

Loeffler, James; Paz, Moria (Hrsg.): *The Law of Strangers. Jewish Lawyers and International Law in the Twentieth Century*. Cambridge: Cambridge University Press 2019. ISBN: 978-1-107-14041-7; XII, 308 S.

**Rezensiert von:** Sara Weydner, Institut für Geschichtswissenschaften, Humboldt-Universität zu Berlin

The cover photo of *The Law of Strangers* taken by photographer Evgenii Khaldei shows a desk at the Nuremberg Trials. It is covered with trial records, headphones, a microphone, notes and a gavel. The judge who worked at this desk is conspicuously absent, as the editors James Loeffler and Moria Paz point out. The photo allegorizes „the elusive character of biography in international law’s past,” Loeffler and Paz argue (p. X), and points to the editors’ central project to get a grasp of the people who have shaped legal history. To that end, a historian and a legal scholar respectively portray seven Jewish legal scholars who determined the course of international law over the twentieth century: Hersch Zvi Lauterpacht, Hans Kelsen, Louis Henkin, Egon Schwelb, René Cassin, Shabtai Rosenne and Julius Stone. Often based on the same material, 14 contributors (four of which are women) assess the degree to which the fact that these scholars were Jewish had an impact on their intellectual framework and life’s work.

As Loeffler and Paz state in their well-written introduction, Jewish international lawyers could be both „Brahmins” – part of the establishment – and „pariahs” of society, sometimes even both at the same time (p. 3). The seven case studies shed light on the different „roles” of Jews in the history of international law and on the influence of their „personal and professional identities on the creation of international law” (p. 4). They ask why Jewish lawyers have chosen international law as a profession and what their impact was on specific legal doctrines and imaginations of the international legal order (p. 15). The goal is a „group portrait” of international Jewish lawyers through a multidisciplinary approach (p. 13). The timely publication feeds into the growing research on émi-

gré lawyers in the 20th century, in particular with regard to international criminal law and human rights, and a fascinating methodological debate about the value of a biographical approach in legal history.<sup>1</sup>

On almost 300 pages, we are presented with original research on luminaries of international legal history. James Loeffler investigates the impact of Hersch Zvi Lauterpacht’s Zionism on his understanding of international law, arguing that Zionism was „one key locus for the birth of legal idealism” in the 20th century (p. 25). He and Martti Koskeniemi discuss controversially how we can make sense of Lauterpacht’s Jewish nationalism and his legal imagination (part I). Eliav Lieblich and Leora Batnitzky carve out how Hans Kelsen’s experience with assimilation and his progressivism, as well as his conceptualization of historicity, reflects in his writings, particularly his *Pure Theory of Law* (part II). Louis Henkin compartmentalized his Jewishness, but, as Samuel Moyn and William E. Forbath convincingly show, came to human rights law through his distinctly American Jewishness, grounded in constitutional liberalism (part III). The case study of Egon Schwelb by Mira Siegelberg shows how his particular „style of thought” influenced the development of human rights law. However, it became not quite clear to me if his particular brand of „stoic legalism” had anything to do with him being Jewish. The commentary by Umut Özsu also posits that Schwelb’s social and class affiliations had a larger impact on his liberal legalism than his Jewishness (part VI). René Cassin’s work on what he identified as the central human right – the right of freedom of movement – was shaped by his wartime experience as a Jew, but his subject position and sympathies towards Israel barred him from developing a framework of the right of domicile after the war that also provided protection to Palestinians, Moria Paz and Nathaniel Berman lament (part

<sup>1</sup> Cf. Jack Beatson / Reinhard Zimmermann (eds.), *Jurists Uprooted. German-Speaking Emigré Lawyers in Twentieth Century Britain*, Oxford 2014; Kerstin von Lingen, „Crimes against Humanity”. Eine Ideengeschichte der Zivilisierung von Kriegsgewalt 1864–1945, Paderborn 2018; Annette Weinke / Leora Bilsky (eds.), *Emigré Lawyers and International Law*, forthcoming.

---

V). The biographical study of Shabtai Rosenne reconstructs how his two lives as international lawyer and as representative of Jewish nationalism rarely met and largely existed in independence of each other. Philippe Sands wants to rebut with a personal account of where Rosenne's two engagements overlapped, but his argument largely remains anecdotal (part VI). Finally, Jacqueline Mowbray analyzes persuasively how Julius Stone's experiences as a Jew both enabled and constrained the development of his sociological understanding of the study of international law and minority rights (part VII). In the final chapter, David N. Myers uses Paul Mendes-Flohr's instructive concept of the „axionormative dissenter“ to describe Stone – who had „fluency in the linguistic and cognitive world of mainstream society“ but felt like a social outsider – from the perspective of intellectual history (p. 285).

By adopting the format of a sort of conversation between the disciplines, the collected volume manages to take the reader right into the center of the academic debate. It shows that two people can come to different conclusions about their subject matter, even if they have analyzed the same speeches, articles, memoranda and letters. Thus, the volume does not aim at presenting the final assessment of, say, Lauterpacht's Zionism, but offers varying interpretations. It is left to the reader to decide which one is more convincing. The drawback of this approach is that the diversity of voices, the different priorities and analytical concepts the authors deploy, does not make for a coherent „group portrait“. Still, the book is an important contribution to scholarly discourse on the history of international law, methods of legal history, Jewish history and legal internationalism. It argues from within that discourse and requires, I think, a degree of prior knowledge. The authors address their peers, not a larger readership looking for an introduction to Jewish legal history. The book is of value to both students of international law and Jewish intellectual history, and to those interested in one of the protagonists of the book.

The articles argue on the basis of published and, in the cases of Lauterpacht, Henkin and Rosenne, unpublished sources. They approach their subject matter from different an-

gles, from studies of the impact of a Jewish consciousness and experiences on the larger intellectual framework (e.g. Kelsen), to very detailed analyses of a particular legal concept (e.g. Cassin), to the reconstruction of the biography in the first place (e.g. Rosenne). By shifting focus on the impact of Jewish identity on the lawyers' professional biographies, the authors are able to both present fascinating insights into their subject matter – the international lawyers at hand – and offer a somewhat different reading of why legal doctrines evolved as they did.

In general, the book is at its strongest when the authors go the analytical extra mile and explain exactly how Jewish identity mattered in the career paths of Jewish lawyers, and what kind of Judaism or what kind of Jewishness shaped their consciousness and experiences. All authors agree that individuals matter in legal history, that international law is indeed driven by individuals, all the more so in times of political upheaval. Arguing for the explanatory power of a biographical approach in the history of legal thought also means to account for its historical contingency. *Law of Strangers* shows that being identified as a Jew and having „Jewish“ experiences meant different things in different contexts. Certainly, all chapters show that, even if they desired to keep their Judaism a private matter, Jewish lawyers could not „dissolve into the 'invisible college' of their profession“ (p. 81).

HistLit 2020-2-091 / Sara Weydner über Loeffler, James; Paz, Moria (Hrsg.): *The Law of Strangers. Jewish Lawyers and International Law in the Twentieth Century*. Cambridge 2019, in: H-Soz-Kult 28.05.2020.