Jenny S. Martinez, The Slave Trade and the Origins of International Human Rights Law, Oxford University Press 2012 ISBN 978-0-19-539162-6 (Hardback) 254 pp.

In the reviewed book, Jenny S. Martinez analyses the process of abolishing the transatlantic slave trade in the light of state involvement in national legislation (mainly that of Great Britain and the U.S.) and, in particular, Great Britain's activities on the international plane. In the struggle for slave trade abolition, which in the Author's opinion constituted "the most successful episode ever in the history of international human rights law" and "the first successful international human rights campaign" (at p. 13), Martinez emphasizes the crucial role played by the courts of mixed commissions for the abolition of the slave trade, as established in bilateral treaties between Great Britain and other states, which dealt with over 600 cases and resulted in the liberation of almost 80 000 persons.

Martinez briefly revisits the history of the slave trade, focusing on the rise of abolitionism in Great Britain (chapter 2) and on the United States' attitude towards the slave trade (chapter 3). These chapters take up the key judicial decisions, national legislative acts and the practice of both nations in implementing the slave trade ban. Martinez traces the evolving interpretation of law through the change of attitude in state practice, due primarily to the outstanding role and articulate activism of abolitionists in Great Britain and the U.S.

The Author enhances Great Britain's efforts to foster the slave trade ban internationally which, in her opinion, was due mostly to the overbearing pressure of public opinion towards suppressing slave trade. Thus, for example, initial peace treaty negotiations with France in 1814

(during which provisions were accepted that allowed France to pursue the slave trade for a further five years) led to "…the largest popular petition campaign in Britain's history, more than three-quarters of a million of people (out of a national population of approximately 12 million) signed petitions denouncing this provision of the peace treaty with France" (at p. 29). To promote suppression of the slave trade worldwide, Great Britain resorted to all available means: diplomatic pressure, financial facilities, an offer of an island in the West Indies, various bribes and threats, including even the threat of measures such as unilateral military actions or going to war (Lord Palmerston is on record as saying: "We consider Portugal as morally at war with us and if she does not take good care and look well ahead she will be physically at war with us also" (at p. 141)). All such measures are, in Martinez's view, due to British conviction concerning the inhumanity and injustice of the slave trade. This explanation of the reasons and motives underpinning the crusade against the slave trade may leave the reader with the impression that only one side of the story is being told, since Martinez does not thoroughly examine alternative possible arguments and motives, such as that the entire anti-slavery crusade may have been rooted in economic motivation (an idea which she previously explored in her article entitled *Antislavery Courts and the Dawn of International Human Rights Law*, 117 Yale L.J. 550 2007–2008, at p. 557 and subs.). Nor does she dwell on the interests of the Royal Navy in suppressing the slave trade (this is mentioned only briefly at p. 70), due to the fact that measures against slave traders offered not only the potential enrichment of officers and the admiralty, but would also provide for more duty for the Royal Navy fleet, which was relatively underemployed following the cessation of the Napoleonic Wars. A discussion of these and others arguments would certainly contribute to making Martinez's conclusions more objective.

The fourth chapter of this book, concerning the courts of mixed commission for the abolition of the slave trade, is the most significant. In the Author's opinion, the history of these commissions has been largely (and unduly) forgotten or ignored in academic literature on human rights. Only a few authors briefly mention these commissions, none of whom attribute to them the significance that Martinez does. Indeed, throughout her book, Martinez attempts to restore the proper place of the commissions and their activity. The Author involves herself not only

with the history, procedure, operation and impact of the commissions, evidenced by charts and contemporary testimonies, taking the reader, treaty by treaty, case by case, to keep track of the evolution of this legal regime (established by bilateral treaties between Great Britain and *inter alia* the Netherlands, Portugal, Spain, Brazil and the United States), following the weaknesses, loopholes and imperfections thereof. This general survey is further illustrated (in chapter 5) by the particular histories of individuals – the *emancipados* - and their 'precarious position' following liberation by the mixed commissions.

Nevertheless, the Author fairly presents the struggle for slave trade abolition not only from its bright side. The dark side of that activity is duly taken into account: worsened conditions and overcrowding on remaining slave ships, the disposing of human cargo into the high seas when a British ship would have spotted it, cases of mortal diseases whilst ships awaited adjudication (see p. 113).

Chapter 6 tackles the evolution of the notion of piracy, seeking to include it within the notion of the slave trade. Furthermore, the linkage between slave trading and universal jurisdiction is explored. Such considerations bring Martinez to the conclusion that, even if:

> [t]he dominant interpretation of the relationship between international humanitarian law and international human rights law has international humanitarian law coming first historically. In fact, they both share common roots in the struggle against the slave trade, and in earlier conceptions of the *ius gentium*.

In the final two chapters (chapters 8 and 9) Martinez attempts to reinterpret and rethink the origins and future of international human rights and international tribunals. She believes that "giving the antislavery courts their rightful place in the international human rights narrative" is of assistance and may be deployed in campaigns concerning: genocide in Sudan, sex trafficking, the AIDS pandemic, and the establishment of international responsibility of corporations (at p. 164). How should this be achieved? In Martinez's words:

> [t]he history of antislavery courts suggests a need for a thicker, more robust account of the relationship between power, ideas, and international

> law. In short, the forgotten bit of history recounted in this book should change the way we think about international courts and international human rights law – their origins, limits, and potential (at p. 15)

and "the close examination of the history of the abolition of the slave trade should cause international legal scholars to rethink the relationship between power, ideas, and international legal institutions" (at p. 165).

In her opinion, the main lesson from the history of the antislavery courts is that, for special categories of values, States should use their power to impose their will and understanding of human rights ("powerful individual states might have the incentive and ability to enforce the judgments of international courts…" (at p. 166)). All, of course, on behalf of the idea of humanity, of justice and of human rights. Martinez deems the lesson from her story a "hopeful one for international law, for human rights, and for humanity" (at p. 171). Nevertheless, it may be argued that this would constitute too dangerous a tool that States may be prone to misuse or abuse. One could rather fear what lessons could be drawn by a creative legal advisor, acting on behalf of a powerful state, from the story that Martinez tells, which is full of abusing power, bribery and going to the brink of war, for the sake of achieving whatever kind of noble purpose.

Martinez tries to convince the reader that modern international human rights law is deeply rooted in the XIX century, as opposed to the recent trend of 'new revisionists' (represented by e.g. Samuel Moyn). Whilst such a conclusion may be questioned by those who see the rise of human rights following WWII, or even after the 1970's, her arguments that at the beginning of the XIX century a global network of treaties was created for the protection of individual humans (even if that was not the sole purpose thereof), and that international courts were used to enforce that regime, is well documented and argued. Even if we do not share the opinion that modern human rights law is directly rooted in the XIX century, and nowadays our understanding of the term 'human rights' differs from the understanding of that term by President Thomas Jefferson (who referred in 1806 to "violations of human rights", (at p. 17)), we should not easily disregard the story told by Martinez as being irrelevant for contemporary human rights. Actions taken by abolitionists in the XIX century, together with the activity of the courts of mixed

commissions, certainly had some influence and helped to forge modern human rights. To what extent, directly or indirectly, is disputable, but I cannot agree with new revisionists that it entirely irrelevant.

Jenny S. Martinez's "The Slave Trade and the Origins of International Human Rights Law" is certainly very well written and tells an interesting story (especially as regards the activity of the mixed commissions) which has been rarely explored by international scholars. To make it as easy to read as possible, the chapters are rather short and the footnotes are placed at the end of the book. Even if not all of Martinez's conclusions are incontrovertibly acceptable, the book is highly commendable in its search for the antecedents and possibly future development of human rights.

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