

# BOOK REVIEW: Jean d'Aspremont, International Law as a Belief System

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## Abstract

In his latest monograph, Jean d'Aspremont argues that the way in which international lawyers think about and practice international law can be perceived as a belief system. This system is based on certain fundamental doctrines, such as sources, responsibility, statehood, interpretation, *jus cogens*. These doctrines comprise rules and rest on an imagined genealogy. The belief system also relies on self-referentiality to justify its different components, and creates an experienced sense of constraint among international lawyers. d'Aspremont focuses on the discourses in the field of international law to expose their structure and reveal the often fictive connections they entertain, with the historical developments that gave birth to them. Despite the complexity of presenting overlapping notions, d'Aspremont offers convincing and well supported claims. Understanding his arguments, however, often requires familiarity with the theoretical debates surrounding certain notions and instruments. Most importantly, previous exposure to the practice of international legal argumentation is necessary to make sense of the author's assertions. The author does not advocate for radical reform of the way we practice international law; rather, he invites us to suspend our entanglement in this set of beliefs as a reflective exercise. The readers will have to decide for themselves whether this leads them to reform or entrench current international law paradigms. They can, however, seize the analytical tools proposed by d'Aspremont to better understand their own practice, improve the effectiveness of their own practice, and teach the art to the next generation of international lawyers.

## *French translation*

Dans sa plus récente monographie, Jean d'Aspremont soutient que la manière dont les juristes spécialistes en droit international pensent et pratiquent celui-ci peut être perçue comme un système de croyances. Ce système est basé sur certaines doctrines fondamentales, tels que les sources, la responsabilité, l'état, l'interprétation, et le *jus cogens*. Ces doctrines comprennent des règles et s'appuient sur une généalogie imaginaire. Le système de croyances est aussi basé sur l'auto-référentialité pour justifier ses divers composants, et crée un sentiment de contrainte parmi les juristes du droit international. d'Aspremont met l'accent sur les discours dans le champ du droit international pour en exposer la structure et pour révéler les liens souvent fictifs qu'ils entretiennent avec les développements historiques qui leur ont donné naissance. Malgré la complexité inhérente à la superposition de plusieurs notions, d'Aspremont offre des affirmations convaincantes et bien fondées. Comprendre ses arguments, cependant, requiert souvent une certaine familiarité avec les débats théoriques autour de certaines notions et instruments. Encore plus important, une exposition préalable à la pratique de l'argumentation internationale juridique est nécessaire pour donner du sens aux affirmations de l'auteur. L'auteur ne prône pas pour une réforme radicale de la manière dont nous pratiquons le droit international; au contraire, il nous invite à suspendre notre enchevêtrement dans cet ensemble de croyances comme un exercice réflexif. Les lecteurs

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devront décider par eux-mêmes si cela les amène à reformer ou confirmer les paradigmes contemporains du droit international. Ils peuvent cependant se saisir des outils analytiques proposés par d'Aspremont pour mieux comprendre leur propre pratique, améliorer l'effectivité de celle-ci, et enseigner ce savoir-faire aux futures générations de juristes en droit international.

*Spanish translation*

En su más reciente monografía, Jean d'Aspremont señala que la manera en la que los juristas internacionales piensan y practican el derecho internacional puede ser percibida como un sistema de creencias. Este sistema está basado en ciertas doctrinas fundamentales, como las fuentes, la responsabilidad, la categoría de estado, la interpretación y el jus cogens. Estas doctrinas comprenden ciertas reglas y permanecen en una genealogía imaginada. El sistema de creencias también se basa en una auto-referencialidad con el fin de justificar sus componentes, y crea un permanente sentido de restricción en los juristas internacionales. D'Aspremont se enfoca en los discursos en el campo del derecho internacional para exponer sus estructuras y revelar las frecuentemente ficticias conexiones que ellas presentan con los desarrollos históricos que les dieron nacimiento. A pesar de la complejidad y de las nociones superpuestas, d'Aspremont ofrece pretensiones convincentes y bien fundadas. Entender sus argumentos requiere sin embargo, de un nivel de familiaridad con los debates teóricos que giran en torno a ciertas nociones e instrumentos. Aún más importante, una exposición previa a la práctica de la argumentación legal internacional es necesaria para entender las proposiciones del autor. El autor no advoca por una reforma radical de la manera como practicamos el derecho internacional; por el contrario, nos invita a suspender nuestros enredos en este conjunto de creencias como un ejercicio de reflexión. Los lectores tendrán que decidir por ellos mismos si el artículo los lleva a reformar o a afianzar los paradigmas actuales de derecho internacional. Ellos pueden sin embargo, tomar las herramientas analíticas propuestas por d'Aspremont para entender mejor su propia práctica, mejorar la efectividad de su propia práctica, y enseñar el arte a la siguiente generación de juristas internacionales.

- I. Introduction
- II. Jean d'Aspremont's Expository Claims: International Lawyers Experience International Law Through Fundamental Doctrines That They Perceive as Rules, Associate to An Imaginary Genealogy, and Justify by Recourse to Other Fundamental Doctrines
- III. The Doctrine of Statehood and the Montevideo Convention Illustrate How the Belief System Manifests Itself in International Law
- IV. Where Do We Go From Here? Let's Suspend the Belief System, Reject Apostasy, and Choose Our Own Path Forward
- V. Closing Remarks On the Use of Vocabulary and the Pedagogical Potential of d'Aspremont's Approach

## I. Introduction

Sources; responsibility; statehood; interpretation; jus cogens. Anyone with some exposure to the field of international law will recognize here elementary building blocks of the topic. These items, and there might be others, are constitutive elements of international law discourses. For those of us more acquainted with the field, they immediately evoke, respectively, Art 38(1) of the Statute of the International Court of Justice (ICJ);<sup>1</sup> the International Law Commission (ILC) Articles on the Responsibility of States;<sup>2</sup> the Montevideo Convention;<sup>3</sup> Art 31 of the Vienna Convention on the Law of Treaties (VCLT);<sup>4</sup> Art 53 of the VCLT.<sup>5</sup> We make these immediate and unequivocal connections because we are trained to deploy these tandems together. Moreover, we often refer to the sources and interpretation tandems to justify the use of these few building blocks. This constitutes a system of thought that structures our practice of international law. Furthermore, this system relies on theories that are often closer to founding myths than accurate historical accounts. It is this entire construct that Jean d'Aspremont invites us to reexamine in *International Law as a Belief System*.<sup>6</sup>

d'Aspremont's first steps are to explain the constitutive elements of the belief system he is exposing, namely the fundamental doctrines. He defines their characteristics and conditions of realization, as well as demonstrates the fundamental character of such doctrines in internal legal argumentation (Chapter 2). The author then shows how internal legal argumentation deploys fundamental doctrines, those of sources and interpretation in particular, to explain the existence and function of the fundamental doctrines themselves, which is the inherent self-referentiality of the belief system (Chapter 3). To continue his demonstration, the author focuses on several manifestations of the belief system, such as the use of instruments deemed as formal repositories of the doctrines, and the invention of genealogical connections between such instruments and the doctrine to allow them to play the role of repositories (Chapter 4). Finally, once he has successfully laid out his expository claims and adequately supported them, d'Aspremont invites us to temporarily suspend the previously exposed belief system (Chapter 5). He does not direct us to any specific destination once we accept to set aside the belief system, although he guards against a permanent rejection of it (so-called apostasy).

In the following, I will summarize and critique d'Aspremont's *International Law as a Belief System*. I will adopt the same sequential approach as the author: I too will start by spelling out the intertwined expository claims regarding the structure of the belief system and its characteristics. I will also, then, use illustrations to substantiate this analytical framework previously exposed, and show how the author grounds his analysis in the functioning of international legal argumentation. Thirdly, I will expose what would be a suspension of the belief system, consider the consequences of adopting this framework, and analyze the end goal of the author. As a way of conclusion, I will make observations on the terms d'Aspremont chose to present his arguments, and comment on the pedagogical potential of his work.

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<sup>1</sup> *Statute of the International Court of Justice*, 26 June 1945, Can TS 1945 No 7 art 38(1) (entered into force 24 October 1945).

<sup>2</sup> *Responsibility of States for Internationally Wrongful Acts*, GA Res 56/83, UNGAOR, 56th Sess, Supp No 10, UN Doc A/RES/56/83 (2001).

<sup>3</sup> *Montevideo Convention on the Rights and Duties of States*, 26 December 1933, 165 LNTS 19 (entered into force 26 December 1934) [Montevideo].

<sup>4</sup> *Vienna Convention on the Law of Treaties*, 23 May 1969, 1155 UNTS 331 art 31 (entered into force 27 January 1980).

<sup>5</sup> *Ibid* at art 53.

<sup>6</sup> Jean d'Aspremont, *International Law as a Belief System* (Cambridge: Cambridge University Press, 2018) [d'Aspremont, *Belief System*].

## II. Jean d'Aspremont's Expository Claims: International Lawyers Experience International Law Through Fundamental Doctrines That They Perceive as Rules, Associate to An Imaginary Genealogy, and Justify by Recourse to Other Fundamental Doctrines

At the core of the belief system articulated by d'Aspremont lie the fundamental doctrines. The author attributes three constitutive characteristics to these doctrines: ruleness, imaginary genealogy resting on formal repositories, and self-referentiality. These three characteristics are necessary and cumulative for fundamental doctrines; they are conditions of existence. They are also mutually reinforcing, and there are, therefore, overlaps in their rationale, and definitions.

The first element is that of ruleness.<sup>7</sup> d'Aspremont only gives meager explanations about this characteristic beyond that it “refers here to the need to represent fundamental doctrines as sets of rules”.<sup>8</sup> For this definition to avoid the pitfall of circular reasoning, it would have been helpful to unpack further what is meant here. Even more since the “experienced sense of constraint” – which could have been a way to describe what a rule is or does - is analyzed later as a distinct aspect of the belief system emanating from all three characteristics of the fundamental doctrines, rather than attached to ruleness in particular.<sup>9</sup> We can only regret the outstanding puzzle about this “prerequisite of the other conditions of realization”.<sup>10</sup>

The second condition of realization and defining characteristic of the fundamental doctrines is the imaginary genealogy.<sup>11</sup> International lawyers anchor fundamental doctrines in formal repositories. They create a link, reputedly genealogical, between an instrument and a doctrine. Such instruments can be international conventions, landmark decisions of international tribunals, or even the works of the International Law Commission. Most often, these instruments do not initially come to life for the purpose of serving as such repositories. When that is the case, the genealogy nonetheless erases the competition of powerful interests that crafted them over time. This is why the genealogical link, later created, is fictive. International lawyers imagine this genealogy through an implicit, collective choice to associate a fundamental doctrine to one (and sometimes more) key artefact. While these repositories exist independently of the doctrines and may have binding force on certain states on their own, as is the case for treaties or judicial decisions, they take a much broader meaning in the international legal order than their initial purpose through association with a fundamental doctrine. This choice itself tends to follow the rules contained in certain fundamental doctrines (sources and interpretation), and therefore reinforces the overall system.

Accordingly, the third characteristic is self-referentiality.<sup>12</sup> Fundamental doctrines constitute self-explanatory frameworks. They have the potential to “invent and dictate their own formation and functioning.”<sup>13</sup> The rules enshrined in the doctrine of sources regulate

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<sup>7</sup> *Ibid* at 37–39.

<sup>8</sup> *Ibid* at 31.

<sup>9</sup> *Ibid* at 47–54.

<sup>10</sup> *Ibid* at 38.

<sup>11</sup> *Ibid* at 39–45.

<sup>12</sup> *Ibid* at 45–47, 55–70.

<sup>13</sup> *Ibid* at 45.

the making of international rules. The rules enshrined in the doctrine of interpretation regulate how they function. Because the doctrines are perceived as sets of rules, the doctrines regarding the making and interpretation of international rules apply to them. By the same token, once the said rules apply to the fundamental doctrines themselves, it confirms that they are indeed a set of rules. The characteristics of fundamental doctrines are, thus, mutually reinforcing.

The author's presentation of self-referentiality, however, needs further explanation. The author treats all fundamental doctrines as part of a single group and does not differentiate among them regarding their characteristics. The "self" prefix here points to the idea that fundamental doctrines, in general, rely on other fundamental doctrines for justification. However, we need to clarify that it is always on the same two fundamental doctrines, namely sources and interpretation, that all fundamental doctrines, including these two, rely on for this purpose. While all the fundamental doctrines share the characteristics the author presents, the doctrines of sources and interpretation occupy a special place in the framework; they are even more fundamental than the other doctrines since they provide justification for all doctrines. While d'Aspremont chose not to introduce such further classification among these doctrines, we need to keep this distinction in mind. Indeed, while the doctrines of statehood or responsibility require recourse to the doctrines of sources and interpretation in the self-referential operation described above, they are themselves unable to provide justification for other doctrines.

The three characteristics of rulelessness, imagined genealogy, and self-referentiality define the fundamental doctrines. International lawyers deploy them in their discourse about international law. International lawyers hear each other speak of the rules pertaining to sources, responsibility, statehood, interpretation, *jus cogens*; they also hear each other refer to them in association with the corresponding instruments as repositories; they further hear each other justify these fundamental doctrines through the use of other fundamental doctrines in the same terms. Thus, international lawyers repeatedly experience the foregoing system. This experience gives rise to an acceptance of fundamental doctrines as truth in international law.<sup>14</sup> International lawyers commit themselves to this structure of thought in international legal argumentation, adopt it, and perpetuate it. The experience of international law discourses generates a sense of constraint toward fundamental doctrines operating as transcendental validators. This is how, according to d'Aspremont, international law can be perceived as a belief system.

### **III. The Doctrine of Statehood and the Montevideo Convention Illustrate How the Belief System Manifests Itself in International Law**

The foregoing summarized the framework proposed by d'Aspremont in Chapters 2 and 3 to apprehend how international legal argumentation operates. Chapter 4 offers illustrations of how the belief system manifests itself. It provides the reader with historical demonstrations of the imagined character of the genealogical link between fundamental doctrines and formal repositories. It also shows how the belief system creates a justificatory space allowing international lawyers to formulate arguments without the need to endlessly justify their premises. In general, the discussion of "manifestations of the belief system" anchors the theoretical framework developed in the previous chapters to examples of international legal argumentation. Chapters 2 and 3 only briefly referred to examples and remained largely focused on abstract concepts. The mutually reinforcing characters of many aspects of the author's theoretical claims warrant this sequential choice. Providing an overview of the entire analytical framework before exploring in depth how it applies to

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<sup>14</sup> *Ibid* at 47–48.

certain objects bypasses the need to justify in advance a point that would be developed later, avoiding unnecessary overlap. Chapter 4 can give substance to the elements previously exposed as it brings together several elements that have already been justified independently of one another. Moreover, this strategy also serves to emphasize the general character of the claims about fundamental doctrines. It highlights how these claims do not depend on the adequacy between the proposed framework and a specific object, but constitute an approach to interpret international legal argumentation generally. It is, thus, harder to reject the overall framework if one finds an object to which it does not apply perfectly, or if the reader does not consider a chosen example to allow for generalization. Although the author's choice came with the risk of a drier read in Chapters 2 and 3, this tradeoff contributes to the demonstration and serves his arguments.

The doctrine of statehood is one of the few examples that d'Aspremont develops in Chapter 4.<sup>15</sup> The doctrine of statehood comprises the requirements for an entity to be a state in the international system: a permanent population, a permanent territory, an effective government, and the capacity to enter into international relations. While the question of whether to recognize a state has always been a site of fierce competition between regional and global political interests (think of Palestine), states and their international lawyers nonetheless justify their decisions of whether to recognize a state on the basis of the above criteria. d'Aspremont, for instance, points to the written statements that several states submitted to the International Court of Justice in 2009 when it examined the legality of the unilateral declaration of independence of Kosovo.<sup>16</sup> This example is convincing, but may not be the strongest available to the author. There are certainly discourses about statehood that display the same pattern outside of judicial proceedings before the ICJ, and such examples would grant greater support for the underlying argument.

International lawyers anchor this doctrine in the 1933 Montevideo Convention on Rights and Duties of States.<sup>17</sup> The Montevideo Convention was a regional treaty, negotiated and signed only by states in the Americas.<sup>18</sup> d'Aspremont affirms that it is only in the 1950s and 1960s, an era when decolonization gave birth to many new states, that international lawyers searched for a universal doctrine for recognizing states, and constructed a genealogical link with the Montevideo Convention. He further argues that the drafting history demonstrates that the main focus of this treaty was non-intervention, rather than recognition of states. The imagined genealogy of the universal doctrine of statehood and recognition therefore lies in "the product of a codification of American public international law on non-intervention."<sup>19</sup>

Lastly, other doctrines justify the validity of the doctrine of statehood contained in the Montevideo Convention. This Convention forms part of international law as it is understood as a set of customary rules. The doctrine of sources, which rests on Art 38 of the ICJ Statute, provides that norms that have acquired a customary status are binding on all states. The VCLT, being itself the repository of the doctrine of interpretation, also contemplates in Art 38 that rules from a treaty can become binding on states that are not a

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<sup>15</sup> *Ibid* at 79–86.

<sup>16</sup> *Ibid* at 80, n 43; see also <[www.icj-cij.org/en/case/141/written-proceedings](http://www.icj-cij.org/en/case/141/written-proceedings)>.

<sup>17</sup> See Montevideo, *supra* note 3.

<sup>18</sup> International Court of Justice, "Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo (Request for Advisory Opinion): Written Proceedings" (17 April 2009), online <[www.icj-cij.org/en/case/141/written-proceedings](http://www.icj-cij.org/en/case/141/written-proceedings)> (The States parties to the Montevideo Convention are Brazil, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, United States, and Venezuela).

<sup>19</sup> *Ibid* at 86.

party to the treaty through international custom. These other doctrines justify bypassing the dissonance between, on the one hand, the inherent limited regional reach of the Montevideo due to its treaty nature, and on the other, the universal character of the rules it now provides for.

International lawyers thus discuss the rules of statehood contained in a doctrine that they have built into international law, via an already existing instrument initially designed for other purposes, and through reliance on other doctrines. The insistence on deploying this doctrine in discourses promoting or rejecting the recognition of new states, rather than pointing to the political advantages of either position, speaks to the sense of constraint that accompanies the doctrine of statehood. International actors acquired this sense of constraint through the experience of being exposed to and practicing international legal discourse in that way. The doctrine of statehood is therefore a manifestation of the belief system constitutive of international legal argumentation.

d'Aspremont acknowledges that “[m]any international lawyers today question the very modes of legal reasoning put in place by the doctrine of statehood,”<sup>20</sup> calling for its amendment or even replacement. This does not weaken the claim that it is a fundamental doctrine. On the contrary, it confirms this status. Fierce contestation demonstrates that the doctrine of statehood plays a fundamental role in international legal thought and practice. It is because the doctrine of statehood forms part of the grammar of international law that its content must be modified (or maintained).<sup>21</sup> It is one of the components of international law argumentation system based on belief in the ruleness of certain fundamental doctrine, belief in their grounding into a formal repository, and belief in the possibility to justify it by reference to other fundamental doctrines.

#### **IV. Where Do We Go From Here? Let’s Suspend the Belief System, Reject Apostasy, and Choose Our Own Path Forward**

Once d’Aspremont has presented us with this belief system, he invites us to suspend it. We should set aside the inherent self-referentiality of the belief system, and approach the formation and functioning of fundamental doctrines without reference to the doctrine of sources or the doctrine of interpretation.<sup>22</sup> This also means setting aside the imagined genealogy. As a result, we could make room in our understanding of international law for the multiple interventions that shaped the doctrine and that the belief system obscures. The making of fundamental doctrines would thus no longer be understood “as a state-centric law-making process”.<sup>23</sup> Rather, we would come to see the many sites of struggles where a multitude of international lawyers shape the modes of legal reasoning around fundamental international law doctrines. This process is one of “inventing tradition.”<sup>24</sup> State agents purposefully negotiating instruments with the aim of codifying international law into formal repositories are part of this process; “strong power structures, overarching agendas and hierarchies” play an important role.<sup>25</sup> Any actor “who is sufficiently well versed in the modes of legal reasoning recognised and practiced by international legal

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<sup>20</sup> *Ibid* at 79.

<sup>21</sup> See William Sewell, “The Concept(s) of Culture” in Victoria Bonnell, Lynn Hunt & Richard Biernacki, eds, *Beyond the Cultural Turn: New Directions in the Study of Society and Culture* (Berkeley and Los Angeles: University of California Press, 1999) 35; See also *ibid* (“the act of contesting dominant meanings itself implies a recognition of their centrality” at 56–57).

<sup>22</sup> d’Aspremont, *Belief System*, *supra* note 6 at 104–15.

<sup>23</sup> *Ibid* at 106.

<sup>24</sup> *Ibid*.

<sup>25</sup> *Ibid* at 109.



professionals” nonetheless has the potential to also shape this process.<sup>26</sup> The functioning of fundamental doctrines would equally appear as a series of uncoordinated interventions “by a great variety of actors involved in international law discourse.”<sup>27</sup>

Suspending the belief system entails a rupture with formation and interpretation-based self-referentiality. It constitutes an un-learning process. In turn, this allows to reveal the complexity of international law discourse; it streams from a chaotic combination of interventions, some purposeful and some not, by heterogeneous actors advancing disparate interests. This messiness creates, and continuously shapes, how international lawyers think and engage with international law in their argumentative practice. By exposing international law as a belief system, d’Aspremont hopes to make room in our minds for this complex reality. In the author’s words, “this book is aimed primarily at providing new reflective tools to professionals of international law with a view to allowing them to liberate themselves, albeit temporarily, from inherited patterns of legal thought they have been trained to reproduce and respond to.”<sup>28</sup>

Once he has achieved this objective, d’Aspremont, however, refuses to direct us to a preferred outcome. On the contrary, he made “the choice to abstain from controlling the consequences of the suspension of the international belief system”;<sup>29</sup> this is what he calls his “consequentialist agnosticism.”<sup>30</sup> This does not mean that he refuses to consider potential consequences. Indeed, he acknowledges that his arguments “[come] with a risk”: “a consolidation of the current power structures and forms of violence.”<sup>31</sup> On the other hand, he also affirms that his arguments can at the same time constitute “an unprecedented empowerment of reformers.”<sup>32</sup> The tone and vocabulary d’Aspremont deploys in mentioning these two opposing scenarios in the epilogue give us some indication that he would prefer the latter over the former. In the introduction, the author gave an even clearer indication of his preference in the following sentence: “[t]he reformist empowerment promoted by the unlearning of the fundamental doctrines accompanying [the] suspension of the belief system is discussed in the Epilogue [...] of this book.”<sup>33</sup> Nonetheless, we must recognize that beyond such clues, he does not engage in a vigorous promotion of either scenario, and leaves this ambition “for later and for others.”<sup>34</sup> We can see here an attempt to guard the proposed image of international law against two kinds of critiques: if he advocated for a specific end goal, opponents of this particular end goal could easily discard the core of d’Aspremont’s work, approaching international law as a belief system, as an undesirable journey to take given that they do not adhere to the destination itself; on the flip coin, critics could reject the stated end goal if the guiding metaphor did not convince them. d’Aspremont’s affirmation that his arguments “[come] with no transformative urge”<sup>35</sup> therefore constitute an effective shield to protect the baby when the bathwater gets thrown out.

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<sup>26</sup> *Ibid* at 108.

<sup>27</sup> *Ibid* at 113.

<sup>28</sup> *Ibid* at 117.

<sup>29</sup> *Ibid* at 117–18.

<sup>30</sup> *Ibid* at 118.

<sup>31</sup> *Ibid*.

<sup>32</sup> *Ibid*, see also *ibid* at 19.

<sup>33</sup> *Ibid* at 19.

<sup>34</sup> *Ibid* at 120.

<sup>35</sup> *Ibid*.

However, there remains one exception to d'Aspremont's consequentialist agnosticism. It lays in the explicit rejection of the possibility of apostasy, that is, a permanent "renunciation by international lawyers of all their current beliefs in terms of modes of legal reasoning."<sup>36</sup> This is because he deems this possibility neither possible, nor desirable. The author affirms that it would be impossible to fully distance oneself from the "cognitive biases created by the fundamental doctrines."<sup>37</sup> Moreover, complete rejection of the belief system would mean the collapse of the possibility of communication. There needs to be a set of commonly accepted truths for anyone to deploy any argument without an endless regression of justifications. The author thus argues that in spite of its flaws, getting rid of the belief system would terminate "international law as an argumentative practice."<sup>38</sup> Given that this belief system is what makes discourses about international law possible for advocates of change as well as for proponents of the status quo, neither should wish for its disappearance. This is why the author carefully opted for the term "suspending" rather than "terminating" the belief system.

In rejecting the possibility of apostasy, the author takes a stand regarding the desirability of international law generally. In guarding against what could terminate international law as an argumentative practice, he works from the unspoken assumption that international law ought to exist, and that we ought to be able to communicate about it. d'Aspremont does not address this premise, and does not tell us why international law is itself desirable or necessary. The presence of subtle clues revealing the author's preference for a reformist agenda that I exposed earlier further undermines the contention that he is indeed agnostic as to the consequences of his arguments. The author still relies on assumptions that are not ethically neutral. Using the idea and vocabulary of "agnosticism" may have been appealing to convince a wider readership, but it is nonetheless an inexact description of his position.

## V. Closing Remarks On the Use of Vocabulary and the Pedagogical Potential of d'Aspremont's Approach

Reading d'Aspremont attentively is also important in order to properly apprehend the nature of his overall argument. The author carefully reminds his readers on numerous occasions that the belief system he proposes is an image rather than "an accurate depiction of the inner operation of the international legal discourse."<sup>39</sup> Indeed, the title of the book is "international law *as* a belief system," and not "international law is a belief system" [emphasis added]. Although this phrasing has become a hackneyed cliché for a publication title, the author here deploys it wisely since it accurately signals that he is putting forth a metaphor rather than a definition. The depiction of international law as a belief system is not definite; it is one of many possible accounts of how the fundamental tenets of international law are formed, function, and are deployed in legal discourse. The author not only acknowledges this, but goes as far as to state at the outset that his image does not have "any kind of rational or empirical superiority" on competing narratives.<sup>40</sup> This breeze of modesty is refreshing in academic writing.

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<sup>36</sup> *Ibid* at 121.

<sup>37</sup> *Ibid* at 20.

<sup>38</sup> *Ibid*.

<sup>39</sup> *Ibid* at 117.

<sup>40</sup> *Ibid* at 3.

Another choice of terms throughout the monograph deserves some attention here. In the above review, unsurprisingly, I used the vocabulary found in the book to speak of the analytical framework developed there: for instance, “fundamental doctrines” and “formal repositories.” The book, however, is only the final product of the author’s research and crafting of arguments that had been in the making for some time. The terms the author chose in the monograph and the way he framed his arguments evolved until the final phases of his writing. Reading the book, I was struck by the difference in vocabulary between the written product and the way I had heard the author present the same arguments at a lecture at McGill’s Faculty of Law on 30 March 2016.<sup>41</sup> At the time, he presented his project as focused on the “mysticism” of international legal argumentation, and spoke of “gospels” and “canons” in reference to the doctrines and authoritative texts. The book hardly features such religious vocabulary, with the exception of “apostasy.”<sup>42</sup> One needs to search for a footnote in the first chapter to find the author’s admission to previously using such vocabulary in presenting his arguments.<sup>43</sup> The use of this very vocabulary triggered several questions after the lecture; Jean d’Aspremont had to clarify that he was not arguing that international legal argumentation was a theological exercise, and he distanced his claims from Pierre Schlag’s approach to “law as the continuation of God by other means.”<sup>44</sup> The gospel and canons analogies must have appeared appealing at first for the author, on the one hand as ways to instigate curiosity for his arguments, and on the other as a tribute to international law’s roots in *jus naturalis* and Christianity. However, it must have also become clear to the author that this way of presenting the arguments raised too many questions, directed the audience’s attention to the analogies rather than the substance of the arguments, and eventually obscured the meaning of the author’s claims. This was so, despite the numerous examples of theological vocabulary used for similar descriptive and analytical purposes in international legal scholarship. In responding to questions after the lecture, Jean d’Aspremont ‘confessed’ to moving away from the idea of mysticism in his description of the phenomena at play in international legal argumentation, while still describing the core dichotomy as one between gospels and canonical texts.<sup>45</sup> The costs of this “self-serving and purely opportunistic use of vocabulary”<sup>46</sup> proved to be too high in the end, and the author properly chose to sacrifice wordplays for clarity. This anecdote on the genealogy of the book’s vocabulary tells us something about how the ‘packaging’ of academic arguments matters, and also how the exercise of presenting arguments to peers while the writing of the monograph is still in progress is not (just) indulging in self-promotion, but actually contributes to refining the author’s thoughts and presentation thereof.

Lastly, this monograph not only represents a great eye-opening moment for international lawyers in terms of better understanding their own practice, it also constitutes an excellent tool for them to teach international legal argumentation. d’Aspremont claims that international lawyers experience the belief system at play, integrate it and perpetuate it. Arguably, most of this happens implicitly, through emulation. It can nonetheless happen explicitly. Those of us engaged in teaching the practice of international law in a variety of ways (delivering lectures, coaching moot court competitions, supervising externships, etc.)

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<sup>41</sup> Jean d’Aspremont, “Mysticism of International Legal Argumentation,” (30 March 2016) (lecture delivered at the Faculty of Law, McGill University, 30 March 2016). For a recording of the lecture, see Jean d’Aspremont, “Mysticism of International Legal Argumentation,” (30 March 2016), podcast online: *Inter Gentes Journal of International Law and Legal Pluralism* <[www.soundcloud.com/intergentes/lecture-by-professor-jean-daspremont](http://www.soundcloud.com/intergentes/lecture-by-professor-jean-daspremont)> and <[www.intergentes.com/intervien-with-jean-daspremont](http://www.intergentes.com/intervien-with-jean-daspremont)> [d’Aspremont “Mysticism”].

<sup>42</sup> See d’Aspremont, *Belief System*, *supra* note 6 at 23–24.

<sup>43</sup> See *ibid* at 8, n 22.

<sup>44</sup> Pierre Schlag, “Law as the Continuation of God by Other Means” (1997) 85:2 *Cal L. Rev* 427.

<sup>45</sup> d’Aspremont, “Mysticism”, *supra* note 42 at 0h:49m12s–0h:51m:46s.

<sup>46</sup> *Ibid* at 0h:47m:45s.

can use the framework proposed by d'Aspremont to teach how to structure arguments in international law. This book "is demanding for its readership because it requires a simultaneous familiarity with theoretical debates and literacy in the doctrinal intricacies of the modes of legal reasoning associated with the fundamental doctrines of international law,"<sup>47</sup> as we can see from the many controversies and explanations relegated to footnotes. I would thus not recommend assigning this book as a reading for beginners in the field. Instructors can nonetheless seize the arguments they will find therein to present to their students how they need to use fundamental doctrines as rules, ground them in specific formal repositories, and rely on the doctrines of sources and interpretation to justify these and other fundamental doctrines in order to practice international legal argumentation. Here, I depart from the consequentialist agnosticism professed by Jean d'Aspremont, and strongly encourage international lawyers to use this revelatory book to better apprehend their own structures of thought and practice, through the suspension of the belief system, in order to better transmit them to the future generation of international lawyers.

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<sup>47</sup> d'Aspremont, *Belief System*, *supra* note 6 at 122.