

# **EMPIRE**

# EMPIRE

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Every tool is a weapon if you hold it right.

Ani DiFranco

Men fight and lose the battle, and the thing that they fought for comes about in spite of their defeat, and then it turns out not to be what they meant, and other men have to fight for what they meant under another name.

William Morris

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## PREFACE

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Empire is materializing before our very eyes. Over the past several decades, as colonial regimes were overthrown and then precipitously after the Soviet barriers to the capitalist world market finally collapsed, we have witnessed an irresistible and irreversible globalization of economic and cultural exchanges. Along with the global market and global circuits of production has emerged a global order, a new logic and structure of rule—in short, a new form of sovereignty. Empire is the political subject that effectively regulates these global exchanges, the sovereign power that governs the world.

Many argue that the globalization of capitalist production and exchange means that economic relations have become more autonomous from political controls, and consequently that political sovereignty has declined. Some celebrate this new era as the liberation of the capitalist economy from the restrictions and distortions that political forces have imposed on it; others lament it as the closing of the institutional channels through which workers and citizens can influence or contest the cold logic of capitalist profit. It is certainly true that, in step with the processes of globalization, the sovereignty of nation-states, while still effective, has progressively declined. The primary factors of production and exchange—money, technology, people, and goods—move with increasing ease across national boundaries; hence the nation-state has less and less power to regulate these flows and impose its authority over the economy. Even the most dominant nation-states should no longer be thought of as supreme and sovereign authorities, either outside or even within their own borders. *The decline in sovereignty of nation-states, however, does not mean that sovereignty as such has declined.*<sup>1</sup>



Throughout the contemporary transformations, political controls, state functions, and regulatory mechanisms have continued to rule the realm of economic and social production and exchange. Our basic hypothesis is that sovereignty has taken a new form, composed of a series of national and supranational organisms united under a single logic of rule. This new global form of sovereignty is what we call Empire.

The declining sovereignty of nation-states and their increasing inability to regulate economic and cultural exchanges is in fact one of the primary symptoms of the coming of Empire. The sovereignty of the nation-state was the cornerstone of the imperialisms that European powers constructed throughout the modern era. By “Empire,” however, we understand something altogether different from “imperialism.” The boundaries defined by the modern system of nation-states were fundamental to European colonialism and economic expansion: the territorial boundaries of the nation delimited the center of power from which rule was exerted over external foreign territories through a system of channels and barriers that alternately facilitated and obstructed the flows of production and circulation. Imperialism was really an extension of the sovereignty of the European nation-states beyond their own boundaries. Eventually nearly all the world’s territories could be parceled out and the entire world map could be coded in European colors: red for British territory, blue for French, green for Portuguese, and so forth. Wherever modern sovereignty took root, it constructed a Leviathan that overarched its social domain and imposed hierarchical territorial boundaries, both to police the purity of its own identity and to exclude all that was other.

The passage to Empire emerges from the twilight of modern sovereignty. In contrast to imperialism, Empire establishes no territorial center of power and does not rely on fixed boundaries or barriers. It is a *decentered* and *detritorializing* apparatus of rule that progressively incorporates the entire global realm within its open, expanding frontiers. Empire manages hybrid identities, flexible hierarchies, and plural exchanges through modulating networks of com-

mand. The distinct national colors of the imperialist map of the world have merged and blended in the imperial global rainbow.

The transformation of the modern imperialist geography of the globe and the realization of the world market signal a passage within the capitalist mode of production. Most significant, the spatial divisions of the three Worlds (First, Second, and Third) have been scrambled so that we continually find the First World in the Third, the Third in the First, and the Second almost nowhere at all. Capital seems to be faced with a smooth world—or really, a world defined by new and complex regimes of differentiation and homogenization, deterritorialization and reterritorialization. The construction of the paths and limits of these new global flows has been accompanied by a transformation of the dominant productive processes themselves, with the result that the role of industrial factory labor has been reduced and priority given instead to communicative, cooperative, and affective labor. In the postmodernization of the global economy, the creation of wealth tends ever more toward what we will call biopolitical production, the production of social life itself, in which the economic, the political, and the cultural increasingly overlap and invest one another.

Many locate the ultimate authority that rules over the processes of globalization and the new world order in the United States. Proponents praise the United States as the world leader and sole superpower, and detractors denounce it as an imperialist oppressor. Both these views rest on the assumption that the United States has simply donned the mantle of global power that the European nations have now let fall. If the nineteenth century was a British century, then the twentieth century has been an American century; or really, if modernity was European, then postmodernity is American. The most damning charge critics can level, then, is that the United States is repeating the practices of old European imperialists, while proponents celebrate the United States as a more efficient and more benevolent world leader, getting right what the Europeans got wrong. Our basic hypothesis, however, that a new imperial form of sovereignty has emerged, contradicts both these views. *The United*

*States does not, and indeed no nation-state can today, form the center of an imperialist project.* Imperialism is over. No nation will be world leader in the way modern European nations were.

The United States does indeed occupy a privileged position in Empire, but this privilege derives not from its similarities to the old European imperialist powers, but from its differences. These differences can be recognized most clearly by focusing on the properly imperial (not imperialist) foundations of the United States constitution, where by “constitution” we mean both the *formal constitution*, the written document along with its various amendments and legal apparatuses, and the *material constitution*, that is, the continuous formation and re-formation of the composition of social forces. Thomas Jefferson, the authors of the *Federalist*, and the other ideological founders of the United States were all inspired by the ancient imperial model; they believed they were creating on the other side of the Atlantic a new Empire with open, expanding frontiers, where power would be effectively distributed in networks. This imperial idea has survived and matured throughout the history of the United States constitution and has emerged now on a global scale in its fully realized form.

We should emphasize that we use “Empire” here not as a *metaphor*, which would require demonstration of the resemblances between today’s world order and the Empires of Rome, China, the Americas, and so forth, but rather as a *concept*, which calls primarily for a theoretical approach.<sup>2</sup> The concept of Empire is characterized fundamentally by a lack of boundaries: Empire’s rule has no limits. First and foremost, then, the concept of Empire posits a regime that effectively encompasses the spatial totality, or really that rules over the entire “civilized” world. No territorial boundaries limit its reign. Second, the concept of Empire presents itself not as a historical regime originating in conquest, but rather as an order that effectively suspends history and thereby fixes the existing state of affairs for eternity. From the perspective of Empire, this is the way things will always be and the way they were always meant to be. In other words, Empire presents its rule not as a transitory

moment in the movement of history, but as a regime with no temporal boundaries and in this sense outside of history or at the end of history. Third, the rule of Empire operates on all registers of the social order extending down to the depths of the social world. Empire not only manages a territory and a population but also creates the very world it inhabits. It not only regulates human interactions but also seeks directly to rule over human nature. The object of its rule is social life in its entirety, and thus Empire presents the paradigmatic form of biopower. Finally, although the practice of Empire is continually bathed in blood, the concept of Empire is always dedicated to peace—a perpetual and universal peace outside of history.

The Empire we are faced with wields enormous powers of oppression and destruction, but that fact should not make us nostalgic in any way for the old forms of domination. The passage to Empire and its processes of globalization offer new possibilities to the forces of liberation. Globalization, of course, is not one thing, and the multiple processes that we recognize as globalization are not unified or univocal. Our political task, we will argue, is not simply to resist these processes but to reorganize them and redirect them toward new ends. The creative forces of the multitude that sustain Empire are also capable of autonomously constructing a counter-Empire, an alternative political organization of global flows and exchanges. The struggles to contest and subvert Empire, as well as those to construct a real alternative, will thus take place on the imperial terrain itself—indeed, such new struggles have already begun to emerge. Through these struggles and many more like them, the multitude will have to invent new democratic forms and a new constituent power that will one day take us through and beyond Empire.

The genealogy we follow in our analysis of the passage from imperialism to Empire will be first European and then Euro-American, not because we believe that these regions are the exclusive or privileged source of new ideas and historical innovation, but simply because this was the dominant geographical path along

which the concepts and practices that animate today's Empire developed—in step, as we will argue, with the development of the capitalist mode of production.<sup>3</sup> Whereas the genealogy of Empire is in this sense Eurocentric, however, its present powers are not limited to any region. Logics of rule that in some sense originated in Europe and the United States now invest practices of domination throughout the globe. More important, the forces that contest Empire and effectively prefigure an alternative global society are themselves not limited to any geographical region. The geography of these alternative powers, the new cartography, is still waiting to be written—or really, it is being written today through the resistances, struggles, and desires of the multitude.

In writing this book we have tried to the best of our abilities to employ a broadly interdisciplinary approach.<sup>4</sup> Our argument aims to be equally philosophical and historical, cultural and economic, political and anthropological. In part, our object of study demands this broad interdisciplinarity, since in Empire the boundaries that might previously have justified narrow disciplinary approaches are increasingly breaking down. In the imperial world the economist, for example, needs a basic knowledge of cultural production to understand the economy, and likewise the cultural critic needs a basic knowledge of economic processes to understand culture. That is a requirement that our project demands. What we hope to have contributed in this book is a general theoretical framework and a toolbox of concepts for theorizing and acting in and against Empire.<sup>5</sup>

Like most large books, this one can be read in many different ways: front to back, back to front, in pieces, in a hopscotch pattern, or through correspondences. The sections of Part 1 introduce the general problematic of Empire. In the central portion of the book, Parts 2 and 3, we tell the story of the passage from modernity to postmodernity, or really from imperialism to Empire. Part 2 narrates the passage primarily from the standpoint of the history of ideas and culture from the early modern period to the present. The red

thread that runs throughout this part is the genealogy of the concept of sovereignty. Part 3 narrates the same passage from the standpoint of production, whereby production is understood in a very broad sense, ranging from economic production to the production of subjectivity. This narrative spans a shorter period and focuses primarily on the transformations of capitalist production from the late nineteenth century to the present. The internal structures of Parts 2 and 3 thus correspond: the first sections of each treat the modern, imperialist phase; the middle sections deal with the mechanisms of passage; and the final sections analyze our postmodern, imperial world.

We structured the book this way in order to emphasize the importance of the shift from the realm of ideas to that of production. The *Intermezzo* between Parts 2 and 3 functions as a hinge that articulates the movement from one standpoint to the other. We intend this shift of standpoint to function something like the moment in *Capital* when Marx invites us to leave the noisy sphere of exchange and descend into the hidden abode of production. The realm of production is where social inequalities are clearly revealed and, moreover, where the most effective resistances and alternatives to the power of Empire arise. In Part 4 we thus try to identify these alternatives that today are tracing the lines of a movement beyond Empire.

This book was begun well after the end of the Persian Gulf War and completed well before the beginning of the war in Kosovo. The reader should thus situate the argument at the midpoint between those two signal events in the construction of Empire.

PART 1

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THE POLITICAL CONSTITUTION  
OF THE PRESENT

## 1.1

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### WORLD ORDER

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Capitalism only triumphs when it becomes identified with the state,  
when it is the state.

Fernand Braudel

They make slaughter and they call it peace.

Tacitus

The problematic of Empire is determined in the first place by one simple fact: that there is world order. This order is expressed as a juridical formation. Our initial task, then, is to grasp the *constitution* of the order being formed today. We should rule out from the outset, however, two common conceptions of this order that reside on opposing limits of the spectrum: first, the notion that the present order somehow rises up *spontaneously* out of the interactions of radically heterogeneous global forces, as if this order were a harmonious concert orchestrated by the natural and neutral hidden hand of the world market; and second, the idea that order is dictated by a single power and a single center of rationality *transcendent* to global forces, guiding the various phases of historical development according to its conscious and all-seeing plan, something like a conspiracy theory of globalization.<sup>1</sup>

#### United Nations

Before investigating the constitution of Empire in juridical terms, we must analyze in some detail the constitutional processes that have come to define the central juridical categories, and in particular



give careful attention to the process of the long transition from the sovereign right of nation-states (and the international right that followed from it) to the first postmodern global figures of imperial right. As a first approximation one can think of this as the genealogy of juridical forms that led to, and now leads beyond, the supranational role of the United Nations and its various affiliated institutions.

It is widely recognized that the notion of international order that European modernity continually proposed and repropounded, at least since the Peace of Westphalia, is now in crisis.<sup>2</sup> It has in fact always been in crisis, and this crisis has been one of the motors that has continuously pushed toward Empire. Perhaps this notion of international order and its crisis should be dated from the time of the Napoleonic Wars, as some scholars claim, or perhaps the origin should be located in the Congress of Vienna and the establishment of the Holy Alliance.<sup>3</sup> In any case, there can be no doubt that by the time of the First World War and the birth of the League of Nations, a notion of international order along with its crisis had been definitively established. The birth of the United Nations at the end of the Second World War merely reinitiated, consolidated, and extended this developing international juridical order that was first European but progressively became completely global. The United Nations, in effect, can be regarded as the culmination of this entire constitutive process, a culmination that both reveals the limitations of the notion of *international* order and points beyond it toward a new notion of *global* order. One could certainly analyze the U.N. juridical structure in purely negative terms and dwell on the declining power of nation-states in the international context, but one should also recognize that the notion of right defined by the U.N. Charter also points toward a new positive source of juridical production, effective on a global scale—a new center of normative production that can play a sovereign juridical role. The U.N. functions as a hinge in the genealogy from international to global juridical structures. On the one hand, the entire U.N. conceptual structure is predicated on the recognition and legitima-

tion of the sovereignty of individual states, and it is thus planted squarely within the old framework of international right defined by pacts and treaties. On the other hand, however, this process of legitimation is effective only insofar as it transfers sovereign right to a real *supranational* center. It is not our intention here to criticize or lament the serious (and at times tragic) inadequacies of this process; indeed, we are interested in the United Nations and the project of international order not as an end in itself, but rather as a real historical lever that pushed forward the transition toward a properly global system. It is precisely the inadequacies of the process, then, that make it effective.

To look more closely at this transition in juridical terms, it is useful to read the work of Hans Kelsen, one of the central intellectual figures behind the formation of the United Nations. As early as the 1910s and 1920s, Kelsen proposed that the international juridical system be conceived as the supreme source of every national juridical formation and constitution. Kelsen arrived at this proposal through his analyses of the formal dynamics of the particular orderings of states. The limits of the nation-state, he claimed, posed an insurmountable obstacle to the realization of the idea of right. For Kelsen, the partial ordering of the domestic law of nation-states led back necessarily to the universality and objectivity of the international ordering. The latter is not only logical but also ethical, for it would put an end to conflicts between states of unequal power and affirm instead an equality that is the principle of real international community. Behind the formal sequence that Kelsen described, then, there was a real and substantial drive of Enlightenment modernization. Kelsen sought, in Kantian fashion, a notion of right that could become an “organization of humanity and [would] therefore be one with the supreme ethical idea.”<sup>4</sup> He wanted to get beyond the logic of power in international relations so that “the particular states could be regarded juridically as entities of equal rank” and thus a “world and universal state” could be formed, organized as a “universal community superior to the particular states, enveloping them all within itself.”<sup>5</sup>

It was only fitting, then, that Kelsen would later have the privilege of attending the meetings in San Francisco that founded the United Nations and seeing his theoretical hypothesis realized. For him the United Nations organized a rational idea.<sup>6</sup> It gave legs to an idea of the spirit; it proposed a real base of effectiveness for a transcendental schema of the validity of right situated above the nation-state. The validity and efficacy of right could now be united in the supreme juridical source, and under these conditions Kelsen's notion of a fundamental norm could finally be realized.

Kelsen conceived the formal construction and validity of the system as independent from the material structure that organizes it, but in reality the structure must somehow exist and be organized materially. How can the system actually be constructed? This is the point at which Kelsen's thought ceases to be of any use to us: it remains merely a fantastic utopia. The transition we wish to study consists precisely in this gap between the formal conception that grounds the validity of the juridical process in a supranational source and the material realization of this conception. The life of the United Nations, from its foundation to the end of the cold war, has been a long history of ideas, compromises, and limited experiences oriented more or less toward the construction of such a supranational ordering. The aporias of this process are obvious, and there is no need for us to describe them in detail here. Certainly the United Nations' domination of the general framework of the supranational project between 1945 and 1989 led to some of the most perverse theoretical and practical consequences. And yet, all this was not enough to block the constitutionalization of a supranational power.<sup>7</sup> In the ambiguous experiences of the United Nations, the juridical concept of Empire began to take shape.

The theoretical responses to this constitutionalization of a supranational world power, however, have been entirely inadequate. Instead of recognizing what was really new about these supranational processes, the vast majority of juridical theorists merely tried to resurrect anachronistic models to apply to the new problems. To a large extent, in fact, the models that had presided over the

birth of the nation-state were simply dusted off and reposed as interpretive schema for reading the construction of a supranational power. The “domestic analogy” thus became the fundamental methodological tool in the analysis of international and supranational forms of order.<sup>8</sup> Two lines of thought have been particularly active during this transition, and as a kind of shorthand we can conceive of them as resurrections of the Hobbesian and the Lockean ideologies that in another era dominated the European conceptions of the sovereign state.

The Hobbesian variant focuses primarily on the transfer of the title of sovereignty and conceives the constitution of the supranational sovereign entity as a contractual agreement grounded on the convergence of preexisting state subjects.<sup>9</sup> A new transcendent power, “*tertium super partes*,” primarily concentrated in the hands of the military (the one that rules over life and death, the Hobbesian “God on earth”), is, according to this school, the only means capable of constituting a secure international system and thus of overcoming the anarchy that sovereign states necessarily produce.<sup>10</sup> By contrast, according to the Lockean variant, the same process is projected in more decentralized, pluralistic terms. In this framework, just when the transfer toward a supranational center is accomplished, networks of local and constitutionally effective counterpowers rise up to contest and/or support the new figure of power. Rather than global security, then, what is proposed here is a global constitutionalism, or really this amounts to a project of overcoming state imperatives by constituting a *global civil society*. These slogans are meant to evoke the values of globalism that would infuse the new international order, or really the new transnational democracy.<sup>11</sup> Whereas the Hobbesian hypothesis emphasizes the contractual process that gives rise to a new unitary and transcendental supranational power, the Lockean hypothesis focuses on the counterpowers that animate the constitutive process and support the supranational power. In both cases, however, the new global power is presented merely in analogy with the classical conception of the national sovereign power of states. Rather than recognizing the new nature of imperial power,

the two hypotheses simply insist on the old inherited forms of state constitution: a monarchic form in the Hobbesian case, a liberal form in the Lockean.

Although, given the conditions in which these theories were formulated (during the cold war, when the United Nations only limped forward in the best of times), we must recognize the great foresight of these theorists, we also have to point out that they cannot account for the real novelty of the historical processes we are witnessing today.<sup>12</sup> In this regard these theories can and do become harmful, because they do not recognize the accelerated rhythm, the violence, and the necessity with which the new imperial paradigm operates. *What they do not understand is that imperial sovereignty marks a paradigm shift.* Paradoxically (but it is really not that paradoxical), only Kelsen's conception poses the real problem, even if his conception is limited to a strictly formalist point of view. What political power already exists or can be created, he asks, that is adequate to a globalization of economic and social relations? What juridical source, what fundamental norm, and what command can support a new order and avoid the impending descent into global disorder?

### The Constitution of Empire

Many contemporary theorists are reluctant to recognize the globalization of capitalist production and its world market as a fundamentally new situation and a significant historical shift. The theorists associated with the world-systems perspective, for example, argue that from its inception, capitalism has always functioned as a world economy, and therefore those who clamor about the novelty of its globalization today have only misunderstood its history.<sup>13</sup> Certainly, it is important to emphasize both capitalism's continuous foundational relationship to (or at least a tendency toward) the world market and capitalism's expanding cycles of development; but proper attention to the *ab origine* universal or universalizing dimensions of capitalist development should not blind us to the rupture or shift in contemporary capitalist production and global relations

of power. We believe that this shift makes perfectly clear and possible today the capitalist project to bring together economic power and political power, to realize, in other words, a properly capitalist order. In constitutional terms, the processes of globalization are no longer merely a fact but also a source of juridical definitions that tends to project a single supranational figure of political power.

Other theorists are reluctant to recognize a major shift in global power relations because they see that the dominant capitalist nation-states have continued to exercise imperialist domination over the other nations and regions of the globe. From this perspective, the contemporary tendencies toward Empire would represent not a fundamentally new phenomenon but simply a perfecting of imperialism.<sup>14</sup> Without underestimating these real and important lines of continuity, however, we think it is important to note that what used to be conflict or competition among several imperialist powers has in important respects been replaced by the idea of a single power that overdetermines them all, structures them in a unitary way, and treats them under one common notion of right that is decidedly postcolonial and postimperialist. This is really the point of departure for our study of Empire: a new notion of right, or rather, a new inscription of authority and a new design of the production of norms and legal instruments of coercion that guarantee contracts and resolve conflicts.

We should point out here that we accord special attention to the juridical figures of the constitution of Empire at the beginning of our study not out of any specialized disciplinary interest—as if right or law in itself, as an agent of regulation, were capable of representing the social world in its totality—but rather because they provide a good index of the processes of imperial constitution. New juridical figures reveal a first view of the tendency toward the centralized and unitary regulation of both the world market and global power relations, with all the difficulties presented by such a project. Juridical transformations effectively point toward changes in the material constitution of world power and order. The transition we are witnessing today from traditional international law, which

was defined by contracts and treaties, to the definition and constitution of a new sovereign, supranational world power (and thus to an imperial notion of right), however incomplete, gives us a framework in which to read the totalizing social processes of Empire. In effect, the juridical transformation functions as a symptom of the modifications of the material biopolitical constitution of our societies. These changes regard not only international law and international relations but also the internal power relations of each country. While studying and critiquing the new forms of international and supranational law, then, we will at the same time be pushed to the heart of the political theory of Empire, where the problem of supranational sovereignty, its source of legitimacy, and its exercise bring into focus political, cultural, and finally ontological problems.

To approach the juridical concept of Empire, we might look first at the genealogy of the concept, which will give us some preliminary terms for our investigation. The concept comes down to us through a long, primarily European tradition, which goes back at least to ancient Rome, whereby the juridico-political figure of Empire was closely linked to the Christian origins of European civilizations. There the concept of Empire united juridical categories and universal ethical values, making them work together as an organic whole. This union has continuously functioned within the concept, whatever the vicissitudes of the history of Empire. Every juridical system is in some way a crystallization of a specific set of values, because ethics is part of the materiality of every juridical foundation, but Empire—and in particular the Roman tradition of imperial right—is peculiar in that it pushes the coincidence and universality of the ethical and the juridical to the extreme: in Empire there is peace, in Empire there is the guarantee of justice for all peoples. The concept of Empire is presented as a global concert under the direction of a single conductor, a unitary power that maintains the social peace and produces its ethical truths. And in order to achieve these ends, the single power is given the necessary force to conduct, when necessary, “just wars” at the borders against the barbarians and internally against the rebellious.<sup>15</sup>

Just war is no longer in any sense an activity of defense or resistance, as it was, for example, in the Christian tradition from Saint Augustine to the scholastics of the Counter-Reformation, as a necessity of the “worldly city” to guarantee its own survival. It has become rather an activity that is justified in itself. Two distinct elements are combined in this concept of just war: first, the legitimacy of the military apparatus insofar as it is ethically grounded, and second, the effectiveness of military action to achieve the desired order and peace. The synthesis of these two elements may indeed be a key factor determining the foundation and the new tradition of Empire. Today the enemy, just like the war itself, comes to be at once banalized (reduced to an object of routine police repression) and absolutized (as the Enemy, an absolute threat to the ethical order). The Gulf War gave us perhaps the first fully articulated example of this new epistemology of the concept.<sup>19</sup> The resurrection of the concept of just war may be only a symptom of the emergence of Empire, but what a suggestive and powerful one!

### The Model of Imperial Authority

We must avoid defining the passage to Empire in purely negative terms, in terms of what it is not, as for example is done when one says: the new paradigm is defined by the definitive decline of the sovereign nation-states, by the deregulation of international markets, by the end of antagonistic conflict among state subjects, and so forth. If the new paradigm were to consist simply in this, then its consequences would be truly anarchic. Power, however—and Michel Foucault was not the only one to teach us this—fears and despises a vacuum. The new paradigm functions already in completely positive terms—and it could not be otherwise.

The new paradigm is both system and hierarchy, centralized construction of norms and far-reaching production of legitimacy, spread out over world space. It is configured *ab initio* as a dynamic and flexible systemic structure that is articulated horizontally. We conceive the structure in a kind of intellectual shorthand as a hybrid of Niklas Luhmann’s systems theory and John Rawls’s theory of



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