

Heller and the Two Faces of Sovereignty

Book Workshop

THE HISTORY AND THEORY OF INTERNATIONAL LAW



SOVEREIGNTY

A CONTRIBUTION TO THE THEORY OF
PUBLIC AND INTERNATIONAL LAW

Hermann Heller

Edited and Introduced by David Dyzenhaus

OXFORD

Date and Place

Friday, 1 November 2019, 9:30am to 12:30pm.
Freie Universität Berlin
Fachbereich Rechtswissenschaft
Boltzmannstr. 3
14195 Berlin

Room 3302 (2nd floor).

Public transport: U3 "Freie Universität – Thielplatz"

Organisation

Prof. Dr. Helmut Philipp Aust
Freie Universität Berlin
Fachbereich Rechtswissenschaft
Van't-Hoff-Str. 8
14195 Berlin

Registration

Please register to attend until 24 October 2019 by
email:
sekretariat.aust@rewiss.fu-berlin.de

Hermann Heller's monograph addresses the paradox of sovereignty, that is, how the sovereign can be both the highest authority and subject to law. Unlike Kelsen and Schmitt who seek to dissolve the paradox, this text sees the tensions that the paradox highlights as an essential part of a society ruled by law.

Sovereignty, in the sense of national sovereignty, is often perceived in liberal democracies today as being under threat, or at least "in transition," as power devolves from nation states to international bodies. This threat to national sovereignty is at the same time considered a threat to a different idea of sovereignty, popular sovereignty—the sovereignty of "the people"—as important decisions seem increasingly to be made by institutions outside of a country's political system or by elite-dominated institutions within.

Heller's book was written in 1927 amidst the very similar tensions of the Weimar Republic. In an exploration of history, constitutional and political theory, and international law, it shows that democrats must defend a legal idea of sovereignty suitable for a pluralistic world. This half-day workshop at Freie Universität Berlin launches the first ever English translation of the book published by Oxford University Press in 2019 and assesses the text's remaining great importance from the perspectives of legal theory, public law as well as international law.

Programme

- 9:30 *Welcome*
- Prof. Dr. Ignacio Czeguhn, Dean of the Department of Law, Freie Universität Berlin
- 9:35 *Introduction*
- Prof. Dr. Helmut Philipp Aust, Freie Universität Berlin
- 9:45 *Schmitt versus Heller: Two different concepts of sovereignty*
- Prof. Dr. Anna-Bettina Kaiser, Humboldt-Universität zu Berlin
- 10:15 *Heller & the resurgent State – implications for sovereignty modern*
- Prof. Campbell McLachlan, QC, Victoria University of Wellington
- 10:45 *Coffee and Tea*
- 11:00 *Response by the Editor of the English Translation*
- Prof. Dr. David Dyzenhaus, University of Toronto
- 11:30 *Discussion*
- 12:30 *Light Reception*

Notes on Speakers

Helmut Philipp Aust is University Professor of Law at the Freie Universität Berlin where he teaches public law and international law. He is also a Senior Fellow at Melbourne Law School. He is the author of *Complicity and the Law of State Responsibility* (2011) as well as of *Das Recht der globalen Stadt* (2017).



David Dyzenhaus is a University Professor of Law and Philosophy at the University of Toronto, and a Fellow of the Royal Society of Canada. In 2017-18 he was a fellow at the Wissenschaftskolleg zu Berlin. His publications include *Legality and Legitimacy: Carl Schmitt, Hans Kelsen and Hermann Heller in Weimar* (1997) and *The Constitution of Law: Legality in Times of Emergency* (2006).



Anna-Bettina Kaiser, LL.M. (Cantab.), is Professor of Public Law and General Jurisprudence at Humboldt-Universität, Berlin. She is co-director of Berlin's *Law and Society*-Institute. Her book on the German State of Exception in Constitutional Law (*Ausnahmeverfassungsrecht*, forthcoming) explores the limits of the German Emergency Constitution.



Campbell McLachlan QC, *Associé Institut de Droit International*, is Professor of Law at Victoria University of Wellington. He is currently a Senior Fellow with the Berlin-Potsdam KFG research project *International rule of law: rise or decline* where he is writing a book on *Systemic Integration of International Law*. His book *Foreign Relations Law* explores the relationship between national and international law at the interface of the State. In 2020, he will hold the Arthur Goodhart Visiting Professorship of Legal Science in the University of Cambridge.

