International Law as a language and slave trade abolition:

choice, importance and SRA experience

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What has always caught my attention about law is its paradoxical power to concomitantly unite and separate human beings. As a human creation (inspired or not by non-human forces), law's existence unites at least in the sense it is a language (a normative language, of how things should be) that as such can be virtually spoken by whomever learns its basics. However, once one starts asking questions like who creates law, or for whom, the other side of the coin presents itself. Among all the possible questions, the most interesting one in my opinion is 'how is law employed'? Merely noticing what happens when law – as a language – is employed reveals a world of argumentative possibilities, technical innovations, and also – and foremost – tells the story of how rights and duties live as a creation detached from their direct creators.

Coming from master studies in international law in the years before starting my PhD, I became interested in how that works among States, whose main normative language is international law. Moved by a recent school that explores international law by revisiting its history, I looked into the 19th century, one of my favourite periods of history, with the intention to find out what remained untold. I noticed that slave trade abolition, which is widely covered by historiography, was not as examined in its international legal life, even though it was an essentially international process.

I also realized that the history of slave trade abolition – in an international sense – is mostly depicted by the perspective of Great Britain, the State (or the people behind it) whose efforts culminated in one of the most significant humanitarian changes in modern history. Among the instruments employed were some that are regularly debated in law schools, as they create law, implement law, or violate it: treaties, diplomatic negotiations, blackmail, and use of force.

As it is widely known, Brazil was the main destination of slaves in the 19th century and the last country in the American continent to abolish slavery. Some taken-for-granted narratives depict Brazilian abolition of slave trade as mere economically-driven stubbornness, politically resisted by conservative elites and their government – those narratives leave in the dark all kinds of complexities. This way of looking to history does not take into account, for one, that the process of slave trade abolition in Brazil was permeated by international legal terms all the way.

Brazilian resistance to the abolition of slave trade had international law intensively employed as a language either for the abolition or against it, not only by diplomatic or governmental representatives, but also by key figures in the pro- and anti-slavery public debate. By engaging in that international law 'conversation', Brazilians sought to establish their position regarding slave trade and slavery practices, while simultaneously asserting the country as 'independent', 'civilized', and 'sovereign' – each of those elements claimed with particular meaning.

It is thus the goal of this research to tell how, faced with British pushes for trafficking and slavery abolition as a humanitarian effort, Brazilians seized the image and yet cast off its egalitarian implications, by describing abolition as a requirement for Brazilian identity as a civilized nation on par with Europeans, and at a sharp contrast with Africans in terms of race and stage of civilization. That process, however, also included resisting against key British interpretations of international law, which provoked ideas or practice-breaking moments by both parts. In doing so, international legal terms based on race were projected to a domestic sphere, in defining a discourse of who were the people which were actually civilized in Brazil.

Reflecting on the connection between ideology of race and the abolition of slavery in Brazilian legal culture enables the deconstruction of a merely celebratory view of the formal abolition of slave trade and slavery. As it is clear in Brazilian history, the positivation of abolition by national law did not stop or modify overnight the way of thinking about race. Looking at the historical construction of the Africans' image is a way of combating the merely celebratory views that usually surround abolition, and of highlighting, in contrast, the continuities in racial discrimination that still endure.

The analysis of a discourse of insertion in international law as a civilized nation, departing from a colonial status and entering different forms of colonialism, may shed light to the paradox of inclusions and exclusions present in international law idiom. My object situates itself with the transition in which the "civilized standard" seemingly became to include a form of exploration that passed from slavery to capitalist "alternatives" as a choice of a behavior then deemed as acceptable to be enshrined in international law. It constituted what meant being civilized in the legal language to Europeans and to non-Europeans. The final thesis will argue that Brazilians construed their idea of a "civilization" status by differentiating themselves from 'Africans', which were held to represent the contrary of the 'Brazilian' project of being. In a very similar sense, for the current discussions on migrants, guest workers, refugees, and displaced persons, it is essential to see beyond egalitarian discourses of warm reception. One must observe, among the highlighted ruptures, the ideological continuities that remain in the dark, both in international law and domestic legislations, which conserve modes of exploration and even reinforce inequalities.

Assuming such a critical perspective, which is highly interdisciplinary, can be very challenging and may lead to unconnected reflections. One must be open-minded in order to see what has been kept in the dark, yet it is also essential to elect which aspects one wish to follow. In that aspect, the Sylff Research Abroad period was essential for me to acknowledge the materials to which I should relate and exclude others, to better situate my research and understand its potential.

During the SRA period I had the opportunity to attend Professor Martti Koskenniemi's classes and to participate in two conferences on the history of international law. This is a very particular topic that is rarely discussed in such details in my home university, and which has Professor Koskenniemi as one of its leading authors. In those events, I met professors and other researchers that had already dealt with questions I was dealing with and offered me very useful advice on how to proceed.

Also, the very welcoming environment of the Erik Castrén Institute at the University of Helsinki stimulated a day-to-day dialogue with my supervisor and other researchers, which was essential to determine the best ways of looking to the historical documents and talk about them in my dissertation. The whole experience of the SRA period allowed me to learn from the best how I could construe an innovative and unrevealing thesis.