

Editorial Preface

In his long and highly distinguished career, Professor Onuma Yasuaki made many important contributions to international law. The volume that he and his Japanese colleagues produced on Grotius provides a unique insight into the figure most often thought of as “the father of international law”.¹ In a notable presentation to the American Society of International Law in 1981, he warned powerfully and presciently of the dangers of teaching international law in a narrow way that furthered the provinciality of a discipline that presented itself as universal.² It is clear, however, that Onuma’s life’s work was dedicated to developing a “transcivilizational” approach to international law. The essence of this far-reaching theory was to point to the Eurocentric character of international law, and to develop as an alternative a transcivilizational approach that would consider the ways in which other civilizations had approached the fundamental questions of governance and order that were the central concerns of international law. For Onuma, a transcivilizational approach to international law would enrich the discipline and enhance its legitimacy.

The contours of this approach was the theme of his pioneering paper in the *Journal of the History of International Law*³ (several scholars responded to that paper) and his Hague Lectures in 2007. His magnum opus on the subject appeared as *International Law in a Transcivilizational World*, a 700-page volume published by Cambridge University Press in March 2017. The Asian Society of International Law devoted a special panel to the broad topic of Transcivilizational Approaches to International Law in its 2017 biennial conference in Seoul.

In the symposium presented here, a distinguished group of scholars engages further with Onuma’s work. Professor Lauri Mälksoo considers different ways in which Onuma advances the idea of “civilizational pluralism”. The basic problem identified and explored by Mälksoo is that it is easy to agree with the proposition that “universal” international law was in fact an international law based on European civilization. It is more difficult to know what a “transcivilizational” international law will be like and efforts to create one may result in the regionalization and fragmentation of international law.

Professor Li Ming points to how powerfully Onuma’s arguments about Eurocentric civilization resonate with Chinese scholars and to the difficulties experienced by an ancient civilization that was compelled to adopt foreign principles and standards in order to re-establish its place in the world. For Li Ming, Onuma’s call for a

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1. ONUMA Yasuaki, ed., *A Normative Approach to War: Peace, War and Justice in Hugo Grotius* (Oxford: Clarendon Press, 1993)
 2. ONUMA Yasuaki, “The Problem of Eurocentric Education in International Law,” Proceedings of the 75th Anniversary Convocation of the American Society of International Law, April 23–25, 1981 (1983)
 3. ONUMA Yasuaki, “When was the Law of International Society Born?” (2000) 2 *Journal of the History of International Law* 1.

transcivilizational perspective is to be welcomed, as it might result in an international law that reflects all the world's civilizations. The legitimacy and acceptability of international law will be enhanced if it reflects a transcivilizational approach and a truly global community may result.

Professor Gustavo Gozzi's contribution illuminates how a transcivilizational approach serves as a way of viewing international law from a non-statist perspective and also as a heuristic, a way of identifying biases and injustices in the current international legal system. Gozzi, like Mälksoo, points to the dangers of fragmentation: how is a "Western" international law to be transformed into a transcivilizational international law? What would this mean for human rights? After all, civilizations can be oppressive and hierarchical: is it the case that a transcivilizational approach will indeed advance human rights and human welfare as Onuma would wish it to?

Professor Michael Reisman and Mr Tomo B. Takaki agree with Onuma's quest to clarify the goals that international lawyers should seek to further. However, Onuma may have over-estimated the capacity of a transcivilizational approach to resolve the complex problems confronting the discipline. It surely cannot be the case for instance that all the norms embodied in civilizations have equal value: what higher principles can be used to distinguish between "good" and "bad" civilizations and norms? Indeed, international law, over time, has offered protections for the weaker parties that might be undone by a transcivilizational approach.

Professor Florian Couveinhes Matsumoto points to another aspect of the transcivilizational approach: its complex relationship with the intellectual histories of modernity and liberalism. He argues that Onuma's work, while seeking to step outside the Eurocentric tradition, still remains based on certain liberal assumptions, as suggested by Onuma's views, for instance, on international economic law.

We are very grateful to each of the contributors for their engaged and incisive exploration of Onuma's work. We had planned to include his response to these essays in this collection. He read these essays with considerable appreciation and relish, we understand, and was embarking on a response to them when he sadly passed away. This perhaps, is only fitting: Professor Onuma was fiercely engaged with ideas about international law, the passion that had ruled his professional life, until the very end. Both the Asian Society of International Law and the *Asian Journal of International Law* are indebted to him for this commitment, vision, and dedication.

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