Law and Critique (2023) 34:207–226
https://doi.org/10.1007/s10978-022-09325-2

Our Legal Borders: Interrelated Constructions of Individual and Political Bodies

Stephen M Young[1]

Accepted: 1 June 2022 / Published online: 17 July 2022

Abstract
In liberal democracies that were British colonies, law constructs the linkages and distinctions between individual and political bodies. Legality re-iterates the form of an ancient construct called the King's Two Bodies. The legal construction of these bodies ensures that their borders are continuously and perpetually contested and transgressed, and different modalities of power have arisen to take advantage of them. Additionally, in times of mass insecurity or crisis, we might believe that we need to fix our (personal or political) borders and construct them in more solid ways. However, because other modalities of power take advantage of these borders, even if legal reconstruction can momentarily assuage concerns, it is argued here that legal processes construct borders around individual and political bodies to ensure the (re)production of those contests and crises.

Keywords Borders · Boundaries · King's two bodies · Imperial · Colonial · Crisis

Introduction

If we want to use legal processes to combat or address epidemics or crises, like climate change, famine, and obesity, or advance decolonisation, anti-racism, anti-sexism, and anti-imperialism, then those of us in the (international) legal discipline must attend to, rethink, and question how using law constructs and maintains borders (Tuck and Yang 2012; Park 2020; Kennedy 2002, p. 386). In times of insecurity or crisis (Charlesworth 2002), we might believe that we need the law to construct individual or political borders in ways that appear more solid or impenetrable. As argued here, at the point one could advocate for constructing individual or political borders, legal-

✉ Stephen M Young
stephen.young@otago.ac.nz

[1] University of Otago, Dunedin, New Zealand

ity has already created and constructed those borders and their interrelation so that clusters of factors can be analysed as a crisis, event, or drama that requires legally re-constructing borders. Furthermore, those legal constructions have been inseparable from other modalities of power that permeate, exploit, and take advantage of individual or political borders to produce insecurity (Harvey 1998; Balke 2005; Shaw 2020). Accordingly, legally reconstructing borders will also enable those other modalities of power that permeate, exploit, and take advantage of those borders.

Legality requires linking and relating a jurisdiction to a legal person, which re-constructs borders around individual and political bodies to structure life as a drama or an event for dispute adjudication. For Lauren Berlant, this involves a discourse on sovereignty, which has been viewed as 'the foundation of individual autonomy' that links to and 'overidentifies the similarity of self-control to sovereign performativity and state control over geographical boundaries' (2007, p. 755). Individual autonomy *overidentifies* self-control and state control because other modalities of power are involved and always have been. However, law depends upon and constructs borders around individual bodies and political bodies to provide a 'militaristic and melodramatic view of agency' (Berlant 2007, p. 755). These dramas are alluring because legally re-constructing borders can assuage feelings of insecurity. It can affirm a desire for autonomy, belonging, rational decision-making, or control. It can produce a sense that law is about (individual or political) sovereignty or control. We might then believe or desire that we (as sovereigns) can wield law to control or fix crises and epidemics, like famines, obesity, poverty, colonisation, racism, sexism, and imperialism. But legality is inseparable from other modalities of power that permeate, exploit, or transgress those borders. In place of control, the law reproduces the liberal humanist 'natural' body alongside the re-produced sovereign political body to performatively reduce complex, overdetermined, and bewildering forces as identifiable events (Johns et al. 2010, p. 6; Reisman 1988). Law does that well to issue a binding decision. However, those processes of framing necessarily limit our ability to apprehend how using those processes already involves producing the conditions for crises and epidemics (if not pandemics).

Instead of expanding inclusions or universalising legality to further produce the illusion of control over events, we need to learn how to unlearn the state of reproducing borders that we are in. We must delink and dismantle these ontologies of being, self-possession, desire, and exchange that depend on multiple forms of powers of exploitation. That is, the overarching aim of this project, and the scope of this article is more modest. This article investigates how law constructs borders of individual and political bodies, their interrelation, and how law is inseparable from other modalities of power. It also investigates how constructing borders of individual and political bodies provides the illusion that law primarily involves discourses of sovereignty and is otherwise separate from other powers. To make this argument, the first section provides a brief account of the King's Two Bodies – where one is a political body and one the so-called 'natural' body (Maitland [1901] 2012, p. 36). Here, the King's Two Bodies usefully suggests a sovereign legal construction that interlinks an individual and political body. But it is also inseparable from other modalities of power, including religion, and disciplinary powers like history, politics, economics, as well as biopolitics, governmentality, and imperialism, and those connections are

also perpetuated in contemporary legal discourse. To show how that is reproduced and critiqued, the following section examines the work of three scholars. In the first, Susan Marks examines suggested interventions to alleviate poverty and famine through development. The second is Anne Orford's examination of narratives that suggest interventions in humanitarian crises. The third is Lauren Berlant's consideration of how legal discourse and other analytics understand obesity. Each criticises a contemporary re-iteration of the King's Two Bodies and then searches for alternatives. In doing so, each performatively demonstrates how legal disciplinary borders can be reproduced and transgressed.

The King's Two Bodies and Our Bordered Confines

The borders of our individual and political bodies have been legally constructed in interrelated ways. The notion that individual bodies are interrelated to political bodies has a plump history in law, which the English particularly (but not exclusively) demonstrate. For instance, in *King Henry V*, Shakespeare wrote about the King's '[t] win-born' status, a 'kind of god' who remains 'subject to the breath / Of every fool' (IV.i.254 ff. as cited in Kantorowicz [1957] 2016, p. 24). Hobbes's Sovereign had two bodies and English jurists like Plowden, Coke, and Blackstone held similar views (Maitland [1901] 2012, pp. 35–37).

Ernst Kantorowicz recites Plowden's explanation that '[t]he King has in him two Bodies, viz., a Body natural, and a Body politic' (Plowden 1816, p. 2122 as cited in Kantorowicz [1957] 2016, p. 7), and as much as the political and natural bodies are distinct, they also 'form one unit indivisible, each being fully contained in the other' (Kantorowicz [1957] 2016, p. 9). For Kantorowicz, the perplexing or illogical nature of the seemingly secularised King's Two Bodies was a re-iteration of the Catholic religious-legal-political economy, but a re-iteration that appears to have shed its religion. The *corpus mysticum*, or mystical body, of the Church changed over time and became like a political body (Kantorowicz [1957] 2016, pp. 196–197). The 'mystical body of Christ', comprised of the Church and clerical bureaucracy, was known in the secular world as the 'holy Empire' (Kantorowicz [1957] 2016, p. 197). In the twelfth-century, 'both theologians and canonists began to distinguish between the "Lord's two Bodies"—one, the individual *corpus verum* on the altar, the host; and the other, the collective *corpus mysticum*, the Church' (Kantorowicz [1957] 2016, pp. 197–198). By the beginning of the thirteenth-century, the host had transformed from *corpus verum* into an individual body (*corpus personale*) and then it became a natural body (*corpus natural*). For Kantorowicz, this split between the individual as natural and the Church as political is 'the precise precedent of the "King's two Bodies"' ([1957] 2016, p. 199). Kantorowicz's ecclesiastical, political, and legal approach is the pre-history of Frederic Maitland's theory, which helps explain how the English re-iterated the King's Two Bodies and, in doing so, transformed it for colonial-imperial purposes.

Maitland helps explain why the King's Two Bodies was useful. The King/Queen might die (individual body), which creates a problem of continuity of authority that is solved by asserting that the King/Queen (political body) never dies. At some level,

this makes sense. Individual bodies die; the political body does not. That did not solve everything. Initially, all authorities delegated from the sovereign would have to stop when a King/Queen (natural body) died, so '[a]ll litigation not only came to a stop but had to be begun over again' (Maitland [1901] 2012, p. 37). Delegated legal authority was only able to continue after Parliament passed laws enabling its continuation upon the sovereign's (individual body) death. There is insufficient space to detail the struggles between Parliament and Monarch, but it shows that Parliament used legal authority to perpetuate sovereign delegated legal authority (of course, with sovereign assent). For Maitland, the ability to continue delegated legal authority upon the sovereign's demise occurred immediately after Henry VIII dissolved the monasteries in England, which is on the precipice of England's venture into colonialism through conquest and occupation (Miller et al. 2010, pp. 16–19). English re-iteration of Catholic religious-legal-political economy transformed the Church's 'holy empire' into the King's Two Bodies so that law appears to have authorised itself (deriving from Parliamentary Supremacy) throughout the sovereign's expanding colonial jurisdiction.

In this way, (delegated) legal authority was delinked from the monarch's individual body and became more associated with the sovereign's political body, which then became re-associated with the individual body. For Maitland, this was 'never logically formulated' and it has odd consequences, like how 'we are plunged into talk about kings who do not die, who are never under age, who are ubiquitous, who do no wrong and … think no wrong' ([1901] 2012, pp. 36–37, footnotes omitted). Law inflects the monarch's 'natural' body, which throws into question the relationship between law, nature, and body. Another effect is the degree to which law, itself, becomes relatively autonomous or abstracted as it remains somehow associated with 'real' sovereign power. It also inspires multiple differentiations. One is that the King is not the public. Another is that the King is not the state, but the state is the King because the King is the head of the aggregation of corporations that can be called 'the Crown' (Maitland [1901] 2012, p. 41). Even if legality appears relatively autonomous and related to sovereignty, it was inseparable from colonialism, politics, economics, or other technologies of powers.

For example, the English King granted charters for business enterprises to acquire and govern territories for profit-motivated trade purposes, which was a form of English colonialism. Based upon the legal doctrine of discovery, Europeans who discovered lands that had not already been claimed by an European sovereign (a 'Christian Prince') could claim it on behalf of their sovereign (Miller et al. 2010, pp. 6–8). In 1606–1607, King James I issued Royal Charters to the Virginia Company to establish the Colony of Virginia. It granted a joint-stock company the right to govern, and all colonists would have rights and immunities as if they were in England. It was (largely) motivated by profit but justified in law and through the Royal Charter. The company took on the debts (a type of 'national debt'), which 'the public' of the colony would repay. To ensure repayment, the colony instituted legal, social, and political-economic structures to produce and alienate surplus value. This required dispossessing native people of their lands and restructuring their social networks (see Nichols 2020). Continuous conflicts with native peoples initially generated questions

about the financial viability of the colony, but more colonists arrived to farm crops for export.[1] It became finically viable but expanded most after the Restoration.

In 1663 Charles II granted some of his supporters a new charter over some lands formerly in Virginia to become called the 'Carolinas'. John Locke would help draft its Constitutions. Under this colonial scheme, commoners would establish farms and elites would accumulate wealth through chattel slavery on plantations. Locke's system of private property admits that Native Americans had usufruct rights to land, but denies them ownership. The British concept of private property and its relation to wealth accumulation destabilised Indigenous tribes in multiple ways, but, as discussed here, particularly through slavery. Although European slavery of Native Americans and Africans started almost immediately upon first contact, and some Native Americans had slaves before contact with Europeans (Chang 2020, p. 21), in the early eighteenth-century the French negotiated an alliance with the Choctaws to purchase slaves from them. The French believed this would make British-Indigenous trade throughout the Mississippi valley more difficult (Krauthamer 2013, p. 18). The slave trade of Native Americans had far-reaching implications (Gallay 2002), particularly as the commodification of slaves changed aspects of Native American practices of slavery and their societies. Where Choctaws were willing to raid other tribes and sell them as slaves to Europeans, it undermined the stability of Indigenous matrilineal societies in the south. Selling Indigenous women to Europeans who, in turn, sold them to planters alongside African slaves bolstered colonial political-economic plantations. It fed colonialists' desire for agricultural land, and, because it primarily involved capturing and selling Indigenous women, weakened some Native American matrilineal societies. This led to the Yamasee War (1715–1717), which was coterminous with the end of the slave trade of Native Americans, an increase in the Trans-Atlantic slave trade, and the creation of South Carolina as a Royal Colony (Ramsey 2008, p. 2). As African chattel slavery increased, southern Native Americans continued trading with Europeans and some began embracing chattel slavery, which resembled European slavery.

Following the U.S. revolution, South Carolina became a state within the U.S.'s sovereign state-empire. The radical and revolutionary rejection of monarchical tyranny appeared to shed colonialism alongside the King's Two Bodies, perhaps similar to how the English appeared to shed monasteries and Catholicism. Likewise, this re-iteration was transformational. For Maitland, the King was neither the public nor the state. Under the U.S., the people became sovereign, or rather the people became the sovereign guarantors of the Constitution, which is perpetuated through legally incorporated forms. For Derrida, the 'we' of the 'people' who declare themselves free and independent is indeterminate, differentiated, and permanently deferred (Der-

[1] Over the next few paragraphs I employ the terms "Natives American" and, to a lesser degree, "Indigenous". I use those terms to refer generally to the Choctaw, Cherokee, and Creek peoples. The works I cite often use the term "Indian", which is used in US legal discourses but not generally a preferred term internationally. The most accept international term is "Indigenous peoples". While it is the best for international legal purposes, it can be problematic at local or domestic levels. I discuss that in Stephen Young, *Indigenous peoples, consent, and rights: Troubling Subjects* (Routledge, 2020). It is unlikely there is a term that everyone will find acceptable in all situations, especially given the heterogeneous interests that exist now and historically.

rida 1986). The sovereign is present as an absence that is legally constituted and represented through its citizen representatives. The bodies of individual citizens both constitute the sovereign people and its subjects. Linking individual bodies with the political body was both racialised and sexed. People within Europe had drawn many distinctions among themselves, but their amalgamated self-interests and self-identity as white and their self-placement at the top civilisational hierarchy 'imposed a system of racial stratification on the rest of the world' (Gallagher 2007, p. 10). The signatories of the U.S. Declaration were white men, and Barbara Young Welke explains that throughout the nineteenth-century the U.S. citizen was constructed in the image of an able-bodied, white man as interlinked with the American political body and its excluded or impoverished others (2012, p. 141; see also Longo 2018). In adopting the white male as the representational norm for the individual citizen and the political body, U.S. agents viewed Native American and African peoples as lesser-civilised humans who did not need the full rights of citizens.

Accordingly, U.S. agents adopted policies to acquire Indigenous lands and 'civilise' Native Americans (Krauthamer 2013, p. 28). They used legality, trade, credit/debit services, and slavery to create pressures and change society as slaveholding increased. Krauthamer explains that '[s]laveholding Indian men owned and controlled enslaved women and men and their labor … in ways they had never possessed Indian women' (2013, p. 33). Their land was still held communally, but owning humans-as-property allowed individual Native American (male) slaveholders to accumulate wealth and the benefits of that labour as they devalued societal reliance on women's agricultural labour (Krauthamer 2013, p. 33–34). In 'stigmatizing the racialized, laboring bodies of black men and women[,] [s]laveholders reworked the meaning of labor and gender in tandem with their understandings of racial hierarchy' (Krauthamer 2013, pp. 33–34, footnote omitted). A majority never participated in slave-owning or trade, but an elite minority did. In accumulated wealth, property, and power in exchanges that the U.S. supported, they began forming national identities to protect their interests. As one example, American agents supported and encouraged 'the centralization of Creek power in a national council' to construct 'a national state: a national council and police force to protect the new order of property' (Chang 2010, p. 18). A Creek majority fought against that as the U.S. encouraged it to undermine communal land ownership and facilitate assimilation into civilised society.

The U.S. and its agents pursued additional policies to alienate southern Native American peoples from their lands or 'remove' them, and many resisted. In 1827, the Cherokee Nation adopted a governmental Constitution 'to declare … they were a sovereign nation that could not be removed without their consent' (Garrison 2018). In legally constituting itself as a political body and declaring self-possession, the U.S. recognised that. In 1831, the U.S. Supreme Court confirmed that the Cherokee Nation was sovereign as a 'domestic dependent nation[ ]' of the U.S. (*Cherokee Nation v Georgia*, para. 13). This legalised and libidinal configuration of Native American nations as *domestic* dependent nations can be thought of, 'grasped and effected in terms of sexuality' (Tadiar 1993, p. 219, as cited in Smith 2015, p. 8). By the mid-1830s, the U.S. negotiated agreements and forcefully removed southern Native Americans to reservations in present-day Oklahoma. Indigenous lands that are now in South Carolina and Georgia 'quickly became the United States' "kingdom"

of cotton' (Krauthamer, p. 41). Through legally individuated, raced, and sexed bodies of 'lesser' civilised humans, the U.S. asserted authority over tribal political bodies. Those processes were indissociable from racialisation, which determined who could own and who could be owned.

Legal recognition of racialised and sexed bodies did not deny their humanity. It selectively recognised them as lesser civilised humans as interlinked to the formation of the political body. For Saidiya Hartman, legal recognitions that slaves were humans and property intensified the terror of chattel slavery. Enslaved black women were treated as property and did not own one's self – they were fully alienated from self-possession – so that they could not bring legal claims against their rapists/owners. But cases like *State of Missouri v Celia, a Slave* and *Alfred v State* recognised black slaves as culpable humans when they were criminal defendants for killing their rapists/owners (Hartman 1997, p. 80). These legal processes construct borders around individuals as self-possessed individuals to criminalize them and that makes the terror of the legal system unspeakable. That silencing benefits certain individual and political bodies. As Hartman writes, '[i]n positing the black as criminal, the state obfuscated its instrumental role in terror by projecting all culpability and wrongdoing onto the slave' (1997, p. 82). It constructed borders around the black criminal as a (partial) human, which was interlinked with and supported the formation of the state's political body and its owners. In doing so, the legal system displaced the legal state of terror of black enslavement with black criminality (Hartman 1997, p. 83).

Another effect was that emancipation from slavery entered black Americans into a system where they were second-class citizens. Their freedom required self-possession, which had already been constructed and authorised as a demanding and exacting indebtedness of affect and exchange (Hartman 1997, p. 112). In writing of postbellum U.S., Hartman notes that 'while the inferiority of blacks was no longer the legal standard, the various strategies of state racism produced a subjugated and subordinated class within the body politic, albeit in a neutral or egalitarian guise' (1997, p. 10). Extending the legal citizenship status that white Americans had to black Americans was unequal. Universalising legal equality, when imbricated with other powers, does not produce equality. It produced alienation and urbanisation.

The U.S. provides compelling case studies for this topic, but focusing on this one does not reveal how similar processes occurred throughout former British colonies that became liberal democratic settler-states. Canada, Australia, and New Zealand retained the Crown, although their own versions of it, and membership in the British Commonwealth. But like the U.S., each adopted civilisational hierarchies that divided humanity into fuller and lesser forms for inclusion/exclusion in their political bodies. Basaran (2008) argues that the legal political practices of liberal states produce and depend upon the illiberal practices on the bodies of people who are excluded at its borders. Uday Mehta confirms that throughout the 18th and 19th centuries it was:

> [L]iberal and progressive thinkers … [who] endorse[d] the empire as a legitimate form of political and commercial governance; who justify and accept its largely undemocratic and nonrepresentative structure; who invoke as politically relevant categories such as history, ethnicity, civilization hierarchies, and occa-

> sionally race and blood ties; and who fashion arguments for the empire's at least temporary necessity and foreseeable prolongation. (1999, p. 2)

In the twentieth-century, empires became states that formalised international law. It perpetuated gendered effects (Charlesworth et al. 1991). It also had racial effects. Maldonado-Torres (2017) argues that international human rights law re-iterates the 'rights of man' in the U.S. Declaration of Independence and French Declaration of the Rights of Man and the Citizen. That reproduces European ontologies through legal structures, which 'defines and delimits the space of authentic humanity and separates it from lesser forms of humanity' (Maldonado-Torres 2017, p. 122). On this view, the individual body that has full humanity is a white male, and non-white, non-males are lesser. Because international human rights are claimed against state political bodies, it also re-iterates the King's Two Bodies. It encourages and obligates political bodies to become interlinked in (re)producing racialised and gendered borders of individual bodies.

Today, many discussions, narratives, and debates about the borders of political bodies involve contests over bodies, and debates about bodies involve borders. Over the last twenty years or so, an interdisciplinary field of research called 'border studies' has proliferated Anzaldúa 1987; Brunet-Jailly 2005; Parker and Vaughan-Williams et al. 2009). Some legal scholars focus on the borders of political bodies too (Dudziak and Volpp 2006), as are those who are interested in postcoloniality, migration, immigration, or refugee studies wa Mutua 1995; Maldonado-Torres 2017; El-Enany 2020; Achiume 2021). Regarding individual bodies, there is a significant amount of legal scholarship on feminism, queer studies, and race that questions the 'naturalness' of the body (Spivak 1988; Matsuda 1996; Hartman 1997; Butler 2004; Halley 2016; Bey 2022). There is a notable legal interrelation of political bodies and individual bodies that creates borders and linkages between them. That interrelation predates colonialism, but became a colonial, imperial and state construct that involves classifying and regulating bodies within a civilisational hierarchy of humanity (Mills 1997, p. 11).

Discourses on sexuality or 'scientific' racism link supposedly natural bodies to the health and reproduction of political bodies, which can be ascertained through a biopolitical analysis (Foucault [1975–1976] 2003). That analysis helpfully diagnoses the interlinking of individual and political bodies, even though they appear to have shed the sovereign powers or their Monarch. Contemporary iterations of the King's Two Bodies have not abandoned sovereign powers, so much as they have been transformed through re-iteration. For Slavoj Žižek, one effect is that contemporary formal democracies that replicate the King's Two Bodies are antidemocratic totalitarian regimes (1989, p. 163, fn. 8). The mystical personification of the political body is constructed and legitimised through the performative construction of the people, nation, and state so that individuals both constitute the sovereign and its subjects (Žižek 1989, p. 165). It appears democratic but is totalitarian because there is no outside or exit from within this symbolic order. However, wherever power is exercised, whether it is a political or individual border or their interrelation, it can become a site of struggle. As an example, Judith Butler argues that performatively re-iterating linguistic and social formations may become insurrectionary in ways that challenge

hierarchical and supposedly naturalised powers (1997, p. 160). Denaturalising these borders can reveal their plasticity and instability. Re-iterations can generate new significations and interests, differences, and futures in ways that 'can only produce anxiety in those who seek to patrol its conventional boundaries' (Butler 1997, p. 161).

This may suggest that law can, or even must, be one aspect of that struggle, especially where imperialism and colonialism have had effects. But there is a problem in using legality to intervene in the lives of those who have been unduly impacted and miscategorised as less than human. That would require identifying individuals, connecting them with political bodies, and understanding aspects of their lives as events that require intervention and redress. As the next section explores, that requires reasserting the King's Two Bodies. As a performative re-iteration, the desire may be to re-direct sovereign powers. But the King's Two Bodies show that has continuously involved other modalities of power, which we have inherited and re-iterate. In the same way our individual and political bodies have been constructed and re-iterated, so to have our desires. As such, performative re-iterations do not necessarily operate in the way one wants or desires. It is not amenable to acts of will. Nor does repetition guarantee subversion or counter-hegemonic effect. Performative re-iterations of the King's Two Bodies 'augments state power, [and] accepts the state as the necessary venue for democratization itself' (Butler 2000, p. 176). That may include more individuals within the state's political body. That will not delink these bodies or 'dismantle the dominant term, and … return to non-state-centred forms of alliance that augment the possibility for multiple forms on the level of culture and civil society' (Butler 2000, p. 177). To see how that operates in contemporary contexts in addition to attempts to think around it, the next section analyses and critiques suggested interventions as re-iterations of the King's Two Bodies.

Reproduction and Critique of Borders

This section examines some work from Marks, Orford, and Berlant. They analyse suggestions for legal interventions and show that those interventions appear desirable because legal discourse elides its connection to other modalities of power and the way legality helped produce the epidemics or crises. In repurposing their arguments, each makes four analytical movements, although in different ways and contexts, and not necessarily according to this sequential order. First, each examines how other scholars suggest an intervention in a crisis or epidemic: poverty and famine (Marks), humanitarian crises (Orford), and obesity (Berlant). Second, they analyse how those interventions appear desirable because the suggestions re-iterate the King's Two Bodies by drawing borders around individual and political bodies. Third, they show that legal intervention appears desirable because those discourses elide how previous legal interventions were involved in producing those situations alongside other powers. Fourth, perhaps most importantly, they search for alternatives.

Marks – Development's Poverty

In 'Human Rights and the Bottom Billion', Marks (2009) investigates legal discourses on development and poverty. In doing so, Mark excoriates Paul Collier's (2007) approach in *The Bottom Billion*. Marks also analyses two human rights approaches to development and Mike Davis's work on famines and natural disasters. The analysis here is limited to Marks's use of Collier's and Davis's work.

For Collier, 'All societies used to be poor' (2007, p. 5, as cited in Marks 2009, p. 46). Today, those who are poor live in states that failed to develop as a result of four 'traps':

1. A conflict trap, such as civil war, unrest, or coups;
2. a natural resource trap, where a natural resource leads to conflicts;
3. a trap where the poorest are landlocked and bad neighbours take advantage of that; and
4. a bad governance trap, where the population is not educated, they have bad governance, and they have limited means of correcting those problems (Marks 2009, pp. 38–39).

When these 'traps' are identified as causing underdevelopment and poverty, Collier suggests interventions: use 'laws and charters' to create banking and taxation; remove corruption; advance transparency, democracy, and the rule of law; create markets for development; and support military interventions to restore peace (Marks 2009, p. 39). Essentially, because poverty is a natural state, his idea is to intervene and re-make underdeveloped or 'developing' states in the image of 'developed' liberal democratic states to alleviate the poverty of individuals.

If that appears desirable, it is because Collier, an economist, re-iterates a contemporary version of the King's Two Bodies to suggest legal, political-economic, and military interventions. At the level of individual bodies, Marks claims that Collier draws a border around those individuals or people who fit his classification called 'the bottom billion'. Collier aggregates and consolidates these individuals so that the 'key disparity is … between the bottom billion and the rest of the world' (Marks 2009, p. 40). That supports quantification of income disparity, which is then directly linked and, in Collier's views, caused by the political bodies they live within. In Collier's re-iteration of the King's Two Bodies, poverty is natural, and individuals remain impoverished because 'traps' stunt the political body's development. On this view, development helps the impoverished become more fully human. A re-iteration of the civilisational hierarchy.

Marks claims Collier's analysis is problematic because it fails to consider the historical distribution of goods and opportunities that led to the creation of the 'traps' (2009, p. 40). As an example, Marks evaluates Collier's 'trap' that landlocked states with bad neighbours keep individuals impoverished. That view fails to account for how the borders of these political bodies were constructed (Marks 2009, pp. 39–40). Marks argues that 'being landlocked with bad neighbours would not be a development trap if territorial boundaries did not have the significance which they have under international law' (2009, p. 39). Problematic state borders would not exist if 'the

international legal principle of *uti possidetis* did not dictate that the administrative boundaries of the former empires have to remain as the international boundaries of post-colonial states' (Marks 2009, pp. 39–40). Collier's account fails to acknowledge that the colonial-legal regimes created borders 'that ensnare the bottom billion countries and that keep them ensnared' (Marks 2009, p. 40). Because Collier does not account for colonialism, imperialism, and international law in producing the borders of those political bodies, the traps appear natural. If they are natural, then there is no need to consider colonialism or prior interventions, or the effects of racism or sexism. Then legal, political-economic, and military intervention is the solution to poverty instead of a cause of it.

Where Collier's approach to poverty development is problematic, Marks analyses Mike Davis's work (2001; 2006) to suggest alternatives. Like Collier, Davis is interested in the causes of poverty. However, where Collier views poverty as a natural condition cured through development, Davis claims poverty is a product of modern development: the creation and accumulation of wealth for a few also created poverty through the dispossession and the destruction of traditional livelihoods (Marks 2009, p. 46). As evidence, Davis analyses famines, which Marks connects to Davis's analysis on urban settings and slums. One narrative is that famines result from natural disasters, like El Niño weather patterns that cause droughts. Davis does not doubt that drought can lead to starvation and death but asserts that the natural world is not solely responsible for producing famines (Marks 2009, p. 47). For Davis, famine is a product of food insecurity, which arose from the destruction of drought-resistant traditional practices and the incorporation of those individuals (as individuals) into a globalised commodity system (Marks 2009, p. 47). Communally held lands, like those managed and cultivated in matrilineal societies of southern Native Americans discussed above, were broken up and individuated. The destruction of traditional and native practices, followed by migration into urban settings facilitated the accumulation and creation of (colonial/state) capitalist wealth. For Davis, most humans now live in urban settings and most live in slums, which are 'inseparable from the affluence-generating dimensions of globalisation' (Marks 2009, p. 46). Slum-dwellers are 'warehoused' in urban settings 'and work – if they can get work at all – in low-wage, unprotected and unskilled jobs' (Davis 2006, p. 201, as cited in Marks 2009, p. 46). Low-paid, precarious labour sustains the lives of the affluent. As a result, the systems of food production that involved dispossessing native and traditional societies to sustain affluence in urban settings do not respond to divergent weather patterns to protect those who have been made impoverished. Even if nature causes deaths, famines are the result of prior and ongoing legal, political-economic, and military forces. The accumulation and safety of the wealthy arrives through the dispossession, appropriation, and impoverishment of others (2009, p. 47). Marks and Davis draw a border around the impoverished to understand the processes and forces that ensnare them.

By contrast, Collier re-iterates the King's Two Bodies and draws borders around the impoverished to identify the political bodies that require intervention. He targets the 'bottom billion' because they need legal interventions to remove naturally occurring traps. Targeting the impoverished and intervening in their lives will feed previously constructed asymmetries (Harvey 1998). As those traps were produced through prior colonial-legal interventions, the solution 'cannot depend only on initia-

tives with respect to trade, civil conflict, the rule of law and human rights' (Marks 2009, p. 47). Instead, initiatives should involve 'curbing the power and curtailing the privilege of those on the "winning" side of current global relations' (Marks 2009, p. 47, footnote omitted). In this way, understanding processes of border construction may help unmake borders.

Orford – Intervention's Crises

In *Reading Humanitarian Intervention*, Anne Orford attempts 'to unsettle the "imaginative geography" of [humanitarian] intervention' (2009, p. 85). Orford writes, '[m]y focus is on the ways in which [international legal] texts understand the causes of security and humanitarian crises in the post-Cold War period' (2009, p. 82). As analysed here, Orford considers how contemporary re-iterations of the King's Two Bodies construct the desire for humanitarian intervention. This section primarily focuses on her analysis of suggestions to intervene in Yugoslavia.

For Orford, when Yugoslavia collapsed in the early 1990s, narratives arose that suggested the international community must intervene to prevent ethnic cleansing. In these narratives, the 'disintegration of Yugoslavia' was the result of 'ancient hatreds or Serbian aggression' (Orford 2009, p. 88). This re-iterates the King's Two Bodies because bad individuals who hold 'ancient hatreds' have tainted the political body. These individuals have infected the political body or state with their pre-modern tribalism or ethnic biases and attempt to use violence to remove those who do not belong (Orford 2009, p. 82). Because these individual bodies are interlinked with the political body, Yugoslavia is pursuing an outdated mode of sovereignty, a non-liberal democratic sovereign of sorts, like a strongman or a dictator. And in drawing a border around the state, the problem is internal to Yugoslavia. As Orford writes, 'ethnic cleansing was the product of Yugoslav politics, interests, passions and ambitions alone', which 'absolve[d] international institutions of any responsibility for taking account of the reception of the norms and culture they impose' (Orford 2009, p. 96).

In drawing borders around individual and political bodies and linking them together in Yugoslavia, the international community upholds itself as able to restore and guarantee human rights and democracy. For Orford, the desire to intervene on humanitarian grounds arises because it is presented as a choice between action and inaction that we make through rational processes (Orford 2009, pp. 83–84). The international community will choose to be present, or it will be absent. As a choice, 'we' or 'I' determine whether these bad states will continue to lack democracy and good government or whether we will choose to bring human rights and save the innocent from ethnic hatred. Orford also considers how the narrative surrounding the Rwandan genocide produced the appearance of a choice (2009, pp. 84–85). Through those narratives, the failure to intervene was linked to a choice to turn a blind eye to abuses. It was a failure to choose democracy and human rights.

Re-iterating the King's Two Bodies confines the problems to those states because the problems arise from backward individuals in Yugoslavia inflaming pre-modern tribalism or ethnic factionalism. But Orford claims that is an 'imaginative geog-

raphy'[2]. In this imagined place, the international community has been absent and should choose to intervene. It is problematically an Othering device: we are not only safe, but it enables us to 'intervene[ ] as a heroic saviour' (Said 1979, p. 49–73, as cited in Orford 2009, p. 85). Humanitarian intervention is then poised to promote democracy and human rights, which are the progressive impulses that we can believe we do so well. It does not appear overtly racialised or sexed, but it allows the international community to proudly uphold itself as modern, civil, developed, and untainted by racism and sexism. It reproduces what Mehta (1999) describes as the liberal progressive justification for imperialism. And importantly Orford clarifies that this geography is imagined because the international community was involved in Yugoslavia before its collapse and the attempt at creating democracy and capitalism is partly to blame for the crisis (2009, pp. 85–86).

In the 1970 and 1980 s, economic liberals in Yugoslavia sought a loan from the International Monetary Fund (I.M.F.), which, in turn, imposed 'economic' reforms that restructured the social, political, and legal systems (Orford 2009, p. 89). The World Bank and the I.M.F. imposed austerity on the people of Yugoslavia to make sure the public could afford the loan. They were a driving force behind 'constitutional reforms and redefinitions of citizenship and workers' rights' (Orford 2009, p. 89). It eviscerated social support networks and irreversibly altered the political structures through so-called 'economic' and structural interventions for democracy-building and transitioning to capitalism (Orford 2009, pp. 87–96). According to Orford, the I.M.F.'s structural adjustments, stabilisation, and then shock therapy programs destabilised Yugoslavia. Economic austerity created individual and social insecurity (Orford 2009, p. 93). In altering the political and constitutional system, it destroyed minority protections (Orford 2009, p. 94). Republican nationalists then blamed Yugoslavia's federal government for the decreasing quality of life, but the federal government could not increase spending or offer relief because of imposed austerity (Orford 2009, pp. 94–95). As 'shock therapy' suggests, the restructuring process was too quick to sufficiently re-invest in social networks, public institutions, and organisations that could prevent or avoid violence (Orford 2009, pp. 95–96). In short, the international community imposed economic austerity that was inseparable from legal-political and social changes. It created insecure individuals, who supported ethno-nationalist organisations that promised changes because the government could no longer respond.

Orford's analysis implicates the international community in Yugoslavia's collapse. And it mirrors how the King's Two Bodies operated to create Euro-American colonies, which had the effect of dispossessing southern Native American tribes. It starts with elites taking on national debts that the 'the public' had to repay. To ensure repayment, the international community restructured the previously existing political, social, and economic systems. That impoverished the people and dismantled their social networks. It fuelled tensions, which became a humanitarian crisis. The narratives that Orford criticised focused on legally intervening in this humanitarian crisis and located the cause in Yugoslavia. The problem is them, not the international community. It appeared that conflicts arose from ancient 'ethnic', 'national-

[2] The notion of an 'imaginative geography' is most often associated with Said (1979).

istic', and 'tribal' feuds, rather than as products of modernity that arose in creating liberal democracy and capitalism. It foreclosed consideration and, hence, any debate about the international community's role in economic liberalisation or how that creates insecurity (Orford 2009, p. 120). An alternative is to understand and connect the international community's efforts at economic restructuring to law, politics, and social insecurity as well as the previous historical dimensions of colonialism and imperialism.

Berlant – Slow Death

Lauren Berlant offers the concept of 'slow death' in an analysis for rethinking and reworking agency and personhood in ways that do 'not always or even usually follow the literalizing logic of visible effectuality, bourgeois dramatics, and lifelong accumulation or fashioning' (2007, p. 758). As offered here, Berlant seeks to move beyond re-iterations of the King's Two Bodies because legal discourse makes linkages between individual and political bodies eventful and dramatic. Likewise, biopolitical and governmental analytics can usefully analyse those processes, but ultimately re-invest in those links. That motivates Berlant's search for alternatives that also maintain agency and personhood. 'Slow death' is an attempt to articulate an ordinariness that opposes or, at least, momentarily forestalls recourse to grand and dramatic events of history and sovereignty. To exemplify this, Berlant evaluates the discourses surrounding obesity.

For Berlant, obesity in the U.S. is called an epidemic because 'it serves institutional interests of profit and control while taxing local health care systems' (2007, pp. 763–764). There is a similar discourse in the U.K., and elsewhere, which the U.N. identifies as a 'global political problem' (Berlant 2007, p. 764). Discussing obesity through a legal discourse identifies 'obese' individual bodies and links them to political bodies, a re-iteration of the King's Two Bodies. In doing so, liberal-democrats can uphold the state as a protector of individuals and corporations as needing responsibilities. Similarly, public health and insurance agents can suggest that individuals cut sugar, calories, or fat; or take 10,000 steps or whatever the new fitness fad is (2007, p. 762). In either case, legal discourse 'overidentifies' the autonomy of the individual with the sovereign state's 'control over geographical boundaries' (2007, p. 755). It provides a 'militaristic and melodramatic view of agency' (Berlant 2007, p. 755) so that obesity is the product of individual agency, rationality, and choice or political choices. As a result, any legal solution to reduce obesity and intervene in the lives of the obese appears to limit free rational choices and it fails to address how those two bodies have been produced to be subject to, shot through, supported by, and put to work through other technologies of power. Stated another way, with other powers at work, it is not possible to pass a law forbidding or prohibiting obesity, or any 'legislation that reeks of "nanny-statism" for the general public' (LeBesco 2011, p. 154).

Accordingly, Berlant examines how biopolitics or governmentality can diagnose the processes that link the individual with the political body. As articulated by Foucault ([1975–1976] 2003) and others, these diagnoses explain the rise in obesity where 'there is no corporate or individual sovereign acting deliberately to implant qualities in the collection of bodies' (Berlant 2007, p. 765). They can explain 'the

history of investment in [the concept of sovereignty] as a marker for the liberal sense of personal autonomy and freedom' and 'the association of democracy with the legal protection of the body politic and subgroups within it' (Berlant 2007, p. 756, footnote omitted). In this way, governmentality 'organises the reproduction of life in ways that allow political crises to be cast as conditions of specific bodies and their competence at maintaining health or other conditions of social belonging' (Berlant 2007, p. 765). It usefully explains how interventions and '[a]partheid-like structures, from zoning to shaming, are wielded against these populations' (Berlant 2007, p. 765). On this type of analysis, obesity is an effect of multiple forces and structures that are beyond any individual's control, but drawing borders around individual produces sense of belonging in social or political bodies. Because legal interventions appear to remove autonomy and freedom, they can also be viewed as threats to the political body.

A biopolitical or governmental analysis is useful for diagnosing how various technologies of power transformed without replacing the King's Two Bodies. However, Berlant claims that this form of diagnosis problematically reinvests in biopolitical and managerial interventions in people's lives. That is because these analytics require constructing a 'case study' as an 'event' in the same way legal discourse does:

> When does it matter, for example, that overweight, obesity, morbid obesity, and a mass tendency, in industrialized spaces, toward physically unhealthy bodily practices amass as a weirdly compounded symptom of a system and persons gone awry? The case is not a thing, but a cluster of factors that only looks solid at a certain distance. (Berlant 2007, p. 763)

Adopting a certain distance from this 'cluster of factors' enables border construction to give these factors an appearance of solidity, as a case or an event (Berlant 2008, pp. 1–2). Drawing these borders is useful. As a mass of events and structures, obesity can be analysed in terms of individuals, nations, or sub-national populations, like class and race (Berlant 2008, pp. 109–111). Additionally, those analyses reproduce and reinvest in previously constructed state-imperial borders of belonging and exclusion. As such, 'emaciation in the U.S. remains coded as white and weight excess coded as black, [and] the so-called crisis of obesity continues to juggle the symbolic burden of class signified through the elision of whiteness from the racial marking of poverty' (Berlant 2007, pp. 773). Whether one uses legal discourse or biopolitical/governmental diagnoses, it remains possible to advocate for targeted intervention, education, moralisation, or medicalisation. It provides those who do draw those borders with a sense that they can choose to intervene. Any suggested intervention in the lives of the impoverished, racialised, or obese constructs borders around those lives to identify the target for intervention. The construction of that border prevents recognition that: 1) prior interventions in those lives ensnared them in structures that construct them as impoverished bodies to accumulate security elsewhere; and 2) that involves reconstructing those borders that will keep them ensnared.

Berlant's alternative is to focus on ordinariness, which may momentarily forestall the imperial reconstruction of these borders. For Berlant, cases or events are representative of this problem because they 'misrepresent the duration and scale of the situation by calling a *crisis* that which is a fact of life and has been a defining fact

of life for a given population that lives it as a fact in ordinary time' (2007, p. 760). They use 'eating' as an example. Eating might be a moment of controllable calmness, reprieve, and maintenance, what they call an 'episodic intermission from personality' (Berlant 2007, p. 779). It might be a moment of repose, connection, kinship, and sharing. Where people have been removed from traditional livelihoods and placed into urban settings (or remain in rural settings to maintain agriculture or other industries that support affluent lives), the ordinary act of eating can be a 'fitting response to a stressful environment' (Berlant 2007, p. 777). But it is also necessary and required for living and continuing to move through capitalised space and time. It can always be analysed in terms of labour, commodity, structural conditions, or legality. Eating can be reconfigured as a right for purposes of legal interventions, even those that seek to uphold radical political projects (Fakhri 2022). It can also be diagnosed within a biopolitical analysis. Any type of advocacy requires adopting a distance from the ordinariness of eating to construct a collection of factors as an event.

The ability to diagnose a crisis requires constructing a cluster of ordinary life as an event, which reproduces the borders of individual and political bodies. The 'event' is imbricated with concerns about sovereignty's structural interlinking of the political body with individual agency and body. Berlant suggests that the lived experience of ordinary life in and through time can be co-opted, but is never fully captured. Reiterations can and will generate new meanings, interests, and futures. It can provide episodic intermission from the bordered world. That does not mean, for Berlant, that 'ordinary life' is acceptable or even pleasant. In the wake of colonialism and empire, resistance and alternatives will continue. And every event will remain appropriable to serve pre-authorised borders.

Our Other Bodies

There is much more that could be said about these scholars, their differences and interrelations. Marks, Orford, and Berlant show that the narratives used to identify the cause of problems shape our solution as well as the desire for a particular type of intervention. Berlant's analysis provides an avenue for evaluating how these methods can appropriate ordinary living from within liberal democracy. From within, biopolitics can take hold of individuals and make them live and be productive in service of the political body. Others, those who are lesser humans, may be left to die (Foucault 2003). It appears non-violent because modern democracy re-iterates the King's Two Bodies but appears to shed the sovereign monarch who asserts violent power (Foucault 1980, p. 140). That is contrasted with Orford's analysis, which is an examination of discourses that associate violence or ethnic cleansing with premodern, pre-civilised tribalism or outmoded sovereign forms. Orford's analysis is similar to Marks's analysis of Collier's approach to development. Those who are within liberal democracies can supposedly choose to correct those non-modern, backwards states and individuals. Where Berlant focuses on discourses surrounding obesity, their work is linked and connected through its distinction to Marks's analysis of famine and mass starvation. Berlant and Marks's focus on these 'crises' or epidemics also supports Orford's analysis of humanitarian crises. Berlant and Marks focus

on reconstructing individual bodies (poor, hungry, obese), while Orford examines the construction of the political body (Yugoslavia). Each examines how narratives produce borders around the 'case', the 'scene', or the 'event' of the subject so that our intervention looks like a choice to help elsewhere. Where law creates and needs a case, it involves the contemporary re-iteration of the King's Two Bodies – it constructs borders around individual and political bodies to interrelate them. Doing so remains blind to its constitutive effects as well as other modalities of power. But never entirely so.

Languages and social formation are bounded and bordered, but there are always alternatives, slips, and transgressions. Marks suggests we analyse dispossession and accumulation to redirect our legal targets at the powerful instead of the weak. Orford seeks to re-connect international legal discourse with its role in economic liberalisation to debate how it produces insecurity. Berlant argues that our analytic tools re-invest in discourses of sovereignty that ordinariness may temporarily forestall. Berlant also notes that '[t]he world pulsates with counter-exploitative activity now, too, in a variety of anarchist, cooperative, anti-capitalist, and radical antiwork experiments' (2007, p. 780). Borders are not inherently problematic. Any border can be undone. But re-asserting contemporary iterations of the King's Two Bodies by interrelating the individually autonomous natural body with the statist political body is fraught. State and international legality – as it currently exists – will not undo or delink these bodies. Legal discipline requires that we produce and identify events that request intervention and redress. It re-asserts the King's Two Bodies. Marks, Orford, and Berlant in their criticisms performatively demonstrate how the borders of the legal discipline can be transgressed. A risk with these inter-disciplinary projects is that others within the legal discipline dismiss them as unhelpful or un-useful. A more concerning risk is that those within the legal discipline find these analyses useful for opening up and augmenting links between individual and state powers in new and productive avenues of bordered appropriation. There is also the slight possibility that those transgressions encourage delinking and dismantling those borders that bind.

Law has not been absent from the event or the scene of poverty, famine, genocide, obesity, or other epidemics or crises. It is (partly) constitutive of those structures and events, even if our legal borders suggest that law merely finds the event or the scene formed and intact. Borders have always been transgressed in productive ways. Borders delimit inclusions and exclusion to create separations that are connections. Without learning that these borders have been constructed to affect security and its relative insecurity, we might isolate the effects as constitutive of the cause and perpetuate the security/insecurity matrix. It produces the crises we want to respond to. Individual and political bodies will respond, and in ways that will maintain and reconstruct those borders. But these are not our borders. They do not belong to us. We have inherited them and we may re-iterate them, but perhaps we do not need to perpetuate them.

Acknowledgements I'd like to thank the Editors for their help, Reviewers for their comments, Souheir Edelbi for comments on an earlier draft, and Jonathan Yeldon for editorial assistance.

Funding Open Access funding enabled and organized by CAUL and its Member Institutions

References

Achiume, Tendayi E. 2021. Digital Racial Borders. *A J I L Unbound* 115: 333–338. https://doi.org/10.1017/aju.2021.52.

Anzaldúa, Gloria. 1987. *Borderlands/La Frontera: The New Mestiza*. San Francisco: Aunt Lute Books.

Balke, Friedrich. 2005. Derrida and Foucault on Sovereignty. *German Law Journal* 6 (1): 71–85. https://doi.org/10.1017/S2071832200013481.

Basaran, Tugba. 2008. Security, Law, Borders: Spaces of Exclusion. *International Political Sociology* 2: 339–354. https://doi.org/10.1111/j.1749-5687.2008.00055.x.

Berlant, Lauren. 2007. Slow Death (Sovereignty, Obesity, Lateral Agency). *Critical Inquiry* 33 (4): 754–780. https://doi.org/10.1086/521568.

Berlant, Lauren. 2008. *The Female Complaint: The Unfinished Business of Sentimentality in American Culture*. Durham: Duke University Press.

Bey, Marquis. 2022. *Black Trans Feminism*. Durham: Duke University Press. https://doi.org/10.2307/j.ctv23g7wh9.

Brunet-Jailly, Emmanuel. 2005. Theorizing Borders: An Interdisciplinary Perspective. *Geopolitics* 10 (4): 633–649. https://doi.org/10.1080/14650040500318449.

Butler, Judith. 1997. *Excitable Speech: A Politics of the Performative*. New York: Routledge.

Butler, Judith. 2000. Competing Universalities. In *Contingency, Hegemony, Universality: Contemporary Dialogues on the Left*, eds. Judith Butler, Ernesto Laclau and Slavoj Žižek, 136–181. London: Verso.

Butler, Judith. 2004. *Undoing Gender*. London: Routledge. https://ebookcentral-proquest-com.ezproxy.otago.ac.nz/lib/otago/detail.action?docID=183001. Accessed 30 November 2021.

Chang, David A. 2010. *The Color of Land: Race, Nation and the Politics of Landownership in Oklahoma, 1832–1929*. Chapel Hill: University of North Carolina Press.

Charlesworth, Hilary. 2002. International Law: A Discipline of Crisis. *Modern Law Review* 65: 377–392. https://doi.org/10.1111/1468-2230.00385.

Charlesworth, Hilary, Christine Chinkin, and Shelley Wright. 1991. Feminist Approaches to International Law. *American Journal of International Law* 85 (4): 613–645. https://doi.org/10.2307/2203269.

Collier, Paul. 2007. *The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It*. New York: Oxford University Press. https://ebookcentral-proquest-com.ezproxy.otago.ac.nz/lib/otago/detail.action?docID=415838. Accessed 8 December 2021.

Davis, Mike. 2001. *Late Victorian Holocausts: El Niño Famines and the Making of the Third World*. London: Verso.

Davis, Mike. 2006. *Planet of Slums*. London: Verso.

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

Dudziak, Mary L., and Leti Volpp. eds. 2006. *Legal Borderlands: Law and the Construction of American Borders*. Baltimore: John Hopkins University Press.

El-Enany, Nadine. 2020. *(B)ordering Britain: Law, race and empire*. Manchester: Manchester University Press. https://www.jstor.org/stable/j.ctvwh8fgs.

Fakhri, Michael. 2022. The Radical Potential of the Right to Food. Kent University, CeCIL Annual Lecture, 8 March 2022. https://www.kent.ac.uk/law/news/6868/right-to-food-the-focus-of-the-cecil-annual-lecture-and-other-special-events.

Foucault, Michel. 1975–1976. 2003. *"Society Must Be Defended": Lectures at the Collège de France, 1975–76*, eds. Mauro Bertani and Alessandro Fontana, trans. David Macey. London: Picador.

Foucault, Michel. 1980. *Power/Knowledge: Selected Interviews & Other Writings 1972–1977*, ed. Colin Gordon, trans. Colin Gordon, Leo Marshall, John Mepham, and Kate Soper. New York: Pantheon Books.

Gallagher, Charles A. 2007. White. In *Handbook of the Sociology of Racial and Ethnic Relations*, eds. Hernán Vera and Joe R. Feagin, 9–14. Boston: Springer. https://doi.org/10.1007/978-0-387-70845-4_2.

Gallay, Alan. 2002. *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670–1717*. New Haven: Yale University Press. https://www.jstor.org/stable/j.ctt1npmvw.

Garrison, Tim Alan. 2018. (last edited). Worcester v. Georgia. New Georgia Encyclopedia. https://www.georgiaencyclopedia.org/articles/government-politics/worcester-v-georgia-1832/.

Halley, Janet. 2016. The Move to Affirmative Consent. *Signs: Journal of Women in Culture and Society* 42 (1): 257–279. https://doi.org/10.1086/686904.

Hartman, Saidiya V. 1997. *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*. New York: Oxford University Press.

Harvey, David. 1998. The body as an accumulation strategy. *Environment and Planning D: Society and Space* 16: 401–421. https://doi.org/10.1068/d160401.

Johns, Fleur, Richard Joyce, and Sundhya Pahuja. 2010. Introduction. In *Events: The Force of International Law*, eds. Fleur Johns, Richard Joyce, and Sundhya Pahuja, 1–17. Abingdon, Oxon: Routledge. https://doi.org/10.4324/9780203844465.

Kantorowicz, Ernst H. 1957. 2016. *The King's Two Bodies: A Study in Medieval Political Theology*. Princeton: Princeton University Press. https://doi.org/10.2307/j.ctvcszz1c.

Kennedy, David. 2002. When Renewal Repeats: Thinking against the Box. Left Legalism/Left Critique, eds. Wendy Brown, Janet Halley, 373–419. Durham: Duke University Press.

Krauthamer, Barbara. 2013. *Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South*. Chapel Hill: University of North Carolina Press.

LeBesco, Kathleen. 2011. Neoliberalism, public health, and the moral perils of fatness. *Critical Public Health* 21 (2): 153–164. https://doi.org/10.1080/09581596.2010.529422.

International Court of Justice. 2004. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports. https://www.icj-cij.org/en/case/131. Accessed 30 November 2021.

Longo, Matthew. 2018. *The Politics of Borders: Sovereignty, Security and the Citizen after 9/11*. Cambridge: Cambridge University Press. https://doi.org/10.1017/9781316761663.

Maitland, F. W. 1901. 2012 (ebook). The Crown as Corporation. In *Maitland: State, Trust and Corporation*, eds. David Runciman, and Magnus Ryan, 32–51. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9780511810435.007.

Maldonado-Torres, Nelson. 2017. On the Coloniality of Human Rights. *Revista Crítica de Ciências Sociais* 114: 117–136. https://doi.org/10.4000/rccs.6793.

Marhia, Natasha. 2013. Some humans are more *Human* than Others: Troubling the 'human' in human security from a critical feminist perspective. *Security Dialogue* 44 (1): 19–35. https://doi.org/10.1177/0967010612470293.

Marks, Susan. 2009. Human Rights and the Bottom Billion. *European Human Rights Law Review* 1: 37–49.

Marx, Karl. 1867. 2013. *Capital*. London: Wordsworth.

Matsuda, Mari. 1996. *Where is Your Body? And Other Essays on Race, Gender, and the Law*. Boston: Beacon Press.

Mehta, Uday Singh. 1999. *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought*. Chicago: University of Chicago Press.

Miller, Robert J., Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg. 2010. *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*. Oxford: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199579815.001.0001.

Mills, Charles. 1997. *The Racial Contract*. Ithaca: Cornell University Press.

Nichols, Robert. 2020. *Theft is Property! Dispossession and Critical Theory*. Durham: Duke University Press. https://doi.org/10.2307/j.ctv11smqjz.

Orford, Anne. 2009 (ebook). *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9780511494277.

Park, Augustine, S. J. 2020. Settler Colonialism, Decolonization and Radicalizing Transitional Justice. *International Journal of Transitional Justice* 16: 273–293. https://doi.org/10.1093/ijtj/ijaa006.

Parker, Noel, and Nick Vaughan-Williams, et al. 2009. Lines in the Sand? Towards an Agenda for Critical Border Studies. *Geopolitics* 14 (3): 582–587. https://doi.org/10.1080/14650040903081297.
Plowden, Edmund. 1816. *Commentaries or Reports*. London: unknown publisher.
Ramsey, William L. 2008. *The Yamasee War: A Study of Culture, Economy, and Conflict in the Colonial South*. Lincoln: University of Nebraska Press.
Reisman, W. Michael. 1988. International Incidents: Introduction to a New Genre in the Study of International Law. In *International Incidents: The Law That Counts in World Politics*, eds. W. Michael Reisman and Andrew R. Willard, 3–24. Princeton: Princeton University Press. https://www.jstor.org/stable/j.ctt7zvwdr. Accessed 30 November 2021.
Said, Edward W. 1979. *Orientalism*. London: Vintage Books.
Shaw, Joshua David Michael. 2020. The Spatio-Legal Production of Bodies Through the Legal Fiction of Death. *Law and Critique* 32: 69–90. https://doi.org/10.1007/s10978-020-09269-5.
Smith, Andrea. 2015. *Conquest: Sexual Violence and American Indian Genocide*. Durham: Duke University Press. https://doi.org/10.2307/j.ctv123x60k.
Spivak, Gayatri Chakravorty. 1988. Can the Subaltern Speak? In *Marxism and the Interpretation of Culture*, eds. Cary Nelson and Lawrence Grossberg, 271–313. Champaign: University of Illinois Press.
Tadiar, Neferti Xina, M. 1993. Sexual Economies in the Asia-Pacific Community. In *What is in a Rim? Critical Perspectives on the Pacific Region Idea*, ed. Arif Dirlik, 219–248. Boulder: Westview Press.
Tuck, Eve, and K. Wayne Yang. 2012. Decolonization is not a metaphor. *Decolonization: Indigeneity Education & Society* 1 (1): 1–40.
wa Mutua, Makau. 1995. Why Redraw the Map of Africa: A Moral and Legal Inquiry. *Michigan Journal of International Law* 16 (4): 1113–1176.
Welke, Barbara Young. 2012 (ebook). *Law and the Borders of Belonging in the Long Nineteenth Century United States*. Cambridge: Cambridge University Press. https://doi.org/10.1017/CBO9780511778704.

Cases

Cherokee Nation v. Georgia 30 U.S. 1 (1831).
State of Missouri v. Celia, a Slave (Callaway County Ct., Mo. 1855).
Alfred v. State 37 Miss. 296 (1859).
Our Legal Borders: Interrelated Constructions of Individual and Political Bodies.