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**What is This?**
License Plates: Personalized Jurisdiction and Performativity of Rights

Sarah Marusek
University of Hawai‘i Hilo, USA

Abstract
Whether personal or political, license plates represent a variety of social, cultural, and legal identities. As an enlivened legal semiotic in everyday life, license plates represent the performativity of rights in which the crafting of these legal emblems depends upon the reception of a viewing audience, namely other drivers and law enforcement. License plates mirror what's debated in American society. In jurisdictional contests involving expressions of speech and assertions of indigenous sovereignty, the license plate richly characterizes the constitutive approach to law as it transpires on roadways across the United States and particularly in Hawai‘i.1

Keywords
Constitutive law, legal semiotics, rights, indigenous sovereignty, automobile license plates, social identity

I. Introduction: Vehicularization of Identity
In his article “On the Oppositional Practices of Everyday Life,” Michel de Certeau speaks of the dominant culture as an institution in which the power to exploit is

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1. I would like to express my deep appreciation to the anonymous reviewers at Law, Culture, and the Humanities for their extensive and generous comments. I would also like to thank my fellow panelists, audience, and panel discussant Charles Yablon for their warm reception and insightful comments at the presentation of this work at the 2012 Law and Society Association International Meeting in Honolulu.
challenged by banal and unexpected tactics. Certeau describes such tactics as actions that resist the dominance of popular culture through a variety of strategic approaches such as “social exchange, technical invention, and moral resistance.” According to Certeau, strategies are “actions which, dependent on a space of power (or one’s spatial ‘property’), are able to project theoretical spaces (totalizing systems and types of discourse) which can articulate the ensemble of physical places where force is distributed [and] combine these three types of space – power, theory, and praxis.” Continuing, Certeau reminds us to see that which is not obvious, as tactics can be “essentially determined by the absence of power fully as much as strategy is organized by power as precondition.” One way to see Certeau’s approach is to consider the many ways that license plates, as legal identifiers, are employed in American vehicular culture to express a variety of ideas that range from the personal to the political. In this way, license plates are a vivid legal semiotic within the scope of the constitutive approach to law in which rights of speech and citizenship are performed and jurisdictional authority is challenged and redefined.

In contemporary automotive society, cars are often individualized in terms of ownership and usage. Cars can be personalized according to color, make, model, tire size, wheel size, even license plates. License plates, or those rectangular sheets of metal with numbers and letters attached to each car’s bumper, are officially recognized markers of a car (and driver’s) legal identity. License plates act as displays of legal belonging and often show proof of a car (and driver’s) vehicular registration, safety inspections, and licensure of driving ability. However, despite their size, plates are not all the same. Plates can be further individualized to reflect a driver’s personality, political commitments, medical background, religious beliefs, or even sexuality. The registered driver’s personal identity is revealed through the plate itself, through either a variety of words and letter combinations or through the purchase of specialty plates. Indeed, the array of choices of plate types as well as the verbage of personalized plates “is a sociolinguistic microcosm which reflects prevalent societal concerns and interests.” As a result of this panoply of possible plate appearances, what plates say provides a way in which drivers can participate in the selection of their own legal vehicular-based identities. Furthermore, plates often solicit a response based upon this projected identity. In turn, the reception of this identity creates an audience comprised of other drivers. Here, identity is dyadic, as the self-identification of the driver is not independent from the drivers who read/react/respond to those plates. Therefore, the creative ability to legally display certain types of plates illustrates the constitutive framework of the relationship operating between vehicular registration, cultural norms, and social recognition.

Plates not only tell us who we are or who we wish to be, but also where we may stand with regard to legal turpitude. In the recent Supreme Court case Florence v. County of Burlington, Justice Kennedy warns, “people detained for minor offenses can turn out to be the most devious and dangerous criminals.” As evidence for his statement, Kennedy

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refers to the initial arrest of Timothy McVeigh (executed for the 1995 Oklahoma City bombing) that was the result of driving without a license plate. On a very surface level, plates are markers of our participation in processes of basic legal registration of our vehicles. In this way, license plates represent our willingness to play the game of governance. As a way to exert our own individuality, we personalize the law by crafting our own plate-based identities, either through verbage or through the specialty plate message. When we display a particular license plate of our choosing, we perform law. We exercise our speech rights to politically advocating a particular cause linked to specialty plates. Semiotically, license plates are symbols of law and legality, and, when tethered to the notion of rights, they become an enlivened venue for expression. The purpose of this article is to articulate the complexity of license plates as crafted emblems of legality in which the personalization of legal identity becomes an avenue for performing rights, challenging jurisdictional authority, and expanding notions of citizenship.

Political scientists, geographers, and anthropologists study the relevance of images to the meaning of law. To these scholars, the study of law is not only interdisciplinary, but also expansive in scope to include a variety of approaches and applications. Whether in the forms of architecture, film, criminality, constitutionality, or everyday acts of resistance, the law has been shown to flourish on a multitude of layers under a variety of circumstances. Drawing upon this scholarship, this article will demonstrate that license plates are not only sources of law, but rich venues for political affiliation, cultural expression, and the crafting of jurisdiction. Furthermore, this article will explore the semiotic of the license plate as an emblem that creates and sustains new types of legal identities while serving as a performative resource for the assertion of rights. Adopting the methodological approach of related socio-legal scholars, I draw upon the Foucauldian focus on the visibly observable as a foundation for my own use of interpretative methods to explain how law works through symbols that we confront in our daily lives. I will also use elite interview. Following discussions of verbage, specialty plates, and state-sponsored plates, the article will explore the Kingdom of Hawai‘i license plate as the epitomization of the crafting of legal identity through the performativity of rights.

II. License Plating: Law as a System of Signs

Across the United States, plates convey a variety of meanings, both implicitly as well as overtly, as statements of political, religious, personal, medical, and social belonging. Specialty plates, or those license plates that explicitly support a particular cause or group

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affiliation, are popularly supported initiatives that generally require initial substantial popular support in the form of collected signatures and legislative and gubernatorial approval. Often these plates, which cost additional money to purchase, generate revenue for the stated cause. Such plates range in support for a variety of causes: firefighters, environmental causes, medical research, the armed forces, motorcycle advocacy, and even equestrian interests. Additionally, specialty plates promote other causes, such as organ donation, the prevention of child abuse, opposition to abortion, and the spaying and neutering of pets. Others depict handicapped drivers, war veterans, electric vehicles, or support for the arts. However, with so many types of plates, some express concern over the lack of uniformity that is typically associated with this type of vehicular marking. Illinois State Senators Dave Syverson and Christine Radogno worry about confusion on the part of law enforcement in recognizing the multiple plate faces. This confusion reveals the vital role of audience that plates generate. In this way, specialty plates are popularly constructed signs of law that are legally recognized not only by state legislatures and governors, but also by law enforcement.

In describing the work of Roberta Kevelson, Anne Wagner states “all communication is a process of meaningful exchange of meaningful signs, and signs and sign systems such as natural language mediated between communicating persons and those objects in the phenomenal, physical world of experience to which they refer.” License plates are an example of signs that contribute to this exchange through the display of specialized interests in which identity and rights become important components of communication. Moreover, the reception fostered by messages that appear on plates positions the vehicle as a site of law. Therefore, the license plate as sign system characterizes the complexity of law through the hybridization of driver and plate viewed in conveying either a personal or political message. In describing how sign systems function, Wagner cites Peirce’s notion of representamen, in which the sign “stands for that object, not in all respects, but in reference to a sort of idea.” Through metaphorical image, the plate represents contested rights and political identities that may exist on the margins of mainstream American legal society. What can happen is that the plate itself becomes a sign system that challenges the very legal authority it embodies, particularly when used by political groups that confront frameworks of legal subjectification.

In addition to displaying group affiliation, license plates can also be specialized according to the lettering present on the plate itself. For example, the Minnesota “whiskey plate” is coded in such a way as to alert law enforcement to the previous legal history of the driver. Whiskey plates are plain white with blue letters beginning with WV, WU, etc. that translate to law enforcement that the driver was convicted of a prior DUI (driving under the influence), specifically a DUI within the past 10 years, with a blood alcohol level in excess of .20 percent, or with a child in the vehicle.13 Other such unique crafting of letters might include such semantic fields as related to personality (IM A QT “I’m a cutie”), occupation (2TH DR “tooth doctor”; ROOFER; JUDGE), avocation (GOLFER; EDUC8R “educator”; CHRLEDR “cheerleader”), non-obscene foreign words (LA PAZ Spanish “peace”; YENTA Yiddish “gossipy woman”; VULEVU French Voulez-vous? “Do you want to?”), or even non-words (ZZZZZ, PFFTT).14 In his research on license plate language, Frank H. Nuessel, Jr. asserts that not all combinations of language are permitted on plates, and often “the highly visible and mobile language of personalized plates is subject to routine and often vigorous censorship by officials of the state agency which is charged with the overseeing their dissemination.” Examples of the taboo include letter combinations relating to sex (RGGASM “orgasm”; IM GAY), drugs (COCAIN; DRUNKY; BOOZER), or ethnic slurs (POLACK; FROG; RUSSKY; WOP).15 Again, social concern is reflected on plates. Nuessel asserts, “the language of personalized plates is a sociolinguistic microcosm which reflects prevalent societal concerns and interests.”16 In this context, the public is viewed as receptive audience for plates as well as responsible party needing supervision (through the censorship of the taboo). First, the public’s creative ability to arrive at various combinations of lettering provides an avenue of speech that may be socially (and legally) questionable. Second, the public is treated as the target audience for the reception of these linguistic combinations. States are aware of this social interaction; in particular, the County of Hawai‘i in the State of Hawai‘i states that “All requested numbers, letters or combinations that are misleading, publicly objectionable, or letter-number combination of regular issued plates, will be denied.”17

In his book Traffic, Tom Vanderbilt describes the anonymity of drivers with generic, non-specialty, run of the mill license plates. He attributes driver behavior to this sense of not knowing who’s behind the wheel as a release from our own identities and the social pleasantries that come from being confronted with other people in a non-anonymous way. Vanderbilt sees license plates as precursors for identification with others in terms of setting up affinities for relationships (belonging to the same state, etc.). However, he regards specialty plates as a way for Americans, in particular, “to establish their identities with personalized vanity plates” because among other things, “[a] driver yield his or her

identity to the cars."\textsuperscript{18} However, if we connect rights to identity through the license plate, then the pronouncement of personal political position becomes an ability either suppressed or allowed by the legal authorities. This point of recognition by other drivers crucially associates the position held with the identity of the driver.

\section*{III. Emblems of Identity: License Plates as Constitutive Sites of Politics and Law}

In her work on license plating, Amy Riley Lucas (2008) considers the ways in which abortion-related plates act as an outlet for speech rights. In her analysis, the revenue from these plates creates the avenue for a political voice for the plates’ supporters in which to mobilize support for their political position. Likewise, she considers the plates as contributing to a notion of public forum in which state involvement facilitates a relationship with the viewing public. Her article provides an important expansion of the notion of a public forum, as specialty plates that carry a political message force the question of “whether the government is said to be speaking for itself when it issues specialty plates – making them government speech – or whether the government encouraged or facilitated expression of individual ideas, thus creating a forum.”\textsuperscript{19} Through the speech that is expressed on the plates as political viewpoints, the issue becomes whether or not such plates violate the protected realm of free speech protected by the First Amendment. Whether or not these plates advocate governments’ position on abortion or whether the government is creating a venue for privatized speech interests involves the questionable establishment of religion. Regardless, such speech interests, whether representative of private interests or public sympathies, reveal a cultural foundation for their legal existence that license plates confirm. We can view this relationship as the constitutive approach to law, for license plates tell us not only the number of the vehicle’s registration, but the political stance of the driver as well. Through specialty plating, drivers contribute to their own vehicular-based legal identity. Just as law acknowledges this popular contribution of identity, we can see the right to express one’s identity on something as banal as a license plate is crucial to contemporary American legality as it operates within a car-focused society.

Specialty plating is political as it fosters particular racial and geographic senses of belonging. In Texas, there is the “Native Texan” plate that can be purchased by any driver in the state. According to plate founder and seventh-generation Texan Elaine Milam Vetter, “finally, we have a license plate for very special people – native Texans.”\textsuperscript{20} She further speculates that those who don’t qualify as native Texan won’t buy the plate, for she asserts, “I can’t imagine anyone who’s not a native Texan buying it.” Additionally in Texas, a new plate featuring the Sons of Confederate Veterans (SCV) and the

\begin{itemize}
\item \textsuperscript{18} Tom Vanderbilt, \textit{Traffic: Why We Drive the Way We Do (and What It Says About Us)} (New York: Knopf, 2008), p. 24.
\item \textsuperscript{20} Associated Press, “‘Native Texan’ License Plate Unveiled,” \textit{Associated Press}, September 5, 2003.
\end{itemize}
Confederate flag is slated for release. The Confederate flag was used as the SCV’s logo since the group’s founding in 1896 as well as routinely used by the Ku Klux Klan, southern governors, white supremacist groups, and arch segregationists as a symbol of racial superiority. Supporters of the plate argue that the flag represents history and the freedom of speech; opponents disagree and refer to the words of National Association for the Advancement of Colored People Vice President Hilary Shelton to describe the flag as “one of the most commonly recognized symbols of racism not only in the US but throughout the world.”

The politics of religion keenly contribute to the arena of specialty plating. In Kentucky, plates are now available that read “In God We Trust.” According to the Kentucky Transportation Cabinet, the plates address the state’s social desire, as “the cabinet believes there’s a sizable group of people who would like to have this choice.” However, the plate can also be interpreted as offensive, as a “sort of bumper-sticker, license-plate religion,” according to the President of the Louisville Americans United Chapter, Reverend Paul Simmons. In Tennessee, Attorney General Bob Cooper warned that a pending legislative proposal to create a plate proclaiming that “Jesus is Lord” was presumably unconstitutional under the First Amendment’s Establishment Clause as the state’s endorsement of a particular religion. Similarly, in South Carolina, a federal court declared a state-sanctioned plate depicting Christian imagery and the words “I Believe” to be unconstitutional. This case, Summers v. Adams, shed light on the state’s process of initiating the plate in which the “I Believe” plate did not have to go through the standard process in which groups who desire a license plate must pay $4,000 in costs and show the support of 400 interested persons. Instead, the state bypassed this procedure and passed a special ordinance to create the Christian plate. When asked about the possibility of an equivalent Muslim plate, Representative Bill Sandifer stated “Absolutely and positively no.” Those opposed to the plate’s creation included Barry W. Lynn, Americans United executive director, who noted, “Some officials seem to want to use religion as a political football.”

Indeed, specialty plates are political footballs, particularly in Arizona and ten other states that are considering the creation of a Tea Party license plate. In Arizona, the plate would depict the “Don’t Tread on Me” flag. State Representative John Kavanagh states that “In Arizona, we let people express themselves on their plates as long as it’s legal.”

However, some members of the Tea Party are opposed to the state sanctioning of the plate as being fundamentally contradictory to the party’s platform of limited government. However, others welcome the state’s recognition of the grassroots organization for political as well as economic reasons. In Arizona, groups that “promote the Constitution, state sovereignty, border security, and limited government” are eligible to receive revenue from the sale of Tea Party plates. However, political advocacy and economic support may come with social costs. As one Tea Party activist remarked about the display of the plate, “There are some who hate the Tea Party so much that I will expose myself to some anger.”

Thinking through Lucas, that which is written on license plates becomes a representation of the state. Take for example something as seemingly benign as state mottos. State mottos are used as a way of promoting the individuality of states and their citizens. In Hawai‘i, the state plate depicts the ever-present rainbow in the island state where rain, sun, and resultant rainbows are constantly in fluctuation. Along the same lines of geographic uniqueness, Alaska, the last state to join the union, displays the phrase “the Last Frontier” on its state plates. Utah, with its abundance of ski resorts in the Rocky Mountains, displays the catchy phrase “The Greatest Snow on Earth.” One need not be a resident of a particular state to understand the relevance of such state-sponsored plates. State-sponsored plates advertise the identity and appeal generally attributed to a particular state. However, state mottos are not always viewed as so benign. New Hampshire’s state motto “Live Free or Die” was determined by the Supreme Court in *Wooley v. Maynard* (1976) to in fact violate the First Amendment rights of religious free exercise held by a state resident and Jehovah Witness who, upon defacing the plate in order to remove the state motto, was arrested. In overturning his conviction, the majority argued that the state’s requirement to display the motto meant that residents were required to “use their private property as a ‘mobile billboard’ for the State’s ideological message” and did not outweigh the viewpoint principles articulated under the First Amendment.

However, license plates, such as those issued by the District of Columbia, remind us that not all licensed drivers come from states. The DMV (Department of Motor Vehicles) of the District of Columbia encourages all DC residents to support DC’s quest for full representation in the US Congress by purchasing and displaying “Taxation without Representation” vehicle tags. In California, specialty plates have been proposed as ideal sites in which to support groups that advocate for indigenous causes. Through the proposed 2010 California Indian License Plate Initiative, funds resulting from the plates would support the California Indian Heritage Center (CIHC). Advocates of the initiative include Native American groups, the California State Park Service, the CIHC, and the California Native American Heritage Commission. In this way, Native American

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sovereignty, while contained, is nonetheless popularly and legally supported through such an initiative that recognizes Indian cultural heritage. The question can then be posed as to whether or not cultural heritage is equivalent to cultural sovereignty. Perhaps the answer would reflect the level to which a culture is itself considered to be either truly sovereign or instead semi-sovereign and thus contained. This distinction will be explored in more detail in the following section.

IV. Semiotic for Indigenous Rights: The Crafting of Jurisdiction

In her pioneering work in legal semiotics, Roberta Kevelson tells us “law is a system of signs.”33 Using her premise, license plates are a sign of law in which a system of registration categorizes and legitimizes who is registered and presumably driving the car. Therefore, to legally drive a car, that car must display a registered license plate. Typically in the American context, license plates are associated with living as a resident in one of the fifty states. However, other types of license plates besides just those depicting state residency exist. Take, for example, American Indian tribal plates. These plates are registered to residents of American Indian reservations. The reservation is neither state nor territory. Instead, the reservation is a quasi-sovereign nation within the United States. The tribal license plate paradoxically represents the legal acknowledgment as well as containment of Native American sovereignty by virtue of its very inscription on the plate. This process of registration further restrains assertions of indigenous sovereignty by American Indians. At the same time, the tribal plate does recognize that American Indians are not citizens of states per se and do live in semi-sovereign places of the United States. This paradox of having a tribal plate challenges both traditional notions of citizenship and belonging and opens up new ways of considering both. “By the very act of issuing license plates, Native American nations provide daily reminders both to its members and to outsiders of their legitimacy and of an identity distinct from that of other U.S. residents.”34 In his work on the crafting of nationalist identities and ideals through license plates, Jonathan Leib tells us “through the designs reproduced on their citizens’ license plates, governments are literally scripting identity.”35 While it is true that state governments are in the end responsible for creating such identities, states are also respondent to popular demands that wish to promote particular political messages, such as those relating to indigenous status, religion or abortion.

However, it is not only state governments that can craft indigenous identity. Nationalist groups such as those in Quebec, Canada, Puerto Rico, or even Hawai‘i also display their own plates and provide a rich venue for sovereignty assertions. The nationalism that Leib suggests arguably moves beyond discussions of state-sponsored nationalism to proclamations of sovereignty that exist without state sponsorship. Examples of this happen in

Canada with the Quebecois 1967 license plate, which “became a site of protest against government scripting of broader ideals of Canadian unity,” in Puerto Rico, where the 2002 plate issued by the Puerto Rican government commemorated the fiftieth anniversary of commonwealth status depicted “both the U.S. and Puerto Rican flags,” and in the United States through Native American plates. In these places, license plates demonstrate the containment of nationalist groups, who are limited in their quests for self-determination by an overarching governmental body with the authority to issue such plates. However, in Hawai‘i, the sovereignty group Kingdom of Hawai‘i operating as the Lawful Hawaiian Government, asserts its independence from both the state of Hawai‘i and the U.S. government namely through their issuing and display of their own plates, which are not formally acknowledged as legitimate or legal by the standard license-plate issuing state and national governments.

Hawai‘i is a place rich with history and only recently a state. Sovereignty groups, intellectuals, as well as everyday folks in society challenge the status of statehood under the premise of illegitimate occupation by the United States government. Local identity contributes in a dynamic fashion to the crafting of jurisdiction. Political scientist and sovereignty scholar Keanu Sai describes this contested relationship of self-determination starting with the 1893 Cleveland-Lili‘uokalani Agreement. He advocates change according to legal doctrine:

As per the 1893 Cleveland-Lili‘uokalani agreement, the U.S. was obligated to restore the Hawaiian Kingdom government, but instead illegally occupied the Hawaiian Kingdom for military purposes during the Spanish-American War, and has remained in the Hawaiian Islands ever since. The failure to restore the Hawaiian Kingdom government constitutes a breach of an international obligation, as defined by the Responsibility of States for Internationally Wrongful Acts, and the breach of this international obligation by the U.S. has “a continuing character [that] extends over the entire period during which the act continues and remains not in conformity with the international obligation.” The extended lapse of time has not affected, in the least, the international obligation of the U.S. under the Cleveland-Lili‘uokalani agreement, despite over a century of non-compliance and prolonged occupation. More importantly, the U.S. “may not rely on the provisions of its internal law as justification for failure to comply with its obligation.” Preliminary to the restoration of the Hawaiian Kingdom government de jure, the U.S. must first abide by the international laws of occupation and administer the laws of the Hawaiian Kingdom. During this period of administration, diligent research will need to be carried out in order to provide a comprehensive plan for an effective transition.

The sovereignty group, Kingdom of Hawai‘i, operates under related legal premises, as those suggested by Dr. Sai. Kingdom Nobleman for the Island of Hawai‘i and former

Marine Sam Kaleleiki (‘Uncle Sam’) states that the Kingdom of Hawai‘i must be afforded recognition by the U.S. Government under Article 1, Section 8, Clause 3 of the U.S. Constitution which describes Congressional purview involving commerce with foreign nations. Similar to Sai’s attention to legal procedure, Uncle Sam asserts that the Kingdom of Hawai‘i is a foreign nation with whom the United States government should engage, specifically through a relationship with the Kingdom’s administering body, the reinstated Lawful Hawaiian Government. Uncle Sam states, “we must think beyond our nose” in order to expand what we consider to be legality. Furthermore, he states that even though we are granted “unalienable rights from God,” “everything is law.”

While the extensive scope of sovereignty politics in Hawai‘i is beyond the purview of this article, the ramifications of license plating as a socio-legal semiotic as a constitutive approach to law is not. Just as the rights of expression are displayed in terms of First Amendment freedoms on specialty plates or the rights of indigenous citizenship on Indian tribal plates, the sovereignty license plates of the Kingdom of Hawai‘i provide a vibrant way to actually see law as it happens and is transformed in American society. As noted in the Christian Science Monitor, such a political stance is articulated on the backs of vehicles “Say It With a License Plate: Some Hawaiians use their cars to display their political leanings.” The images below are the license plates of Uncle Sam, who generously granted permission to this author for usage.

38. Interview with Sam Kalekeiki “Uncle Sam”, Wailoa State Park, Hilo, HI, April 23, 2012.
In January 1994, the Kingdom of Hawai‘i declared itself independent from the State of Hawai‘i, claiming that the state and federal governments are in illegal occupation of Hawai‘i. With a focus on the license plate as a statement of the group’s autonomy, the Kingdom goes further to “issue subpoenas for police officers, state judges, and prosecutors pursuing traffic citations against Nation members whose cars have ‘Hawaiian Sovereign Nation’ license plates instead of state tags.” According to Dennis “Bumpy” Kanahele of the Kingdom of Hawai‘i, “It’s not a threat – it’s just being informed of the law. If we can educate them, then they know they’d be personally liable.” Here, Kanahele is reclaiming the law that is used against him first through his issuing of license plates, and second through this proclamation that a new law is in effect. His actions illustrate a response to the violence of law that Robert Cover describes as resulting from legal judgment. Consequently, Kanahele’s statement is a crafted emblem of law that is represented by the politics of the license plate.

The shadow of the law operates in this context as resistance where the license plate is a legal semiotic and political symbol demonstrating the fluidity of law. In fact, ironically, those who resist the law and operate in its shadow do so under the full gaze of law, by using the symbols of U.S. law. The Kingdom of Hawai‘i represents a sovereignty group who uses the marker of a license plate to display their own vehicular registration within the Kingdom. Other groups besides the Kingdom of Hawai‘i use similar license plates, with one example of the Hawaiian Kingdom Government, founded in 2002 by Mahealani Kahau.

Ironically, the display of the plates actually moves out of the shadows and into the limelight of commonly traveled streets and roadways where the law in challenge operates. Akahi Nui, a governing official of the Kingdom of Hawai‘i announced in a 2009 letter to Hawai‘i State Governor Linda Lingle, that he would be issuing “Sovereign Automobile License Plates” and “anybody traveling in their private automobile upon the highways in their ordinary course of life and business within the Kingdom of Hawai‘i Nation ... IS NOT TO BE STOPPED OR HARASSED IN ANY MANNER FOR TRAVELING UPON THE HIGHWAYS TO AND FRO by your Police Departments at any level, at any time.”

The Hawai‘i Police Department in Hilo however, did not acknowledge Akahi’s proclamation and operated under U.S. jurisdiction. On a formal level, Kingdom of Hawai‘i

plates are considered fraudulent and invited traffic citations for failure to display the state plate. Informally, however, an unnamed police officer told me that those with such plates are well known to the department. The officer stated that when these folks are pulled over for a traffic stop, their car is usually registered with the state of Hawai‘i for purposes of vehicular registration either at the present or in the past despite the absence of a state plate. According to John Brigham who describes the words of James Baldwin, “it is the police, then, who serve as actors in the performance of the law.”45 On the Island of Hawai‘i, the Hilo police are the street level bureaucrats that Michael Lipsky describes as the front lines in making law happen.46 The officer, upon chuckling, said that because the town of Hilo is so small, the drivers of cars with Kingdom of Hawai‘i license plates are well known, as there are relatively few in number. The officer said that these drivers are treated just like any other driver, in terms of the routine violation of traffic laws; they are treated the same as drivers with Hawai‘i state license plates, as there is no special accommodation or recognition for the Kingdom of Hawai‘i by the State of Hawai‘i in terms of sovereignty recognition. Lastly, the officer described the question concerning citizenship status. When writing the citation, the police must ask the driver a question regarding American citizenship to which the driver must answer either yes or no. The officer noted that the question must be answered voluntarily and cannot be determined by the officer. If the Kingdom of Hawai‘i driver answers yes, there is an interesting juxtaposition between authority, jurisdiction, and sovereignty that may stand to counteract the semiotic of the independent license plate. However, if the driver answers no, then the driver could face immigration related issues that may keep the driver from the privileges of United States’ citizenship.

Although legality may be fluid, jurisdiction, albeit even when performed, is viewed as less dynamic. In March 2012, Emilio Serro47 was stopped on a main street in Hilo during one afternoon for display of a Kingdom plate and allegedly assaulted by police to the degree that he was taken to the emergency room. As a prelude to this incident, arrest, and overnight detainment in jail, Serro tells a story of constant police harassment, to the extent that he no longer displays the sovereignty license plate, but instead has a sticker on his car that says “Lawful Hawaiian Government.” Ironically in his words, “everything about my truck says it’s legal.”48 Interestingly, this legality is American-based legality, with proper vehicular registration, license plates (that are taped to the truck’s back windows), weight tax, safety inspection, insurance, and other pertinent paperwork. He states that he displayed the Kingdom plate “to make a statement” as “it unsettles a lot of people” and speaks of fear as the basis for opposition to the plate.

47. Interview with Emilio Serro (Pseudonym), Short and Sweet Café, Hilo, HI, March 23, 2012. Serro identifies as Native Hawaiian by virtue of mana (spiritual connection) rather than by blood-based lineage.
48. Interview with Serro.
Like Serro, Uncle Sam also wishes to make a statement by displaying the Kingdom plate. He too has been cited by the Hilo police for displaying only the Kingdom plate, which is considered to be fraudulent. In 2010, upon being pulled over by the police, Sam refused to simply pay the fine and instead took the “opportunity” to represent himself before the judge. In his own defense, he argued the legal framework attesting to the illegal actions of the American government. According to Sam, the judge, upon calling a recess and consulting the local law library, dismissed the charges and the $400 fine. Upon exiting the courtroom, the judge asked Uncle Sam whether he might do him a favor and display the Kingdom plate as well as the state plate. Sam agreed with the statement that he “was not here to make trouble” and has displayed both since.

V. Conclusion: The Performativity of Rights through Legal Semiotics

Richard Sherwin speaks about the power of the image and the need for the revitalization of the legal imagination. In his work on visual culture, he advocates “greater attentiveness to the properties and virtues of visual eloquence not as ornament (‘mere rhetoric’), but as both constitutive and invocative of the real.”49 Constitutively, we can see license plates as a way to see law, both in their creation and through their reception. In this way, law can be in the form of censored speech as specialty plates reveal, or in the form of a challenge to law through self-determination and assertions of sovereignty in the Native American tribal plates as well as the Kingdom of Hawai‘i plates. Drawing upon Sherwin’s premise of visual jurisprudence, we can see that the image of the license plate is a powerful statement of legality in which those displaying the license plate do so with the intention of conveying a message to an audience. “Law lives differently in a visual expressive system than in one exclusively made up of words.”50 Similarly, in his work on the ever-changing effect of information on our world, W.T. Scott describes the ability to harness the symbolic power of information within culture as a technology for change. Scott reminds us “we may stress the rich, indeed infinite possibilities of invention and creativity thus forced-upon our niche-less species of displaced persons, each endowed with cognitive and semiotic resources more than adequate for the task of fabulating and fabricating some sort of interpretive framework, however transient and permeable.”51 Scott is encouraging us to use our surroundings, albeit limited in scope, as a source of creativity through which to change our world, if only for a moment and on a seemingly small scale. Everyday activities by a range of actors can serve to reassert ownership over our own ability to self-determine our present and our future.

In both examples of indigenous responses to United States governance, the law associated with license plates, whether in Hawai‘i or on tribal land, has been crafted as a

response to the legal status of identity as emblems of a folk legality that has conflated political meaning with legal recognition. In Hawai‘i, local identity is rich with meaning. John Rosa describes identity in the state of Hawai‘i as culturally produced through the collective public memory of oppression relating to an “understanding of power and place in Hawai‘i.”52 He traces the framework of local identity through the use of narratives that “throughout the twentieth century, residents of Native Hawaiian, Asian, Portuguese, or Puerto Rico descent have often used the term ‘local’ in order to distinguish themselves from more recent arrivals to the islands, including tourists, military personnel, and post-1965 immigrants.”53 This distinction has labor divisions at its roots, as the plantation hierarchy was often divided between white owners and non-white workers. Of particular relevance to this framework is the Kahahawai-Massie Case in which legal consciousness pertaining to local identity was particularly relevant in the allegations of rape and an overturned murder conviction. However, Rosa reminds us that in this way, local identity is “far from problematic … as many residents collapse the distinction between indigenous Native Hawaiians and settler populations, largely from east Asia, who migrated to Hawai‘i in the late nineteenth century and early twentieth century.”54 According to Serro, who has been told that himself he could “be a shade darker,” racial appearance is less important than spiritual affiliation. This spiritual connection aligns a variety of indigenous groups from the Maori in New Zealand to the Okinawans in Japan to Aboriginal tribes in Australia to the Inuit in Alaska and American Indian tribes in South Dakota. He describes this connection as diasporic understanding of indigeneity. Serro recognizes that there are two types of identity made via the plate. The first is the image of the plate itself by onlookers, police, and other drivers. The second image is the self-view of the plates, as a “way of looking at things that are not solely political,” but instead as a statement of thinking, feeling, and believing. He further articulates that sovereignty groups are a political statement affirming a desire or choice for self-determination. He recognizes that the Kingdom plates are considered “fraudulent.” He says he does not run a double plate.

When contrasted with American Indian tribal plates, Kingdom of Hawai‘i license plating seem to support the contested Akaka Bill, or Native Hawaiian Government Reorganization Act of 2009 S1011/HR2314. The Akaka Bill is contested in part because the sovereignty claims of Native Hawaiians would be legitimized under U.S. law and therefore contained under the Department of the Interior’s management just as Native American tribal status has been. What this means is that while the Akaka Bill would create legal indigenous status for Native Hawaiians, the bill would also effectively eliminate the ability of Native Hawaiians to claim complete sovereignty from the United States or to revisit and/or re-envision the legal trajectory of the Hawaiian Islands, as Keanu Sai and others advocate. Under Hawai‘i State Bill 1520 (OHA Act 195), Governor

Abercrombie recognized Native Hawaiian rights of self-determination. Furthermore, at the federal level, President Clinton’s Apology Resolution of 1993 is a statement of support for Hawaiian self-determination, albeit perhaps more of a token statement than one of direct consequence.

When considering the comparable aspects of indigeneity present in the Native American and Native Hawaiian license plates, we can see two different approaches to the performativity of rights. Both plates assert notions of identity. Both plates assert a notion of sovereignty. Tribal plates express legalized sovereign status, or contained sovereignty under United States law. Kingdom of Hawai‘i plates express uncontained, or separationist, sovereignty that challenges containment by the United States government. When considering the two types of sovereignty, we can see how jurisdictional frameworks of rights tether history and law to the political meaning represented in license plating. Here, sovereignty hinges on the idea of containment, particularly as the legal status of Native Hawaiians through the proposed Akaka Bill is debated as equal rights, special rights, self-determinism, or furthering the contested trope of the Indian.55

John Brigham writes about the materiality of law in terms of structures, images, and spatiality. He tells us “to see law in places where people act as well as in the identities they bring to politics” and refers to the occupied territory as “regions, like Puerto Rico or Indian reservations, where law and culture seem out of sync.”56 In this context, we can add Hawai‘i to Brigham’s framework of occupied territories as viewed in particular according to the Kingdom of Hawai‘i plate. Here, the identity of sovereignty is a political statement that is in response to the complex spectrum of law and culture that operates in this particular place. In Hawai‘i, that spectrum ranges from the 1978 State Constitution that makes English and Hawaiian the two official state languages, to the 1993 Apology Resolution, to the proposed Akaka Bill. Regardless of these acts of the Hawaiian and U.S. governments, sovereignty is nonetheless a vibrant political agenda for many. Using Brigham’s premise that “treating law in relational terms means making the conditions within which people live part of law’s story,”57 we can view the license plate of the Kingdom of Hawai‘i as a response of resistance to that subjectivity which invites a different type of jurisprudence that through these plates is self-determinist without being either violent or reactionary. These license plates are silent markers of a political identity and sovereign citizenship that challenges traditional state authority simply through its mimicking of state form. For as Uncle Sam reminds us, “We can’t let rules supersede law.” Law, in this sense, is in the performance of rights, which are constricted according to rules. Here, identity is crafted and expressed through the display of a sovereignty license plate and represents political assertions and the performance of sovereignty rights through the creative crafting of legal resistance.

56. Brigham, Material Law, p. xvi.