

FOREWORD

This book is the report of a journey. The reader is invited to join the author on a trip in time and space. The trip takes its starting-point in 17th century Europe and the as yet confused post-Thirty Years War society. After some stops in the 18th and 19th century the author brings us to the post-World War I society which is as confused and is torn between ideals and despair. Then we make a stop in the post-World War II society when ideals seemingly have made place for trust in power but where we also get a glance of the fragile sapling of human rights law. And finally we pause in the post-Cold War world and try to cast a look into the future.

What is the purpose of this journey, what is the author in search of? As is clear from the title it is the concept of International Legal Personality which for many will have a rather formal and positive law connotation.

But the journey does not take us into the cabinets of Foreign Ministries or to conference-rooms or United Nations-buildings where the law is made nor to the court-rooms where the law is interpreted and modelled.

On the contrary, the trip leads us through the minds of men (and one woman) to find out what their view was, not on the concept of international legal personality, but on what the concept stands for: Who are the relevant actors on the international legal scene, who are the real addressees of international law, what can be found behind the ‘mask’, as the original meaning of the word ‘persona’ is?

And so the journey reflects not only a development of socio-political structures. The travel-story also presents a history of ideas but it does so with a very specific purpose. ‘Past thought is made intelligible by its “re-enactment”, and, by doing this, the historian provides us with knowledge we may use in thinking about human action’, the author says. Or, as Alain Finkelkraut puts it: ‘*J’ai besoin des hommes anciens pour penser mon temps.*’

What makes the journey a fascinating one is the close interlinkage of – if not interaction between – social phenomena and the birth of conceptions and ideas: ‘What could the author of this particular text, writing at that particular point in time and for the specific audience he addresses, actually have *intended* to communicate?’ We see Hans Kelsen groping his way in the nineteen-twenties in an unstable, intolerant Vienna with its totalitarian tendencies to which his Pure Theory of Law is a reaction. The vicissitudes of the political system of the Third

French Republic – in particular during the *interbellum* – are the background for Duguit's and Scelle's legal thinking. The horrors of World War II lead both to the pessimistic realism of Niebuhr and Morgenthau and to the cautious idealism of Lauterpacht.

This contextual reappraisal of the concept of International Legal Personality as reflected in the history of international legal scholarship brings us finally to the beginning of the twenty-first century when world society finds itself in a new socio-political and conceptual quandary. At the end of her narrative (as she calls it) the author asks whether there is still a future for a concept like International Legal Personality which for so long has functioned as a beacon in a turbulent sea or – to use her own words – as the hinge of the meta-legal and the legal realm. While changing the symbol of the 'mask' for that of 'vocal cords' – which keeps us at any rate on stage – she hesitatingly comes to a positive reply.

Even if the final destination is not to the reader's liking, he will surely have made a memorable and rewarding journey.

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