THE COLONIAL ‘OTHER’ IN THE NINETEENTH CENTURY GERMAN COLONISATION OF AFRICA, AND INTERNATIONAL LAW

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1. Introduction

Conceiving the ethnic ‘other’ as backward and primitive by the dominant cultural group of each epoch is a norm of international relations that dates back to antiquity. Ancient Greece considered non-Greeks as ‘barbarians’, and firmly believed that these barbarians were born enemies designated by nature to serve the Greeks as slaves. Whereas Greek States held a strong feeling of ‘all-Greek kinship’ for one another – a feeling that they belonged to the same racial, cultural, lingual and religious community – despite their political segregation and discord.1 Other regional systems too approached international relations through the same dichotomous understanding of ‘self’ and ‘other’.2

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2 In the interaction between the Christian Europe and the Muslim Orient, the latter too relied on its religious norms in inter-State relations. Thus, though citizens and diplomats of the Italian City States were granted concessions by Oriental rulers in the familiar form of franchises or diplomas, Muslim rulers were little interested in obtaining for their subjects reciprocal treatment in the respective European countries, for they thought the Mohammedan law forbade the believers
Thus, irrespective of the origin of international law or to put it more correctly, the debate about the origin of international law, it is evident that the body of rules governing international relations had been informed by notions of superior ‘self’ and inferior ethnic ‘other’. Among different regional systems of international law in antiquity and the Middle Ages, which were limited in their application, modern European international law having its root in the sixteenth-century jurisprudence emerged as a universal norm of interstate relations through the nineteenth-century colonial expansions. Since then, it has become the dominant language of European civilisation; it is the European ‘self’ that defines and deals with the non-European ‘other’ through international law, amongst other means.

Similarly, non-Muslim settlers in Muslim States were allowed to preserve their own law given that “the Moslem law as set forth in the Koran was exclusively designed for the Moslem, who consequently did not care to regulate relations among infidels”. See Nussbaum, A Concise History, 38-39. Likewise, the Sino-centric tribute system claimed ethnic superiority by depicting the ‘other’ around it as ‘barbarian’. The fundamental philosophy underlying the tribute system under the Chinese Empire was the rule by virtue, i.e. the emperor should embody virtue and spread it throughout under Heaven. Under this belief system, the rulers beyond the immediate influence of Chinese civilisation, i.e. non-East Asians, must also obey the Emperor – the only supreme authority under Heaven. As a general rule, even uncivilised people were expected to understand the virtue of the Emperor, and send a tributary mission to the emperor in order to share in his virtuous rule. See generally Yasuaki Onuma, “When Was the Law of International Society Born?” Journal of the History of International Law 2 (2000), 12-22.

Tracing the necessity of international law in the face of the eruption of independent States in Europe, Oppenheim saw the emergence of this discipline in the seventeenth century; thus, he had no hesitation to enthusiastically recognise the Dutch diplomat Hugo Grotius as the “Father of Law of Nations,” for the “system of Grotius supplied a legal basis to most of those international relations which were at the time considered as wanting such basis.” See, Lassa Oppenheim, International Law (London: Longmans, Green and Co., 1905), 58. This claim is not beyond controversy, however. Some influential publicists after the end of the nineteenth century, such as James Brown Scott, argued that those of the late Spanish school such as Francisco de Vitoria were the true founders of international law, while there were others who emphasised the importance of Vattel, pointing out modern, liberal features in his writing. See, Onuma, 5. See also Antony Anghie, “Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law,” Harvard International Law Journal 40 (1999) 1, 1-80.