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And or With Others: Normative Orders of Nations in South and Southeast Asia, c. 1500–1900

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dedicata l'ultima parte dell'opera, intesa come una serie di garanzie da rispettarsi nelle controversie internazionali.

Per Panebianco il *Versuch* è »la prova documentale della transizione tra il diritto internazionale imperiale al diritto interstatuale. […] Le nazioni europee, come eredi e successori, riterranno di essere degne di assumere […] la funzione di mantenimento della pace e della sicurezza internazionale«. La Società delle Nazioni e successivamente l'Organizzazione delle Nazioni Unite del 1945, rappresentano una risposta, ma »quella sfida è ancora in corso, innanzi agli occhi del giurista del XXI secolo« (245–246).

Il volume è completato da una appendice in cui sono catalogati i diplomi del Sacro Romano Impero nel periodo intercorrente tra l'800 e il 1725; i titoli riportati nella parte speciale del *Codex Lünig*, nonché gli indici-elenchi dei diplomi inerenti alla penisola italiana tra la seconda metà del VI secolo e la prima metà del XVIII secolo, prendendo in considerazione, a seconda del contesto storico-geografico, il Ducato di Milano, il Ducato di Savoia, il Gran Ducato di Etruria (Toscana), il Ducato di Mantova e di Monferrato, il Ducato di Modena e Reggio, la Repubblica Veneta e la Repubblica di Genova.

I diversi angoli di osservazione presentati da Panebianco offrono un quadro articolato e complesso di una disciplina in continua trasformazione, attenta alle esigenze politiche e sociali, ma anche riflesso della tradizione storica della comunità internazionale, che affonda le sue radici nella pratica diplomatica, quale protagonista, nel corso dei secoli, dei mutevoli rapporti tra gli Stati. Le raccolte di documenti diplomatici, quali il *Codex juris gentium diplomaticus*, il *Codex Italiae diplomaticus* e il *Corps universel diplomatique du droit des gens*, sono un perfetto esempio di cristallizzazione giuridica dell'evoluzione della diplomazia »nei grandi spazi internazionali: italiano, europeo ed universale«.

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And or With Others: Normative Orders of Nations in South and Southeast Asia, c. 1500–1900*

In the past 30 years, the end of the Cold War and the breakdown of the modernist frame of politics have promoted the historical turn of international law. A non-Eurocentric narrative of international law is needed not only to help it go beyond the geographical and conceptual self-justification, but also to open itself to other normative orders.[1] This presents an intellectual and normative challenge to legal historians, who increasingly explore the normative dialogue and competition in interstitial areas, such as South and Southeast Asia in their existence between the Islamic, Sinocentric and European orders. It is this issue and this important era of globalisation that Clara Kemme's book examines roughly over the period from 1500 to 1900, in particular how the key concepts of tribute and treaty were understood through diplomatic ideas and practices in South and Southeast

* Clara Kemme, Between Tribute and Treaty: Implementing the Law of Nations in South and Southeast Asia, c. 1500–1900 (Rechtsgeschichtliche Studien 75), Hamburg: Verlag Dr. Kovač 2017, 377 p., ISBN 978-3-8300-9493-7

1 Martti Koskenniemi, Why History of International Law Today?, in: Rechtsgeschichte 4 (2004) 61–66, http://dx.doi.org/10.12946/rg04/061-066.

Asia, how the treaty system as a product of international law became global and why it prevailed over other systems of order (2).

The comparison *Between Tribute and Treaty* guides the narrative with eight chapters and three broadly chronological, themed sections. In addition to the temporal dimension, a triple geographical comparison runs through each chapter, including namely India and the Indonesian archipelago, the British and Dutch East India Companies as well as European international law and Asian normative orders. However, the subtitle strikes a balance by taking the conceptual framework of European international law as the epistemological criterion and applying it to other areas (352).

The first chapter provides a brief overview on the conceptualisation of the law of nations, essentially focusing on the preconditions of treaty making, such as authority and territory, statehood and sovereignty, independence and equality. Kemme argues that the »original« period (16th–18th century) of international law provided more space for interpretation before the imperialist stage (19th century). Chapter two continues by examining how public authorities in India and the Indonesian archipelago were conceptualised and organized in comparison to the European model of sovereignty and statehood. Kemme argues that »sovereignty« in pre-colonial South and Southeast Asia represented more a symbolic and spiritual authority than absolute power in a certain domain, and »state« stood for something like a network independent of the territory. The diversity of political authorities constituted loose normative orders, which made it possible not only to conclude official agreements with each other, but also provided the British and Dutch East Indian Companies the opportunity to penetrate them.

Chapters three and four focus on the tribute system, an alternative normative order outside Europe to regulate formal relationships between political entities in India and the Indonesian archipelago. Kemme examines how political entities communicated with each other and whether communication took place in a supra-local normative framework (93). The Indian Ocean functioned as a connector that facilitated very early exchanges between rulers in the Hindu and Islamic worlds. Maritime Southeast Asia was on the edge of the world, but the tendrils of the Chinese tribute system and the Islamic order reached it nonetheless. Kemme reveals a more complicated picture of diplomatic exchange in practice, such as war and peace, the formalisation of agreements as well as letters and gifts. Beyond practice, Kemme shows a very different worldview that emphasized cosmological order, supernatural power and ritual expression, promoted a multi-centred network and underpinned the tribute system and its openness.

The multi-centred political structure in South and Southeast Asia offered Europeans far more room for manoeuvre. In chapters five and six, Kemme analyses the provisions of the treaties concluded by Europeans with local entities in the 18th and 19th centuries. The treaty functioned as a new normative mechanism for transforming the European powers from being just another player to a central role in pitting local entities against each other. Moreover, the European powers redefined the tributary relationship gradually by placing themselves at the core of the tributary hierarchy as arbiters and mediators. Kemme devotes chapter seven to the context of treaty making, where she argues that the motivation and fulfilment of treaties were changing dramatically with the shifts in the relative strength of both sides. The treaties brought regional prosperity and stability based on mutual respect and benefits in 18th century, however, they also served as a political instrument to erode native authority in 19th century. Her argument is convincing, it offers an interactive perspective on the motivations and actions centred around treaties, and it provides a nuanced understanding of the normative dependency on treaties. The last chapter focuses on how the normative framework of the treaty entangled with the tribute order. Kemme argues a customary colonial system formed gradually, relying on strategic interpretations and deviating from their original understandings (336). The colonists and natives produced a hybrid normative order through their discourse and became hybrids themselves in supporting or refuting the Other in their coexistence.

This book is of interest to anyone researching the history of international law in a global perspective, British and Dutch colonial histories and the pre-colonial history of India and Indonesia. In contrast with theoretical works in this field, Kemme takes a different approach linking the theoretical framework of international law to its practice (351). However, her analysis and description of the practice are trapped in the conceptual cycle of self-definition. Although Kemme points out that non-European orders cannot be described with the

terminology of international law, the latter has been used as a framework of comparison in her study as well as for identifying the elements creating »a« global normative order (352).

Kemme's study on South and Southeast Asia shows her keen intellect, since the dependencies and peripheries are essential for understanding the global history of international law. In India and the Indonesian archipelago, various normative orders interacted with and depended on each other, each serving as self and other simultaneously. As a normative instrument, treaties and tribute were media that connected the self to the other (37). The homogeneous universality of Christian-European international law hypothesises a dialogic mechanism between one nation »and« its equivalent, so a treaty can potentially convert others into »Us«. Tribute is a gift passing among various political entities to symbolise bilateral relationships based on mutual interest and respect. The relative centres connect themselves »with« others in a hierarchical order. It stresses dynamic relationships rather than the equality of legal status. Thus, formal inequality leads to openness and diversity (131, 179). How we think about others, »and« or »with« other, lays the foundation for different normative orders. It is necessary to apply some kind of terminology, such as multinormativity, to respond to the epistemological challenge and to understand the dynamics of normative (re)-production.[2] Kemme makes an excellent contribution to rethinking the global order. However, for legal historians of international law, imperial history and regional study on South and Southeast Asia, there is still open space for intercultural dialogues.

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Justine Keli Collins

A Comprehensive Analysis of English Case Law on Colonial Slavery in England*

Colonial slavery in the English Atlantic world continues to spark a plethora of scholarship of varying depth. A large amount of such literature was in response to the landmark case of *Somerset v Stewart*. Recently, Dana Rabin delved into a comparative history of arguments from the *Somerset* case premised on the connectivity between villeinage and slavery and its delineations of property, freedom and »bloodlines«. *Sharp's Cases on Slavery* follows suit – Andrew Lyall, an Irish legal historian and adviser at the University of Richmond's Center for Law Reporting – addresses case law concerning the legal status of African slaves who were brought to England from its colonies. The protagonist of these cases was Granville Sharp, a civil servant and the first English abolitionist. His accounts of the numerous cases he worked regarding contested slave statuses provided the essential background for this book.

Lyall collated Sharp's manuscripts through in-depth multi-archival research that spanned several locations in the USA and the UK. With the exception of the *Zong* case, which touched on issues of insurance and maritime law, the cases predominantly cover slave status. The personage linking that case to the other cases is the judge, the eminent Lord Mansfield, who is another major figure in the book, as he presided over most of the relevant proceedings. *Granville Sharp's Cases on Slavery* starts with an introduction to all the pertinent cases and figures to provide the necessary foundation for the reader. One is not simply given

2 Thomas Duve, Global Legal History: A Methodological Approach, Oxford Handbooks Online 2017; Thomas Duve, Was ist ›Multinormativität‹? – Einführende Bemerkungen, in: Rechtsgeschichte – Legal History 25 (2017) 88–101, http://dx.doi.org/10.12946/rg25/088-101.

* Andrew Lyall, Granville Sharp's Cases on Slavery, Oxford / Portland, OR: Hart Publishing 2017, VII, 424 p., ISBN 978-1-5099-1121-9