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No Esperanto for Law? A Fascinating Book Paves the Way for Future Investigations

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No Esperanto for Law? A Fascinating Book Paves the Way for Future Investigations

The author begins his book of over a thousand pages on the history of international law with the sentence »this is not a history of international law«. With this drumbeat on page one, the book almost triggers the reader to connect with René Magritte's *La trahison des images*, the paradigmatic visualization of a paradox, whose inherent analytical power was described by Michel Foucault in his analysis of Magritte's work. With the paradoxical introduction, Martti Koskenniemi's *To the Uttermost Parts of the Earth. Legal Imagination and International Power, 1300–1870* unfolds into a consistently sustained strategy of narrating across disciplinary borders and epistemological frameworks with admirable coherence and consistency. Taken from a sermon given in 1622 by the dazzling John Donne, the title of the book declares metaphorically that legal imagination developed on the slippery grounds of Eurocentrism, where the »uttermost part of the world« was always presumed far distant from the European self, and certainly not perceived on equal terms.

The key concept of the book, *legal imagination*, unfolds within the established history of ideas and concepts (with Koselleck well represented in the bibliography). However, Koskenniemi introduces the notion of *legal imagination* as an opportunity to consider what is »lying around« in the political and intellectual environment of those involved in the making of international law. Used several times, the »lying around«-notion indeed oversteps the regular historiographical limits in which the history of ideas measures and develops the historicity of *Geschichtliche Grundbegriffe*. As a consequence, in pointing at the potential influences of wars (e.g. referring to the Seven Years' War as a truly global war), the conceptual cage of intellectual history opens up and allows the author to integrate the shifting of national and political characteristics in their respective historical contexts. This specific and rather unexpected historical framing of the topic somewhat compensates for the still existing (and also addressed) fact that this history of legal imagination remains tied to an exclusively male and Western perspective, and highlights the big powers as those paving the way to international law.

Presenting a dynamic framing instead of a linear history of concepts and ideas, the book convincingly masters the *longue durée*, which spans from 1300 to the 1870s. Fascinatingly, the long time span has nothing to do with a chronology of development, in which complexity increases the closer to the present we get. The book connects past and present in a convincing way in giving up a linear narrative where more technical opportunities create more connections and commerce, and therefore increase the pressure for legal regulation. The presentation of overlapping developments, controversial situations, and the ambiguity of concurring factors makes the book even more attractive for an interdisciplinary scholarly audience. Koskenniemi is entirely right in sometimes describing a »mixed bag of things« as a coherent concept (e.g. in the case of Molloy, 598), and the »composite« character of early modern states as their main (and ambivalent) characteristic.

From an analytical point of view, the author describes the use of different vocabularies as legal *bricolage*, which refers to a notion introduced by Claude Lévi-Strauss more than fifty years ago. This conceptual choice is surprising, particularly as in the period following the end of the Cold War, academic reorientation started in almost every field and discipline struggling with vocabularies old and new. To take historiography, for obvious reasons, the paradigmatic shift to global history should explicitly avoid methodological nationalism and develop a new conceptional framing, which includes the notions of connectivity and entanglements, actor-centered networking methodologies, the concept of transculturality, studies on a micro-global level, and a transtemporal approach, among others. The latter had the intention of exceeding periodization with the inclusion of circulations and exchange of concepts not only within the realm of time but also of space. The manifold translations of Bluntschli's work provide an interesting example for the 19th century, now less understood as simple circulation than in its specific form of adaptation with the reading of Bluntschli in China as an example. Within this rationale, there is a remarkable ongoing counternarrative,

e. g. Tingyang Zhao introducing the Chinese tributary system as the core element of Asian globality in his book *Redefining a Philosophy for World Governance*.

Reverting to the concept of *bricolage* questions the discourse of the last 20 years in a substantial way. The reader is curious as to why the historicity of the global with its conceptual debates is fading out beyond the strong notion of *bricolage*, all the more as the book aims – among many other fascinating inputs – to recontextualize the use of history. The introduction of a historical perspective is presented in this book as crucial to the history of international law. The question is whether a global historical approach could be considered within this discussion.

There is much to be said about the convincing structuring of the broad subject matter as well as about the large statements made at the beginning of the chapters, cast as if from a single mold. I take the aspect of legal colonialism as a topic obviously connected to global history but also one that unfolds the crucial interplay between the liberty to trade and the security of property in interesting ways. To me, colonial and consular law provide an almost ideal field for testing the operative impact of legal imagination on the one hand, and for bringing the question to the fore to what extent the globality of international law asks for a specific perspective on the other hand. The author makes a strong argument for grounding the dynamics of *bricolage* in the West, stating that »imagining starts at home«, all the more »there is no global Esperanto for lawyers to justify rights or duties purported to have a universal scope« (956). Indeed, the world of international organizations – which coordinate epistemic communities across borders in new ways – starts later than the book's focus, although the organization with the highest impact in the field of law is already mentioned, namely the *Institut de droit international*. It is of course paradoxical to ask more from a book of this density and

extension, but the research rationale definitely invites to connect the transnational epistemic communities founded in the second half of the 19th century with (the much older) consular and colonial law. With the latter, key elements in the legal imaginaries confront a challenging environment, claiming special privileges for foreigners on the one hand, and safeguarding the concept of sovereignty despite extraterritorial prerogatives on the other.

In this respect, I found the chapters discussing chartered companies especially interesting. This topic may also give reasons to ask to what extent the structural remains of memories or heritage shaped 19th century access to global trade more than expected and long after the chartered companies were dissolved. In close connection, the transfer of power from the companies to the colonial states led to a messy situation of overlapping layers of colonial law of different spatial and temporal origin, about which the Colonial Office in London was still complaining in the 20th century. Within the most disputed transit corridors of the world, with almost every nation present that ever owned a ship – e. g. the spatial environment of the strait of Malacca, and more recently the Arctic – the overlapping layers of law turned into a legal challenge. We might go even as far as to presume that in those partly extraterritorial, partly colonial spaces, legal imagination necessarily flourished in an Esperanto-like legal vocabulary, and that these ambivalent places attracted the best and most creative lawyers as the only ones able to master the legal complexities involved. But the opposite is the case: whoever had to start – or worse, finish – his legal career in the colonies was not to be envied, as the example of Sir Francis Piggott, Chief Justice in Hong Kong (1905–1912) and expert in extraterritorial law may show. Esperanto for law may be the serious object of a volume to follow ...

