Universality and Continuity in International Law. Edited by Thilo Marauhn and Heinhard Steiger. The Hague: Eleven International Publishing, 2011. Pp. 5, 527. ISBN 978-94-90947-07-1. . € 110.00; US$145.00

In the law of nations, the principle of the universality of international law is based upon an assumption that there exists in the international community a "body of rules of a fundamental character that is universally binding upon all members."[16] Despite the significant achievements of post-war international society in constructing such an order with the creation of the United Nations and the drafting of the Universal Declaration of Human Rights as two prominent examples, legal scholars from the many newly-independent states created in the wake of the Second World War have consistently challenged this assumption. They argue that it is specious to recognize true "universality" in modern international law when the modern legal regime has its roots in a European law of nations used historically to repress nations suffering under the yoke of colonialism. In the expanded post-colonial world, the "geography" of international law has changed and the international legal order must now reflect the consensus of this larger international community. While the concept of a universal law of nations remains a contentious issue, it continues to draw the interest of international legal scholars. This new volume of essays entitled *Universality and Continuity in International Law* brings a wealth of new voices to the scholarship regarding the origins and legitimacy of public international law.

This collection is the result of an international symposium held in 2005 hosted by the Franz von Liszt Institute for International and Comparative Law of the Faculty of Law of the Justus Liebig University Gießen. The 24 essays included are divided into six thematic sections. Part I covers the theoretical underpinnings of universality and continuity in international law. Editor Heinhard Steiger opens the work with an introductory essay discussing the problems inherent in constructing a valid methodology for studying universality and continuity in the history of international law. His paper traces universalist concepts from the Middle Ages to modern times, noting that they cannot truly represent "universal" norms as they did not cover the globe, but rather extended only to a world delineated by their geographic reach, such as Christian Europe. Steiger suggests a functional approach to studying universality that eschews any explicit historical connections. The history of international law should consist of "the description of the forms, structures, systems, kind of norms, institutions, instruments, conceptions, etc. at different times and in different

[16] 1 L. OPPENHEIM, INTERNATIONAL LAW §29a (H. Lauterpacht ed., 6th ed. 1947).

areas or spheres of normativity, their similarities, their differences, their parallelism, continuities and discontinuities." (p. 13, 31-32) Further expanding on the question of how to effectively explore universality, other essays in this section discuss the role of culture in international law and the historical and philosophical development of European international law.

A second theme explored in this collection is the concept of continuity, which attempts to trace established concepts and traditions of modern international law back to their origins in antiquity. Karl-Heinz Zeigler's illustrative essay *Continuity and Discontinuity in European International Law: Ancient Near East and Ancient Greece* in Part II identifies several such links between the modern law of nations and ancient practice. He cites the use of mutual oaths to bind parties to a treaty, a practice which was adopted by the Greeks and Romans from an ancient Near Eastern tradition. This convention continued throughout the Middle Ages into the sixteenth and seventeenth centuries in Europe. A second tradition which can be traced back to the ancient Near East is the practice of monarchs addressing each other with the honorific "Brother," a tradition that continued to be observed by European sovereign monarchs well into the nineteenth century. Finally, Zeigler traces the influence of ancient Greek thought on the development of European legal theory in the realm of international relations and international law. Many of the basic concepts of a universal law of nations can be traced back to archetypal Greek unwritten principles and customs of war and peace.

Part III focuses on the European Middle Ages and the essays explore a variety of topics such as the concepts of *ius gentium* in the writings of Francisco Suarez and Thomas Aquinas, the connection between war and canon law, the symbolism inherent in envoy exchanges in the 12th century, and an examination of the continuity of legal orders from the middle ages to modern time. Martin Kintzinger's essay *Thinking International Law in Late Medieval Europe* amplifies the theme of universality in the law of nations by examining the writings of influential scholars of this period. From Engelbert of Admont's *Speculum virtutum* in 1297 to the writings of Italian jurist Baldus de Ubaldis, Kintzinger illustrates the progression of medieval political thought towards the conception of a universal legal authority possessing the legitimacy to mediate among nations without any state claiming ultimate authority.

Part IV examines several facets of the law of war and peace, tracking its development and growth from the European law of nations. Essays in this part cover the doctrinal origins of *ius in bello*, the legitimization and justifications for war in early modern Europe, and an examination of the Peace of Ensisheim, which ended the Hundred Years' War. Illustrative of the contributions to this chapter, Christoph Kampmann's *Ius Gentium and a Peace Order: the Treaty of London (1518) and Continuity in the International*

Law of Modern Times questions the widely held assumption in the history of modern peace policy that it was only after World War I that peace strategies grounded in international law were developed. Using the 1518 Treaty of London as an exemplar, Kampmann makes the cases that this early treaty was a serious attempt to forge an international agreement creating a true regime of military conflict avoidance and collective security and was not simply a feeble attempt to put into practice the humanist peace writings of the period.

Part V presents global perspectives on international law and the interaction of non-Western states with European international law. Notable is Keun-Gwan Lee's paper, which serves as a primer to critiques of international law from a post-colonial perspective as well as providing a brief discussion of the reception of European international law by East Asian nations. Through examples gleaned from the jurisprudence of international tribunals such as an arbitral award from a territorial dispute between Yemen and Eritrea, Professor Lee demonstrates how the decision is manufactured out of whole cloth from European international law with little analysis or understanding of the indigenous legal cultures involved. Indeed, the Euro-centric orientation of modern international law offered non-Western nations a Hobson's choice: either accept the neo-colonialist bias of the dominant international order or face non-recognition from the wider community of nations. Further expanding on the issues identified, this section also includes papers examining Japan's use of international law in the early 20th century and a survey of treaties concluded between European and non-European powers between the 16th and 20th centuries.

The concept of universality has profound implications for the legitimacy of international law as a normative system. It will continue to draw the interest of scholars into the future as they grapple with its meaning and import in our increasingly cosmopolitan legal culture. *Universality and Continuity in International Law's* global perspective and multidisciplinary focus makes it is a unique and important contribution to the literature of the field. While a subject index would have been a useful addition to the volume, nonetheless, it still remains a valuable acquisition for any library's collection on the history of public international law.

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