Notice of the Final Oral Examination for the Degree of Doctor of Philosophy of

KEITH CHERRY

MA (University of Ottawa, 2012)
BA (University of Ottawa, 2010)

“Practices of Pluralism: A Comparative Analysis of Trans-Systemic Relationships in Europe and on Turtle Island”

Faculty of Law

Friday, March 20, 2020
10:00 am PDT
Clearihue Building
Room B017

Supervisory Committee:
Prof. Jeremy Webber, Faculty of Law, University of Victoria (Supervisor)
Dr. John Borrows, Faculty of Law, UVic (Member)
Dr. Oliver Schmidtke, Department of Political Science, UVic (Outside Member)
Dr. James Tully, Department of Political Science, UVic (Outside Member)

External Examiner:
Dr. Melissa S. Williams, Department of Political Science, University of Toronto

Chair of Oral Examination:
Dr. Bruce Wallace, Department of Sociology, UVic

Dr. David Capson, Dean, Faculty of Graduate Studies
Abstract

This dissertation is a comparative analysis of the ways in which contemporary practices of pluralism are challenging, and being shaped by, concepts of state sovereignty. I explore two very different contexts: the relationship between First Nations and Settlers on that part of Turtle Island sometimes called Canada, and the relationship between the European Union and its Member-States. In both contexts, I explore how political, legal, and economic practices are generating forms of social order that depart to varying degrees from the total, exclusive authority associated with sovereignty.

On Turtle Island, First Nations-Settler relations were initially characterized by overlapping, non-exclusive forms of authority that allowed all actors to contest and coordinate their respective claims. Over time, two important shifts occurred. First, military, economic, and demographic changes reduced Settler need for their First Nations partners. Second, emerging concepts of sovereignty began shaping Settler conceptions of authority. As a result, Settlers sought increasingly asymmetrical and unilateral forms of relation, seeking to forcibly absorb First Nations polities, legalities and economies into their own. First Nations have exercised agency within Settler systems and also persisted in enacting their own forms of political, legal and economic authority, thereby preserving forms of pluralist practice.

In Europe, practices of pluralism were initially quite modest, limited forms of functional cooperation between sovereign units. Over time, however, Europeans have cultivated mutual need between actors, gradually giving rise to sophisticated practices of political and legal pluralism that facilitate ongoing compromise and mutual accommodation in the face of persistent difference. However, state and Union actors have coordinated to insulate the economic structure from popular contestation, stifling the open-ended compromises otherwise characteristic of European pluralism.

Ultimately, I argue that actors in both settings have developed two remarkably similar practices – interpenetrating institutions or co-decision mechanisms, and conditional authority claims. Together, these practices enable actors to contest and coordinate their respective authority claims in ways that do not rely on an overarching sovereign or even a shared understanding of their relationship. Instead, practices of interpenetration and conditional authority make all parties responsive to multiple standards of conduct, allowing actors to seek justice over time in conditions of persistent difference and conflict.

In particular, I contend that such practices are most likely to emerge and to function in non-oppressive ways where all parties can contest the terms and content of their relationships, and where all parties are in need of one another in substantive ways. Contestability and mutual need therefore provide two initial criteria through which practices of interpenetration and conditional authority might be assessed developed.

Finally, I argue that the concept of sovereignty leads us away from conditions of mutual need and contestability, stifling or mis-shaping pluralist practice and producing deeply asymmetrical relationships. I contend that future research may benefit by turning away from institutional forms like the state and capitalist-market, which revolve around a sovereign ideal. Instead, I point towards forms of community which revolve around interdependence, arguing that these provide conceptual and institutional resources more likely to foster practices of pluralism.