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Book Review: *To the Uttermost Parts of the Earth: Legal Imagination and International Power, 1300–1870* by Martti Koskenniemi, Cambridge University Press, 2021, 1125 pages. ISBN: 978-0521-76859-7 (hardback), ISBN: 978-0521-74534-5 (paperback)

BOOK REVIEW

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ABSTRACT

In his book, *To the Uttermost Parts of the Earth*, Martti Koskenniemi offers a history, from the 14th to the 19th century, of what he calls the 'legal imagination,' namely, the creative efforts of intellectuals, politicians, and lawyers to understand, legitimize, and oversee the rise of international power. How international law grew in response to the rise of a world economic and political order is something studied by histories of the discipline. Koskenniemi's account looks differently at its intellectual contours to explore not just the impact of legal practice and diplomacy on its consolidation, but also the numerous transfers made between international law and other social and human sciences.

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I

What makes interdisciplinary an advancement of knowledge happens when scientific or technical contributions from a discipline turn intelligible and useful to other disciplines. In varying grades, they help revise theoretical and practical aspects of what Thomas Kuhn called 'normal science,' namely, the by-default knowledge in each discipline that makes possible the education of its practitioners through a standard curriculum, and their professional performance. Crossing disciplinary boundaries means losing the sort of epistemic certainty provided by the departure discipline and embracing the uncertainty of entering new disciplinary territories. The journey may lead to looking differently at problems and solutions on either side, opening to that extent paths to reformulating problems and finding alternative solutions.

Martti Koskenniemi's *To the Uttermost Parts of the Earth* is a modern example of interdisciplinary scholarship. Irreducible to a history of international law, it provides an unconventional perspective to explore the past of the discipline without writing a history thereof. The book thoroughly recounts, from the fourteenth to the central decades of the 19th century, the intricacies of what the author calls instead the 'legal imagination.'

Shaped by legal practice and diplomacy in international politics and trade, by war and peace, by technical controversies in legal doctrines, and by intellectual debates of economic theory and moral philosophy, the legal imagination has devised the rationale underlying the morphings of power in the world arena over five centuries. Aiming to regulate international politics and trade, it has swung from legitimating the expansion of European powers into global empires to encouraging international cooperation, the development of humanitarian law, and the framing of norms protecting individual rights.

To international lawyers, the book presents the intellectual contours of a legal practice of clear political relevance that crystallized into a discipline in the course of doctrinal debates, and then a profession. An unusual view, it reveals how deeply interwoven its arguments were with those of other legal areas (from civil to commercial and business law), and how interdependent their discipline was with the methods and practices of other social and human sciences. To other readers, it shows reversely the flow of conceptual and argumentative transfers coming from the legal imagination toward the political, economic, social, and moral imaginations. Few would question the influence of the School of Salamanca in reconceptualizing the human condition in universalist terms, which led to revise basic codes of the just war theory since the 16th century and had effects on the understanding of the Indians' political condition, moral autonomy, and economic rights.

As claimed in his book, *From Apology to Utopia*, the uses of a specialized idiom inform the practice of international law as a profession, creating a sense of guild belonging, also identifiable at other jobs. Along with habits, that professional identity bears a definite linguistic imprint, that in the case of international law speaks more of its argumentative character than of its scientific status. Every international lawyer, defending a case in court, drafting a contract, or debating the layout of a legal act, builds arguments. They draw in principle on the limited conceptual repertoire of the discipline and the rules established by its grammar to link them in meaningful associations.

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To the Uttermost Parts of the Earth describes how this repertoire was created and enriched—the grammar norms changing at a slower pace than its conceptual upgrading, which indeed has made international law arguments recognizable over time. Yet it also spells out the heterogeneous sources it has relied on, justifying the 'bricolage' method applied to interpret the manifold features of the legal imagination. In that sense, the book produces similar effects to those of *The Gentle Civilizer of Nations*, Koskenniemi's 2001 publication, as it guides the reader through a diachronic account of the inventive activity of intellectuals, politicians, and lawyers to drive the growth of international law.

Assuming they pursue dissimilar interests and do not speak the same jargon, the book draws of this contrasting company to recreate a five-century history of the many endeavors—diplomatic, legal, and doctrinal—undertaken to inspire and temper the global development and endless recasting of European political and economic powers, of 'sovereignty and property.' How these appeared on the world scene was a result of the intermingling of *ius gentium* with national legislations. Somehow, they mirrored the diffusion of Roman law through the provinces of the empire, triggering transfers between Rome's *ius civile* and the civil codes of the provinces. Their mutual influences gave rise to novel forms of law-making aimed at normalizing *international* operations (namely those beyond the city's territory), outlining the complementary status of international law, and the interdependent, multidisciplinary condition of the legal imagination.

Since the 14th century international law has spread not just as a legitimating resource of global politics and trade, but also as a legal order of its own, built in response to the rise of a world order. It was through the legal imagination that technical idioms and distinct professional practices were devised and integrated with the idioms and practices of politics and commerce. Its goal was to create a novel benchmark of legitimacy for international political and economic actions, gradually emancipated from the theological inspiration of *ius naturae et gentium* toward a secularized understanding of the role of law.

II

The book's 12 chapters are distributed in 4 parts. The first one chronicles the rise of the rule of law as the basic condition for constitutional statehood, from four angles: the mutual politicizing of *ius gentium* and the juridification of politics experienced in France over the 14th century, the political expansion of Christian theology and ethics in the New World a century later (being the former incompatible with the conquest), the rise of humanism and the doctrine of the reason of state developed in the Italian republics of the 16th century (being the latter a crucial exception in the legality of constitutional regimes), and the attempt to conceptualize law as a moral science exemplified by the work of Grotius.

The second part delves into the legal grounds of statehood, linked to the idea of sovereignty, through the lens of French politics before and after the Revolution. Against the backdrop of the new balance of powers created by the Peace of Utrecht in 1713–1715, its three chapters cover the promotion of lawyers to advisers in royal courts, an idea advanced by Bodin, and the diplomatic enlightening of French foreign policy, the rational projects of centrally governing European politics and reaching or, rather, to reach a lasting peace in the continent and the apparently irreconcilable

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aspiration to expand and strengthen France's colonial empire—a feature singling out European powers until the dismantling of their empires in the 20th century.

Probably the richest example of the global changes in the ideas of territorial sovereignty and property rights is presented in the third part, which inquiries into the legal underpinnings legitimizing the growth of England as a maritime power since the 15th century into the British Empire two centuries afterwards. Such a rise of a mercantile empire with the condition of a corporate regime brought with it the expansion worldwide of the idea of the rule of law. It came as a joint venture of private investment in the colonial trade and public endorsement of monopolistic policies and the slave trade, inaugurating legalizing strategies adopted later by competing empires. Thus, it fleshed out a certain image of an international commercial society—moral values inspiring the laws of trade and the modernizing of the cosmopolis.

A different reconfiguration endured the German Empire, object of the fourth part. Made of territorial units endowed with a remarkable degree of autonomy, a major challenge for the legal imagination was to conciliate their rival aspirations with a strategic, unifying move of Prussian initiative. Unlike Britain but close to France, its growth meant the strengthening of the state's central administration. The upgrading of a bureaucratic class that ruled the administration and had an influential say in politics, sparked off consequences on the diplomatic service. Lawyers, and politicians too, were relegated to a second-class category in the empire's chancelleries. Yet, the institutional gap between power and administration turned out to be mostly a rhetorical device. Throughout the 19th century, in the German Empire and elsewhere, the diplomatic corps would reach a determining status in the conducting of foreign policy.

III

Historically, the final phase in the rise of states over the 17th century left an eloquent picture—companies ruling the world trade and states regulating and sanctioning their activities. In that division of labor, there was no doubt about the preeminence of the former. England illustrated this path, then reproduced by other countries as well. International politics, its token of power, reflected the economic and commercial influence of nations. Merchant Adventurers was one of a growing number of companies, writes Koskenniemi, that 'regularly conducted diplomacy on behalf of the state, maintained navigational links and provided naval support to the state.' (585)

Unlike private corporations, states proved incomplete and disorganized international agents. Such dependency on economic power underlay the blend of public and private interests fueling the machinery of states ever since. In view of Koskenniemi's account, the legal imagination to validate the expansion of sovereignty and property was less an effort to rationalize the rise of international power than the unremitting search for a secure place for states in the emerging global architecture. There is ample evidence to support it.

Over the 18th century, sophisticated blueprints to create a community of states, from Saint-Pierre's project of perpetual peace to Vattel's law of nations or Kant's idea of a federation of republics, responded to the instability of political regimes and the ephemeral length of peace treaties. These were not very different from the precarious international alliances that two centuries earlier, Machiavelli surveyed during his diplomatic missions.

Since before that, the legal imagination has been inspiring efforts to envision and to reach enforceable pacts among nations to channel the growing complexity of international politics, of global trade comprising the movement of goods, services, and finances, and of global migrations. Arguably, the world order recognizable by the turn of the 19th century met quite imperfectly the expectations of Enlightenment intellectuals. Yet it constituted an unprecedented step that challenged the traditional mentalities associated with the world of colonial empires.

Martti Koskenniemi writes in a koine comprehensible across the social sciences and the humanities. His bet on the language of the legal imagination stands as an invitation to look at international law from an infrequent though insightful perspective. And likewise, as a suggestion to interpret the history of moral and political thought of economic and social theory from an interdisciplinary view.

COMPETING INTERESTS

The author has no competing interests to declare.

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