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International Law and its Others

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When a group of distinguished critical legal scholars come together to explore and suggest reforms for the international legal structure addressing the “limits of modern political organization” (p.2), it is bound to result in gripping rhetoric, exceedingly well-placed in the book. As is obvious from the title, the authors look beyond the ascribed norms of the universality of rights and critically engage political contexts with legal texts, and institutions – much of which is Eurocentric, to offer alternative non-western legal responses, showing concern and accountability for the *other* – a well-timed project, coherent in its structure and objective.

The *others* in the book are a manifold conduit; they come to exist through differential representation, ignorance, curiosity of the unknown or simply negation as subjects; whatever be the process of the othering, they all are underscored by denial, conflict and violence. More explicitly, the *others* refer to historical traditions, liberal individuals, groups and forces discussed in relation to sovereignty, the practice of human rights, the war on terror, international trade, intergovernmental institutions and the international consensus of legislations crucial for our understanding of the role of International law in the world of ‘intervention’ post-9/11. The collection emerges from discussions and exchange of ideas on the theme held at the 1st Melbourne Legal Theory workshop organised by the Melbourne Law School in July 2004.

As international law produces legitimate violence, each chapter ponders about how the international can be ethically thought through in law to make the other non-European worlds, multicultural contexts more “inclusive and humane” (p.3). What stands common in the collection is a sense of responsibility for the marginalised issues in global power politics, giving rise to intellectual anxiety both for the critic and the practitioner and ushering a unanimous appeal for a reinvigorated universal cosmopolitan vision by fragmenting the international legal discipline. A profound endeavour indeed but etched-out not with the intention to simplify legal theories, rather it further complicates the tendencies of mediation as Anne Orford makes it clear in her introduction that the collection intends to further complicate the tendency to see international law as an answer to the questions generated by terrorism, migration, detention of asylum-seekers, environmental degradation, globalisation and related events. The volume is a step forward towards recognition and indeed reassessment of the contradictions in legal turns about the relationship between human rights and the primacy of the political. The essays intermingle law and humanities, they don’t just strike hard, they also speak “truth to power” (p.153) with a cosmopolitan commitment – can international law based on noble ideas but with a complex baggage of false promises and a complicit past in human security be regenerated for tolerating disparate cultural idioms and can it ultimately succeed in bridging the gap between the law that eschews the political and the political that subsumes the law?

A recurring argument throughout the book is about the detrimental fault-lines of humanitarian intervention. It presents a caveat for international lawyers who make policy without a thorough analysis of consequences often overlooking background and the larger context in the ‘investment’. To unsettle the relationship of international law with its margins, the book is divided into *acts*— in part I, the concept of sovereignty, and, in part II, the body of law that shapes human rights practice. The civilising rhetoric of international law is subsequently interrogated in part III;

while, in part IV, the relevance, or irrelevance, of international lawyers in the unfolding of history is discussed. Each act or part, is concentrically layered by further 'others' through reference to culture, economic power, the periphery, and warfare, which, in turn, result in connections being made between international law and, as Hilary Charlesworth and David Kennedy list in the conclusion, "theology, mercy, sacrifice, terror, sex, gender, humanity, erotics, philosophy, justice, fetish, redemption, bodily flesh" (p. 404) and perhaps indeed, many further intersected others.

In the first section – *Sovereignty Otherwise*, Costas Douzinas traces the development of sovereignty from 'bare' to 'politico-theological' while Ian Duncanson scales the implications of rewriting history with the notions, manners and practices of sovereignty. Both Duncanson and Douzinas confer law a space through which the universal and particular are brought together to serve a performative and secular juristic function, in so doing they analyse the shifting patterns of representing the international – useful for international lawyers of today. Contrary to the sovereign rights of the nation-state, Dan Danielson suggests making corporate governance more accountable for policy making and treating the corporate as a source of law for institutional planning. Connal Parsley's chapter stands out in this section as a uniquely Saidian example, reiterating the political stakes of the rather Europeanised law that creates a void in expression for the other - here, Anglo-Australian.

Human Rights and other Values asks "whether human rights offer a mode of resistance for the subject—a way of resisting modernity's 'hounding of the subject beyond death, apparently without limit'—or whether instead the invocation of human rights constrain our capacity to think about and counter ways in which power circulates in this global politics and economy" (p. 15). In this section, David Kennedy weighs outcomes, reassesses international humanitarianism and the self-perception of human rights advocates. While he acknowledges the values of human rights and humanitarianism to inform core policies, he sees a problem when human rights advocates do not take a quotidian responsibility – giving importance to procedures more than the actual substance of international governance. For Kennedy there is no 'international community' on universal values, he feels aptly that, "Justice must be made by people in their background vocabularies, each time for the first time" (p. 153). Florian F. Hoffman continues the discussion at the end of the segment on construction of the same "haziness and fluidity" (p.227) of contemporary human rights activists and practices in relation to personal identity and the othering of the other. Anne Orford explores the relationship between trade (sacrificial) laws on the one hand and democracy (abandonment) on the other. She questions how international legal practice engages with trade, human rights and governance. She scales international economic law that, "mandates the relationship between the market/father and the economic man/son be one of sacrificial responsibility" and argues that "the subject of international human rights law, rights bearing citizen, is produced out of this sacrifice to the God of the market" (p.185). The chapter is an essential read towards understanding risk assessment in market trends and economy of sacrifice in domestic body politics between the parent and child. Judith Grbich also reads this trend of evoking religious imagery as the "messianistic logic" of Western power and international law.

The third section entitled *The Relation to the Other* focuses on "the impossible demands made of those addressed by international law in its civilizing mode, and the intimate quality of the encounter mediated by international law with those *figured* as other" (p. 22). Liliana Obregón's chapter is a particularly intriguing one concerning European civilisational discourse and the dichotomy that civilisation/barbarism brings as the intersectional axis to "Creole legal consciousness" (p.248) in Latin America. Similar to Obregón, Frédéric Mégret considers post-9/11 crisis and examines how this exclusion can facilitate a state of exception creating laws of war in the context of the "war against terrorism." Dianne Otto talks about similar exclusionary consequences through the female subject, an oft made injurious slippage in law and narrates "the designation of woman as other in the texts of international human rights law" (p.25). Juliet Rogers follows on the theme naming of the mutilated woman as other, she discusses the legislations against female genital mutilation in what she calls the countries of the "coalition of the willing", i.e.

the African and Asian states that for different reasons choose (or are obliged) to respond to the dictated human rights norms of the West.

History's Other Authors the final section includes two contributions that harbour an “anxious sense of simultaneous importance and irrelevance experienced on the part of international lawyers in the context of the unfolding war on terror, and the impossibility of determining where law’s speech exists in relation to the border separating action from inaction” (p.27). Much like Mégret, Anthony Anghie continues the discussion analysing, the US discourse about the right to pre-emptive self-defence against the non-West. Anghie notes that this “right” exercised by US and its allies with their ongoing “peace and democratization missions” has reinstated imperial politics and colonial discourses in the New World Order. Hilary Charlesworth and Kennedy provide an afterword for the volume; they note that no attempt to conclude would do justice to the different notions and themes evoked in the contributions. They agree that while it is not easy to detect and represent the fetishes of international law, extra-vernacular projects might assist to negotiate contexts and “see the way that principles of international law may work to obscure injustices” (p.406).

International law is a culture of instrumentality between boundaries be it the nation-state, subject, practice or knowledge which ‘works’ on the concept of the universal as an objective cumulative effort – and herein lies the compromise. Interconnections cannot be made until both human rights discourses and consciousness are subjectively or intersubjectively understood. The essays propose varied perspectives on human rights as participation and any participation has its limits, a critical vision for international lawyers to recognise; nonetheless, it also provokes a question – how to translate most of this (if not all) usurped inclusiveness into reality such that it ultimately protects the dignity or coexistence of the marginalised others in the hegemonic order of benign assimilation that continues to play politics with humanitarianism.