Towards a History of the Decolonization of International Law. An Introduction to the Special Issue

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Abstract

After an age of excitement of historians and lawyers with renewed interest in the imperial origins and settings of international law, recent scholarship has begun to turn to the history of the field's decolonization. The Third World Approaches to International Law movement, of course, arose out of and continues to call for a decolonization of international law. But the fact is that, as of today, we know very little in historical terms about how this transition began. The historiography of the achievements, forms, and personnel – as well as the legacy and limits – of the attempted creation of a genuinely postcolonial international law remains in its infancy.

Keywords

decolonization – third world approaches – international law and empire

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As with the intensive discussion of international law and empire of the past two decades, so the emerging scholarly literature on international law after empire is not likely to lead to settled conclusions. We can anticipate for the conversation many of the intellectual moves that have been already made in historical scholarship on decolonization itself – including doubts about the propriety of that originally European term to describe a messy and vast process. But we can also expect that focus on the place of law – and participation of international legal scholars – to add some distinctive perspectives, not least since decolonization was often understood by its friends as well as its enemies as a battle precisely over the future of international law.

To contribute to the emerging discussion, we convened a group of scholars under the auspices of the Shelby Cullom Davis Center for Historical Studies at Princeton University. Natasha Wheatley did the bulk of the work in conceptualizing and organizing the event, alongside commenting and giving her own paper. Our common gratitude goes out to Professor Angela N. H. Creager for hosting the conference as director of the Davis Center, to Jennifer Goldman for consummate logistics, and to Princeton's Program in Law and Public Affairs for its support. We are likewise in debt to those (besides the authors in the dossier that follows) who participated in the conference either as commentators or presenters: Jeremy Adelman, Nathaniel Berman (at heroically short notice), Joseph Fronczak, Adil Hasan Khan, Gyan Prakash, Anna Stilz, and Judith Surkis.

Our strategy in the conference was and this dossier is to be neither comprehensive nor definitive, especially at this early stage in the discussion. On the contrary: we sought to be exploratory in probing different chronologies and conceptualizations. Besides the core emphasis of what follows on the period of the 1940s through 1970s, it struck us as important to gesture towards Latin American avatars for many of the ideas and impulses that later became central to the fully global decolonization of international law. Within the great age of mid-twentieth century decolonization, the dossier emphasizes economic and environmental features of decolonization, not merely political ones. Finally, our goal was to register that decolonization of, by, and for peoples whom states claimed to represent were not the only ones. There were also bids for power

and recognition of, by, and for indigenous and minority groups who remain to this day colonial subjects, according to frameworks forged in the era of decolonization itself. Thus our discussion also extends forward into the settler colonial present.

It is our hope that this dossier can contribute modestly, alongside a host of other recent ventures, to the emergence of even greater attention to how international law's decolonization helped leave the world in its current situation. It occurred on the threshold of our present, but its participants dreamed of a very different future.