

## Foreword

THIS SPECIAL ISSUE BRINGS TOGETHER six articles and four book reviews on the theme of comparative constitutionalism and transnational law. Our approach as guest editors is ecumenical in that we do not assume any shared understanding amongst the authors on the concept of “constitutionalism.” Nor do we expect that the authors would necessarily agree with our instincts as to why their contribution addresses something worth approaching in terms of constitutionalism. Our understanding of the issue’s theme is also fluid in that we have not separated that which is “comparative” from that which is “transnational.” Rather, we see these two angles of inquiry as overlapping and mutually informing each other in our ever more interconnected world.

An introduction which is intended to be schematic says nothing further about our choice of umbrella terms. Our method will instead be to sketch a narrative roadmap, which we hope will signal the richness and suggestiveness of this issue’s theme. Our hope is that by the end of the introduction, the reader will be eager to explore this collection on comparative constitutionalism and transnational law.

First is James Tully’s “Modern Constitutional Democracy and Imperialism.”<sup>1</sup> A work in general political and legal theory, it employs a broad-sweep comparativism to provide historical ground for Tully’s arguments about the transnational nature and aspirations of modern constitutionalism as contemporary imperialism. Tully’s objective is “to describe the imperial roles that the spread of modern constitutional forms and constituent powers has played in th[e] interpretation of global governance”<sup>2</sup> as a continuation of western imperialism by informal means. This interpretation has been advanced by a range of scholars since the 1953 publication of Gallagher and Robinson’s influential “The Imperialism of Free Trade.”<sup>3</sup> Tully

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1. James Tully, “Modern Constitutional Democracy and Imperialism” (2008) 46 *Osgoode Hall L.J.* XXX.
  2. *Ibid.* at XXX.
  3. John Gallagher & Ronald Robinson, “The Imperialism of Free Trade” (1953) 6 *Econ. Hist. Rev.* 1.

seeks to remedy what he perceives as a gap in this area of scholarship that has emphasized a complex of post-World War II international institutions at the expense of forms of constitutional thought and governance associated with western states that, he argues, are co-agents in the processes, structures, and outcomes of a transnational imperialism.

Just as Gallagher and Robinson assumed the interpenetration of international (interstate) institutions and state legal systems, a feature of Tully's argumentation is a refusal to compartmentalize the "international" and the "domestic" (state-level) in both charting and critiquing the way in which, throughout the world, forms of constitutionalism take hold. These forms are radically divorced from control by and through "the people" of a given society despite the assumption, paradoxically, that consent of the governed legitimizes a constitution that either was from the outset, or has become, institutionally distant from the governed. Tully traces the co-evolution of constitutional ideas and institutions in a manner that reveals a near seamlessness between globalization and westernization in the spread of what he argues, from a political theory perspective, to be a flawed family of ideas about legitimate constitutionalism. This article, which is an exercise in factual exposé and theoretical debunking, ends by suggesting what a truly democratic constitutionalism that is not imperial might look like.

In commenting on this article, the next two contributions also draw on Tully's body of scholarship. First is Ruth Buchanan's "Modern Constitutional Paradox of Modern Democrats: A Comment on Tully," which grew out of her commentary on Tully's paper at the second Osgoode Hall Constitutional Law Roundtable.<sup>4</sup> Buchanan engages with Tully through a number of pertinent observations about his premises, including the importance of state-level and supra-state constitutional forms as being "internally related" (as Tully puts it) for understanding the nature of globalized "legalized hegemony" (as Buchanan puts it) outside the standard lenses of comparative law and international law. She also directs readers to note the significance of Tully, a political theorist, seeing law and law-like rules as fully bound up in any adequate explanation of

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4. Ruth Buchanan, "Modern Constitutional Paradox of Modern Democrats: A Comment on Tully" (2008) 46 Osgoode Hall L.J. XXX. The original paper was presented at the second Osgoode Hall Constitutional Law Roundtable, "Comparative Constitutional Law and Globalization: Towards Common Rights and Procedures?" Osgoode Hall Law School, 24 February 2007.

the outcomes of power differentials and the creation and maintenance of inequalities. She questions whether the paradoxes and tensions Tully places at the heart of modern constitutional democracy are any different from basic paradoxes and tensions at the heart of modern law writ large.

Buchanan observes that Tully is drawn to legal pluralism because of its capacity to draw attention to the “subjugated and overlooked ‘alternative worlds’ ... of law and governance.”<sup>5</sup> Here, too, she asks how far such an embrace takes us, given that legal pluralist traditions are not necessarily evaluative, and that much of the literature is empirical and sociologically descriptive. Buchanan turns to legal pluralist strands that embrace what she calls a critical dimension—one that evaluates pluralism for the space it not only makes visible but also helps open up for less privileged and disadvantaged sectors of national and global society. For Buchanan, Tully’s legal pluralism requires a subaltern-leaning *telos* in order to merge his theories of political democracy and legal pluralism. Nonetheless, she warns against too ready an optimism about the possibility of subaltern politics actually influencing the powerful institutionalized structures through the diffuse impacts of global civil society. Using the example of the World Trade Organization (WTO) and debates surrounding the Doha round, she queries whether certain gains could be attributed to the subaltern strength of global non-state society versus the collective assertion of sovereign power by economically emergent states in the South.

Buchanan ends her article with a discussion of how the aspiration for democratic constitutionalization of transnational institutional spaces and processes needs to be more resilient than mere hopefulness about the potential for openness and dialogue to reform these institutions. Opening things up in the real world can lead to worse outcomes than the present state of affairs, as power and privilege do not voluntarily recede from the scene. While suggesting that Tully will need to attend more to the prescriptive side of his arguments, Buchanan nonetheless ends her article by indicating that Tully successfully walks the fine line between drawing attention to present-day practices that show why better constitutional worlds are possible and being too quick to believe that major changes are on the horizon.

More than a comment, Michael Simpson’s “‘Other Worlds Are Actual’: Tully on the Imperial Roles of Modern Constitutional Democracy” also serves

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5. *Ibid.* at XXX.

as a free-standing article beyond a discussion of Tully.<sup>6</sup> If Buchanan provides a cautionary tale to the unduly idealistic, Simpson invites an engaged optimism for the future. In two respects, Simpson seeks to refine and deepen Tully's arguments. In one respect, he does this through a discussion of counter-hegemonic experiments in governance that serve as actual examples of how modern constitutional forms do not monolithically win the day. Though Buchanan comments that Tully notes space for resistance to imperial hegemony and for possible worlds to grow out of actual worlds, Simpson expands on this considerably. Notwithstanding Tully's own cautious optimism, it is not immediately easy to see the sources of such optimism when one reads both Tully's and Buchanan's accounts of the combined ideational and material structures of transnational power. It is difficult to avoid pessimism about the real-world practicality of Tully's theories that law and constitutions need to be constantly subject to politics of informed contestation, other-respecting dialogue, and (good faith) negotiation as part of a direct constitutional governance by the people. Almost as antidote to such pessimism, Simpson's article is like a manifesto for hope.

The second respect in which Simpson deepens Tully's discourse is by way of theoretical reinforcement. He feels that a broader understanding will make Tully's arguments more persuasive for readers not otherwise familiar with the intellectual landscape of his other writings. Simpson adds much of value by elaborating on whether and how modern constitutional democracy tends to be imperial in the domestic sphere and not simply when it is exported to non-western societies and polities. Consistent with Tully's own interest in political and legal pluralism within states (not least with respect to Aboriginal peoples in the Canadian and analogous settler-society contexts), Simpson helps us see the problems of internal imperialism within western states such that the non-consensual nature of transnationalized constitutionalism becomes much clearer. Just as significantly, Simpson's discussion reveals that the problem of consent is not limited to the consent of collectivities (peoples, non-western societies, and so on) but poses a classical consent-of-individuals challenge for most, if not all, conceptions of democracy and constitutionalism.

The fourth article is Miguel Schor's "Judicial Review and American

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6. Michael Simpson, "Other Worlds Are Actual: Tully on the Imperial Roles of Modern Constitutional Democracy" (2008) 46 Osgoode Hall L.J. XXX.

Constitutional Exceptionalism.”<sup>7</sup> Without considering the same theoretical quandaries that Tully, Simpson, and Buchanan discuss, Schor’s article engages the same basic tensions. Specifically, his article asks how different legal systems address the question of the relative role and power of courts and legislatures in deciding the interpretive content of norms which, as constitutional entitlements, are by definition removed from the direct governance of the people. Of great interest is the article’s treatment of resistance to the transnational diffusion of American constitutionalism. As such, Schor offers a counterpoint to Tully’s story of general western constitutional hegemony, albeit one which nonetheless sounds in Tully’s framework of undemocratic constitutionalism. Yet Schor focuses not only on the diversity of western constitutional approaches, but also points to the immense importance of what could be called the norm/institution architecture of constitutions: how to allocate (and share) decisional authority in relation to constitutionalized norms.

Schor’s article asks a specific question: why are there such battles over judicial appointments in the US but not in other western countries that adopted post-World War II constitutional bills of rights? He finds a large part of the answer in the notion that the US constitutional model has had the transnational influence assumed by Tully, but that “the United States has been both a model and an anti-model in the spread of judicial review around the globe.”<sup>8</sup> Even as the idea of constitutionally protected rights gained ground after the war, others rejected the force of American assumptions about the nature and practice of constitutional review in the US.

Comparative constitution-making is thus the ultimate subject of Schor’s article. He argues that structural features of two other western constitutions now considered leading (even rival) global influences to that of the US, those of Canada and of Germany, arose in response to lessons from the US on how *not* to constitutionalize judicial review. Significantly, this explains why social movements do not mobilize much, if at all, around judicial appointments in these countries:

States that adopted judicial review in the late twentieth century ... rejected the key assumption on which judicial review in the United States is founded. American constitutionalism assumes that law is separate from politics and that courts have the power and the duty to maintain that distinction. This assumption was rejected

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7. Miguel Schor, “Judicial Review and American Constitutional Exceptionalism” (2008) 46 *Osgoode Hall L.J.* XXX.
8. *Ibid.* at XXX.

because other countries learned from the American experience that courts that exercise judicial review are powerful political as well as legal actors.<sup>9</sup>

Ironically, judicial appointments outside the US are less politicized because Canada and Germany recognize that constitutional review is a substantially political enterprise. As a result, each has adopted structural features which respond to and diffuse this concern. While the Canadian constitution represents a “politicized rights” model of judicial review, the German constitution represents a “political court” model.

Whatever other transnational factors may have influenced each country at the time of adopting or revising its constitution, Schor’s article is a counterpoint to Tully’s arguments in at least two respects. Firstly, by focusing on institutional divergence, the article goes some way to demonstrating that western constitutionalism is not as much of one piece as Tully (and Simpson) assume. This insight has implications for the question of whether some strands within western constitutionalism are more likely to be adaptable to Tully’s more direct democracy understanding of constitutionalism. Secondly, the Schor article is indirectly a story about the limits of hegemony. Buchanan warns that we can underestimate the staying power of privilege and Schor suggests that we can equally overestimate the forces pushing for imposition of external models that fail to persuade.

The final two articles in the issue represent a shift in focus to the realm of governance and legal process in relation to transnationalized private law (personal injury tort) and transnationalized statutory regulation (corporate regulation). Although there is no explicit discussion of constitutionalism, both articles directly engage two fundamental (and, in that sense, constitutional) features of the public international law order. On the one hand, there are the *jurisdictional* principles and factors that shape when states may appropriately exercise law-interpreting, law-making, and law-enforcing functions vis-à-vis foreign societies. These norms classically tend in the direction of forbearance and comity-based limits on the legitimate incursion of one sovereign state into activities closely associated with another sovereign state. On the other hand, there are *substantive* legal norms that set out what, according to public international law, states must or must not do. Certain substantive legal norms are increasingly viewed in proto-constitutional terms as particularly important

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9. *Ibid.* at XXX.

for the international legal order. Not least amongst such norms are international human rights norms and, more tenuously but still arguably, certain environmental protection norms that draw normative energy from international human rights notions, such as those related to fair process and to health.

The title alone of Sara Seck's "Unilateral Home State Regulation: Imperialism or Tool for Subaltern Resistance?" signals a seamlessness of the fundamental questions that tend to unify the papers in this issue.<sup>10</sup> While Seck's topic is not Tully's imperial spread of western constitutional models and ideas, it is the arguably more intrusive issue of whether one state may (or even must) regulate certain activities of corporations that are nationals of, or otherwise closely associated with the legal system of, that state. Seck's article starts from the observation that, in the absence of a multilateral treaty framework addressing accountability for business activity that negatively affects human rights, there is more and more discussion of a regulatory role for corporations' home states in preventing and remedying human rights harms occurring in host states. Her purpose is to analyze whether such regulation, termed unilateral home state regulation, can contribute to advancing multilateral norm creation through customary international law. If so, the further concern is whether unilateral regulatory action is nonetheless illegitimate because unilateral initiatives and much of public international law serve as vehicles for contemporary imperialism.

The midpoint in Seck's argument is largely on all fours with Tully's own analysis. She argues that emerging norms of democratic governance, as well as human rights norms more generally, "serve to give a human face to neo-liberal globalization without challenging the underlying structure of the system."<sup>11</sup> At that point, Seck explores whether international law (including unilateralism-inspired international law) contains "emancipatory potential" for sectors of global society that suffer most from this structure. Similar to Buchanan, Seck focuses first on whether international law contains the tools for resistance to its own hegemonic tendencies; on that she finds space for optimism that third-world social movements have already, and can in future, "write resistance into

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10. Sara L. Seck, "Unilateral Home State Regulation: Imperialism or Tool for Subaltern Resistance?" (2008) 46 *Osgoode Hall L.J.* XXX.

11. *Ibid.* at XXX.

international law.”<sup>12</sup> Here she draws on TWAIL (Third World Approaches to International Law) scholarship including, notably, Balakrishnan Rajagopal’s conceptualization of international law “from below.”<sup>13</sup>

The parallels with Tully’s theoretical orientation are obvious when Seck turns to Susan Marks, who critiques the embedded notions of democracy in mainstream international law scholarship, and then advances a principle of democratic inclusion as a counter-theory of transnational democracy. At this point, Seck’s focus also dovetails with that of Simpson’s emphasis on actual worlds of sub-state collectivities pointing the way to future possibilities. For Seck, one can “give[] a voice to host state local communities” if one redefines the classical international law principles of sovereign equality and non-interference into other states’ domestic affairs in light of the non-statist imperatives of democratic inclusion.<sup>14</sup> The legitimacy of home states regulating corporate actors’ activities in other countries “will thus depend upon the extent to which [such regulation] gives a voice to host state local communities.”<sup>15</sup>

The final article of this special issue, François Larocque’s “Recent Developments in Transnational Human Rights Litigation: A Postscript to *Torture as Tort*,” is a combined survey and analysis of significant developments since the 2001 publication of *Torture as Tort: Comparative Perspectives on the Development of Transnational Human Rights Litigation*.<sup>16</sup> The book consists of twenty-six chapters which consider whether the public international law of human rights can or should be translated into civil liability claims in one state’s courts for harmful activities that have occurred largely or entirely outside that state. Larocque provides a detailed study into the doctrinal dimensions of one modality for the kind of home state regulation that Seck has approached at a more general and theoretical level.

How do fundamental principles of jurisdiction, on the one hand, and

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12. *Ibid.* at XXX.

13. Balakrishnan Rajagopal, *International Law from Below. Development, Social Movements and Third World Resistance* (Cambridge: Cambridge University Press, 2003)

14. *Supra* note 12 at XXX.

15. *Ibid.* at XXX.

16. François Larocque, “Recent Developments in Transnational Human Rights Litigation: A Postscript to *Torture as Tort*” (2008) 46 Osgoode Hall L.J. XXX, referencing Craig Scott, ed., *Torture as Tort: Comparative Perspectives on the Development of Transnational Human Rights Litigation* (Oxford: Hart, 2001).

protected values, on the other hand, interact through the mediating lens of private international law (conflict of laws) methodologies? Larocque's task borders on monumental, as law and related events have proliferated in the seven years since 2001. To consider developments both in and outside the US, Larocque divides his narrative into the following section-by-section themes: case law under the US *Alien Tort Statute*, with a key focus on the US Supreme Court case of *Sosa v. Alvarez-Machain* (2004);<sup>17</sup> corporate complicity as a ground for civil liability for human rights violations occurring abroad; the standard for assuming adjudicative jurisdiction in common law systems where the claimed tort involves alleged human rights violations in another country; state immunity from civil liability claims in foreign courts; and compensation and other remedies for victims securing a favourable judgment (or settlement) through transnational human rights litigation.

In discussing this activity, Larocque makes a number of observations and arguments that add value to our understanding of transnational human rights litigation (whether as phenomenon or as advocated practice). There is an important, if brief, analysis of how the immunity of states as collective entities raises different issues from the immunity of state officials as agents of the state. There is also a rich discussion of two potentially complementary bases for a more extended private-law adjudicative jurisdiction: the concept of universal civil jurisdiction for violations of peremptory norms of public international law and the creation of causes of action through the reception of customary international law into the common law. Larocque also takes a position on the emerging issue of whether the transnational translation of international human rights norms into private law causes of action should come with a requirement—as exists under international human rights treaties—that local (*i.e.*, national) remedies be exhausted before the merits of a claim can be considered. Larocque's own view will hopefully be taken into account when this issue is addressed by a court in future:

Little would be gained by requiring the exhaustion of local remedies in ATS cases since the international rule's policy is largely addressed by other domestic prudential doctrines such as act of state, political question and forum non conveniens. Indeed, both the exhaustion requirement at international law and forum non conveniens at domestic law aim to strike a balance between preventing denials of justice and

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17. *United States v. Alvarez-Machain* (91-712), 504 U.S. 655 (1992); *Sosa v. Alvarez-Machain* (03-339) 542 U.S. 692 (2004).

ensuring that claims be determined by the most appropriate decider.<sup>18</sup>

Finally, Larocque substantiates the observation that “traditional rules of [private international law] jurisdiction cannot easily accommodate transnational human rights claims where private parties seek redress for extraterritorial violations of public international norms.”<sup>19</sup> He argues that “[n]ew categories need to be fashioned to address the particularities of these claims, namely, the nearly inevitable lack of territorial connection with the forum, the international public interest in enforcing peremptory norms and the imperative of avoiding denials of justice.”<sup>20</sup> The connections between transnational civil liability and constitutionalism beyond the state are evident in this passage.

The book reviews build on and extend the themes discussed in the articles. Amaya Alvez reviews *Transnational Constitutionalism: International and European Perspectives*, a book that directly explores constitutionalism beyond the state.<sup>21</sup> Alvez maintains that, “[s]ituated uncomfortably between international human rights law, comparative constitutional law, and emerging proposals of international constitutional law, transnational constitutionalism is, in a sense, international constitutionalism (beyond the state) with a twist.”<sup>22</sup> In her view, “transnational is more than international and, indeed, something radically different from it.”<sup>23</sup> She concludes that, in exploring this reality, the book makes a “substantive contribution” to the debate.

Florian Hoffmann and Peer Zumbansen review Saskia Sassen’s *Territory, Authority, Rights: From Medieval to Global Assemblages*, a book the reviewers describe as a “seminal attempt to grasp the deep structure of contemporary world society.”<sup>24</sup> The reviewers tell us how Sassen starts with the evolution and metamorphoses of the state throughout history as a way “to provide the

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18. *Supra* note 18 at XXX.

19. *Ibid.* at XXX.

20. *Ibid.* at XXX.

21. Amaya Alvez, Book Review of *Transnational Constitutionalism: International and European Perspectives* by Nicholas Tsagourias, ed., (2008) 46 Osgoode Hall L.J. XXX.

22. *Ibid.* at XXX.

23. *Ibid.* at XXX.

24. Florian Hoffmann & Peer Zumbansen, Book Review of *Territory, Authority, Rights: From Medieval to Global Assemblages* by Saskia Sassen, (2008) 46 Osgoode Hall L.J. XXX at XXX.

analytical toolkit for a more adequate understanding of the globalizing world.”<sup>25</sup> This method ties directly into Sassen’s contention that globalization (and the transformations she holds it responsible for) is not some process outside or acting upon the state. Much of Hoffmann and Zumbansen’s review is an insightful discussion of method, with considerable emphasis on how Sassen’s is not strictly historical in the lay sense of the term. Rather, in her hands, history generates ideal types that do not always conform factually to every aspect or instantiation of history itself. This approach allows Sassen “to identify several master discourses that have emerged out of the historical assemblages, such as borders and bordering, state secrecy, privatization, deterritorialization, and law.”<sup>26</sup> A careful reading of this review greatly assists in re-reading Tully, notably by helping us understand the historical contextualization of his “seven features” (not dissimilar from Sassen’s “master discourses”), which foregrounds law within a particular historical assemblage of western constitutional democracy and its “corresponding” international institutions.

The third book review, by Graham Hudson reviewing Stephen Tierney’s edited collection, *Multiculturalism and the Canadian Constitution*, addresses the issue’s themes tangentially.<sup>27</sup> As Hudson explains, the entire second half of the book looks at globalization, international law, and the role of judges in fostering multicultural values. More significant perhaps is a deeper aspiration for the collection. Hudson notes that editor Tierney hopes that the book’s essays “will offer ‘fresh perspectives’ on new and complex issues arising from the interaction between claims for diversity and changing environmental factors such as the evolving constitution, globalization, and shifting ideologies.”<sup>28</sup> In this respect, it is worth mentioning one critique in what is otherwise a positive review. While recognizing that no book is comprehensive, Hudson nonetheless concludes “it is surprising that so little attention was devoted to Aboriginal self-government, history, or views about constitutionalism.”<sup>29</sup> Given the attention in this issue to “subaltern” social sectors, including Aboriginal communities,

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25. *Ibid.* at XXX.

26. *Ibid.* at XXX.

27. Graham Hudson, Book Review of *Multiculturalism and the Canadian Constitution* by Stephen Tierney, ed., (2008) 46 Osgoode Hall L.J. XXX.

28. *Ibid.* at XXX.

29. *Ibid.* at XXX.

and the question of resistance to (and within) constitutionalist assemblages, Hudson tellingly points out that “no mention is made of the marked increase of Aboriginal protests over the past twenty years, the continued neglect these protests highlight, the repressive and sometimes violent governmental and civilian responses, and our continued receipt of international criticisms for the human rights violations Aboriginals routinely endure.”<sup>30</sup>

Finally, Jane Murungi reviews *The New Law and Economic Development: A Critical Appraisal*, edited by David Trubek and Alvaro Santos.<sup>31</sup> Murungi concludes that the book is unusual for edited collections in being both rather comprehensive and also coherent. While each chapter stands on its own, Trubek and Santos succeed as editors in achieving a resolute focus on a core thesis that unifies the whole book. This thesis is that for the last ten to fifteen years, the field known as Law and Development has undergone a shift in perspective by virtue of now “elevating the rule of law from a development policy tool to a development policy objective.”<sup>32</sup> Commenting on an essay by co-editor David Trubek, Murungi observes that “[t]he reader learns how the concept of the rule of law became an attractive, seemingly unifying goal for two would-be opposing interests—namely, the pro-democracy and pro-market interests; and how these interests joined forces to attain their objectives, only to realize that rule of law is neither common nor easy to achieve because of the concept’s multifarious meanings.”<sup>33</sup> Murungi also gives an overview of David Kennedy’s tracing of four phases of discourse for development experts, from 1945 to 2000, culminating in the gradual replacement of political ideas by legal ideas. Kennedy “shows how the rule of law became an easier alternative, or escape route, for development experts. Avoiding the more challenging but beneficial approach of using law as a platform to debate and formulate development policy based on economic ideas, the experts chose law, i.e., the rule of law, as the development focus.”<sup>34</sup> Murungi’s review reveals how much of a complement *The New Law and Economic Development* is for those interested

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30. *Ibid.* at XXX.

31. Jane Murungi, Book Review of *The New Law and Economic Development: A Critical Appraisal* by David M. Trubek and Alvaro Santos, eds., (2008) 46 Osgoode Hall L.J. XXX.

32. *Ibid.* at XXX.

33. *Ibid.* at XXX.

34. *Ibid.* at XXX.

in the evolution of Sassenian “assemblages” of ideas and practices within transnational political economy, and how law can insert itself into such assemblages as a special combination of imperative and *imperium*.

This concludes our introduction to the special issue, but we hope that it not only sparks readers to explore each of the contributions but also to join in furthering the intellectual project out of which this issue has grown. As the complexity of a fast-changing world continues to challenge our analytical tools, the question for law and legal scholars becomes one of revisiting the concepts and language of law. The articles and reviews in this special issue illustrate the degree to which the emergence of transnational law must be seen as an evolutionary process. As the persuasive force of convictions and vocabulary, learned and employed in the nation-state, appears to fade in the face of the sobering regulatory challenges in a dramatically divided and fragmented world society, lawyers are joined by anthropologists, political scientists, sociologists, historians, and economists in a quest to make sense of the state of global affairs. Lawyers can only do so much, especially as the standard legal lens offers a highly specialized, narrow view of the world. At the same time, law and legal theory have changed immensely over the past few decades in terms of interdisciplinary scholarship, empirical studies, and comparative perspectives, all of which have begun to transform the way lawyers are educated. Just as law and globalization moved from an *avant garde* concern pursued by few law schools to a widely recognized fact of life, our inquiry into the relationship between the local and the global, between the domestic and the international, and between comparative law and transnational law will continue to mature.

Craig Scott & Peer Zumbansen  
Guest Editors