanity's willingness to forgive those mistakes"; possibly even to the extent of forgiving the state's continued presence. [65]

Shifting bases for legitimation are also seen in the 'epochal juridification processes' described by Jürgen Habermas. These have both emancipatory and problematic aspects, for while the earlier epochs display "*freedom-guaranteeing juridification*", with the advent of what he calls the fourth epoch there is a growing ambivalence: not merely the emergence of unwelcome side-effects, but also inherent problems.[66] Scott Veitch has identified a possible subsequent fifth epoch in which the ambivalence mentioned above is weakened, not through

genuine erosion of the state". Nettl, J.P., "The State as a Conceptual Variable" *World Politics*, Vol.20, No.4 (Jul., 1968), 563.

[62] Beck, Power in the Global Age, 253.

[63] Ibid., 255. Emphasis in original. Gabe Mythen, *Ulrich Beck: a Critical Introduction to the Risk Society* (Pluto Press, London, 2004), 158.

[64] Beck, Power in the Global Age, 255.

[65] Ibid.

[66] Jürgen Habermas, *The Theory of Communicative Action vol. 2, Lifeworld and System: A Critique of Fuctionalist Reason* (Cambridge: Polity Press, 1987), 361. Emphasis in original.

solutions having been found to juridification's problems but through a weakening of the "trajectory of freedom-enhancing measures in the pursuit of social or public goods" (what Santos would describe as emancipation) in favour of the economic end of efficiency.[67] This touches upon not only the legitimacy argument provided by Scharpf, Loader and Walker, but also Foucault's 'governmentality', which is orientated not toward the common good but to the most convenient end for what is governed.

Discussions of sovereignty, unlike governmentality, often focus exclusively on the state's "superordinate status vis-à-vis inferior associations" and thus ignore analysis in light of biopolitics which, while it does not invalidate geopolitical boundaries, utterly reinvents them as sites of biopolitical emergence within and across borders.[68] Similarly, globalisation is often understood simply as an attack on the state's superordinacy by other geopolitical loci where a different definition ("the idea that national borders are becoming less important to the conduct of social life") can open the conceptual space for biopolitics.[69] The adjustment from geo- to bio-politics moves from dealing with *distribution* to dealing with *circulation* (from the supra-national to even the 'molecular' level), which characterises "a world understood in terms of the biological structures and functions" and relegates geographic territories to "a locale for the endless watch" on a newly hyper-contingent life form (or more accurately 'life process') of "Being as Becoming" wherein the primary threat is not technological contingency, but instead "the becoming-dangerous of life to life itself".[70] Despite its radical break from geopolitics, biopolitical government still finds its legitimacy in efficiency, "in the operational competence it displays as a service provider of emergency relief and emergency planner of emergence".[71] However, this competence is tested by the sheer unpredictability it faces and

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[67] Scott Veitch, "Legal Right and Political Amnesia", in *Europe in Search of 'Meaning and Purpose'*, ed. Kimmo Nuotio (Helsinki: University of Helsinki, 2004), 94.

[68] Nettl, *State*, 562.

[69] Veitch et al., *Jurisprudence*, 53.

[70] Dillon, *Governing Terror*, 11; ibid., 19; ibid., 18; ibid.

[71] Dillon, *Governing Terror*, 21.

the "hyperbolicisation of security that is so profoundly subverting the democratic politics and institutions of the west.[72] Even traditional Foucauldian biopolitics may be rendered problematic "by the many ways in which its very digital and molecular revolutions have transformed what it is to be a living thing in ways some call posthuman and postvital" where the vital sign of information-driven life becomes adaptive emergence, a quality which is no longer restricted to human, or even organic, life.[73]

Also, it may be argued that, despite all of this, the state exists "and no amount of conceptual restructuring can dissolve it".[74] Loader and Walker argue that "the state retains a key role in coordinating its various indispensable functions", and that its continuation is not only necessary but also *virtuous*.[75] They insist that the state's "authority-in-the-last-instance" remains necessary because neither sub- nor supra-state levels have a sufficient sense of community or solid enough institutions to justify priority for such functions.[76] Of course, many of the public arguments for the state's continuing importance do not display Loader and Walker's intellectual rigour, but instead populist oversimplification. These claims are often of a "surge of violence and repression" from states around the world or about their "unprecedented stock of information" and technologies of surveillance.[77] However, states are unable, even through violence (repression may itself be the state's death-gasp, a reaction to unalterably diminishing power), of controlling technologies which are also pressed into service for groups engaged in *subaltern cosmopolitanism*. Simplistic arguments fail to recognise "surveillance way beyond the boundaries of the state" not solely *by* the state: it is a feature of government in the Foucauldian sense.[78]

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[72] Ibid., 11.

[73] Ibid., 21.

[74] Nettl, *State*, 559.

[75] Loader and Walker, *Civilising Security*, 189.

[76] Ibid.

[77] Castells, *Information Age*, 340; ibid.; technologies of surveillance are critiqued in the chapter "the state as idiot" in Loader and Walker, *Civilising Security*, 117 onwards.

[78] Castells, *Information Age*, 342.

CONCLUSION

"The concept of globalisation has generated heated debate and a voluminous literature" without conclusively answering to what extent the processes of globalisation have affected state legitimacy.[79] This concept has, however, made it possible to speak about many of the problematic changes facing the state-in-modernity, and modernity itself, and has raised important questions about how power is held to account. Nevertheless, accounts of power cannot fully be captured by such a concept. To concentrate too closely upon the state's demise is as limiting as concentrating on its continuance and threatens to close off the theoretical space in which other important processes may be situated.

States face further problems in their attempts to reintroduce legitimacy. Looking inward by enacting processes of democratic decentralisation simply "reinforces centrifugal tendencies by bringing citizens closer to government but increasing their aloofness toward the nation state".[80] However, looking outward by seeking to provide "legitimacy for and ensuring the accountability of supranational and subnational governance mechanisms" remains outwith the state's reach.[81] Even to accept "systemic erosion of their power in exchange for their durability" will leave states with no means to protect their durability when it is next challenged.[82]

These problems will increase rather than diminish and the legitimacy of state power will face further challenges as the processes of globalisation follow their totalising logic either within (albeit 'late') modernity or into a new paradigm altogether. However, it is important not to let the state narrow our investigations into the processes of globalisation, nor to reduce the problems of

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[79] Beeson, *Soverignty under Seige*, 361.

[80] Castells, *Information Age*, 303.

[81] Ibid., 357. Quoting Paul Hirst and GrahameThompson, *Globalization in Question : the International Economy and the Possibilities of Governance* (Oxford: Polity Press/Blackwell, 1996), 171.

[82] Castells, *Information Age*, 331.

the state to the effects of these processes. The state has always been a problematic entity, and globalisation, while it may emphasise or exacerbate its problems, it is not the only villain of the piece.

REFERENCES

Beck, Ulrich. *Power in the Global Age*. Polity Press, Cambridge, 2005.

_____. *Risk Society: Towards a New Modernity*. Sage, London, 1992.

Beeson, Mark. "Sovereignty under Siege: Globalisation and the State in Southeast Asia." *Third World Quarterly*, Volume 24, Number 2 (2003): 357-374

Castells, Manuel. *The Information Age: Economy, Society and Culture – Volume II: The Power of Identity*, 2nd edition. Oxford: Blackwell Publishing, Oxford, 2004.

Dillon, Michael. "Governing Terror: the State of Emergency of Biopolitical Emergence." *International Political Sociology*, Volume 1, Issue 1 (2007): 7-28.

Foucault, Michel. "Governmentality." In *The Foucault Effect*, edited by Graham Burchell, Colin Gordon and Peter Miller, 87-105. London: Harvester Wheatshear, 1991.

Habermas, Jürgen. *The Theory of Communicative Action volume 2, Lifeworld and System: A Critique of Fuctionalist Reason*. Cambridge: Polity Press, 1987.

Hardt, Michael, and Antonio Negri. *Empire*. Cambridge, Masschusetts: Harvard University Press, 2000.

Held, David, Anthony McGrew, David Goldblatt and Jonathan Perraton. *Global Transformations: Politics, Economics and Culture*. Stanford, California: Stanford University Press, 1999.

Hirst, Paul, and Grahame Thompson. *Globalization in Question: the International Economy and the Possibilities of Governance*. Oxford: Polity Press/Blackwell, 1996.

Hobsbawm, Eric, and Terence Ranger (editors). *The Invention of Tradition*. Cambridge: Cambridge University Press, 1983.

Loader, Ian, and Neil Walker, *Civilising Security*. Cambridge: Cambridge University

Press, 2007.

Marks, Susan. *The Riddle of all Constitutions: International Law, Democracy, and the Critique of Ideology* . Oxford: Oxford University Press, 2000.

Marks, Susan. "Three Concepts of Empire", *Leiden Journal of International Law*, Volume 16, Issue 4 (2003): 897-913.

Marx, Karl. "On the Jewish Question." In *Karl Marx: Selected Writings*, edited by David McLellan, 39-57. Oxford: Oxford University Press, 1977.

Mbembe, Achille. "Necropolitics." *Public Culture*, Volume 15, Issue 1 (2003): 11-40.

Mythen, Gabe, *Ulrich Beck: a Critical Introduction to the Risk Society*. London: Pluto Press, 2004.

Nettl, J.P., "The State as a Conceptual Variable." *World Politics*, Volume 20, Number 4 (1968): 559-592.

Robinson, William I. "Social Theory and Globalization: The Rise of a Transnational State." *Theory and Society*, Volume 30, Number 2 (2001): 157-200.

Sousa Santos, Bonaventura de. *Toward a New Legal Common Sense*. London: Butterworths Lexisnexis, 2002.

Veitch, Scott, Emilios A. Christodoulidis and Lindsay Farmer. *Jurisprudence: Themes and Concepts*. London: Routledge-Cavendish, 2007.

Veitch, Scott. "Legal Right and Political Amnesia." In *Europe in Search of 'Meaning and Purpose'*, edited by Kimmo Nuotio, 89-106. Helsinki: University of Helsinki, 2004.

Weber, Max. *Economy and Society: An Outline of Interpretive Sociology* (2 volumes). University of California Press, California, 1968.