Book Review


As George Kennan once remarked, judging what international law has achieved or failed to achieve may depend a great deal upon expectations about what international law actually stands for:

I cannot resist the thought that if we were able to [...] refrain from constant attempts at moral appraisal – if, in other words, instead of making ourselves slaves of the concepts of international law and morality, we would confine these concepts to the unobtrusive, almost feminine, function of the gentle civilizer of national self-interest in which they find their true value – if we were able to do these things [...] then I think, posterity might look back upon our efforts with fewer and less troubled questions.

In a formidable book, Martti Koskenniemi tells the story of the “rise and fall” of international law over almost a century of intense and defining legal scholarship. “International law” as the phrase is used in this book is not that international law created, applied and violated by states and others, but “international law” as a conception of the international community – or, more specifically, a conception of it in its mostly European sense – as propounded and experienced by a number of eminent scholars. The international law that rises and then falls a century or so later in Koskenniemi’s book is “not a set of ideas … nor of practices, but a sensibility that connotes both ideas and practices but also involves broader aspects of the political faith, image of self and society, as well as the structural constraints within which international law professionals live and work”.


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Methodologically, Koskenniemi abandons the constraints of the structural method “in order to infuse the study of international law with a sense of historical motion and political, even personal, struggle”,\(^3\) putting one century of ideas and arguments about international law in their historical, social, political and biographical context. His narrative, “a kind of experimentation in the writing about the disciplinary past” of international law, is at once a legal and sociological critique and a semi-biographical study, which convincingly sets international lawyers and other important intellectual figures of the last century such as Carl Schmidt or Hans Morgenthau into today’s international law picture:\(^4\)

I wanted to bring international law down from the epochal and conceptual abstractions. I wanted to examine the way it has developed as a career choice for internationally minded lawyers in the course of a relatively brief period, the experiences of which would still resonate in the lives of today’s international lawyers. It may be too much to say that international law is only what international lawyers do or think. But at least it is that, and examining it from the perspective of its past practitioners might enhance the self-understanding of today’s international lawyers in a manner that would not necessarily leave things as they are. Quite apart from such a practical concern, I also wanted to look beyond the commonplace view that there are single, homogeneous periods when “international law” has been either this or that. […] I wanted to articulate some of those [larger professional, academic or political] projects, and thus to describe the lawyers as actors in particular social dramas.

Koskenniemi describes how, in the 1860–1870s, a certain “esprit d’internationalité” started to blow over Europe. What was distinctive about this international sensibility, he argues, “was not only its reformist political bent but its conviction that international reform could be derived from deep insights about society, history, human nature or development laws of an international and institutional modernity”.\(^5\) It found a voice in the *Revue de Droit International et de Législation Comparée* first published in 1868 and strength in the *Institut de droit international* founded in 1873 by liberal and progressive men of legal science such as Rolin, Westlake and Bluntschli, who liked to regard international law as “humanity’s conscience”.

International law slowly moved from a somewhat amateur and exotic enterprise to a more respectable, almost scientific subject-matter. Their method? Enlightened inwardness. “The men of 1873” considered that, to find inter-

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\(^3\) *Ibid.*  
\(^4\) P.7.  
\(^5\) P.3.