

## **THE GLOBE AND THE GHETTO**

### **ABSTRACT**

The space of the global, as described in many writings on global governance, is a space of singular coherence. Discord is to be written away under the auspices of the market, the dictates of human rights, or by reference to a theoretical scheme disclosing far-reaching networks of interpenetration. Work on global governance tends to adhere to a canon of comprehensiveness and writings in this field are forever working to create conditions under which global wholeness might seem possible, in one form or another. This paper investigates the prevalence of this belief in systematization on a global scale. It asks: what does this belief entail? What forces give it shape and direction? How does this belief govern those who hold it?

The field of writing on global governance is characterized in this paper as a field of scholarly action and cultural conflict staged at sites such as the CPOGG conference. This paper describes some of the conventions shared by those occupying this field, focusing on governance as a mode of orthodoxy rather than of regulation or institutionalization. In particular, it examines the work of three leading legal scholars writing about global governance. Among the conventions identified in their work are orthodoxies of inclusive segregation. In order to evoke the possibility of future convergence, these writings draw qualitative distinctions between those within the global fold and those whom global governance is yet to embrace, while drawing all into their narratives. Moreover, these contributors to the global governance field seem to internalize these categorizations as they reproduce them in their work. They are as much colored by their classification within the field of global governance work as they are classifiers of this field. Hence, the hierarchies presented as incontrovertible in much global governance writing – such as that between “democratic” and “non-democratic” places and people – are neither innocently factual nor rooted in some malevolent intent. These classifications (and the conflicts that they fuel) are being created and recreated, in relatively mundane and often well-intentioned ways, over the course of writing, reading and talking about global governance. They are, in part, a product of the routinized aspiration for coherence. Global “world order” and the direction and divisions attributed to it are incidental by-products of the desire for such an order and for status within it.

This critique will be rendered more concrete by comparing selected writings on global governance to some sixteenth century Venetian accounts of worldliness. This comparison will foreground some specific struggles that have, in the past, yielded belief in an overarching framework of worldwide reach. Impulses apparent in Venetian writings on worldliness, this paper suggests, have counterparts in contemporary work in global governance. We may, moreover, learn strategically from this juxtaposition. As in the congested streets of Venice, there may be few occasions for purity, rightness or detachment when working in the global governance field. Wherever we stand within it, we are likely to be, in some sense, compromised by or complicit in that which we would oppose.

## THE GLOBE AND THE GHETTO

*[R]acism...has never operated by exclusion...Racism operates by the determination of degrees of deviance in relation to the White-Man face, which endeavors to integrate nonconforming traits into increasingly eccentric and backward waves...From the viewpoint of racism, there is no exterior, there are no people on the outside.<sup>1</sup>*

*Liberty, equality, fraternity, love, honour, patriotism and what have you. All this did not prevent us from making anti-racial speeches about dirty niggers, dirty Jews and dirty Arabs. High-minded people, liberal or just soft-hearted, protest that they were shocked by such inconsistency; but...with us there is nothing more consistent than a racist humanism since the European has only been able to become a man through creating slaves and monsters.<sup>2</sup>*

### **Introduction**

The term “global” evokes a single, spherical shape. “Globalism” and its etymological siblings claim, above all, to be comprehensive. Compare the terms “internationalism” and “transnationalism”. These both suggest a bridging of space between nationals and nations. They evoke a sense of exchange and conflict between territorially and politically distinct sites. Similarly, “cosmopolitanism” suggests a “politan” (from the Greek *polites*, citizen) acting within a “cosmo” (from the Greek *kosmos*, universe). This term implies a sense of locale and commitment, both ideological and spatial. The “global” is notable, in contrast, for its claim to unrooted wholeness. Bolstered by this semantic posture, contemporary scholarship on global governance lays claim to a field of extraordinary compass. It is this field in which we are operating at this conference and it is in these claims that we are trafficking.

<sup>1</sup> GILLES DELEUZE & FÉLIX GUATTARI, *A THOUSAND PLATEAUS*, 178 (Brian Massumi trans., 1987).

<sup>2</sup> Jean Paul Sartre, *Introduction*, in FRANTZ FANON, *THE WRETCHED OF THE EARTH* (Constance Farrington trans., 2<sup>nd</sup> ed. 1968).

The global seems virtually inaccessible to experience. One cannot detect globalization by sight, smell or sound. One simply must *believe* in it. This is what the literature of global governance asks its writers and readers to do – to have faith in the possibility of systematization on a global scale. It is this faith that I wish to probe in this paper. What is the effect of our tendency to believe in global coherence? What does this belief entail? What forces give shape and direction to that belief? How are we governed by our belief in the possibility of global governance?

I will explore these questions by characterizing the field of writing on global governance as a field of scholarly action and cultural conflict staged at sites such as this conference. I do so in a sense indebted to Pierre Bourdieu's "habitus" and Kurt Lewin's "field" – that is, by learning from sociologists' practices of mapping possible forces in a field of social classification, including the force of classification itself.<sup>3</sup> This characterization is agnostic as to whether globalization and global governance are ideals or realities. It investigates not the *what* of global governance but rather the *how* of it, asking: how is global governance being written and with what effects?

This paper will also focus on "governance" in a specific sense. I use the term governance to refer to the operation of a number of disciplinary conventions that I set out to describe. I argue that these conventions constitute and order the field of scholarly and policy work on global governance, even as they remain matters of dispute within this field. Governance, in this paper, encapsulates a variety of practices that give shape and impetus to the discussions in which we are currently engaged: from the lineup of participants and the terminology used in those discussions to the preoccupations on which they focus. Current debates about global governance are governed by certain routines and aspirations that in turn govern those who engage in them. Governance in this mode operates regardless of its expression in institutional architectures or regulatory edicts.

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<sup>3</sup> As Bourdieu constructed it, the "habitus" is a field of "possible forces" constituted by the relationship between classifiable practices and systems of classification. These forces manifest in certain "dispositions" (schemes of perception, appreciation and action) revealing the conditions under which they were acquired. These dispositions are internalized and affect, among other things, the likelihood of unity or division among particular people and of collective political action. See PIERRE BOURDIEU, *DISTINCTION: A SOCIAL*

In the first section of this paper, I will delineate certain characteristics of the field of writing on global governance. In particular, I will describe a triangle of social forces appearing recurrently in this writing. This triangulation arises between scholarly and institutional elites writing about global governance, activist or populist elements engaged in global governance debates and the absent constituencies that both these sectors purport to represent. Routinized relationships among these contending forces reveal tensions riddling the global governance field, but also signal unacknowledged collaborations within this field. Out of these collaborations the field of global governance, as well as the conventions that mark it, are being entrenched and reproduced. As Francis Snyder has argued, scholarly work on global governance “does more...than simply provide the rules of the game. It also constitutes the game itself, including the players”.<sup>4</sup>

In the second section of this paper, I will trace these conflicting social forces through readings of three articles by prominent legal scholars in the United States. These scholars are among those who are helping to shape current expectations and perceptions of global governance. While their articles differ in political tenor and theoretical orientation, I read them as sharing a preoccupation with repelling forces that are disruptive of their field and challenging of their authority within it, including the constituents that they claim to represent. Moreover, as a matter of convention, each of these articles tends to cast its political program as all-encompassing. This is accomplished, in part, by characterizing that program as determined by evolutionary forces beyond its writer’s control. In doing so, these articles acculturate the field of global governance, and those who work within it, to the promotion of certain dispositions and the expulsion or suppression of others. This orthodoxy is anchored in the vision of humanist convergence that globalism implies. In

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CRITIQUE OF THE JUDGEMENT OF TASTE (Richard Nice trans., 1984) and KURT LEWIN, FIELD THEORY IN SOCIAL SCIENCE (Dorwin Cartwright ed., 1951).

<sup>4</sup> Francis Snyder, *Global Economic Networks and Global Legal Pluralism*, EUROPEAN UNIVERSITY INSTITUTE WORKING PAPER LAW NO. 99/6 (1999). My sense of this process draws, once more, on Bourdieu, who argued that “[t]he schemes of the habitus, the primary forms of classification, owe their special efficacy to the fact that they function below the level of consciousness and language, beyond the reach of introspective scrutiny and control by the will. Orienting practices practically, they embed what some would mistakenly call *values* in the most automatic gestures or the apparently most insignificant techniques...and engage the most fundamental principles of construction and evaluation of the social world”: BOURDIEU, *supra* note 3, at 466.

short, contemporary writers' detection and promotion of convergence on a global scale demands the vigorous containment of deviant impulses and discordant voices in the work of those writers. Work in the field of global governance is, I will argue, marked by conventions of inclusive segregation and aspirations for authority. One needs monsters and margins to make a glorious, global whole and writing on global governance is helping to create them.

In the third section of this paper, I will articulate this critique more concretely by comparing some recent writings on global governance to some sixteenth century Venetian accounts of worldliness. This comparison foregrounds forces and scenarios that have, in the past, yielded belief in an overarching "cultural frame" of worldwide reach.<sup>5</sup> Venetian claims to worldliness were raised in defense of the city's autonomy and continuity. Similarly, contemporary work in the field of global governance is defensive, in many respects, of established arrangements and authorities against perceived threats of dissolution. If, as I argue, the global governance field is ordered in a way comparable to the worldly field of Venetian purview, then opportunities for complicity and resistance will seldom line up in convenient opposition within it. As in the congested streets of Venice, there may be few occasions for purity, rightness or detachment when working in this field. The orthodox and the heretical are, it seems, too entangled for either to afford emancipatory salvation.

In the fourth section of this paper, I will offer some concluding remarks about the properties of the global governance field illuminated by this critique.

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<sup>5</sup> Contrast Elizabeth Heger Boyle and John W. Meyer's account of individuals' identities and interests being derived from "a common and universalistic world cultural frame". See Elizabeth Heger Boyle and John W. Meyer, *Modern Law as a Secularized and Global Model: Implications for the Sociology of Law*, in *GLOBAL PRESCRIPTIONS: THE PRODUCTION, EXPORTATION, AND IMPORTATION OF A NEW LEGAL ORTHODOXY*, 65-95, at 67 (Y. Dezalay & B. Garth eds., 2002) [hereinafter *GLOBAL PRESCRIPTIONS*]. Against Boyle and Meyer's account, I wish to evoke the sense of a continuous, imperfect feedback loop between the construction of nations', scholars' and others' identities and interests and the construction of a "world cultural frame", wherein no single point of origin, founding intent or transformative moment can be identified except as a stake in these ongoing constitutive labors.

## I. *The Field*

Globalism seems to have saturated the current moment. References to global phenomena of all sorts have become so ubiquitous as to make it almost implausible to delineate a particular field of work in this area. Yet writing about global phenomena does, nevertheless, exhibit nodal points at which it accumulates some cultural thickness. One such nodal point is that accretion of people and writings concerned with regulation, ordering or management on a global scale – people and works frequently gathered under the rubric of “global governance” as we are at this conference. As noted above, the nomenclature of this gathering may be distinguished from that of internationalism, transnationalism and cosmopolitanism by its heightened claims to systemic totality. Discussions about global governance are concerned with authoritative wholeness.

The gathering at this nodal point tends to be comprised, in part, of scholars and policy makers such as those at this conference – people who work in universities, international agencies and non-governmental organizations and are members of the educated elite in their respective social settings. Members of this group often exhibit a normative commitment to pragmatism.<sup>6</sup> We and others who produce writings on global governance tend also to be concerned about the rise of various forms of dogmatism – whether anti-immigrant sentiment, religious fundamentalism or national protectionism. At the same time, we are likely to be concerned, to varying degrees, about upholding standards,

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<sup>6</sup> Pragmatism refers here to claims and assumptions derived from the philosophical movement that emerged in the last decades of the nineteenth century, gained precedence during the progressive era of the early part of the twentieth century, and experienced a renaissance in the late twentieth century. In brief, pragmatism advocates a cooperative search for truth (or possibilities for truth) grounded in problem situations, in lieu of radical doubt or the pursuit of certainty. Action and perception are seen to be rooted in unreflective beliefs - beliefs that encounter resistance and devastation in the world. The reconstruction of such beliefs in the face of worldly change depends, it is said, upon creative action against the established patterns of unreflective habit. Such creative action takes place in problem situations that demand resolution. Pragmatic truth can only be realized in these situations through a process of agreement or the success of an action, rather than through correspondence with a determined or determining reality. *See generally* GEORGE HERBERT MEAD, *MIND, SELF AND SOCIETY* (1934); CHARLES SANDERS PEIRCE, *THE ESSENTIAL PEIRCE: SELECTED PHILOSOPHICAL WRITINGS* (Nathan Houser & Christian Kloesel eds., 1992); JOHN DEWEY, *ON EXPERIENCE, NATURE, AND FREEDOM; REPRESENTATIVE SELECTIONS* (Richard J. Bernstein ed., 1960); WILLIAM JAMES: *PRAGMATISM, IN FOCUS* (Doris Olin ed., 1992); HORACE S. THAYER, *MEANING AND ACTION: A CRITICAL HISTORY OF PRAGMATISM* (2<sup>nd</sup> ed., 1981). For a fascinating account of the friendships, antagonisms and characters threaded through the history of American pragmatism, *see* LOUIS MENAND, *THE METAPHYSICAL CLUB: A STORY OF IDEAS IN AMERICA* (2001).

whether of analytical rigor or of human rights. We display a forward-looking inclination and tend to be ecumenical and adventurous in our cross-disciplinary explorations. As Yves Dezalay and Bryant Garth have observed, “the current general interest in the notion of “governance” [is attributable to the fact that it] allows all disciplines to meet”.<sup>7</sup> We are, for the most part, oriented towards political reform and socio-economic improvement. Richard Falk, a leading writer on global governance, encapsulates this disposition beautifully when he writes:

[I]t is important for social forces that identify with global civil society to fashion their own visions of the future, visions able to compete with the designs and visions being developed in the think tanks of corporate, financial, media, and geopolitical elites.<sup>8</sup>

At the edges of this global governance gathering are those whom the work of this gathering often claims to be *for*. Depending on one’s politics, these may be comprised of the disenfranchised poor or, alternatively, those commercial or financial actors whose efforts to maximize wealth and efficiency are impeded by arcane legal structures ill-adapted to current realities. Consider, for example, a recent book published by Cambridge University Press entitled *CONTESTING GLOBAL GOVERNANCE*. In their introduction to this book, the editors write that “[a]lthough the U.S. scholarship ignores the distributional effect of international institutions...., there is little doubt that for hundreds of millions of people institutions such as the IMF, World Bank and WTO matter a great deal”. “[T]he foundations of global governance go beyond states and firms to include social movements”, they argue, and “[p]roposals for change in the[se] institutions’ structures and roles should be cognizant of this dimension”.<sup>9</sup> Compare the introduction to another recent book on global governance entitled *NEW DIRECTIONS IN GLOBAL ECONOMIC GOVERNANCE*. In this instance, the editors express concern that

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<sup>7</sup> Yves Dezalay and Bryant G. Garth, *Legitimizing the New Legal Orthodoxy*, in *GLOBAL PRESCRIPTIONS*, *supra* note 5, 306-334, at 311.

<sup>8</sup> RICHARD FALK, *PREDATORY GLOBALIZATION: A CRITIQUE*, 33 (1999).

<sup>9</sup> *CONTESTING GLOBAL GOVERNANCE: MULTILATERAL ECONOMIC INSTITUTIONS AND GLOBAL SOCIAL MOVEMENTS*, 1, 22 (Robert O’Brien, Anne Marie Goetz, Jan Aart Scholte & Marc Williams eds., 2000) [hereinafter *CONTESTING GLOBAL GOVERNANCE*].

“[t]he new information economy still lacks a defined, comprehensive global governance structure and institution to provide the coherent regulatory framework it may need to serve the economic, social, political and security needs of members of the international community”. They continue: the WTO “has yet to take up the new demands of the world of services and e-commerce, foreign investment, integrated production, and business alliances...”<sup>10</sup>

In each case, the writers do not claim to be among the constituents whose interests they defend – they are not themselves members of social movements or part of the world of services and e-commerce. Nevertheless it is from these absent constituents that their scholarship claims its mandate and derives its impetus. Third parties of these kinds – popular social movements and economic entrepreneurs – figure prominently in accounts of globalization, yet they are rarely heard from directly within these accounts. It seems implicit in these accounts that those on whose behalf they are written are either too under-privileged or simply too busy to advance their own interests in written form. Instead, scholars of global governance must write for them.

Also appearing on the margins of much global governance work are those understood to represent its untamed activist or populist extremes. These may hail from “grassroots” political groups, media organizations or student bodies. They are notable for the relatively shrill terms in which they voice their views. These people too seem to understand themselves to be working for and in the name of an absent constituency. For example, *VIEWS FROM THE SOUTH* – a collection of essays by activists representing a range of organizations in Africa, Asia and the Americas – offers “news of the on-the-ground effects among people and governments in the Third World”.<sup>11</sup> Writers of this type maneuver around institutionally sanctioned global governance work. They partake of some of its terminology, yet keep their stylistic and political distance. Their writings

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<sup>10</sup> *NEW DIRECTIONS IN GLOBAL ECONOMIC GOVERNANCE: MANAGING GLOBALISATION IN THE TWENTY-FIRST CENTURY*, 18 (John J. Kirton & George M. von Furstenberg eds., 2001).

<sup>11</sup> *VIEWS FROM THE SOUTH: THE EFFECTS OF GLOBALIZATION AND THE WTO ON THIRD WORLD COUNTRIES*, 5 (John J. Kirton & George M. von Furstenberg eds., 2001) [hereinafter *VIEWS FROM THE SOUTH*].

bear shoot-from-the-hip titles like “How the South is Getting a Raw Deal” and their footnotes cite pamphlets and press articles alongside scholarly and institutional studies.

In response, the scholars ignore them – writers of an activist ilk are rarely cited in the academic literature on global governance. Instead, outlets for these activist or populist elements range from talkback radio sessions to various sites of public demonstration. At these sites, attitudes range from anti-immigrant zeal to studied social reformism. Like the members of the academy and policymaking agencies writing about global governance, these people seem bound to their role as much by matters of social class, temperament, taste and peer group as they are by affirmative conviction. After having attended anti-globalization demonstrations in Washington D.C., Seattle and Quebec City, one 25-year old Canadian protestor observed: “It’s like following the Grateful Dead”.<sup>12</sup>

A curious feature of the relationship between the elite scholarly and policymaking work on global governance and its more populist or activist tangents is the extent to which they till the same discursive ground. The official statement that emerged from the G8 conference in Genoa in July 2001 phrased one of its goals as follows: “Drawing the poorest countries into the global economy is the surest way to address their fundamental aspirations”.<sup>13</sup> Join the fold and power will be yours, this statement seemed to say. Meanwhile, those protesting the conference in the streets of Genoa offered their own plan for enclosure and management:

We can now envision the formation of a truly global movement capable of challenging the most powerful institutions on the planet...progressive organizations are drawing up plans for how we could run the global economy in a life-centered way rather than a money-centered way...<sup>14</sup>

At Genoa, the G8 asserted the inordinate, transformative power of the faithful, contingent upon their adherence to a particular creed, only to find these assertions mirrored by anti-

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<sup>12</sup> Jean-François Hamilton, *quoted in* Romesh Ratnar, *The Anarchists’ Ball*, TIME, July 19, 2001.

<sup>13</sup> See [http://www.genoa-g8.it/eng/attualita/primo\\_piano/primo\\_piano\\_13.html](http://www.genoa-g8.it/eng/attualita/primo_piano/primo_piano_13.html)

globalists' claims.<sup>15</sup> "Another World is Possible" those protesting at Genoa declared.<sup>16</sup> Like the institutionally sanctioned discourse that it attacks, the language of the activist reveals a characteristically modernist belief in the possibility of "mak[ing] the world different from what it had been and better than it had been, and expand[ing] the change and improvement to a global, species-wide dimension".<sup>17</sup> Activists and protesters are vying with scholars and institutional policymakers to manage the globe's manufacture. These two constituencies may be opponents in a city, like Genoa in July 2001, "mapped out like a battlefield", but their writing nevertheless entrenches some of the same conventions.<sup>18</sup>

Yet what of the silent, absent constituencies whose colors these elite and activist contributors all purport to wear? These constituencies also exert force upon the field of writing about global governance. In part, they offer inspiration and renewal. According to the editors of the *CONTESTING GLOBAL GOVERNANCE*, for example, new social movements offer "the best hope for global governance". Yet, they also pose threats to this field, among them the dangers of obsolescence and inaccuracy. Without further effort, the editors of *CONTESTING GLOBAL GOVERNANCE* warn, the model of global governance that they outline may prove to be "an imperfect answer to a perplexing

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<sup>14</sup> KEVIN DANAHER & ROGER BURBACH, *GLOBALIZE THIS! THE BATTLE AGAINST THE WORLD TRADE ORGANIZATION AND CORPORATE RULE*, 9 (2000).

<sup>15</sup> *Contrast* the intersection described here – one of unacknowledged collaboration or complicity between political proponent and political opponent in matters of perception and representation – with the institutional confrontations and systemic relationships presented in *CONTESTING GLOBAL GOVERNANCE*, *supra*, note 9, at 2 (discussing "the relationship between multilateral economic institutions...and global social movements...as one aspect of a much wider global politics...and governance structure").

<sup>16</sup> Announcement of activities issued by the Genoa Social Forum, Genoa, July 16-22, 2001. *See* <http://www.genoa-g8.org/gpf-eng.htm>. The Genoa Social Forum is an umbrella organization involving or representing some 800 groups and organizations (including "[m]igrants, greens, anarchists, communists, members of non-governmental organizations and many more") who were "seek[ing] alternatives to the...destructive policies pursued by Western governments" and wished to "demonstrate[ ] against the G8 meeting and policies that open the borders to trade, money and power while closing them to poor immigrants, refugees and dissenters". *See Genoa G8: What is Really Happening?*, INDEPENDENT MEDIA CENTER NETWORK NEWS, July 21, 2001, <http://www.indymedia.org>.

<sup>17</sup> ZYGMUNT BAUMAN, *GLOBALIZATION: THE HUMAN CONSEQUENCES* (1998), *extracted in* *GLOBALIZATION: THE READER*, 250-260, at 252 (John Beynon & David Dunkerley eds., 2000) [hereinafter *GLOBALIZATION READER*].

<sup>18</sup> *See Genoa is Mapped Out Like a Battlefield*, [http://www.genoa8.it/eng/attualita/primo\\_piano/primo\\_piano\\_4.html](http://www.genoa8.it/eng/attualita/primo_piano/primo_piano_4.html)

problem”.<sup>19</sup> An unlikely alliance between the global financier and the impoverished immigrant arises, therefore, from the efforts of scholars, policymakers and activists alike to keep these figures at bay in their writings on global governance. From the sidelines of these accounts, these agents proffer promises of causal determinacy as well as threats of irrelevance.

Determinative authority upon prevailing accounts of global governance thus seems to be assessed in inverse relation to centrality in these accounts. Those scholars and policymakers who position themselves at the center of narratives of global governance tend to cast themselves as conduits for forces emanating from these narratives’ margins. Their assumption of a central, interpretive location is assertive. It implies dominance over more populist and activist contributors to this discourse. As Dezalay and Garth have suggested, “academics...must compensate for their lack of power by overinvesting in scientific or moral authority. In making such investments,...they necessarily embed themselves as actors and producers in the story that has also produced them”.<sup>20</sup> Yet, at the same time, this arrangement amounts to an act of self-denial, for the scholars in question characterize themselves as merely interpreting and responding to developments beyond their control or responsibility. This both fuels the sense of inevitability associated with the social and economic developments described by those scholars, and directs attention away from the commitments and preferences shaping their accounts. This act of self-abnegation likely also affects those enacting it. Perhaps the sense of imperilment with which the scholarship on global governance seems infused – and hence global governance writers’ apparent urge to complete, enclose and defend their field – is augmented by this conventional renunciation of determinative authority.

These are among the possible forces operating in the field of work on global governance and they are not equal. Far from being “non-hierarchical, postnational...without an identifiable locus of clear authority”, as one scholar has suggested, this field is marked by

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<sup>19</sup> See CONTESTING GLOBAL GOVERNANCE, *supra* note 9, at 234.

<sup>20</sup> Dezalay & Garth, *supra* note 7, at 310.

strong lines of presence and authority.<sup>21</sup> Writing and reading texts about global governance are, moreover, actions constitutive of these configurations of power. The forces generated thereby simultaneously operate upon those writing and reading these texts.<sup>22</sup> The selective and formative effects of globalist convention – including for those who write and read these conventions – constitute a governing bias of much writing on global governance. However this bias cannot be understood or addressed through a search for hidden goals, underlying networks or original meanings. Neither motive (*e.g.*, discriminatory intent) nor context (*e.g.* cultural background) precedes the written work of global governance; they are constructed simultaneously.

To delineate this triangulation of forces in some writings about global governance and to trace further some of the conventions governing this field, I will now turn to three articles by prominent legal scholars in the United States.

First, I will examine an article by John C. Coffee, Jr., entitled *The Future as History: The Prospects for Global Convergence in Corporate Governance and its Implications*. In this article, Professor Coffee focuses on the question whether dispersed share ownership is likely to displace concentrated, “blockholder” share ownership as the norm in large, public corporations throughout the United States, Europe and Asia. Coffee refuses to accept a simple model of competitive convergence, whereby increasing dispersal of ownership results from “the unavoidable reality of increased global competition in both the product and capital markets”. Similarly, Coffee rejects the argument that political constraints will inevitably preserve “suboptimal system[s] of corporate governance” in disparate national locales. Instead, Coffee points to a range of factors likely to influence corporate governance and concludes that “a substantial degree of convergence seems predictable”. He envisages convergence upon U.S.-style practices and principles arising from “a global process of self-selection and migration”. He speculates that corporations

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<sup>21</sup> Jürgen Neyer, *Binding Territoriality and Functionality? Globalization Meets the Law*, in EMERGING LEGAL CERTAINTY: EMPIRICAL STUDIES ON THE GLOBALIZATION OF LAW, 401-426, 419 (Volkmar Gessner & Ali Cem Budak eds., 1998). *See also* Anne-Marie Slaughter, *International Law in a World of Liberal States*, 6 EUR. J. INT’L L 518 (1995) (describing “liberal” international law as a “decentralised network of self-elected and customised rules”).

<sup>22</sup> *Cf.* Gerald E. Frug, *Argument as Character*, 40 STAN. L. REV. 869 (1988).

will seek the higher values and shareholder trust engendered by adherence to U.S. listing rules, securities laws and disclosure standards such that “the law of securities markets [may] effectively overshadow local substantive law on a global basis”.<sup>23</sup>

Second, I will read on an article by Richard Falk and Andrew Strauss entitled *On the Creation of a Global Peoples Assembly: Legitimacy and the Power of Popular Sovereignty*. In this article, Professors Falk and Strauss “conceptualiz[e]...[the] possibility” of a “Global People’s Assembly” – a law-making body with global jurisdiction. “Globalization”, they argue, “has generated an emergent global civil society composed of transnational business, labor, media, religious, and issue-oriented citizen advocacy networks with an expanding independent capacity to initiate and validate” such an assembly. They seek to mobilize these “advocacy networks” to institutionalize a commitment to democratic governance on a global scale. Specifically, they advocate the creation of a parliamentary body comprised of representatives drawn from electoral districts throughout the world.<sup>24</sup>

Alongside these, I will read an article by Anne-Marie Slaughter, entitled *Judicial Globalization*. In this article, Professor Slaughter describes five different modes and settings in which “judges [are] looking, talking, and sometimes acting beyond the confines of national legal systems”. On the basis of this description, Professor Slaughter postulates a normative vision of a “global community of law” in which judges and courts might become “[n]ot U.S. courts, French courts, German courts, Japanese courts, and associated international tribunals, but simply adjudicative entities engaging in resolving disputes, interpreting and applying the law as best they can”. Professor Slaughter envisages this “global community” interacting by rational persuasion and united by a sense of common purpose: “each court [operating as] a check on the other, but not a

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<sup>23</sup> John C. Coffee, Jr., *The Future as History: The Prospects for Global Convergence in Corporate Governance and its Implications*, 93 NORTHWESTERN U. L. REV. 641 (1999).

<sup>24</sup> Richard Falk and Andrew Strauss, *On the Creation of a Global Peoples Assembly: Legitimacy and the Power of Popular Sovereignty*, 36 STAN. J. INT’L L. 191 (2000).

decisive one, asserting their respective claims through...a dialogue of constitutionalism within a national-supranational framework”.<sup>25</sup>

Although they articulate distinct perspectives on global governance, these articles nonetheless adhere to certain conventions that mark the scholarly field that they work to develop. These authors’ adherence to conventions of this sort establishes them as contenders in the triangulation of power that I described above. It also marks them as collaborators in generating an experience of coherence that denies the presence of these hierarchies and associations in their work. Thus, these writers’ experiences of the global – as well as their readers’ perceptions of the same – are governed by disciplinary conventions inscribed through their work.

## **II. *Forces in the Field***

There is no trace of the activist or populist voice in John Coffee’s article on global convergence in corporate governance. Yet Coffee nonetheless positions himself as a mediator between extremes of this field. On one margin, Coffee locates the “Strong Convergence Thesis”. This thesis, according to Coffee, predicts that the diverse evolutionary history of corporate development will come to an end in those common structural characteristics commensurate with the “efficiency” mandated by global competition. On the other margin, Coffee identifies the overregulation thesis. This thesis, in Coffee’s account, maintains that political forces are likely to preserve, by regulatory means, a less efficient, more divergent status quo than that which the global market would otherwise instruct. From the “intermediate position” that he stakes out between these, Coffee is able at once to encompass and override these extremes in a “logical equilibrium” of his own generation.<sup>26</sup>

In relation to the political extremes that he cannibalizes – the voices of those who would see globalization as entirely captive to political interests and those who would see it as a

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<sup>25</sup> Anne-Marie Slaughter, *Judicial Globalization*, 40 VIRG. J. INT’L L. 1103 (2000).

<sup>26</sup> Coffee, *supra* note 23, at 646-8, 650.

straightforward, evolutionary necessity – Coffee’s claim to an “intermediate position” is an act of elegant domination. Yet in Coffee’s construction, this equilibrium is the result of evolutionary forces operating beyond the realm of argument. Coffee posits or rather “accept[s]” a “reality of evolutionary competition” – the notion that corporate struggles for survival drive progressive development towards greater economic efficiency and expanded economies of scale. Yet he configures this “reality” in an ordered, discriminating fashion. Those compliant with this evolutionary trajectory are positioned closest to its future. Those who retard or resist its transformations are understood to lie closer to its past. Coffee describes, for example, the drive towards global scale leaving a “wake” in which the family-held firm is “left”. Coffee likewise casts the European habit of “relationship-based investing” as a “tradition” that “may be necessary in transitional economies where the contracting system remains at an early and primitive stage”, but which otherwise forms an untimely obstacle to global convergence. The “reality” that Coffee “accepts” thus comes with a powerful internal hierarchy built of temporal scaffolding.<sup>27</sup>

Coffee’s globalist reality also imports a marginal realm of action and conflict from which the author and his scholarly audience are held apart. This comprises the anonymous chorus to which I alluded above. Coffee’s article evokes a sphere of global competition where firms fear that they “must ‘eat or be eaten’”. This sphere fuels and inspires Coffee’s analysis and prediction. Yet the “tradeoffs and tensions” that he locates in that sphere are understood to be external to the scholarly field in which Coffee operates. The struggles of shareholders, institutional investors, corporate managers, family scions, labor unions and “crony capitalis[ts]” yield the raw material for Coffee’s writing, without apparently challenging the incontrovertibility of his findings. In contrast, Coffee is configured as a neutral peacemaker, recommending “the best way to minimize...friction” between different modes of corporate governance – namely, “to encourage a global process of self-selection and migration”.<sup>28</sup> This exterior is, however, also a source of danger from which Coffee must retreat: it poses hazards of self-interest and political bias.

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<sup>27</sup> Coffee, *supra* note 23, at 647, 679, 706.

<sup>28</sup> *Ibid*, at 677, 648, 660, 707.

These threaten to discredit Coffee's neutrally "intermediate" status and to fracture his market-shaped globe into irresolvable conflict.

Although Coffee characterizes one of his arguments as "subversive", his tone is one of reconciliation and agnosticism. His reconciliation has a specific political location, but one overlaid with a universalist tint of "efficiency". The "highly stratified and hierarchical economic system[s]" that Coffee associates with Europe and Asia will, he suggests, be resolved into a "Pax Americana". This "Pax Americana" is to be based upon U.S. regulatory standards and a globally dispersed shareholder base, where "rent-seeking" by "nonshareholder interests" such as labor unions will be discouraged and opposition to U.S.-level pay scales for corporate managers will be diluted. This transformation is to occur more on the strength of "logi[c]" and "efficiency" than as a matter of political initiative or preference. The harmonization of securities laws, for example, is, in Coffee's view, unlikely to "invite[e] political rivalries to enter the picture" because of its "neutral and technocratic" sound. Harmonization along these lines is, Coffee maintains, supported by an "existing political consensus" that resides, once again, outside the realm of scholarly debate.<sup>29</sup>

Yet Coffee's article combines this neutering tone with a cautionary one. The competitive advantages enjoyed by "high-trust U.S. and U.K. firms", Coffee warns, may be stolen or tainted by "low-trust European and Asian firms" within which self-interested elements may assemble a control block with relative impunity. This, Coffee suggests, could cause "the existing political consensus that supports trust quickly [to] unravel". To guard against this risk, Coffee advises, corporations must be assured of legal means to "fend off outside control seekers". For this purpose, Coffee suggests, corporations must turn to common law rather than civil law regimes, as only the latter give "management a strong incentive to resist outsiders who would...assemble a control block".<sup>30</sup> Convergence upon a common law system thus becomes a defense against "outsiders" whose influence may incidentally be enhanced by trends of convergence. Convergence upon common law

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<sup>29</sup> Coffee, *supra* note 23, at 706, 699, 654-5, 683, 670, 696.

<sup>30</sup> *Ibid.*, at 696, 698-9.

models already said to be occurring is thus presented as an answer to the risks posed by that very process – description is transformed into self-perpetuating prescription. At the very moment of its analytical triumph, Coffee’s article seems caught in a struggle to keep its exterior – a realm of Coffee’s own segregation – at bay. The involuntary convergence that Coffee writes into being must, according to the globalist convention of comprehensiveness, incorporate that which threatens to undermine its claim to “logical” impartiality: namely, stubborn particularism.

Coffee’s article thus exhibits the triangulation of power that I described above as characteristic of the field of work on global governance. His writing is positioned in relation to certain extremes of globalism and anti-globalism; extremes to which Coffee is resistant. Coffee’s narrative is also organized in relation to a marginal chorus of corporate actors whose behaviors afford the raw material for his analysis and whose decisions Coffee seeks to inform. Coffee deploys an evolutionary narrative to maintain the centrality of his own account while expelling to the margins of that account both the untempered discursive extremes that he delineates and the corporate constituents whose interests he claims to defend and whose actions he claims to interpret. This triangular configuration constitutes Coffee’s scholarly realm as a domain devoid of particular values or “special interests”.<sup>31</sup> Coffee’s scholarship is, this configuration suggests, purely responsive to external realities, rather than being vested in their construction or perpetuation. By this means, Coffee both emboldens and sanitizes the political program that he promotes. His argument for a light regulatory touch, his preference for “private lawmaking” and his encouragement of U.S. regulators and securities exchanges to hold their current ground on corporate governance matters in the face of international competition refute their contentiousness by laying claim to “logical” centrality.

In a very different political place, Richard Falk and Andrew Strauss stake out another configuration of global governance. They position their account at a particular “historical juncture” where, they contend, “the time for the establishment of a global assembly is

ripening”. At this point, Falk and Strauss maintain, it has become possible to sketch an institutional framework for democratic action in a global setting. Moreover, they argue, one can do so without resort to utopianism and without falling capture to “state-centric presuppositions” resistant to global innovation. Once again, this scholarly account of global governance works to distinguish itself from those extremes said to mark the limits of its field. Whereas Coffee’s article did so by laying claim to “political consensus”, Falk and Strauss seek to anchor their position in the prevalence of “a political culture that accepts supranational institutions as necessary to meeting world order challenges”. From out of this political culture, a Global Peoples Assembly appears as “a logical next step toward greater political harmony” – like Coffee, Falk and Strauss prefer logic to politics as their slogan.<sup>32</sup>

As in Coffee’s article, Falk and Strauss rely upon temporal distinctions to generate a sense of globalizing momentum and to marginalize and discredit those who would oppose their program. They warn that a “deep-seated belief in state sovereignty” hails from “the early modern belief that the king was the exclusive source of all temporal law”. This belief is, according to Falk and Strauss, being progressively displaced by “a growing acceptance of... ‘contemporary sovereignty,’ which reconciles the state system with the modern commitment to democracy and human rights” and “hold[s] that the ultimate source of law is the citizenry”. These processes of progressive “ripening” are, nevertheless, just as threatened by “force[s] of inertia [and] traditional power structures” as they were in Coffee’s writing. To Falk and Strauss, “traditional power structures” pose “serious conceptual and political challenges”. These may only be vanquished “over time” by virtue of a seemingly autonomous “socio-political dynamic...[being] set in motion”. It seems that only an evolutionary “logic” attributable to “global civil society...coming of age” might prove “more powerful than the geopolitical calculations

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<sup>31</sup> *Contra* SASKIA SASSEN, *THE GLOBAL CITY: NEW YORK, LONDON, TOKYO* (1991); Howard Caygill, *The Futures of Berlin’s Potsdamer Platz in THE LIMITS OF GLOBALIZATION: CASES AND ARGUMENTS*, 25-54 (Alan Scott ed., 1997).

<sup>32</sup> Falk & Strauss, *supra* note 24, at 191, 194, 206.

that intermittently motivate [global policymakers]”. It is in “such hopeful evolution” that Falk and Strauss invite their readers to place faith.<sup>33</sup>

In Falk and Strauss’ work, however, academic scholarship skirts much closer to activism than is the case in Coffee’s article. Falk and Strauss acknowledge the occurrence of “noisy street protests devoted in part to challenging the anti-democratic nature of international economic decisionmaking”. They cite press articles and publications produced by various non-governmental organizations. They look to the activist domain as a source of inspiration and reformist energy. Within this constituency, however, Falk and Strauss also identify perils from which they seek to insulate and distance their work. They fear the rise of “industrial and other narrow private interests, as well as eccentric fringe groups”. They worry that such interests and groups might gain legitimacy through their acquisition of “NGO identities”. The “powerful spiraling effect” of changing popular opinion that Falk and Strauss seek to harness to their cause seems, at the same time, to augur their proposal’s imminent implosion.<sup>34</sup>

Falk and Strauss are also far more explicit than Coffee about the representative role in which they cast their work. Their article expresses concern for “the people of the South” who remain “unrepresented...in the formation of global regulatory policy”. They decry the extent to which “[c]ommunity interests, especially the interests of the poor...are ignored”. Ultimately, however, Falk and Strauss are willing to sacrifice the participation of these unrepresented people to the end of upholding democratic standards. “Initially”, they speculate, “some governments would not allow elections to occur in their countries...on acceptable terms. Until sufficient pressure could be brought to bear by transnational democratic forces, citizens of these countries would have to go unrepresented”. The inclusion of “voices from the South” in international regulatory bodies is, they suggest (for unspecified reasons), “unlikely”. In addition, North American and European policies of refusing to recognize or admit new sovereign states that fail to demonstrate a commitment to democratic governance are cited as welcome examples of a

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<sup>33</sup> *Ibid*, at 208-11, 216.

<sup>34</sup> Falk & Strauss, *supra* note 24, at 213-4, 216.

“growing belief in contemporary sovereignty”. In the name of “one-world awareness”, Falk and Strauss work to erect and sustain a crisp qualitative distinction between, on the one hand, “people of democratic spirit and ethos” and, on the other, “nondemocratic state actors” and the “opponents of progressive international reform” that they harbor.<sup>35</sup>

Like Coffee, Falk and Strauss claim the imprimatur of a globalist “everywhere” to defend a particular patch of political ground against the unruly forces that they locate on its margins. Yet, once again, the convention of including and acknowledging these forces as vital to the globalist cause renders Falk and Strauss’s project vulnerable to challenge. The creation of a warm, embracing, “one-world” sensation in their work demands the drawing of sharp distinctions between “democratic” and “non-democratic” sectors of “global civil society” as though these were on/off states of being. This in turn threatens to undermine the evenhandedness and inclusiveness of Falk’s and Strauss’ account. In Falk and Strauss’ work, “global civil society” is stretched to breaking point by its own over-reaching demands.

Anne-Marie Slaughter’s article demarcates at once a more modest and more pervasive realm of global governance – a “global community” founded on the daily routines of judicial practice. At the edges of this “community”, individual litigants “battle...fiercely” in defense of their economic interests and national courts engage in “vigorous conflict”, resisting assertions of supranational authority or extra-national influence with statements like “I’m an American judge and this is an American agency”. At the center of Professor Slaughter’s account, however, nationalist intransigence is replaced by institutional collaboration, judicial “dialogue” and litigants’ free-wheeling, unfettered choice. That sense of conflict and political ardor discernible at the margins of Slaughter’s account is dissolved, at its core, into a wellspring of reason and respect. Like Coffee, Falk and Strauss, Professor Slaughter seeks to secure this realm in a diffuse, yet deeply-rooted consensus. In Slaughter’s case, this is said to arise from shared

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<sup>35</sup> *Ibid*, at 212, 219, 214, 204, 209, 218, 220, 209, 219.

professional purpose: “[j]udicial globalization...[is] contingent on a deep sense of participation in a common global enterprise of judging”.<sup>36</sup>

Slaughter relies, like Coffee, Falk and Strauss, upon a temporal ranking to maintain and defend this configuration. Both the courts seen to be participating in a trend towards global convergence and those scholars who encourage this development are characterized as part of a “new generation”. The “early days” of the European community – during which “foreign policy decisions...[were] made...on the basis of calculations of relative advantage and disadvantage among competing member states” – are contrasted with recent instances of the European courts behaving like a “community of courts”. Slaughter predicts that the “next phase of judicial globalization” will involve “a move from comity...[among] distinct legal spheres, to the presumption of an integrated global legal system”. By characterizing this normative transition in terms of progressive development and generational succession, Slaughter relegates those who would oppose her scheme – including any who would defend the relative autonomy of a national legal system – to a stagnant past.<sup>37</sup>

In this configuration of the global governance field, activist and populist forces are left out of the picture, as was the case in Coffee’s article. Nevertheless, errant judges voicing nationalist positions and a grim lineup of “Serbian soldiers, officers, and political leaders guilty of war crimes, genocide, or crimes against humanity in Kosovo” stand in for these extremes. Once again, these immoderate forces feature in the account momentarily, only to be integrated or transcended. By their dedication to “a common judicial enterprise”, Slaughter suggests, judges may surpass the threat of particularism to become “independent of the content and constraints of specific national and international legal systems”.<sup>38</sup>

Even fainter than the populist and activist murmurs at the edges of Slaughter’s account are the marginal voices of those whose interests Slaughter’s work claims to defend.

<sup>36</sup> Slaughter, *supra* note 25, at 1112, 1115, 1104.

<sup>37</sup> *Ibid.*, at 1105, 1119, 1107, 1108, 115.

These are imagined beneficiaries of the “common enterprise of protecting human rights”, individuals suffering “abuses of state power” and bearers of “a complex matrix of historical, cultural, and political needs and expectations”. Also standing on the sidelines of Slaughter’s account are those engaged in the “global economy”. Their far-reaching activities give rise to “complex” problems of “multi-jurisdictional dispute resolution” with which scholars like Slaughter must wrestle. Like her collaborators in the global governance field, Slaughter derives impetus from this audience of political and economic actors, while relegating them to the edges of her narrative.

Professor Slaughter’s banishment of discursive extremes and political constituents to the limits of her account has the effect of elevating her scholarly endeavor above the reach of the “historical, cultural, and political needs” implied thereby. Slaughter claims, instead, to be “responding to the myriad forces of globalization” in an all-embracing, conciliatory mode. Slaughter asserts that “[j]udges are globalizing”, yet the reflexivity of her account extends only so far as this scholarly convention permits – the professional “community” of judges, arbitrators and liquidators is afforded a responsive, interpretive mandate, not a constructive or divisive one. Slaughter’s reflexive inquiry does not yield any glimpse of these judges, as well as Slaughter herself, “battl[ing]...fiercely” in defense of particular interests, struggling to have these consecrated in the temple of the global.

If the concepts and practices of global governance that leading scholars such as these are writing into shape tend to embolden certain political programs and dispositions over others, then one might look to the people and places vested with determinative authority in these accounts as sources of these preferences. Many writers do, indeed, identify those people and places most readily associated with global governance – such as those in the upper ranks of corporate management and the affluent nations and (sub)urbs in which such persons live – as fonts of power and bias.<sup>39</sup> Some scholars have suggested, furthermore, that the claims of globalist discourse represent ever more ambitious efforts

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<sup>38</sup> *Ibid.*, at 1123-4.

<sup>39</sup> *See, e.g.*, FALK, *supra* note 8, at 142: “[T]he geopolitical managers of the global economy use [economic] policies as a punishment for supposedly deviant states, seeking to legitimize the exclusion under the rubric of ‘sanctions’”.

to confer universal status upon particular slices of national or regional culture, such as American business culture, Mediterranean cuisine or the English language.<sup>40</sup> These arguments often describe globalism as a new, more virulent strain of imperialism.<sup>41</sup>

Any such explanation reinstantiates, however, some gestures characteristic of global governance narratives – those of privatization and harmonization – by tracing global governance to a bounded realm of determinative intent or an all-encompassing world order. It seems, therefore, more symptomatic than explanatory. Explanations of this kind are likely, moreover, to have a domino effect, triggering further referral away from their supposed sources towards some other discrete or generalized realm where power or intent might be found to reside. When questioned, the high-level corporate manager might just as well point to the technologist, the politician or the consumer as a source of causal power, rather than accept this responsibility for herself. The corporate manager in question may, furthermore, be justified in doing so, as she is unlikely to experience herself as an imperialist, free to direct people towards some globalizing fate against their wishes. The same may be said of the scholars writing about global governance identified above, who are unlikely to be perceived, or to perceive themselves, as masters of the globalist universe.

What is often lacking in the search for an underlying source or scheme is an acknowledgment that the act of writing, reading and talking about global governance is itself constitutive of the accretion and attribution of power to govern. This power exerts itself upon those supposedly doing the governing, as well as those seen as governed. When the writers identified above cast themselves as interpreters of a predetermined reality of convergence, they position themselves as subservient to forces beyond their control. From this position, the claim that they are “governing” by casting themselves and others in this role is likely to sound exaggerated. By displacing the realm of causation to the margins of their global governance narratives, these writers enact a desire for authority without responsibility; consensus without conflict. This emboldens their

<sup>40</sup> See, e.g., MOHAMMED A. BAMYEH, *THE ENDS OF GLOBALIZATION*, 16 (2000).

work to the extent that it aligns it with disciplinary conventions of expelling the discordant. Yet at the same time, it is likely to undermine these writers' experiences of political agency and to discourage readings of their work as enactments of social force. Scholarly convention does not comprise a determined or determinative order. It is an incidental by-product of the aspiration for orderliness. The hierarchies that global governance work presents as incontrovertible – such as that constituted by classifying the “democratic” and the “non-democratic” or the “traditional” and the “contemporary” – are not, therefore, rooted in some hidden purpose, some malevolent person, or some organizing logic. These classifications are being created and recreated in relatively mundane and often well-intentioned ways, including through writing, reading and talking about global governance.

Scholarly conventions of the sort described above thus acculturate their writers and readers to practices of absorbent domination through the construction of order, the championing of conformity to that order and the demonization of dissent. These practices and their products are by definition “normal” and they promote the desirability and necessity of adherence to the norm. They are, therefore, difficult to dispute. Globalism can, accordingly, be understood as a distinctive and pervasive type of formalism; a collective effort to right the world in a particular way. Like other corrections, this effort invariably serves to “wrong” the world as well – or particular sectors and constituencies within it – thereby working to produce the very boundaries and inequities that it seeks to bridge. Writings about global governance both depend upon and suffer from the very divisions the transcendence of which has supposedly allowed these writings to flourish.

The boundaries drawn within the field of global governance writing are not, however, articulated in terms of territorial edges or broad-based geographic divisions (North and South; West and East; empire and colony; the “City of Light” and the “Dark Continent”). Margins are cross-hatched across places and people that lie *within* this field's compass.

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<sup>41</sup> See, e.g., J. Tomlinson, *From Imperialism to Globalization*, in GLOBALIZATION READER, *supra* note 17, at 53-55. Cf. MICHAEL HARDT & ANTONIO NEGRI, EMPIRE, 9, 146 (2000).

Even as particular places and people are propelled to the edges of the global governance field, they are made part of the story of the whole. Quests for socio-economic inclusion have been largely pre-empted by the generous embrace of contemporary global governance scholarship. Islamic piety, for example, has been remade by some scholars as “an alternative construction” of globalization. The Muslim world is said to offer a version of global governance “cognizant of nonmaterialist dimensions of progress”. Pariah countries such as Iran are regarded by some as capable of producing a compliant, “democratizing and synthesizing Islam”.<sup>42</sup> Even as people and places are divided and ranked within it, the field of global governance is constructed as an anonymous, unanimous everywhere where all are welcome.

### **III. *Cutting Across the Field: Venetian Worldliness***

In the first two sections of this paper, I have argued that academics are working to classify forces and constituencies operating in the global governance field in order to enact aspirations for order and authority. I have selected three articles by leading legal scholars in the United States and characterized these as indicative of some conventional rankings and relationships within this field. However, I do not wish to suggest by my critique that these scholars are flawed in their particular versions of global governance. Rather, their works are a testimony to their leadership in this field. Similarly, I do not exonerate this paper from the loyalties and habits of the field to which it contributes.

From within the disciplinary field of global governance where we now stand, it is difficult to gain any purchase on this enterprise in which we are engaged. Perhaps I have set up the cage of conventions described in this paper only to stage my own triumph, by unveiling a “true” globalism of governing bias. Even in the absence of a programmatic successor, practices of critique often enact fantasies of conquest and escape. Rather than flee this and other conventions of the field in which I operate, however, I will follow

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<sup>42</sup> Mustapha Kamal Pasha & Ahmed I. Samatar, *The Resurgence of Islam*, in GLOBALIZATION: CRITICAL REFLECTIONS, 187-201, 191, 200 (James H. Mittelman ed., 1996).

these disciplinary conventions to an almost parodic excess, correlating textual marginalization within contemporary accounts of global governance to confinement in the ghettos of sixteenth century Venice. In doing so, I will pursue some eccentric, insubordinate impulses already operating within the global governance field, while advancing my own bid for authority.

Like the other authors whose work I have scrutinized, I will seek to embolden my account of global governance by contrasting it with a way of life that we have ostensibly left behind: namely, life in the city of Venice half a millennium ago – a city understood to be unique in its “worldliness”. However, rather than trace a genealogical or evolutionary link between Venetian worldliness and contemporary globalism, I will dress up contemporary notions of global governance in historical garb and parade them before a mirror.<sup>43</sup> I turn to Venice in order to question and interrupt, if only momentarily, the historical trajectories upon which global governance narratives so frequently rest.<sup>44</sup>

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<sup>43</sup> This performative mode of history has been informed by my reading of Nathaniel Berman, *In the Wake of Empire*, 14 AM. U. INT’L L. REV. 1521(1999); MICHEL FOUCAULT, A HISTORY OF SEXUALITY (Robert Hurley trans., 3 vols, Vintage, 1990), Gerald Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1059 (1980); N.D. FUSTEL DE COULANGES, THE ANCIENT CITY: A STUDY OF RELIGION, LAWS AND INSTITUTIONS OF GREECE AND ROME (1873); Robert W. Gordon, *Critical Legal Histories*, 36 STANFORD L. REV. 57 (1984); and GIAMBATTISTA VICO, VICO: SELECTED WRITINGS (Leon Pompa ed. & trans., Cambridge Univ. Press, 1982). For genealogical arguments about global governance, such as the contention that globalization germinated in the Renaissance, see ROLAND ROBERTSON, GLOBALIZATION: SOCIAL THEORY AND GLOBAL CULTURE, 58-9 (1992); JAN AART SCHOLTE, GLOBALIZATION: A CRITICAL INTRODUCTION, 62-3 (2000). For an evolutionary perspective on globalization, see J.H. Dunning, *Changes in the Level and Structure of International production: The Last One Hundred Years*, in THE GROWTH OF INTERNATIONAL BUSINESS, 84-139, 86 (M. Casson ed., 1983) (“Trading and investment activity between the 1870s and 1914 represented the infancy and adolescence of the type of activity which mainly dominates today”). For arguments that little of note has changed over the recent period to distinguish “globalism” from prior states of being, see DAVID HELD (ED.) A GLOBALIZING WORLD? CULTURE, ECONOMICS, POLITICS, 22-3 (2000); JAN AART SCHOLTE, GLOBALIZATION: A CRITICAL INTRODUCTION, 18-19, 37-9 (2000). See also Paul Hirst, *The Global Economy: Myths and Realities*, 73 INT’L AFF. 409 (1997); John R. Logan, *Still a Global City: The Racial and Ethnic Segmentation of New York*, in GLOBALIZING CITIES: A NEW SPATIAL ORDER? 158-185, 159 (Peter Marcuse & Ronald van Kempen eds., 2000) (“I believe that much of what observers today consider ‘new’ is substantially an outgrowth of old patterns and not mainly a reflection of contemporary innovations”).

<sup>44</sup> Sumi Cho & Robert Westley, *Critical Race Coalitions: Key Movements that Performed the Theory*, 33 U.C. DAVIS L. REV. 1377, 1409 (2000): “History is such dangerous territory because it cannot sustain the shopworn alibis of existing power arrangements: steady progress from barbarism to civilization, principled application of neutral rules, participatory democratic decision making, meritocratic reward systems, making the victim whole, the dignity of the individual, etc.”

Unlike the settings of the articles discussed above, sixteenth century Venice was a place not perceived in relation to nation-states. It will likely appear, to contemporary readers, as an unfamiliar place: a place of recurrent rites and rituals; a place of enslavement and aristocratic authority; a place of multiple publics and non-contiguous dominions; a place of wars and conquest.<sup>45</sup> In this section, I will nevertheless contend that there were Venetian counterparts to today's accounts of global governance and that there are contemporary counterparts to sixteenth century Venetian narratives of worldliness. These are telling in their juxtaposition.

One effect of this comparison is to kindle questions as to the integrity of contemporary social and political “cores” – whether conceptual or otherwise. Recognition of the porousness of Venice's worldly political identity casts doubt upon the framing of contemporary globalist debates in terms of “exclusion” and “inclusion”. Why, if contemporary political subjectivities, like epistemic communities, regions, nations, cities and individuals, are permeable and contingent – if their very historical makeup confounds the idea of their unity and self-sufficiency – are they still experienced and defended as domains of autonomy? Why does sovereignty remain the dominant slogan of those who speak on behalf of the oppressed? Why, having lived through factionalized and bloodied histories such as those of Venice, do we continue to insist so strenuously upon coherence and comprehensiveness?

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<sup>45</sup> A good introductory overview of sixteenth century Venice may be gleaned from the following sources: FREDERIC C. LANE, *VENICE: A MARITIME REPUBLIC* (1973); BRIAN PULLAN, *RICH AND POOR IN RENAISSANCE VENICE: THE SOCIAL INSTITUTIONS OF A CATHOLIC STATE TO 1620* (1971); GASPARO CONTARINI, *DER MAGISTRATIBUS ET REPUBLICA VENETORUM, LIBRI QUINQUE*, published in English as *THE COMMONWEALTH AND GOVERNMENT OF VENICE*, (TRANS LEWES LEWKENOR, 1599) (hereinafter CONTARINI). According to Bouwsma, Contarini's book was written in 1523 or 1524, though first published in 1543: WILLIAM J. BOUWSMA, *VENICE AND THE DEFENSE OF REPUBLICAN LIBERTY: RENAISSANCE VALUES IN THE AGE OF THE COUNTER REFORMATION*, 145 (1968). *See also* Felix Gilbert, *The Date of Composition of Contarini's and Giannotti's Books on Venice*, *XIV STUDIES IN THE RENAISSANCE* 172-84 (1967). On Contarini's life, *see infra* note 66. For a brief discussion of the dilemmas confronted by Lewkenor and choices made by him in the course of translation, *see* Quentin Skinner, *The State, in POLITICAL INNOVATION AND CONCEPTUAL CHANGE*, 90-131 (T. Ball, J. Farr & R.I. Hanson eds., 1989), *reprinted in* *CONTEMPORARY POLITICAL PHILOSOPHY*, 3-26, at 12-13 (Robert E. Goodin & Philip Pettit eds., 1997).

This comparison of some contemporary and sixteenth century writings will also raise a related question: do the opening of borders and the proliferation of international trade necessarily engender the disassembly of authoritarian power structures or movement towards greater political and economic convergence? Venetian experience suggests that the impact of such developments might be more contingent and, indeed, divisive. Openness and integration can operate as disciplinary mechanics, entrenching the power structures and disparities through which they are realized. The difficulty – in Venetian texts as much as contemporary work – is to recognize the points at which the aspiration for worldliness becomes a means of chastening one’s relationship to, or severing oneself from, the world: where openness becomes an impetus for closure. The recognition of these points does not necessarily enable their eradication. Yet it does raise questions as to the motivations for and effects of such closures. This, in turn, suggests possibilities for strategizing through and against them wherever they appear.

Finally, this juxtaposition of contemporary and Venetian legal writing will bring to light a lasting incongruity. In the republican heritage of the Venetian city-state (upon which so many constitutionalists, including Americans such as William Penn, have drawn over time), one can discern a paradox that endures today.<sup>46</sup> That paradox is one of equating a particular jurisdiction’s freedom and strength with its exclusion or containment of foreign influences, while equating that jurisdiction’s liberty and prosperity with its openness and access to foreign people and resources. This is a paradox with which contemporary writings on global governance continue to grapple.

First, however, a word of caution to preface my discussion of Venice: throughout the forthcoming section, reference will be made to “Venice” and “Venetians”, even as the plasticity of these terms is emphasized. I will often invoke these terms baldly, as though it were apparent who Venetians were and who they weren’t; as though, by reading a limited array of writings by a privileged, literate class, I had gathered sixteenth century Venetians together in some piazza and polled them to ascertain their fears and desires.

My writing is therefore, susceptible to the very critique that I offer in this paper. A similar caveat applies with respect to references to “foreigners”, “outsiders” and “Jews” in the following account.<sup>47</sup> As is characteristic of the scholarly accounts that I have studied above, my writing bears marks of groupings and divisions the construction of which it sets out to problematize.<sup>48</sup>

### A. *The Politics of Worldliness*

In Venetian writings of the sixteenth century, the city was characteristically depicted in a state of flux. Between the twelfth and the eighteenth century, the population of the city oscillated between 100,000 and 190,000.<sup>49</sup> Throughout the sixteenth century, Venetians’

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<sup>46</sup> On the use of the Venetian model by constitutional drafters and scholars, see *infra* note 66.

<sup>47</sup> The Jews of Venice will, for example, often be referred to in this section *en masse*, a categorization upon which Venetians sometimes relied in regulating and segregating the Jewish population within the city. See generally RICCARDO CALAMINI, THE GHETTO OF VENICE (Katherine Silberblatt Wolfthal trans., M. Evans, 1980). However the heterogeneity of the Jews of sixteenth century Venice is evidenced by the philology of the Jewish-Venetian dialect. This was a distinct language composed of borrowings from Portuguese, Spanish, derivations from German and a hybridization of Hebrew and Venetian. These terms obfuscate the variegated cultural and linguistic heritage, dissimilar religious rites and divergent political attitudes of those gathered under them. See U. FORTIS & P. ZOLLI, LA PARLATA GIUDEOVENEZIANA (1979). Venetians themselves recognized the eclecticism of the Jews of their city in their differential regulatory treatment of, and popular nomenclature for, the various groups comprising the city’s Jewry. Ashkenazi Jews of German descent and Italian Jews who made up the first wave of Jewish immigrants to Venice became associated with the Old Ghetto (to which Jews were confined in 1516), where they were known as the *nazione tedesca* (German nation). A separate residential area within the Ghetto was designated for Levantine Jews in 1541 and this group did not face the occupational restrictions that the city imposed on other Jews. Thereafter, at the end of the sixteenth century, Venice witnessed the arrival of Sephardic Jews from Spain and Portugal, a group dubbed the *nazione ponentina* (the Sephardic nation) by Venetians. Each “nation” had its own synagogue within the gates of the ghetto, known respectively as the *Scuola Tedesca*, the *Scuola Canton* and the *Scuola Italiana*. See MARSILIO REGIONE DEL VENETO, VENICE AND ENVIRONS: JEWISH ITINERARIES, PLACES, HISTORY AND ART, 108-119 (1997).

<sup>48</sup> My objective is to describe and replicate the production of “Venice” and “Venetians” as meaning-laden, power-laden terms. My impressions of this production process are of violent blows, sweaty embraces and fierce jostlings for position. Yet, when written, these impressions tend to become formulaic and line-bound.

<sup>49</sup> LANE, *supra* note 45, at 21, 324. Braudel gives the upper reach of the Venetian population as 160,000: FERNAND BRAUDEL, CIVILIZATION & CAPITALISM 15<sup>TH</sup> – 18<sup>TH</sup> CENTURY, VOLUME 3: THE PERSPECTIVE OF THE WORLD, 132 (1984 [1979]). Richard Tilden Rapp estimates that the total labor force of the city numbered approximately 34,000 in 1586: RICHARD TILDEN RAPP, INDUSTRY AND ECONOMIC DECLINE IN 17<sup>TH</sup> CENTURY VENICE, 24ff (1976), *cited by* FERNAND BRAUDEL, CIVILIZATION & CAPITALISM 15<sup>TH</sup> – 18<sup>TH</sup> CENTURY, VOLUME 3: THE PERSPECTIVE OF THE WORLD, 133 (1984 [1979]). Richard Mackenney notes that in 1500 there were around 26 towns in Europe with a population of 40,000 or more; and 42 had risen into this category by 1600. Venice remained, in 1600, one of the six largest cities in Western Europe: RICHARD MACKENNEY, THE CITY STATE, 1500-1700, 6, 45 (1989). Anthony King observes that “[b]y 1700, the ten largest cities were still in Europe and were principally the capitals of nation-states or early colonial empires...as well as the Italian centres of the earlier Mediterranean era [including Venice]”:

ranks were alternately ravaged by famine, disease and emigration and bolstered by waves of immigration from the Italian mainland and further afield.<sup>50</sup> Craftspeople and seasonal workers, as well as refugees from religious persecution, moved continually in and out of the city in the course of their wandering migrations through sixteenth century Europe.<sup>51</sup>

It was also noteworthy for Venetian writers of this period that the ambit of the city's authority contracted radically over the course of the sixteenth century.<sup>52</sup> When the century opened, Venetian rule extended to Chioggia, Murano and the cities of Istria in the immediate vicinity; to Padua, Verona, Vicenza, Brescia and Bergamo on the mainland of Italy (the *Terraferma*); and to Crete, Cyprus, Candia, Corfu, Modon and Zante in the Mediterranean. Venice had also maintained control over the cities of Dalmatia since the first quarter of the fifteenth century. Over the course of the sixteenth century, the city lost its hold over a number of these territories. Modon fell to the Turks in 1500. Venice lost significant parts of the *Terraferma* to the French King and the German Emperor in the Battle of Agnadello in 1509, only regaining the key portions of its mainland territory (after seven years' battle) in 1516. Turkish forces seized control of Cyprus in 1571.<sup>53</sup>

Notwithstanding these challenges and ruptures, the city was cast in much literature of the day as an enduring emblem of humanist achievement. Throughout the sixteenth century, accounts of Venice championed the city's openness and open-mindedness, in opposition to the centralizing inclinations of the Papacy in Rome, the doctrinal formalism of the Council of Trent, and the rigidity of papal policy towards the Levant (a vital source of

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ANTHONY D. KING, *GLOBAL CITIES: POST-IMPERIALISM AND THE INTERNATIONALIZATION OF LONDON*, 36 (1990).

<sup>50</sup> LANE, *supra* note 45, at 19-20. Writing in 1588, Giovanni Botero observed that “[the plague] slew such a number within Venice as in a manner it became a desert, so that the Senate, to have it reinhabited, caused proclamation to be made that all such as would come thither with their families and dwell there two years together should have the freedom of the city”: GIOVANNI BOTERO, *THE REASON OF STATE AND THE GREATNESS OF CITIES*, 255 (P.J. & D.P. Waley, Robert Peterson trans.) (1956 [1606]).

<sup>51</sup> SASKIA SASSEN, *GUESTS AND ALIENS*, 9-11 (1999).

<sup>52</sup> See Felix Gilbert, *Venice in the crisis of the League of Cambrai*, in *RENAISSANCE VENICE*, 274-292, at 275 (J.R. Hale ed., 1973) [hereinafter HALE].

<sup>53</sup> See generally LANE, *supra* note 45. In Machiavelli's account, “in one day Venice lost what it had taken her eight hundred years of painful effort to gain” at Vailà (or Agnadello), NICCOLÒ MACHIAVELLI, *THE PRINCE*, 49 (trans. & ed. Daniel Donno, 1981 [first published 1513; Donno translation first published 1966]).

Venetian wealth and power).<sup>54</sup> To Francesco Petrarch, Venice was “the one home today of liberty, peace and justice, the one refuge of honorable men, the one port to which can repair the storm-tossed, tyrant-hounded craft of men who seek the good life”.<sup>55</sup> Giovanni Botero likewise explained Venice’s appeal by observing that “[m]en are...drawn together in society through the delight and pleasure that...the art of man doth minister and yield unto them...”<sup>56</sup>

The greatness of the “art of man” for which the city of Venice stood was not, in many writers’ esteem, to be measured by the city’s capacity to shelter its people from tumult. Those who championed Venice did not aspire to shut people away from the world, or vice versa. Rather a city’s might was to be assessed by its capacity to attract and interact with a diverse multitude from all over the world:

For as plants cannot prosper so well nor multiply so fast in a nursery where they are set and planted near together as where they are transplanted into an open ground, even so men make no such fruitful propagation...where they are enclosed and shut up within the walls of the

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<sup>54</sup> The founding papal bull of Pope Paul III, upon his assumption of office in 1542, proclaimed that Papal jurisdiction extended to “each and every city, town, territory and place existing in Christendom”: *Quoted in* MICHAEL A. MULLETT, *THE CATHOLIC REFORMATION*, 145 (1999). On Catholic offensives, both missionary and militant, against the Turks, *see* KENNETH SETTON, *THE PAPACY AND THE LEVANT, 1204-1571*, Vols. 3 & 4 (1984). Venice was subjected to a series of interdicts, from 1201 onwards, for failure to participate in these crusades and other disobediences: *see* BOUWSMA, *supra* note 45, at 80-81. For accounts of recurring disputes between the Papacy in Rome and Venetian authorities, coming to a crescendo at the beginning and end of the sixteenth century with the issuance of Papal interdicts – threats of excommunication – against Venice in 1509-1510 and 1605-1607, *see* BOUWSMA, *supra* note 45. For a useful collection of extracts concerning the disputes and preoccupations of the Counter-Reformation (including texts relating to the 1605-1607 interdict), *see* MARTIN D.W. JONES, *THE COUNTER-REFORMATION: RELIGION AND SOCIETY IN EARLY MODERN EUROPE* (1995). For a history of the concept of the “Counter-Reformation”, *see* H. Outam Evennett, *Towards a New Definition*, in *THE SPIRIT OF THE COUNTER-REFORMATION*, 1-22 (John Bossy ed., 1968). For an introduction to the problems of, and disputes over, periodization, nomenclature and terminology concerning the Counter-Reformation and related terms, *see* JOHN O’MALLEY, *TRENT AND ALL THAT: RENAMING CATHOLICISM IN THE EARLY MODERN ERA*, 1-15 (2000). On Venetian attitudes towards, and practices of, censorship, *see* PAUL F. GRENDLER, *THE ROMAN INQUISITION AND THE VENETIAN PRESS, 1540-1605* (1977).

<sup>55</sup> FRANCESCO PETRARCH, *LETTERS*, 234 (selected and translated by Morris Bishop, 1966).

<sup>56</sup> BOTERO, *supra* note 51, at 231.

city they are bred and born in as they do abroad in divers other parts where they are sent unto.<sup>57</sup>

Historical writings of the period promoted the city's inter-penetration with "divers other parts" as a testimony to its "fruitful[ness]" and uniqueness. So important to Venice's singularity was its image as a haven for strangers that its ability to accommodate diverse multitudes was regarded by some as an element of the city's climatic make-up:

The air of Venice is exceedingly good, because it is continually purged with the ebbing and flowing of the tides, carrying every six hours away with it whatever is corrupt or unclean...But above all other things this is most strange, that this air by a special privilege of nature doth agree with the complexions of all such strangers, as resort thither, of what nation, or under what climate soever they be born, whether the same be subtle and persing [*sic*], or thick and foggy.<sup>58</sup>

Bolstered by such accounts, Venetians "thought of themselves as [part of] a city apart and international".<sup>59</sup> Theirs, they claimed, was a city "so strange and singular in itself, that it brooketh no comparison or resemblance with any other City, either of this present or former ages".<sup>60</sup>

The literature of global governance that I have examined above makes similar claims. As in sixteenth century Venice, the contemporary regime of global governance recounted in these writings is characterized as an order emerging from instability. Anne-Marie Slaughter's description is both representative and influential in this respect. According to Professor Slaughter, we are experiencing "not only the devolution of state power upward to supranational institutions and downward to regional or local governments, but also

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<sup>57</sup> *Id.*, at 246.

<sup>58</sup> Francesco Sansovini, extracted in the notes to CONTARINI, *supra* note 45, at 191-198, 192.

<sup>59</sup> LANE, *supra* note 45, at 431.

<sup>60</sup> Bernardo Giustiniano, extracted in the notes to CONTARINI, *supra* note 45, at 168-171, at 169.

sideways to a fast-growing array of nonstate actors, both civic and corporate...[while] the state itself is changing, disaggregating...and thus itself becoming...multifaceted”.<sup>61</sup>

Contemporary writings on global governance herald the possibility of humanist triumph over this chaos, just as sixteenth century Venetian accounts of worldliness did. As Venetian writers claimed of their patrician city government, the emergent “system” of global governance is understood to be all the stronger and more durable for its open-ended, dynamic character and its inclusiveness. Envisaged as a chorus of “common governance functions”, the “global community” of contemporary accounts is, as Venice was, attributed with “a special privilege of nature” by which it “doth agree with the complexions of all... strangers”.<sup>62</sup>

Globalism also operates in recent writings on global governance as a bid for distinction by particular places and people, just as worldliness was the claim to fame of certain Venetian writers and their well-traveled, trade-enriched patrons. One American international law professor, Peter Spiro, has celebrated the onset of globalism as a means of re-integrating and empowering international legal scholars within the legal academy. In tackling the challenges posed by this “new organizing principle of society at large”, Spiro argues, “international law academics [should not be] the intellectual junior partners”. Another legal scholar, Jürgen Neyer, has contended that “global cities and large urban conglomerations...are gaining importance as part of an emerging linkage between local politics and world affairs, therefore exceeding their traditional role as passive reflections of statist policies”.<sup>63</sup> At a conference on “global city-regions” that I attended in Los Angeles in October 1999, mayor after mayor ascended the podium to declare his or her city an exemplary case study of global governance.<sup>64</sup>

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<sup>61</sup> Anne-Marie Slaughter, *Breaking Out: The Proliferation of Actors in the International System*, in GLOBAL PRESCRIPTIONS, *supra* note 5, 12-36, at 15-6.

<sup>62</sup> Slaughter, *ibid*, at 28-9; Sansovini, *supra* note 59.

<sup>63</sup> Peter J. Spiro, *Globalization, International Law, and the Academy*, 32 N.Y.U. J. INT’L L. & POL. 567, at 568, 589 (2000); Neyer, *supra* note 21, at 421.

<sup>64</sup> See <http://www.spsr.ucla.edu/globalcityregions/overview/intro.html>

In the sixteenth century, a discourse of openness and multiplicity served in part to fortify Venetians in the face of Turkish threats to their city's trading-led prosperity and German and French claims upon its landed territory. This discourse also reinforced a sense of Venice's exceptionalism from the dictates of Counter-Reformation Catholic doctrine and Papal incursions upon its legal autonomy. Perhaps more importantly, it helped to shore up a sense of the city's distinct and enduring cultural and political identity in the face of apparent dangers of dilution and disintegration. In the contemporary writings on global governance examined above, the devolution of causal authority to a globe-spanning "community" similarly reinforces the authority of those jurisdictions and constituencies understood to be active in that "community". These writings – and those who appear in them – seem to gain assurance from the sense of being part of a "system" larger than themselves whose characteristics they may record, but for which they do not bear responsibility. In Venice, the politics of worldliness was a defensive politics prompted by challenges to extant power structures and demands for their remaking. Its tactics endure in current work on global governance.

### **B. *Worldliness as a Thirst for Diversity***

These defensive impulses manifested in sixteenth century Venice as a thirst for variety – variety by which the "singularity" of Venice and Venetians might be defended. The drive for multiplicity as a means of entrenching the power of those in authority was actualized through many of Venice's laws and legal institutions. Gasparo Contarini's influential sixteenth century book *DER MAGISTRATIBUS ET REPUBLICA VENETORUM, LIBRI QUINQUE* (published in English as *THE COMMONWEALTH AND GOVERNMENT OF VENICE*), for example, reads as a powerful polemic for patrician governance through specialization and diversification.<sup>65</sup> Contarini promoted his city throughout Europe for its "wonderful

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<sup>65</sup> CONTARINI, *supra* note 45, at 13 [spelling modified]. Contarini was born in 1483 and studied at the University of Padua between 1501 and 1509, where he exhibited a primary interest in philosophy. He withstood pressure from close members of his circle in Venice to follow them into the monastic order and pursued a life of engagement in public affairs and ecclesiastical reform, serving as ambassador to Pope Clement VII and to Charles V of Spain. ELIZABETH G. GLEASON, *GASPARO CONTARINI: VENICE, ROME, AND REFORM* (1993); Gilbert, *supra* note 54; BOUWSMA, *supra* note 45, at 123-133 (1968). In the mid-sixteenth century, at the time of writing this book, Contarini was a Venetian senator. Later he would serve as an ambassador to the papacy in Rome and to Spain and become a cardinal. His book exerted considerable influence in the shaping of perceptions of the city of Venice. William Bouwsma notes that "the works of Contarini...were widely translated and went into many editions, [and] were [among]...the

concourse of strange and foreign people, yea of the farthest and the remotest nations, as though the City of Venice only were a common and general market to the whole world”.<sup>66</sup> Contarini maintained that the success of Venice’s complex network of legal and political institutions was in part attributable to their reflection of the great diversity of the people that those institutions served.<sup>67</sup>

Law, understood as a guide to living, thus did part of the work of making the city in this worldly image – secure in its openness.<sup>68</sup> In order to do so, law was understood to be responsive to the specific circumstances of a given political community. Law was to be developed, interpreted and enforced by local Venetian secular authorities,

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most important examples of a vast body of literature, both native and foreign, which for decades advertised the finished excellence of the Venetian constitution”. BOUWSMA, *supra* note 45, at 160 [footnote omitted]. See also Bouwsma’s discussion of the influence of Venetian ideas (including Contarini’s) on constitutional discussions conducted in Cromwell’s England and in the Holland of de Witt: BOUWSMA, *supra* note 45, at 626. On cross-fertilization in legal and political projects and ideas between Venice and other cities in general, see MACKENNEY, *supra* note 50, at 50-1 (Venice’s political influence as a model for classical republican reform projects in early modern Europe, including in The Netherlands); PULLAN, *supra* note 45, at 254 (possibility of German influence on the Venetian poor laws; contacts between Venice and Nuremberg); LANE, *supra* note 45, at 393 (Venetian interest in French, British and Dutch ideas); EDWARD MUIR, CIVIC RITUAL IN RENAISSANCE VENICE, 51 (1981) (Polish citation of the Venetian constitutional model in writings and parliamentary debates); and ZERA S. FINK, THE CLASSICAL REPUBLICANS: AN ESSAY IN THE RECOVERY OF A PATTERN OF THOUGHT IN SEVENTEENTH-CENTURY ENGLAND, 28 (2<sup>nd</sup> ed., 1962) (Seventeenth century English reformers’ fascination with the Venetian model of government). “Abroad, the myth of Venice had a life of its own, a life so engaging that it could command men from the Florence of Savonarola to the Philadelphia of William Penn”: EDWARD MUIR, CIVIC RITUAL IN RENAISSANCE VENICE, 55 (1981). Contarini was also, however, the butt of jokes and criticism in his day. Contarini was satirized in a play by his contemporary Pietro Aretino for his predilection for philosophical abstraction and the unbending character of his spiritual quest. See CHRISTOPHER CAIRNS, PIETRO ARETINO AND THE REPUBLIC OF VENICE: RESEARCHES ON ARETINO AND HIS CIRCLE IN VENICE 1527-1556, 17 (1985).

<sup>66</sup> CONTARINI, *supra* note 45, at 1 [spelling modified].

<sup>67</sup> CONTARINI, *supra* note 45, at 110: “[T]he great abundance of merchandise, and in finite assembly of merchants, as also the innumerable multitude of people that dwell within the same, are far greater than a man would imagine, and as the kinds of these matters and merchandise are diverse, so likewise are the officers over them instituted and ordained, as it best seemed unto [them] to whose supreme charge [*sic*] and superintendence they belong”. Others eagerly took over where Contarini left off in his description of Venetian governmental institutions. See, for example, the notes to Lewkenor’s edition of Contarini’s book, in which are reproduced long lists of additional magistrates and city officials prepared by other Venetian writers of this period. These extended from the *Signori delle pompe* (responsible for the regulation of dress) and the *Ragione Vecchia* (charged with the duty of entertaining foreigners and ambassadors to be honored by the city), to the *Signori alla Grassa* (who oversaw abuses in cheese, salt meats, suet and such foods) (at 150-190).

<sup>68</sup> Matteo Dandolo, in Paruta’s dialogue, maintained that “good laws reveal the way of the virtues and make it easier [to live well]”: PAOLO PARUTA, *Della perfezione della vita politica* in OPERE POLITICHE, I, 33-405 (C. Monzani ed., 2 vols. 1852) [hereafter VITA POLITICA], at 372-3. The translation is Bouwsma’s. See BOUWSMA, *supra* note 45, at 215.

notwithstanding its purported responsiveness to the mandates of Catholicism.<sup>69</sup> Leonardo Donà, for example, advanced this view in an exchange between Pope Gregory XIII concerning Venice's assertion of rights over Aquileia. When Donà explained that he had delayed his response to the Pope because of the need for consideration of the matter in Venice, the Pope replied: "It is not sufficient to *consider*, Signor Ambassador, as you put it. It is necessary to consider *secundum iura* [according to law], and you in Venice are not doctors of law." Donà responded that "as his Holiness knew very well, we had in Venice, thank God, our own conception of legality and our own laws, with which we are governed; and that it could be said on this point that [Venice] had the most capable advisors".<sup>70</sup>

While Donà was here defending a sphere of legal autonomy that was city-wide in scope, writings of the period suggest that this principle was carried through on multiple scales and for the benefit of various groups. The power of the landowners of a parish to elect their parish priest, for example, the authority of Venetian Jews to elect their own arbitrators, and the liturgical autonomy afforded the Greek Orthodox community in Venice manifest widespread support for local deviation from generalized legal norms.<sup>71</sup>

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<sup>69</sup> Venetian's commitment to secularism was evidenced by Venetian insistence that lay representatives of the Venetian Republic – *Savii sopra Eresia* – sit alongside clerical members of the tribunal during the conduct of the Venetian inquisition between 1547 and 1794. See E. William Monter & John Tedeschi, *Toward a Statistical Profile of the Italian Inquisitions, Sixteenth to Eighteenth Centuries*, in *THE INQUISITION IN EARLY MODERN EUROPE: STUDIES ON SOURCES AND METHODS*, 130-157, at 131-2 (Gustav Henningsen, John Tedeschi & Charles Amiel eds., 1986).

<sup>70</sup> BOUWSMA, *supra* note 45, at 337. See also PAOLO PARUTA, *Historia venetiani* in *OPERE POLITICHE*, II, 1-371 (C. Monzani ed., 2 vols. 1852), at 25-26, 101-106, 210. See further PAOLO SARPI, *ISTORIA DELL'INTERDETTO E ALTRI SCRITTI EDITI ED INEDITI*, vol. II, 52-3 (ed. Giovanni Gambarin, 3 vols., 1940): "[A]ll nations do not have the same laws, which indeed are sometimes contrary to each other, because of the fact that different purposes require different ordinances", *quoted in* BOUWSMA, *supra* note 45, at 451. Cf. Contarini's description of the legal autonomy of plebeian societies: "[The *popolari* are] divided into so many companies as there are several trades and occupations, and every company hath certain peculiar laws, under which they are in the exercise thereof directed and governed"; and his account of the self-regulating status of many of Venice's colonies: "[W]e leave to every city that commeth into the fellowship of our government, their own municipal laws and statutes, and the Citizens, every one in their own cities, obtain many great and honorable places, and not a few towns of those abroad in the country, are governed by magistrates of their own, chosen among themselves...": CONTARINI, *supra* note 45, at 142, 148.

<sup>71</sup> LANE, *supra* note 45, at 98-100 and 394 (on the general structure of local government in Venice and on the election of parish chiefs); CONTARINI, *supra* note 45, at 96-7 (on the election of the parish chiefs and Lords of the Night and the role of the latter). Note also that officers of the various plebeian fraternities were elected by the members thereof: see CONTARINI, *supra* note 45, at 142. For discussion of Venetians' ambivalent attitudes towards popular election, see BOUWSMA, *supra* note 45, at 316-20. Bouwsma contends

“Laws”, Marc’Antonio Capello observed, “are to behavior like medicine to illnesses; and therefore, just as a different illness requires a different medicine, so different times, different customs, different conditions, require various, diverse, and sometimes contrary laws.”<sup>72</sup>

Venetian writings thus associated worldliness with the devolution of authority to disparate, overlapping legal spheres. The accounts of global governance scrutinized above demonstrate, however, countering impulses – those of harmonization and integration. In Professor Slaughter’s account, for example, the rise of “global community” is contingent upon the disempowerment of “distinct legal spheres” in favor of “an integrated global legal system”. In Professor Coffee’s account, convergence upon a U.S.-centered, common law model of corporate governance is anticipated to occur at the expense of “traditions” identified with Europe and Asia, the “relative importance” of which “should decline”. Rather than different medicine for different illnesses, these writers prescribe a single antidote for human strife.

As in Venice, particular preferences are today becoming routinized through collective fixation on the prospect of singularity. To share in the singular vision propounded by Professors Slaughter and Coffee, one must stand in a specific professional locale, focus on a particular set of problems, and adhere to certain discursive conventions. In these writings, wholeness is to be achieved through isolating and distinguishing particular

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that Venetians’ arguments for the imperative of electoral endorsement were primarily means of shoring up the legitimacy of aristocratic governance. Botero, for example, argued that “all legitimate kingdoms had their origin in election by the people” but cautioned that the electoral autonomy of the “free cities” of Germany had encouraged heresy: see BOUWSMA, *supra* note 45, at 317-18. Note, with relevance to this argument, that the Jewish community of Venice was granted authority, under agreements into which it entered with the Venetian government, to elect its own arbitrators for the settlement of civil disputes among Jews (PULLAN, *supra* note 45, at 561); that the consuls of Venetian merchant communities abroad were initially elected by such communities, before being made subject to Venetian government appointment from the 12<sup>th</sup> century onwards: see GARRETT MATTINGLY, *RENAISSANCE DIPLOMACY*, 67 (1962 [1955]); LANE, *supra* note 45, at 99; and that the Doge was elected by vote of a popular assembly until 1171, when a committee of electors was introduced, the authority of which was, from the 13<sup>th</sup> century onwards, assumed by the lot-drawers of the Great Council: see MUIR, *supra* note 66, at 279. On the Greek community and the Greek Orthodox Church in Venice, see Paolo Prodi, *The Structure and the Organization of the Church in Renaissance Venice: Suggestions for Research*, in HALE, *supra* note 54, 409-430, at 423.

constituencies and then promoting among them a predilection for conformity and an aspiration for convergence. In Venice, the city's wholeness was likewise to be comprised of "different customs, different conditions, require[ing] various, diverse, and sometimes contrary laws", but these customs and conditions would not be required to converge. Instead, the terms and spaces of their difference would be delimited by Venice's "most capable advisors" – its patrician rulers.

Venetian writers' demand for diversity as a way of securing their city also played itself out in a variety of other ways. Sixteenth century Venice received large numbers of refugees and immigrants from other cities and continents.<sup>73</sup> Venice was a city "where strangers came and went incessantly".<sup>74</sup> Those identified as "strangers" or "foreigners" were recruited to the cause of defending Venetian ideals of a worldly life and were among the most active contributors to this endeavor. Foreigners enjoyed certain special privileges under Venetian law, including a separate, accelerated procedure for the administration of their civil claims. Contarini, explained that this was "to the end that foreigners and strangers (of whom according to the precepts of many great Philosophers there is special regard to be had) should not be molested and lingered off [*sic*] with long delays, but quickly come to an end of their suits".<sup>75</sup> Utilizing these benefits, foreigners developed familial and commercial networks that spanned continents, using Venice as a

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<sup>72</sup> MARC'ANTONIO CAPELLO, DELLE CONTROVERSIE TRA IL SOMMO PONTEFICE PAOLO QUINTO, ET LA SERENISSIMA REPUBBLICA DI VENETIA PARERE, 125 (1606). The translation is Bouwsma's. See BOUWSMA, *supra* note 45, at 451.

<sup>73</sup> PULLAN, *supra* note 45, at 18. Philippe de Commynes, a sixteenth century French ambassador, observed of the Venetian *poplari* that "most of the people are foreigners": quoted in LANE, *supra* note 45, at 273. Pullan observed that "the city was swarming with temporary migrants in constant movement": *Id.*, at 250.

<sup>74</sup> WILLIAM HARDY MCNEILL, VENICE: THE HINGE OF EUROPE, 1081-1797, xvii (1974). *Contra* Jacob Burckhardt, who attributed to Venetians "a spirit of proud and contemptuous isolation": JACOB BURCKHARDT, THE CIVILIZATION OF THE RENAISSANCE IN ITALY, Vol. I, 87 (S.G.C. Middlemore trans. from 15<sup>th</sup> ed. of the German original, 1958) (1929).

<sup>75</sup> CONTARINI, *supra* note 45, at 105. An office of New Auditors and a New College of Forty were created solely to hear and decide the claims of foreigners and to appeals against the decisions of magistrates outside the city. "[B]y this means the suits of strangers are sooner ended and determined [than] the causes of the citizens" (at 105). Venice was otherwise receptive of foreign merchants and ships, and made extensive provision for accommodating foreigners in the Rialto. See LANE, *supra* note 45, at 62. *Fondaci dei Tedeschi* were built to house the persons and goods of German merchants who had come to purchase spices and other luxuries for northern distribution, bringing with them metals from the Harz and Bohemian mountains. Similar *fondaci* were built for Turks, Tuscans and Milanese. See MCNEILL, *supra* note 75, at 66, 148.

hub.<sup>76</sup> Foreigners participated in the city's lay fraternities (*Scuole Grandi*): organizations that were dedicated to poor relief, the provision of a range of social services and the ritualized enactment of Venetian civic mythology.<sup>77</sup> In the military and educational ranks of Venice, immigrants likewise rose to prominence.<sup>78</sup> In recognition of their

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<sup>76</sup> MATTINGLY, *supra* note 72, 68-69 (Lombardy bankers' maintenance of permanent representation in foreign cities); LANE, *supra* note 45, at 140 (international family partnerships) and at 330 (importance of Venice as a European banking center): "Drafts on Venetian banks were used by Ragusa to pay its ambassador in Naples and by the popes to pay expenses of their legates at the Council of Trent" (330). Far-reaching family partnerships were so important to Venetian commerce that, under Venetian law, upon a father's death his sons would automatically receive their father's bequest as members of a partnership, unless their inheritances were expressly divided: LANE, *supra* note 45, at 138. On Jewish commercial activity in and around Venice, *see also* B. Blumenkranz, *Les juifs dans la commerce maritime de Venise*, 120 *REVUE DES ÉTUDES JUIVES*, 143 (1961); B. RAVID, *ECONOMICS AND TOLERATION IN SEVENTEENTH-CENTURY VENICE* (1978). On the ambivalent relationship between Jewish bankers and the Vatican, *see* LEON POLIAKOV, *JEWISH BANKERS AND THE HOLY SEE FROM THE THIRTEENTH TO THE SEVENTEENTH CENTURIES* (1967). The commercial operations of João Miquez (later known as Joseph Nasi) exemplified such powerful international networks. Nasi (1520-1579) was leader of the Mendes family, a prominent family of Marranos (Jews, also known as *conversos*, who made public conversions to Christianity in order to avoid expulsion from Spain and Portugal, but many of whom subsequently left to rejoin Jewish communities in North Africa, Turkey and Venice). Nasi's mercantile operations "stretch[ed] from Antwerp to Palestine" and were sustained, in part, through a cousin resident in Venice. *See* LANE, *supra* note 45, at 301. Nasi was a friend and confidant of Sultan Selim II and the Duke of Naxos and was considered instrumental in the Turkish attack on Cyprus in 1571 and in the reorganization of the Aegean wine trade along a north-south, rather than an east-west axis. *See* MCNEILL, *supra* note 75, at 185 and CECIL ROTH, *THE HOUSE OF NAZI; THE DUKE OF NAXOS* (1948). On the Marranos, *see generally* PULLAN, *supra* note 45, at 510-12 and CECIL ROTH, *THE HISTORY OF THE JEWS OF VENICE* (1930). Another example of a Venetian Jew gaining international notoriety and influence in the east is Solomon Askenazi. Askenazi was a Jew born a subject of Venice and educated at Padua who became personal physician to the king of Poland and later to the grand vizier of the Ottoman Empire. The latter entrusted him with negotiation of the peace of 1573 between Turkey and Venice. *See* MCNEILL, *supra* note 75, at 185.

<sup>77</sup> These were formed by practitioners of a common profession or trade, women or men dedicated to a certain cause or honoring a particular saint, expatriates of common nationality, residents of the same *contrada*, or other lay groups. *See* PULLAN, *supra* note 45, at 33-196, at 33 (Jewish fraternities and those formed by other expatriates), 208 (institutions established by German merchants centered on the *Fondaco dei Tedeschi*; Armenian hospital established at San Giuliano), 350-1 (Venetian government support for the Hospital of Santa Maria dell'Annunziata established by and for the German Shoemakers, against complaints and requests for closure), 427 (hospitals established by and for various sectors of the German and Armenian communities). LANE, *supra* note 45, at 213 (Greek and Slavic fraternities and churches: *San Giorgio dei Greci* and *San Giorgio degli Schiavoni*), 104 (acceptance of foreign merchants); MCNEILL, *supra* note 75, at 148 (accommodation of Greek orthodox faith; formation of a Greek community and a Greek church; establishment of *fondaci* – buildings for safe storage of goods and accommodation – for Turks, Tuscans and Milanese as well as Germans; communities of Slavs, Armenians and Albanians settled in particular areas of the city).

<sup>78</sup> On foreigners serving as leaders of Venetian armies, as well as in their lower ranks, *see* CONTARINI, *supra* note 45, at 130-31. *See also* Michael Mallett, *Venice and its Condottieri, 1404-54*, in HALE, *supra* note 54, at 121-145. On foreigners attending the University of Padua, *see* MCNEILL, *supra* note 75, at xvi-xvii, 139, 155: "[B]etween about 1530 and 1630 the University of Padua became the premier university of Europe, and a most significant meeting place of Europe's intellectual elites from east and west" (at 139). *See also* JOCELYN G. RUSSELL, *DIPLOMATS AT WORK*, 15-16 (1992); Vittore Branca, *Ermolao Barbaro and Late Quattrocento Venetian Humanism*, in HALE, *supra* note 54, 218-243, at 220; and LANE, *supra* note 45, at 215. Venetian students did not, however, reciprocate to a significant degree, as from 1571 onwards

contributions to Venetian civic life and prosperity, foreigners were entitled to ascend to the rank of citizen upon satisfaction of certain criteria and were, on occasions, accepted into the nobility.<sup>79</sup> Conversely, Venetians who made their fortune in foreign trade were often accorded social status higher than their birthright, since foreign trade was acknowledged to be “the nutriment and profit of the city”.<sup>80</sup>

The perceived inter-penetration of the city’s insiders and outsiders thus played a vital role in shaping and defending the image, institutions and laws of Venice, and was in turn

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Venetian subjects were legally prohibited from attending any institution of higher learning other than Padua: MCNEILL, *supra* note 75, at 177. Foreigners were influential as scholars and teachers within the Paduan academy. Andreas Vesalius (1514-1564), for example, was “the most famous anatomist who ever taught at Padua [and] a Fleming, and a numerous body of students from Germany and other trans-Alpine lands consistently attended the university [at Padua]...A professor of Greek was first appointed at Padua in 1463 and the new chair was continuously occupied through the fifteenth and sixteenth centuries by scholars of Greek origin”: see MCNEILL, *supra* note 75, at 159. See also DENO J. GEANAKOPOLOS, GREEK SCHOLARS IN VENICE: STUDIES IN THE DISSEMINATION OF GREEK LEARNING FROM BYZANTIUM TO WESTERN EUROPE (1962). Theodore Zygomales, a Greek who trained at Padua, went on to take charge of the patriarchal academy at Constantinople “with the result that in the second half of the sixteenth century a flow of bright young men began to issue both from Candia and from Constantinople to attend the University of Padua”: MCNEILL, *supra* note 75, at 179.

<sup>79</sup> CONTARINI, *supra* note 45, at 18, 131-2. During the sixteenth century, Venetian legislation permitted two forms of citizenship to be granted by privilege. Citizenship *de intus* was available to men who had lived in Venice with their family and household for a period of fifteen or more years and had paid all taxes and dues during that period, or men who had married a Venetian woman and had lived continuously in Venice for eight or more years, paying all taxes and dues during that time. Citizenship *de intus et extra* was open to men who had lived in Venice for at least twenty-five years, paying all taxes and dues during that time, whereupon they also acquired the right to trade abroad as citizens of Venice. PULLAN, *supra* note 45, at 101. Batholomeo Coglione of Bergamo, who had served the city with distinction as a mercenary general, is named by Contarini as an example of a foreigner being accepted into the nobility of Venice. CONTARINI, *supra* note 45, at 131. In the late sixteenth century, Henry IV of France was made a patrician of Venice: BOUWSMA, *supra* note 45, at 248. Michael Mallett reports that “[t]he most honorific yet in a certain sense the emptiest of the rewards used [to secure the loyalty of mercenary *condottieri* or commanders] was election to the Great Council and inclusion in the ranks of the Venetian nobility”, Michael Mallett, “Venice and its *Condottieri*, 1404-54” in HALE, *supra* note 54, 121-145, at 128. However, according to Pullan, “[I]n 1608, the Council of Ten attempted to frustrate the [maneuvers] of certain nobles who, seeking massive dowries, married the daughters of foreign merchants and then tried to get the best of both worlds by fraudulently proving that their fathers-in-law were Venetian citizens”: PULLAN, *supra* note 45, at 106.

<sup>80</sup> LANE, *supra* note 45, at 104, citing the election of the Doges Sebastiano Ziani and Orio Mastropiero at the end of the twelfth century as examples; Alberto Tenenti, *The Sense of Space and Time in the Venetian World of the Fifteenth and Sixteenth Centuries* (trans. J.R. and Sheila Hale), in HALE, *supra* note 54, 17-46, at 22 (quoting the sixteenth century merchant Girolamo Priuli). The government of Venice was heavily invested in international trade, both on its own behalf (through the fleet of merchant galleys that it owned and launched for its own account or by auction to the highest private bidder) and in its protection and encouragement of private merchants. As William McNeill describes, “[f]or some two centuries [from the 1330s to the 1530s], the basic rhythm and pattern of Venetian trade was dominated by the comings and goings of the state-owned merchant galleys and by the *muda* regulations [(regulations restricting the trade in commodities such as grain and salt)] applied to privately owned cogs engaged in long-distance trade”: MCNEILL, *supra* note 75, at 63.

shaped by them.<sup>81</sup> Foreigners' status was made and remade on a daily basis in order for a particular sense of worldly city power to come into being and to remain in force. The structures through which this sense of worldly order was sustained were, to a significant degree, the work of "outsiders".<sup>82</sup> In sixteenth century Venice, insiders and outsiders operated as "partners, co-conspirators, indispensable allies" in the defense of the city's autonomy.<sup>83</sup>

The contemporary narratives of global governance examined above likewise depend upon the presence of newcomers or outsiders in order to sustain their claims to completeness. Writers on global governance leave no geographic or interdisciplinary stone unturned in their drive for inclusion. Moreover, those perceived to be on the institutional, geographic or discursive outer of the global governance field collaborate in the construction of this field and their locale within it. Activist writers on global governance position themselves self-consciously below or on the margins of a "mainstream" scholarly and institutional discourse.<sup>84</sup> In doing so, they exploit the indispensability of that "outer" to the narratives of totality with which writings on global governance are replete. Like the singularity of Venice, the unity of contemporary globalism is constituted by gestures of distinction and embrace in which both opponents and proponents of globalism become involved.

Venetian writers, however, embraced mutability and multiplicity in their work. They argued that legal tenets should be relaxed, ignored or modified as varying circumstances required. By doing so, they sought to demonstrate the openness and adaptability of their

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<sup>81</sup> "Outsiders" to the city could mean everyone from a merchant from nearby Bergamo who had lived in the city for some years to a newly-arrived Armenian refugee. Texts of the period suggest that the scope and delineation of the "inside" and the "outside" for purposes of determining who was an "outsider" in Venice varied greatly depending upon the economic and political environment at the time and the subject matter under discussion.

<sup>82</sup> *Contra* Anita L. Allen & Michael R. Seidl, *Cross-Cultural Commerce in Shakespeare's The Merchant of Venice*, 10 AM. U. J. INT'L L. & POL'Y 837 (1995) (considering "the general commercial effects of the cultural antagonisms that aggravate pervasive epistemological barriers to interpersonal understanding" (at 840)).

<sup>83</sup> Saskia Sassen, *In a Corner of the City*, NEWSDAY (January 12, 1992) (observing that "[p]aradoxically, in particular instances, the local and the global will be partners, co-conspirators, indispensable allies"), *quoted in* Nathaniel Berman, *Economic Consequences, Nationalist Passions: Keynes, Crisis, Culture, and Policy*, 10 AM. U. J. INT'L L. & POL'Y 619, 669 (1995).

<sup>84</sup> *See, e.g.*, VIEWS FROM THE SOUTH, *supra* note 11, at 5 (offering "news of...on-the-ground effects"); DANAHER & BURBACH, *supra* note 14 (offering images of "transnational unity at the grassroots").

republican mode of governance and to liberate themselves from the vice of Papal authority. The influential Venetian canon lawyer, Paolo Paruta, remarked, for example (in an exchange with Pope Clement VII): “it sometimes happens, according to the common saying, that the best rule and the most useful advice is to observe no rule”.<sup>85</sup> Lawlessness in this context translated into Venetian release from Papal law.

The contemporary writings on global governance examined above are, in contrast, more concerned with creating possibilities for constancy and order amid apparent disarray than with freeing themselves from medieval hierarchies. Accordingly, their writings tend to build globalism by arranging multitudes according to grids of governance, whether on a national, institutional or individual scale, and aligning these around a particular point of convergence. Today’s scholarly prescriptions for “global community” construct unity out of discursive conventions or pragmatic dilemmas promoted as meeting points for distinct national, institutional or individual agents. In the instant of a problem’s resolution or the abstract perfection of a reform proposal lie promises of unity and finality to which the discourse of global governance aspires. In the global governance field, as in sixteenth century Venice, openness and diversity are rallying calls for authorities under threat. Yet in each instance, the call is particular to the threat.

<sup>85</sup> Quoted in BOUWSMA, *supra* note 45, at 338. Cf. CONTARINI, *supra* note 45, at 12: “[T]he sovereignty of government should be recommended not to men but to laws, to whose will yet some things may be permitted, that are not well in laws to be comprehended”.

### C. *Worldly Governance*

In shaping their city in this way – as a city secure in its distinctive worldliness – Venetians had to build ports and armories. Yet they also had to develop a sense of themselves, as Venetians, that was constitutive of such a city. Venetian aspirations for durability and strength within the world required walls of a different nature to the stone walls that had surrounded medieval townships. These walls had to be effective as dividers and constraints, yet could not displace Venetians’ experience of life in their city as free. Bodies, in a certain guise, afforded these walls. Bodily health, cleanliness, moderation and equilibrium were topics of great concern within the city. Venetian law was propagated on a daily basis through the bodies of people who passed through the city, by ascribing to them divergent status and meanings.<sup>86</sup>

Against the medieval notion of an integrated body subjugated to the mind, Venetian writings promoted an image of the worldly body as a concert of disparate forces often in conflict, both among themselves and with the thinking, reasoning intellect. The Venetian constitutionalist Gasparo Contarini offered, for example, a body comprised of distinct parts as a metaphor for Venice’s political and social order.<sup>87</sup> The nobility, he argued,

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<sup>86</sup> Framing the body in these terms will likely suggest that there were two constituencies in the city of Venice: those who regulated and those who resisted; those whose bodies were free, strong and healthy and those whose bodies were marked, bound and diseased. I want to suggest instead that the city’s sundry constituencies were constant interlocutors. Their interlocution did not, moreover, take the form of an “intercivilizational encounter and dialogue” between pre-existing entities. Rather it involved the production and reproduction of a variety of hierarchical arrangements. “Resistance” was as much a contributing element to this production process as “regulation”. *Contra* Pasha & Samatar, *supra* note 42, at 191. Pasha’s and Samatar’s model of “intercivilizational dialogue” turns out to depend upon a version of Islam that sounds remarkably like the “Western” modernism to which it ostensibly poses a dialogical challenge, such that the recognition of “diversity” seems to entail the loss or consumption of difference. On the precariousness of Venetian political power and instances of protest within the city, see Gaetano Cozzi, *Authority and Law in Renaissance Venice* (J.R. & Sheila Hale trans.) in HALE, *supra* note 54, 293-345, at 338. On the shifting character of popular factional allegiances within Venice, see ROBERT C. DAVIS, *THE WAR OF THE FISTS: POPULAR CULTURE AND PUBLIC VIOLENCE IN LATE RENAISSANCE VENICE* (1994) [hereinafter DAVIS 1994], at 24, 32-5, 45-6. On popular uprisings of various sorts between the 14<sup>th</sup> and 17<sup>th</sup> centuries, see PULLAN, *supra* note 45, at 9-10.

<sup>87</sup> For other instances of the body-city metaphor in Venetian writing, see the writings of the Venetian diplomat, Alvise Contarini, *extracted* in JAMES C. DAVIS, *PURSUIT OF POWER: VENETIAN AMBASSADORS’ REPORTS ON SPAIN, TURKEY AND FRANCE IN THE AGE OF PHILIP II, 1560-1600* (1970) [hereinafter DAVIS 1970], at 227; Francesco Sansovino in the notes to CONTARINI, *supra* note 45, at 191-192; and Niccolò Zeno, *quoted* in BOUWSMA, *supra* note 45, at 167. See generally SUSAN SONTAG, *AIDS AND ITS METAPHORS*, 6 (1988). In the discussion between youthful and aged courtiers depicted in Pietro Bembo’s *Gli Asolini*, for example, one youth argues that “there is no man who does not have some disagreement with himself each day, sometimes of such a sort that if one could leave himself as two can leave each other,

played a role analogous to the eyes, while the citizens and *popolari* functioned as the limbs. Each was dependent to a certain degree on the other, but the former retained the powers of sight and direction.<sup>88</sup>

This fractured image of the body promoted in Venice, and the popular metaphoric correlation between the body and the city, served Venetian purposes well in political and religious debates surrounding the papal interdicts levied against the city during the Counter-Reformation (threats of excommunication issued in connection with Venice's assertion of secular authority over members of the clergy).<sup>89</sup> However, the body-city metaphor also worked to justify strategies undertaken to preserve the city's health, literally and figuratively. While divergent prescriptions for bodily health circulated during the sixteenth century, moderation was one of the strongest teachings of the day. In his study of the fear of disease in early modern societies, David Gentilcore has found that "[t]he key to health lay in the maintenance of bodily balance, avoiding excess or extremes".<sup>90</sup> The health of the city was likewise understood to depend upon its balance.

many would do so...": PIETRO BEMBO, *GLI ASOLANI* (Rudolf B. Gottfried trans., Indiana Univ. Press, 1954) (1505), at 139-40. Bembo (1470-1547), the son of a Venetian diplomat, presented his popular ruminations on love as an account of a conversation between an elderly courtier and a group of younger nobles assembled at the villa of Caterina Corner, the exiled Queen of Cyprus, in Asolo. On Bembo's life and work, see GIOVANNI DELLA CASA, *VITA DI PIETRO BEMBO* (1997); CHRISTIN RAFFINI, MARSILIO FICINO, PIETRO BEMBO, BALDESSARE CASTIGLIONE: PHILOSOPHICAL, AESTHETIC, AND POLITICAL APPROACHES IN RENAISSANCE PLATONISM (1998). Compare the characterization of man by the Renaissance philosopher Pietro Pomponazzi (educated at Padua and later a professor at Bologna) as "not simple but multiple, not certain but ambiguous": Pietro Pomponazzi *quoted in* DON CAMERON ALLEN, DOUBT'S BOUNDLESS SEA: SKEPTICISM AND FAITH IN THE RENAISSANCE, 31 (1964).

<sup>88</sup> CONTARINI, *supra* note 45, at 148-9.

<sup>89</sup> On the papal interdicts, see *supra* note 55. The Venetian conception of the body articulated in the extracts cited above differed markedly from the images of bodily unity portrayed in speeches and texts favoring Venetian submission to the authority of the Papacy in Rome. See, e.g., Antonio Possevino, *quoted in* BOUWSMA, *supra* note 45, at 421 who argued that "[i]n heaven there are, equally [as in man], various hierarchies, nor does one prejudice another because, each power being subordinated to higher powers, they preserve that admirable union from which all stability and joy derive". On religious heterodoxy among upper and lower classes of Venetian society, see John Martin, *Out of the Shadow: Heretical and Catholic Women in Renaissance Venice*, 10 J. FAMILY HISTORY 21 (1985); John Martin, *Popular Culture and the Shaping of Popular Heresy in Renaissance Venice*, in INQUISITION AND SOCIETY IN EARLY MODERN EUROPE, 115-128 (Stephen Haliczer ed., 1987); John Martin, *The Roman Inquisition and the Criminalization of Religious Dissent in Early Modern Venice*, 66 QUADERNI STORICI, 777 (1987).

<sup>90</sup> David Gentilcore, *The Fear of Disease and the Disease of Fear*, in FEAR IN EARLY MODERN SOCIETY, 184-208, at 194 (William G. Naphy & Penny Roberts, eds., 1997). For example, Lodovico Domenichi, writing in Venice in 1549, praised the menstrual rhythms of women as an enviable means of cleansing the body regularly and thereby maintaining bodily balance: LODOVICO DOMENICHI, *DELLA NOBILITÀ DELLE DONNE*, 98r, 113r (1549), *discussed by* Gentilcore at 197. Botero observed that "[s]obriety and moderation preserve [the health], because the vice of gluttony and drunkenness and excessive indulgence fill the body with evil

So Contarini argued that “this just mixture and temperature...maketh the perfect measures and means of government to be united in the true form and shape of commonwealth”.<sup>91</sup>

These arguments for the avoidance of extremes frequently doubled as arguments for the repression of identified excesses, such as agents of popular protest.<sup>92</sup> Contarini maintained that it was critical for Venice’s political and legal organs to be able to quell the “corruption and putrefaction” signified by acts of sedition among its people.<sup>93</sup> The image of the body as made up of contending “humors”, and the need for balance among these, thus served as a premise for the containment of dissidence.

Frequently, however, outbreaks of plague and syphilis posed more imminent threats to the equilibrium of the city than outbreaks of political dissidence. These outbreaks were regarded both as indicators of the moral “putrefaction” of the city and auguries of its impending socio-economic decline.<sup>94</sup> Venetian historian Andrea Morosini, writing in 1576, maintained that “[i]f...it were noised abroad that the city was in the grip of a pestilential disease, terror would arise in every estate, customs revenues would be

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humours and indigestions”: BOTERO, *supra* note 51, at 52-3. The importance of political and social moderation was emphasized through extension into other metaphors: “The state is like a vineyard, which cannot flourish or bring forth fruit unless celestial influences favour it and human industry trims and prunes away the superfluous growth. Piety maintains the state through the divine aid of God’s grace, and temperance is the enemy of that degeneracy which nourishes the vices that lead to ruin”: BOTERO, *supra* note 51, at 62-3.

<sup>91</sup> CONTARINI, *supra* note 45, at 83.

<sup>92</sup> On uprisings within the city of Venice, *see supra* note 88.

<sup>93</sup> CONTARINI, *supra* note 45, at 77-8: “[A]s in a man’s body, through the corruption and putrefaction of one humor, many and most dangerous diseases do commonly happen, which grow in time to be the causes of death: so also in a commonwealth there are sometime wicked and disloyal citizens, that are causes thereunto of great troubles and calamities, while they aspire rather to the pride of the wicked and unjust commandment, [than] to the praise of an honest and quiet obedience...For which cause our prudent elders labored to establish this commonwealth of ours in all perfection and beauty, and to strengthen the same with such and so wholesome laws, that it might as much as in man’s wisdom lyeth, prevent the inconvenience of so monstrous and miserable a fall.” The beheading of the Doge Marino Faliero [Faliero] in the 14<sup>th</sup> century is presented as one example of the Venetian government successfully suppressing an internal uprising. *See further* PULLAN, *supra* note 45, at 9.

<sup>94</sup> Doge Loredan opined before the Great Council that immorality was the reason for the difficulties in which Venice found itself during the early part of the sixteenth century, among which was its battle with disease. Quoted in Gilbert, *supra* note 54, at 277. Michele Surian’s ambassadorial report from France drew a similar connection between the weakening of Catholic faith under challenges from Protestantism and bodily illness, referring to Protestantism as a “plague” and a “choleric humor”: DAVIS 1970, *supra* note 89, at 199, footnote 19.

diminished, the traders of Europe and Asia would recoil from the city, and the enemies of the Republic would be incited to revolt”.<sup>95</sup> Bodily illness was thus associated both metaphorically and literally in Venetian writings with urban degradation on a broadscale.

Sixteenth century Venetian writings, moreover, encouraged their readers to trace these threats to the bodies of foreigners within their midst.<sup>96</sup> This connection was borne out in Venetian legal texts of the period. A decree of the *Provveditori all Sanità* issued in August, 1522, for example, warned that “[t]he time is now approaching when the rogues, beggars and vagabonds from various regions repair to the city, who,...because they might be coming from unknown places infected with disease, could easily infect our own city with the pestilence”.<sup>97</sup> On the strength of this connection between the diseased and the foreign, the closure of Venice to outside influence became the city’s preferred strategic response to disease.<sup>98</sup> A decree issued in March 1528 stipulated that “[n]o paupers from outside Venice were in future to be admitted to the...[city’s] hospitals”.<sup>99</sup> People identified as outsiders within the body-city were accommodated to an extent. A 1550 report of the *Provveditori all Sanità* affirmed Venice’s commitment to serve as a way-station for “poor pilgrims, soldiers and other foreigners” to whom it would always show an “exemplary charity”.<sup>100</sup> Beyond a certain ill-defined level, however, foreigners’ presence was characterized as pathological imbalance.<sup>101</sup>

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<sup>95</sup> Quoted in PULLAN, *supra* note 45, at 317.

<sup>96</sup> The historical prevalence of a link between “imagining disease and imagining foreignness” has been documented by Susan Sontag. SONTAG *supra* note 89, at 47: “The names for syphilis, when it began its epidemic sweep through Europe in the last decade of the fifteenth century, are an exemplary illustration of the need to make a dreaded disease foreign. It was the ‘French pox’ to the English, *morbus Germanicus* to the Parisians, the Naples sickness to the Florentines, the Chinese disease to the Japanese”. See also PULLAN, *supra* note 45, at 22 and SUSAN SONTAG, *ILLNESS AS METAPHOR* (1978).

<sup>97</sup> Quoted in PULLAN, *supra* note 45, at 221.

<sup>98</sup> On the history of quarantine, see generally WILLIAM H. MCNEILL, *PLAGUES AND PEOPLES* (Doubleday, 1989) (1976).

<sup>99</sup> *Id.*, at 247, 320, 322.

<sup>100</sup> Quoted in PULLAN, *supra* note 45, at 361.

<sup>101</sup> Government orders demanding the expulsion of Marranos from Venice, for example, described them as “an infectious species of men”: PULLAN, *supra* note 45, at 515. On the Marranos, see further *supra* note 76 and related text.

The legally enforced removal, repulsion or containment of outsiders in times of crisis offered promise that equilibrium might be reestablished and the city's health restored.<sup>102</sup> Accordingly, by decree issued on March 29, 1516, all Jews resident in Venice were ordered to move to the *Ghetto Nuovo* (the "new foundry" in Venetian dialect), a walled area with a single entrance that was thereafter guarded at night by police. Jews (other than physicians) who were caught outside the Ghetto at night were liable to be fined and imprisoned.<sup>103</sup> When, in 1571, the Venetian Senate took this a step further, resolving to expel all Jews from the city of Venice and from the entire Venetian dominion, the following declaration was issued:

It should above all be noted that whenever steps have been taken to expel the Jews, both the state and private individuals have been seen to prosper, and whenever contracts have been made with them, the contrary has clearly appeared.<sup>104</sup>

The presence of Jewish bodies within Venice was acknowledged to be essential to the city's prosperity and worldly political identity.<sup>105</sup> "[J]ust as one cannot make war without soldiers or a port without merchants", Daniel Rodriguez argued before the Doge in 1591, "[so one cannot make] a most rapacious nation...without the aid of...the Levantine and Ponentine Jewish nations".<sup>106</sup> Yet fear of "contamination" and discord was seen to justify the segregation of Jewish bodies from those of Christians in all but certain specified commercial endeavors.<sup>107</sup> Other groups were similarly segmented by direct or

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<sup>102</sup> See, e.g., *infra* note 106 and related text.

<sup>103</sup> On the creation of the Ghetto, see *ibid* at 487-8. Within the Ghetto, by order of the city, residents were charged rent at a rate one third higher than the prevailing rate. A 1508 Senate decree stipulated that Jews in Venice could rent but could not own residential property: *Id.*, at 476-7.

<sup>104</sup> *Id.*, at 537. On the experiences of Jewish people in Venice during the sixteenth century, see generally PULLAN, *supra* note 45, 432-601; CECIL ROTH, A HISTORY OF THE JEWS IN VENICE (1930); BRIAN PULLAN, THE JEWS OF EUROPE AND THE INQUISITION OF VENICE, 1550-1670 (1983).

<sup>105</sup> See PULLAN, *supra* note 45, 432-601; Blumenkrantz, *supra* note 76; RAVID, *supra* note 76.

<sup>106</sup> PULLAN, *supra* note 45, at 569 (discussing the need for a general *condotta* or communal contract embracing all Jews except traveling Levantine Jews resident in the city for less than six months and arguing for the development of Levantine trade through the Dalmatian port of Spalato).

<sup>107</sup> Botero offered instructions for political leaders desirous of continuing power. With respect to communities of different faith he advised "humbling their spirit, decreasing their power and...preventing them from uniting". "If all these expedients fail to subdue a subject people", he continued, "they must be dispersed and transplanted to other countries": BOTERO, *supra* note 51, at 101, 110. See also Kenneth R. Stow, *The*

indirect measures.<sup>108</sup> By these means, Venetian writings suggested, the body-city could be improved.

Legal acts designed to eliminate or restrain outsiders' bodies within the urban area served as acts of collective, ritual cleansing. They reassured Venetians that their body-city would soon be purged of disease and confusion; its singular politico-legal meaning restored. From out of the dissonance of a body-city in "disagreement with [it]self", Venetian writers maintained, one could produce a synthetic, harmonious order. Paolo Paruta, for example, argued in his *Discorsi politici* (published posthumously in 1599) that "a state should keep every order from either rising too high or falling too low lest, like a tone that is either too flat or too sharp, it produce dissonance."<sup>109</sup>

As in the contemporary accounts of global governance discussed in the preceding section, an organic timeline plays a significant, validating role in these Venetian configurations of worldly order. In the dialogues of Paolo Paruta, Niccolò Zeno states that "[j]ust as men grow in fortune, in size and strength of body, and in wisdom, so also cities increase 'in public or private wealth, in population, in military discipline, in the prudence of their citizens or in the quality of their government'".<sup>110</sup> The life of a body-city was, in Venetian writings, imagined as a process of organic, cyclical development. Regulatory

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*Consciousness of Closure: Roman Jewry and its Ghet, in* ESSENTIAL PAPERS ON JEWISH CULTURE IN RENAISSANCE AD BAROQUE ITALY, 386-400 (David B. Ruderman ed., 1992).

<sup>108</sup> On segregation of the Germanic, Turkish, Greek communities, as well as Jews, see Benjamin C.I. Ravid, *From Geographic Realia to Historiographical Symbol: The Odyssey of the Word Ghetto*, in ESSENTIAL PAPERS ON JEWISH CULTURE IN RENAISSANCE AD BAROQUE ITALY, 373-385 (David B. Ruderman ed., 1992). Venetian efforts to exclude immigrants from the city's hospitals, for example, prompted immigrant communities to establish hospitals exclusively for use by common nationals. PULLAN, *supra* note 45, at 247-8, 427 (hospitals for Germans and Armenians). Opposition to segregation was, however, sometimes forcefully expressed among the Venetian population. Venice's Mendicant Friars, for example, were vocal in their opposition to projects for removing the (largely foreign) poor from streets and churches, and for confining them to their homes. "They argued", Brian Pullan recounts, "that if the poor were not on public view the public would forget them, and give little or nothing to the municipal almonry or Common Chest on their behalf". See PULLAN, *supra* note 45, at 284.

<sup>109</sup> BEMBO, *supra* note 87; Paolo Paruta quoted in BOUWSMA, *supra* note 45, at 271.

<sup>110</sup> Quoted in BOUWSMA, *supra* note 45, at 167. In *Della perfezione della vita politica*, published in 1579, Paolo Paruta dramatized a series of exchanges over a meal purportedly hosted by the Venetian ambassadors to the Council of Trent, Nicolò da Ponte and Matteo Dandolo, after the final session of the Council in 1563. See VITA POLITICA, *supra* note 69. Bouwsma suggests that "whether some such discussion as Paruta describes really occurred in Trent in 1563 is less significant than his own interest...in the issues with which it is alleged to have dealt": BOUWSMA, *supra* note 45, at 201.

actions taken in the name of improving “the quality of [its] government” were, accordingly, cast as part of the natural order of things.<sup>111</sup> Likewise, the contemporary writings on global governance discussed above invoke the imperative of progress as a rationale for particular rankings of people, places and political priorities. In Falk and Strauss’ account, for example, the process of global convergence amounts to a “ripening” or “coming of age”, such that countering impulses are cast as “force[s] of inertia [and] tradition[n]” soon to be surpassed.

Recent writings on global governance also share something of Venetian writers’ preoccupation with the suppression of discord. In the name of convergence, scholars of global governance work to quell forces that they identify as divisive or immoderate. In Professor Coffee’s article, for example, the possibility of global convergence depends upon the extinguishment of the “European habit of ‘relationship-based investing’” and other parochial traditions. Professors Falk and Strauss similarly work to suppress forces of intemperance and unreason. They warn that the creation of a global parliamentary assembly will not occur “until sufficient pressure could be brought to bear by transnational democratic forces” upon those governments that will not allow elections to occur in their countries “on acceptable terms”.<sup>112</sup> Only through the vigorous containment of discordant forces and interests, it seems, may “global community” come into being.

Like the Venetian writers of the sixteenth century whose work I have reviewed above, scholars working in the field of global governance are segregating and expelling in the name of wholeness. Richard Falk has suggested that “global apartheid” comprises part of the normative architecture of world order, yet he contends that this “apartheid” may be overcome by adherence to global human rights norms.<sup>113</sup> Human rights norms, however, demand the isolation of the extreme and the unknowing in order to make way for their normative redemption, as Falk’s and Strauss’ article demonstrates. The classification of “non-democratic” forces and “opponents of progressive international reform” within their

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<sup>111</sup> On the cyclical quality Venetians attributed to human development, see PARUTA, *supra* note 71: “All things human...may be seen sometimes to increase and sometimes to diminish in a perpetual cycle”. The translation is Bouwsma’s, see BOUWSMA, *supra* note 45, at 232.

<sup>112</sup> Falk & Strauss, *supra* note 24, at 214.

account is essential to its claim to completeness. The discourse of global governance requires the labeling of certain realms as non-democratic and regressive so that they may function as both spurs for, and tests of, the potential boundlessness of the democratic spirit. Venetians reached out to the world, recognizing that they could not make “a most rapacious nation...without the aid of...the Levantine and Ponentine Jewish nations”.<sup>114</sup> Yet the strength and prosperity of Venice was seen as hinging upon the containment of Jewish and other “outsider” influence. Contemporary writings on global governance reach out to the globe with similarly ambivalent impulses.

In distinguishing different sectors of “global civil society” (or some other permutation of the global whole) and ordering them within a scheme of global governance, these writers are also developing a sense of themselves, as writers and as teachers, that conforms to the demands of an involuntarily convergent order. Their role, as constructed in these texts, is only derivatively authoritative. It involves recording paths already traversed and identifying from surrounding chaos those that may yet be followed. It also involves the mastery of temperance, the repulsion of extremes and the disciplining of deviance. In delineating “intermediate position[s]” and “one-world[s]” in their work, Professors Coffee, Falk, Strauss and Slaughter champion a disposition that “keep[s] every order from either rising too high or falling too low lest...it produce dissonance”.

#### D. *The Pleasure of Disruption*

In Venetian writings, the ordering implications of the body-city metaphor were, nevertheless, elaborated in tension with countering allusions and impulses. Among these were Venetian writers’ apparent desire to savor the pleasure and dissonance of the body-city. An anonymous chronicler of sixteenth century Venice reports, for example, that factional brawls known as the *guerre dei pugni* (wars of the fists) or *battagliole* (little

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<sup>113</sup> FALK, *supra* note 8, at 15-17, 22-23.

<sup>114</sup> PULLAN, *supra* note 45, at 569 (discussing the need for a general *condotta* or communal contract embracing all Jews except traveling Levantine Jews resident in the city for less than six months and arguing for the development of Levantine trade through the Dalmatian port of Spalato).

battles) were held on Sundays and holidays on the bridges of Venice and that these were “loved and esteemed by all the Venetian people, as well as by foreigners”.<sup>115</sup> In this context, the body-city metaphor seemed to take on an entirely different connotation. It suggested passion, violence and physical contact rather than health, moderation and physical separation. According to the said chronicler, these public brawls were representative of a people who “always lived unaccustomed to calmness [and were] easily reinfected with faction”.<sup>116</sup>

In the action of the *battaglie*, the image of the body-city of Venice as perpetually in conflict with itself (familiar from the Venetian writings surveyed above) reemerges. However, in this instance, legal attempts to mediate this conflict appear to have been half-hearted.<sup>117</sup> The *battaglie* were outlawed by the Council of Ten in 1505, yet officially pre-arranged fights were organized to mark the visits of foreign dignitaries over the course of the sixteenth century.<sup>118</sup> Moreover, the heads of fighting factions (*caparioni*) reportedly evaded the Lords of the Night by hiding “in the courts of the ambassadors, others in monasteries and the most secret houses, and this one or that one in the houses of the [noble] protectors of the famous”.<sup>119</sup> Venetians and foreigners of all social classes participated in these public celebrations of the body-city’s physicality and factionalism and defended them by reference to customary law.<sup>120</sup>

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<sup>115</sup> DAVIS 1994, *supra* note 88, at 4. As noted above, Davis draws upon the accounts of an anonymous chronicler writing in 1669 or 1670 who tells stories of fights held from 1574 until his day, set forth in the records of the Museo Correr in Venice. One such battle between the two leading factions of the city – the Castellani, who inhabited the *sestieri* of Castello, San Marco and Dorsoduro, and the Nicolotti, residents of San Polo, Cannareggio and Santa Croce – is depicted in a painting by A.S. Barnaba, entitled *Lotta tra Castellani e Nocolottis sul Ponte dei Pugni*, in the Museo Correr in Venice (cat. no. cl.In.1394).

<sup>116</sup> *Id.*, at 78.

<sup>117</sup> *Id.*, at 130: “In the manner of a dog let loose from the chain that runs to attack the bear or the bull, so too [the people] run to the brawls, duels, and *frotte* [general assaults on a city bridge], without any regard for the laws on prohibitions” (citing the anonymous chronicler’s quotation of a contemporary commentator).

<sup>118</sup> *Id.*, at 129, 208, footnote 38 (noting that *battaglie* were arranged to honor foreign dignitaries during the visits to Venice of each of the Queen of Poland (1555), the Archduke of Austria (1569 & 1579), a Turkish diplomatic mission (1582) and a Japanese mission (1585), among others).

<sup>119</sup> DAVIS 1994, *supra* note 88, at 152 (quoting from the anonymous chronicler’s account). Davis contends that “[f]or the most part the more elderly aristocrats indulged [the] loyalties [of the younger nobles and citizenry in general]...artfully promoting their factional animosities and personal rivalries through a complex mixture of high diplomacy and local politics”.

<sup>120</sup> Davis describes the staged fights over particular bridges or other areas - *guerre di cane* (wars of the sticks) and *guerre dei pugni* (wars of the fists) - that were a customary element of Venetian public life during the sixteenth and seventeenth centuries. On such occasions “[t]he bridges were crowded with cobblers, tinkers,

The sensuality and creative disharmony of the body-city were also celebrated through the exaltation of courtesans in Venetian writings. Antonio Brocardo is credited with an oration contending that “the manners and modes of courtesans, if they are properly understood, are the way that leads upwards to the understanding of God”.<sup>121</sup> According to Georgina Masson in her study of Italian Renaissance courtesans, “women who had risen from a class hitherto regarded as outcasts, were now apostrophized as if they were goddesses, or even equated with saints”.<sup>122</sup> Seductiveness and sexual skill were only partial elements of the courtesans’ appeal. In equal measure, courtesans were acclaimed for their colorful lifestyles and their ingenuity and playfulness with costume. These qualities were exemplified by their propensity to dress up in men’s clothes and the exotic animals with which they often traveled.<sup>123</sup>

In response to these celebrations of sensuality in some Venetian writings, Girolamo Priuli, among other Venetian writers, registered disapproval and concern. Priuli

biscuit bakers, and barbers; fruit, chicken, and lasagna sellers; cattle slaughterers, grain sifters, and wine carriers; tailors, weavers, and window makers; feather hawkers, rag dealers, cesspool cleaners, and lottery ticket agents – along with a host of other humble occupations” (*Id.*, at 82). These events also attracted, Davis notes, “petty vendors...[and] unemployed journeymen or *bravi*” (*Id.*, at 17). At the same time, Davis observes, “this festive world could also exert a tremendous attraction over the sophisticated center of Venice, and was quite literally able to pull the city’s patriciate away from its normal occupations of governing and making money, to bring it hurrying to the peripheral world of fighting bridges and factions” (*Id.*, at 43). Davis goes on to note that “elite involvement in the *pugni* was not limited to the restricted circle of the Venetian patriciate, for foreign nobles also busied themselves with both the city’s factionalism and its champion fighters” (*Id.*, at 139). In particular, Davis notes the following: the participation of soldiers from Dalmatia in festivities (*Id.*, at 53); both foreigners’ and Venetians’ involvement in such events as eager spectators (*Id.*, at 57); and foreigners’ involvement in, and endorsement of, factional rivalries between *contrade* (*Id.*, at 135-41).

<sup>121</sup> GEORGINA MASSON, *COURTESANS OF THE ITALIAN RENAISSANCE*, 101 (1976).

<sup>122</sup> *Id.*, at 15.

<sup>123</sup> MASSON, *supra* note 125, at 9, 31. *See, e.g.*, Carpaccio’s painting of two courtesans accompanied by a dwarf, monkeys, parrots and peacocks, reproduced in MASSON, *supra* note 125, at 89. Extravagance in bodily adornment and delight in disguise were not restricted to the courtesan class or to women. According to the merchant Girolamo Priuli, “[y]oung men made themselves look like women: they wore jewels; they perfumed themselves; and their clothes exposed most of their naked bodies”: Quoted in Gilbert, *supra* note 54, at 275. Young Venetian men organized themselves into social clubs that became known as *compagnie delle calze* (companies of stockings) in reference to the multicolored hose worn by members to display their affiliation to a particular club. *See* LANE, *supra* note 45, at 253. In his popular courtly manual of instruction, Baldesar Castiglione recommended that courtiers “give variety to [their] lives by changing [their] activities...let [them] laugh, jest, banter, frolic, and dance”: CASTIGLIONE, *supra* note 89, quoted in *THE ITALIAN RENAISSANCE*, 156 (Werner Gundersheimer ed., 2<sup>nd</sup> ed. 1993 [1965]). Among the events held in Venice to celebrate Carnival, Muir describes a transvestite ballet sponsored by the German merchants of the *Fondaco dei Tedeschi*. *See* MUIR, *supra* note 66, at 166.

attributed the spread of moral corruption within Venice to the openness with which Venetians, including senators and other “high officials”, engaged in homosexual practices, linking this to Venetian political decline.<sup>124</sup> Speeches by Doge Loredan (in office from 1501-1521) similarly attributed the decline in Venetian power (signified by the resumption of foreign control over the *Terraferma*) to the prevalence of immorality and extravagance within the city of Venice.

Fear of moral degeneration and ensuing political emasculation occasioned the introduction of various initiatives for bodily restraint. In 1510, the Venetian Senate established a permanent magistracy of three *provveditori sopra le pompe* charged with responsibility for the prevention of “immoral and excessive expenditure”. In 1512, these *provveditori* issued a decree that reaffirmed and expanded existing laws regulating the public display of luxury, restricting expenditure on dress, jewelry, interior decoration and marriage celebrations. This decree also banned the performance of certain foreign dances, including the “most shameless dance of the cap and other French dances full of lecherous and sinful gestures”, and prohibited the wearing of masks in city streets.<sup>125</sup> Law, in this instance, was promulgated as a moderating force upon the expressive potential of the worldly body-city, restricting its movement and stripping it of embellishment.

These legal measures reacted, in part, to the sense of confusion engendered by the “indulgent” practices described. The actions of street-fighters, courtesans and other costumed and playful Venetians blurred distinctions within the city. Courtesans, in all their finery, seemed interchangeable with gentlewomen. Foreigners and Venetians as well as rich and poor realigned along neighborhood lines for purposes of the *battagliole*, overrunning administrative bounds defined by the city. The preamble to a set of sumptuary laws enacted in 1543 registered this sense of confusion and reacted against it:

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<sup>124</sup> Quoted in Gilbert, *supra* note 54, at 275.

<sup>125</sup> Gilbert, *supra* note 54, at 277-80.

[Courtesans could be seen] in the streets and churches, and elsewhere, so much bejewelled and well-dressed, that very often noble ladies and women citizens [of Venice], because there is no difference in their attire from that of the above-said women, are confused with them, not only by foreigners, but by the inhabitants [of Venice], who are unable to tell the good from the bad...therefore it is proclaimed that no prostitute may wear, nor have on any part of her person, gold, silver, or silk, nor wear necklaces, pearls or jewelled or plain rings, either in the ears or on their hands...and the use of all jewels is forbidden them, both out of doors and in their houses.<sup>126</sup>

Law thus modified the bodily appearance of people in Venice in order to establish a clear distinction between “the good” and “the bad”, while acknowledging the apparent interchangeability of the two. Religious outsiders, in particular, posed as a convenient stand in for the “bad”. As well as regulating the dress of courtesans, sixteenth century Venetian law stipulated that the Jews of the city were to be distinguishable from their fellow city-dwellers. A March 1517 decree required all Jews within the city to wear yellow hats and shortly thereafter, Jews were barred from wearing the ducal sleeves of professional men, even as they continued to provide professional services to the people of Venice.<sup>127</sup> Jewish bodies were marked so that the bodies of Christians might appear clean and virtuous in contrast.

Yet the very regulation of dress in Venice conceded a dissonance to the body incommensurate with a singular civic identity. By adopting dress-restriction as a mode of civic regulation, Venetians were participating in the very performances against which they were ostensibly directing their efforts. In stripping away certain types of bodily embellishment and demanding others, Venetian law enfolded Venetians’ bodies in another garment professing to bear meaning. By speaking to people through the mode of dress, Venetian law foregrounded a mode of interaction that did not correlate to the

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<sup>126</sup> MASSON, *supra* note 125, at 152.

<sup>127</sup> PULLAN, *supra* note 45, at 488.

powers of reason or the dictates of divine or human will. Venetians immersed themselves and their laws in the uncertainties of bodily expression, even as they sought to quell these uncertainties.

Against this backdrop of imperfect and half-hearted restraint, the body-city metaphor – taken from Contarini – may be recast. The “eyes” of the city may appear as those of willing spectators gorging themselves on the visual delights on offer within the city. The “limbs” might be envisaged as the sweaty shoulders of a fighter in the *battagliole* or the soft, plump arms of a courtesan. Rather than the eyes guiding and supervising the limbs, this configuration suggests the eyes being seduced by the limbs and both the eyes and the limbs taking pleasure in the eroticism of play and display. Venetian writings of the sixteenth century thus imported a host of images that did not fit within the model of temperance circulating within Venice at this time.

The examples of contemporary global governance writing on which I have focused above likewise exhibit ambivalence – both repulsion and compulsion – towards those practices and people that they would regularize in the name of global governance. Professor Falk’s and Professor Strauss’ description of “noisy street protests...challenging the anti-democratic nature of international economic decisionmaking” seems to sound a note of longing. Could there similarly be a twinge of titillation in Professor Slaughter’s lineup of “Serbian soldiers, officers, and political leaders guilty of war crimes”?

Like Venetian writings of the sixteenth century, contemporary works on global governance are oriented towards – one might say seduced by – those immoderate or outmoded forces that they work to distinguish, contain or surpass. Professor Slaughter’s account of “judicial globalization” derives its sense of cogency and purpose from the imminent threat of “abuses of state power”. Professor Coffee’s predictions gain consequence from the prevalence of disparate “blockholder and cross-ownership systems” across Europe and Asia. Professors Falk and Strauss extract motivation from those “unrepresented...in the formation of global regulatory policy”.

In each case, the figures and situations in the margins of these accounts seem to exude more potency than those characters and scenarios that are ostensibly at these narratives' cores – the Brussels bureaucrats and aging judges deciding questions of jurisdiction. Like Venetian works, these writings highlight the failings of “non-democratic” constituencies as a means of purifying and promoting those identified as “democratic”. Yet the tone in which they do so suggests some residual indecision. Professors Falk, Strauss and Slaughter work hard to get excited about the prospects embodied by the latter. “What a *vision*!” writes Professor Slaughter. Yet ultimately, the force of their accounts seems to be derived from that by which they are most threatened – namely, those who are resistant to progressive, harmonizing trends.

#### **IV. Conclusion: Globalism and Worldliness**

Writers in the sixteenth century city of Venice asserted their city's cultural and economic supremacy and political autonomy by staking out a divine realm on earth. Venetians sought to demonstrate, in their worldly city, their capacity to “procure all things necessary to [humanity], not only to live as the animals do but to live humanly: that is to say, with a certain elegance and dignity as required by the civil life that is proper to man”.<sup>128</sup> This would, it was hoped, eliminate the need for Venetians to choose between their divine and secular allegiances. Instead, they could have it all: the wealth and the virtue; trade with the Levant and membership of the Holy League.<sup>129</sup> The fifteenth century Venetian writer Giovanni Caldera argued, for example, that, as the Republican virtues underpinning Venetian government were identical with the cardinal virtues of Christian teachings, “obedience to the state was metaphorically obedience to the will of God...patriotism equaled piety.”<sup>130</sup>

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<sup>128</sup> VITA POLITICA, *supra* note 69, at 338-9. The translation is Bouwsma's. See BOUWSMA, *supra* note 45, at 211.

<sup>129</sup> See *supra* note 55 and related text.

<sup>130</sup> MUIR, *supra* note 66, at 16. This may be compared with arguments concerning the supposed correlation of American civil rights to international human rights, obviating the need for the United States to superimpose the latter over the former by accession to international conventions or treaties.

The contemporary work in the field of global governance that I have examined above similarly entrenches the idolatry of “man” in a secular piety of far-reaching extent. The space of the global, as described in these writings, is a realm of coherence and predestination. It is a space in which earthly divisions seem to melt away before the final judgment of the market or the universal decrees of human rights. In this domain, the actions of governments, corporations, laborers, employers, even jobless refugees seem to fuse into pre-inscribed patterns of convergence. The global arena is a secular space, yet it is all-encompassing on a scale more familiar as divine. In these narratives, one is no longer forced to choose (or perhaps even capable of choosing) as a political matter between convergence and divergence; resistance and conformity. One need only follow the momentum of human progress, working to repel or convert residual elements of intransigence and ignorance, in order to demonstrate one’s faith and to be assured of the inordinate power and safety of the faithful.

Yet the claim to completeness that is characteristic of work in the field of global governance comes embedded with particularist dangers and divisions. The contained accommodation of outsiders remains vital to the scholarly demarcation of arenas within which global governance may be realized. “Non-democratic” foreigners are crucial figures in the narrative crafting of globalized sites in perpetual expansion. In order to enact the promise of wholeness, writings on global governance must maintain a firm distinction between those understood to be within the global fold and those whom global governance is yet to embrace. At the same time, this work must generate the promise of these distinctions’ transcendence. Often, placement along a timeline does some of the work of keeping these constituencies apart, while preserving the possibility of their ultimate union. Yet the writers and readers of this work remain caught in an unforgiving present, littered with divergent tastes and personalities. Creating the promise of transcendence in this domain requires still more work of marginalization, followed by efforts of containment or reconciliation, among those forces occupying the field of global governance. In this way, writings on global governance enact repeated gestures of distinction and inclusion as part of their work of constructing a global whole.

The writings on global governance on which I have focused are thus forever working to create conditions under which wholeness might seem possible – whether that union is to be achieved under the auspices of the market, by adherence to human rights, or by virtue of some theoretical scheme disclosing far-reaching networks of interpenetration. Paradoxically, this preoccupation with completeness inclines these writings towards that which defies this impulse. In order to enact the possibility of a convergent, democratic globalism, the looming presence of divergent, non-democratic anti-globalism must be cultivated and maintained. To paraphrase one of the quotes with which this paper began, the world only promises to become global through the creation of slaves and monsters.<sup>131</sup> Writings on global governance demand the production and consumption of ghettos. In turn, these writings empower those ghettos with forces of necessity and tradition. Work on global governance helps to acculturate its writers and readers to practices of inclusive segregation. Belief in the possibility of global governance entails an appetite for difference and a thirst for dominance. When we write and speak about global governance, we articulate these ambivalent yearnings to govern and we become implicated in the conflicts that they fuel. Globalism and governance seem to be our current addictions. We crave them, we fear them and we fight over them, even as we work to control them, and here and now at this conference, we're feeding them. We may be, collectively, the authors of our addiction, yet we are addicts nonetheless. Strategic action on our part must, accordingly, begin with an acknowledgment of these dependencies and their powerful, polyvalent effects.

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<sup>131</sup> See *supra* note 2 and related text.