

Symposium: Book Review

Umut Özsu's "Completing Humanity" and the Examination of International Law and Decolonization

Panagiotis Gkagkatsis

Completing Humanity: The International Law of Decolonization, 1960–82 by Umut Özsu lends itself to a lengthy discussion regarding the history of decolonization and the status of international law before, during, and after the emancipation of the ex-colonies. The book is a critical contribution to the academic field. It gives a thorough analysis of the challenges and issues that Third World, newly independent countries faced in developing and furthering legal concepts such as self-determination and the right to permanent sovereignty over natural resources. Through its discussion of international law's structural issues, Özsu examines principles such as structural inequalities, *jus cogens*, human rights, and marketization, and analyzes how their conceptualization has shaped the status of international law. This review focuses on Chapters one and three, which examine the concept of self-determination in the 1970 *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States* and the attempts made to bridge the gap in economic development between the North and the South in the Declaration on New International Economic Order. Subsequently, the review will provide a critical discussion of the two chapters aiming to narrow down at specific legal concepts that were discussed inside the book itself. Specifically, the discussion will focus on the book's contribution to our understanding of the relationship between the state as an international actor and concepts such as trade and property which, in turn, shaped the formation of international law.

Fixing selves: The conceptualization of the right to self-determination

Chapter one, "Fixing Selves," focuses on the conception of the right to self-determination, as this was expressed and debated in the drafting of the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, which was issued by the United Nations General Assembly. The chapter does not merely discuss this conception, but it also dedicates a large part of its engagement to the understanding of the debates between different countries (or groups of countries), highlighting the North-South debate as well as its "core antinomy, its ability to relay both support for and suspicion of state power."¹ Through a doctrinal and critical approach and an examination of the minutes of the debates, the author offers a rich account of the ambiguity of the substantive terms that would surround the specific right. The author finally argues that the debates, the vagueness of the definitions, and

¹ Umut Özsu, *Completing Humanity: The International Law of Decolonization, 1960–82* 37 (2024) [hereinafter Özsu (2024)].

the attempts of western powers to solidify their grip around the world have halted this concept at the border of the decolonized state and undermined the ability of many nations to achieve a true political status.²

Self determination was a right that was championed by the countries of the Global South to solidify their battle against colonization and the powerful. Yet, as countries of the North attempted to hold to their colonial grip, the interpretation of the right became subject of heated debates. The author separates these points of contestation and inquiries into the different debates regarding the form and the substance of self-determination. The book focuses on the attempts of Third World states, supported by socialists and nonaligned countries, to confer the right upon peoples and extend it to nations which wanted to secede from states.³ This would entail that self-determination would be the foundation of state sovereignty and the legal codification of their rightful anti-colonial struggle.⁴ The book shows that western delegates offered a more conservative view of the concept to states that had already gained their independence, thereby limiting their struggle.⁵

A second point of contention was whether self-determination could entail forms of self-defense in the anti-colonial struggle for liberation since colonization is an ongoing coercion, as championed by the Soviet Union and the southern states. In contrast, western delegates argued that this approach would politicize international law.⁶ A further assertion was that self-determination is closely linked to the realization of individual human rights. This did not only mean that self-determination is a simple political concept, but a progressive one, essential for the realization of human rights.⁷ Inasmuch as self-determination is a political concept, the chapter briefly touches upon the attempts made to solidify political and economic emancipation altogether. The debate centered on the inclusion of permanent sovereignty over natural resources in the Declaration to address the economic inequalities of decolonization, but this idea did not materialize at the time.⁸ Ultimately then, the author rightfully asks to what extent could all these groundbreaking rules fit into the structure of international law at the time. As decolonization did require a sense of reshaping in international law, there was a pressing need to clarify the substance of self-determination.

The last section of the chapter deals with the definitional problems behind the declaration. The prevailing issue was that the definitions offered were either limiting by the western delegates,⁹ or static by the socialist and nonaligned states.¹⁰ Consequently, the interpretation of the right remained ambiguous. Was self-determination a concept that was strictly connected to the unfettered enjoyment of individual rights,¹¹ or a

² See *id.* at 71.

³ See *id.* at 47-48.

⁴ See *id.* at 42-43.

⁵ See *id.* at 47-48.

⁶ See *id.* at 49.

⁷ See *id.* at 50.

⁸ See *id.* at 52.

⁹ See *id.* at 54. Self-determination was intrinsically connected to human rights and fundamental freedoms.

¹⁰ See *id.* (right to form an independent sovereign state, choose their own political, economic, and social systems, and exercise full sovereignty over the natural resources of their territories).

¹¹ See *id.* at 57.

political concept which was only applicable to conditions of “alien domination and colonial rule.”¹² The latter would entail that self-determination would be limited only to the wave of decolonization at the time. Following that, western delegates sought to capitalize on the definitive confusion of the terms and limit possible breakaways of nations from a state. In other words, to limit the right of secession itself. This was achieved by restricting self-determination to cases where a government was deemed “representative” of the entire population of the territory in question.¹³ This detrimentally added up to the right being used as a tool to suppress ethnicities within a state, fundamentally reinforcing the concept of legal positivism of western state models. The ambiguity and the attempts to limit the scope of the concept were not only restricted to the concept of self-determination, but to the strictly related issue of intervention and sovereign equality.¹⁴

Notwithstanding that, Southern states triumphed over the fact that it was the first time that western states recognized self-determination as a legal right, the infringement of which could lead to a Charter violation.¹⁵ Yet, as mentioned, these series of debates and the vague definitions of the substance of self-determination, as the author suggests, was a model that was shaped largely by those western standards.¹⁶ And since that was the case, the concept was also conditioned upon its commitment to the state system.¹⁷ Despite the Declaration’s definitional ambiguity and its commitment to the Westphalian model of statehood and peoplehood, it did lead to the realization of that right for many people. Yet, the narrow conception of that right failed millions of others, as self-determination could now be used to reinforce colonization, rather than oppose it. This led to many people being captives of state power and it has aligned entirely with today’s state system.¹⁸

Redistributing resources: Attempts to couple political with economic emancipation and the NIEO

Chapter three, “Redistributing Resources,” compliments the discussion in Chapter one. The author details the attempts to couple political emancipation with restructuring the international economic order. The chapter touches upon the New International Economic Order Declaration (NIEO) in 1974, as a set of proposals to reform the global economy and to end colonialism and unfair dependency. Similar to the Friendly Declaration debates, the issues revolved around the concept of decolonization and the gap between the North and South, as focal points to reshape the economy. The real idea of the agenda can be summarized on the author’s quote of Raul Prebisch; “the ‘trade gap’ of developing countries” and the “long-term deterioration in the terms of trade,” before concluding with a sweeping call to do away with the “division of the world into areas of affluence and intolerable poverty,” and recognizing that “[t]he injustice

¹² See *id.* at 58.

¹³ See *id.* at 59.

¹⁴ Of particular interest is the debate among the Committee on whether self-determination was a social fact that preconditioned international law or that states could limit their sovereignty by assuming certain international obligations without curtailing or reducing their sovereignty as detailed by the book. See *id.* at 60.

¹⁵ See *id.* at 60.

¹⁶ See *id.* at 43.

¹⁷ See *id.* at 65.

¹⁸ See *id.* at 69 & 71.

and neglect of centuries need to be redressed.”¹⁹ The author uses a doctrinal approach to critically give emphasis to the different assertions put forward by the different groups of countries. Under those auspices, Özsü points to the contradictory nature of international law when it comes to reshaping the international economic order. While Southern states focused on market structure, equalizing terms of trade and exercising of national control, the North opposed such notions and suggestions for a ‘global solidarity.’²⁰ On top of that, the author rightly concludes that the attempts to strengthen sovereign equality and solidarity through the NIEO were met by “profound indifference to questions of intrastate inequality, at least as an object of international legal concern and intervention.”²¹

The chapter starts by pinpointing the aims of the NIEO. Those aims did not concern the dislodging of the system itself, but merely its reform.²² Consequently, the agenda was a prisoner of the inherent contradiction and different interests that the countries had.²³ One of the key issues was whether nationalization could, in substance, be exercisable under the concept of sovereignty over natural resources. The author states that the Soviet Union and formerly colonized countries favored a strong right to nationalization. This would facilitate the industrialization of newly independent countries, whose legality and reparation would be decided by national, domestic laws and officials of the nationalizing state.²⁴ Clear ambiguity existed as to whether expropriating states needed to pay reparations for the property they nationalized.²⁵ The book excellently details that this opened a debate as to the relationship between international law and state sovereignty and whether the latter would be constituted by the former.²⁶ Specifically, the Global South opposed any sort of reparations and protested, that nationalising foreign assets was a process of reclaiming their natural resources, to be decided by their domestic laws.²⁷ This move was naturally rejected by western delegates, who did not oppose the principle of permanent sovereignty over natural resources as such, but protested that some of the resources are vital the world economy. They argued that any sort of nationalizing needs to be done through reparation and in accordance with the rules of international law.²⁸

Likewise, the chapter makes a small bridge, detailing that the inherent nature of the global economic system (*e.g.* liberal trade, investors) was the reason behind the gap between South and North.²⁹ The author then introduces the second point of debate: the solidarity required among Southern states to address historical injustices. This would happen through the redistribution of “rights, capital and technical know-how from North to South.”³⁰ Interestingly enough, the author rightfully details that oil-producing states of the South

¹⁹ *Id.* at 110.

²⁰ *See id.* at 107.

²¹ *Id.* at 155.

²² *See id.* at 107.

²³ Something that the book briefly touches upon: “In this sense, the NIEO was hampered to no small degree by its own deficiencies, not only by the protracted opposition of leading capitalist countries.” *Id.* at 107.

²⁴ *See id.* at 109.

²⁵ *See id.* at 117.

²⁶ *See id.* at 139.

²⁷ *See id.* at 120 & 123.

²⁸ *See id.* at 124.

²⁹ *See id.* at 109 (trade liberalization and sustained economic growth, but also with the increased power of multinational corporations, the Third World’s deteriorating share of world trade, growing disparities in standards of living between industrialized and nonindustrialized states).

³⁰ *Id.* at 113.

did not always have a consistent line with regards to the means to be used for this realization.³¹ The reason was their capital abundance, something that was not shared by the rest of the countries of the South. At this point, Özsü notes an inherent contradiction of the global economic order. On one hand, the global economy's interdependence was crucial for the development of formerly colonized countries. On the other hand, in referencing Ige Dekker, the author states that there is a structural violence within the international arena, which makes trade relations between states unequal and which needs to be overcome.³² Ultimately, the NIEO sought to address these challenges through a more unified approach, aiming to balance global resource exploitation with respect for national sovereignty over natural resources.³³

The last part of the Chapter is dedicated to the effect of the NIEO on the people of the countries of the South. Efforts were made to alleviate impoverishment and pursue industrialization. Initiatives such as the Common Fund for Commodities to help finance international buffer stocks,³⁴ setting out internationally agreed standards for the rights and obligations of TNCs and states,³⁵ and a binding instrument that would aid developing countries from the industrialized states,³⁶ were aimed at balancing out the global economic order. In fact, this is the gist of this chapter. The book makes an excellent point regarding two contrasting issues. On the one hand, there were calls to achieve greater integration and economic help to newly independent states. On the other hand, there were rightful calls condemning that the same help led to the impoverishment of those states due to intrastate inequality and dependency.³⁷ Particularly, the point that the book makes is that the NIEO was “a partial response to the structural base of domination” and needed to be bolstered with “more populist and socialist perspectives.”³⁸ It is excellently summed up in the quote by Upendra Baxi: “[t]he NIEO does not contain, in terms, any maxim of redistributive equities within the nation state; the highest achievement of the NIEO would be maximization of economic surplus, with no assurance that this would be used to ameliorate poverty, misery and exploitations of the people.”³⁹

The book's contribution regarding the nature of international law and decolonization

Özsü's critical method and the book's thorough analysis – as evidenced in the elaborate discussion of the abovementioned important debates in chapters 2 and 4 – significantly and powerfully contribute to the critique of the structure of international law and its formation after the anti-colonial struggle.

One area to which the book dedicates its discussion is the formation of western-type states after the anti-colonial struggle. Although critiques do vary on the nature of the modern nation-state, one area where the book opens a pathway of discussion is the protection of private property under domestic and public

³¹ See *id.* at 113 & 115.

³² See *id.* at 114.

³³ See *id.* at 115.

³⁴ See *id.* at 144.

³⁵ See *id.* at 146.

³⁶ See *id.* at 149.

³⁷ See *id.* at 152.

³⁸ *Id.* at 154.

³⁹ See *id.* at 154.

international law. Although private property is a key theme in Chapter three, Chapter one also touches upon that issue. Law is regarded a necessary tool that constitutes and protects private property.⁴⁰ The formation of the state was a necessary step to not only that, but also to the facilitation of trade-agreements and routes, as well as the enforcement of property rights, making the state responsible and accountable for the legal system that it entails.⁴¹ International law holds these newly emerged states, aiming at restructuring international law through their colonial struggle, to have consented to their newly attributable traits once they achieved statehood.⁴² As capitalism was crucial for the formation of the nation state, the newly independent countries claiming self-determination did not pose any real threat to the protection of property and therefore the existing political and legal order.⁴³ This entailed their legal and political equipment with those same tools that the rest of the industrialized world had, to protect the concept of property and to facilitate trade.

In that sense, the book's important contribution is to open the discussion regarding the utilization of self-determination as a tool that fits perfectly into that toolbox. In other words, did the international legal order use 'self-determination' to enhance sovereignty as a territory of private property that would accommodate and facilitate exchange between seemingly equal states?⁴⁴ If that is the case, the book correctly asks why did self-determination fail the emancipation of many nations such as the Palestinians and the Kurds? The book attributes it to both the vagueness of the concept and the use of self-determination as a tool that was going to trap several nations inside the modern nation-state. It is here that the author makes the essential question as to what constitutes the notion of "peoplehood" and whether it "was coterminous with the frontiers of 'national' statehood?"⁴⁵ Joseph Masasad makes a valuable input into this question. He states that for Palestinians, the concept of "peoplehood" and "nationhood" do exist.⁴⁶ Yet, these two terms remain recognized at a cultural level.⁴⁷ Any ties or rights to the land slowly or rapidly wither away, as Israel exercises their right to self-determination, which also entails the "right to conquest,"⁴⁸ therefore, the right to protect and expand property. The emergence of the state meant this protection would be harmonized through domestic, emergent, legal institutions to unify large areas into one state, making the latter the legal point of reference.⁴⁹

The focal point that the book's intervention directs our attention to is the relationship between the formation of modern nation state and the expansion of industrial capitalism through the containment of anti-colonial struggles. This process entailed the harmonization of the global legal order in its reliance on

⁴⁰ See KARL MARX & FRIEDRIC ENGELS, *THE GERMAN IDEOLOGY* 234 (2011).

⁴¹ See TURAN KAYAOGLU, *LEGAL IMPERIALISM: SOVEREIGNTY AND EXTRATERRITORIALITY IN JAPAN, THE OTTOMAN EMPIRE, AND CHINA* 12 (2010).

⁴² See Robert Knox, *Marxism, International Law, and Political Strategy*, 22 LEIDEN J. INT'L L. 413 (2009).

⁴³ See *id.* at 422. See also B. S. Chimni, *The International Law of Jurisdiction: A TWAIL Perspective*, 35 LEIDEN J. INT'L L. 29 (2021) [*hereinafter* Chimni].

⁴⁴ See EVGENY PASHUKANIS, *THE GENERAL THEORY OF LAW AND MARXISM* 169-170 (1987).

⁴⁵ ÖZSU (2024), at 53.

⁴⁶ See Joseph Massad, *Against Self-Determination*, 9 HUMANITY J. 161 (2018). 161

⁴⁷ See *id.*

⁴⁸ See *id.*

⁴⁹ See Chimni, at 39.

the market, which opened the door for forms of economic coercion, something that is discussed in Chapter three. Rightfully, then, any ambiguity in the terms and substance of the right can be seen as reinforcing the continuation of the existing political and economic order. Containing and limiting anti-colonial struggles to the western-like state model led to the expansion of capital to non-capitalist spaces through the concept of self-determination and its close relationship with the concept of statehood, trapping many nations and cultures inside it.⁵⁰

Equally, Chapter three makes an important connection between the protection of property and the proposals inside the NIEO. On the one hand, nationalization of property would be the pushing hand of non-industrialized states to prosperity. On the other hand, it would be a detriment to those western states which either wished to keep that colonial property or receive compensation from it. Furthermore, the book also opens the discussion on the issue of the economic sovereignty of a state.

Specifically, Özsü makes the important argument that the NIEO did not touch the issue of intrastate inequality.⁵¹ This should be the starting point of any discussion which relates to the efforts made under the NIEO. The chapter extensively discusses issues such as unequal trade, corporate exploitation of newly independent states, and efforts to address these challenges through legal mechanisms codified within the NIEO. Inasmuch as this is true, if we compare them to the protection of property it will be clear that inequality must exist for the protection of property under the law. Ellen Meiksins Wood states that absolute property and contractual relations “constitute the basis” of relations of authority and domination.⁵² Henceforth, the reason that political emancipation of certain states did not occur was due to their economic and political suppression of their right to the land and property, which continued and intensified as nations found themselves trapped inside the modern nation-state. It is particularly for this very reason that the book emphasizes that the oil-producing states did not always have a consistent line when it came to solidarity and the transfer of capital to the countries of the South.⁵³ Their stronger ties to their property, as they could exert money and capital out of it, was a catalyst in attesting to their mixed efforts against decolonization.

This final point serves as a bridge to understanding the broader issue of economic sovereignty. The book argues that during the NIEO, attempts were made to include the concept of permanent sovereignty over natural resources as a tool that would combat that economic inequality. This contradictory attempt is evident when we consider the relevant decision by the International Court of Justice in *Nicaragua*, that no state shall be forced to trade with another state as this would infringe their sovereignty.⁵⁴ If we connect this to the inconsistent stance of the oil-producing states, similar to the western countries, they desired a more relaxed conception of economic emancipation so that they can weaponize their trade.⁵⁵ This would exert

⁵⁰ See *id.* at 41.

⁵¹ See ÖZSU (2024), at 155.

⁵² Ellen M. Wood, *Democracy Against Capitalism: Renewing Historical Materialism*, 1995-30 [hereinafter: Wood]

⁵³ See ÖZSU (2024), at 113 & 115.

⁵⁴ See *Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.)*, Merits, Judgment, I.C.J. Rep. 1986, p. 14, ¶ 276 (June 27). See also Antonios Tzanakopoulos, *The Right to be Free from Economic Coercion*, 4 CAMBRIDGE J. INT'L L. 616, 621 (2017).

⁵⁵ See Hertmut Brosche, *The Arab Oil Embargo and United States Pressure: Economic and Political Coercion and the Charter of the United Nations* (1974) 7 *Case W Res L Rev* 1

pressure to other states where needed. One can situate this contradiction into the wider debate that the book testifies to, the need for economic self-sufficiency of the developing countries in a constantly interdependent world and the detriments of economic isolation.

It is here that the book's outstanding contribution comes in, where it opens new areas of research and focus. On the one hand, territorial sovereignty entails the actual sovereignty over natural resources, the nationalization of industries, and the free decision of what to trade and with whome, which means that a decision not to trade does not violate international law.⁵⁶ On the other hand, the global dependency and connections that modern states have, facilitated through the open trade routes by domestic and international laws, diminish the exercise of economic sovereignty and independence, as several materials are needed for the survival of the state as such, due to the global uneven development.⁵⁷ It is this intrastate inequality that the book refers to that was never dealt with inside the NIEO, where structural violence, even inside the negotiations, was prevalent.

Conclusion

The book's rich contribution foregrounds the formation of the nation state and the latter's role in the development of international law in creating specific doctrines and understandings of several concepts necessary to peoplehood. By navigating the perplexities and the issues inside the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, as well as the NIEO Declaration, *Completing Humanity* enables an in-depth understanding and analysis of the position and the formation of the modern nation state and the limits of emancipatory concepts such as self-determination. Furthermore, it is precisely this analysis that academics should look to understand the contradictory laws that come into play when it comes to the international economic order. As the review of these two chapters make clear, Özsu's book offers a detailed account of how state willingness and domestic practice tried to expand their custom into a global harmonized international law where trade and coercion go hand in hand.

⁵⁶ For more information see: Tom J. Frarier- Political and Economic Coercion in Contemporary International Law (1985) 79 *American Journal of International Law* 405. 413.

⁵⁷ Özsu (2024), at 124