BOOK REVIEW

Andrew Fitzmaurice, *King Leopold's Ghostwriter: The Creation of Persons and States in the Nineteenth Century*, Princeton University Press, 2021, 592pp, ISBN: 9780691148694, $39.95
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The latest book by Andrew Fitzmaurice is an excellent example of the added value represented by the study of biography in the analysis of legal developments.[1] The book provides a meticulous reconstruction of the life and career of Sir Travers Twiss (1809–1897), who, among others, was a marriage and ecclesiastical lawyer; a leading international law theorist; collaborator and friend of Prince Metternich; the Vicar General of the Diocese of Canterbury; Regius Professor of Civil Law at Oxford; Queen's Advocate in the Admiralty Court; and, later in his life, 'King Leopold's ghostwriter', helping the King of Belgium Leopold II to reformulate the principles of international law in order to argue – and have the other European states recognize – that his dominium in the Congo, established by the King in his private capacity and soon turned into a theatre of widespread atrocities, could be equated with a state formation and considered part of the European system of colonial dependencies in the African continent.

Twiss's legal biography recounts the interaction between, and the mutual influence of, the personal and the professional in his life. Twiss was a civilian lawyer in a common law country; he specialized in marriage and ecclesiastical law and developed an early interest in international law, which he later leveraged to create the Congo Free State. As the book illustrates, the link between marriage and ecclesiastical law on the one hand and the law of nations on the other depended on them both being branches of civil law.[2] Interestingly, Fitzmaurice explores this link by delving into the most intimate aspects of Twiss's life. As a civilian lawyer, Twiss was acquainted with the notions and principles of both branches of law, practicing in both ecclesiastical and admiralty courts, but he was also able to put his deep knowledge of the civil law to personal use. First, he transformed the status of a 'natural person', his wife Pharaïlde van Lynseele, from a prostitute into a pretend aristocratic lady. When this bold legal move was subsequently divulged, causing a scandal which compromised not just his wife's but also his own reputation, Twiss turned to international law with a similarly unorthodox attitude. Being in Leopold II's pay, he crucially contributed to the transformation of an 'artificial person', this time, the International Association of the Congo, into the Congo Free State. This is the twofold 'creation of persons' mentioned in the book's title, in which Twiss engaged first privately, by acting on his own marriage, and then publicly, by working on the international justification of the Belgian King's imperialist aspirations in Central Africa. Specifically, Fitzmaurice convincingly argues that it was Twiss's marriage story which helped him develop a more flexible understanding of persons, both natural and artificial, and an appreciation for their transformative potential. It was this appreciation that subsequently

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[1] L. Kalman, 'The Power of Biography', (1998) 23(2) *Law and Social Inquiry* 479; D. Sugarman, 'From Legal Biography to Legal Life Writing: Broadening Conceptions of Legal History and Socio-Legal Scholarship', (2015) 42(1) *Journal of Law and Society* 7; V. Barnes, C. MacMillan and S. Vogenauer, 'On Legal Biography', (2020) 41 *Journal of Legal History* 115.

[2] A. Fitzmaurice, *King Leopold's Ghostwriter: The Creation of Persons and States in the Nineteenth Century* (2021), at 9, 26–33.

induced him to theorize that states were not the only legitimate actors of international politics (as he had previously argued) and that a private association had a sovereign authority and could thereby be turned into a state.[3]

By uncovering the intimate connection between Twiss's privacy and his contribution to international and imperial politics, Fitzmaurice's book highlights the link between the 'micro' of individual life and the 'macro' of larger-scale and longer-term developments, which has of late become the focus of scholarly investigations examining the co-constitution of the 'local' and the 'global' from different methodological perspectives.[4] This intellectual and legal biography is, as its author puts it, 'contextual' not only because it reconstructs Twiss's thoughts against the backdrop of nineteenth-century social and political changes but because Fitzmaurice's consideration of the importance of context also entails equal attention for Twiss-the-actor and his family relations, social connections, and professional affiliations.[5] As Fitzmaurice himself acknowledges, in several respects, Twiss was an 'unremarkable' individual.[6] Despite being one of the upper-class, well-off, and highly educated members of polite society, within his own social circle his trajectory was nonetheless hardly unique. Twiss's 'ordinariness' emerges once Fitzmaurice contextualizes him within the networked, small world shaped by intellectual exchanges and relations of family and patronage, in which old schoolmates frequently became connected to each other through marriage; lived in the same neighbourhood or even the same street; and worked together in court, Parliament, or a state department.[7] This book is a biography of Twiss as well as, to some extent, a prosopography of all the individuals (both men and women) who surrounded him and had a crucial impact on how his life and career developed over almost 70 years. In this manner, Andrew Fitzmaurice achieves the almost impossible task of writing a legal biography of Twiss which is not, in fact, all about Twiss.

There are different notions that provide the red thread of *King Leopold's Ghostwriter*, a crucial one being the problem of order. In Victorian Britain (and beyond), domestic order was considered foundational for social order, which was, in turn, a pillar of both imperial and international order.[8] Twiss appears to have been deeply concerned about the preservation of order, to such an extent that at the end of the revolutionary wave of 1848–1849, he observed that, '"order" is the watchword'.[9] In the British national sphere, he was an enemy of popular unrest and afraid of the social and political claims of the working classes; internationally, he was against the upheavals and nationalisms of 1848. Interestingly, those revolutions had, according to him, enlarged the problem of social order from the national to the transnational level: nationalisms were 'plagues' and 'fevers' affecting the social body – not of one state only but of the European continent as a whole.[10] Twiss, therefore, supported the balance of powers and constitutional monarchies adapted to reform only as long as reform could provide a bulwark against revolution. Order – and its necessary appendage, peace – were, for him, the result of 'lawfulness', at both the social, political, and international level.[11] Interestingly, the infringement on peace – namely, war, both civil and international – was often referred to by him with the same language of pathology which, in the societal sphere, was employed when discussing prostitution, at the time increasingly identified as the cause of the

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[3]Ibid., at 1–28.

[4]See, among others: T. Duve, 'What Is Global Legal History?', (2020) 8 *Comparative Legal History* 73; M. Berg, 'Introduction: Global Microhistory of the Local and the Global', (2023) 27 *Journal of Early Modern History* 1.

[5]See Fitzmaurice, *supra* note 2, at 25.

[6]Ibid., at 9.

[7]Ibid., at 10.

[8]I. Blom, K. Hagemann and C. Hall (eds.), *Gendered Nations: Nationalisms and Gender Order in the Long Nineteenth Century* (2000); P. Levine (ed.), *Gender and Empire* (2004).

[9]See Fitzmaurice, *supra* note 2, at 173.

[10]Ibid., at 179.

[11]Ibid., at 89–94, 175.

spread of venereal diseases.[12] It is unclear whether Twiss's wife was affected by syphilis, and whether he had also been infected.[13] In fact, when it came to his privacy, Twiss's domestic life was, from the perspective of Victorian standards, the very opposite of orderly; and it was precisely this private, alleged moral disorder, Fitzmaurice argues, that would subsequently induce him to also become less conservative in his understanding of international order. Therefore, Twiss eventually attained a conception of order as something not static but changing and subject to transformation. This reconceptualization went hand in hand with his invention and reinvention of history: Pharaïlde's life story was fabricated to fit the portrait of a respectable 'lady by blood', and the history of international relations since the Middle Ages was revisited in light of Leopold II's imperialism.[14]

The issue of order is intimately connected with the second *fil rouge* of the book: the problem of the code in all of its manifold meanings, including the work of applying codes, the difficulties of adhering to codes, and the danger of breaking with codes. The first codes which Twiss had to deal with as a civilian lawyer were legal codes, systematic collections of written rules of law. When commenting on the case for criminal libel that he brought in 1872 against the man who unmasked his wife as a former prostitute, Twiss wondered, 'we shall see what the Law of England is worth'.[15] After withdrawing from the case lest it could escalate into a trial for perjury, he maintained that the humiliating cross-examination which Pharaïlde had endured would never have been possible 'in a continental tribunal'; he then bitterly concluded that 'the laws of England' had allowed for a 'terrible wrong' to be perpetrated to the detriment of his wife and himself.[16] As the Twiss case was tried at the Southwark Police Court, a court of common law, Twiss's embittered remarks can be interpreted as a critique of the uncodified common law system. Years later, when working for King Leopold, Twiss faced the problem of attempting to revise the rules of international politics in a historical moment when, as Fitzmaurice writes, European states were seeking to 'submit the business of establishing empires to a legal order and code' by convening the Berlin Conference of 1884–1885.[17] On the continent, a codified set of legal rules also defined marriage; in the wake of the resurfacing of his wife's scandal in 1889, Twiss put her under King Leopold's 'protection', de facto abandoning her in a manner which contravened the *Code Napoléon*.[18] However, the codes that Twiss had to come to terms with also included the moral and social code of Victorian society, an unwritten set of norms which was neither legal nor codified but no less binding. Twiss learnt at his own expense that normativity emerged not just from positive laws but also from society itself, defining one's belonging or estrangement to it.[19] Furthermore, a 'code' is also a system of words, figures, and symbols used to represent and disguise something (or somebody) for the purposes of secrecy. Pharaïlde's identity was *coded* insofar as formulas and marks were employed to represent her as somebody she was not, whereas the trial and her cross-examination had the effect of decoding and deciphering her. Codes – secret codes but also legal, social, and moral codes – were instruments Twiss repeatedly employed to order his own private life and the international community. He attempted to transform both natural and artificial persons to fit the codes of Victorian and international societies. However, while doing so he also broke with the codes, both with the moral

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[12]J. Marriott, *The Other Empire: Metropolis, India and Progress in the Colonial Imagination* (2003); P. Levine, *Prostitution, Race, and Politics: Policing Venereal Disease in the British Empire* (2003).

[13]See Fitzmaurice, *supra* note 2, at 246, 520.

[14]Ibid., at 395.

[15]Ibid., at 352.

[16]Ibid., at 384.

[17]Ibid., at 467.

[18]Ibid., at 514–15.

[19]P. Rudan, 'Society as a Code: Bentham and the Fabric of Order', (2016) 42 *History of European Ideas* 39; T. Duve, 'Legal History as an Observation of Historical Regimes of Normativity', (2022) 17 *Max Planck Institute for Legal History and Legal Theory Research Paper Series* 1.

and social norms of British society and with the established rules of the law of nations.[20] Ultimately, the codes fought back, and Twiss found himself entangled in the multiple layers of normativity surrounding him.

To conclude, as for the book's engagement with current scholarship, Andrew Fitzmaurice contributes to the recent 'turn to history' in studies of international law by contextualizing its notions and doctrines within the life experiences of specific 'historical personalities' and their 'personal beliefs, institutional allegiances, and instrumental considerations'.[21] Therefore, by investigating a concrete case study of someone who 'actually *did* international law', and those who surrounded and influenced him, this work promotes a critical reconsideration of the allegedly supra-historical values of international legal thinking, ultimately deconstructing its persistent claims of universalism.[22]

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[20]See Fitzmaurice, *supra* note 2, at 531.

[21]M. Arvidsson and M. Bak McKenna, 'The Turn to History in International Law and the Sources Doctrine: Critical Approaches and Methodological Imaginaries', (2020) 33 *Leiden Journal of International Law* 37; A. Peters, R. Schäfer and R. Lesaffer, 'Politics and the Histories of International Law', (2020) 22 *Journal of the History of International Law* 199.

[22]M. M. Payk and K. C. Priemel (eds.), *Crafting the International Order: Practitioners and Practices of International Law since c. 1800* (2021), at 9–12.

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