decidedly capitalist recommendations, by the UN Conference on Trade and Development (UNCTAD) among others, requiring massive increases in both private and public capital accumulations.[12] To the extent Tzouvala's descriptions and prescriptions persuade some international lawyers and policymakers—North, South, East, and West—to give up on efforts that, in her view, are fatally compromised or fruitless, one wonders whether this book's meta-narrative does more harm to its own normative commitments than it does good.

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Statelessness: A Modern History. By Mira L. Siegelberg. Cambridge, MA: Harvard University Press, 2020. Pp. 235. Index.
doi:10.1017/ajil.2022.74

Statelessness is often regarded as a marginal area of international law. It has been described as "forgotten,"[1] "neglected,"[2] "overlooked,"[3] "obscure," "invisible,"[4] and even referred to in the pages of this *Journal* as the "runt of international law."[5] Mira Siegelberg, who is University Associate Professor in The History of International Political Thought at Cambridge University, brings none of this baggage to her masterful work of international legal history, *Statelessness: A Modern History*. Rather, she treats statelessness with the weight and seriousness that is reflective of a subject that reveals much about the place of the individual in international law and sovereign states as the source of individual rights. The history Siegelberg presents also highlights the limitations between our imagining and the creation of international law. This field-defining book has received several well-deserved awards, including the American Society of International Law's 2022 Certificate of Merit in a Specialized Area of International Law.

Siegelberg begins her narrative at an inflection point in the history of international law when statelessness was beginning to emerge "From a Subject of Fiction to a Legal Reality" (Chapter 1). She situates her account with the case of Max Stoeck, a manager of a multinational corporation who, in an attempt to recover property confiscated by the British government after the start of World War I, argued that he was stateless as he had lost his German nationality and was unsuccessful in his effort to gain British nationality. His 1921 case, *Stoeck v. Public Trustee*, was the first to recognize statelessness as a legal category under British law.

The decision came near the start of the interwar period, a time in which statelessness was just starting to emerge as a distinct legal concept to recognize a person who was neither a citizen nor an alien. Previously, statelessness was considered an "embarrassment," a "moral failing," a "legal anomaly" or "legal impossibility," or as "morally incompatible with the international order" (pp. 33–35, 39). Prior to the emergence of mass statelessness, the existence of a person without a nationality still had the ability to shock the conscience.

Siegelberg's care and depth with regard to exploring the details of Max Stoeck's life and case is characteristic of her focus on individual narratives throughout the book. In many studies, the stateless are treated as a nameless and faceless mass without individual identity or as a legal category analyzed from a sterile distance. Siegelberg

[12] *See, e.g.*, UNCTAD, World Investment Report 2010, Investing in a Low-Carbon Economy (2010). That report argues, for example, that it was necessary to increase foreign direct investment flows by between $200 billion to $1.2 trillion per year to maintain greenhouse gas emissions at current levels in 2030. *Id.* at 111.

[1] Lindsey N. Kingston, *"A Forgotten Human Rights Crisis": Statelessness and Issue (Non)Emergence*, 14 HUM. RTS. REV. 73 (2013).

[2] Kristy A. Belton, *The Neglected Non-citizen: Statelessness and Liberal Political Theory*, 7 J. GLOB. ETHICS 59 (2011).

[3] Jay Milbrandt, *Stateless*, 20 CARDOZO J. INT'L & COMP. L. 75, 76 (2011).

[4] Will Hanley, *Statelessness: An Invisible Theme in the History of International Law*, 25 EUR. J. INT'L L. 321 (2014) (arguing that statelessness should be treated as "a theme of international legal history," a call that Siegelberg more than answers).

[5] Neha Jain, *Manufacturing Statelessness*, 116 AJIL 237, 237 (2022).

mined the archives of places such as the League of Nations and scoured historical accounts to bring to life the stories of stateless persons who, in the absence of clear pathways for legal redress, were seeking to be recognized as a person before the law to challenge their deportation or the deprivation of their property. At various points throughout this historical account, Siegelberg uses an individual's struggle to illustrate how they interacted with a particular legal structure or tool of protection. For example, when describing that individuals directly petitioned the Permanent Court of International Justice to intervene in their cases to provide a means to travel, Siegelberg highlights the stories of the individual petitioners. Later, the reader learns that the writer Vladimir Nabokov considered his Nansen passport a "dreary hell that had been devised by European bureaucrats" (p. 77), and that Paul Weis, author of the seminal *Nationality and Statelessness in International Law*, was interned at Dachau and spent several years as a stateless person before gaining British citizenship in 1947 (p. 165).

While individual stories and literary references offer vivid illustrations throughout the book, Siegelberg ultimately focuses on jurisprudential concerns. From Max Stoeck's early twentieth century case, she moves back in time to Edmund Burke and the philosophical foundations of individual rights, and to international legal treatises of the eighteenth and nineteenth centuries that provided the early framework of the modern sovereign state system and the place of the individual within that system. For the "first generation of professional international lawyers," the majority view seemed to be that statelessness was not "a plausible condition" (p. 32); it was "outside the realm of legal possibility within the boundaries of civilized states" (p. 37). By reviewing the treatises used in the *Stoeck* case, Siegelberg uncovers evidence that statelessness was recognized by some legal scholars, such as William Edwards Hall and Franz von Holtzendorff, but as she describes, they held the minority view. Siegelberg notes that a real change in perspective on statelessness did not occur until the beginning of the twentieth century (pp. 36–38).

Siegelberg traces the emergence of statelessness as a subject that international legal theorists started seriously to address with the turn toward international legal positivism, beginning with Lassa Oppenheim's 1905 opus, *International Law: A Treatise*. The new focus on the existence of stateless persons emerged alongside the development of the theory that the state was the sole subject of international law and that an individual's rights were granted and preserved by the state (p. 39). Statelessness existed as a challenge to the development of a well-structured international legal order, as theorists wrestled with the place of the individual who lacked a nationality under international law in a system where sovereign states have the exclusive right to determine who is a national and, more pointedly, who is not.

This tension evolved from theoretical considerations to large-scale humanitarian concerns during the interwar years concurrently with the founding of the League of Nations and the emergence of mass statelessness, as explored in Chapter 2, "Postimperial States of Statelessness." The collapse of the Hapsburg empire and the emergence of the displaced and populations without a nationality exceeded existing humanitarian capacity and pushed international law to its limit. How the League would handle the existence of mass statelessness was in many ways reflective of the position of the individual under international law. Yet to be drawn were frameworks of universal recognition of individual rights, but the creation of legal frameworks and international organizations for the protections of minorities, refugees, and stateless persons represented a revolution of sorts in international law (pp. 51, 60). Siegelberg looks at the emergence of statelessness in this era as directly tied to and reflective of challenges in governance and the designing of a new political order. As she noted, "statelessness as a general category of identification threatened the boundary they sought to define between national and international spheres of authority" (p. 61).

Siegelberg highlights the debates at the time, which were wrestling with whether the solution for stateless persons and refugees would be legal or humanitarian. This included a profile of Fridtjof Nansen, the first high commissioner of

https://doi.org/10.1017/ajil.2022.74 Published online by Cambridge University Press

the newly created High Commission for Refugees, and the namesake of the international travel document given to refugees and stateless persons, the "Nansen Passport." According to Siegelberg, in order for the effort to assist stateless persons to remain politically neutral, Nansen's perspective was that it should be humanitarian in nature (p. 63). This contrasted with the desires of the stateless, who advocated for a legal personality that would recognize their existence under international law (p. 65). The need to offer a legal, and not just humanitarian solution, was recognized by Ake Hammarskjöld, the League's representative to the Permanent Court of International Justice, who Siegelberg says "looked to the League as a potential source of rights and protection for people who could not claim the security of political membership in their own states" (p. 67). Organizations that focused on humanitarian responses included the Red Cross, the *Comité Unifié Juif*, and the *Congrès de la Fédération des Ligues des Droits de L'Homme*, while the Hague Codification Conference dealt with statelessness as an issue of conflict of nationality laws.

The debates represented far broader concerns than whether statelessness would be dealt with as a legal or humanitarian matter. Statelessness emerged as a result of the collapse of the Ottoman, Austro-Hungarian, and Russian empires. In this period of chaotic transition, jurists moved forward with plans to address nationality and its place in international law as if "a world of exclusive, sovereign states already existed," when it did not (p. 70). As Siegelberg frames it, "[t]he implications of mass statelessness, as well as the emergence of a novel international legal status for a defined group of stateless persons, for wider debates about empire, sovereignty, and the future of global order could not be ignored" (p. 77).

These wider implications were taken up by legal theorists in the interwar years and went to the heart of debates over international legal positivism, the nature of international law, notions of sovereignty, and the place of the individual in the international legal order. In Chapter 3, "Postimperial Foundations of Political Order," Siegelberg outlines the approaches of various schools of legal thought, such as the positivist perspective that individuals are granted rights by the sovereign state, versus the natural law theory that individuals possess rights separate and apart from their membership in a political community. She highlights the perspectives of giants of international legal thought, such as Hersch Lauterpacht and Philip Jessup, as well as the debates between the Vienna School of Law, associated with legal philosopher Hans Kelsen, and critics of legal positivism, such as Carl Schmitt. Siegelberg noted how Kelsen and his students also clashed with the Russian refugee community and scholars who pushed for the notion that individual rights should be guaranteed under international law, versus the former's conception that rights are derived solely through citizenship and those lacking it were "outlaw[s]" (p. 117).

Debates over legal protection of the stateless took on an urgency during the 1930s. In Chapter 4, "The Real Boundaries of Membership," Siegelberg writes of how these debates played against a background of the displacement of 1.2 million people between 1933 and the beginning of World War II in 1939. However, according to Siegelberg, "[a]t the moment when the precarious lives of people living without the protection of citizenship began to puncture popular consciousness, nationality and statelessness began to recede as touchstones in debates over the future of international legal order" (p. 130). Rather than address statelessness under international law, jurists treated it as within the exclusive purview of states and as a matter of conflict of nationality laws. In Siegelberg's view, the Hague Codification Conference was a missed opportunity as its failure "to mark out nationality as part of the purview of international law served as an acknowledgment of the overriding sovereignty of individual states in matters of naturalization and denaturalization" (p. 133). The consequences were devastating. As the state had authority over its nationality laws and denationalization was not barred by international law, international jurists could find no legal objection to Nazi denationalization laws (pp. 140–41).

https://doi.org/10.1017/ajil.2022.74 Published online by Cambridge University Press

Siegelberg highlights how these facts and the failure of the League of Nations to fulfill its idealistic promise led to a greater consideration of statelessness as a concern of international law. As Siegelberg notes,

> legal writers who continued to theorize the relationship between statelessness and international law transformed the terms of the problem by moving away from the idea of statelessness as a test case for the nature of the state and its sovereignty. Instead, they proposed that control over the definitions of nationality and national attachments could be explicitly placed in the hands of an international authority. (P. 152).

Chapter 5, "A Condition of World Order," takes the reader through World War II and the founding of the modern international legal order. At a time when the position of the individual in international law was undergoing a transformation, in Siegelberg's view, statelessness is key to our understanding of this evolution. According to Siegelberg, understanding the place of statelessness during these years helps to illuminate "the transformation of international legal thought around the status of individuals in international law" (p. 155). As Siegelberg frames it, "statelessness once again became central to debates about rights and the postwar order, but the problem was more readily mobilized in this period to advocate for the validity of the sovereign state as the primary source of rights and law, rather than as evidence for the future of non-state political order" (p. 156). For this critical juncture in the history of international law, Siegelberg outlines the retreat from the ambitious idea that international law could "confer rights directly to individuals without nationality," focusing on the evolution in thought by scholars such as Hersch Lauterpacht and Mark Vishniak (p. 158). This period was marked by an increasing focus on the role of nationality in the conferral of rights, including by René Cassin, who Siegelberg describes as "provid[ing] one of the clearest articulations of the view that international society should ensure a right to membership in a state" (p. 169).

The debates over whether the response to statelessness should be legal or humanitarian, and whether human rights would be framed as legally enforceable, continued throughout the 1940s. For example, the protection of humanitarian and legal concerns of refugees during World War II was bifurcated between the United Nations Relief and Rehabilitation Administration, which would meet the "physical needs" of refugees, while the legal aspects of protection would be overseen by the Intergovernmental Committee on Refugees (p. 173). Whether human rights would be enshrined in a binding convention or a more aspirational declaration was central to debates on the protection of individuals in the aftermath of World War II.[6] As Siegelberg frames it, the "Universal Declaration of Human Rights did not conform to a legal positivist conception of law because it reflected moral aspiration rather than law backed by force" (p. 181). A fact bemoaned by Hersch Lauterpacht at the time, as he had previously "insisted on the necessity of an internationally guaranteed right to a nationality" (pp. 181–82). This contrasted with the perspective of Philipp Jessup, who believed that the guarantee of human rights would alleviate the need to protect the right to a nationality for the provision of rights (p. 184).

Siegelberg ends the chapter with an examination of the political philosophy of Hannah Arendt, a figure who, in my view, is central to debates over the desirability of legal as opposed to humanitarian approaches to the protection of stateless populations. As Siegelberg describes, Arendt rejected "the interwar legalist approach to political order" (p. 157). Siegelberg's perspective seems to be that Arendt rejected "attempts by well-meaning internationalists to protect the rights of humanity" because they took a legalist perspective (p. 190). As I have explained elsewhere, Arendt did not *reject* the legalist approach in principle.[7] Rather, she criticized its failure to

[6] *See generally* MARY ANN GLENDON, A WORLD MADE NEW: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (2001).

[7] Melissa Stewart, *"A New Law on Earth," Hannah Arendt and the Vision for a Positive Legal Framework to*

https://doi.org/10.1017/ajil.2022.74 Published online by Cambridge University Press

achieve its aims. Arendt criticized the failure of lawyers to create legally enforceable rights separate and apart from the rights of citizens or to protect rights through law rather than mere charity. In the closing chapters of *The Origins of Totalitarianism*, Arendt speaks to the need for "positive laws" in order for natural law to achieve its "political reality."[8] Her critique of the Rights of Man rested in part on the fact that they "never became law but led a somewhat shadowy existence."[9] She was less critical of a legalist approach than Siegelberg suggests, and more critical of attempts to protect rights through charity rather than law.[10]

In the final chapter, "Nationalizing International Society," Siegelberg focuses on the years immediately following World War II and on the tension between the notion that human rights are professed to be universal and the view that "rights flow only from national membership" (p. 194). She examines "how the idea of nationality as a formal legal status designating membership and a basic threshold condition of rights became so discredited in the postwar era" (p. 195). She traces the inclusion of statelessness in the first list of topics to be considered by the International Law Commission to the drafting of the Refugee and Statelessness Conventions. The debates at the time focused on whether the concerns of stateless persons and refugees should be considered together or addressed separately. In the end, the issues were separated, and statelessness was further bifurcated into two conventions, one on the status of stateless persons and a second on the reduction of statelessness.

Siegelberg concludes her book by recentering statelessness as essential to our understanding of international law. She gestures toward future crises of statelessness, including the potential for the wholesale submergence of low-lying island states due to climate change and the resulting statelessness of their populations (p. 233).

In many ways, the history of statelessness is the history of international law, particularly with respect to the place of the individual in international law. Siegelberg traces the evolution of international legal thought from the 1920s, which centered on who or what might be considered subjects of international law; to the 1930s, a period in which there were broader visions for the potential for international adjudication, including the possibility that nationality might be adjudicated by an international body; to the 1940s, which cemented the "centrality of sovereignty and the state" to the international legal order (pp. 159–60).

Statelessness is also the history of what *might have been* in international law. Siegelberg illuminates these alternative perspectives, describing them as "imaginative possibilities of the moment" (p. 174). There were critical junctures during which the future world order was being debated when one could imagine a more cosmopolitan vision being adopted. For example, Siegelberg points out that the Grotius Society's Committee on Stateless Persons rejected a potential vision in which the protection of universal rights would be prioritized over the right to a nationality. Instead, they settled on a "statist" vision in which the possession of a nationality was put forth as essential to the protection of individual rights as well as providing the link between the individual and international law (p. 166). One particularly ambitious vision Siegelberg uncovered from the French state archives imagined the organization of "a separate community, which would fulfill the ambition of a 'state without a territory.'" Or the creation of a "'state for the stateless'" that "would not have to be territorial but could constitute a political form separate from the territorial state that showed

Guarantee the Right to Have Rights, 62 VA. J. INT'L L. 115 (2021).

[8] HANNAH ARENDT, THE ORIGINS OF TOTALITARIANISM 464 (1976); *see also*, Jan Klabbers, *Possible Islands of Predictability: The Legal Thought of Hannah Arendt*, 20 LEIDEN J. INT'L L. 1, 11 (2007) (arguing that this phrase signifies Arendt's "insistence that the only law valid among humans, without denying the possible existence of natural law, would be positive law").

[9] ARENDT, *supra* note 8, at 280–81.

[10] Stewart, *supra* note 7, at 132 (analyzing Arendt's claim that the failure to guarantee rights through law undermined human rights, as she stated "[w]hen the Rights of Man became the object of an especially inefficient charity organization, the concept of human rights naturally was discredited a little more") (internal citations omitted).

https://doi.org/10.1017/ajil.2022.74 Published online by Cambridge University Press

that nationality was 'neither the only nor the most ancient form of affiliation and of public power'" (p. 175). This was in line with a potential plan that "would create an extranational citizenship sponsored by the United Nations such that the stateless would become the first world citizens" (p. 174). Paul Weis "[held] out hope that states could one day agree on an 'international nationality' for the stateless," even after being encouraged to let go of a more radical vision of international protection by his former professor, Hersch Lauterpacht (p. 204). It is hard not to wonder what our world might look like today if some of the more ambitious proposals had come to fruition.

In the closing passage of her book, Siegelberg hints at this gap: "If states remain the most important actors or agents of global order, what frameworks and vocabularies can we use to comprehend that which does not fit within the boundaries of states? If we are to have answers to these questions today, we will have to connect them to the broader transformations of political and legal order that characterize our own time, just as the protagonists of this book did in the period of breakdown and creativity that characterized theirs" (p. 235).

Siegelberg's account ends several decades before the present. As recently illuminated in Anne Orford's *International Law and the Politics of History*, there is a debate concerning interjecting presentist concerns in international legal history.[11] But I would argue that her choice of endpoint feels premature for what she elsewhere describes as "the first intellectual and legal history of the concept of statelessness from the late nineteenth century to the present day."[12]

[11] Anne Orford, International Law and the Politics of History 81–83 (2021) (outlining the "basic rules of historical methodology," which she claims includes a "prohibition against presentism" or "the tendency to interpret the past in terms of present interests, values, or concepts." Whereas international lawyers are criticized by historians for a tendency to look at history in order to understand the present.). *See also* Samuel Moyn, *International Law and the Politics of History*, 116 AJIL 895 (2022) (arguing that Orford exaggerates the "clashes of ideology" between historians and lawyers engaged in legal history, and that historians do not reject presentism or view history as apolitically as Orford suggests).

Siegelberg examines the history and legal theory surrounding the debates about statelessness from the late nineteenth century and early twentieth century through the inception and early years of the United Nations with commendable depth and clarity. However, the reader is left hanging when we reach the actual pinnacle of those debates and the crafting of the legal framework governing the right to a nationality and statelessness. I wish we had the benefit of Siegelberg's keen historian's eye to discuss in more depth the debates leading to the drafting of both Statelessness Conventions and the aftermath of their adoption.[13] Crucial to this history is the decision to abandon the International Law Commission's Draft Convention on the Elimination of Future Statelessness in favor of the comparatively less ambitious Draft Convention on the Reduction of Statelessness. This inflection point in how international law would address statelessness was unfortunately given short shrift (p. 223).

While there has not been a decision from the International Court of Justice regarding nationality since the *Nottebohm* case, the history of statelessness did not end with that decision, nor with the signing of the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[14] Siegelberg relegates to an endnote a brief mention of the significant lag between the adoption and coming into force of the 1961 Convention and the anemic

[12] *Dr Mira Siegelberg, Faculty of History University of Cambridge*, *at* https://www.hist.cam.ac.uk/people/dr-mira-siegelberg.

[13] Other histories of this period include: Michelle Foster & Hélène Lambert, International Refugee Law and the Protection of Stateless Persons 27–49 (2019). Notably, the *travaux préparatoires* of the 1954 Convention Relating to the Status of Stateless Persons was not comprehensively compiled and available for review until this year. Betsy L. Fisher, *The* Travaux Préparatoires *of the 1954 Convention Relating to the Status of Stateless Persons* (2022), *available at* https://ssrn.com/abstract=4037774.

[14] *See, e.g.*, Laura van Waas, Nationality Matters: Statelessness Under International Law 151–92 (2008) (highlighting the "new" causes of statelessness, such as deficient birth or marriage registration in civil registration systems, irregular migration, and human trafficking).

https://doi.org/10.1017/ajil.2022.74 Published online by Cambridge University Press

number of ratifications (p. 303 n. 99). However, she overlooks that renewed attention in recent decades brought the number of states parties to the 1954 Convention to ninety-six and the 1961 Convention to seventy-eight.[15] The reader is left without a sense of how these conventions have been implemented and the gaps in protection that persist. In my view, the Statelessness Conventions have thus far failed to achieve their aims, which are to "ensure that stateless people enjoy a minimum set of human rights" and to "prevent statelessness and reduce it over time."[16]

We are also lacking a sense of how the right to a nationality has evolved in international law to a focus on the right of every child to acquire a nationality[17] or the elimination of discrimination in the acquisition or deprivation of a nationality,[18] rather than a right to a nationality as such.[19] Siegelberg thoughtfully explains the turn toward the protection of a right to a membership in a state instead of direct protection of individual rights under international law, but we are left without an understanding of how imperfect the protection of this right currently is. There are many that fall "beyond the pale of the law,"[20] without even the protection of a guaranteed right to that essential link to the provision of all other rights under the current structure of international law.

As Siegelberg's historical examination appears to mostly end in the 1950s, we are left without a robust description of the position of stateless persons in international law today. Palestinians are mentioned on the final page of the last chapter as a population which "exemplif[ies] the plight of people without citizenship," (p. 227). However, Siegelberg fails to note that the Statelessness Conventions do not apply to Palestinians, and that the vast majority of Palestinians are not a population of concern for the United Nations High Commissioner for Refugees. The founding of the United Nations Relief and Works Agency (UNRWA) is mentioned, but the reader lacks a sense of the disparate treatment Palestinians receive under the law and how the fractured legal regime specifically impacts this population (p. 197).

While Siegelberg's book is not meant to present an analysis of the law, the current legal regime differs significantly from the "imaginative possibilities of the moment" that characterized the interwar years and the years during and immediately after World War II, before the modern framework of international law crystalized. This includes the rather radical proposal contained in the abandoned Draft Convention on the Elimination of Future Statelessness that called for the creation of a tribunal that would hear not only state to state disputes, but also complaints presented by an agency on behalf of individuals (p. 223).[21] In many ways, the debate over whether the response to stateless persons, refugees, and migrants should be humanitarian or legal is still playing out (p. 174). As states continue to eschew commitments to binding legal frameworks in favor of non-binding guiding principles[22] and global compacts,[23] the humanitarian approach is

[15] Numbers that are still woefully lacking.

[16] UN High Commissioner for Refugees, UN Conventions on Statelessness, *at* https://www.unhcr.org/en-us/un-conventions-on-statelessness.html.

[17] International Covenant on Civil and Political Rights, Art. 24(3), Dec. 16, 1966, 999 UNTS 171; Convention on the Rights of the Child, Art. 7(1), Nov. 20, 1989, 1577 UNTS 3.

[18] Convention on the Elimination of All Forms of Discrimination Against Women, Art. 9, Dec. 18, 1979, 1249 UNTS 13; International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5(d)(iii), Dec. 21, 1965, 660 UNTS 195.

[19] While many consider the Universal Declaration of Human Rights to be reflective of customary international law, an unqualified right to a nationality has not be codified in any human rights convention.

[20] ARENDT, *supra* note 8, at 288.

[21] Draft Convention on the Elimination of Future Statelessness, *at* https://legal.un.org/ilc/texts/instruments/english/draft_articles/6_1_1954_1.pdf

[22] A recent example is the Report of the UNICEF Office of Global Insight and Policy, *Guiding Principles for Children on the Move in the Context of Climate Change*, *at* https://www.unicef.org/globalinsight/reports/guiding-principles, which takes a "rights-based approach," but is non-binding.

[23] For example, the Global Compact for Refugees and the Global Compact for Migration are non-binding frameworks. UN Refugees and Migrants, Global

https://doi.org/10.1017/ajil.2022.74 Published online by Cambridge University Press

seemingly winning the moment. The *de jure* stateless are not central to these conversations and, with some exceptions,[24] remain marginal figures in international law. But their plight looms ever larger in our imaginations and in the headlines.

None of these critiques should detract from the enormous contribution this book has made to the study of statelessness and the history and meaning of international law. Siegelberg's work provides invaluable context to the development of the modern legal order and the place of the individual within it. As cracks in the foundation of the international legal order are starting to emerge in the face of climate change,[25] the legal framework buckles under the weight of mass displacement, and our humanitarian capacities are stretched to their limits, we would do well to reexamine our protection frameworks from this historical perspective.

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To the Uttermost Parts of the Earth: Legal Imagination and International Power, 1300–1870. By Martti Koskenniemi. Cambridge, UK: Cambridge University Press 2021. Pp. xviii, 1107. Index.

doi:10.1017/ajil.2023.4

> Jurisprudence is that science which inquires into the general principles which ought to be the foundation of the law of all nations. Grotius seems to have been the first who attempted to give the world any thing like a regular system of natural jurisprudence, and his treatise on the laws of war and peace . . . is perhaps at this day the most compleat work on this subject . . . . He determines war to be lawfull in every case where the state receives an injury which would be redress'd by an equitable civil magistrate. This naturaly led him to inquire into the constitution of states, and the principles of civil laws; into the rights of sovereigns and subjects; into the nature of crimes, contracts, property, and whatever else was the object of law, so that the first two books of his treatise, which are upon this subject, are a compleat system of jurisprudence.
>
> ADAM SMITH, LECTURES ON JURISPRUDENCE (1766)

The opening words of Martti Koskenniemi's latest *opus magnum*, "This is not a history of international law," squarely address the ambivalence with which the book will inevitably be met (p. 1). On the one hand, no book has ever been so eagerly anticipated by those with an interest in the history of international law. Ever since Koskenniemi announced over fifteen years ago that he would delve into the historical antecedents of modern international law between the Middle Ages and the nineteenth century, expectations for the book rose as one fundamental paper after another flowed from the pen of the world's most renowned historian of international law.[1] On the other hand, it could never be expected that the author of *The Gentle Civilizer of Nations*, whose main claim was that international law was only established as an academic discipline in the 1870s, would content himself with rehearsing the familiar line of the authors of the laws of nature and of nations from the Spanish neo-scholastics to Grotius to Vattel, from which, traditional historiography teaches, modern international law is supposed to have sprung.[2]

In his new book, Koskenniemi, recently retired from the University of Helsinki, has

Compact for Migration, *at* https://refugeesmigrants.un.org/migration-compact.

[24] Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.), Order of 23 January 2020 on the Request for Provisional Measures, 2020 ICJ Rep. 56 (Jan. 23) (recognizing the stateless Rohingya as a "protected group" under the Genocide Convention).

[25] *See* Melissa Stewart, *Cascading Consequences of Sinking States*, 53 STAN. J. INT'L L. (forthcoming 2023).

[1] For a selection and brief commentary, IGNACIO DE LA RASILLA, INTERNATIONAL LAW AND HISTORY: MODERN INTERFACES 97–100 (2021).

[2] MARTTI KOSKENNIEMI, THE GENTLE CIVILIZER OF NATIONS: THE RISE AND FALL OF INTERNATIONAL LAW 1870–1960 (2001).