

Dear Jose

In terms of the specific questions you and Makau raise, what I find somewhat encouraging is that several major textbooks now at least explicitly attempt to address the problem of Eurocentrism and include extracts from what may broadly be termed 'TWAIL' writers that deal with this issue quite early in the text-eg. the Dunoff, Ratner text (which I too use) and the Falk, Weston, Charlesworth text. I use these readings to raise the general issue of Eurocentrism. I also supplement these materials with Peter Malanczuk's first chapter on the 'History and Theory of International Law' (in the 7th edition of Akehurst) which provides a very useful and fairly standard account of the history of international law which does make an effort to include the non-European world. I then ask students how that history may be presented if we take into account the arguments made by scholars who explore the Eurocentric character of international law. I have also used extracts from James Gathii's article in the European Journal of International Law on Eurocentricity, and Onuma Yasuaki's article on Inter-civilizational Approaches in the Journal of the History of International Law to provide further examples of such arguments. Once this analytic framework is in place, then it becomes easier to apply it to many of the other topics in the book-eg. analyzing the Texaco Case and how the third world states attempted to change international law and why they failed, and what this tells us about the discipline; and what 'sovereignty' means to Cyprus in the context of the materials in the Dunoff text on Cyprus and treaty making. The point is-and feminists make the same argument about their own approach-that TWAIL type concerns can be found throughout the materials and are not to be simply acknowledged at the beginning of the course and then ignored. I have also used, for instance, Judge Weeramantry's attempt, in his separate opinion in the Gabcikovo Case, to indicate how a traditional area of international law, sources, could be reconceived in a way that enables third world traditions and jurisprudence to be considered, and how the principles that emerge may contribute to international jurisprudence. These are some of the ways in which I try to introduce TWAIL concerns to complement the more traditional approaches of formalism, realism etc-questions of how international law can be made binding, and whether it should be considered 'law' at all-so Austin is still alive and well. I teach a separate course which focuses more exclusively on TWAIL concerns, 'Imperialism and International Law'-and attach a syllabus (I use a similar syllabus in Utah, but have to truncate it because I teach it as a seminar, which involves student presentations). Sorry, I don't have a proper international law syllabus to send you since I give it out in installments and add and subtract materials depending on what issues are current.

In relation to Makau's specific comments: I agree with him on many points.

On the issue of Eurocentrism and the greater emphasis that could be given to non-Western voices, I would only add that sometimes the problem is not just Eurocentrism but an ahistorical Eurocentrism. That is, sometimes I think the problem is that 'European' or 'Western' international law is not approached with the insights that could be provided by an informed historical perspective. I would argue that a properly historical study of European international law, for instance, would demonstrate that much of this law has been preoccupied with the issues of consolidating and expanding empire, and governing other peoples. I would like to think that such an understanding could make us a little more self-aware and humble, and in this way promote an international law that furthers justice rather than unwittingly promoting empire-to return to one of Makau's arguments.

And perhaps the same point can be made about 'American' international law. In this context-and given all the issues we now address, arising from the 'war on terror'-I think for example of an article written by Elbridge Colby, 'How to Fight Savage Tribes' in 21 AJIL (1927), which dealt in part with the issue of whether 'savages' were protected by the laws of war. Quincy Wright took a different position. Parallels with the past are invariably problematic, but at least, as scholars and teachers, I think we need to examine these materials for whatever ambiguous lessons they might provide when we return to heatedly debating such issues, often regarding them in an undifferentiated way as completely novel.

Not sure whether any of this is useful, but in a way this has helped me because I will be speaking on some of these issues at the AALS-ASIL conference-and look forward to seeing you there.

Best wishes

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