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E Pluribus Unum? *A Divisible College?: Reflections on the International Legal Profession*

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Anthea Roberts, ***Is International Law International?*** Oxford: Oxford University Press, 2017. Pp. xxvi + 406. £25.99. ISBN: 9780190696412.

Abstract

Anthea Roberts' ambitious monograph, Is International Law International?, *calls on international lawyers to suspend our universalist pretensions and reflect from the perspective of different communities of international lawyers, conceived instead as a 'divisible college'. Her innovative and contemporary empirical work – on the educational and discursive practices across the five permanent members of the United Nations Security Council – represents nothing less than a first stab at a sociology of the international legal profession. In doing so, Roberts has adopted a consciously descriptive approach, with all of the consequences entailed thereby. Moreover, her privileging of certain methods and the focus on the five veto-wielding powers has the potential to reproduce the very power imbalances that she seeks to illuminate and possibly to challenge. Finally, an important counterpoint to the divisibility of the international legal profession is that, however diverse we may be, we nevertheless remain united by certain other tenets – in particular, our shared understanding of what concepts and ideas find purchase on the international plane and our engagement with, commitment to, or resistance to these concepts and ideas. The ties that bind our epistemic community might be obscured by undue emphasis on our profession as a divisible college.*

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1 Confessions of an Insider

Anthea Roberts' *Is International Law International?* is hugely ambitious. More about the profession of international lawyers than the actual substance of international law, it is a book that aims to open the eyes of the profession to the hegemonic dimensions of our craft, identifying the social situatedness of the international legal order in which we operate. The thrust of Roberts' argument is that the purported universality of international law and international lawyers is a fallacy; only by understanding international law through the patterns of 'difference' and 'dominance' that characterize the profession can we understand it as a social process. This is a bold claim, but she does not stand alone; as Martti Koskenniemi's enthusiastic foreword foretells, '[i]nternational law did not descend from the sky to settle our conflicts or to provide a "neutral framework" for our debates. Its rules and institutions, ideas and symbols, its cultural and professional mores bear the history of a divided and unjust world'.[1] Roberts' book is no more and no less than an attempt to map out how these differences and divergences shape today's international law.

A brief summary of the book's structure can help to capture a flavour of Roberts' overall argument, which favours a comparative approach in surveying the understanding of 'international' across different national jurisdictions and traditions. The first part of the book is dedicated to an analysis of 'patterns of difference', examining the structures and institutions of selected jurisdictions (primarily, but not exclusively, those of the five permanent members of the United Nations (UN) Security Council). Roberts focuses, in particular, on the composition of elite law faculties and the approaches taken in educational textbooks in those jurisdictions in order to identify these patterns of difference, drawing several conclusions about the preponderance of Western sources and influence in both Western and non-Western jurisdictions. The second part of her book seeks to illuminate 'patterns of dominance' – in particular, the outsized influence of the West – to suggest how Western conceptions of international law are denationalized and put forward as the 'universal' or, at the very least, the 'globalized' and the extent to which this is accepted even by non-Western states. In the third and final part, Roberts imagines the extent to which a shift in global power away from the West and especially towards Russia and China might produce challenges to Western ideational hegemony, looking at recent disputes in which such challenges have arisen.

Is International Law International? is replete with anecdotes and detail about our profession as a whole and individuals in our profession that are only really intelligible to other genuine insiders.[2] To give but one example, Roberts points to the extent to which elite international law academics in the USA have held posts in the US government, whether at the National Security Council, the Department of Defense or the Department of State.[3] Such a finding, if indicative of a global tendency, is potentially

1 A. Roberts, *Is International Law International?* (2017), at xvi.

2 A more light-hearted example would be the talk delivered at the European Society of International Law's 2010 Conference in Cambridge by Roger O'Keefe, 'Once Upon a Time There Was a Gap', which was later published on *EJIL:Talk* (8 December 2010).

3 Roberts, *supra* note 1, at 114.

discomfiting to our professional identity: 'International lawyers often see themselves as outsiders, crusaders of principle, of unfashionable virtue, and they have generally found it hard to accept that their tools and concepts may be open to challenge on the basis that that they create another class of outsiders.'[4] Partly confessional, partly a warning, Roberts' ambitious monograph seeks to shatter that stylized image of the international lawyer as the champion of universality, instead depicting the international lawyer as simultaneously beholden both to a wider transnational field, and equally, to national traditions and their distinct approaches towards international law. Though, at times, some of Roberts' conclusions feel like 'hunches' picked up along the way,[5] one senses that Roberts' primary aim is to hold a mirror to our profession from the perspective of a consummate insider; it is a call for self-reflection.

From the outset, Roberts advances two refreshingly honest caveats about her methods. First, conceding her lack of social science expertise, she maintains that some of the cross-national differences remain so striking that they justify simplicity. Her empirical work aims merely to illustrate her argument with concrete observations so as to remove the sense that they are too abstract for the reader. There is truth to this; many of the observations that Roberts has endeavoured to justify empirically – in particular, certain patterns of Westernization or the preponderance of Europeans and North Americans within the staff of international institutions – are obvious to any member of the 'invisible college'. Secondly, Roberts' overarching goal is decidedly modest; she aspires 'to create a framework of analysis that can be used as a platform for others to delve more deeply into some of the particulars … to confirm, correct, or add nuance to the story I tell'.[6] This framework of analysis is supported by substantial empirical evidence to support what would normally be intuitions, in particular, in the detailed appendices that help the inquisitive reader to glimpse the underlying data upon which this study was built. In this respect, Roberts' work makes a valuable contribution to our understanding of the field. Many of the factors identified by Roberts reflecting diverging approaches to international law are both mutually productive and self-reinforcing, thus strongly suggesting that international law is the product and the outcome of the practices of the international legal profession.

Roberts' call for disciplinary self-knowing is welcome in a profession where politics and ideology continually recur beneath the surface of international legal argument; Orfeas Chasapis Tassinis has likened her project to the self-reflexivity called for in a famous dialogue between Socrates and Alcibiades.[7] Indeed, there are several 'selves', or audiences, in Roberts' project. The first is herself, of course; she situates herself as a Westerner, a native English speaker from Australia who has worked and taught in the USA and the United Kingdom (UK), without fluency in other languages. Roberts' move is redolent

4 Charlesworth, 'Feminist Critiques of International Law and Their Critics,' *Third World Legal Studies* (1994–95), at 1.

5 H. Ruiz-Fabri, 'From Babel to Esperanto and Back Again: The Fate of International Law (or of International Lawyers?),' *EJIL:Talk!* (8 February 2018).

6 Roberts, *supra* note 1, at 48.

7 Chasapis Tassinis, 'The Self-Seeing Soul and Comparative International Law: Reading Anthea Roberts' *Is International Law International?*', 7 *Cambridge International Law Journal* (2018) 185.

of how social scientists 'situate' themselves, declaring their gender identity, sexual orientation or ethnicity, and it subjectivizes our professional endeavour, suggesting that our diverse perspectives and backgrounds partially constitute our engagement with international law. And it has methodological implications as, by her own admission, Roberts could not always engage with the primary materials herself, instead drawing on networks of students and communications so as better to understand what was occurring at other universities and jurisdictions, especially those outside her areas of expertise and linguistic fluency.[8] If nothing else resonates from this book, this is an important message.

The 'second self' is the professional community of international lawyers, who are the primary addressees of her call for greater self-awareness. We international lawyers are at the heart of one of her chief claims; according to her, we 'typically' sit at the intersection of two communities: 'a transnational community of international lawyers and a domestic community of national lawyers'.[9] Breaking from Oscar Schachter's metaphor of the 'invisible college', Roberts instead conceives of the profession as a 'divisible college', 'whose members hail from different states and regions and often form separate, though sometimes overlapping, communities with their own understandings and approaches, as well as their own distinct influences and spheres of influence'.[10] The idea is alluring, conveying simultaneously a fragile unity and the inherent pluralism of today's international lawyers: '[A] dynamic interplay between the centripetal search for unity and universality and the centrifugal pull of national and regional differences.'[11] Yet the 'divisible college' as metaphor also has its own limitations and blind spots, to which I shall return later.

Finally, there is a third self – international law itself – in regard to its nature, reach and character as law; as Chasapis Tassinis suggests, it is the 'central background context against which the self-reflection is supposed to take place'.[12] Is international law abstract or contextual; is it universal or can it be nationalized? As the object of our professional engagement, it is the 'magic stuff' that potentially binds us as a vocation. By emphasizing our divergences and distinctions, therefore, Roberts' underlying claim is that international law cannot be universal, itself irremediably divided through the divergences that characterize the profession. Roberts seems to be following Anne Orford's exhortation to investigate the ways in which international lawyers' understanding of the world 'can contribute to making that representation of the world seem real or natural'.[13] This has important implications on her methodological choices and, above all, on the emphasis on description that permeates the book.

[8] Roberts, *supra* note 1, at 48–49.
[9] *Ibid.*, at 6.
[10] *Ibid.*, at 2, 52.
[11] *Ibid.*, at 3.
[12] Chasapis Tassinis, *supra* note 7, at 187.
[13] Orford, 'Embodying Internationalism: The Making of International Lawyers', 19 *Australian Yearbook of International Law* (1998) 1, at 16.

2 On Empiricism and 'Deep Description'

Roberts' 'Project Design', outlined in Chapter 2, is a clear articulation of the 'comparative international law' approach she favours and has been developing: the notion that understanding international law also depends on one's vantage point. This is effected through a very contemporary presentation, including charts, tables and even the trendy 'word clouds' in reference to US and UK textbooks![14] Roberts' comparative international law approach comes with an important caveat; for her, differences in the way international law is understood, interpreted, applied and approached can be examined without adopting a relativist stance to the effect that all different positions are equal: '[A] descriptive observation that certain international law values are not universal as a matter of origin, or universally accepted as a matter of sociological fact, does not necessitate a normative position that these values should not be recognized as universally applicable'.[15] With respect to methodology, it raises the question of what evaluative standpoint to take on competing notions within such a framework. Can one really say that the comparative international law project is primarily one of description? Grand theories about mapping international law as a field aside (which I do think have a degree of purchase), I am not entirely convinced that it is hugely original to suggest that international law's aspiration to universality is but an aspiration, one that is limited by the localisms of all of its localized agents. Roberts consciously embraces what Paul Stephan calls 'thick description', the idea that description is necessary to challenge preconceptions and, 'when well done as here, prior to any instrumental analysis'.[16] Interestingly, Stephan concedes the paradox that such description raises: 'What deep description does not do – indeed, it cannot do – is create a normative framework for assessing particular regimes. It removes the underbrush to allow the observer to better comprehend the social phenomena in play, but it does not supply the framework for evaluation.'[17]

A point that Stephan does not acknowledge, but is very much evident from my reading of Roberts' book, is that such deep description does set up the foundations for a more explicitly normativist approach, and the very choice of sources and methods may point the way to a preferred path towards reform. It is a sort of 'covert normativism'[18] that marks out Roberts' approach and comes to the fore at several junctures, as will be explained later. In this respect, Roberts' consciously descriptive methodology is markedly more confined than ostensibly similar descriptive work from Orford, who sought to draw from historical social practices and the way they are rationalized, reflected and transformed into conceptual frameworks, using the case study of the 'responsibility-to-protect' doctrine and its historical precursors.[19] Although similar

[14] Roberts, *supra* note 1, at 148–149.

[15] *Ibid.*, at 21.

[16] Stephan, 'On *Is International Law International?* – Where Next?', *Opinio Juris* (8 February 2018).

[17] *Ibid.*

[18] I owe this term to Christian Tams, book review editor at the *European Journal of International Law* (*EJIL*). Roberts' strategy in this regard has also been noticed in Chasapis Tassinis, *supra* note 7, at 189, who suggests that the self-reflection exercise is 'inherently normative'.

[19] Orford, 'In Praise of Description', 25 *Leiden Journal of International Law* (*LJIL*) (2012) 609.

in their engagement with facts and their reflections on the importance of description, Roberts and Orford depart on a key point. Where Roberts' emphasis on deep description suggests that it is prior to normativist projects that others might pursue based on her methodology, Orford sought to demonstrate how normativist projects often preceded conceptual frameworks that are used as *ex post facto* justification for material reality. Orford drew her argument on Michel Foucault's reinterpretation of the emergence of the modern state form in Europe, in which governmental practices were later developed, and justified, through concepts like sovereignty or statehood. As such, the state was hardly a 'natural-historical given' or a 'cold monster' but, rather, 'the correlative of a particular way of governing'.[20] In short, social relations and practices begat legal concepts that emerged to justify these relations, and not the other way around, and Roberts' emphasis on description and empiricism as being prior to such normativist projects struck me as somewhat ahistorical.

Moreover, Roberts' embrace of a comparativist lens also adopts a covertly politicized methodology, and in this respect, it must be said that Roberts is too coy about her mission in writing this book. Throughout, after providing the empirical data, which may be limited but is often extremely compelling, she refrains from explaining how the insights drawn from the disparate methods used can be synthesized coherently. There is an oscillation, on the one hand, between describing international law as Westernizing and globalizing (and in that limited way, constructing a universal frame); and, on the other hand, suggesting that there is an overreliance on representation and a false sense of universality. Yet, throughout, Roberts takes no firm position despite observing clear Westernizing tendencies, especially the over-representation of Western legal professionals in international institutions or as advocates, which brings to the surface 'the tension between her descriptive thesis and her self-reflective rigour'.[21] If such practices reflect international law's structural bias, this would not be Roberts' explicit position; she leads the reader right to the conclusion, but she does not make it herself.

3 The Agenda: 'Comparative International Law'

'Comparative international law' as a methodology is clearly on the rise, with Roberts at its vanguard.[22] To her mind, this means challenging the purported universality of our field by 'disrupting' the understanding that international lawyers are a coherent and universal field and demonstrating that we are differentiated according to how we are socialized into the discipline, the networks in which we participate and the sources on which we rely that reinforce these constraints. As Ignacio de la

[20] *Ibid.*, at 616, citing M. Foucault, translated by G. Burchell, *The Birth of Biopolitics: Lectures at the Collège de France 1978–79* (2008), at 2.

[21] Chasapis Tassinis, *supra* note 7, at 190, calls on Roberts to explain what would be 'inherently bad' with this over-reliance on Western materials.

[22] See Roberts *et al.*, 'Comparative International Law: Framing the Field', 109 *American Journal of International Law* (2015) 467; A. Roberts *et al.* (eds), *Comparative International Law* (2018).

Rasilla demonstrates in his recent history of international law journals published in this journal, comparativism has a long-standing and well-established methodology through which to understand international law.[23] And it should not surprise us that international legal scholars, from their diverse national settings, would seek to understand international law through their experience of what was traditionally associated with the concept of 'law'.[24] But international law is not merely a 'thing' or a 'form'; if we are to take the lessons of the last three decades seriously, international law is also a practice of argument, one that takes place and is performed within a relatively confined range of people who communicate with one another using the grammar and syntax of international law.[25] If internationalism is a feature of that community, it also carries with it its own presumptions about international lawyers as a unified professional community bound by a body of doctrine, common history and languages across national cultures or legal traditions.[26] Internationalism in this respect connotes disciplinary service to the project of international law itself, one that connotes 'an erasure of particularist projects', as David Kennedy would put it.[27] Internationalism places the emphasis on the universal, the general and not the particular; it glosses over the diversity of perspectives and inherent pluralism of the global citizenry.

Comparativism, in Roberts' frame, highlights the diversity within that community; in the conclusion, she proclaims that 'consciously assuming a comparative international law approach may help international lawyers to look at their field through different eyes and from different perspectives, enabling them to understand others more fully and to critique themselves and their own state more perceptively'.[28] But does that mean that international lawyers should transform themselves into comparativists? Can comparativism be reduced to a methodological lens to accept the potential of multiple approaches to the phenomenon that we call 'law'? Or is it no more than a call for understanding law as a contextualized cultural phenomenon?[29] Such a call is itself not normatively innocent; the comparativist pursues his or her own political project, in which pluralism is privileged over the global and difference is emphasized over commonality. Yet, for all of this, both internationalism and comparativism share

[23] De la Rasilla, 'A Very Short History of International Law Journals (1869–2018)', 29 *EJIL* (2018) 137.

[24] Kennedy, 'The Disciplines of International Law and Policy', 12 *LJIL* (1999) 9, at 18.

[25] The notion of an international law 'grammar' is drawn from Dupuy, 'L'unité de l'ordre juridique international: Cours général de droit international public', 297 *Recueil des Cours* (2002) 9, at 205: *'[U]n internationaliste ne devrait jamais prétendre à autre chose que d'être un bon grammarien du langage normatif du droit international*'. I have written on this elsewhere. See Hernández, 'The Responsibility of the International Legal Academic: Situating the "Grammarian" in the Invisible College', in A. Nollkaemper *et al.* (eds), *International Law as a Profession* (2017) 160.

[26] Kennedy, *supra* note 24, at 17.

[27] *Ibid.*, at 86.

[28] Roberts, *supra* note 1, at 321; see also her caution: '[I]f international lawyers operate in silos, either domestically or transnationally, they risk failing to connect with, and understand the perspectives of, those coming from diverse backgrounds and holding different perspectives' (at 323).

[29] Ruiz-Fabri quotes Muir Watt, 'La fonction subversive du droit comparé', 52 *Revue internationale de droit comparé* (2000) 503, suggesting 'comparison is … capable of freeing legal thought from inhibiting conceptual constraints by paving the way to new ways of reading the law'.

a broader purpose: to defend the integrity, autonomy and flexibility of international law to retain its status as law and, thereby, to provide precisely the 'rational and pragmatic machinery for practical government'.[30] As Kennedy puts it, '[i]n the legal academy, if international law is the department of global governance, comparativists serve as a department of diversity. In differentiating themselves from governance by engaging with culture while asserting that culture can be understood without being ruled, comparativists reinforce the internationalist's claim to govern from a space beyond culture'.[31]

The tension between internationalism and comparativism can be simplified thus: if internationalism seeks to de-emphasize cultural differences, the focus of comparativism is to study these cultural distinctions and how they manifest themselves in the law. As methods, they complement one another, allowing us to discern which cultural distinctions are relevant and to understand how culture and society constitute legal orders and are, in turn, constituted by one another.[32] However, comparativism as a methodology for understanding international law also has its limitations. Roberts' emphasis on national distinctions suggest a strong relationship between law, culture and society, but, at the same time, it can over-emphasize cultural distinctions and the fact that pluralism itself is a normative project. As discussed earlier, the ambivalence with which Roberts has presented a 'descriptive' thesis about the sociology of the international legal profession was one of studied neutrality or a 'thick description'. The methodology of comparativism connotes not only empirical description but also a number of normative conclusions – in particular, the rebuttal of both substantive and potential universality. Although Roberts correctly chastises international law and international lawyers for a failure to achieve universality, I was not fully convinced that the 'comparative international law' approach genuinely provides a corrective or simply imposes, in the guise of description, a different normative framework based on pluralism. If the latter is true, then comparative international law is a call for a different emphasis within international legal argument, without refashioning international law itself. The focus of international law is reduced to nothing more than 'a normative restatement of the wills, claims, and commitments of sovereigns, confirming, enshrining, recognizing sovereigns and registering their prerogatives'.[33] International law begins to resemble nothing more than a realist instrument used by powerful actors rather than being considered an instrument that itself wields immense normative force.

Finally, in the guise of seeking knowledge about human behaviour and culture, pluralism and the comparativist approach to international law can potentially obscure the centrifugal, unifying aspects of international legal argument. Roberts' emphasis

[30] Kennedy, *supra* note 24, at 82.

[31] *Ibid.*

[32] Kennedy, 'International Legal Education', 26 *Harvard International Law Journal* (*HILJ*) (1985) 361, at 380: 'By examining the process of differentiation in this way, it is possible to develop a renewed sense of connection, renouncing the mechanisms of social division as well as disciplinary specialization.'

[33] Kennedy, *supra* note 24, at 81.

on Westernizing, globalizing factors and core periphery dynamics is a welcome addition to comparativist approaches to international law, but the concern remains that essentializing differences and diversity might eclipse those aspects of international law that remain a coherent unit – those aspects that are not fragmented. My view remains that whilst international lawyers may speak in different accents or dialects, ultimately we speak the same language, and that language is a reflection and instrument of power relations on the global plane. To be able to master that language is to master the discipline as a 'body', however heterogeneous, of knowledge; as Orford would put it, the mastery of that language is 'to be able to perform its genres, to speak and write and embody its favourite discourses, myths, and narratives'.[34] Understanding the 'prestige' accents or dialects within that diverse, but unified, college merits further emphasis, an emphasis that can be lost in a sweeping comparativist approach. I will return to this later.

4 The Reproduction of Power Imbalances

Roberts' study raises another important concern, one that is perhaps unavoidable given the nature and scope of the book, but one that ought not to be brushed aside. Despite her insistence on a comparative and diverse approach, her empirical observations are confined for the most part to studying the international legal profession in the five permanent members of the UN Security Council (the P5) and in a few other comparators that are useful to her, such as her native jurisdiction of Australia. Roberts' privileging of the P5 states has certain consequences, as it also underlies her analysis of universities, of textbooks (and citation practices within them) and of other strategic and methodological choices; in short, it structures the entire book.

Roberts gamely tries to justify her focus on the P5 states through a combination of arguments ranging from their institutional prominence on the UN Security Council and the International Court of Justice (ICJ), their economic prowess, their engagement in the global flow of students and their relatively privileged status overall.[35] She does concede that no Latin American or African state is represented (including the Middle East), that major language groups such as Spanish, German, Japanese or Arabic are excluded and that 'new' powers such as India, Mexico, Indonesia and Nigeria are not represented. Other jurisdictions remain marginal or purely ornamental. Yet, overall, this acknowledgement does not serve as much of an apology for the core-periphery paradox that is of her own making;[36] though Roberts seeks to illuminate that powerful

[34] Orford, *supra* note 11, at 3.

[35] Roberts, *supra* note 1, at 35–39.

[36] Of course, the very notions of 'core' and 'periphery' are laden with presumptions and are themselves not clearly defined; they could refer to economic and geopolitical realities, the colonial-colonized dynamic, intra-Western dynamics, between the global South and the global North, regional dynamics and even those within states. Roberts seems to deploy it at different junctures to distinguish the West from other states but, occasionally, also refers to Australia, Canada and South Africa as 'semi-peripheral' – for example, in relation to textbooks (see, e.g., *ibid.*, at 152). I return to this point in section 6 of this article.

states and their nationals, especially the Western states on the UN Security Council (France, the UK, and the USA) constitute a 'core' within the international legal profession, her own choice of focus does nothing except reinforce those dynamics. She does no more than to acknowledge the limitations and then suggest that the study ought to be broadened.[37]

Doubtless, the monograph would become too unwieldy otherwise, but this choice felt a bit disappointing, and the core-periphery and power relations that it exposes creates a further tension in her book that merits excavation. Although there is a realist pragmatism in her emphasis on the permanent members of the UN Security Council and their leading role within the international legal order, she reinforces in so doing the privileged status of these countries and gives off the impression that these are the only states that actually matter. Subconsciously, this potentially reproduces the very power imbalances that Roberts claims her comparative approach addresses – these states have strategic interests that diverge considerably from the vast majority of states, greater material and even legal means (through their veto). After a book's worth of relatively descriptive empirical analysis, the pragmatic concession at the end of her book that 'international law reflects international power'[38] drily reinforces the consciously descriptive, uncritical manner in which Roberts has assessed much of the data that she has complied.[39] She concedes this readily in her online response to critics:

> Just as many readers have felt unsettled reading [the book], so I felt unsettled writing it. I coped with that discomfort by seeking to render as balanced a picture as I could, typically presenting both sides of issues rather than taking a normative stand about which one I thought was preferable. I showed that strengths often contain weakness and vice versa. I subjected myself to the same critique as I asked my readers to undertake.[40]

5 Textbooks and Academia: Inculcating International Law

A considerable part of Roberts' empirical work studies a swathe of textbooks from states around the world (with an emphasis on the P5, to be sure) and is geared towards studying nationalizing, denationalizing and Westernizing patterns in the citation styles and approaches taken in these textbooks. Justifying her focus on textbooks, Roberts contends that international law textbooks 'give a sense of how international law is understood by the current generation of international lawyers (output) and communicated to the next generation (input) within a given state'.[41] As someone who

[37] *Ibid.*, at 39.

[38] *Ibid.*, at 289.

[39] As Chasapis Tassinis, *supra* note 7, at 190, points out, the data collected by Roberts could be marshalled from a formalist-positivist, idealist or realist perspective to assume entirely different significance, depending on one's conceptual pre-commitments, with distinct methodological consequences. However, he suggests that Roberts' descriptive approach is perhaps redolent of a 'neorealist' stance (at 192).

[40] Roberts, 'Is International Law International? Continuing the Conversation', *Opinio Juris* (9 February 2018).

[41] Roberts, *supra* note 1, at 32, citing C. Focarelli, *International Law as Social Construct: The Struggle for Global Justice* (2012), at 90.

is finalizing a new textbook on international law, I find that there is much to be said about the manner in which textbooks frame certain issues, emphasize given areas of controversy and, above all, teach students how to go about analysing international law, the sources whence it derives and the relevant actors involved.[42] Textbooks, and the manner in which they are structured, inculcate the shared vocabulary and methodology of our invisible college for the next generation; they set the boundaries of relevance, establishing what counts as a valid and acceptable legal argument and what does not. As Roberts puts it, '[t]he subjects these books focus on and the materials they use communicate powerful messages to students about the field and form an important part of the process by which international lawyers are socialized into understanding their vocation'.[43] They are the 'base' reference, and, in this regard, they establish both the acceptability of mainstream international legal argument today and set the foundations for how it is taught in the future.

What is more, international law textbooks are highly relevant for international legal practice, being potentially as popular with practitioners, international courts and legal advisors to states as they are with students, precisely given their educational, descriptive approach. By avoiding a polemical analysis and complex theoretical questions, they account for existing legal developments within structures intelligible by the profession as a whole, framing how international lawyers describe and account for international law. In analysing a range of textbooks from the P5 and a few beyond, Roberts carefully and methodically selects a range of metrics ranging from citation to primary sources, national and international case law, treaties, theory and doctrine with an aim to seeing what sorts of sources are privileged and whether certain patterns prevail depending on the origin of the textbook. Substantively, the structures of the books were studied, looking, for example, at the divergence between Western and non-Western approaches to a textbook. There were some interesting anecdotal conclusions; Roberts notes that even among the major textbooks of the P5, citation to domestic case law is overwhelmingly Western, limited to materials from certain core Western states, particularly those that are English-speaking.[44] Whether in Western or non-Western textbooks, there is a lack of diversity in citation (99.6 per cent in the case of France!). Only Russian textbooks stood somewhat apart, with 'only' 29 per cent of citations to Western cases. Tellingly, a similar Western bias also predominates in the selection of academic authorities with Western, and, especially, English-speaking, authors being predominantly cited (although the French-speaking market refers primarily to French-speaking scholars).[45]

I share with Roberts the view that such Western orientation does not exist merely as a matter of 'facts on the ground'.[46] Instead, and I believe correctly, she suggests that English-language dominance, core-periphery dynamics, reasoning style and the simple

[42] G. Hernández, *International Law* (forthcoming).
[43] Roberts, *supra* note 1, at 32–33.
[44] *Ibid.*, at 166–168.
[45] *Ibid.*, at 172–177.
[46] *Ibid.*, at 168.

availability of these decisions has led to their dominance.[47] The linguistic duopoly of English and French (and the increasing dominance of English as international law's *lingua franca*[48]) deserves particular mention, going beyond mere textbooks and extending to her analysis of the profession. Roberts devotes considerable attention to actually studying the statistics involved in relation to the ICJ, the International Criminal Court (ICC) and other international courts and tribunals, illustrating how anglophone and francophone nationals from 'core' Western states dominate heavily. Going beyond textbooks into our profession for an illustration of this phenomenon, a striking feature of the arbitrators of the International Centre for Settlement of Investment Disputes, where states are fully empowered to appoint arbitrators, is that 48 per cent are chosen from Western Europe and 21 per cent from North America, with British, French and US nationals being far better represented than all other nationalities.[49] One further observes this trend in Roberts' canvassing of the US and the UK academies as much as in how the Chinese and German academies are moving towards publishing in English.[50] I have argued elsewhere that the use of language has concrete consequences. Perhaps more than any other Westernizing or globalizing phenomenon, the choice of language can confer a vehicular status on a language that privileges a certain mode of reasoning and certain categories of sources and enables the localism of certain parts of the world to present themselves as global in reach, reducing other views to being merely local.[51]

I found when writing my own textbook that all of these features reflect international law's past and, regrettably, its present. The past is a colonial, exploitative one in which the West imposed its values and its state system on the world; whether non-Western states came voluntarily to accept it is perhaps a secondary question, but it does not unsettle the reality of Western ideational pre-eminence. Even with an overt agenda to seek out non-Western sources of state practice, many efforts had to be made, and non-Western case law or executive/legislative practice were difficult to gather, even when looking at non-Western textbooks for inspiration (and, as with Roberts, my own linguistic limitations in Chinese, Russian and Hindi make it doubly difficult).

Regrettably, these issues about Westernization seem to manifest across the global South, with Western sources being given implicit primacy and 'local scholars' ascribed secondary status,[52] and the same is true of semi-peripheral Western states such as

[47] *Ibid.*, at 168–170. E.g., the terse, condensed French style of judicial reasoning is rather less conducive to foreign citation than fully reasoned awards of German or English courts.

[48] *Ibid.*, at 260–267; see also the conclusion of de la Rasilla, *supra* note 21, at 166–167 in relation to the hegemony of English within the international law journal space.

[49] Roberts, *supra* note 1, at 259, referring to the work of Puig, 'Social Capital in the Arbitration Market', 25 *EJIL* (2014) 387, at 410–412.

[50] Roberts, *supra* note 1, at 218–219 (Germany), 231 (China).

[51] *Ibid.*, at 267–268, citing Hernández, 'On Multilingualism and the International Legal Process', in H. Ruiz-Fabri, R. Wolfrum and J. Gogolin (eds), *Select Proceedings of the European Society of International Law* (2010), vol. 2441, at 452.

[52] Roberts, *supra* note 1, at 173, who explains a similar tendency in early Chinese international law textbooks. Regarding Latin America, see also Becker Lorca, 'International Law in Latin America or Latin American International Law? Rise, Fall, and Retrieval of a Tradition of Legal Thinking and Political Imagination', 47 *HILJ* (2006) 283, at 288–289; de la Rasilla, *supra* note 21, at 145–147, also situated the rise of international law journals in Japan, Spain and the USA as rooted also in this vision of international law as a way to national integration in the core, by nurturing local scholarship and national practice.

Australia and Canada with respect to British textbooks.[53] Even in India, the few local textbooks expend little effort on even the local, much less the regional, experience.[54] This broadly mirrors my own research looking for specific state practices outside the 'core', where only the occasional Canadian[55] and South African[56] textbooks provide focused guidance on local or regional practices. In this respect, Roberts is absolutely correct to conclude that looking to the West, and, in particular, to a few core states within it, signifies international law's present in shaping an understanding of the field.[57] Unless checked, this tendency will shape international law's future.

So what is the task of the textbook writer or educator, such as the many readers of this journal, especially those working in one of the 'core' English-speaking or Western states? Perhaps due to anxieties about international law's fragility or its purpose, there are many of us who regard ourselves 'on an educational mission: to disseminate knowledge about international law, this mission being required by international law itself'.[58] Equally, certain scholars evince a noble desire to break free of such romanticism, pointing out the West's hegemonic role in constituting international legal structures and seeking to decolonize the curriculum.[59] Yet, to presume the universality and homogeneity of international law is Eurocentric, and the very structures of statehood, sovereignty, self-determination and even human rights are historically contingent, rooted in the Western origins of international law.[60] There is, however, a further way forward and one that I would favour. As educators, I believe that we must honour our commitment to our students to educate ecumenically and to allow students to assemble the necessary tools beyond scholarship: to practise international law, to sit the exams of the foreign service or to work in the service of a political cause.

To teach international law as it has been constituted and understood by international law elites over time, explaining and understanding its Eurocentric roots, serves to unmask those issues while understanding the inner logic of international law itself and understanding the language of international legal argument. These differing engagements with international law also merit scholarly engagement and also reflect the reality of how international law is lived. It provides, as Kennedy explains in an early work, 'a good standpoint for thinking about the mechanisms by which

53 Roberts, *supra* note 1, at 152.

54 *Ibid.*, at 154.

55 See, e.g., J.H. Currie *et al.*, *International Law: Doctrine, Practice, and Theory* (2nd edn, 2014); J.-M. Arbour and G. Parent, *Droit international public* (7th edn, 2017).

56 See J. Dugard *et al.*, *International Law: A South African Perspective* (4th edn, 2011); H. Strydom *et al.*, *International Law* (2016).

57 Roberts, *supra* note 1, at 166.

58 D'Argent, 'Teachers of International Law', in J. d'Aspremont *et al.* (eds), *International Law as a Profession* (2017) 412, at 414–415; see also M. Koskenniemi, 'The Case for Comparative International Law', *Finnish Yearbook of International Law* (2009) 1, at 3.

59 See the spirited call from Schwöbel-Patel, 'Teaching International Law Critically: Critical Pedagogy and *Bildung* as Orientations for Learning and Teaching', in B. van Kline and U. de Vries (eds), *Academic Learning in Law: Theoretical Positions, Teaching Experiments and Learning Experiences* (2015) 99; Simpson, 'On the Magic Mountain: Teaching International Law', 10 *EJIL* (1999) 70.

60 Koskenniemi, *supra* note 58, at 4.

modern scholars dissect, sanctify, justify, and, I fear, all too often forget about doctrine'.[61] Roberts' detailed empirical work on the dominant textbooks in the P5 states opens the door to rethinking the role of the educator in teaching international law. It brings a glimmer of light into how initiates are introduced into the profession that she calls the 'divisible college', perhaps her most controversial assertion, and to which we finally turn.

6 Great Power Dynamics in Roberts' Divisible College

Early in *Is International Law International?*, Roberts introduces her metaphor of the 'divisible college', a play on Schachter's memorable 'invisible college of international lawyers', a community of professionals that, 'though dispersed throughout the world and engaged in diverse occupations, constitutes a kind of invisible college dedicated to a common intellectual enterprise. … its members are engaged in a continuous process of communication and collaboration'.[62] Portraying the profession as a 'divisible college' reinforces, and is reinforced by, her call for a comparative international law methodology that permeates her book. There are several important dynamics at play in depicting international lawyers as a divisible college. Perhaps the most important is the core-periphery distinction raised early on in her book,[63] but perhaps deployed somewhat indistinctly. Again, Roberts tends to use it simultaneously in terms of economic and geopolitical realities, the colonial-colonized dynamic, intra-Western dynamics and others. There are flows that are constituted beyond such dichotomies, and there are peripheral areas in core areas and so on. But no matter; perhaps it is best to illustrate the impact of the concept of the divisible college on those intra-disciplinary dynamics that are expressed in her book, both to point out the strengths in her argument as well as, perhaps, the limitations.

Perhaps unavoidably, given the identity of the P5 members and her focus thereupon, Roberts' attempt to delineate the divisible college raises several concerns. For example, when addressing the manner in which the different national traditions grapple with key issues of strategic national importance, Roberts explicitly calls for the reader to look at problems through the perspective of another and coolly seeks to let the evidence speak for itself, particularly when discussing the approaches of the West against those of Russia and China. In so doing, as Chasapis Tassinis points out, the book frames these international legal flashpoints 'as essentially bilateral problems between different poles of geopolitical power', with little recognition of the many states outside the P5 – including those immediately affected by these crises – and their responses.[64] Roberts' focus thus inadvertently reproduces the enduring myth of liberal humanitarianism (in the West) struggling against authoritarianism (in the non-West,

[61] Kennedy, *supra* note 32, at 378.

[62] Schachter, 'The Invisible College of International Lawyers', 72 *Northwestern University Law Review* (1977) 217, at 217.

[63] Roberts, *supra* note 1, at 45ff.

[64] Chasapis Tassinis, *supra* note 7, at 191.

the 'Other').[65] Such a focus implies that authoritarian powers ought to be brought into line, rather than interrogating and identifying explicitly the root causes for divergence. To my mind, however, the interesting point is not that there is divergence, but rather, how that divergence is articulated through law and how law becomes a strategic tool in statecraft; this may have nothing to do with realist considerations, but instead, with a degree of relative indeterminacy within international law itself.

Regrettably, given her consciously descriptive approach, Roberts does not speak to this broader question at all. Let us turn to the two chapters, 'Patterns of Difference and Dominance' (Chapter 5) and 'Disruptions Leading to a Competitive World Order' (Chapter 6), for illustrations. Chapter 5 highlights two issues of 'high politics' for the P5, the Russian intervention in the Crimea and the *South China Sea* arbitration,[66] in which the Russian and Chinese perspectives on international law are highlighted. Roberts concludes not only that the appraisal of the facts and media 'representations of reality' condition the divergent postures of both[67] but also that there are certain 'double standards',[68] compounded by a lack of 'bridge lawyers'[69] that link divergent communities.[70] The point, however, is that the Russian and Chinese approaches are construed as 'divergent', with Western approaches implicitly taken as being the norm. However, this is not entirely accurate. Russia strategically invoked similar language to the North Atlantic Treaty Organization's (NATO) powers in Kosovo to justify humanitarian intervention in Crimea.[71] And, crucially, the great majority of states have not accepted the doctrine of humanitarian intervention, whether in relation to NATO's activities in Kosovo[72] or to those of Russia in the Crimea.[73] Again, when it comes to such case studies in the book, there is an ironic twist that emerges in Roberts' choice to privilege the P5, in that it draws perhaps undue attention to the contemporary politics of the Great Powers, implying that it is their practice that is most relevant, to the near exclusion of all other states.[74]

Turning then to the 'startling' unanimity of Chinese legal opinion in relation to China's South China Sea dispute with the Philippines, Roberts articulates the

[65] *Ibid.*, at 190.

[66] *South China Sea (the Philippines v. China)*, PCA Case no. 2013–19, Award (12 July 2016), available at www.pcacases.com/web/view/7.

[67] Roberts, *supra* note 1, at 236.

[68] *Ibid.*, at 238.

[69] *Ibid.*, at 239.

[70] M. Milanović's blog post on Roberts' book, 'Mobility and Freedom in the International Legal Academia: A Comment on Anthea Roberts' *Is International Law International?*', *Opinio Juris* (8 February 2018), also points to the relationship between the standing of local academia and academic freedom in certain authoritarian states, a point implicitly acknowledged by Roberts in analysing how materials and sources are presented in Russian and Chinese textbooks (Roberts, *supra* note 1, at 157–165).

[71] See, e.g., Overview of Security Council Meeting Record, UN Doc. S/PV.7125 (3 March 2014), at 3ff.

[72] The foreign ministers of the G-77 (an informal group of 132 non-aligned states) denounced the humanitarian intervention doctrine as applied to Kosovo. See the Declaration on the Occasion of the Twenty-Third Annual Ministerial Meeting of the Group of 77 (24 September 1999), para. 69.

[73] For a canvassing of reactions to Russia's intervention, see Bering, 'Lessons from Crimea', 49 *New York University Journal of International Law and Policy* (2017) 746, at 775ff.

[74] I owe this observation to Chasapis Tassinis, *supra* note 7, at 191.

well-known links between Chinese academia and government, suggesting moreover that Chinese scholars' opinions 'may be the result of a complex socialization process based on the way these scholars were educated, the reference materials that they commonly use … and the assumptions and boundaries that delimit mainstream academic debate within China'.[75] These are ambitious normative claims that are to be taken seriously. But are they too complex an explanation, and do they miss the point in Julian Ku's withering response: 'I was (and remain) deeply skeptical of the subsequent Chinese argument … I think this is not just a different approach to international law arising out of distinct national or regional silos, but it is a weak, self-serving, politically necessary and ultimately ridiculous legal argument'?[76] Douglas Guilfoyle, another Westerner, gives an equally damning assessment of the Chinese Society of International Law's 'Critical Study' of the arbitral award.[77] Although Roberts' portrayal of different traditions aims to highlight the potential for scholarly divergence, it insufficiently addresses the relationship between scholarship and power in relation to the two non-Western members of the UN Security Council. By consciously refusing to take a position, or by under-emphasizing her position, Roberts undermines her stated claim that comparativism need not entail relativism.

Even more salient are her claims put forward in Chapter 6, suggesting that, as dominance patterns shift as a matter of fact, so will they shift as a matter of argument and within the community of international lawyers, thus fragmenting the formal universalism of international law.[78] Roberts marshals on this point the language of the Sino-Russian Joint Declaration[79] as to their shared vision of international law.[80] The declaration 'support[s] a vision of international law that is much more protective of sovereignty, sovereign equality, and territorial integrity than the apparently more human-rights-friendly and access-oriented approach embraced by many Western states'.[81] And, yet, upon reading this chapter and the two case studies advanced (relating to humanitarian intervention and cyber-security/information security), I felt two observations to be in order. The first is that the ideational divergence between China and Russia, on the one hand, and the Western powers, on the other, is a matter of degree and not of kind. Unlike with the Soviet visions of international law[82] and even the New International Economic Order (NIEO) propounded by the newly independent states in the 1960s, the competing visions between different constituencies concern the interpretation of existing rules within an agreed framework. The Soviet vision of international law and NIEO were ruptures; they not only imagined new legal rules, but they also challenged and re-imagined the very basis of the international legal frame.

75 Roberts, *supra* note 1, at 243.

76 J. Ku, 'Is International Law … Law', *Opinio Juris* (9 February 2018).

77 See also the more restrained, but substantively similar, analysis in Guilfoyle, 'A New Twist in the South China Sea Arbitration: The Chinese Society of International Law's Critical Study', *EJIL:Talk* (25 May 2018).

78 Roberts, *supra* note 1, at 289.

79 *Declaration of the Russian Federation and the People's Republic of China on the Promotion of International Law*, available at www.mid.ru/en/foreign_policy/position_word_order/-/asset_publisher/6S4RuXfeYlKr/content/id/2331698.

80 Roberts, *supra* note 1, at 296.

81 *Ibid.*, at 299.

82 For a concise discussion of the Soviet legacy, see L. Malksöo, *Russian Approaches to International Law* (2015), at 3–12.

This observation does not negate Roberts' emphasis on divergence, but it perhaps overstates the challenge to universality entailed by the divergence within the P5. This commonality represents, to a degree, the victory in our time of the international legal order centred on the UN Charter (a positive or deeply problematic phenomenon, depending on one's taste), a point that is under-explored in Roberts' monograph. No one is arguing for amending the UN Charter with respect to humanitarian intervention, and a multilateral cyber-security treaty would be built on existing international law. Although it is evident that there has been some Chinese and, especially, Russian isolation in the face of the UN Security Council's inaction in relation to the Syrian civil war, again it is in relation to whether the responsibility to protect should be invoked here and not whether the Council is competent or not competent to intervene in such cases. Roberts concedes as such, since China accepted the outcome of the 2005 World Summit and Russia even invoked the responsibility-to-protect doctrine in support of its actions in Crimea.[83]

The second issue raised in the 'China and Russia versus the West' narrative that Roberts inadvertently propounds is simply that it neglects the history of 'Great Power' politics. As Gerry Simpson's seminal book highlights, history demonstrates a certain cyclical aspect as to how the state system has managed the relations between dominant powers, who use law to foster their strategic objectives; though international law evolves in response to shifts in power, these are not revolutionary upheavals but, rather, iterative adjustments.[84] Although Roberts accepts the point as a feature of the future development of the law, little space is devoted to considering whether the oscillation between hegemony, concert, and multi-polarity is an enduring feature of international law. This is perhaps unavoidable in light of Roberts' generally ahistorical approach, but it has its limitations.

Roberts' arguments of patterns of dominance and difference will continue to ring true for as long as international law remains a reflection of power and international lawyers continue to engage with power. The question remains, however: is there another imagining of international law (and the international legal profession) that can transcend such questions? Roberts' imagining of international lawyers in a 'divisible college' is her contribution to that debate, and I now turn to the implications it engenders for our profession.

7 The Divisible College and *Dédoublement Professionnel*

The concept that will probably gain most traction in the profession is Roberts' portrayal of international lawyers as a 'divisible college'. This focus on divisibility emphasizes an '[e]ssentially national partitioning' of international lawyers, the resilience of the national organization of legal systems, university systems and career progression.[85] None of this is inaccurate, but, in one respect, it sets up a false dichotomy when juxtaposed against the internationalism and disciplinary self-consciousness

[83] *Ibid.*, at 302.

[84] G. Simpson, *Great Powers and Outlaw States* (1999), ch 1.

[85] Ruiz-Fabri, 'Reflections on the Necessity of Regional Approaches to International Law through the Prism of the European Example: Neither Yes nor No, Neither Black nor White', 1 *Asian Journal of International Law* (2011) 83, at 86.

of international lawyers as an 'invisible college'. Schachter's invisible college had another important facet, itself a play on Georges Scelle's *dédoublement fonctionnel*,[86] unifying scholars, professional jurists and government legal advisers through a shared methodology and a battle against relativism through the 'reasoned application of competing principles, including those expressing fundamental values, validated by evidence of practice and consensus in international society'.[87]

Given the potential for international law professionals to influence the interpretation and further development of substantive legal doctrines as well as institutional frameworks, does such mingling serve to amplify internationalist biases or simply to mitigate national or cultural biases?[88] In an early work, Orford sought to illustrate a further facet of Schachter's invisible college, suggesting that it promoted a narrative whereby international lawyers constitute an elite group that can affect history, powerful institutions and even states through their proximity to powerful institutions.[89] The international lawyer in this portrayal does not hold power; rather, she acts alongside the deciders, facilitating and implementing their decisions and, in so doing, embodies Koskenniemi's famous 'gentle civilizer'.

Despite the nuances in Roberts' claims about the divisible college, I felt that Schachter's observations about the mingling of roles are under-emphasized in her monograph and that something was lost. For international law derives so much of its importance from being the shared language of so many professionals, whatever their functions and responsibilities. This shared language is monopolized by the 'invisible college' – or our epistemic community of international lawyers – which sets the rules for engagement, establishes what counts as a relevant argument or is excluded. Each time international legal arguments are performed and evaluated according to these rules, international law is reinforced as a relevant instrument and, specifically, as a *legal* language.[90]

What does that international legal language demand? I believe that several overarching concepts transcend Roberts' divisible overlapping communities, serving both to constitute and unify the invisible college through our engagement with, or resistance to, these concepts. Even as we might call for reform or resistance, we international lawyers commit to a description of international law with the sovereign state as the locus of sovereignty and to its control of public power on the international plane. International law, in this conception, is an instrument to regulate the power exercised by these sovereign states on the international plane. However unjust, inefficient or

[86] See, e.g., G. Scelle, *Précis de droits des gens: Principes et systématique* (1932), vol. 1, at 43, 54–56, 217; (1934) vol. 2, at 10, 319, 450. A full-length treatment of the topic is in Scelle, 'Le phénomène juridique du dédoublement fonctionnel', in *Rechtsfragen der Internationalen Organisation: Festschrift für H Wehberg* (1956) 324.

[87] Schachter, *supra* note 62, at 220; see also d'Argent, *supra* note 58, at 425–426.

[88] Kennedy, *supra* note 24, at 10.

[89] Orford, *supra* note 11, at 11, suggests this supine image of lawyers depicts us as 'feminine' and that the image of international waters as 'human, professional, elite advisers to real decision-makers is seductive, promising access to power while denying responsibility for its exercise'.

[90] See d'Argent, *supra* note 58, at 427.

oppressive, international law as it exists favours order and certainty in the legal order regulating the relations between states. Whatever our national attributes or cultural divergences in this respect, international lawyers as a profession are unified by this shared disciplinary sensibility and by our understanding of the place of international law within global society. To my mind, this disciplinary sensibility is far more powerful than Roberts' 'divisible college' metaphor would suggest. My concern remains that, for all of its obvious appeal and descriptive purchase, stretching the 'divisible college' metaphor too far turns attention away from these discursive structures that shape international law and vest it with very real power on the global plane. Comparative international law, though purporting to provide an antidote to unduly universalist claims about international law, remains but a critique of universalism and should not be taken as providing for its replacement.

8 Concluding Thoughts

International law does not change of its own volition; it is neither sentient nor conscious. It is international lawyers, whether acting through institutions such as states and international organizations or through their own writings, practices or actions, who do so. As individual international lawyers, we are shaped and constituted by the very discipline that we have sought to join, that has been inculcated into us and that has granted us admission. The professional project or shared enterprise that is international law becomes the object of our engagement but shapes our own participation within it and our identity as international lawyers.[91] We are – profession and international legal system – co-constituted.

Roberts' monograph represents an ambitious sociology of our profession, with all of the necessary limitations of a 400-page monograph devoted primarily to the practices in five powerful states, and her own personal situating as a privileged, anglophone Westerner. It is an imaginative, heterodox work that challenges the very foundations of our profession. Her overriding purpose is to deny that any international lawyer can understand all aspects of the field from all viewpoints: 'The best that international lawyers can do is attempt to become conscious of some of the frames that shape their understandings of and approaches to the field and be aware of how these might be similar to and different from those of others.'[92] It is a call for pluralism, comparativism and a degree of subjectivism to focus on how the diverse elements of our divisible, invisible college of international lawyers operate together. All of these assertions, when justified as carefully and modestly as she has done, merit careful reflection from all of us.

It would be churlish to chide Roberts for being insufficiently counter-hegemonic, as this is not her own endeavour. She herself closes off the discussions of her book

[91] The point, as I understand it, of M. Koskenniemi, *The Gentle Civilizer of Nations (1870–1960)* (2005); see also Lang and Marks, 'People with Projects: Writing the Lives of International Lawyers', 27 *Temple International and Comparative Law Journal* (2013) 437.

[92] Roberts, *supra* note 1, at 321.

in *EJIL:Talk!* and the *Opinio Juris* blog with a nod to Saskia Sassen's 'Before Methods' approach to 'destabilize our existing understandings of the world and the conceptual frameworks we use to describe it … to sketch and project, and to connect microobservations to macroforces in an iterative observational and analytical process'.[93] This is analytically prior to other projects, aiming to set the scene for more political, emancipatory projects. Instead, her proclaimed aim, ostensibly shared with Koskenniemi, is no more and no less than to situate international lawyers in two communities: '[U]niversal and particular at the same time, speaking a shared language but doing that from their own, localizable standpoint.'[94] She regards the role of international lawyers as a discursive bridge, passing back and forth to facilitate interaction and understanding between the national and transnational: 'One might not always like what those in other communities have to say and one may view their values as a threat to one's own. But failing to listen and engage is dangerous in its own right and may lead to a stronger backlash in the longer term.'[95]

Perhaps there is promise in precisely that approach, allowing the reader to infuse their own conclusions after presenting the facts in a purportedly objective, detached manner. This is not a book in favour of a policy shift or a specific interpretation of the law; this is a book favouring a specific interpretation of a field of human endeavour. It describes and maps out structures of intellectual and discursive power in a way that our field sorely needs, and it gives the teeth for more politicized, explicitly normative projects about how to reshape international legal scholarship, the international profession and the substance of international law itself. For this reason, it is a welcome addition to the continued debates about the place of the international legal profession.

But it is not the last word. Roberts' comparativist framing of the international legal profession is to emphasize difference and diversity. As a descriptive exercise, this has its value; but what happens when international law swings into operation and must be applied to genuine situations – for example, in a dispute before the ICJ, in a standoff in the UN Security Council or in a complex treaty negotiation between states? Can it fully articulate whether international law has a structural bias or how this bias will operate? Can comparativism predict solutions based on international law, or does it reduce these purely to cultural relativism and hegemonic/core-periphery power dynamics? In our emphasis on diversity and divergence, do we lose sight of those commonalities that indeed bind the invisible college? May the debates long continue.

[93] Roberts, *supra* note 40.
[94] Roberts, *supra* note 1, at 323, citing Koskenniemi, *supra* note 58, at 4.
[95] Roberts, *supra* note 1, at 325.