

Convention allows any state vessel to seize a pirate ship, Article 110 dealing with the slave trade, by contrast, reinforces the rights of flag states. Under Article 110, the boarding of a ship suspected of being engaged in the slave trade is open to all states, but such a visit may only proceed so as to ascertain the fraudulent use of a flag, not actually to suppress the slave trade, which is a right falling exclusively within the jurisdiction of the flag state.¹²

When the historical narrative that has just been laid out is coupled with the following doubts to which Martinez points as to why scholars have been unwilling to regard the slave trade as the genesis of international human rights law, her line of argument regarding the starting point of international human rights law being pushed back 150 years has diminishing returns:

Perhaps the shameful complicity of so many nation-states in the institution of slavery makes this story less appealing than the Nuremberg narrative, which conveniently attributes responsibility for the Holocaust to a handful of individuals from a losing nation (Germany). The British abolitionist discourse contains embarrassing overtones of the “white man’s burden” and the controversial history of colonialism extended for a hundred years after the abolition of slavery. For scholars in the United States, perhaps America’s problematic (but eerily familiar) role as the reluctant outsider in the anti-slavery regime is less appealing than its starring turn at Nuremberg with Justice Jackson’s eloquent speeches as chief prosecutor. (Pp. 154–55)

Ultimately, Martinez has brought to light and engaged with a very interesting, if not well-known, area of international law, and, for this achievement, she should be commended. Likewise, she is to be applauded for raising thought-provoking issues in seeking to call attention to the place of courts of mixed commission and the abolition of the slave trade at sea in the evolution of human rights law. Her historical account is compelling.

¹² United Nations Convention on the Law of the Sea, opened for signature Dec. 10, 1982, Arts. 105, 110, 1833 UNTS 396; see also JEAN ALLAIN, SLAVERY IN INTERNATIONAL LAW: OF HUMAN EXPLOITATION AND TRAFFICKING 98–104 (2012).

Only time will tell if it will become part of the discourse that would have international human rights law trace its history back to a time when countries cooperated to free more than 80,000 human beings.

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