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EDITED BY JEFFREY L. DUNOFF

BOOK REVIEWS

Capitalism as Civilisation A History of International Law. By Ntina Tzouvala. Cambridge, UK: Cambridge University Press, 2020. Pp. vii, 239. Index.
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Thanks to the work of Martti Koskenniemi and others, legal histories of international law are *au courant*. Readers of *Capitalism as Civilisation* by Ntina Tzouvala, now an associate professor at Australian National University, would be wise to take the "A" in its subtitle, "A History of International Law," literally. This is the latest in a line of avowedly "postmodern modes of legal historiography" that mine history to tell "a" particular account of international law built on the author's meta-narrative (p. 6). It takes seriously the warning in the musical *Hamilton* that there is no such thing as objective history; it all depends on who tells the story and, Tzouvala would add, for what purpose.

Tzouvala's first chapter is an exhaustive forty-three-page self-reflection that identifies the author's terminology and normative predispositions, along with a clear statement of the book's core claims. Tzouvala does not hide the ball: the "idea that the non-European world was civilisationally inferior and that the influx of (Western) capital would remedy these shortcomings has been, I argue, constitutive of modern international law at least since its emergence as a distinct discipline during the last quarter of the nineteenth century" (p. 1). Acknowledging that this is not an original insight, Tzouvala states that her novel contribution lies in elaborating on that thesis. The standard of civilization, she argues, is not a unitary concept but a binary that resembles others favored by the West (p. 39, n. 112).

The civilization standard crystalizes a seemingly oppositional argumentative pattern grounded in two logics: a "logic of improvement" promising equal sovereign status should reforms occur to enable capitalist development and a "logic of biology" that postpones achieving that promise on the basis that certain peoples, because of certain immutable differences, are still not ready for full international law status (see, e.g., p. 14). While the standard of civilization, notoriously reflected in the International Court of Justice's (ICJ) Article 38, is no longer cited as a legal standard, it is not a relic of international law's imperialist past but a persistent "argumentative structure" that, as Tzouvala indicates at the end of her book, "incorporates the material contradictions of imperialism without being able to resolve them in a decisive way" (p. 209). The standard of civilization, on this view, is an ever-evolving, unstable concept generated by capitalist modes of production and capital accumulation. As this suggests, Tzouvala's monograph is avowedly Marxist, unlike at least some of the critiques of international law's imperialist origins produced by TWAILers (p. 6, n. 13).

In this view, the standard of civilization embraces distinct views of what it takes to be a "civilized" or "semi-civilized" state over time, inspired by blueprints for the West's capitalist societies. The standard's binary logics are "resistant to individual lawyers' will" (p. 5). The standard and its argumentative praxis result in a peculiar species of international law that is not open to all or to all politics. The standard of civilization, whether explicitly mentioned or not, is replicated in (and therefore limits) the legal arguments made even by those "bourgeois international lawyers from non-Western communities" most intent on resisting it (p. 41). It is a straitjacket that limits the possibilities of international law for all.

Tzouvala describes her methodology as a form of "symptomatic reading" of legal texts that seeks to examine not only what is said but also to interpret silences caused by a "problematic" embedded in the text (p. 13). This method, as Marxist philosopher Louis Althusser pointed out, reveals the ideology of legal texts and the central role of law in enabling the reproduction of "capitalist relations of production" (pp. 11–12). According to Tzouvala, her monograph seeks not to recover pre-existing meanings of the text or reveal what the writers of such texts actually intended. (Indeed, she disparages the role of traditional historians given the "irreducible strangeness" and "unknowability" of the past (p. 16, n. 46, citing Tomlins).) At the same time, Tzouvala suggests that she seeks to reintegrate deconstructionist accounts of the law, such as Koskenniemi's *From Apology to Utopia*, with historical accounts such as his *The Gentle Civilizer of Nations* (p. 7). In accord with Anne Orford's recommendations for "productive" historical narrative, Tzouvala aspires to read legal texts "against the grain" or "differently" to uncover their "deeper logic" and, more broadly, "problematise the discipline's givens" (pp. 9–10).

As befits its origins as a doctoral dissertation and as demonstrated by lengthy scholarly citations throughout, Tzouvala is generous in crediting critical and/or Marxist scholars for inspiration, while also indicating where she departs or differs from them. While she admires and draws from China Miéville's account of how the practice of "unequal treaties" (such as those between imperial Western powers and China, Japan, or the Ottoman Empire) was rationalized through the standard of civilization, for example, Tzouvala criticizes Miéville for failing to notice that concepts of "sovereignty" or the "state" were also subject to evolving meanings rationalized by the standard of civilization (pp. 14–15). While she credits Euro-skeptics for demonstrating the "culturalist mystification of the West's transitions to capitalism," she points out that the Eurocentrism critique obscures the material origins of the rise of the West by focusing on the impact of culture (p. 29). She suggests that the same may be true of Antony Anghie's work on imperialism (p. 113). Perhaps anticipating that her own reliance on a particular model of international law that emerged in Europe might be charged with Eurocentrism, Tzouvala acknowledges that while there is no such thing as a "general theory of law" applicable everywhere, the West's conception of international law has achieved a global spread that is "historically unique" and her critical focus on it does not "reify its pretences of exclusivity and universality" (p. 18).

Tzouvala's remaining five chapters map the evolution of the standard across time. Chapters Two and Three cover the period from the late nineteenth century through the end of World War I. They address unequal treaties of the nineteenth century between the West and countries in East Asia, as well as what Tzouvala calls the "openly colonial branch" of the League of Nations, namely its mandate system. Chapter Four revisits the advisory and contentious cases in the ICJ dealing with South West Africa (later Namibia) from 1950 through 1971. Chapter Five covers, first, the "neoliberal" reforms imposed on occupied Iraq from 2003–2004 and, second, the evolution and application the "unwilling or unable" doctrine to combat terrorism in the wake of 9/11. A final short chapter "thinks through the contradictions" (p. 212) of the standard of civilization in the present and the prospects for using international law to address the existential threat of climate change.

As the ASIL Report awarding it the Society's 2022 Certificate of Merit for Pre-eminent Contribution to Creative Scholarship indicates, Tzouvala's book "resuscitates Marxist theory and deconstruction in historicizing international law anew."[1] As that Report states, the book's distillation of the standard of civilization's two logics, their apparent but only superficial tension, and her application of the constant oscillation between the two is a creative, novel, and provocative contribution that is likely to be widely cited. Even those deeply versed in critical accounts of international law's colonist/imperial origins and

[1] ASIL 2021–2022 Book Awards Report, *at* https://www.asil.org/sites/default/files/ASIL%20Book%20Awards_release.pdf?v=20220128.

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its role in furthering the "civilizing mission" through to the present day (for partial listing, see p. 168, n. 4), are likely to find Tzouvala's provocations of interest. *Capitalism as Civilization* owes an obvious debt to contemporary classics like Anghie's *Imperialism, Sovereignty and the Making of International Law* (2005) (a work oddly omitted from the book's bibliography, though cited in the text). At the same time, as Anghie himself indicates in the book's cover blurb, Tzouvala's interrogation of the "protean concept of civilization . . . will surely provoke new lines of inquiry." Similarly, Koskenniemi's laudatory cover blurb for Tzouvala's book is notable insofar as her book targets (fairly) Koskenniemi's tendency to fall back "into an idea of indeterminacy as semantic ambivalence," which could suggest that the standard of civilization is not only contradictory and unstable but also that it plays no role in legal argumentation (p. 83, n. 144). Tzouvala's work is a book-length refutation of the latter suggestion.

Capitalism as Civilisation is not only a serious intervention in international legal theory. It also seeks to engage policymakers, particularly those in the Global South. At a time when Western states face renewed demands for reparation for their historical responsibilities and contribution to looming global challenges—such as unprecedented displacements of persons, stark threats to global health, deepening economic disparities, and exceptional threats to the planet's environmental health (particularly but not only through climate change)—a book that focuses attention on the West's notorious legacies and international lawyers' complicity in evading them will draw an enthusiastic reception both inside and outside the academy.

For this reader, the value of Tzouvala's "structuralist account of law" is most apparent in its engagement with the arguments by litigants and ICJ judges alike in the various phases of the *South West Africa Cases*. That multigenerational saga proves to be a wonderful case study for Tzouvala's contention that the "sacred trust of civilization" pervaded the arguments of the large cast of international lawyers involved, irrespective of their political posture. This study exemplifies the author's contention that civilization's two logics intrude even in the fetishized, sacred space for the "objective" determination of international law: the ICJ. It is a concrete example of why Tzouvala, elsewhere in the book, sees "little reason why all debates about [the] law should awkwardly imitate the modalities of arguing one's case in front of a court of law at all" (p. 169). Her deconstruction of the *South West Africa Cases* amply fulfills her promise to render this "familiar practice strange" (p. 170, n. 10). Although readers may contest many of Tzouvala's reinterpretations of the legal texts, those contestations demonstrate her core point: even the structured dialogues and burdens of proof of the courtroom do not erase the political underpinnings—the ideology—of international law.

And yet, Tzouvala's execution of the impressive scholarly ambitions laid out in Chapter One fall short. If the principal goal is to demonstrate the standard of civilization's hidden impact when that standard is not obviously in play, her distillation of the *South West Africa Cases* in Chapter Four turns out to be the book's high point. The application of Tzouvala's meta-narrative to nineteenth century unequal treaties and the League of Nations' mandate system, while useful to show how the West's civilizing mission was constitutive of modern international law, does not advance that principal goal since the standard of civilization was still seen as a legitimate legal standard during that early period. There is little surprise for the reader in reprises of the imposition of unequal treaties on "Oriental others"[2] or in demonstrations of how League mandate holders sought to "improve" the lives of those who were less "enlightened" because of their "innate" inferiority. It is banal to argue, for example, that the turn to welfarism under the mandate system can be understood as a response to the "destructive power of capital over labour" that is "immanent to the capitalist mode of production" (p. 115) and was intended to "prevent violent anti-capitalist revolutions" (p. 117). Nor do readers need Tzouvala's twin

[2] *See, e.g.*, EDWARD W. SAID, ORIENTALISM (1978).

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logics to recognize that the International Labor Organization, with a powerful assist from the U.S. labor movement, was established in 1919 as an effort to thwart revolutions like those in Russia two years before.

Tzouvala's application of the standard of civilization—and its twin logics—is even less "strange" in the case of occupied Iraq. There is a considerable literature documenting the imperial ambitions of that occupation (some of which is cited by Tzouvala herself at pp. 174–75, nn. 20–24). As Tzouvala acknowledges, a number of scholars have canvased the decade-long effort to brand Iraq an "outlaw state" prior to the Gulf War (e.g., Gerry Simpson); others have addressed the perceived need to retrofit pre-existing international humanitarian law in order to enable the subsequent occupation (with the permission of the UN Security Council) to countermand that outlaw's innate tendencies by transforming it into a "democracy" (e.g., David Scheffer); while yet others have recognized the historical parallels between the Iraqi and earlier "civilizing missions" attempted through territorial occupation (e.g., U. Natarajan, Hilary Charlesworth, Anne Orford, and Kerry Rittich).

Anyone who knows that literature—or has but glanced at the edicts issued by the Coalition Provisional Authority (CPA) or the memoirs of the CPA's head, L. Paul Bremer III—could not possibly be surprised by Tzouvala's account, including her reliance on the logics of improvement/biology. Bremer's memoir of his efforts to bring "hope" to Iraq resembles the reports filed in 1900–1901 by the then U.S. occupier of Cuba, Leonard Wood.[3] Bremer and Wood wore their missions on their sleeves; there is no need to read "against the grain" to interpret what they were up to. Bremer and Wood sought to "civilize" Iraq or Cuba respectively—full stop—and they made no bones about it. Tzouvala's fifteen-page distillation of the U.S./UK's civilizing mission in Iraq is the academic equivalent of shooting fish in a barrel.

Tzouvala's case study of the highly contested "unwilling or unable" doctrine suffers from the same déjà vu qualities. As Tzouvala acknowledges, the merits of the unwilling or unable doctrine or particular applications of it divide international lawyers the world over—precisely because it leads to targeted killings in some of the poorest countries of the world on the premise that those countries cannot themselves adequately address terrorist threats originating from their territory. Few international lawyers would suggest, even prior to 9/11, that there was ever genuine clarity about the use of force rules embedded in the UN Charter's Articles 2(4) and 51. Enabling force to be used against states unwilling or unable to prevent extraterritorial terrorist attacks is on par with other questionable rationales for self-defense, including humanitarian intervention, that might also be seen as heirs to the civilization standard. Tzouvala's contention that the unwilling or unable doctrine is "better understood" as a response to the inadequate laws of "semi-civilized" states is hardly an unexpected conceptual leap from that doctrine's standard rationales: namely that it is part of the necessity/proportionality test for self-defense, is a consequence of the rule that a state has an obligation not to knowingly allow its territory to be used to harm others, or that it derives from the "responsibility to protect" (pp. 190–91). Tzouvala's preferred explanation for the doctrine, while rhetorically provocative, might be seen as simply an application of Article 9 of the rules of state responsibility, which attributes state responsibility for conduct carried out in the "absence" of or "default" of the official authorities. Although Tzouvala criticizes those who emphasize the factual application of the unwilling or unable doctrine (see p. 192, criticizing Michael Wood), once one accepts Article 9, the question devolves into what actually constitutes the "absence" of expected governmental authority—and whether, as both the UN General Assembly and the Security

[3] L. Paul Bremer III, My Year in Iraq: The Struggle to Build a Future of Hope (2006); Leonard Wood, *Annual Reports*, 1900, 1901, Havana, Cuba (Harvard Archives); *see also* Philip S. Foner, The Spanish-Cuban-American War and the Birth of American Imperialism, 1895–1902, Vols. 1, 2 (1972).

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Council have suggested, that absence (and the use of self-defense in response) is triggered merely by a government's failure to act in response to (or by "acquiescing" in) terrorist threats or actions within its territory.[4]

Tzouvala is surely correct that this mixed factual/legal test is very likely to disproportionately impact states in the periphery and semi-periphery. Predictably, she cites examples of the doctrine's use by the United States after 9/11 and their justifications by U.S. commentators such as Ashley Deeks—as well as Deeks's reliance on colonial-era precedents targeting American Indians, Algeria, and Angola (pp. 205–06). It would have been far more illuminating, however, if Tzouvala had engaged more deeply with examples of the doctrine's potential or actual use as between states outside the West. One suspects that many of those states would be inclined to respond with force if confronted with attacks from neighboring terrorists due to that neighboring government's neglect or malfeasance. Tzouvala's U.S.-centric examination of the doctrine's deployment in waging the United States' "war on terror" leaves the impression that the civilizing mission is the product of (U.S.) unilateralism or hegemonic international law.[5] This is too small and too obvious a target given the ambitions expressed in Chapter One.

It would have been more innovative—and demonstrative of civilization's impact on general international law—if Tzouvala had gone beyond that rather obvious case of special pleading to consider, for example, whether and how her twin logics apply to the traditional rules of state responsibility. Those rules—like the application of "good governance" in a welter of contemporary legal regimes—are filled with presumptively Western-centric assumptions of what a "responsible" state needs to have in place to avoid being charged with an internationally wrongful act (including, but not only, terrorist actions by its nationals). A well-governed state needs, for example, to have the capacity to exercise elements of government authority and not simply delegate these to others (Art. 5), as well as to be able to control its agents (Art. 7) or insurrectional movements (Art. 10). Given Tzouvala's suggestions that the standard of civilization continues to define both sovereignty and statehood (pp. 14–15), this would have been a suitable occasion to consider explicitly those bigger targets.

Indeed, the pages devoted to the unwilling/unable doctrine and Iraq's occupation could have been replaced or at least complimented by attempts to map the civilizing mission's continuing impact on the World Health Organization's handling of global pandemics, international financial institutions' turn to structural adjustment finance and technical assistance, the UN's resort to "rule of law" assistance (including within peacekeeping), or the international investment regime's efforts to regulate states through investor-state dispute settlement. Rather than spending time on the obvious case of Iraq, Tzouvala would have enriched her argument that civilization's impact is deeply embedded in the basic institutions of international law if she had considered, in this light, the UN's occupation of Haiti over time—and its disastrous consequences. Equally enlightening (and considerably less familiar than most of the case studies in the book) would have been an application of civilization's two logics to China's capitalist efforts to engage with states in the periphery and semi-periphery in the course of its Belt & Road Initiative—to which Tzouvala makes only a passing reference at page 3. Exploring the operation of Tzouvala's twin logics in any of those settings would have been better testaments to the standard of civilization's universal impact—as well as useful to illustrate its distinctive features as compared to mere U.S. "exceptionalism."

The author's occasional caveats provide a respite from an otherwise relentless account that charges all international lawyers with complicity in capitalist oppression—with the exception of the author's "radical" (particularly Marxist) "comrades." Her book, Tzouvala stresses, provides only one possible narrative among many (p. 220). It does not purport to

[4] *See, e.g.*, SC Res. 1373, pmbl. para. 9 (Sept. 28, 2001).

[5] Compare Tzouvala, at page 218, criticizing liberal defenses of international law premised on equating imperialism with U.S. unilateralism.

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provide a "totalizing" account of all of international law (*id.*). Further, though even lawyers from the semi-periphery fail to recognize their complicity in engaging in the standard of civilization's twin logics, as they themselves attempt to resist that standard, Tzouvala acknowledges that their interventions—as in the *South West Africa Cases*—may have achieved "relative improvement[s]" in the position of certain groups while failing to challenge imperialism and capitalism at its core (p. 41). The book's criticisms of both eminent and lesser-known scholars are not intended to charge them with "greed or other objectionable moral qualities" (p. 23). The logics of capital accumulation are the villains, not those who endorse them "without even realizing it" (*id.*). Tzouvala also emphasizes that her target is not liberalism but "capitalism and the way in which its contradictions structure an international legal argument" (p. 34).

The attentive reader cannot fail to notice that these disclaimers are frequently ignored. Tzouvala's claims for the pervasiveness of her theory—its embeddedness in universal capitalism and not only Tzouvala's exceedingly ample definition of neoliberalism[6]—make it difficult to imagine what her twin logics—as "plastic" in conception as they are in application—*do not apply to* (p. 172). It is easy to come to the conclusion that *Capitalism as Civilization* embraces, despite the author's caveats, a totalizing narrative for all of international law, a critique of all forms of capitalism, including neoliberalism, and indeed a critique of liberalism itself. Many passages in the book contend, after all, that under civilization's domain all of us are complicit in its oppressive tendencies and that resort to remedies within capitalism, such as human rights, are, as Koskenniemi suggests, distractions from the political work needed for real change (see, e.g., p. 164 (arguing that the turn to human rights was one of the juridical mechanisms that became a vehicle for the continued survival of "the sacred trust of civilization")).[7] These descriptions of what is at stake may explain why Tzouvala's "symptomatic reading[s]" of texts do not translate into sympathetic readings of the work of her many interlocutors. Everyone (with the possible exception of legal theorists with "impeccable deconstructionist credentials" (p. 37))—from Quincy Wright to Ashley Deeks to John Yoo to Harold Koh—comes in for often sharp criticism, including suggestions of "professional incompetence" and "racism," whether earned or not. One pities someone like Arnulf Becker Lorca, whose fine historical account of self-determination, is charged with declaring, prematurely, the demise of the standard of civilization (p. 84). A more sympathetic reading of the relevant chapter of Becker Lorca's book suggests that he was telling the story of the decline of the formal *legal standard* of civilization produced by the strenuous efforts of lawyers in the semi-periphery active in the Paris Peace Conference of 1919.[8] Becker Lorca implies that the civilizing mission lived on in the conceptualization of the requisites for self-governance and recognition embedded in statehood.[9]

As the Becker Lorca example suggests, and as Tzouvala herself recognizes, her book's all-consuming (and rigid) focus on the repetition of its argumentative pattern across time "diminishes national or ideological particularities" (p. 85). Her meta-narrative homogenizes countries' diverse reactions to being seen as "barbarian." Readers get little sense of, for example, Japan's peculiar response to the age of "unequal treaties" by all too quickly accommodating itself to

[6] "[N]eoliberalism is a model of capitalist accumulation that arose as a response to the Keynesian state and to 19th century laissez-faire liberalism and it rests upon the idea of generalized competition and state intervention for the construction, guarantee and expansion of these competitive relations in an ever increasing sphere of social co-existence, including the structure and functions of the state itself." Ntina Tzouvala, *Chronicle of a Death Foretold? Thinking About Sovereignty, Expertise and Neoliberalism in the Light of Brexit*, 17 GER. L.J. 117, 120–21 (2016).

[7] *Compare* Martti Koskenniemi, *Rocking the Human Rights Boat: Reflections by a Fellow Passenger*, *in* THE STRUGGLE FOR HUMAN RIGHTS 115–17 (Nehal Bhuta, Florian Hoffmann, Sarah Knuckey, Frédéric Mégret & Margaret Satterthwaite eds., 2021).

[8] ARNULF BECKER LORCA, MESTIZO INTERNATIONAL LAW: A GLOBAL INTELLECTUAL HISTORY 1842–1933, at 269–85 (2014).

[9] *Id.*

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civilization's "rules of the game" under imperialism, thereby becoming, in record time, an imperial power itself; or that country's readiness to absorb some of the West's most notorious cultural traits—such as a newly acquired distaste for homosexuality.[10] By presuming that non-Western lawyers subscribed, consciously or not, to civilization's constrained logic of improvement Tzouvala also severely understates the agency (and bravery) of those engaged in civilization's battles.

Tzouvala's depressing prescriptions align with her descriptions. The monograph ends in a dystopia of helplessness. International lawyers should resist the "sirens of conditional inclusion at all costs" (p. 220); they need to imagine the end of capitalism and the replacement of the liberal international legal order premised on it given the existential threat to the planet posed by climate change. In the last few pages of her book Tzouvala argues that her book intends to explain the "framework of possibilities" (p. 216) for all international legal scholars, critical or not. "No matter how self-reflexive, responsible, and historically aware the international lawyer might be," she writes, "upon entering the realm of 'civilisation' in its own terms, they are subject to its contradictions as well as to its ties to racial capitalism. Given the prevalence of 'civilisation' even when the concept is not explicitly invoked, this militates against the current trend of positioning the figure of the lawyer as an antidote to the failures of the law" (*id.*). International legal professionals are just "intellectuals of global capitalism" (*id.*), trapped in inescapable argumentative constraints whose saving grace is the twin logics' own indeterminacies (p. 215). These constraints should give us pause "when lamenting the purported collapse, or at least the ongoing crisis, of the liberal international legal order" (p. 210). Should that order be overturned by a return to authoritarian governments, there is apparently nothing to lament since the liberal international order "appears to be less the polar opposite of and the safeguard against emerging authoritarianism and (explicit and unapologetic) racism and sexism" but is, instead, "intrinsically interlinked with them" (p. 211).

Although Tzouvala warns her readers against the tendency to dismiss critical theory on the basis that international lawyers should instead seek to resolve looming "issues of life and death" (p. 33, n. 92), it seems fair to question Tzouvala's theory of social change when she herself raises the life and death issues posed by climate change. Tzouvala appears to think that addressing that existential threat—caused by capitalism—cannot rely on capitalist solutions but requires, apparently, the toppling of the capitalist, liberal international legal order. The premise that radical change requires not giving in to modest progress but being "all in" on revolution is consistent with Tzouvala's disparagement of merely "ameliorative" solutions offered under capitalism-cum-civilization. Of course, rival theories of social change—including famously Tocqueville's—postulate that progressive social reforms can themselves generate social frustration and themselves lead to revolution.[11] Even if one agrees with Tzouvala's commitment to Marxist revolution, she does not explain why the pursuit of second-best solutions in the meantime is inherently counterrevolutionary.

Her book also does not address why, as she implies, Marxist governments are best equipped to tackle climate change—a topic that is mentioned only in the book's last few pages and is not the subject of one of her case studies. She does not address how or why avowedly Marxist states like North Korea, Vietnam, or Cuba would presumably do a better job of mitigating climate change than changes within the liberal international order now on offer. The last include

[10] On the first, see, e.g., Mogami Toshiki, *Japan*, *in* THE OXFORD HANDBOOK OF INTERNATIONAL LAW IN ASIA AND THE PACIFIC 320 (Simon Chesterman, Hisashi Owada & Ben Saul, eds., 2019); on the second see, e.g., GARY P. LEUPP, MALE COLORS: THE CONSTRUCTION OF HOMOSEXUALITY IN TOKUGAWA JAPAN (1997).

[11] *See, e.g.*, RICHARD SWEDBERG, TOCQUEVILLE'S POLITICAL ECONOMY 259–60 (2009) (discussing the "Tocqueville effect" in which social frustration increases as social conditions improve as applied to the many events—spanning decades and including economic improvements—leading to the French Revolution).

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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.
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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).