

Martti Koskenniemi. *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960*.

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It is impossible to categorize this book. It covers a long, eventful and interesting period in the development of international legal thought, analysing not only ideas and concepts but also providing fascinating biographical information on our professional predecessors. Central to the book is the notion of 'sensibility', which, as Koskenniemi explains, encompasses a set of attitudes and preconditions about international affairs that is related to the notion of 'culture' and connotes ideas and practices, political faith, image of self and society, as well as the structural constraints within which international lawyers live and work (at 2).

The book begins with the founding fathers of the *Institut de droit international*, who, in 1873, saw themselves as 'the legal conscience of the civilised world'. Here, as throughout the book, Koskenniemi places ideas and concepts in their historical (political, economic, military-strategic) context.

Central to the book are the issues of imperialism and colonialism not only because ‘the men of 1873’ were intellectually most active in the years of the ‘scramble for Africa’ but also because these issues are closely related to one of the pivotal themes of the book – the relationship between universalism and particularism (or relativism). Koskenniemi analyses formal and informal empires (formal sovereignty is extended to colonial territories in the former, not in the latter), the 1884–1885 Berlin Conference, the ambivalence of the very notion of sovereignty in the colonial context and other practical and theoretical issues in relation to colonialism.

Although ‘international lawyers were not insensitive to the humanitarian problems that accompanied colonialism’ (at 109) and indeed criticized some colonial practices (especially atrocities committed in the so-called ‘Independent State of the Congo’ created in 1884–1885 through the private actions of King Leopold II), Koskenniemi observes that most ‘men of 1873’ accepted colonialism as normal and beneficial for colonized peoples. There even developed, in the context of colonial politics, a kind of paternalistic concept of human rights (see especially at 130), which may have some relevance for the contemporary human rights discourse.

One is particularly struck by the blind acceptance on the part of these founding fathers of the colonial adventures of their own countries, even by those who were critical of such practices by rival European powers. ‘Although all lawyers spoke in terms of homogeneous “Europe” acting upon an equally homogeneous “Orient”, in fact everyone’s *conscience juridique* supported the controversial colonial policy of his homeland’ (at 166). Koskenniemi observes that ‘in disputes with other powers, French lawyers loyally underwrote French positions’ (at 167). And they were not alone. The Russian lawyer of Estonian origin Fedor Martens – otherwise a sceptic of colonization – defended the Russian penetration of the Caucasus (at 168). Even Italian Enrico Catellani – a fierce critic of a colonialism that ‘oppressed and impoverished indigenous populations to the point of extinc-

tion’ (at 98) – defended the Italian annexation of Abyssinia and hoped ‘that Abyssinia would see in Italy “a sincere friend and precious ally”’. Interestingly, something similar happened at the outbreak of the First World War. As Koskenniemi writes, ‘most German lawyers took an impeccably patriotic line in the war’ (at 299).

Today, in contrast, international lawyers of many countries are critical of their own governments (examples abound: the harsh criticism by many American lawyers of the Vietnam War, critical writings by Western international lawyers on the 1999 NATO operation in Kosovo and on the war against terrorism in Afghanistan). Similarly, many Western international lawyers strongly criticize their own government’s human rights records in the light of international law as well as their human rights policies, seeing in them a new kind of Western imperialism. Koskenniemi himself criticizes Western (American) particularism in the guise of universalism.

Universalism versus particularism (or relativism) is a central theme of *The Gentle Civilizer*. In the context of colonialism it is the ‘exclusion-inclusion’ discourse:

exclusion in terms of a cultural argument about the otherness of the non-European that made it impossible to extend European rights to the native, inclusion in terms of the native’s similarity with the European, the native otherness having been erased by a universal humanitarianism under which international lawyers sought to replace native institutions by European sovereignty. (at 130)

This problem remains topical in today’s human rights discourse.¹ On the one hand,

¹ How many issues discussed, observations made and conclusions drawn by our predecessors even a century or more ago are still relevant today. Koskenniemi’s book shows that our ideas often move in circles; we come to ‘new’ conclusions without knowing that our predecessors, whom we have forgotten, had already made similar points. Even if Koskenniemi’s book was only a history of international law, it would be very interesting and useful. But of course, it is much more than that.

extreme universalism may lead at best to paternalistic concepts of human rights or, even worse, to mindless humanitarianism and practical disasters. On the other hand, extreme particularism (or relativism), often serving to disguise or excuse atrocities against one's own people, can be a form of racism since some people are seen to be so different as to be not ready for human rights at all.

Of course, the universal *versus* the particular (or relative) discourse is not limited to human rights. Koskenniemi, while sympathetic to Victorian liberals, is constantly uneasy about Western liberal universalism because its imperial implications and practical consequences tend to suppress the voices of the particular. However, he also insightfully observes, for instance, that '[t]here is no particular virtue in being tortured or killed by one's own countrymen instead of foreign invaders' (at 177), thus revealing that if there are hidden dangers in universalism, there may be even more to worry about in some prevailing particularisms. As with many of the dilemmas Koskenniemi discusses, universalism and particularism are 'empty' and 'formal' categories in the sense in which they are treated in *The Gentle Civilizer*, which have to be weighed, in my opinion, not *in the abstract* but only when their content and context are known, i.e. not as 'formal' and 'empty'.

One controversial aspect of the universalism versus particularism discourse is the issue of who needs international law more: the weak or the strong? Koskenniemi touches upon this issue, sometimes explicitly but more often implicitly. For instance, he quotes Prime Minister Salisbury, who in 1887 reported to the Parliament in the Austinian spirit that 'international law has not any existence in the sense in which the term "law" is usually understood. It depends generally upon the prejudices of writers of textbooks. It can be enforced by no tribunal, and therefore to apply to it the phrase "law" is to some extent misleading' (at 34). As Koskenniemi comments, 'an Empire is never an advocate of an international law that can seem only an obstacle to its ambitions' (at 34).

However, there is another aspect to it. Empires, or hegemonic states for that matter, do not make international law unilaterally (otherwise we would have a world or at least a regional state), but they do greatly influence its content. McWhinney perceptively describes the character of international law in the bipolar Cold War world:

The operational methodology and process of negotiation and international law-making during the Cold War in its post-Stalin, what-might-be-called 'mature', period flowed logically and inevitably from its bipolar paradigm or model of world public order: direct, bilateral diplomacy between the two bloc leaders, preferably in summit meetings *deux*, followed by model treaties reflecting the bloc leaders' bipolar consensus and then presented, after their own bilateral and negotiation and drafting, to the lesser, supporting bloc members on either side for signature and ratification, and this normally without the possibility of serious modification or amendment on their part.²

This observation, which reveals an important constitutional aspect of international society in the Cold War era, shows that stronger states, by exercising greater impact on the processes and content of international law, should also be interested in its effective functioning.

Koskenniemi warns against a universality that may in reality be a disguised particularity (at 505). Enlightenment rationality, the French Revolution, the Christian Church, but also international law and particularly its human rights component, may all be prone to such criticism. If this is true – and Koskenniemi's narrative and analysis produce additional arguments to support this view – those states or societies with greater potential in international law-making should also have a greater interest in international law since their position has a greater chance of becoming universal. Today's P5 or G8 (or maybe

² E. McWhinney, *The United Nations and a New World Order for a New Millennium: Self-determination, State Succession, and Humanitarian Intervention* (2000) 6.

G9), using international law more effectively than, say, the 19th-century Concert of Europe, may be able to create an international order that corresponds more or less to their vision of the world.³ As Risto Penttila observes, 'a concert of great powers is not a perfect way to run the world, but it is certainly better than anarchy'.⁴ Changes in international law would reflect interests and values of such a global alliance for security, would reflect their *politique juridique extérieure*.

Consequently, we see that there may be two competing attitudes in the international law policies of hegemonic powers. On the one hand, as international lawmakers, they have a large stake in guaranteeing at least relative effectiveness of international law. On the other hand, as powerful states, they may be more interested than other states in having greater flexibility in their policy choices. However, such an ambivalent attitude towards international law is not only the privilege of powerful states. Smaller and weaker states often complain that international law does not reflect their interests or values and must therefore be changed. They may have a greater interest in clear, definitive and concrete rules of international law, but as they have less control over the content of such rules their discontent is also understandable.

In this respect, too, international law differs not so greatly from the domestic legal systems of many, if not most, states. Those holding the levers of economic and political power in society naturally exercise greater control over the laws of their country than those lacking such power. In open, liberal-democratic welfare states this paradox is resolved through a constant balancing of interests of various social groups as well as by fine-tuning the balance between liberty and equality. However, such balancing mechanisms are absent in many domestic societies and are only rudimentary in international society. None-

theless, even in such less than ideal situations, the observance of law is in the interest of most people(s). Without law (and this applies equally to international law), using the words of Thucydides, the eternal law 'that the strong shall rule the weak' would prevail, where justice never keeps 'anyone who was handed the chance to get something by force from getting more'.⁵

Universalism and particularism both exist and reflect real interests and values held by many. If a general tendency may be detected, it could be that, beginning more than 40,000 years ago when the *homo sapiens* left Africa and embarked on the long journey to the Middle East, Europe, Asia, Oceania and America,⁶ the long-term tendency was towards increasing particularization and heterogenization of human societies. As humans have gradually occupied all hospitable, and even inhospitable, territories on the Earth and are becoming increasingly interdependent, there is a greater tendency towards universalism and homogenization. This universalism tendency has rarely realized itself through dialogues of particularisms. Historically, it has more often occurred through conquests, colonization or even ethnic-cleansing. Today, chances are greater than ever before that the voices of those who, using Koskenniemi's term, *lack* (resources, education, equality, etc.) can also be heard and even taken into account. To achieve this, he explains, the particular has to express itself in universal terms (at 505) and this, in turn, requires that particular claims be formulated in 'empty' terms, negative rather than positive. This rather controversial observation leads to another powerful leitmotif in the book, particularly towards the end – formalism *versus* dynamism, or rule-oriented *versus* policy-oriented approaches. As Koskenniemi shows, these two themes are related.

Martti Koskenniemi has always been a master of revealing concealed, or not so well concealed, antinomies within international

³ See, e.g., Allison, Kaiser and Karaganov, *International Herald Tribune*, 21 November 2001, at 8.

⁴ *International Herald Tribune*, 28 December 2001, at 8.

⁵ Thucydides, *The Peloponnesian War* (1998) 30.

⁶ See L. Luca Cavalli-Sforza, *Genes, Peoples and Languages* (2000) 36.

law as well as between the latter and its context, as his *From Apology to Utopia*,⁷ published more than a decade ago, demonstrates. In *The Gentle Civilizer*, Koskenniemi returns to the theme of formalism versus dynamism. He uses the 1965 US invasion of the Dominican Republic as an example, analysing the ensuing debate over this invasion between Professors A. J. Thomas and A. Berle, on the one hand, and Wolfgang Friedmann, on the other. Koskenniemi concludes that two cultures exist in international law: the culture of dynamism 'represented by the American anti-formalists' (at 507) and the culture of formalism. In a sense, a significant part of this book is devoted to a defence of the culture of formalism. He writes that 'a culture of formalism – a story of international law from Rolin to Friedmann does have coherence' (at 502), that 'nothing has undermined formalism as a culture of resistance to power, a social practice of accountability, openness, and equality whose status cannot be reduced to the political positions of any one of the parties whose claims are treated within it' (at 500) and that 'a more determined defence of formalism and legal autonomy would be needed' (at 492).

Before dealing with what Koskenniemi calls a culture of formalism, we need to clarify what this culture is not. The culture of dynamism – the nemesis of the culture of formalism – is characterized by 'a pervasive rule-scepticism' (at 475), by an emphasis on 'flexible, policy-dependent' instruments (at 481), by the use of 'a flexible concept of international law that would serve their [decision-makers] preferred values by facilitating decision-making in contexts where they thought they were dominant' (at 483). Koskenniemi continues: 'Today, many lawyers in the United States persist in calling for an integration of international law and international relations theory under a "common agenda"' (at 483). Such an interdisciplinary agenda, he believes,

together with a deformalised concept of law, and enthusiasm about the spread of 'liberalism', constitutes an academic project that cannot but buttress the justification of

American empire, as both Schmitt and McDougal had understood. This is not because of bad faith or conspiracy on anybody's part. It is the logic of an argument – the Weimar argument⁸ – that hopes to salvage the law by making it an instrument for the values (or better, 'decisions') of the powerful that compels the conclusion. (at 484)

However, liberating law from politics, we also liberate politics from legal restraints and we are once again in a 'Weimar situation' with 'good' international law and bad politics.

It follows from Koskenniemi's narrative that the collapse of international law in the post-1914 world, the consequent loss of faith in it and an overwhelming emphasis on the role of politics, national interest and ideology led American international lawyers to develop two basic responses to the 'traditionalist, "European" attitude towards international law' (at 481). One, represented, for example, by Hans Morgenthau and George Kennan, retained this traditional formalistic and rule-oriented understanding of international law,⁹ but found that international law was irrelevant in areas of vital national interest.

An attempt to salvage international law and its relevance for issues where vital interests of states were at stake was made by Myres McDougal and his associates through their policy-oriented approach; theirs was the most visible among such attempts. Koskenniemi seems to underestimate the influence of the policy-oriented approach when he writes that 'McDougal's and Harold Lasswell's Yale School was only the most visible but perhaps the least influential of the new approaches that grew up in the United States in the 1950s

⁸ Koskenniemi argues that American international relations theories (especially Realism) as well as approaches to international law (e.g. Joseph Kunz) have been greatly influenced by people like Hans Morgenthau whose views were formed under the strong influence of the sad experience of the Weimar Republic.

⁹ Koskenniemi writes, for example, that John Herz and Hans Morgenthau 'both conserved a traditional court and case oriented image of law' (at 471).

⁷ M. Koskenniemi, *From Apology to Utopia* (1989).

and 1960s' (at 475). I would rather agree with him when he earlier wrote that 'while many find it difficult to accept his [McDougal's] theoretical expositions and feel especially alien to his idiosyncratic language, his assumptions about the relatedness of law and politics are shared by perhaps a majority of modern international lawyers'.¹⁰

Certainly, prominent American international lawyers such as Oscar Schachter, Louis Henkin or Thomas Franck, not being followers of the New Haven school, could hardly be called traditional rule-oriented scholars. This also seems to prove the point that original thinkers do not belong to any school and it is very difficult to categorize their views. This, incidentally, also applies to Koskenniemi. In his *From Apology to Utopia*, he seemed to be overly influenced by critical legal thought, post-modernist or 'new-stream' approaches, with their characteristic excessive references to Foucault, Derrida and other de-constructivist philosophers. I would have categorized him then as an able and original follower of these post-modern trends. Although Koskenniemi has recently written that he does not want to be labelled¹¹ (but who does?), his *From Apology to Utopia* was, if not exactly within, then at least very close to the rather broad school called 'critical legal studies' or 'new stream of international legal scholarship',¹² since the gist of his approach was to disclose and attack hidden agendas of, or to use Koskenniemi's own words, deconstruct, the 'mainstream'. I now see *From Apology to Utopia* as a stage in the evolution of an original thinker, written at a time when the author, probably unconsciously, was still looking for an authority to follow. In *The Gentle Civilizer* Koskenniemi has left the shackles of these authorities behind and has emerged as an original thinker in his own

right. His new book is much more mature and an important indicator of this maturity is the impossibility to categorize (label) him.

Koskenniemi believes that these anti-formalistic approaches had either an overt or an inadvertent agenda — the justification of American dominance in the world. He quotes extensively from an article by Morgenthau, in which such an agenda was explicitly outlined (at 481–482). This is why Koskenniemi spares no effort in defending the culture of formalism in international law. There is always a danger, he writes, that 'the Empire will project its internal morality to the world at large' and 'to avoid this, a more determined defence of formalism and legal autonomy would seem needed' (at 492).

At the same time, Koskenniemi, either inadvertently or intentionally, provides arguments against the culture of formalism. He acknowledges that 'formal rules are just as capable of co-existing with injustice as informal principles' (at 496). Even more importantly, the culture of formalism, which was quite evident among the 'men of 1873' and their followers, did not prevent international law from being neglected or completely sidelined when international society was challenged by significant political changes, economic crisis or ideological clashes.

Koskenniemi draws our attention to authors such as Carl Schmitt and Hans Morgenthau who expressed the idea that in international society, as in domestic societies, in periods of crisis the exception is more important than the rule. As Schmitt wrote, 'sovereign is he who decides on the exception' (at 428), and the exception, in his opinion, 'confirms not only the rule but also its existence, which derives only from the exception' (at 428). The end of the bipolar world has brought about such fundamental changes in the world (or has rather released hidden or suppressed tendencies) that some core principles of international law are in the process of radical re-interpretation. We also see that this re-interpretation is mainly being undertaken by the United States with, or sometimes even without, the support of its closest allies. '[D]eciding on the exception' in times of

¹⁰ Koskenniemi, *supra* note 7, at 171.

¹¹ Koskenniemi, 'Letter to the Editors of the Symposium', 93 *AJIL* (1999) 352.

¹² See, e.g., Kennedy, 'A New Stream of International Legal Scholarship', 7 *Wisconsin International Law Journal* (1988) 1; Koskenniemi, *supra* note 11.

radical change and crisis, it is thereby setting patterns of behaviour for the future. Thus, the exception has a tendency to become the rule. It thus seems that in times of significant change there is more room for the culture of dynamism than for the culture of formalism. And, of course, the context determines the balance between these two cultures.

In Koskenniemi's analysis of the debate following the US invasion of the Dominican Republic, his recommendations on how the dispute should have been conducted go far beyond what I understand by formalism and rather indicate the way out of the dilemma between what he calls 'the Scylla of Empire and the Charybdis of fragmentation' (at 504). To achieve that, he writes, arguments must open the way to 'the possibility of a non-imperialist universality'. If the universalism of Thomas and Berle was one of complete difference — us against them, 'Friedmann's formalism would have required an open articulation of the universalist principle and its subjection to a critique that would have integrated Thomas and Berle in a single universe with the communists — thus undermining the imperialist effect of their dichotomous world' (at 506). In the case of the Dominican Republic, Koskenniemi believes, 'this might have involved looking into the claims of the local factions, giving effect to the results of the election, and examining the meaning of "communism" in the conditions of social deprivation that had existed in the country' (at 507). Such an approach, in my opinion, may have been exactly what the doctor would have ordered, yet how this approach could be called an exercise of the culture of formalism is beyond me. I would rather call it a contextual, non-formalistic (even dynamic and certainly multidisciplinary) interpretation and application of international law.

Koskenniemi believes that the culture of formalism helps particular (suppressed) voices be heard. I am not sure of this and his arguments did not persuade me. I think that often, on the contrary, law's excessive formalism may serve to conceal the interests of the powerful, where the particular (powerful's particular) is disguised as the universal. Only

by unveiling law's formalism is it possible to discover whose interests and values are protected and promoted by seemingly universal impartial and formal rules.

This aspect of the dilemma of the culture of formalism versus the culture of dynamism brings us close to the problem of values and interests protected and promoted by international law and the value of international law as such. Law is never an end in itself. It is an instrument for achieving or preserving certain ends. If we take today's international law, those ends encompass general purposes such as peace, economic development, a clean environment, the fight against terrorism and for human dignity, rational exploitation of renewable natural resources as well as quite concrete objectives such as building dams and guaranteeing access to the sea for landlocked states. This is the content or context of international law and neither is really formal. However, international law promotes and protects these values and interests through specific means and methods which, indeed, include a significant degree of formalism. International law, like any other normative system, needs a considerable measure of formal definitiveness. There is certain intrinsic value in observing formal requirements of law, in achieving purposes and objectives promoted and protected by law through methods and means provided by law and not bypassing them even if doing so may at times seem more expedient. In this respect, every lawyer is somewhat normativist, positivist and formalist. However, interpretation and application of law is seldom, and in difficult and complex cases never, automatic. Values and interests that form both the content and context of international law should not be sacrificed to the culture of formalism. The observation of the Roman-law maxim *Fiat justitia et pereat mundus* is not only an oxymoron since justice can exist only so far as human society exists.

There are various reasons why there is less formalism in international law than in most domestic legal systems. The Permanent Court of International Justice observed in *Mavrommatis Palestine Concessions*: 'The Court,

whose jurisdiction is international, is not bound to attach to matters of form the same degree of importance which they might possess in municipal law.¹³ The International Court of Justice applied this principle in the *Northern Cameroons* case,¹⁴ as well as in *Nicaragua*.¹⁵ Even the International Criminal Tribunal for the Former Yugoslavia, in the *Tadic* case of 15 July 1999, observed that ‘this body of law [international humanitarian law] is not grounded on formalistic postulates. . . . Rather, it is a realistic body of law, grounded on the notion of effectiveness and inspired by the aim of deterring deviations from its standards to the maximum extent possible’.¹⁶

Hence, there is an ever present need to balance the cultures of formalism and dynamism in international law. The fact that in the process of interpretation and application of international law one has to constantly choose between the universal and the particular, dynamism and formalism, and, as Koskenniemi showed so well in his previous book,¹⁷ between apology and utopia, makes our profession not only difficult but also interesting.

The Gentle Civilizer has a certain what I would call Lauterpacht bulge. This is not only because by far the longest chapter devoted to an individual author is ‘Lauterpacht: The Victorian Tradition in International Law’. In my opinion, Koskenniemi considers Hersch Lauterpacht to have best continued the traditions of the ‘men of 1873’, whilst freeing himself from their negative inheritance (justification of colonialist practices, siding with their own state). Koskenniemi writes: ‘Today, international law remains one of the few bastions of Victorian objectivism, liberalism and optimism’ (at 360). At the same time, he often reminds us of Lauterpacht’s utopianism. For example, he emphasizes that ‘Lauter-

pacht’s legal utopia seeks to revive on a cosmopolitan scale the Victorian liberalism that failed to survive the offensives of nationalism and socialism in Central and Eastern Europe’ (at 406). Koskenniemi’s own conclusions may be seen as closer to the utopian end of the spectrum of possible approaches to international law than to the apologetic end. If this sounds like a criticism, it is a mild one. A degree of utopianism is necessary, since I agree with the author that the idea that legal doctrines should reflect “social reality” is a deeply conservative technique that deflects criticism away from “reality” and those responsible for it’ (at 304). At the same time, it seems that the culture of formalism advocated and defended by Koskenniemi may sometimes bring him closer to the apologetic end of the spectrum than the culture of dynamism. Of course, once again we see that legal thought has to constantly balance between apology (reflecting reality) and utopia (attempting to change reality).

There is an intriguing sentence containing an error, either by omission or intention.¹⁸ Koskenniemi writes that ‘Lauterpacht was (emphasis added) a Victorian liberal in a time when the dialectic of the enlightenment is (emphasis added) only slowly asserting itself’ (at 412). One may wonder whether Koskenniemi speaks here of the period when Lauterpacht wrote his works or of today when he is writing. Is the dialectic of the Enlightenment asserting itself today? This I do not know, but there certainly are many things to be learnt from Enlightenment ideas and figures. Is a Victorian liberal able to adequately respond to today’s challenges to international law? Certainly not, but this does not mean that there is nothing to be learnt from Victorian liberal cosmopolitans. Fred Halliday, agreeing that

¹³ PCIJ, Series A, No. 2, at 34.

¹⁴ ICJ Reports (1963), at 28.

¹⁵ ICJ Reports (1984), at 428–429, para. 83.

¹⁶ *Prosecutor v. Dusko Tadic*, Appeals Chamber ICTY, Judgment of 15 July 1999, available at <http://www.un.org/icty>.

¹⁷ Koskenniemi, *supra* note 7.

¹⁸ There are a number of ambiguities in the book, which are not oversights of the author, but rather a style that allows different interpretations, all of which are possible or perhaps even necessary. It seems that Koskenniemi does not always try to dot the ‘i’s and cross the ‘t’s and, as in a good novel or film, he leaves space for the reader’s imagination and interpretation.

the modernist Enlightenment project, as envisaged earlier in the 20th century, was inadequate and often crudely developed, with many of its claims of reason overstated, if not repressively imposed, quite correctly points out that 'these enlightenment concepts remain a foundation on which it is possible and, I would argue, necessary to build, as much as are our concepts of democracy, individualism, rights and tolerance. We should be prepared to redefine and defend them.'¹⁹ He also dismisses as inadequate those responses derived from the critique of Western domination and ethnocentrism (the critique based on cultural relativism), from post-modern deconstructivist indeterminacy and from the camp of moral philosophy, which argues that one cannot be sure of any general moral principles.²⁰ Rejecting the Enlightenment heritage because of failures and even crimes that may be associated with it, would, indeed, seem like what the Irish poet Yeats described as 'the best lack all conviction while the worst are full of passionate intensity'.

In *The Gentle Civilizer* Koskenniemi constantly returns to the theme of liberalism. Most lawyers whose ideas he analyses belong, in one way or other, to the category of liberals. In *From Apology to Utopia* Koskenniemi attacked 'mainstream' approaches that are based, as he wrote, on the assumptions grouped together under the label of liberal theory (at xvi). He considered that international law and international society as well as 'mainstream' theories of international law were, in substance, based on liberalism since 'it is clear that sovereign equality, characterised sometimes as the "fundamental premise on which all international relations rest" is a liberal premise',²¹ and 'for better or for worse, reliance upon the classical law of sovereign equality entails accepting the liberal doctrine of politics'.²² However, as Robert Jackson has

observed, 'international liberalism is more contradictory and ambivalent than domestic liberalism'.²³ One may go even further and say that so-called 'international liberalism' and liberalism as understood in domestic societies are such different phenomena, with almost opposite consequences, that the use of the same word — liberalism — in international society and domestic societies and attaching it to the state and to the individual respectively is more than confusing. On Vattel's and Locke's approach to international society, Richard Tuck writes that their 'liberal picture was in effect the idea of *raison d'état* seen from the perspective of the relationship between states, rather than from the perspective of their internal arrangements'.²⁴ Therefore, 'liberal politics, of the kind that both Vattel and Locke amply subscribed to, went along in their work with a willingness to envisage international adventurism and exploitation, and this was no accident: for the model of the independent moral agent upon which their liberalism was based was precisely the beligerent post-Renaissance state'.²⁵

It is impossible to do justice to this important and unique book. It is an erudite and in-depth analysis of the views of many dozens of international lawyers from European and Northern American countries. It is a wonderfully written history of ideas (sensibilities) on international law. Although Koskenniemi defends the culture of formalism in international law, his analysis and narrative are not formal at all. Doctrines, approaches and the whole intellectual history of international law are considered in their political and economic context. One is struck by Koskenniemi's profound analysis, his richness of sources and linguistic knowledge. And finally, there are very few academic volumes that make such enjoyable reading.

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¹⁹ F. Halliday, *Two Hours that Shook the World. September 11, 2001: Causes and Consequences* (2001), at 67–68.

²⁰ *Ibid.*

²¹ *Ibid.*, at 72.

²² *Ibid.*, at 130.

²³ R. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (1990), at 29.

²⁴ R. Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (2001), at 9.

²⁵ *Ibid.*, at 195.