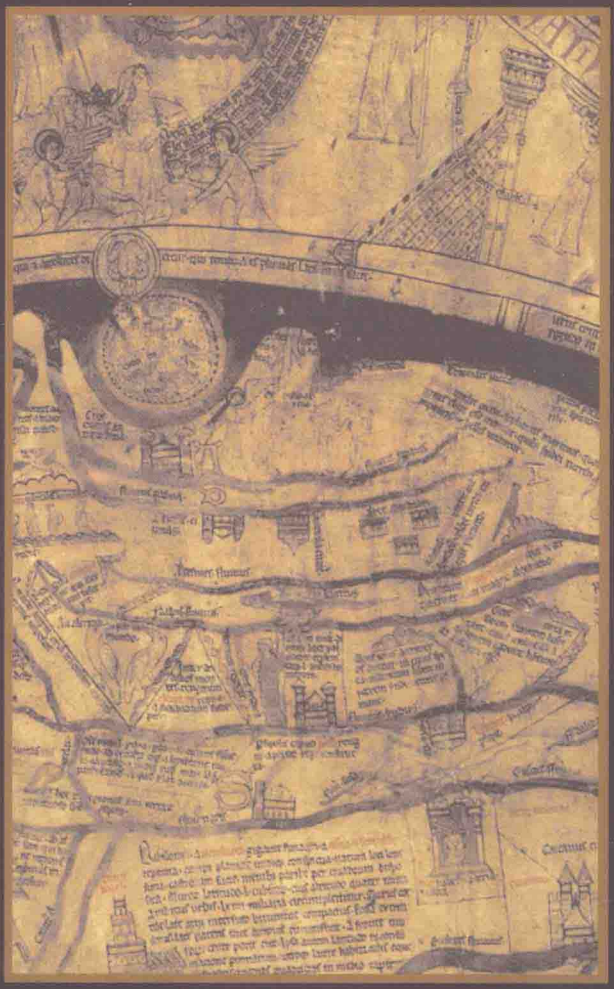
THE POLITICAL ECONOMY OF DESIRE

International law, development and the nation state



Jennifer L. Beard

a GlassHouse book

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With a Foreword by Anne Orford

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For Roberta Evelyn Beard, whose courage and non-judgemental generosity have enabled me to live a life of security and possibility

Foreword

This exciting and innovative book challenges conventional ways of engaging with the concept, practice and institutions of development. The discourses that international professionals have produced in this field have tended to be sociological, economic, functional and instrumental. In conventional terms, underdevelopment is seen as a problem to be solved, with more or less attention paid along the way to those who lose out in the resulting distribution of costs and benefits, and with more or less attention paid to questions of human rights, sustainability or the protection of biodiversity. Critics of the central premises of this field of international legal practice have argued that development professionals do not act upon an already existing world divided into developed and developing countries, but instead that 'development, the problem' is produced in and through these professional practices. This tradition of critical scholarship has argued that the roots of the modern development enterprise lie in the challenges posed to classical imperialism in the twentieth century. In an era of decolonisation characterised by the commitment to formal independence of colonised states in Asia, Africa and Latin America, the institutions and doctrines of development emerged to guarantee continued foreign management and control over the inhabitants of newly independent territories, and access to their labour and resources.

In *The Political Economy of Desire*, Jennifer Beard separates us from these ways of knowing, thinking and writing about development. Dr Beard rejects the notion that the division of the world into developed and underdeveloped is an outcome of the Imperial era. She offers instead a genealogy of development discourse commencing with the early Christian history of the West. For Dr Beard, the forms of discipline and subjectification found in contemporary development discourse have their precursors in the emergence of a particular form of Christian subjectivity during the early centuries of Christian practice. In the early chapters of the book, she traces the emergence of a distinctively Christian form of subjectivity based on concepts of sin, debt, faith and salvation, and determined by disciplinary practices of public penance (the marking out of the outsider) and private confession (training in

self-discipline). Dr Beard shows that these practices, shaped by events such as the discovery of the New World and the Reformation in Europe, continue to constitute and discipline the subjects of development. She develops this argument through a close reading of texts written during the period of discovery of the New World, such as those of the Christian explorers Christopher Columbus and the scholars Jean Bodin and Hugo Grotius, and through an analysis of the works of those such as Francis Bacon and John Locke who fantasised about the construction of the sovereign state out of the savage origins of the New World. Her reading of the Peace of Westphalia and of the work of later nineteenth century scholars shows that a division of the world into civilised, barbaric and savage realms worked to maintain the sense of self of those who imagined themselves within the 'good and faithful Neighbourhood' of Europe. In the final chapter, Dr Beard traces the contours of this relationship between the saved and the damned through to the modern period in the literature of law and development and the practice of economic, political and legal restructuring of nations named as underdeveloped.

In addition to its substantive contribution, the book also represents an important methodological innovation in legal engagement with the development enterprise. Dr Beard resists the contemporary consensus that positivist social science method represents the appropriate mode of analysis in this field. Instead, this book successfully integrates international legal scholarship with contemporary developments in social and political theory. In particular, while there has been much recent attention in law and the humanities given to the notion of political theology, Beard here provides a compelling history of ideas in support of the notion that contemporary juridical and political concepts have a theological origin.

The result is a genealogy of development which journeys exuberantly through time and across disciplines, providing meticulous and careful readings of the most significant materials in the legal archive of the relevant periods along the way. In doing so, *The Political Economy of Desire* opens up new possibilities and avenues for further research into the relationship between human rights, development, economic restructuring and the rule of law.

Anne Orford
Melbourne

Preface

This book contains a genealogy of the concept of development. The writing of it was inspired principally by my work as a lawyer, who found herself representing the British Commonwealth one day at an international conference in Addis Ababa in Ethiopia. The conference had been designed to assist the Ethiopian Parliament to fulfil its constitutional mandate to establish a national human rights commission and ombudsman. Upon my arrival I had explained to a rather flustered European that I was not actually a representative of the Commonwealth but, on the contrary, a representative of a non-governmental organisation (NGO) set up to *lobby* the Commonwealth Heads of Government Meeting. It did not matter, I would do. The important thing was that all regions were *represented*. I asked then to have the cost of my travel reimbursed. The man called across the large hall of the convention centre that the 'woman from the Commonwealth' had arrived and he asked what account my expenses should be charged to. A female English voice shouted back, 'Put it on the Lomé account'.[1] Less than three years out of law school I had arrived in a land that had maintained, against all odds, its independence from European imperialism, to represent the Commonwealth at the expense of the European Union. During the conference I met a lovely man, from a university in Ireland, who had doubted the necessity of his participation but had thought the offer to attend too good to refuse. I listened to an Italian speak for three-quarters of an hour on his attempts to restore to Ethiopia an obelisk that had been taken to Italy during its invasion of what

1 In 1975 the nine-nation European Economic Community (EEC) concluded an agreement, called Lomé I, with 46 African, Caribbean, and Pacific (ACP) nations that exempted most ACP exports from tariffs. On 23 June 2000 the European Union and 77 African, Pacific and Caribbean nations met in Cotonou, Benin to sign a 20-year trade and aid accord, known as the Cotonou Agreement, to replace the fourth of the Lomé conventions, which had expired on 29 February 2000. The Cotonou Agreement is aimed at combating poverty, promoting sustainable development and the gradual integration of ACP nations into the world economy and the World Trade Organization.

was then Abyssinia. The organisers had mistakenly thought he was an expert on *ombudsmen*. I was embarrassed to be so warmly welcomed by the few Ethiopian delegates I spoke to. I returned to the NGO where I was working in New Delhi, India, to find media reports criticising the predominance of racism in Australia and the rise of a political party called One Nation. I resigned from my position as programme officer for the Human Rights Commission Project shortly thereafter, and not long after that began to write the thesis, which has become this book. The journey of writing has been personal but I hope there are parts of it that might be of interest to others.

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There are many people to whom I owe thanks because without them my journey along a Rousseauian path of writing and hiding myself, and all that it has taught me, would not have been possible. I am sincerely grateful to Abha Singhal Joshi, Adrian Howe, Andrew Robertson, Ann Davis, Belinda Fehlberg, Bill Lyon, Camille Cameron, Chaloka Beyani, Christine Chinken, Claire Young, Hashim Tewfik, Helen Rhoades, Hilary Charlesworth, Ian Duncanson, Ian Malkin, Janine Larson, Jeff Bennett, Jenny Morgan, John Howe, John Waugh, Judy Grbich, Jyoti Larke, Malavika Vartak, Maree Ringland, Maureen Tehan, Maya Daruwala, Michelle Groves, Ray Finkelstein, Robyn Sheen, Ross Campbell, Ruth Buchanan, Sharad Puri, Sundhya Pahuja, Om, Asha and Monica Pahuja, Susan Boyd, Tina Takagaki, and Vicky Priskich, each of whom in their own way gave me great comfort during my research. For their helpful comments on various drafts of the book, in part or whole, I would also like to thank Anne Orford, Adrian Howe, Costas Douzinas, David Kennedy, Ian Duncanson, John Howe, Judy Grbich, Peter Rush and Susan Boyd. For editing assistance I am grateful to Ian Malkin, Vicky Priskich, Fiona Ring and Maureen Tehan. I also wish to thank the Law School at the University of British Columbia for providing me with an inviting space to rewrite my thesis into this book. Extraordinary thanks must go to my doctoral supervisor, interlocutor and friend, Dr Anne Orford, whose faith in my merit as a legal scholar was critical in initiating, encouraging and sustaining my otherwise faltering belief in my own designs. Finally, to my mother Roberta Beard, I leave my deepest thanks.

Contents

Chapter 1

Introduction

Development as a political economy of desire

Public international law and socio-economic development both rest on the belief that individuals, and more belatedly, peoples, are meant to live in circumstances that grant them certain rights and freedoms fundamental to their humanity. To this end, international law seeks to provide peace and security, mechanisms of good governance and the protection of human rights and freedoms. Likewise, the United Nations General Assembly has defined 'development' as the 'multi-dimensional undertaking to achieve a higher quality of life for all people' in the contexts of peace, the economy, environmental protection, social justice and democracy.[1] The nation state, another modern concept, has established itself as an instrumental conduit of both international law and development.

Yet, while international law, development and the nation state may be understood as instrumental to the *process* of improving human life, the concept of development is also used to describe the end state of that process. In this sense, the concept of development provides modernity with a space of transcendence in these 'godless' times as well as a certain objectivity to international law and the nation state. The concept of development sets out the objectives of international law and the nation state by signifying the kind of world development practitioners are working to achieve. In consequence, whatever 'development' means will determine the ends of international law and the nation state and thus define the roles of law and the state at the national or international level, as well as the regulation of other subjects (usually defined by law) such as organisations, corporations or individuals.

The concept of development can be understood as transcendental in so far as its meaning extends beyond the limits of ordinary experience. The transcendental element within the meaning of development concerns both a

1 *An Agenda for Development* (Ad hoc Open-Ended Working Group of the General Assembly on An Agenda For Development, 1997, para 1).

material yearning for a higher quality of life by means of technical and economic progress as well as a non-material and arguably numinous yearning for the fulfilment of an historical end. The transcendental element of development is infinitely distant from the reality of the so-called 'developed' world, yet is essential to it. It is essential because the transcendental element of development is the central idea around which an entire discourse of development takes place – a discourse that identifies and gives meaning to the 'developed' world as such. In this respect, one might say that development is represented only in its absence but functions as the origin of an entire discourse and its effects.[2] One might argue that development as transcendence is the beginning and the end of a development discourse but it is never present, or conceivable except as an infinite series of continuous interpretations of, and effects on, human becoming that ultimately elusive definition. Development as *process*, therefore, is neither natural nor self-fulfilling except perhaps as an industry of professionals: the lawyers, economists, politicians, bankers, activists, missionaries and the bureaucrats of international economic institutions, who act as conveyors of its discourse.

With these thoughts in mind, this book is written not in an attempt to find the meaning of development but to find out how the discourse of development came to be, to find out why development is necessary as a concept and what logic is implicit in the act of dividing the world into one part said to be complete and authoritative and another said to be incomplete and flawed. In doing so, the book does not examine development as a particular set of economic and social practices but rather as a metaphysical concept that produces these practices within a particularly Christian dynamic dating back to early and medieval times.

It is suggested in this book that development is not only a metaphysical concept but also a proper name. Development names the peoples of 'the West' and thereby separates them from 'most of the world'.[3] To assign the concept of development to history – that is, to abandon or renounce the concept and what it represents – would strip the West of its current identity qua development and cause a break in a long chain of binary differences to which it is linked: namely Christian/pagan, modern/primitive, civilised/barbaric, First World/Third World, North/South and western/oriental. These binary differences are each invested with the meanings of all the others in the chain. As a consequence, this book is as much concerned with the notion of 'western' identity as it is with the concept of development itself.

2 See Derrida, 1994, p 138.

3 Chatterjee, 2004, 3. One might argue that the developed world does not recognise itself in this way. In response, I say that it does not need to, because, as Catharine Mackinnon says of male dominance, this naming, 'is the standard for point-of-viewlessness, its particularity the meaning of universality' (MacKinnon, p 638).

The abandonment of concepts or identity is always taking place, and although abandonment can be a mutual operation in the sense that a new identity must always emerge from any confrontation with another identity (the Other), the abandonment of an identity is nonetheless an extremely threatening and emotionally and/or physically violent process of change. Think, for example, of the transformation taking place within nation states as their 'national identity' takes up the multicultural immigration of people who challenge and eventually change that identity as well as the identity of its 'nationals'. These changes are extremely complex and strike at the heart of ethical debates about what is right and wrong in human society.

Since this book suggests that the definition of development (everything that gives it distinctness, delineation, meaning) ought to be opened to the point that it can no longer be identified – to the extent that the West ought no longer call itself 'developed' – many readers will find this book confrontational. It is important to keep in mind that the confrontation comes from understanding the arguments being made about development; it does not come from the style in which the arguments are being put although readers not familiar with critical philosophies will find some of the terminology new, unfamiliar or out of context. Those readers who are able to acknowledge and consider what is being said, however, may rest assured in the knowledge that confrontation is an invitation to transformation and, in that sense, development remains comprehensible.

In this book, it is argued that western identity is a relation of binaries that are 'thought and lived as if they expressed the true order of things'.[4] If, indeed, western identity has its own discursive expression of power, knowledge and meaning that is constituted around these binaries, then one must pursue this space as its own discourse in order to understand how the discourse of development erupted onto modernity's centre stage.[5] Development discourse exists, arguably, as a frame that makes possible a resilient continuation of a western identity that trips along as 'a god who is dead [but] continues to resonate'.[6] The developed nations merely stand in for an infinitely distant reality that will always exceed 'men's imprisonment to the earth'.[7] The point, put simply, is that western identity reverberates, is symbolised by, and made manifest in, the more powerful element of particular binaries – 'Christianity', 'civilisation', 'the West' – to which the binary of 'development' has been recently admitted. As each binary is threatened or faces deconstruction, so too is western identity threatened with the symbolic disintegration and fear-inducing meaninglessness that has been discussed in relation to the abandonment of identity. This book is a study of these crises.

The argument made in this book is that the developed world that calls itself

4 Connolly, 2002, p 64. 5 Foucault, 1984, p 84. 6 Debray, 2004, p 276.
7 Arendt, 1998, p 1.

the West has positioned itself into a space of transcendence at the global level since the discovery of the New World in the fifteenth century. Yet, the developed world, like any idol, is an inadequate representation of transcendence itself. Once named, the developed world merely reduces the concept of development to predicative discourse in such a way that the idea remains always infinitely active and unattainable; at once imaginable and yet unfathomable. The discourses of development that emerge from development's predication are, at worst, a false eschatology, and at best, they offer humanity an instance of the inadequacy of representation.

Here lies the paradox. The idea of development as 'a bereaved apprehension' does not threaten the identity of the developed world – it creates the identity.[8] The incommensurability of development's transcendence plays an essential function by introducing the very element of loss. This sense of loss, namely the inability to properly know and represent what development is, is transferred from the concept of development itself into its 'weaker' opposition: underdevelopment. Underdevelopment thus fills the lack, appearing at development's very origin. In other words, we cannot represent development without the binary of underdevelopment – both concepts emerge from the other. The people with faith in the discourses of development are thus allowed both to represent and dream of a potential state of fulfilment, which is being kept from them by the incompetence of, and lack (of prudence, technology, industry, law, etc.) in the peoples of the underdeveloped world. Whatever the binary nature of development discourse chooses to locate in its 'weaker' side of underdevelopment is thus possessed of the causes of poverty, exploitation and unequal redistribution of resources. The developed world, on the other hand, possesses elements of global fulfilment, which is due to all people when the lack of the underdeveloped world is fulfilled.

In short, humanity is left with faith in development, and, *ipso facto*, faith in the developed world. The term 'faith' here is used deliberately to evoke the sense of a people seeking to erase the torture of crisis brought on by the loss of, and alienation from, 'mere being' with a 'certain community of meaning'.[9] Development discourse assigns the unfathomable a name, and puts an end to angst-inducing uncertainty.[10] This then is what is gained by placing the quality of life of all people into a developmental framework that exceeds and resists language: the capacity of the developed world to imagine itself and its place in human history through its continued encounter with an underdeveloped world from which it has, figuratively speaking, emerged.

It should be clear to the reader that the argument here is not merely that development is used as a convenient name for a particular socio-economic status. Rather, the concern is with how development makes sense of the lives

8 The term 'bereaved apprehension' is taken from Derrida, 1993, p 61.
9 Stavrakakis, 1999, p 32. 10 Fink, 1995, pp 60–61.

of 'most of the world',[11] and thus erases other explanations that are perhaps not based on current conceptions of progress, temporality, geography, space, religion, gender or race, etc. Needless to say, development discourse represents a very real and effective form of imperial power that is concerned with the maintenance of a particular (western) version of subjectivity through its appropriation of history by means of a continuous and 'hazardous play of dominations' that have hardened the discourse of development into 'an unalterable form in the long baking process of history'.[12]

It is not being suggested that the reality of the present as it is would cease to be if development were not to exist as a concept. And yet, if the concept of development were to be taken from our lexicon, our conception and use of terms such as 'the North', 'the First World', 'the industrialised nations' or 'the West' might be fundamentally different. All of these terms are closely associated with particular social and economic divisions in and of the world. Importantly, it is the developed world that claims for itself that space, which exists only as transcendence but functions as meaning. In other words, countries claim to be 'developed' even if the concept is beyond definition (that is transcendent) because it is a concept that is relied upon by international society in order to regulate and legitimise (that is, give meaning to) social actions.

In order to explore the premise that there exists such a thing as western identity, and here 'identity' means the conversion of difference into a belittled Otherness through the construction of binaries, the book relies on a wide range of sources from different cultures, historical periods and disciplines. In doing so, this book cannot assume the scholarship of many critical post-colonial theorists working in the area of law and development, or in development studies more generally, who think of the 'underdeveloped' and/or the 'developed' worlds as an outcome of the Imperial era.[13] The story of development is part of a much older struggle by Christian peoples of western Europe that has any one of many possible origins – 'numberless beginnings, whose faint traces and hints of colour are readily seen by the historical eye'.[14]

This book does not recite a history of a 'western' identity or its 'development', which tells the reader about the improvement of human life through technical and economic progress that begins in a heart of darkness and ends in some Hegelian civil society. That kind of history is merely a narrative told within development discourse, an 'error we call truth'.[15] The chapters of this book are to be read as representative of what Ernesto Laclau refers to as theoretical 'interventions', 'which shed mutual light on each other, not in

11 Chatterjee, 2004, p 3. 12 Foucault, 1984, p 80.

13 See e.g., Ahluwalia, 2001; Bhabha, 1986, p 148; Chakrabarty, 1992; Doty, 1996; Fanon, 1967; Gandhi, 1998, p 125; or Nandy, 1983.

14 Foucault, 1984, p 81. 15 Ibid, p 80.

terms of the *progression* of an argument, but of what we could call the *reiteration* of the latter in different discursive contexts'.[16] In this book, each chapter is a reiteration of a discontinuity in the history of 'the West' that has significance for the emergence of a development discourse in the twentieth century. The purpose of identifying these discontinuities is to articulate certain contingent social constructions that attempt to fill the loss of meaning created when there is a loss of faith in the symbolic reality of a particular identification of the West 'as it was' so to speak, and the effect this has on emergent western identities. These identities include both the 'West' as a body and the individuals within it. Both bodies are 'totally imprinted by history'.[17]

The bodies of particular interest are national and individual in nature. The national is interesting in so far as the nation state is the subject of development's discourse as well as the instrument meant to bring development to the individual. The individual, in turn, is interesting because it has emerged in the West in formation with nation and national development.

The subjects of development

It is argued that development calls western society into being at the subjective level. Etienne Balibar has already begun researching the question of subjectivity in western philosophy by undertaking an historical analysis of '*Man as* (a, the) *subject*' through representations of 'Man', the 'subject' and the 'citizen'.[18] One of Balibar's theses is that in the 'history of the "problem of Man", as "citizen" and as "subject", at least two great breaks have taken place, which . . . marked irreversible thresholds'.[19]

The first occurs with the 'decline of the ancient world' and the interpretation of subjection or *subjectus* as 'the subject's subjection as (willing) *obedience*, coming from inside, coming from the soul'.[20] Balibar describes this form of subjectivation as an 'interiorized voice',[21] or arguably what Adam Smith referred to as 'the invisible hand':[22]

> . . . that of a transcendent authority which everyone is bound to obey, or which always already compels everyone to obey, including the rebels . . . because the foundation of authority is not located *outside* the individual in some natural inequality or dependency, but *within* him, in his very being as creature of the verb, and as faithful to it.[23]

As Balibar explains, the *inner* subject is one, 'who confronts transcendental

16 Emphasis in the original. Laclau, 1989, p xii. 17 Foucault, 1984, p 83.
18 Balibar, 1994, p 4. 19 Ibid, p 9. 20 Emphasis added. Ibid.
21 Emphasis in the original. Ibid, p 10. 22 Smith, 1993, p 292.
23 Emphasis in the original. Balibar, 1994, p 10.

law, both theological and political, religious (therefore also moral) or imperial (monarchical) – because he hears it, because in order to be able to hear it, he has to be able to be called by it'.[24] An element of hierarchical compulsion of the subject by the transcendental Other is still present here but the subjection is nonetheless reciprocal, relational.[25] The inner subject is thus:

> a *responsible*, or an *accountable*, subject, which means he has to respond to give an account (*rationem reddere*) of himself, i.e. of his actions and intentions, before another person, who righteously interpellates him. Not a Big Brother, but a Big Other . . . always already shifting in an ambivalent manner between the visible and the invisible, between individuality and universality.[26]

This book offers an engagement with Balibar's 'interiorized voice' using Michel Foucault's research of technologies of the self in early Christianity.[27]

Christians and pagans

The early Christian Church was indeed a body that shifted between individuality and universality. During the early centuries of Christian practice, the individual Christian subject was constantly willing itself into the universal body of Christ – the Church – in readiness for a greater unification with God. This practice can be read in terms of the Christian yearning for humanity's salvation when 'the flesh will once again be made whole and in which space will be subsumed by time'.[28] This book is about how the promise of development might be conceived in the same way that the Word of God was used to call Christian subjectivity into being with a promise.

By constituting itself as the body of Christ on earth, the early Roman-Christian church restructured traditional bonds of family and kinship, which Regis Debray sees as the moment from when the West would be able to think of the social bond as 'something decided, not preserved', where 'nature would no longer dictate the law'.[29] According to Debray, the destiny of the Church became by nature a project with 'an unlimited capacity for recruitment, since the eternal father could henceforth have foreign sons who were not registered with the local authorities, all by virtue of an adoption ritual called baptism, which was valid anywhere . . . Thus a Christian always had something to busy himself with – outside'.[30]

The constitution of Christ's body on earth was obtained by the deployment of certain disciplinary techniques, which were in turn supported by

24 Emphasis in the original. Ibid, p 9. 25 Emphasis in the original. Ibid, p 10.
26 Balibar, 1994, p 9. 27 See Foucault, 1999b. 28 Spence, 1996, p 24.
29 Debray, 2004, p 178. 30 Ibid, p 181.