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The Concerning Intersections of Sovereign Citizen and Indigenous Sovereignty Claims

Stephen Young[*] and Harry Hobbs[**]

Abstract

In Australia and Aotearoa New Zealand, the influence of sovereign citizen pseudolaw on Indigenous sovereignty advocacy is increasingly visible. Such influence was apparent in the referendum on an Aboriginal and Torres Strait Islander Voice and COVID-19 protests. It also recurs in legal claims and native title disputes. These developments are concerning. In this article, we explain how sovereign citizen pseudolaw damages Indigenous peoples and communities, including by undermining their efforts to obtain state recognition of their laws and threatening the prospect of broader political reform. To make this argument, we draw on William Twining's scholarship on legal pluralism to differentiate state law from non-state and illegal legal orders. In doing so, we emphasise the distinctions between Indigenous legal orders as a non-state legal order and sovereign citizen pseudolaw as an illegal legal order. A pluralistic lens helps appreciate the distinctions between these legal orders and helps recognise Indigenous rights while cautioning against the adoption of spurious sovereign citizen pseudolaw.

[*] Associate Professor, University of Otago Faculty of Law.

[**] Associate Professor, Faculty of Law and Justice, University of New South Wales. This article was written as part of an Australian Research Council grant entitled 'A Made in Australia Model for Indigenous-State Treaty-Making' (DE240100454). We thank Fleur Te Aho and Donald Netolitzky for comments on an earlier draft.

I. INTRODUCTION

Misinformation is a global concern. From climate change to COVID-19 conspiracies to US elections, 'fake news' is a worldwide phenomenon.[1] In Australia, the referendum on a Voice to Parliament became a 'prime target' for online disinformation campaigns.[2] The referendum also illustrated a concerning trend – the influence of an outlandish strain of sovereign citizen conspiratorial theorising.[3] During the campaign thousands of similar claims were asserted on TikTok, Facebook, and other social media sites.[4] One claim that caught our attention was the contention that Australia has two Constitutions, a lawful 1901 Constitution which 'guarantees all your rights and freedoms as Australian people' and a 'REVISED Corporate Fake Constitution' registered in the United States.[5] Conspiracists argued that the referendum was a trick that sought to place Indigenous Australians in the Fake Constitution which would mean 'the original people will cede their sovereignty'.[6]

There was broad debate about the impact of the Voice on Indigenous sovereignty.[7] While leading Indigenous and non-Indigenous constitutional and international lawyers agreed that a representative body enshrined in the Constitution would not and could not 'affect the sovereignty of any group or body',[8] some Indigenous Australians expressed concerns.[9] Others, such as members of the Blak Sovereign Movement, opposed the Voice on the basis that it both 'disregarded' and failed to empower Indigenous sovereignty.[10] The argument that Australia has a real and a fake Constitution is different. While it articulates alarm over the potential impact of the Voice on Indigenous sovereignty, the claim is obviously incorrect. It is not simply misinformation, however, but a particular species of legal

[1] David Lazer et al, 'The Science of Fake News' (2018) 359(6380) *Science* 1094.
[2] Pat McGrath, Kevin Nguyen, and Michael Workman, 'Voice to Parliament Referendum "Prime Target" for Foreign Interference on Elon Musk's X, Former Executive Warns', *ABC News* (online, 30 September 2023) <https://www.abc.net.au/news/2023-09-30/voice-to-parliament-misinformation-elon-musk-x/102912548>.
[3] BBC Trending, *Extreme* 'The Voice: Conspiracies and Australia's Referendum' (online, 21 October 2023) <https://www.bbc.co.uk/programmes/w3ct5d9b>.
[4] Cam Wilson, 'TikTok is Rife with Viral Voice to Parliament Misinformation', *Crikey* (online, 30 June 2023) <https://www.crikey.com.au/2023/06/30/voice-to-parliament-tiktok-misinformation/>.
[5] David Williams, 'Two Constitutions is Sovereign Citizen Silliness', *National Indigenous Times* (online, 26 September 2023) <https://nit.com.au/26-09-2023/7827/two-constitutions-claim-is-sovereign-citizen-silliness>.
[6] Eiddwen Jeffrey, 'Indigenous Australians Will Not Cede Sovereignty Under the Voice Due to 1973 "Change" to Constitution', *RMIT Australia* (online, 19 May 2023) <https://www.rmit.edu.au/news/factlab-meta/voice-will-not-be-impacted>.
[7] For a concise overview, see, Dylan Lino, 'Why a First Nations Voice Will Not Extinguish Indigenous Sovereignty' (2023) 34(2) *Public Law Review* 95-102.
[8] Aboriginal and Torres Strait Islander Voice, *Communique for the Referendum Working Group – February 2023: Attachment – Summary of Second Tranche of Advice from the Constitutional Expert Group* (2 February 2023) <https://voice.niaa.gov.au/news/communique-referendum-working-group-february-2023#>; Hannah McGlade, 'Voice Will Empower Us, Not Undermine Sovereignty', *National Indigenous Times* (16 January 2023) <https://nit.com.au/16-01-2023/4736/voice-will-empower-us-not-undermine-sovereignty>.
[9] See Lisa Visentin and Paul Sakkal, 'Lidia Thorpe Splits from Greens on Voice to Parliament', *Sydney Morning Herald* (online, 6 February 2023) <https://www.smh.com.au/politics/federal/thorpe-to-split-from-party-on-voice-20230206-p5ci5y.html>.
[10] Blak Sovereign Movement, *Detailed Outline of the Blak Sovereign Movement's Position on the Referendum* (online, July 2023) <https://blaksovereignmovement.files.wordpress.com/2023/07/blak-sovereign-movement-detailed-position-on-the-referendum-1.pdf>.

misinformation.[11] It is representative[12] of the growing intersections of sovereign citizen pseudolegal arguments and Indigenous sovereignty.[13]

Pseudolaw is the preferred term that describes a collection of movements, groups and practices that share a common methodological approach to engaging with the law.[14] The decentralised, highly fragmented and anti-institutional phenomenon includes groups such as sovereign citizens, as well as underpinning the beliefs of some 'micronation' proponents and 'antivaxx' protesters. Pseudolaw adherents adopt the forms and structure of conventional legal argument but substitute the substantive content and underlying principles for a distinct and parallel set of beliefs.[15] It is, as Donald Netolitzky explains, 'a collection of legal-sounding but false rules that purport to be laws'.[16] While every jurisdiction has its own autochthonous strains of pseudolaw, the sovereign citizen variant has proliferated across the world in the wake of the COVID-19 pandemic.

This article examines the increasing intersection and influence of sovereign citizen pseudolaw on arguments for Indigenous sovereignty. Such influence is wide, problematic and, largely, ignored.[17] Yet, it is visible in submissions to court, public protests, and more broadly across politics.[18] This development is dangerous. Without care and attention, Indigenous legal orders may be misunderstood as forms of pseudolaw, rather than their own form of legal cosmology emanating from and rooted in self-governing normative orders. Some judicial officers, courts and scholars are already making this error, suggesting that pseudolaw is improperly infiltrating and unfairly colouring Indigenous legal orders.[19] Indigenous communities have also expressed concern about the influence of sovereign citizen

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[11] Jennifer Jerit and Yangzi Zhao, 'Political Misinformation' (2020) 23 *Annual Review of Political Science* 77, 79 (defining misinformation as 'incorrect, but confidently held, political beliefs'); the claim that the government has been secretly replaced by a corporation is a common sovereign citizen trope. See Howard Freeman, *The UCC Connection – How to Free Yourself from Legal Tyranny* (Oklahoma Freedom Council, 1990) 6-7.

[12] See, for example, Renee Davidson, 'No, the Voice Referendum Will Not End Private Land Ownership in Australia', *RMIT Fact Lab* (online, 20 June 2023) <https://www.rmit.edu.au/news/factlab-meta/voice-referendum-will-not-end-private-land-ownership>. See further Timothy Graham, 'Understanding Misinformation and Media Manipulation on Twitter During the Voice to Parliament Referendum' (OSF Preprints, 8 September 2023) <https://doi.org/10.31219/osf.io/qu2fb>.

[13] Madi Day and Bronwyn Carlson, 'So-Called Sovereign Settlers: Settler Conspirituality and Nativism in the Australian Anti-Vax Movement' (2023) 12(5) *Humanities* 112 doi.org/10.3390/h12050112; Pascale Taplin, Claire Holland and Lorelei Billing, 'The Sovereign Citizen Superconspiracy: Contemporary Issues in Native Title Anthropology' (2023) 34(2) *The Australian Journal of Anthropology* 110.

[14] Colin McRoberts, 'Tinfoil Hats and Powdered Wigs: Thoughts on Pseudolaw' (2019) 58 *Washburn Law Journal* 637; Donald J. Netolitzky, 'The History of the Organized Pseudolegal Commercial Argument Phenomenon in Canada' (2016) *Alberta Law Review* 609.

[15] Harry Hobbs, Stephen Young and Joe McIntyre, 'The Internationalisation of Pseudolaw: The Growth of Sovereign Citizen Arguments in Australia and Aotearoa New Zealand' (2024) 47(1) *UNSW Law Journal* 309.

[16] Donald J. Netolitzky, 'A Rebellion of Furious Paper: Pseudolaw as a Revolutionary System' (Paper delivered to the Centre d'expertise et de formation sur les intégrismes religieux et la radicalisation (CEFIR) symposium: 'Sovereign Citizens in Canada', Montreal, 3 May 2018) 1 ('Rebellion').

[17] Cf. Hobbs, Young and McIntyre (n 15); Stephen Young, Harry Hobbs and Joe McIntyre, 'The Growth of Pseudolaw and Sovereign Citizens in Aotearoa New Zealand Courts' (2023) *New Zealand Law Journal* 6; Taplin, Holland, and Billing (n 13); Day and Carlson (n 13).

[18] See Part III below.

[19] See David Harvey, 'Pseudolaw – Part 1' (A Halfling's View, 4 September 2023) <https://djhdcj.substack.com/p/pseudolaw-part-1> (David Harvey is a retired New Zealand District Court Judge); Donald J. Netolitzky, 'The Dead Sleep Quiet: History of the Organized Pseudolegal Commercial Argument Phenomenon in Canada – Part II' (2023) 60(3) *Alberta Law Review* 795, 801 (claiming that New Zealand Indigenous Law is 'Left-wing, Indigenous rights, anti-authority'); Sharon Freund, 'Sovereign Citizens – Common arguments, Rebuttals and Caselaw' 10 (on file with authors) (identifying 'Claiming Indigenous sovereignty' as a sovereign citizen argument). Freund is Deputy Chief Magistrate for New South Wales and prepared this paper for New South Wales Local Courts. Cf. Bruce Baer Arnold and Erina Mikus Fletcher, 'Whose Constitution: Sovereign Citizenship, Rights Talk, and Rhetorics of Constitutionalism in Australia' (2023) 14 *Jindal Global Law Review* 99, 104 n 30 (noting that their article on sovereign citizen pseudolaw 'does not address statements by

ideology among their people.[20] The increasing influence of sovereign citizen pseudolaw on Indigenous law is a threat to Indigenous laws and orders as well as to the gains that Indigenous advocates and their supporters have realised in having state law increasingly recognise Indigenous law.

Our article is divided into two substantive parts. In Part II, we draw on William Twining's scholarship on legal pluralism,[21] to identify and distinguish the normative differences between Indigenous legal orders (non-state legal orders), and sovereign citizen pseudolaw claims and rhetoric (illegal legal orders).[22] After introducing Twining's framework, we outline the origins and evolution of sovereign citizen pseudolaw. We then consider the legal orders of Indigenous peoples and communities in Australia and Aotearoa New Zealand. We note that notwithstanding colonial and modern pressures, Indigenous laws continue to shape the lives and cultures of peoples and communities today. We also illustrate how Aboriginal and Torres Strait Islander peoples and Māori peoples have asserted the rights they hold within their normative universes in confronting the state and its state-centric visions. These efforts are producing results; in a haphazard way, Australia and Aotearoa New Zealand have recognised aspects of Indigenous law within the state legal system. We conclude by outlining that, despite superficial similarities, Indigenous legal orders and sovereign citizen pseudolaw are radically distinct. Indigenous legal orders are connected to culture and community and tied to land such that revitalising law is a political response to ongoing dispossession. Sovereign citizen pseudolaw is an anti-institutional and anti-statist legal order that seeks to protect individual rights and property claims.

In Part III, we illustrate how sovereign citizen pseudolaw is intersecting with arguments involving Indigenous sovereignty. This is occurring across the full gamut of legal and political advocacy. There are reasons why pseudolaw adherents may be attracted to arguments grounded in Indigenous legal orders. Some might seek to draw on the moral strength of Indigenous rights claims when seeking to avoid petty regulation. Others might be genuinely unaware of the logic and principles underlying state law and believe that clothing themselves or their arguments in the language of Indigeneity offers an escape route from unwanted government action. Still, others may be aware of the distinctions but fraudulently claim Indigeneity as a callous tactical exercise to obtain a benefit.[23] It is also concerning that there are cases of Indigenous peoples drawing on sovereign citizen rhetoric. So long as states continue to deny the existence and persistence of Indigenous sovereignty, it is understandable that individuals may grasp at any straw that offers a path to their goal. Alas, sovereign citizen arguments will hinder rather than assist. As an immediate practical concern, courts have categorically rejected these arguments worldwide. More broadly, the overriding focus of individualist property rights in sovereign citizen pseudolaw undercuts collective and communal Indigenous sovereignty claims.

II. DISTINGUISHING NON-STATE LEGAL ORDERS

In this Part, we examine sovereign citizen pseudolaw and the laws of Indigenous communities as two forms of non-state law. Section A briefly introduces William Twining's scholarship on normative and

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Australia's Indigenous people that their sovereignty has never been surrendered or extinguished'). The concept of 'pseudo-law' has been used in various ways to describe arguments or orders that are quasi- but not-law. In this paper, we are interested in this phenomenon that is called 'pseudolaw' that derives from the sovereign citizen movement and has spread internationally.

[20] Sovereign Yidindji Government, 'Public Notice Sovereign Citizen Pseudolaw' (3 November 2024) (on file with authors); Hiawatha First Nation, 'Public Notice Issued by the Williams Treaties First Nations' <https://www.hiawathafirstnation.com/public-notice-issues-by-the-williams-treaties-first-nations/>.

[21] William Twining, *General Jurisprudence: Understanding Law from a Global Perspective* (CUP, 2009); for other views on pluralism, see Brian Z. Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (2008) 30 *Sydney Law Review* 375.

[22] Twining (n 21); and William Twining, 'Normative and Legal Pluralism: A Global Perspective' (2010) 20 *Duke Journal of Comparative and International Law* 473, 493.

[23] See *R v Legault*, 2024 BCPC 29 [90]-[97] (false claim of Metis status to benefit from sentencing regime). We thank Donald Netolitzky for drawing our attention to this case.

legal pluralism to examine these legal orders.[24] Section B explains the normative and legal order (if it can be called that) that derives from the sovereign citizen movement, while Section C then examines Indigenous peoples' normative and legal orders. Section D explains how, despite similarities, these legal orders differ in fundamental ways. They should not be conflated.

A. Twining's Framework of Normative and Legal Pluralism

Law students and lawyers are largely trained to see only the state's legal order, which is a state-centric view of legality.[25] According to Twining, the state-centric view of law ignores so much. Indeed, as he notes, many people willingly accept the concept of normative pluralism – that there are multiple, overlapping and conflicting normative orders that we encounter and navigate. Lawyers, he says 'are puzzled about "legal pluralism"; some even deny the concept, and there has been much theoretical debate about it'.[26] This confusion arises from jurisprudence, where a central concern is with drawing the line between law and non-law. Twining puts that concern to one side, because 'in most contexts not much turns on where, or even whether, the line is drawn'.[27] Instead, he treats legal pluralism as a species of normative pluralism:

> [i]f normative pluralism refers to a situation in which different sets of norms or two more institutionalized normative orders coexist in the same time-space context, then legal pluralism is the species that includes those kinds of sets of norms or normative orders that merit the appellation *legal* in a given context.[28]

This does not solve the jurisprudential concern about what law is or is not. However, Twining forestalls concerns about those issues to draw attention to the significant normative orders which exist beyond the state that are important for legal practice (whether it is the legal practice of the state or otherwise).

Twining's framework identifies several distinct legal orders. These include:[29]

- global (such as environmental issues, space law, and perhaps an inchoate common law of humanity)
- international (as in, relations between sovereign states, refugee law, human rights law)
- regional (i.e., the Inter-American human rights system or the European Union)
- transnational (such as laws relating to the regulation of international crime, and religious laws such as Islamic and Jewish laws)
- intercommunal (concerning relationships between religious and faith communities)
- territorial (essentially official state law such as the law of Australia)
- sub-state (encompassing the full gamut of delegated legislation); and
- non-state law (which includes, 'laws of subordinated peoples, such as native North Americans, or Maoris, or gypsies [sic]', and illegal legal orders such as 'the "common law movement" of militias in the United States' among others).[30]

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[24] Twining (n 21); Twining (n 22); William Twining, 'Legal Pluralism 101' in Brian Z Tamanaha, Carol Sage and Michael Woolcock (eds), *Legal Pluralism and Development: Scholars and Practitioners in Dialogue* (Cambridge University Press, 2012) 112.

[25] This may be changing slowly. See below Pt II.C.3. See also, for example, Joseph Williams, 'Lex Aotearoa: An Heroic Attempt to Map the Māori Dimension in Modern New Zealand Law' (2013) 21 *Waikato Law Review* 1; Maria Salvatrice Randazzo, *Constitutionalism of Australian First Nations* (Routledge, 2023).

[26] Twining (n 24) 114.

[27] Ibid.

[28] Ibid 114-5. For more on Twining's jurisprudential commitments, particularly on Hart, Tamanaha and Llewellyn, see Twining (n 21) Ch 4.

[29] Twining (n 24) 126.

[30] Ibid 126-7.

Twining's phrasing could be updated, but we employ his framework because we want to draw attention to legal orders without drawing a firm line between normativity and legality. In Twining's framework, the content in the last bullet point is most important for our purposes. Although Twining characterises both Indigenous legal orders and the forms of law developed by the common law movement as 'non-state', he nonetheless distinguishes between the laws of subordinated peoples and illegal legal orders. Indigenous communities, like those of Aboriginal and Torres Strait Islander nations in Australia and Māori in Aotearoa New Zealand, exercise forms of normative orders and laws that have been subordinated by the state.[31] Conversely, the 'common law movement', upon which sovereign citizen pseudolaw developed, is an illegal legal order.

Sovereign citizen pseudolaw and Indigenous legal orders consist of a series of 'general and individual norms' that structure and govern the behaviour of people who inhabit that system.[32] The normative or ideological communities from which these legal orders are generated, however, differ substantially. Indigenous peoples make a culturally based claim that is moored to certain tracts of Country, predicated on kinship, and rooted in many generations of self-governance. In contrast, sovereign citizen pseudolaw is marked by an 'heterodox politics';[33] it is anti-institutional, anti-state, experimentalist and individualistic. Even if members work in groups and networks, their communities are ephemeral and untied to any location. Predicated upon protecting unfettered property rights, the individualism inherent to sovereign citizen pseudolaw undercuts and undermines the communal obligations and responsibilities characteristic of Indigenous societies and norms. In fact, pseudolaw may not even constitute an effective legal order because its characteristics ensure it cannot give rise to commonly observed rules that regulate the behaviour of adherents beyond their common opposition to state law.[34]

B. The Common Law Movement as an Illegal Legal Order

An illegal legal order may develop out of custom in circumstances where the state is unable to project its authority throughout its jurisdiction. Twining argues that the Pasagarda law identified by Boaventura de Sousa Santos is an example of this phenomenon. Essentially a form of 'squatters' law', the Pasagarda refers to the 'institutions and processes concerning housing and other matters' that developed within a Rio de Janiero favela in the 1970s.[35] The legal order was illegal – its members had no authority under the official state law to inhabit their houses – but for members within the community, the Pasagarda regulated a wide range of property relations, including leasing, inheritance, and transfer. As Twining notes, the system was 'a classic example of legal pluralism', consisting of 'an institutionalized and stable normative order governing important social relations in a law-like way coexisting with, but separate from, state law'.[36]

The state largely tolerated the existence of the Pasagarda law. Perhaps because it was conscious it could not exert and enforce its own law within the community and that the self-contained system largely produced stable and consistent outcomes. Not all illegal legal orders are so moored to a community, produce such outcomes, or are treated in the same manner. Consider the Common Law movement.[37]

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[31] We note, however, that historically the state declared or acted as if Indigenous legal orders were illegal. These legal orders were never entirely subordinated.

[32] Hans Kelsen, 'The Concept of the Legal Order' (1982) 27 *American Journal of Jurisprudence* 64, 64 (translated by Stanley Paulson).

[33] Daniel Baldino and Mark Balnaves, 'Sticky Ideologies and Non-Violent Heterodox Politics' in Elisa Orofino and William Allchorn (eds), *Routledge Handbook of Non-Violent Extremism* (Routledge, 2023) 15.

[34] See Jonathan Crowe, 'Pseudolaw, Folk Law and Natural Law: How to Tell the Difference' in Harry Hobbs, Stephen Young and Joe McIntyre (eds), *Pseduolaw and Sovereign Citizens* (Hart, forthcoming) 23. We thank an anonymous reviewer for prompting this clarification.

[35] Twining (n 22) 493, discussing Boaventura de Sousa Santos *Toward a New Legal Common Sense* (Butterworths, 2nd ed, 2003) 99.

[36] Twining (n 22) 493.

[37] Susan P. Koniak, 'When Law Risks Madness' (1996) 8 *Cardozo Studies in Law and Literature* 65; Susan P. Koniak, 'The Chosen People in Our Wilderness' (1997) 95 *Michigan Law Review* 1761.

1. *A Brief History of the Movement*

The Common Law movement has been described as 'the "legal" arm of the militias in the United States'.[38] The movement emerged out of a confluence of several overlapping groups in the late 1960s. These included loosely organised right-wing militias hostile to federal government regulation (particularly concerning environmental regulation and gun ownership) and the Posse Comitatus, an outgrowth from a virulently antisemitic Christian Identity religious sect that disclaimed state authority beyond the local county sheriff.[39] Employing 'pseudoreligious legalisms that emphasized individual and "natural rights,"'[40] members believed each county should remain 'independent, a veritable law unto itself, subject only to its own understanding of what God required in a particular time and place'.[41] It was very much a fringe movement until the mid-west Farm Crisis of the 1980s.[42] An economic crunch saw 'an estimated 300,000 farmers' default on their loans and scores of banks across the mid-west collapse.[43] Generations of farming families and communities lost their land, livelihoods, and identities.[44] In response, some tried to use law against their enemies.

Instead of using state law, members claimed to live under an ancient, higher form of law that recognised their inalienable natural right to property and autonomy. Confusingly for us, they called it Common Law. Members believed their Common Law is consonant with God's law or natural law, and that this accurate version was recognised in pre-20th century legal authorities such as Blackstone's Commentaries and historical law dictionaries. They often supported this view with primordial or foundational legal texts, like the Articles of Confederation or the United States Declaration of Independence, which recognised their freedom or the 'unalienable rights' of people.

The Common Law differs from our common law. The Common Law protects individual's private rights and property. While our own common law once also protected these rights, it no longer does so. This is because the State has become corrupted and our law is no longer consistent with the Common Law, that is with God's law. Various narratives explain how the state was corrupted: some pointed to improper ratification of the Civil War Amendments to the US Constitution, others to Roosevelt's declaration of a State of Emergency in 1933, others again to the ruling in *Erie Railroad v. Tompkins*,[45] which held that there is no federal common law across the United States. In these narratives, state law became incommensurate with the Common Law and, hence, unethical, immoral, and, even worse, illegal.

Adherents believed – and still believe today – it is possible to live under Common Law as sovereign, free, natural humans with inalienable personal and property rights as though it exists in concert with God's law or natural law. To do so, they simply must opt out of the corrupted federal-corporate government. Some believers formed their own Common Law court system specifically for this purpose. They encouraged members to file 'Quiet Title Actions' and present their birth certificate as evidence

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[38] Twining (n 22) 493. See also Stephen Young, Harry Hobbs, and Rachel Goldwasser, 'The Rise of Sovereign Citizen Pseudolaw in the United States of America' in in Harry Hobbs, Stephen Young, and Joe McIntyre (eds), *Pseudolaw and Sovereign Citizens* (Hart, 2025, forthcoming) Ch 6.

[39] See generally James Corcoran, *Bitter Harvest: Gordon Kahl and the Posse Comitatus* (Viking, 1990).

[40] Daniel Levitas, *The Terrorist Next Door: the Militia Movement and the Radical Right* (Thomas Dune Books, 2002) 3.

[41] Michael Barkun, *Religion and the Racist Right: The Origins of the Christian Identity Movement* (University of North Carolina Press, revised ed, 1997) 222.

[42] See Evelyn Schlatter, *Aryan Cowboys: White Supremacists and the Search for a New Frontier 1970-2000* (University of Texas Press, 2006).

[43] Mark Pitcavage, 'Common Law and Uncommon Courts: An Overview of the Common Law Court Movement', *Militia Watchdog* (25 July 1997) <https://www.legis.state.pa.us/WU01/LI/TR/Transcripts/1997_0139_0007_TSTMNY.pdf> 5; Leonard Zeskind, *Blood and Politics: The History of the White nationalist Movement from the Margins to the Mainstream* (Farrar Straus Giroux, 2009) 73.

[44] Daniel Levin and Michael Mitchell, 'A Law unto Themselves: The Ideology of the Common Law Court Movement' (1999) 44 *South Dakota Law Review* 9, 14-5.

[45] 304 US 64 (1938).

they were born in a state instead of under Federal control. They believed that this purifying act removed the 'cloud of title' that made them 'slaves' to the federal government.[46] They also sought to destroy any form of state identification, such as a driver's licence, lest they become 'slaves' of the government. Under their law, all state law derives from concealed contractual relations; by applying for a driver's license, for example, a person elects to abide by an invisible contract regulating road use.

At a normative and pluralistic level, adherents claim there are two legal orders within one territory – one that is free and protects individual rights and one that is corrupted.[47] They believe further that they can communicate to those of us in the state legal system if they employ the corrupt commercial legal language of the state, like the Uniform Commercial Code.[48] This is the same type of reasoning at work in the contemporary claim that Australia has two constitutions, one that protects freedoms and the other that is corporate.

The legal theory underpinning these positions make little sense to those of us who work within state law. Because adherents claim state law is corrupt and cite authorities that are irrelevant to most legal proceedings – like Blackstone, the Bible and the Articles of Confederation – their legal claims are often summarily dismissed. Judges routinely describe these and similar arguments as 'obvious nonsense',[49] or legal 'gobbledygook'.[50] It is *pseudo*law because it is obviously not-law, or at least, not-state law. Although adherents refer and cite conventional legal instruments, they 'misread, misconstrue, and misunderstand' their sources.[51] They rely on 'selective and spurious readings of legal texts to contest state authority and assert their own claims'.[52] Nevertheless, for adherents, for those operating within this nomos, the movement has an internal coherence. In constituting an 'integrated and separate legal apparatus',[53] the movement may comprise an 'alternate legal universe',[54] a 'parallel world of law',[55] an alternative (illegal) legal order that formed in opposition to the state and seeks to undermine it. Nonetheless, it remains debatable whether the Common Law movement or more contemporary iterations of pseudolaw are legal systems or not. Twining wrote, '[i]f it warrants the label "law", it is in the view of some a rare example of "a crazy legal order"'.[56]

2. Adaptions and Mutations

The legal universe of sovereign citizen pseudolaw is flexible and capacious. It adapts, mutates, and evolves as it encounters, assimilates, and intersects with other groups and social movements. In this mix, new concepts and theories are developed and tested. Some are discarded while others become embedded as the basis for further adaptation and mutation. It has become unmoored from any larger community or social movement and developed into, in the words of Donald Netolitzky, a 'Sovereign Citizen pseudolaw memeplex'.[57]

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[46] Koniak, 'When Law Risks Madness' (n 37) 68.
[47] Ibid 84. Note that while adherents claim to be willing to submit to county authority, their primary aim is the protection of individual rights to autonomy and property.
[48] Koniak, 'The Chosen People in Our Wilderness' (n 37) 1769.
[49] *Bradley v The Crown* [2020] QCA 252 (13 November 2020), (Sofronoff P).
[50] *Deputy Commissioner of Taxation v Casley* [2017] WASC 161, [15] (Le Miere J).
[51] Caesar Kalinowski IV, 'A Legal Response to the Sovereign Citizen Movement' (2019) 80(2) *Montana Law Review* 153, 154.
[52] Harry Hobbs and George Williams, *Micronations and the Search for Sovereignty* (Cambridge University Press, 2022) 69.
[53] Netolitzky, 'Rebellion' (n 16) 4; Koniak, 'When Law Risks Madness' (n 37) 87–89, 106; Donald J. Netolitzky, 'After the Hammer: Six Years of *Meads v. Meads*' (2019) 56(4) *Alberta Law Review* 1167, 1184.
[54] McRoberts (n 14) 642.
[55] Koniak, 'When Law Risks Madness' (n 37) 67.
[56] Twining (n 21) 73, fn 28.
[57] Netolitzky, 'Rebellion' (n 16) 4.

The most prominent sovereign citizen pseudolegal concept today is the 'strawman' or 'dual person' argument.[58] The theory holds that every person is born a natural, living, flesh and blood person.[59] At birth, however, the state creates an artificial duplicate legal person and links the artificial entity to the human via concealed means. It is this 'strawman' over whom the government exercises jurisdiction. By renouncing your artificial legal personality, you can free yourself from the indignity of government regulation (and any debt or legal obligation that your straw person may have incurred). Harking back to its origins, renunciation can take effect by refusing state identification. You can also demonstrate your refusal by writing your name in non-standard ways, such as by inserting inappropriate punctuation or introducing obscure or obsolete legalese. This allows individuals to own themselves, create interpersonal relationships, and hold their property free from government regulation and intervention.

Adaptations like the Strawman theory demonstrate the elasticity of sovereign citizen pseudolaw. White supremacist and anti-Semitic beliefs may mark the Common Law militia movement, but the legal theories it developed and propagated are sufficiently malleable to influence other groups. The legal theory can develop and respond to suit new and emerging communities of adherents. In the 1990s, for example, some members of the Moorish Science Temple, a religious sect of primarily African Americans, branched into sovereign citizen pseudolaw forming a new movement.[60] Moorish Sovereign Citizens claim, amongst other things, that they are descendants of Moroccan Moors subject to the 1786 US-Morocco Treaty of Friendship and thus supposedly exempt from US law.[61] Another faction of African American sovereign citizen pseudolaw adherents style themselves as the Washitaw Nation and claim to be a sovereign Native American nation and thus, once again, immune from US laws.[62] Yet another group refers to themselves as Black Hebrew Israelites and invokes the *Foreign Sovereign Immunities Act* and the Holy Bible as supposedly allowing them to avoid having to pay vehicle registration fees.[63] In each case, sovereign citizen pseudolaw has found fertile soil far from its origins. In each case, the adoption of sovereign citizen pseudolaw changes and mutates within groups.

The malleability of sovereign citizen pseudolaw has allowed it to migrate outside of the United States. While it has become particularly prominent in common law jurisdictions such as the United Kingdom, Canada, Australia, and New Zealand,[64] it is also present in civil law states.[65] Echoing its evolution within its homeland, on arrival sovereign citizen-style claims have mixed with autochthonous species of pseudolaw, creating strange new variants.[66]

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[58] Ibid.
[59] James Erickson Evans, 'The Flesh and Blood Defense' (2012) 53 *William & Mary Law Review* 1361.
[60] On the historical and religious aspect of these groups see Spencer Dew, *The Alittes: Race and Law in the Religions of Noble Drew Ali* (University of Chicago Press, 2019).
[61] Mellie Ligon, 'The Sovereign Citizen Movement: A Comparative Analysis with Similar Foreign Movements and Takeways for the United States Judicial System' (2021) 35(2) *Emory International Law Review* 297.
[62] Mark Pitcavage, 'The Washitaw Nation and Moorish Sovereign Citizens: What You Need to Know' *Anti-Defamation League* (18 July 2016) <https://www.adl.org/resources/blog/washitaw-nation-and-moorish-sovereign-citizens-what-you-need-know>.
[63] *Ngola Mbandi v. Pangea Ventures*, 2023 WL 4486703 (7th Cir. 2023).
[64] Christine Sarteschi, 'This Law Doesn't Apply to Me: The Spread of the Sovereign Citizen Movement Around the World" *International Center for the Study of Violent Extremism* < https://www.icsve.org/this-law-doesnt-apply-to-me/>; Stephen Kent, 'Freemen, Sovereign Citizens, and the Challenge to Public Order in British Heritage Countries' (2015) 6 *International Journal of Cultic Studies* 1.
[65] Karoline Marko, '"The Rulebook – Our Constitution": A Study of the "Austrian Commonwealth's" Language Use and the Creation of Identity through Ideological In- and Out-group Presentation and Legitimation' (2021) 18(5) *Critical Discourse Studies* 565.
[66] See Donald J. Netolitzky, 'The History of the Organized Pseudolegal Commercial Argument Phenomenon in Canada' (2016) 53(3) *Alberta Law Review* 609, 613-14. See also Florian Buchmayr, 'Denying the Geopolitical Reality: The Case of the German "Reich Citizens",' in Andreas Önnerfors and André Krouwel (eds), *Europe: Continent of Conspiracies: Conspiracy Theories in and About Europe* (Routledge, 2021) 97.

3. Spreading Individualistic Laws Premised on the Protection of Property Rights

The spread of sovereign citizen arguments may suggest a large-scale social movement or network, but the groups that adopt and adapt these arguments are largely transient and ephemeral. Highly dependent on charismatic individuals, groups tend to fragment under stress or disagreement, or when the leader is imprisoned or withdraws. When the Empress of the Washitaw Nation retired, several individuals claimed to have assumed her position, meaning there are now several rival Washitaw Nations.[67] As a 'decentralised and somewhat amorphous'[68] legal universe, its growth is led by individual instructors or gurus.

Largely operating over the Internet and social media, instructors sell specific idiosyncratic techniques that promise to resolve their clients' legal problems. This has had the effect of abstracting adherents from rooted communities. Though adherents are bound by shared *nomos* in their opposition to state law and authority, they may be alienated from a broader social movement or group. Courts have identified that many adherents may 'operate under the radar' and not associate or self-identify with a community.[69] Even for those who are members of specific pseudolaw communities, the legal universe is highly individualistic and premised on the maintenance and protection of personal autonomy and property rights.[70]

Social media has only intensified this trend. The ability to reach new audiences has effectively created online markets for emerging generations of pseudolegal instructors. These new gurus may have little or no connection to the original Common Law movement or any movement. What has followed is a wide degree of creativity as instructors fold all sorts of narratives into sovereign citizen-style arguments. Today, most adherents gain their understanding through TikTok, Telegram, and other social media sites. This makes cataloguing the various forms these arguments manifest challenging. Nevertheless, certain schemes, elements and motifs recur.

There are numerous examples to draw on. In 2011, Mr Rosario Luciani registered a financial statement under the Ontario *Personal Property Security Act 1990*,[71] stating that he enjoyed a security interest worth CAD 28 million, owed to him by MBNA Canada Bank. MBNA Canada Bank discovered the registration, asserted it never granted a security interest, and asked Mr Luciani to discharge it. Mr Luciani replied that he would be happy to do so, if 'the Bank extended a $125,000 credit line to his wife and himself'; an offer described by the trial judge as a 'good old-fashioned shake-down!'[72] The bank declined and sued. In response, Mr Luciani (unsuccessfully) relied on the strawman theory:

> If any living man or woman has information that will controvert and overcome the aforementioned PPSR, since this is a commercial matter, please advise me IN WRITING by DECLARATION/AFFIDAVIT FORM within ten (10) days from recording hereof and address me as "::rossario:luciani::; sovereign living breathing man created by Almighty-God-Jehovah" … Your silence, or failure to respond as prescribed, stands as your stipulation, consent, and tacit approval, for the factual declaration of the PPSR here being established as fact, as a law matter, and will stand as final judgment in this matter.[73]

[67] Pitcavage (n 62).
[68] Hobbs, Young and McIntyre (n 15) 314.
[69] *Meads v Meads* [2012] ABQB 571, [197].
[70] As we note below, however, while the legal universe priorities individualism, the schemes employed by pseudolaw adherents are markedly similar.
[71] *Personal Property Security Act*, RSO 1990, c. P.10.
[72] *MBNA Canada Bank v. Luciani*, 2011 ONSC 6347 [3].
[73] Ibid [9].

Consider a more recent example from New Zealand. In 2020, Mr Scott Larsen appealed his conviction and sentence on the grounds that the court had not correctly convicted him as a natural person. The court described his submissions as follows:

> "living sovereign man scott-william of the house of Larsen" appeals the conviction and sentence of Scott William Larsen (Mr Larsen) in respect to two criminal charges, on the grounds of fraud and perjury.[74]

Mr Larsen explained that Scott William Larsen is a 'corporate name' referring to an entirely different person. It is a reference to an 'artificial entity created through the use of artificial construct by all Crown representatives and forcefully against the will of the living man: scott-william'.[75] Precisely how this might mean Mr Larsen could avoid a conviction for driving without a license and assaulting a police officer was beyond the court. Like '::rossario:luciani::; sovereign living breathing man created by Almighty-God-Jehovah', the 'living sovereign man scott-william of the house of Larsen' was unsuccessful.

In these two cases, the claimants challenge the state legal system predicated on a legal argument that purports to uphold or protect their individual rights. Although it is unlikely they have met or spoken to each other and it is unclear whether they are associated with any identifiable broader social movement, key commonalities suggest a connection. Both reproduce the strawman argument and adopt similar motifs. Their claims are legally intelligible to each other, revealing a shared legal language, perhaps a shared legal order. Even so, certain differences in application suggest evolution and adaptation, if not fragmentation, disunity, and multiplicity.

Writing about the use of pseudolaw in Germany, Anna Löbbert explains that adherents use legalistic language to defend actions and beliefs 'far outside of what is commonly thought of as acceptable' to 'protect their self-image as a moral person and law-abiding citizen'.[76] Objecting to their positioning in court through formal mechanisms, they attempt to humanize themselves and assert their identity by using language like 'alive, soulful spirited, full capacity, rights, of the family, ancestry, freedom and sovereign, and natural person'.[77] As we saw in the two cases discussed above, however, the individual 'rights' that adherents claim invariably conflict with state law and community expectations. The sovereign citizen legal universe amounts to an attempt to justify engaging 'in a broad range of unrestricted illegal activity', and 'obtain government and social benefit without obligation'.[78] This is precisely why we note that sovereign citizen pseudolaw is inherently individualistic. It is so individualistic that, as Jonathan Crowe has argued, their normative world does not have the community building functions and consistency of a legal order.[79]

Pseudolaw might seem strange to those operating from within the state legal system, but sovereign citizen pseudolaw has its own purpose, logic, and rationality. This legal order emerged with the express purpose of avoiding or usurping state law,[80] and it did so to preserve individual interests and property rights. Clearly, it does not work. No court has ever accepted the submissions raised by a sovereign

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[74] *Scott William Larsen v New Zealand Police* [2020] NZHC 2520 [1].
[75] Ibid [2].
[76] Anne Löbbert, 'Germanite is a Rare Mineral' in Harry Hobbs, Stephen Young, and Joe McIntyre (eds), *Pseudolaw and Sovereign Citizens* (Hart, 2025, forthcoming) Ch 8.
[77] Ibid.
[78] Donald Netolitzky, 'The Sun Only Shines on YouTube: The Marginal Presence of Pseudolaw in Canada' in Harry Hobbs, Stephen Young, and Joe McIntyre (eds), *Pseudolaw and Sovereign Citizens* (Hart, forthcoming) Ch 7.
[79] See Crowe (n 34).
[80] In *Meads*, Associate Chief Justice Rooke claims that these litigants are motivated by some sort of stress (foreclosure, bankruptcy, child disputes, deportation, or debt), are trying to scam others, or believe they are 'students of the law'. *Meads* (n 69) [161]-[164].

citizen claimant. It is an illegal legal order. Yet, this does not appear to have weakened its appeal.[81] Instead, this legal order expands in moments of crisis when individuals blame law and government for intruding into their lives or failing to protect and promote their rights.[82] As such, it is not surprising that the COVID-19 pandemic has catalysed a significant growth in the prevalence of these arguments.[83] As we will explore in Part III, this legal order has also taken root in some communities with long-standing historical reasons to question the state and state law. Before examining this intersection, however, we turn to the non-state legal order that is broadly called, Indigenous laws and customs.

C. Indigenous Societies as Non-State Legal Orders

Indigenous legal orders have adapted and evolved in response to the state, but their foundation is in the societies and cultures that pre-date the state and its legal regime. They are drawn from their own self-governing normative orders that have structured the lives of their communities for hundreds and thousands of years; they are intimately connected to the land, they 'flow[] from the living heart[]' of country, and sustain[] that country'.[84] As Henrietta Marrie explains, the complex relationships Indigenous peoples have with Country have evolved over many hundreds of generations and are 'based on systems of eco-kinship with the elements of the world that surround them, often expressed through totemic relationships with various species, and religious ceremonies that involve the celebration of human-nature relationships'.[85] Colonial and later state legal orders ignored and undermined these orders. While, more recently, states have begun to acknowledge their existence, recognition remains limited and precarious.

1. Community and Country

The laws and knowledge systems of Indigenous societies are rooted in and establish connections and kinship obligations to community, Country and the more-than-human world. In Australia, for example, Irene Watson writes of Tanganekald and Meintangk law. Described by Watson as 'Raw Law', this normative order 'is unlike the colonial legal system imposed upon us, for it was not imposed, but rather lived. It is a law way, which emanates from the ruwe and connects the collective or mob of First Nations Peoples'.[86] While many people think of state law as a 'complex maze of rules and regulations', Watson continues, 'our First Nations legal systems are embodied in stories and song. Our ancient laws were not written down; knowledge of law came through living, singing, storytelling'.[87] As a relational practice, 'Indigenous knowledges…carry obligations and responsibilities, such as custodial obligations to ruwe that bind future generations'.[88] These laws are not about owning property. Instead, Watson writes, 'We live as a part of the natural world; we are in the natural world. The natural world is us'.[89] Tanganekald and Meintangk law is generated from and tied to relations in the land. It is lived, sung, and told on and through the land.

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[81] Likening pseudolaw to a pathogen, Donald Netoltizky argues that it does not need to be successful, it just needs to spread: (Personal communication, 18 March 2023).
[82] Kent (n 64) 7-8.
[83] Kaz Ross, '"Living People": Who are the Sovereign Citizens, or SovCits, and Why Do They Believe They Have Immunity from the Law?', *The Conversation* (online, 28 July 2020) <https://theconversation.com/living-people-who-are-the-sovereign-citizens-or-sovcits-and-why-do-they-believe-they-have-immunity-from-the-law-143438>. This did not occur in Canada, however: Netolitzky (n 78).
[84] Ambelin Kwaymullina and Blaze Kwaymullina, 'Learning to Read the Signs: Law in an Indigenous Reality' (2010) 34 *Journal of Australian Studies* 195, 202-3.
[85] Henrietta Marrie, 'Indigenous sovereignty rights: International law and the protection of traditional ecological knowledge' in Aileen Morton Robinson, *Sovereign Subjects: Indigenous Sovereignty Matters* (Allen & Unwin, 2007) 48-9.
[86] Irene Watson, *Aboriginal Peoples, Colonialism and International Law: Raw Law* (Routledge, 2015) 12.
[87] Ibid.
[88] Ibid 14.
[89] Ibid 15.

Similar descriptions are present across the continent. Palyku scholars Blaze and Ambelin Kwaymulina explain that the religious, legal and cultural systems that comprise Aboriginal laws 'encompass all life as well as the connections that link life together'.[90] On this account, law is not a self-contained system that operates in isolation. It 'weaves us all together',[91] sustaining 'the web of relationships established by the Ancestors'.[92] Law did not emerge solely within human society but was given to the people by non-human beings, who travelled across the land, marking tracks and 'leaving the landscape imbued with sacred powers'.[93] The Gupapuyngu clan of the Yolngu people explain how *Ngarra*, their law, was given to them by the Niwuda gugu (honeybee). The Niwuda gugu flew across different clan groups 'to invite them to become peaceful tribal people and to recognise each other as being part of Niwudu gugu law'.[94] It is not just that 'everything is related' but that these relationships impose complex obligations to community, Country and kin.[95]

Māori legal orders in Aotearoa operate similarly. Tikanga Māori is a coherent and complex system, consisting of ritual, custom, spiritual, and other dimensions.[96] It is built on 'relationships with elements of the physical world, the spiritual world, and each other…. Kinship was the revolving door between the human, physical, and spiritual realms'.[97] These relationships tie communities to land and land to communities; as Eddie Durie explains, 'land derives from ancestors and passes to blood descendants'.[98] Thus, '[t]he common feature then, of Maori law was that it was not in fact about property, but about arranging relationships between people'.[99] This has implications for ownership, land and resource use. Joseph Williams explains:

> No right in resources can be sustained without the right holder maintaining an ongoing relationship with the resource. No relationship; no right. The term that describes the legal obligation is kaitiakitanga. This is the idea that any right over a human or resource carries with it a reciprocal obligation to care for his, her or its physical and spiritual welfare.[100]

This relational legal order involves obligations to ancestral land, its inhabitants, and others.

A pluralistic lens is important for those of us who are not indigenous to understand that Indigenous laws and customs exist, are lived, and are tied to the natural world. As we explain in more detail in the following section, these orders are radically different from sovereign citizen pseudolaw. Indigenous legal orders generate obligations and rights for the community that are inextricably linked to land. Sovereign citizen pseudolaw by contrast is unbound to any place or obligations and, even if it is

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[90] Blaze Kwaymullina and Ambelin Kwaymullina, 'Indigenous Holistic Logic: Aspects, Consequences and Applications' (2014) 17(2) *Journal of Australian Indigenous Issues* 34, 35.
[91] Christine Black, *The Land is the Source of Law: A Dialogic Encounter with Indigenous Jurisprudence* (Routledge, 2010).
[92] Ambelin Kwaymullina, 'Seeing the Light: Aboriginal Law, Learning and Sustainable Living on Country' (2005) 6(11) *Indigenous Law Bulletin* 12, 13.
[93] Danial Kelly, 'Foundational Sources and Purposes of Authority in *Madayin*' (2021) 4(1) *Victoria University Law and Justice Journal* 35, 37.
[94] James Gurrwanngu Gaykamangu, 'Ngarra Law: Aboriginal Customary Law from Arnhem Land' (2012) 2 *Northern Territory Law Journal* 236, 242.
[95] See further Marcia Langton and Aaron Corn, *Law: The Way of the Ancestors* (Thames and Hudson, 2023).
[96] Carwyn Jones, *New Treaty, New Tradition: Reconciling New Zealand and Māori Law* (UBC Press, 2016). See further Williams (n 25) 3; Hirini Moko Mead, 'The Nature of Tikanga' (Paper presented to Mai i te Ata Hāpara Conference, o Raukawa, Otaki, 11-13 August 2000) 11-13, citied in New Zealand Law Commission *Māori Custom and Values in New Zealand Law* (NZLC SP9, 2001) 16.
[97] Waitangi Tribunal *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand law and Policy Affecting Māori Culture and Identity* (Wai 262, 2011) 5, cited in Williams (n 25) 3.
[98] Eddie Durie, 'Will the Settlers Settle? Cultural Conciliation and Law' (1996) 8 *Otago Law Review* 449, 453.
[99] Ibid 454.
[100] Williams (n 25) 4.

occasionally practised within communities, its ideological core is premised on protecting individual autonomy and property rights.

2. Clashing Indigenous and European Legal Orders

European colonists carried with them their own legal orders when they encountered Indigenous peoples and communities. The legal systems they established ignored, undermined, and even sought to eradicate Indigenous legal orders. Legislation and policy prohibited the practice of Indigenous governance traditions,[101] and sought to exclude peoples and communities from their Country and kin. Courts and judicial officers have also played a role in marginalising Indigenous legal orders. As Robert Cover famously described, state courts are 'jurispathic'.[102] Their role is to 'kill the diverse legal traditions that compete with the State',[103] including by suppressing the laws and legal orders of Indigenous communities.

In Australia, colonies were asserted and formed on the basis that the territories discovered were 'desert and uninhabitable' lands.[104] Through the establishment of colonial governments, settlers were able to claim property interests in land that was otherwise used, occupied, and owned by Aboriginal peoples. Despite efforts by some Indigenous leaders, like Eora warrior Woolarawarre Bennelong, to build 'an enduring reciprocal relationship with the British',[105] based on mutual recognition, the interests and legal orders of the peoples that possessed the continent for thousands of generations were violently displaced. Colonial courts affirmed this approach, holding that these peoples had no legal system but only 'the wildest most indiscriminatory notions of revenge'.[106] This legacy endures. Although cracks have emerged in this facade, the High Court has consistently maintained that the British acquisition of sovereignty over the continent is not justiciable before municipal courts,[107] and that upon that acquisition, the sovereignty of Aboriginal and Torres Strait Islander nations was extinguished.[108] In holding firm to this position, the Court and the legal system operate to kill Indigenous legal traditions (at least for the purposes of state law).

The relationship between Māori and non-Indigenous New Zealanders (pākehā) rests on a treaty. Te Tiriti o Waitangi / the Treaty of Waitangi was signed in 1840 (though not by all Māori leaders).[109] Nevertheless, inconsistencies between the English and te reo Māori versions of the instrument have caused controversies as the British pursued their colonial endeavours. The English version of the Treaty records that the Māori signatories ceded absolute sovereignty to the Crown, while the Te Reo version grants the Crown the power of kawanatanga (governorship) in the context of Crown protection for Māori tino rangatiratanga (chieftainship) over their lands, villages, and treasures. Although the

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[101] See, for instance, the criminalisation of the practice of the potlatch among Indigenous peoples of the Pacific Northwest: *An Act further to amend The Indian Act, 1880*, S.C. 1884 (47 Vict.), c. 27, s. 3; Douglas Cole and Ira Chaikin, '"A Worse than Useless Custom": The Potlatch Law and Indian Resistance' (1992) 5(2) *Western Legal History* 187.

[102] Robert Cover, 'Violence and the Word' (1986) 95 *Yale Law Journal* 1601, 1610; Robert Cover, 'The Supreme Court, 1982-3 Term – Foreword: Nomos and Narrative' (1983) 97 *Harvard Law Review* 4, 40-4.

[103] Cover, 'Violence and the Word' (n 102) 1610.

[104] Stuart Banner, *Possessing the Pacific: Land, Settlers, and Indigenous Peoples from Australia to Alaska* (Harvard University Press, 2007) 27.

[105] Inga Clendinnen, *Dancing with Strangers: Europeans and Australians at First Contact* (Cambridge University Press, 2005) 272.

[106] See *R v Murrell and Bummaree* (1836) 1 Legge 72. See further *Cooper v Stuart* (1889) 14 App Cas 286.

[107] *New South Wales v Commonwealth (The Seas and Submerged Lands Case)* (1975) 135 CLR 337, 388 (Gibbs J); *Mabo v Queensland (No 2)* (1992) 175 CLR 1, 31 (Brennan J).

[108] *Coe v Commonwealth* (1993) 68 ALJR 110; *Love v Commonwealth* (2020) 270 CLR 152, 278-9 (Gordon J).

[109] Rawina Higgins, '"Ko te mana tuatoru, ko te mana Motuhake"' in Mark Hickford and Carwyn Jones (eds), *Indigenous Peoples and the State: International Perspectives on the Treaty of Waitangi* (Routledge, 2018) 129.

Waitangi Tribunal has found that the Māori signatories to the Treaty of Waitangi did not cede their sovereignty,[110] debate continues as to whether and how Māori sovereignty can be expressed.

Despite signing a treaty, the British largely ignored the promises they had made. Although the state recognised aspects of Māori law and custom, it did so to facilitate colonisation.[111] From the 1840s, the Crown purchased land from Māori (in doing so acknowledging their possessory rights to land). However, the land market was structured to disadvantage and dispossess Māori,[112] and the process intended to extinguish communally held lands and convert them into statutory native title.[113] Attempts to minimise Māori law reached its zenith in 1877, when in *Wi Parata v Bishop of Wellington*, Prendergast CJ claimed that no body of customary law existed and dismissed the Treaty as a 'simple nullity' because, on the Māori side, 'no body politic existed capable of making a cession of sovereignty'.[114] Following *Wi Parata*, Māori attempts to compel the British common law to recognise their customary rights met with little success.[115]

State legal orders continued to ignore, undermine, and override Indigenous legal orders. But in the face of significant community pressure from Indigenous and non-Indigenous activists, momentum began to shift in the mid-to-late twentieth century in both New Zealand and Australia. In the 1950s and 1960s, Māori challenged the view that the Treaty was a nullity. Māori and their supporters called on the government to 'Honour the Treaty', by making good on past promises and rectifying historic wrongs. In 1975 this pressure led to the establishment of a permanent commission of inquiry. The Waitangi Tribunal is empowered 'to inquire into and make recommendations' in relation to Māori claims that they have been prejudicially affected by legislation or Crown action inconsistent with Treaty principles.[116] While the Tribunal's decisions are not binding (except in limited cases), they carry political and moral force and serve as the basis for Crown-iwi negotiations to settle breaches of te Tiriti.

In Australia, Aboriginal and Torres Strait Islander peoples also asserted their claims as sovereign peoples in political and legal spheres. Perhaps the most evocative example is the Tent Embassy, established in 1972 in response to Prime Minister McMahon's rejection of Aboriginal land rights, but many other examples exist. They include everyday acts of resistance, such as learning to speak in language, or reminding audiences before public speeches that 'these lands are, always were and always will be Aboriginal land – sovereignty never ceded'.[117] It also includes more formal statements and petitions. In 1988, for instance, the Northern Territory Land Council presented the *Barunga Statement* to Prime Minister Hawke, calling for a treaty 'recognising our prior ownership, continued occupation and sovereignty and affirming our human rights and freedom'.[118] The Uluru Statement from the Heart also speaks in this register. It records that 'sovereignty is a spiritual notion' that 'has never been ceded or extinguished, and co-exists with the sovereignty of the Crown'.[119] The artwork that surrounds the Uluru Statement reflects this authority. Depicting two Anangu creation stories it records that 'Uluru has

[110] Waitangi Tribunal, *He Whakaputanga me te Tiriti: The Declaration and the Treaty* (Wai 1040, 2014). On recent scholarship interrogating inconsistencies between the te reo and English language versions see: Ned Fletcher, *The English Text of the Treaty of Waitangi* (Bridget Williams Books, 2022).
[111] Williams (n 25) 8.
[112] Stuart Banner, 'Conquest by Contract: Wealth Transfer and Land Market Structure in Colonial New Zealand' (2000) 34(1) *Law & Society Review* 47, 49.
[113] See, eg, *R v Symonds* [1847 NZPCC 387, *Native Lands Act 1862* (NZ), *Native Land Act 1865* (NZ).
[114] [1877] 3 NZ Jur (NS) SC 72, 78.
[115] See *Nireaha Tamaki v Baker* [1901] AC 561, (1901) NZPCC 371 (but see *Native Land Claims Adjustment and Laws Amendment Act 1901* (NZ), s 27; *Land Title Protection Act 1901* (NZ), s 2; and *Maori Land Claims Adjustment and Law Amendment Act 1904* (NZ)); *Tamihana Koroka v Solicitor-General* (1912) 32 NZLR 321 (CA); *Re The Ninety-Mile Beach* [1963] NZLR 461 (CA)
[116] *Treaty of Waitangi Act 1975,* Schedule 1; *Treaty of Waitangi Amendment Act 1985*.
[117] Commonwealth, *Parliamentary Debates*, House of Representatives, 31 August 2016, 163 (Linda Burney).
[118] NT Land Councils, *Barunga Statement 1988* (June 1988).
[119] *Uluru Statement from the Heart*, Uluru, 26 May 2017.

power and that power comes from the Tjukurpa stories that converge here'.[120] The referendum to insert an Aboriginal and Torres Strait Islander Voice in the Australian Constitution was defeated in 2023, but these efforts have met with broader success.

3. *Increasing Recognition of Indigenous legal Orders*

From the 1970s and 1980s, Australia and New Zealand gradually began to recognise the validity of Indigenous legal orders. Adapting and responding to accommodate and utilise non-Indigenous law and practice, tikanga Māori and Aboriginal law exist 'as a real force, influencing or controlling the acts and lives' of Indigenous peoples across Aotearoa New Zealand and the Australian continent.[121]

Australian law recognises some elements of Aboriginal and Torres Strait Islander peoples' law. Most notably, this arises in the native title context. In *Mabo v Queensland (No 2)*, the High Court held that the British acquisition of sovereignty did not necessarily extinguish Indigenous peoples' rights and interests in lands and waters under their own laws and customs. The Court explained that the Australian common law could recognise those rights and interests provided they met a stringent test of traditional connection.[122] While limited in important respects, the *Mabo* decision illustrates that Australian law may be sufficiently adaptive to allow two or more legal systems to intersect.[123]

Recovering that intersection may require political reform for the courts remain wedded to the original approach. In 1979, for instance, Wiradjuri man Paul Coe argued before the High Court that Aboriginal people were a sovereign nation who continued to possess rights to self-government. The High Court disagreed, finding the proposition 'impossible in [Australian] law to maintain'.[124] In the 2020 *Love* case, the Court reiterated this decision, declaring that a distinct and separate Indigenous sovereignty is inconsistent with the assertion of sovereignty by the British Crown.[125] This does not mean that Aboriginal and Torres Strait Islander peoples' inherent sovereignty does not exist today. It just means that Australian law does not recognise its existence.

New Zealand may have initially recognised Māori native title for the purposes of extinguishment, but a new approach is also evident. Following the commencement of the Waitangi Tribunal, legislation increasingly recognises Māori custom and law.[126] Gradually, Māori rights and interests, generated within and from their own legal order, are protected and recognised in the state legal order. For instance, although te Tiriti only has legal force when incorporated by parliament in statute, this now occurs in at least 25 pieces of legislation other than treaty settlements.[127] Similarly, within the last ten years, there has been a resurgence in the common law recognition of tikanga Māori.[128] The creation of the Waitangi Tribunal has provided an avenue for the assertion of Māori legal authority within the state legal order, supporting an increase in the recognition of Māori law and culture within New Zealand law. Of course,

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[120] Rene Kulitja, cited in Natassia Chrysanthos, '"Overwhelming Support": How the Uluru Statement came Together on Canvas', *Sydney Morning Herald* (online, 27 May 2019) <https://www.smh.com.au/national/how-the-uluru-statement-came-together-on-canvas-and-what-it-means-20190521-p51pq3.html>.
[121] Jones (n 96) 5; Australian Law Reform Commission, *Recognition of Aboriginal Customary Laws* (Report No 31, 1986) vol 1, 79 [103]. See further Harry Hobbs, *Indigenous Aspirations and Structural Reform in Australia* (Hart, 2021) 19.
[122] *Mabo v Queensland (No 2)* (1992) 175 CLR 1, 59 (Brennan J).
[123] *Commonwealth v Yarmirr* (2001) 208 CLT 1, [37].
[124] *Coe v Commonwealth* (1979) 24 ALR 118, 129.
[125] *Love; Thoms v Commonwealth* (2020) 270 CLR 152
[126] Williams (n 25) 12.
[127] Matthew Palmer, 'Indigenous Rights, Judges and Judicial Review in New Zealand' in Jason Varuhas and Shona Wilson Stark (eds), *The Frontiers of Public Law* (Hart, 2020) 123, 128.
[128] *Takamore v Clarke* [2012] NZSC 116, [2013] NZLR 733 at [94-[95]; *Ngāti Whātua Ōrākei Trust v Attorney General* [2022] NZHC 843; *Ellis v R* [2-22] NZSC 114.

this is not to suggest that this elaboration is not precarious. Political actors can and have sought to unwind many of these developments.[129]

The failure of the state to recognise Indigenous legal orders constrains and challenges the exercise of Indigenous law and governance for it is a 'jurispathic' act that erases and 'suppresses'.[130] But Indigenous legal orders continue to exist even in the absence of recognition. Although we have seen a gradual shift towards recognition, this development remains fragile. To protect this process, it is necessary to clearly differentiate another non-state legal order that has the potential to harm Indigenous societies and hamper more fulsome recognition of their laws and cultures.

D. Superficial Similarities, Deeper Differences

The categorisation offered by Twining identifies the laws of 'subordinated peoples' and the common law militia movement as two forms of non-state law. Although Twining recognised an important distinction between these legal orders, superficial similarities can be acknowledged. Both are committed to at least three analogous claims: first, that there are two (or more) forms of sovereign authorities; second, the State's assertion of sovereignty suffers from a lack of legitimacy; and third, individuals making arguments from within these legal universes have not consented to the authority of the State. This means that both groups assert a non-state basis for their legal authority, an alternative, ancient, and natural legal order that pre-dates the state order. On this basis the state, and those adopting a state-centric view of law, may fail to differentiate between each, lumping them together – and dismissing them – as a form of pseudolaw.

Consider an example from Aotearoa New Zealand. In 1992, four Māori defendants charged with several offences argued (among other submissions) that their ancestors (tūpuna) had not signed te Tiriti and therefore they had never consented to the jurisdiction of the New Zealand government.[131] In their case, *Berkett v Tauranga District Court*, the court rejected the submission, concluding that 'all persons in New Zealand are bound by New Zealand law regardless of the position taken by their ancestors with respect of the Treaty of Waitangi'.[132] Similar claims have been raised elsewhere.[133]

Some have suggested these arguments are a version of Indigenous 'pseudolaw' similar to sovereign citizen pseudolaw and associated with a 'radical left'.[134] Such a view bundles all 'non-state law' together under the umbrella of 'pseudolaw' and fails to appreciate key distinctions between Indigenous legal orders and sovereign citizen legal theories.[135] It also ignores how pseudolaw arguments are impacting the exercise of Indigenous laws. Given this, we understand arguments like those made by the plaintiffs in *Berkett v Tauranga District Court*[136] and *Coe v Commonwealth*[137] as reflective of a longer history of Indigenous peoples' struggle against colonisation and for recognition of their rights as sovereign peoples. In this view, we are joined by Fleur Te Aho (Ngāti Mutunga) and Julie Tolmie, who have reasoned that Māori who raise these kinds of arguments are engaging in a form of protest.[138] They

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[129] Joel Maxwell, 'No Doubt Now that Anti-Māori Sentiment Powered the Election Result' *Stuff* (28 November 2023) <https://www.stuff.co.nz/pou-tiaki/301015744/no-doubt-now-that-antimori-sentiment-powered-the-election-result>. See further, Treaty Principles Bill 2024.
[130] Cover, 'Violence and the Word' (n 102) 1610.
[131] *Berkett v Tauranga District Court* [1992] 3 NZLR 206 (HC).
[132] Ibid 3.
[133] See also, *R v Pairama* (1995) 13 CRNZ 496; *R v Fuimaono* (CA 159/96, 24 October 1996); *Knowles v R* (CA 146/98, 12 October 1998); *Waetford v R* (CA 406/99, 4 October 1999).
[134] Harvey (n 19).
[135] Some commentators may recognise these differences as 'pseudo-law' and not 'pseudolaw', as if to distinguish non-state legal orders from the type of law deriving from sovereign citizens. Even if that is right, it perpetuates a relatively state-centric view law as it inelegantly groups together two very different legal orders.
[136] [1992] 3 NZLR 206 (HC).
[137] (1979) 53 ALJR 403.
[138] Fleur Te Aho and Julia Tolmie, 'Māori Reflections of the State's Criminal Jurisdiction Over Māori in Aotearoa New Zealand's Courts' (2023) 30(3) *New Zealand Universities Law Review* 409.

question the State's legitimacy to govern because it intrudes upon Indigenous laws, culture, and sovereignty. These claims are thus part of a broader legal and political movement among Indigenous peoples to assert their continued and continuing sovereignty.[139]

Adopting a pluralistic view allows these differences to emerge. We identify four relevant distinctions between Indigenous legal orders and sovereign citizen pseudolaw.[140] These differences stem from separate: historical bases, normative groundings, orientation towards state law, and aspirations for universalism. We explain each in turn.

First, as we have argued, the historical basis for these two legal orders differs fundamentally. Indigenous legal orders are based in the historical fact that Indigenous peoples are prior self-governing communities that have developed their own cultures, laws, and ways of living over hundreds or tens of thousands of years. It is not history per se that is important, however. This is not a temporal rule relating to a requirement of self-governance for some duration. Rather, it is a recognition that Indigenous legal orders existed, and they continue to be lived to manage real communities. In contrast, while sovereign citizen pseudolaw adherents also invoke a type of ancient legal order, their nostalgia hides the fact that this legal order never actually existed. It is a 'fantasy'.[141] There never was a moment when a legitimate government was usurped by a corporation, when the good or true divine law was masked and trampled, and the people enslaved.[142] In fact, the legal order they reify cannot exist, for its precepts and rules are ineffective.[143] While they may seek to critique the state as unjust, their legality is inherently individualistic, imposing no obligations or responsibilities on its members but promises to protect their personal rights as sovereign persons.[144] Given this orientation it offers no coherent response to circumstances where individual rights may conflict with each other or with the broader community.

Second, the normative basis for these two legal orders is also radically distinct. The laws and norms that developed within Indigenous societies are grounded in relationships, in connection to land and community. These laws relate to specific locations, places, and animals. Continued access to those lands is required for the maintenance of their cultures and legalities. The legal theory that underpins pseudolaw, in contrast, is antithetical to Indigenous legal orders. It is based on a reactionary, anti-institutional and anti-establishment claim of individual sovereignty and personal identity that protects commodified property interests. These characteristics suggests pseudolaw cannot operate as an effective normative or legal order.[145]

This grounding abstracts adherents from communities and promotes a highly experimentalist individualism. Even if believers occasionally work in groups and networks, these communities are ephemeral and untied to any place. This is visible in the dramatic processes of adaptation and mutation inherent to sovereign citizen legal theorising. In an example of radical experimentalism, multiple instructors, or gurus, emerge advocating and selling an unconventional collection of techniques and

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[139] In Aotearoa New Zealand, this has also arisen in discussions over 'co-governance', as well as in documents like He Puapua and the Matike Mai Report: Michaela Ryan-Lentini, 'Co-Governance in Aotearoa New Zealand: Controversy and Cooperation', *Equal Justice Project* (online, 30 June 2022) <https://www.equaljusticeproject.co.nz/articles/co-governance-in-aotearoa-new-zealand-controversy-and-cooperation2022>; Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand, *He Puapua* (Whiringa-ā-rangi, 2019); Independent Working Group on Constitutional Transformation, *Report of Matike Mai Aotearoa* (2016).

[140] We thank Donald Netolitzky for particularly valuable comments on this section.

[141] Robert Black, '"Constitutionalism": The White Man's Ghost Dance' (1998) 31(2) *John Marshall Law Review* 513, 514.

[142] Netolitzky (n19) 803-4 (discussing Ruth Braunstein, 'The "Right" History: Religion, Race, and Nostalgic Stories of Christian America' (2021) 12(2) *Religions* 95.

[143] Wilson Huhn, 'Political Alienation in America and the Legal Premises of the Patriot Movement' (1999) 34(3) *Gonzaga Law Review* 417, 425. Huhn argues that their claims are self-defeating.

[144] Michael Barkun, *Religion and the Racist Right: The Origins of the Christian Identity Movement* (University of North Carolina Press, Revised Ed, 1997) 207.

[145] Crowe (n 34).

ideas that promise to absolve their client's legal liability.[146] Some gurus prosper for a time potentially catalysing the formation of a small group or movement, while others falter and reappear with transformed pseudolegal arguments. Yet, these groups do not survive for long. The guru may retire, be arrested, or his or her followers may learn that sovereign citizen pseudolaw does not generate freedom from the state regime as the guru maintains. When communities dissipate, those who remain committed to the underlying legal theory continue to experiment and borrow from non-conventional discourses in a further attempt to oppose state authority and protect their individual interests. Because the only consistent narrative this order possesses is opposition to state law and protection of individual rights, it is not just an illegal legal order, but is prone to fragmentation, experimentalism, and multiplication. The proliferation of inexplicable individualist attempts to invoke their legal order explains why conventional authorities (and scholars) characterise it as 'pseudolaw'.

The primacy of individual rights intrinsic to sovereign citizen legal orders also reveals its inability to generate the stability required of a true normative community. It 'lacks the intellectual formation and logic of arguments based on philosophy, history, anthropology and cultural studies'.[147] It also lacks the urgency and normative basis of Indigenous claims. The language of sovereignty employed by Indigenous peoples' 'captures the essence of *both* a separate cultural entity and historical dispossession *and* the exclusion and lack of consent involved in the creation of the modern … state'.[148] It questions the legitimacy of state authority and 'accuses it of historically excluding Indigenous people and of continuing with that exclusion today'.[149] Sovereign citizen pseudolaw differs 'from "calling out" persistent hegemony and raising issues of the ongoing injustice of discrepancies in social and economic measures between Indigenous and non-Indigenous populations'.[150] It devolves quickly into accusations that some 'secret and powerful elite controls governing bodies' to 'inform a worldview in which the world is controlled by a group with nefarious intentions'.[151]

Third, Indigenous legal orders and sovereign citizen pseudolaw differ in their orientation towards state law. As we demonstrated in the previous section, state legal processes and authorities are increasingly recognising and affirming aspects of Indigenous law and legal traditions. While this process is haphazard and inconsistent and may affect the nature and culture of Indigenous law itself,[152] it reveals how Indigenous legal orders can coexist with the state. In Canada, the Supreme Court has endorsed the metaphor of 'braiding' to explain how Indigenous and state legal norms can 'be interwoven, with guidance from international law, to form a single, strong rope'.[153] This is not to say that Indigenous legal orders must always be integrated within the state; one aim of modern treaty processes, for example, is to insulate a domain of Indigenous law-making capacity from the state.[154] Where effective, these cases involve the state withdrawing from a legal space to facilitate the exercise of Indigenous laws. Sovereign citizen pseudolaw allows no space for integration; it cannot coexist with the state. These legal orders are predicated on opposition to state law and a reclamation of a nostalgic Common Law. Their legal vision is explicit; there is a good and True law, and an evil false law that must be eliminated. In this sense, sovereign citizen pseudolaw promotes a duel between systems, whereas Indigenous legal orders seek opportunities for engagement and the mutual recognition of obligations.

Finally, relatedly, given Indigenous legal orders are connected to Country and community they apply to and are lived by members of specific societies. While non-Indigenous peoples must follow the

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[146] *Meads* (n 69) [54].
[147] Taplin, Holland and Billing (n 13) 118.
[148] Larissa Behrendt, *Achieving Social Justice: Indigenous Rights and Austalia's Future* (Federation Press, 2003) 102; Aileen Moreton-Robinson, *The White Possessive, Property, Power and Indigenous Sovereignty* (University of Minnesota Press, 2015).
[149] Behrendt (n 148) 103.
[150] Taplin, Holland and Billing (n 13) 120.
[151] Ibid 119.
[152] Williams (n 25) 12.
[153] *Reference re An Act respecting First Nations, Inuit and Métis Children, Youth and Families*, 2024 SCC 5 [7].
[154] Harry Hobbs and George Williams, 'The Noongar Settlement: Australia's First Treaty' (2018) 40(1) *Sydney Law Review* 1, 10-14.

relevant laws when spending time on Country, for example, these laws are primarily local, fixed to land and persons, and focused on immediate contexts and material experiences. By contrast, sovereign citizen legal orders aspire to abstract and a-temporal universalism. It maintains that all citizens within the state are slaves to the illegitimate and false law of the state. As such, the process of purging the unlawful government will apply to everyone. That sovereign citizen pseudolaw is an abstract set of beliefs that reflect and react to state law, explains, in part, its ability to migrate internationally in a range of different jurisdictions.

Nevertheless, a state-centric view of law remains dominant. The prioritisation of state law and ignorance of non-state legal orders combine to elide these key distinctions between sovereign citizen pseudolaw and Indigenous legal orders. This dismissal means that Indigenous assertions of political and legal authority can be misunderstood as a species of pseudolegal nonsense, threatening to undermine the increasing state recognition of Indigenous law. It also conceals the increasing influence of sovereign citizen pseudolegal rhetoric in Indigenous sovereignty arguments. While the Voice to Parliament referendum highlighted this alarming pattern, the challenge is demonstrably broader. It is present in public protests, native title proceedings, and a range of legal cases. It is to this concerning development we now turn.

III. INTERSECTING CLAIMS

For individuals without training in state law, sovereign citizen and Indigenous sovereignty arguments may appear similar and might offer an avenue to freedom. If the foundation of law is contract, and I have not personally agreed to follow the state's driver licensing regime, on what basis do the police and courts have for imposing it upon me?[155] If the land on which my property sits has never been validly ceded to the state by treaty, on what basis does the bank have for initiating foreclosure proceedings if I choose not to make my mortgage repayments?[156]

Of course, as state courts have clearly stated, these arguments have no prospect of success. Nevertheless, in search of legal victory, some of those who employ sovereign citizen thinking have turned to Indigenous rights claims. Perhaps conscious of the rhetorical support, moral strength and increasing recognition of Indigenous difference, they have sought to clothe their own arguments. At the same time, the growth and internationalisation of sovereign citizen pseudolaw,[157] has led some Indigenous peoples to articulate their rights claims as part of or alongside sovereign citizen arguments.

Intersections have become increasingly prominent in courtrooms over the last few years, but some early adapters are evident. Reports suggest that some pseudolaw gurus travelled to Australia and 'targeted' Aboriginal and Torres Strait Islander communities in the early 2010s.[158] Some of these arguments may have found their way across the Tasman and infiltrated Māori communities. In 2013, for instance, Graham Rangitaawa filed a (defective) habeas corpus writ arguing his detention was illegal on the basis that he is only subject to the jurisdiction of his hapu (sub-tribe), and not the District Court.[159] At first glance, this appears to be a Māori-based jurisdictional challenge like those identified by Te Aho and Tolmie. However, it also draws from sovereign citizen pseudolaw. In support of his submissions, Mr Rangitaawa presented a dual-person or strawman-type claim. He submitted, 'that he is Rangatira Graham Rangitaawa and that the person having that name is a different person from Graham Colin Rangitaawa'. At trial, Mr Rangitaawa pleaded guilty, but his written submissions suggested that

[155] See, for example, *Rainima v Magistrate Freund* [2008] NSWSC 944 (12 September 2008).
[156] See, for example, *Farm Credit Canada v 1047535 Ontario Limited*, 2021 ONSC 2541 (24 March 2021)
[157] See Hobbs, Young and McIntyre (n 15).
[158] Natasha Wallace, '"Messiah-like figure" is doing own harvesting', *Sydney Morning Herald* (15 January 2011) <https://www.smh.com.au/world/messiahlike-figure-is-doing-own-harvesting-20110114-19r9v.html>; and Ramon Glazov, 'Freemen Movement Targets Indigenous Australia', *The Saturday Paper* (6 September 2014) <https://www.thesaturdaypaper.com.au/news/indigenous-affairs/2014/09/06/freemen-movement-targets-indigenous-australia/1409925600962#hrd>.
[159] *Rangitaawa v Chief Executive of the Department of Corrections* [2013] NZCA 2 (5 February 2013).

Graham Colin Rangitaawa was 'a legal entity in "trust" with the Registrar-General in office with Internal Affairs New Zealand'.[160] The Court did not engage with this proposition and dismissed his appeal.

Other examples can be noted. In 2016, Rhys Warren was detained in custody until he could be tried on two counts of attempted murder of law enforcement officers. Warren sought to challenge the legality of his detention on three grounds. First, on a jurisdictional basis drawn from Māori sovereignty, Warren submitted that 'Māori have retained "internal" sovereignty over New Zealand',[161] and thus the *Corrections Act 2004* (NZ), which authorised his detention, is of no effect. The Court held that this challenge had 'no prospect of success'.[162] Warren's second and third claims were different; they were located directly in sovereign citizen pseudolaw. Warren submitted that the *Corrections Act* was 'passed by an unlawful Parliament' because the original New Zealand Constitution had been 'repealed and replaced' by the *Constitution Act 1986* (NZ).[163] Warren's third argument was equally tenuous; he explained he was not actually Rhys Warren but, 'Te Tangata Whenua, in counsil (sic) with Te Tangata Whenua … 3rd party to the Corporate title, the juristic person a legal fiction the deceased estate Rhys WARREN'.[164] Tangata Whenua is te reo Māori for 'people of the land', an important aspect of tikanga Māori. Of course, when expressed through a strawman claim, its legal and cultural significance are undermined. The court evidentially agreed, clarifying that it also 'has no prospect of success'.[165]

These cases are also found in Australia. In 2023, David Cole, an Indigenous man in the Northern Territory, sought to avoid the operation of Australian law by arguing he is a 'sovereign tribal man'.[166] Although this claim appears merely to echo Paul Coe's challenge to the Australian state in the 1970s, closer analysis reveals a sovereign citizen strain. Cole is a prominent anti-vaxxer and leader of the Original Sovereign Tribal Federation.[167] He was charged with contravening Covid-19 public health directions by visiting remote Aboriginal communities without a permit issued by the Northern Land Council (or the support of Elders within those communities).[168] Cole was unsuccessful.

This case further demonstrates the weakness of sovereign citizen pseudolaw, which likely lacks the normative foundation of an actual legal system.[169] Despite attempting to appropriate Indigenous legal systems to further his individual claim, Cole fell afoul of two normative systems of law. He breached state covid regulations and violated the legal systems of the Indigenous communities in Arnhem Land he claimed to support. Rirratjingu elder Witiyana Marika noted Cole had 'no business' being in Yirrkala, 'He should just go away and leave us alone. He's coming in here and s***-stirring Yirrkala … he's got no right'.[170]

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[160] Ibid [6].
[161] *Rhys Richard (Ngahiwi) Warren v The Chief Executive of the Department of Corrections* [2017] NZSC 20 (2 March 2017) [4] ('*Warren*'). For several earlier applications see *Warren v Chief Executive of Deparment of Corrections* [2017] NZHC 12 (Toogood J); *Warren v R* [2016] NZSC 156; *R v Warren* [2016] NZHC 2401 (Brewer J).
[162] *Warren* (n 161) [7]. See further *Te Tangata Whenua v Chief Executive of the Department of Corrections* [2017] NZSC 189 ('*Te Tangata Whenua*').
[163] *Warren* (n 161) [4].
[164] *Te Tangata Whenua* (n 162) [2].
[165] Ibid [4].
[166] *Cole v Rigby* [2023] NTSC 20 [2].
[167] Richard Baker, 'Alt-Right Seeks Indigenous Help for Fight with "Illegal" Government', *Sydney Morning Herald* (online, 16 February 2021) <https://www.smh.com.au/politics/federal/alt-right-seeks-indigenous-help-for-fight-with-illegal-government-20210212-p571w1.html>.
[168] Matt Garrick, 'Prominent Norther Territory anti-vaxxer David Cole arrested and charged in East Arnhem Land over COVID-19 breach' (*ABCNews*, 17 February 2022) <https://www.abc.net.au/news/2022-02-17/nt-police-yirrkala-david-cole-vaccine/100839994>.
[169] While those called 'sovereign citizens' inhabit a normative world, it is debateable whether that normative world is consistent enough to be considered law. See Crowe (n 34).
[170] Garrick (n 168).

The Cole example demonstrates that some Indigenous people have adopted sovereign citizen legal theorising in seeking to promote their individual rights.[171] Sovereign citizen rhetoric and pseudolegal arguments are also percolating within Indigenous communities. A recent anthropological study of native title processes found that:

> practitioners report hearing the same or very similar phrases to reflect underlying arguments about being outside of the jurisdiction of the legal system, or the belief that the government is an illegitimate corporation which has usurped the legal system of government.[172]

The authors continue, 'It is not uncommon for people to intuit arguments, such as repeating the "fact" that they have "common law rights"'.[173]

A point of clarification seems appropriate here, as the term 'common law' is being used in different ways that create confusion. In one sense, 'common law' is legally specific to the state. For instance, native title is a creation of the common law.[174] In Aotearoa New Zealand, it was used to convert Māori customary land holdings into a form of title issued by the Crown,[175] but the Māori Land Court can now recognise Māori customary land as 'native title'.[176] In Australia, native title is state-based, common law recognition of Aboriginal and Torres Strait Islander peoples' rights and interests in lands and waters generated within their own legal systems. The phrase 'common law' is the system of state law and a system that specifically recognises particular claims, like negligence or native title, which is shared among former British colonies (at least in name). However, the invocation of 'common law' above is indicative of a higher, non-state-based inalienable right and is associated with sovereign citizen pseudolaw. This equivocation of 'common law' is confusing and potentially disruptive to sound and efficient decision-making within Indigenous contexts.[177]

It is more common for non-Indigenous people to make sovereign citizen pseudolegal arguments that misappropriate Indigenous rights recognised within the state legal system. In *James v District Court at Whanganui*, for instance, a self-represented litigant argued that he did not have to register his dog, Connor, under the *Dog Control Act 1996* (NZ).[178] James explained that Connor did not need to be registered with the Council because he is 'a Legal Person, entitled to all the Protection and Privileges afforded a Person under Statute'. This process was purportedly effected by a public proclamation that James had placed in a local Whanganui newspaper.[179] According to James, Connor had been transformed into a legal person via 'the same mechanism that the Whanganui River was made a Person'.[180] That the Whanganui River was given the legal rights of a person by legislation as part of a settlement between the Whanganui iwi and the New Zealand government aimed at redressing violations of the Treaty of Waitangi was not appreciated.[181] Having witnessed the apparent power of Indigenous peoples' law and culture on state law, and without appreciating this process was the result of decades of Indigenous advocacy and negotiation, James misappropriated and distorted Indigenous rights for his own purpose – to unsuccessfully avoid a NZD 50 dog registration fee.

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[171] Cole's son has also adopted similar arguments in confrontations with state authorities: see Zizi Averill, 'Alleged Anti-Vax Chemical Sprayer Faces Darwin Court', *NT News* (online, 7 February 2022).
[172] Taplin, Holland, and Billing (n 13) 118.
[173] Ibid.
[174] Stephen Young, 'Native Title as Displaced Mediator' (2021) 44(4) *UNSW Law Journal* 1739.
[175] Banner (n 112) 47.
[176] *Te Ture Whenua Māori Act 1993 / Māori Land Act 1993* (NZ).
[177] Pascale Taplin, 'Contextualising Belief in Conspiracy Theories: A Case Study in Native Title' (2023) 2(1) *Dispute Resolution Review* 1.
[178] *James v District Court at Whanganui* [2022] NZHC 2196 (31 August 2022),
[179] Ibid [21].
[180] Ibid [9].
[181] *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (NZ).

This is not only an antipodean problem. As noted earlier, a faction of African American sovereign citizen pseudolaw adherents whom call themselves the Washitaw Nation claim to be a sovereign Native American nation.[182] Canadian scholar Darryl Leroux has tracked a number of French-speaking non-Indigenous people who claim status as 'Eastern Métis' employing sovereign citizen rhetoric and ideology in Ontario and Quebec courts.[183] In 2021, for instance, self-styled Grand Chief Wabiska Mukwa of the Anishinabek Solutrean Metis Indigenous Nation (ASMIN) sought to prevent Farm Credit Canada from enforcing their mortgage over the property of two of his followers on the basis that the land properly belongs to the Kinakwii Nation. The Ontario Supreme Court noted that 'Neither Canada nor Ontario recognizes either Grand Chief Mukwa or the Kinakwii Nation as a legitimate aboriginal or indigenous nation under Canada's constitutional arrangements'.[184] It is not hard to see why. On their website, the ASMIN encourages new members, noting that 'Application for acceptance into the Nation is not limited to Native People; We do not discriminate'.[185] All that is required is a CAD 255 initial fee and a CAD 2 monthly renewal.[186] Members become free and sovereign under 'natural law' given that the ASMIN 'has not signed any treaties with the Corporate Government of CANADA'.[187] Similar claims have been dismissed.[188]

False claims of Indigeneity are not new. There is a long history in colonial societies of non-Indigenous settlers and colonists 'playing Indian'.[189] Across Aotearoa New Zealand, for example, pakeha men joined Savage Clubs to role-play as white natives, using 'Māori language and objects in mock native ceremonies'.[190] In borrowing, recuperating and distorting Indigenous motifs, designs and symbols, native-born white men sought 'to express … difference—and accordingly … independence—from the mother country'.[191] Indigenous motifs were reappropriated to create the image of a new normative system that grounds foundational authority. Sovereign citizens claiming status as a member of an Indigenous nation or community are a modern manifestation of this same phenomenon, with the added 'benefit' of avoiding state law.

Similar challenges are occurring outside courtrooms. The sovereign citizen movement in Aotearoa New Zealand has 'expressly drawn upon the language, strategies and symbols of Indigenous sovereignty'.[192] The most prominent example of this intersection occurred in November 2021, when anti-vaccine mandate protestors occupied the area outside the New Zealand Parliament in Wellington. Some

[182] Pitcavage (n 62).
[183] Darryl Leroux, *Distorted Descent: White Claims to Indigenous Identity* (University of Manitoba Press, 2019). See further Donald J. Netolitzky, 'New Hosts for an Old Disease: History of the Organized Pseudolegal Commercial Argument Phenomenon in Canada – Part III' (2023) 60(4) *Alberta Law Review* 971, 994-999.
[184] *Mukwa v Farm Credit Canada*, 2021 ONSC 1156 (16 February 2021) [4]; *Mukwa v Farm Credit Canada*, 2021 ONSC 1632 (1 March 2021).
[185] ASMIN of the Boreal Forest, 'ASMIN Membership FAQs' <https://www.asminoftheborealforest.com/membership-information>.
[186] Ibid.
[187] Ibid.
[188] *Barreau de Montréal v Bogue*, 2023 QCCQ 3429 (5 May 2023); *Barreau de Montréal v Bogue*, 2021 QCCQ 17269 (22 October 2021); *Cardin v R*, 2020 QCCA 98 (23 January 2020); *Cardin v R*, 2019 QCCA 1354 (9 August 2019). See further Netolitzky (n 183) for a comprehensive overview, though see additional cases here: *World Energy GH2 Inc. v. Ryan*, 2023 NLSC 109; *Glen Patrick Bogue (a.k.a. Spirit Warrior) v Law Society of Ontario*, 2023 ONSC 3654 (we thank Donald Netolitzky for drawing our attention to these new cases).
[189] Philip Deloria, *Playing Indian* (Yale University Press, 1998). See further Dai and Carlson (n 13) 2. See also, Elizabeth Schumacher, 'Why Germany Can't Quit its Racist Native American Problem', *DW* (online, 26 February 2020) <https://www.dw.com/en/why-germany-cant-quit-its-racist-native-american-problem/a-52546068>.
[190] Conal McCarthy, '"Our Works of Ancient Times"' (2009) 2(2) *Museum History Journal* 119, 134. Note that these clubs originally formed in London and were named after the poet and murderer Richard Savage.
[191] Patrick Wolfe, 'Settler Colonialism and the Elimination of the Native' (2006) 8(4) *Journal of Genocide Research* 387, 389; See Kim TallBear, 'Indigenous Genocide and Reanimation, Settler Apocalypse and Hope' (2023) 10(2) *Aboriginal Policy Studies* 93.
[192] Te Aho and Tolmie (n 138) 15, citing Young, Hobbs, and McIntyre (n 17) 6. While we call the manifestation of sovereign citizen pseudolaw in Aotearoa New Zealand a movement, adherents would not identify themselves in that way.

protestors were inspired by QAnon and expressed their belief that 'new Nuremberg trials were coming'.[193] Others, including some of whom were Māori – adopted the language of Māori activists in ways that distorted tikanga. In February 2022, protestors invaded a marae (meeting house) claiming they had authority over the land.[194] The following month, protestors lit fires outside Parliament and clashed with police in riot gear. Māori leaders urged them to go home and reprimanded them for 'flagrantly dishonouring tikanga'.[195] In reply, protestors declared that Māori leaders were 'sell outs and paid puppets'.[196]

Those protests drew inspiration from the January 6 Capitol Hill insurrection in the United States. So too did a sovereign citizen-inspired protest in Canberra. In mid-December 2021, a group of Indigenous and non-Indigenous Australians led by members of the Original Sovereign Tribal Federation sought to take over the Aboriginal Tent embassy outside Old Parliament House. Blending and borrowing from the sovereign citizen and Indigenous sovereignty movements,[197] the group illustrates the complex (and concerning) intertwining of legal theories. Demonstrating the importance of nostalgia to sovereign citizen pseudolaw, the Original Sovereigns chose Old Parliament House as the site of their protest because they believed it was the last place Australia had a legitimate government before an illegitimate corporation took over.[198] Jack Latimore explains,

> They believe the quasi-mystical locus of power in Australia is vested in the "seat" of the Old Parliament because that is the address listed on the ABN registrations of the Commonwealth's economy and trade departments. The new Parliament House, the seat of federal government since 1988, is "pretend," they say, and the government's jurisdiction "fiction".[199]

Protestors believed they could infiltrate the government, but they were also infiltrating Aboriginal identity. Aboriginal men 'were made the face'[200] of the camp and demanded police 'prove their jurisdiction' with 'deeds and titles'.[201] As Day and Carlson note, however,

> [f]ocusing on the actions of a handful of Aboriginal men detracts from the behaviour of white settler conspiritualists who populated the camp, and many who were performing Indigeneity free from accountability to Indigenous families and communities.[202]

The Original Sovereigns sought credibility from association with Indigenous sovereignty while using it to assert their own views on governmental authority and jurisdiction. Of course, the 'Indigenous

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[193] Toby Manhire, 'The Protest that Revealed a New, Ugly, Dangerous Side to our Country', *The Spinoff* (online, 10 November 2021) <https://thespinoff.co.nz/society/10-11-2021/protest-covid-vaccine-wellington>.
[194] Glenn McConnell, 'Iwi Take Unprecedented Stand Against "Abusive" Protesters who Invaded Marae', *Stuff* (online, 28 February 2022) <https://www.stuff.co.nz/pou-tiaki/127904988/iwi-take-unprecedented-stand-against-abusive-protesters-who-invaded-marae>.
[195] Ibid.
[196] Ibid.
[197] Toni Hassan, 'Who are the "Original Sovereigns" who were Camped Out at Old Parliament House and what are their Aims?', *The Conversation* (online, 17 January 2022) <https://theconversation.com/who-are-the-original-sovereigns-who-were-camped-out-at-old-parliament-house-and-what-are-their-aims-174694>.
[198] Josh Roose, 'How "Freedom Rally" Protestors and Populist Right-Wing Politics may Play a Role in the Federal Election', *The Conversation* (online, 15 February 2022) <https://theconversation.com/how-freedom-rally-protesters-and-populist-right-wing-politics-may-play-a-role-in-the-federal-election-176533>.
[199] Jack Latimore, '"Blackfishing": Alt-Right Pushes to Co-opt Aboriginal Tent Embassy to Cause', *The Age* (online, 8 January 2022) <https://www.theage.com.au/national/blackfishing-alt-right-pushes-to-co-opt-aboriginal-tent-embassy-to-cause-20220105-p59lzj.html#Echobox=1641588318-1>.
[200] Day and Carlson (n 13) 8.
[201] Latimore (n 199).
[202] Day and Carlson (n 13) 8, referencing Charlotte Ward and David Voas, 'The Emergence of Conspirituality' (2011) 26 *Journal of Contemporary Religion* 103.

custodians of the Canberra region have rejected any connection to the Original Sovereigns, embarrassed and upset by what they see as lack of respect'.[203]

The referendum on a Voice to Parliament became a flashpoint for many of these intersections. In one video viewed thousands of times, an Indigenous woman claimed that if Aboriginal and Torres Strait Islander peoples are recognised in the Constitution, 'we will lose…our rights over our tribal lands', because Indigenous sovereignty will be ceded to a 'corporation'.[204] A similar post on Facebook argued that the referendum would lead to Indigenous peoples becoming Australian citizens and losing their sovereignty.[205] As mentioned in the introduction, some videos suggested that Australia has two Constitutions: a lawful 1901 Constitution which 'guarantees all your rights and freedoms as Australian people' and a 'REVISED Corporate Fake Constitution' registered in the United States.[206] Another viral claim reproduced in posts across social media contended that recognising Indigenous Australians in the Constitution would create a 'contract' between the government and Indigenous people, and – somehow – allow the United Nations 'to seize property and declare a totalitarian republic'.[207] In its most generous reading, people sharing these posts are unfamiliar with Australian law as it exists and demonstrate a concern for protecting Indigenous rights and recognising Indigenous sovereignty. Yet, these examples also reflect the influence of sovereign citizen pseudolaw.

It is hard to know how to respond to these claims. While they rely on basic misunderstandings of Australia's legal system – the Constitution largely does not protect human rights, for example – civics education programs are unlikely to prove effective counters. These claims spread because they reflect the genuine and understandable distrust that many Aboriginal and Torres Strait Islander peoples have in the Australian government. But they are amplified by non-Indigenous Australians who seek to leverage Indigenous peoples in their own campaigns against the government and the state. For that reason, it appears the more fanciful the claim, the broader its reach. An analysis of 246,000 tweets on the Voice referendum sent by 32,453 unique accounts between March and May 2023 found that the second and third 'most viewed conspiratorial tweet[s]' belonged to Warrimay lawyer Josephine Cashman. In both posts, Cashman asserted that the Voice to Parliament was part of the United Nations' Agenda to 'Steal Australian Land & Assets' on behalf of the Corporatocracy.[208] Indigenous Australians may have legitimate concerns about the state and the Voice referendum.[209] Many people might be concerned about the role and influence of corporations or businesses on government. However, dressing those concerns in the language and rhetoric of pseudolaw – of an entirely different (illegal) legal order – may generate more views but will not generate legitimacy.

The examples discussed thus far highlight the concerning intersection of sovereign citizen pseudolaw and Indigenous sovereignty arguments in litigation, public protests and national debates, but conflation is also occurring in less public ways through the influence of gurus.[210] For instance, combining Māori kingitanga-style advocacy (Māori king movement) with pseudolaw rhetoric and strawman theory, real-estate agent and developer Jenny Robins styles herself as ':Lady-Crown-Turikatuku-III©™:' and leader

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[203] Hassan (n 197).
[204] Mikele Syron, 'Viral Video Sows Land Rights Misinformation', *National Indigenous Times* (online, 23 June 2020) <https://nit.com.au/23-06-2023/6482/viral-video-sows-land-rights-misinformation>.
[205] Blair Simpson-Wise, 'Motley List of Voice Misinformation Goes Viral', *AAP Factcheck* (online, 21 September 2023) <https://www.aap.com.au/factcheck/motley-list-of-voice-misinformation-goes-viral/>.
[206] Williams (n 5).
[207] 'Kim Beazley Dismisses Claim he Foreshadowed "Totalitarian Republic" via Voice Referendum as "Rubbish", *RMIT FactLab* (online, 31 March 2023) <https://www.rmit.edu.au/news/factlab-meta/beazley-dismisses-claim-he-foreshadowed-totalitarian-republic>.
[208] Graham (n 12) 14. See further Emma Brancatisano, '"Extremely Politicised": How "Very Worrying" Voice Misinformation Spreads Online', *SBS* (online, 8 October 2023) <https://www.sbs.com.au/news/article/extremely-politicised-and-very-worrying-how-misinformation-about-the-voice-spread/w9sl4pzba>.
[209] Amy McQuire, 'Voting on "The Voice": Will it Fight Racist Violence', *Presence* (online, 5 January 2023) <https://amymcquire.substack.com/p/voting-on-the-voice-will-it-fight>.
[210] See Stephen Young and Harry Hobbs, 'The Impact of Pseudolaw on Local Government' (draft paper, on file with authors) 7, 12, 20.

of the Mauri [sic] Nation.[211] Robins collaborates with another pseudolaw guru, Janine Arabella, who has declared that 'all Crown and corporate assets are now under the stewardship of Janine of the house of Arabella, are now held in trust for Mauri [sic] and Tauiwi, the guardians of these resources'.[212] In Australia, a well-known pseudolegal organisation called My Place has a website filled with run-of-the-mill pseudolegal resources on the strawman theory, birth certificate 'frauds', and more.[213] It also borrows from and supports Indigenous activism that has mingled with pseudolaw. It links to and popularises Grandmother Mulara's website, 'Grandmother Wisdom'. Grandmother Mulara describes herself as an 'Aboriginal Senior Lore Women who also holds a Juris Doctor in colonial law'. Her webpage explains why there are two Australian Constitutions and why people should vote against the Voice Referendum.[214] It is unclear how widespread this less public intersection is. We do know that some Indigenous communities have warned about this influence,[215] indicating that the effects are broad. However, a detailed understanding of the effects on and within Indigenous communities remains largely unexamined.

IV. CONCLUDING REFLECTIONS

Courts and judicial officers are routinely confronted by submissions with little prospect of success. Sometimes, those submissions might simply reflect the challenging brief provided to counsel. In other cases, it could be a function of an alternative legal order seeking recognition and enforcement in state law. In this paper, we have used a pluralistic perspective on law to shift attention from the familiar legal order of the state to non-state and illegal legal orders. We have considered two examples: Indigenous peoples' laws and customs, and the sovereign citizen pseudolaw that emerged from the United States militia movement and has travelled globally. Although these two legal orders have very different origins and normative bases, they are increasingly conflated by litigants, protestors, and ordinary people: sovereign citizen pseudolaw is impacting and influencing arguments drawn from Indigenous legal orders. It is sowing confusion, distorting Indigenous law and culture,[216] and damaging the credibility of Indigenous claims.

When Indigenous peoples adopt sovereign citizen arguments, they undermine the political, moral, and legal basis for their claims. They make Indigenous sovereignty arguments easier to dismiss or disregard by state actors. This is not merely because sovereign citizen arguments are 'spurious'.[217] Rather, it is chiefly because these arguments are based within an ideological heterodox community that is highly individualistic and preoccupied with the protection of 'natural' rights to autonomy and property.[218] This same legal order never existed and seeks to undermine and replace our own legal system. Given this, it attracts support from people with little interest in upholding Indigenous laws and customs and respecting reciprocal obligations.

Non-Indigenous pseudolaw adherents who appropriate Indigenous motifs and legalities also harm Indigenous peoples. As Day and Carlson note in relation to the attempted takeover of the Tent Embassy by the Original Sovereigns, white people:

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[211] ':Lady-Crown-Turikatuku-III©™:' <https://rangihouthetruthrevealed.weebly.com/lady-crown-turikatuku-iii.html>.
[212] 'Janine speaks with Lady-Crown: Turikatuku III from the Mauri Nation', *Public Notices NZ* <https://publicnoticesnz.com/janine-speaks-with-lady-crown-turikatuku-iii-crown-of-the-mauri-nation/>.
[213] My Place Australia, 'Law-Lore' <https://web.myplaceaustralia.org/law-lore/>.
[214] Grandmother Wisdom, '1973 Constitution Change' <https://grandmotherwisdom.com/1973-constitution-change/>.
[215] See Sovereign Yidindji Government (n 20); Hiawatha First Nation (n 20).
[216] Charmayne Allison, 'Two NSW Men Found Guilty of Using Oily Handprints to Damage Sacred Uluru Cave Art', *ABC News* (online, 12 October 2023) <https://www.abc.net.au/news/2023-10-12/nt-court-convicts-nsw-men-for-uluru-cave-art-damage-handprints/102968566>.
[217] Donald J Netolitzky, 'Lawyers and Court Representation of Organized Pseudolegal Commercial Argument [OPCA] Litigants in Canada' (2018) 51(2) *UBC Law Review* 419, 420
[218] Baldino and Balnaves (n 33) 15.

> "playing Aboriginal" to actualise settler narratives of warriorhood against a corrupting, external evil that has infiltrated the settler government is denying Aboriginal and Torres Strait Islander sovereignty. It is not enacting it.[219]

They do not act with solidarity or alliance when they do not shoulder the obligations and responsibilities inherent within Indigenous legal orders.

A pluralistic view is valuable because it enables lawyers, politicians, state actors, and others to appreciate the varieties of non-state legality. More specifically, it clarifies that even if Indigenous claims of and for sovereignty are unlikely to succeed in litigation within the state, Indigenous legal orders are fundamentally distinct from sovereign citizen pseudolaw. A pluralistic view also helps reveal that sovereign citizen pseudolaw is infiltrating Indigenous legal orders. We should appreciate the differences between these non-state legal orders. As Te Aho and Tolmie succinctly state, it is 'important that the jurisdictional claims by Māori are not placed in the same category as the claims of the sovereign citizen movement and hastily dismissed'.[220] They reflect fundamentally different traditions, arguments, and perspectives. Failing to attend to this pluralism turns a blind eye to a growing problem.

[219] Day and Carlson (n 13) 11.
[220] Te Aho and Tolmie (n 138).