

Law, Empire, and Global Intellectual History

Veranstalter: JRG „Transcultural Justice“ (A 16), Kerstin von Lingen, Cluster of Excellence „Asia and Europe in a Global Context“; Assistant Professor Milinda Banerjee, Presidency University, Kolkata

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The conference „Law, Empire, and Global Intellectual History“ was organized at Heidelberg University from 19 to 21 June 2016 by Kerstin von Lingen (Heidelberg University) and Milinda Banerjee (Presidency University, Kolkata). It emanated out of the research programme of the Junior Research Group „Transcultural Justice: Legal Flows and the Emergence of International Justice within the East Asian War Crimes Trials, 1945-1954“ of the Cluster of Excellence „Asia and Europe in a Global Context“ of Heidelberg University. The conference aimed at exploring how debates in the emergent field of global intellectual history can provoke new discussions in the domain of legal history, especially in relation to defining how legal concepts get globalized within, across, and against frameworks of imperial power. It foregrounded the subversive transfiguration of legal concepts by multi-sited actors, including those subordinated by imperial configurations. The conference instigated very stimulating debates on questions of interpretative scale, intellectual origination, and even the very definitions of ‘law’ (going beyond arenas of state law into broader moral, religious, and cultural notions of legality). It squarely centrestaged the intellectual hinterlands of legal debates, focusing not just on judges and lawyers but also on a broad spectrum of seemingly non-conventional legal actors, from peasants to bureaucrats.

The introductory remarks by von Lingen highlighted the methodology of ‘legal flows’ advanced by her Junior Research Group, and how it serves as a heuristic tool to analyse mobilities of legal personnel, institutions, and ideas. Banerjee outlined some of the

key recent debates in global intellectual history and related them to ongoing concerns within legal history to deconstruct the relationships between legal and imperial formations, while positing more ethically capacious standpoints on law in relation to sovereignty and justice. The opening speech by ANDREW SARTORI (New York) showed how Muslim peasants in colonial Bengal drew upon, as well as radically transformed, early modern Islamic legal concepts. Sartori took into account the formative role of precolonial extra-European legal thinking, even as he emphasized the revolutionary transmutations engendered by modern capitalism and commercialization. PHILIP STERN’s (Duke University) speech similarly drew a connecting line between the early modern world of corporations and nineteenth-century colonial corporations (especially in British imperial contexts), and demonstrated the manner in which the globality of modern law was underpinned by dense economic arrangements. MATTHEW NELSON (London) highlighted connections between Ireland, India, and Pakistan in the manner in which legal notions of public order have dramatically (and transnationally) reshaped frameworks of religious articulation, community-building, and national sovereignty across the twentieth century. RONI WEINSTEIN (Jerusalem) took the audience to an older epoch by demonstrating the links between Jewish, Islamic, and Christian legal-political frameworks which transformed early modern Jewish law and legally-oriented community identity. He underscored the role of this legal identity-building in navigating through, as well as resisting, the diverse structures of imperial domination to which early modern Jewish communities were subjected.

Several of the subsequent papers focused on the relation between law and sovereignty. MILINDA BANERJEE (Kolkata) set the ball rolling by suggesting that the planet-spanning spread of modern concepts and practices of state sovereignty offered a significant motor for the global orientation of intellectual production from at least the nineteenth century. With the help of case studies from colonial Bengal, he argued that various actors from across social strata oriented

their political-legal thought globally, by accommodating themselves within the conceptual spaces of state sovereignty or by seeking to disrupt those spaces of sovereignty and sovereign violence in the name of alternative, equally globalizable, ideas of supra-state ethical justice. KERSTIN VON LINGEN (Heidelberg) emphasized the historical significance of state violence, and especially of crimes against civilians, as she offered a detailed genealogy of the way in which the discursive concept of crimes against humanity was transformed into a globalized legal tool, with émigré lawyers, often facing state persecution, playing a crucial role. For her, exile offered a significant modality of conceptualizing the globality of legal concepts. Questions of legality in relation to sovereign violence were also highlighted by DIRK MOSES (Sydney) as he offered a comparative study of Partitions (with a special focus on South and West Asia).

The conference did not assume empire to be a transhistorically constant phenomenon, but rather highlighted the impact of legal intellection in restructuring imperial formations. By considering examples from Tsarist Russia and the Soviet Union, IVAN SABLIN and ALEXANDER SEMYONOV (both St. Petersburg) demonstrated the manner in which concepts of empire and legal-political autonomy in the modern world have been shaped through transimperial and transnational intellectual transfers. Through his analysis of protectorates within the British Empire, BARNABY CROWCROFT (Cambridge, MA) sought to de-teleologize narratives of nation-state formation and to instead point at alternate intellectual-political models of sovereignty that were thrown up in the mid-late 1940s. MIRA SIEGELBERG (Princeton) examined the impact of international lawyers, especially of Central European origin, in fashioning constitutionalist norms in the decolonizing post-WWII world. SEBASTIAN GEHRIG (Oxford) highlighted the ways in which legal concepts of German sovereignty were restyled in the Cold War era, thanks to the contributions of socialist and postcolonial states in international forums like the United Nations.

In line with the Heidelberg Cluster's focus on transculturality, many of the papers

queried notions of culture which mediated, and were themselves constituted through, legal encounters. INES EBEN VON RACKNITZ (Nanjing) highlighted the way in which late nineteenth century Chinese actors had to confront, translate, and 'culturally' appropriate 'Western' concepts of international law in the face of British imperial aggression. KIRI PARAMORE (Leiden) explored shifting tropes of liberalism and rule of law as these were built through conflicts and conversations between East Asia and Europe. By bringing into a common platform scholars working on diverse spatio-temporal contexts and often with startlingly divergent methodological stakes, the conference ultimately hopes to have positioned the study of law at the forefront of future global intellectual history research. Simultaneously, it has shown how globalized legal thinking lay at the epicentre of modern constructions of conceptual vocabularies, politics, identities, and life-worlds.

Conference Overview:

Introduction-Conceptual remarks by the organizers Kerstin von Lingen / Milinda Banerjee (Heidelberg University / Presidency University)

Opening Speech by Andrew Sartori (New York):

Property, Law, and the Histories of Muslim Freedom in Bengal

Panel I: Ordering the World through Law: From the Early Modern to the Contemporary

Philip Stern (Duke University): 'A Radical Vice in the System of Government': Law, Empire, and the Nineteenth-Century Colonial Corporation.

Matthew Nelson (SOAS London): Religious Freedom and Public Order: Tracing a Familiar Constitutional Tension in Two Islamic States

Roni Weinstein (Hebrew University Jerusalem): The Formation of Modern Jewish Law in the Early Modern Period: A Global Perspective

Panel II: Legal Normativities and Globalized Confrontations

Milinda Banerjee (Presidency University Kolkata): Sovereignty as a Motor of Global Conceptual Travel: Sanskritic Translations of 'Law' in Bengali Discursive Production

Kerstin von Lingen (Heidelberg University): Civilizing Warfare? The Hague Conferences and the Emergence of 'Humanity' as a New Paradigm of Transnational Legal Thought

Dirk Moses (University Of Sydney): Genocide as a Globally Contested International Law

Panel III: Imperial Residues and the Emergence of Postcolonial Legal Worlds

Ivan Sablin and Alexander Semyonov (Higher School of Economics, St. Petersburg): Diversity Management and the Russian Empire: Autonomy and Decentralization in the Global Imperial Crisis, 1905-1924

Barnaby Crowcroft (Harvard University/SOAS): The First Struggle for Sovereignty: Decolonization in Britain's Empire of Protectorates, 1945-1951

Mira Siegelberg (Princeton University): Post-Imperial Constitutions and International Legal Expertise (ca. 1947-62)

Sebastian Gehrig (Oxford University): Dividing National Sovereignty? Cold War Reconfigurations of German Sovereignty within the United Nations

Panel IV: Law, Imperial Violence, and 'Cultural' Alterity

Ines Eben von Racknitz (Nanjing University): International Law as „Civilizing Mission“? Lord Elgin's Introduction of the Concept of „International Law“ during the China Expedition of 1860

Kiri Paramore (Leiden University): The Culturalization of Liberalism in East Asian Intellectual History: Competition and Collaboration in Imperialist and Nativist Otherings of the East Asian Liberal

Concluding debate

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