two employees guilty of the involvement in the dumping of waste. While no court has yet dealt with the possible involvement of Ivorian authorities, in the case that Ivorian government were involved, Côte d'Ivoire would have violated the duty to respect the right to health and other ESCR (at 268).

Chapter 8 turns away from doctrinal questions of international law and toward what Schmid calls the 'corollaries' (or normative consequences) of qualifying ESCR violations as international crimes. In this chapter, the key claim she develops is that international crimes and, thus, violations of ESCR as well, can be prosecuted by a number of institutions, including the ICC, national courts, and truth commissions and that, as a consequence, victims can be afforded reparation. Schmid also explores the liability of non-state actors such as businesses and international organizations. The prohibitions of international criminal law apply to both state and non-state actors and both can through the application of international criminal law be held accountable for violations of ESCR. Finally, Chapter 9 draws the conclusions and points out some areas for further research. For example, Schmid identifies cultural rights as an area that remains marginalized even in the literature on ESCR (at 333).

The book successfully challenges the assumption that violations of ESCR do not have a place in international criminal law. Written with careful attention to the details of case law and practice of non- or quasi-judicial mechanisms, and informed by a strong position that ESCR violations properly fall within the ambit of international criminal law, the book weaves together a large amount of material in a very readable way, providing insight on both international criminal law and human rights law in the process. According to Schmid, despite their hesitation to consider ESCR violations in criminal proceedings, prosecutors, lawyers, NGOs and judges must address violations of ESCR in the same way they consider violations of civil and political rights.

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Lauri Mälksoo. ***Russian Approaches to International Law***. Oxford: Oxford University Press, 2015. Pp. 240. £60. ISBN: 9780198723042.

Modern international law of the 21st century seems to be characterized by a farewell to the Westphalian understanding of state sovereignty, by the empowerment of the individual and by transnational solutions to common problems in a globalized world. This overview, however, is not true for Russian international law. The 'powerful idea of Russia's civilizational distinctness from the West' is underlying the post-Soviet practice in international law (at 190). This is the main thesis of Lauri Mälksoo's study on 'Russian approaches to international law'. Russia was different, Russia is different and Russia is proud of being different.

The author explains this thesis on the basis of a cultural–historical approach going back to the culture of late medieval Muscovy. Referring to the semiotician Yuri Lotman and the historian Richard Pipes, he takes up the idea that Russian culture 'was not contractual but instead was based on explicitly non-contractual values' and 'lacked the tradition of reciprocity' (at 33). He finds this line of reasoning confirmed by writings of present-day Russian internationalists such as Insur Farkhutdinov and quotes his sceptical remark: 'All national systems recognize the principle *pacta sunt servanda* as such but they recognize it differently'

(at 33). This would mean that Russia's idea of 'being different' touches upon, or even undermines, the fundamentals of international law. For Mälksoo, however, this is more an open question than an assumption underlying his analysis. The quotations are to be found in the chapter entitled 'The Objectivity Question and the Estonian School of International Law', which is dedicated to the critical assessment of the author's (subjective) point of view as an Estonian writing about Russia. Although his declared aim is 'to take Russia – and especially its internal discourse of international law – seriously', he is perfectly aware that he might be reproached of being biased (at 35). It is true that it would be interesting to have an inside perspective on 'Russian approaches to international law' complementing Mälksoo's view from a neighbouring country. Such a critical and comprehensive analysis, however, is still missing.

The 'Russian doctrine of international law' is not easy to grasp. Unlike the Soviet doctrine where the different epochs could be characterized by the names of not only outstanding, but also monopolist, representatives, the scholarship in Russia has become more diverse. However, according to Mälksoo, 'since Putin's Russia is increasingly seen as an autocracy and the freedom of NGO's as well as academia has recently been restricted, it would be naive to presume that no political constraints exist for international law scholarship in Russia' (at 82). The chapter on the 'debatable nexus between legal scholarship and State practice of international law in Russia' provides interesting background information on important 'players' in international legal debate such as Ludmila Galenskaya who happens to be the supervisor of Putin's thesis on 'the most favoured nation trading principle in international law' (at 85) and the president of the Russian Constitutional Court, Valeri Zorkin, who 'is polemically very active and often passes sharp judgments' (at 83). The interconnectedness of governmental and scholarly discourses in international law, however, is, as Mälskoo rightly emphasizes, not only a problem of Russian doctrine of international law. David Kennedy's idea of 'speaking truth to power' might often remain wishful thinking. But Mälksoo shows that for Russian academics the addressee of the 'truth of international law' is rather the USA or the 'West' and not the Russian government (at 81).

A large part of the book is dedicated to the analysis of the history and methodology of legal scholarship in Russia. A recurring topic in the writings of 19th and early 20th century authors such as Danilevsky, Martens, Taube, Kozhevnikov and Hrabar is the definition of Russia's role in international law, a question closely linked to Russia's 'Europeanness' or 'otherness'. Mälksoo's analysis succeeds in clearly outlining the main features of the Russian studies on the history of international law and contrasts them to classical Western narratives such as the ones of Nussbaum and Grewe. For the author, Russia's 'political dilemma has been enormous: whether to construe itself as part of Europe or as an independent civilization and even hostile to ("Romano-Germanic") Europe' (at 71). He is sceptical if Russia, even in Tsarist times, has ever been 'really European': '[T]he question remains whether the Tsarist Russia in love with Europe and European ideas was the "genuine Russia" or a Protestant quasi-colonial construct of Russia as a "European civilized nation"' (at 63).

Concerning methodology of Russian international legal scholarship, Mälksoo emphasizes the 'extensive scientism and theorizing' (at 93) as well as the 'scarcity of court practice' (at 96). It might be added that this is not only typical for international law but also for all branches of legal science in Russia. As 'thinking differently' is, according to the author, unlike in Soviet times, not *a priori* excluded, at least in as far as it does not concern concrete politically contested questions, different trends and schools can be identified. This is for example true for the debate on the relationship between the principles of state sovereignty, human rights and national self-determination. The strictly Grotian, positivist 'Statist school' of Stanislav Chernichenko is opposed to the 'pro-non state actors' school' of Gennady Ignatenko, which is more open to modern Western influences in international law. In the

eyes of Lauri Mälksoo, the political winner is clear – the statists (at 99). State sovereignty as the foundational principle of international law is strongly emphasized: 'There is something nineteenth-century Hegelian about these positions in the sense that they glorify the state as such, an embodiment of the Absolute Idea, often detaching the state from its democratic legitimacy' (at 100). According to the author, the debate centres about Russia's sovereignty as a 'Great Power and Empire' (at 102) and takes up the Schmittian distinction between 'Staat' and 'Reich' (at 103). Authors such as Dugin pursue extremist views in this context and directly challenge 'the sovereignty and territorial integrity of a number of states with ethnic Russian minorities in the same way as the Nazi concept of peoples as the main subjects of international law challenged the borders of some of Germany's neighbours' (at 103). While the idea of Russia as '*velikaya derzhava*' (Great Power) is widespread, the concepts of Dugin and his followers 'have so far not been characteristic of Russian literature on international law' (at 103).

The statist view is also dominant in as far as the question of the subjects of international law is concerned. This marks a major difference to the Western anthropocentric view based on the important developments in international human rights law. Nevertheless, the debate in Russia is still lively as shown by Mälksoo's interesting analysis of different Russian textbooks. For him, the debate about subjects of international law is a 'proxy debate': 'what is at stake is not only the question what is international law but also in what direction the Russian state and Russian society should develop' (at 105).

To a certain extent, this is also true for the definition of the relationship between international and national law, a question that has become most decisive in the context of the implementation of judgments of the European Court of Human Rights in the domestic legal order. Mälksoo's analysis of different theoretical and practical positions including the important ruling of the Russian Supreme Court of 2013, which advocates a 'quite open and inclusive' approach provides an interesting insight into the debate (at 117). His book, however, was finished in 2014 and could therefore not include the latest developments. In July 2015, the Russian Constitutional Court declared that the judgments of the European Court of Human Rights could not be implemented in Russia if they contradicted the Russian Constitution. Unlike the dictum of the German Constitutional Court in the Görgülü judgment (to which the Russian Constitutional Court refers), this does not seem to be an *ultima-ratio* scenario. Rather the Russian Constitutional Court has encouraged the Russian legislator to build up an institutional mechanism of compatibility control. Strasbourg's last word in human rights issues has thus been explicitly challenged; once more, the statist, sovereigntist view has won. Seen against the background of Lauri Mälksoo's description of the debate, this development does not come as a surprise.

The domination of statism is also a key to the understanding of Russian approaches to the subfields of international law such as international human rights law, self-determination of peoples, international economic law and *ius ad bellum*. As a sort of annex, the author also hints at the territorial disputes in the Arctic Ocean. According to the author, the positions taken in these fields confirm the idea of Russia'a civilizational otherness from the West. Key words for him are 'byzantinism', 'orthodoxy' and 'messianism'. Thus, the religious context matters: 'The historical separation of the Western and Eastern Christian Churches may explain certain deeper cultural-historical forces behind the fact that the discourse of international law has its unique features in Russia, compared to the West' (at 145).

All of these reflections provide valuable insights for Western practitioners to understand better post-Soviet practice in international law, which shows much continuity to Soviet concepts, even if shortly interrupted by a honeymoon with the West at the beginning of the 1990s. Nevertheless, the inclusion in treaty regimes such as the Strasbourg system of human rights protection as well as the accession to the World Trade Organization has changed important

coordinates. The Soviet tradition 'to talk about international law "from a distance"' can thus no longer be upheld (at 158).

The consequences are shown in three case studies in human rights law, economic law and the law of war and peace. Each of them would deserve to be dealt with in a monograph. Within the present study, the author is limited to explaining in brief the argumentation of the Russian authorities and to outlining inconsistencies, especially concerning *ius ad bellum*. The author accepts the Russian critique of double standards of the West in as far as Kosovo and Chechnya are concerned (at 176). Yet he also shows that the Russian 'emphasis on legal formalism and textual interpretation of the UN-Charter' has been abandoned (at 175). In his view, the annexation of Crimea constituted 'quite a U-turn in Russia's foreign policy and the government's rhetoric about international law' (at 180). Putin's speech on the annexation of Crimea, which is extensively quoted, is not only analysed with a view to former positions held in international law but also brought into the context of the civilizational idea of the Russian world (*russkyi mir*) (at 182).

Referring to the Estonian philosopher and diplomat Kaupo Känd, the author comes to the conclusion that the efforts to create an alternative to the Western world has created, in fact, a simulacrum: 'Indeed, Russia's official rhetoric regarding international law also reveals that notions like "peacekeepers", "genocide" and occasionally "international law" itself are used like in a simulacrum or concave mirror to Western uses' (at 185). This is alarming because, on this basis, misunderstandings between Russian and non-Russian lawyers are not the exception but, rather, the rule. Therefore, what is necessary is a new effort to build bridges between the Russian and the Western concepts of international law. Lauri Mälksoo's study is very critical and open; it shows and explains differences and provides interesting insights into the most recent developments in Russian practice and thinking. His concise and well-written book fills an important lacuna in the meta-analysis of present-day international law doctrine. As he takes Russian international law seriously, his analysis has to be taken seriously as well. It can serve as a starting point for further debate.

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