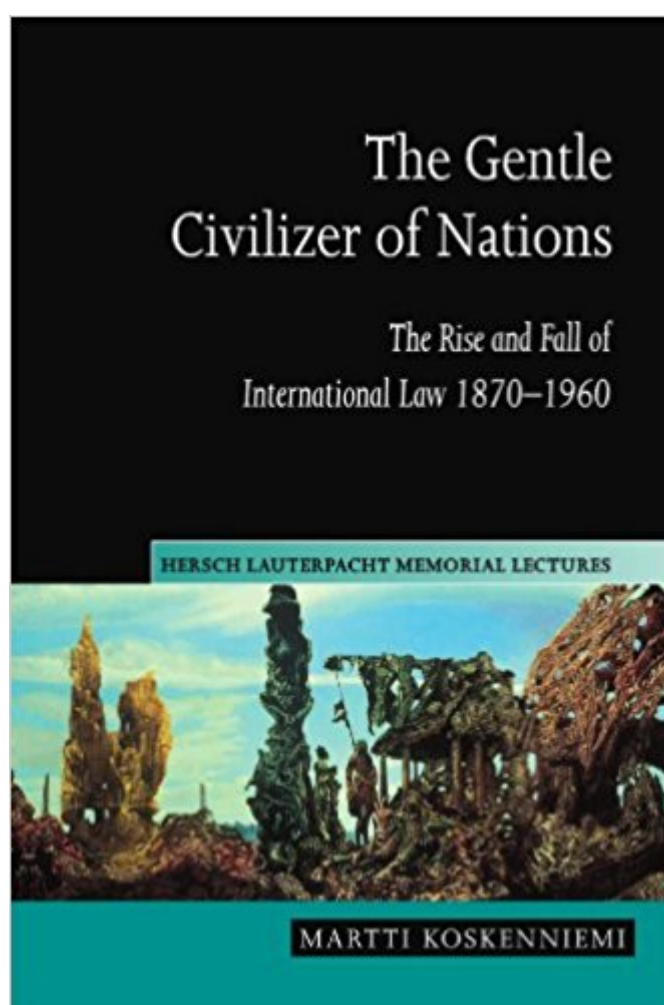


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The Gentle Civilizer Of Nations: The Rise And Fall Of International Law 1870-1960 (Hersch Lauterpacht Memorial Lectures)



Synopsis

Koskenniemi traces the emergence of a liberal sensibility relating to international matters in the late 19th century, and its subsequent decline after the Second World War. He combines legal analysis, historical and political critique and semi-biographical studies of key figures, including Hersch Lauterpacht, Carl Schmitt and Hans Morgenthau. Finally, his discussion of legal and political realism at American law schools ends in a critique of post-1960 "instrumentalism". This wide-ranging study provides a unique reflection on the future of critical international law.

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"...a wonderful history of ideas, drawing from a wealth of sources and acquainting the reader with the views of dozens of international lawyers. Unlike many other histories of ideas, it makes enjoyable reading throughout, yet is never lost in anecdotes. At this time of uncertainty about the role, place and function of international law in the international community, it asks the right questions and indicates possible answers." German Yearbook of International Law "...interesting and elegantly written...Koskenniemi brings an unusually sharp focus to the period of professional maturation when the European heritage in the field peaked and then started to decline." International Journal of Legal Information "Impressive" American Journal of International Law

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historical and political critique and semi-biographical studies of key figures (including Hersch Lauterpacht, Carl Schmitt and Hans Morgenthau). Finally, his discussion of legal and political realism at American law schools ends in a critique of post-1960 'instrumentalism'. This highly readable and intellectually wide-ranging study provides a unique reflection on the possibility of critical international law today.

The Gentle Civilizer of Nations (GCofN) is one of the most provocative, eloquent and erudite accounts of international law from a European perspective. In one respect, it is a history of what we might call the cosmopolitan project of international law - a sort of hybrid study that blends archival, institutional, doctrinal, sociological aspects together in a flowing narrative about the motivations, anxieties and struggles experienced within the international legal community (of scholars/policymakers), and in relation to the 'outside' world of politics, and so on. In another register, this is a political reflection, meant to intervene into the world of politics and law today (e.g., global governance à la David Kennedy), to present a multidirectional polemic in favor of some sort of anti-foundational appeal: to America, to remind them that legal principles matter, that all is not politics and calculation; to Europeans, to remind them that politics matter, and that legal principles carry with them deeper commitments that have very real distributional consequences; to the rule of law crowd, that law is an empty set of signifiers, a language, that is not in and of itself simply an answer to politics, but alternatively, to the po-mo crowd so eager to implode law (or the neo-conservatives and American style pragmatists), that the language of international law, in its very emptiness, within its particular tradition, is a powerful tool against political overreach and things like fascism - all this, what he draws upon the political philosophers, E. Laclau and his 'radical democracy' theory, to coin, the 'culture of formalism'. So the book is history, philosophy, polemic and reflection, all at once, and probably a lot more than that. So far, so good (or perhaps, better put, so far, so amazing, as it really stands as the foremost text, at least in English, of what is possible by way of this sort of study, and has opened up an entire new interest and field in the subject). Beyond the immediacy of the text, GCofN should be read in conjunction with From Apology to Utopia (FATU), Koskenniemi's original masterpiece. I won't get into the comparison (see the Epilogue for his own tying together of the two works) except to note that I think that they come together quite nicely if we read them in relation to Laclau's Emancipation(s). The qualification 'so far, so good', is that the underlying philosophy dictates the structure of his argument, which opens the door to more questions than it answers. First, there is a Victorian element to the book (even suggested in the title, with its 'rise and fall' and the analogy of 'gentle' to feminine 'traditional' virtues that are embodied by

a tradition of 'fathers and grandfathers') that reoccurs as an underlying motif, which raises suspicions about the 'openness' of IL's language. Second, despite trying to get away from the 'national' stories approach undertaken by authors such as Grewe, Koskenniemi falls into narrative trap of finding within IL various almost 'organic' national spirits that make up a Hegelian spirit that animates the discipline. Third, the underlying philosophical idea, reduced to a very crude sentence is: International Law absolutely fails, but it is its very failure that is a testament to its ideas, because we only can understand its failure via the very standards it erects, so that the ideas are always unreachable, but that is what reminds us that we are never quite there, and so we should always be aware of our limitations. Right off the bat, there is a distinctly St. Pauline feel to this argument via the law (e.g., the law teaches us that we sinned, and though we cannot live up to the law, it sets the standard to internalize) - which is fine, but we might question whether we want to sign up to a new universal Christianization of the globe via law (e.g., in the tradition of colonialism and the crusades, and now as secular liberalism). But more importantly, this sort of argument evades the possibility that the very principles or terms are themselves structurally encoded, or the way these terms solicit a set of social/political conditions, that thereby predestine their failure and obscure the opportunities to re-imagine the options/possibilities open to us. There is a subtle Kantianism in the work, which begs the question, in other words, what are those forced choices that hold IL together in its best moments, and could we begin to imagine a world that could transcend those forced choices? An amazing book, it captures the contemporary spirit of late 20th-early 21st century Left-Liberalism, stands at the forefront of IL more generally as a work of profound philosophical, historical, intellectual, and artistic merit - and, it is without doubt, a must read for anyone interested in International Law.

I think Martti Koskenniemi's work is one of the few must read books of today's international law. First, the hardcover edition is worth every cent, so don't be afraid paying much for it because it is worth it. Second, the work itself, makes a clear and direct analysis about the history of international law, taking as start point the creation of the Institut du droit international in the middle of the XIX century. Gives a very good (if not excellent) overview about, principally, the different European schools (German, French mainly) focusing on the problem named modern international law, especially the problem that various of the great minds of that century had in explaining the main "philosophical" concepts about the discipline (aka. the question of international law binding force and the will of State theory). Overall, an excellent work to add in your personal library.

Koskenniemi is certainly one of the most prominent international legal theorists of the world. In an extreme erudite fashion he is trying to show - especially since 1990, when one of his first books, *From Apology to Utopia*, was published - how inconsistent and incoherent international law is. In *The Gentle Civilizer of Nations*, Koskenniemi analyses the history of International Law focusing on the development of the international legal discourse in four different traditions (German, French, British and American). The main thesis of the book is that modern international law did not start with the writings of the Spanish School (Vitoria, Suarez) or even the writings of Grotius or Vattel; the roots of the modern international are found in the creation of The Institut de Droit International and the *Revue de Droit International et de Législation comparée*. Highly recommended as an exuberant review of the history of the discipline.

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