5 Universal Authority in Pre-modern History

Descent into Darkness

It is part of Western self-imagery to regard international law as a product of modern Western civilization. Admittedly, our search for antecedents of world order in primitive antiquity revealed only a scattering of seeds on rather barren soil. Some progress in the classical era, however, has been perceived. Early practitioners of civic enlightenment such as Asoka the Great, Marcus Aurelius, and Antoninus Pius, and advocates like Confucius and Buddha, could be regarded as remote contributors to the civic benevolence model of modern international law. The possible emergence of a system of world law and order was beginning to be envisaged by progressive jurists such as Cicero. Moreover, several examples were found of ancient systems of interstate diplomacy and treaty-making that seem to have operated with some regard for reciprocity and mutual benefit. Images of distant world history offer also a pre-vision of modern diplomatic immunity and privilege and sovereign prerogative, and of the statist values underlying the autonomy model of international law. Warfare in antiquity was mostly a horrendous inhumanity, but the need for norms to contain, if not prevent, wars was beginning to be considered.

But now we are moving into a more difficult period of world history. In the West especially, the record deteriorates. Although the official and scholarly accounts of the Greek and Roman eras are subject to various interpretations, they were impressively voluminous and certainly more factual than fanciful. After the demise of Rome there ensued a more mysterious, less accessible, age of which we have only partial knowledge.

By the last quarter of the 4th century the Roman world extended throughout Western Europe from Britain to the entire Mediterranean basin, including the North African coastal territories, and as far east as the Levant, including Northern Mesopotamia but not Arabia. In the Roman Empire, Greek was the language of the educated class in the east, Latin in the west. Only a few were able to read both languages. Roman law applied, at least nominally, in all Roman provinces, but in many areas it coexisted with local customs. An impressive network of roads, bridges and ports made transport and communication relatively easy and safe throughout the Roman world (Ganshof, 1970). The theory of unity inherent in the Roman concept of empire was not entirely fictitious.
Roman authority, however, was under constant challenge. The Germanic tribes on the periphery were unsubdued. To the east, the territories of the Ostrogoths, Visigoths, Vandals, and Lombards were in open hostility. In the north, the Angles, Jutes, Saxons, Frisians, Franks, Alemans and other peoples were a further threat to the security of the Roman Empire. Most, ruled by hereditary chiefs, were not so barbaric. They should probably be regarded as alternative systems of civilization. After all, the Goths in the late 4th century were being Christianized, albeit with variations that did not have the approval of the Church established in Rome. In truth, however, none of these nations was sufficiently advanced to accomplish feats on the level of Graeco-Roman, Chinese or Indian civilization.

In the final decade of the 4th century the Roman Empire was already in the terminal stage of its decline. The death of Emperor Theodosius in 395 had resulted in the final split of his realm into distinct eastern and western empires. The newly Christianized Visigoths were rampaging southward under Alaric (c. 370-410), their aristocratic Romanian chief. In 410 they captured Rome, but did little to deserve their later reputation as ruthless barbarian plunderers. The foreign occupation of Rome, the first in almost 800 years, would bring back the legions from Britain. It is possible that the withdrawal from Britain resulted in cancellation of a plan to mount an assault on Ireland, which was believed by the gold-fevered Roman commanders to be rich in minerals – the size of the arena excavated at Chester suggests preparation for more than the usual ceremonial purposes. The dimming of the imperial glories of Rome provided further inducement for St. Augustine of Hippo to glorify “The City of God”. Shortly, in 432, St. Patrick would begin his Christianizing mission to Ireland, and seven years later the final summary of codified Roman law (the *Codex Theodosianus*) would be produced. Symbolically, the year 400 can serve in the West as the beginning of a new phase of world history.

The 5th century brought not only the final demise of the western Roman Empire but also the breakdown of the Mediterranean system of civilization. The results were catastrophic. The Ostrogoths in Italy, the Visigoths in Spain, and the Franks and Burgundians in Genoa all endeavored to utilize their Roman inheritance, and the 6th century was less disruptive than the 5th, but the period from 640–718 was marked by widespread dislocation. “Commerce shrank to nothing. Greek and Syrian merchants disappeared from the cities of Gaul and Spain, and agriculture became the mainstay of the economy ... [T]he western territories became a society of landlords and peasants, of villages and estates, organized largely for subsistence” (Barraclough, 1976).

Yet, as Thompson (1972) reminds us, there was no sudden end to the Roman Empire. For over two hundred years before the “fall” there had been a succession of waves of Germanic invaders that were part of a larger pattern of steady encroachments. Though often non-violent, these incursions brought in totally alien customs and ideas. In Thompson’s mind, the early Germans, whose successors would come to dominate Central Europe and eventually change the course of European history, did not adjust easily to the grand Roman ideas of government. “The Roman”, he suggest, “was obedient, hardy, persistent, knew how to command, administer, and govern; whereas the German was highly individualistic, a ‘hospitable’ host, but a truculent