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BOOK REVIEWS

Bill Bowring, *The Degradation of the International Legal Order? The Rehabilitation of Law and the Possibility of Politics*, New York: Routledge-Cavendish, 2008, ISBN 9781904385998, 256 pp., $170.00 (hb).
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Bill Bowring's recently published book depicts international law degraded through 'a tragedy of intimate deception, a macabre vampire-bride relationship between law and power' (p. 41). On the one hand, the refusal to take social and economic rights seriously has betrayed the promise of self-determination of peoples and left law and development strategies as the handmaiden of the former colonial powers (pp. 173–8, noting that 'it is the second generation of rights, social and economic, which can underpin social justice,' and pose the only effective challenge to 'the imperialist and anti-democratic camp'). On the other hand, international law suffers from internal betrayals, as progressive legal thinkers embrace law with disenchanted pragmatism and/or utopian formalism (pp. 131–44). In the face of mounting immanent and external challenges, he argues eloquently for a reaffirmation of human rights, and particularly the right of self-determination of peoples, as the primary site of political radicalism and social justice.[1]

Beneath the almost romantic call to 'restore' the 'dignity' of human rights and 'reclaim' the UN for colonized people, his stance is eclectic and seeks to move from ambivalence to political contestation (p. 126). His book veers from traditional sources and conversations about international law to address a variety of themes and locations – from the Iraq war to post-Soviet Russia, from Lenin and Russian jurists in the nineteenth and twentieth centuries to postmodern legal theorists and post-1970s anti-totalitarian French philosophers, from statutory analysis to autobiographical experiences. Throughout the essays Bowring attempts to steer a course between cosmopolitan scepticism and more utopian visions of human rights to call ultimately for a 'tenacious militant determinism' (p. 121) capable of 'redefin[ing] the rules and

1 Due to the eclectic choice of sources and subjects, the place of Bowring's work in the existing literature is difficult to pinpoint, but it most likely falls within the more 'left' voices of the 'new imperial law' field. See A. Rasulov, 'Writing about Empire: Remarks on the Logic of a Discourse', (2010) 23 LJIL 449. For an example of this literature see A. Bartholomew (ed.), *Empire's Law: The American Imperial Project and the 'War to Remake the World'* (2006).

contours of the existing order' (p. 6). It is this 'revolutionary impulse', he tells us, 'that lies at the heart of and is constantly re-invested in human rights', and which can only be discovered within the 'principles and concepts' of international law (p. 127).

Bowring's emphasis on Soviet jurisprudence belies a self-conscious Marxist orientation. He overtly distances himself from the liberal fetishization of the political rights of the individual, instead arguing that 'it is the second generation of rights, social and economic, which alone can underpin social justice' (p. 173). For Bowring, the 'transformative' potential of international law cannot be found simply in the autonomous legal-right-holder, nor through looking at international law as a 'discursive' project, but rather in the messy material realities of social and political contestation (pp. 99–111), drawing on this theme throughout his work to argue in support of oppressed groups struggling for emancipation. Against the ambiguity of postmodern subjectivity and liberal abstraction, Bowring proposes a 'revolutionary conservativism', which marries 'the heaven-storming commitment of Marx and Lenin to the grandeur of the human spirit in resisting and sometimes overcoming exploitation'. In Bowring's view, the revolutionary potential of international law is most concretely expressed in 'the right of peoples to self-determination' when 'welded to international law in the context of the Russian Revolution, in theoretical and practical struggles both before and after October 1917'. Here, Bowring is particularly thinking of 'the great revolutions' of late-eighteenth-century France and 'the extraordinary WWII history of anti-colonial struggles'. Each of these historical events is irrevocably 'linked to extraordinary and lasting developments in the actuality of human rights'. Thus, for Bowring, the 'principles of contemporary international law and human rights ... are not simply rhetoric, nor utopian and impossible prophecies, but real, material weapons of offense and defense in the human fight for emancipation' (pp. 207–8).

While Bowring's call to adopt a political 'militancy' towards human rights as a means of overcoming the vulgarities of ambivalence is enticing, his argument is not always convincing. First, his reverence for national struggles for self-determination leads him to overstate the desirability and contingency of group identity. Although he recognizes that the national impulse is itself an 'imagined community', Bowring insists that it is, like language, an almost natural attribute of humanity, and hence inescapable. 'So, I would argue, a group identity is never constructed by the persons who compose the group', he writes. 'Rather, group identity is reproduced, subject always to more or less evolutionary change, which (in the words of Anderson) looms up imperceptibly out of a horizonless past' (p. 159). Naturalizing self-determination, however, denies its cultural roots in the nineteenth-century colonial experience of international law, giving it a false universalism that does not feel too far removed from the liberal project to open up and recognize newly recognized legal subjects. Indeed, Bowring seems to echo the dominant liberal thinking among more progressive commentators in international law when he turns to thinking about the implications of his version of self-determination: international lawyers must recognize that 'formal adjudication' is actually 'political negotiation'; they must 'take account of all aspects of internal and external group dynamics'; they should push for international

law to be 'larger, more encompassing, less rigid – but also very much more concrete in its field of application' (p. 164). Bowring presents this turn as revolutionary, but it does not feel dissimilar to the mainstream calls within the profession for inclusiveness, efficiency, greater cultural sensitivity, and the standard attack on the straw man of formalism.

Second, for all Bowring's insistence that the seeds of a progressive revolutionary promise can be found within the 'principles' of human rights (in particular, national self-determination), he repeatedly moves outside the province of international law to make his claims. Aside from a few Soviet jurists, all his heroes are political and religious leaders or Marxist-oriented philosophers. He quotes favourably Lenin and Stalin on the pre-eminence of anti-colonial struggles; he invokes Badiou, Žižek, and Saint Paul to lay the groundwork for his 'militant determinacy' (at its best, human rights) grounded in its fidelity (expressed in the struggles for self-determination) to the 'event' (the Bolshevik revolution); he openly places himself in the tradition of 'Aristotle, Spinoza, Hegel, [and] Marx' (pp. 119–30).[2] More importantly, he does not provide any empirical or historical evidence to demonstrate why these figures, or events such as the French Revolution or anti-colonial struggles, are necessarily connected in any way to the constitutional moments that enshrine human rights in international law. In failing to do so, he never is able to fully engage with challenges that writers like Martti Koskenniemi and David Kennedy have posed to the international legal community, namely that there are always 'dark sides' to virtue that undermine any projects of 'emancipation' or 'accountability'.[3] The French Revolution, for instance, to which Bowring looks with chivalric reverence, not only was a moment of revolutionary emancipation of the masses from hierarchical dynasties, but also marked the institutionalization of deeply misogynistic prejudices and the almost immediate suppression by the state of anything that might be deviant or subversive. Rather than enshrining revolution, these constitutionalizing moments represent a new and unified category of legitimized subjugation, the 'carrier of the dictates of social reproduction . . . and the vehicle of violence'.[4]

Finally, the aspiration to 'defend the honour' of human rights in international law carries a curiously gendered reading at the core of Bowring's study. It is not irrelevant, I think, that Bowring 'firmly places' himself up in an exclusively male lineage. International lawyers, in his view, are almost chivalric in their calling, meant to be 'defending the honour' of the 'great revolutions', and guarding international law from the 'intimate deception' and 'seduction' of power, the 'poisoned bite' from a 'macabre vampire-bride'. Here, international law becomes the Victorian male reformer, constantly on his guard against losing his purity and sense of purpose to the destructive irrationality of the gothic femme fatale. For Bowring, the female force

2 Following the philosophical opening Bowring has established here concerning political theology, see A. Badiou, *Saint Paul: The Foundation of Universalism*, trans. R. Brassier (2003); see also H. de Vries and L. Sullivan (eds.), *Political Theologies: Public Religions in a Post-secular World* (2006); S. Žižek, *On Belief* (2001).

3 D. Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (2004); see also M. Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (1989).

4 C. Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century* (2000), 226–7 (drawing on Jacques Lacan).

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is equated with 'the cycle of death and destruction', whose seduction 'reproduce[es]' the 'vampires' of terrorism and law's 'ravish[ment]' (p. 41).

This questionable reliance on gendered imagery, along with the lack of a systematic approach to accounting for the 'dark' side of human rights (or at least the attempt to theorize its repetitive failures), underscores the conservative limitations that are potentially endemic, or structured, within the legal vocabulary of human rights. We find ourselves as readers ultimately led back to the ambivalence that Bowring struggles to transcend. And yet, if he is not successful in convincing us of its revolutionary content, his very failure here may paradoxically serve actually to bring us closer to the revolutionary conception of international law of which he set out originally to persuade us; for it is exactly this, the inability of the human rights tradition, in its variety of legal and political appendages, to articulate what we still feel to be missing from the promise of human rights that allows the space for some new, more radical organization of international lawyers. Here, Bowring is at his most provocative, transgressing the traditional boundaries of the sources of and inspiration for international law to call on the anti-philosophy of speculative realists and modern French Marxists, challenging international lawyers to (re)approach their professional practice as a field of open political engagement. Likewise, his brief analysis of Soviet jurisprudence hints at presently unexplored terrain in international legal scholarship that might be important in formulating strategies to overturn liberalism's aversion to taking social and economic conditions more seriously in global governance.[5] Putting down the book, one is left with the sense that Bowring is a politically radical thinker attempting to come to terms with a lifetime of legal activism in human rights. That his rationalizations are not successful seems more than anything a testament to the revolutionary potential that remains open to be seized on by international lawyers; perhaps this book may help put us on such a path.

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Gabriella Slomp, *Carl Schmitt and the Politics of Hostility, Violence and Terror*, Basingstoke: Palgrave Macmillan, 2009, ISBN 9780230002517, 182 pp., £55.00 (hb).
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Gabriella Slomp's book, *Carl Schmitt and the Politics of Hostility, Violence and Terror*, is excellent on its own terms. Her focus is on the friend–enemy distinction as proposed in Schmitt's *Concept of the Political* (1932) and developed in his *Theory*

5 Authors have begun to engage with various aspects of Soviet jurisprudence in relation to international law, such as Rob Knox, Boris Mamlyuk, China Miéville, Scott Newton, Akbar Rasulov, and William B. Simons.

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