

Preface

The connection between religion and international law is close but nowadays surprisingly little studied or analyzed. This lack of attention has, I think, two causes. First is the effort made in the 19th and 20th centuries to turn international law into a 'science.' Those who do this often feel that doing law 'scientifically' means keeping religion entirely out of the discipline. Second is the addition in recent decades of more than a hundred new mostly non-Western states to the international political community. Conscious that Western values are not necessarily shared with other cultures, many international lawyers are unwilling to discuss religion, ethics and morals for fear of excluding those whose beliefs may be very different from their own.

I must admit to having little sympathy with the first cause of the modern scholarly separation between religion and international law. I doubt that the expectations for making international law or any law a 'science' were ever or are now very realistic. Indeed, as Thomas Kuhn among others has pointed out, even science is a lot less 'scientific' than we used to think. In any event, I conceive of international law or any law not as a science but as an art or a humanistic endeavor, which is at best descriptive, evaluative and predictive of human attitudes and styles. For international lawyers, in the name of 'science,' to reject religious, moral and ethical concerns is to curtail any objective attempt to adequately account for the actual nature and aspects of our discipline.

With the second cause of neglect, I am however fully sympathetic. One of the great tasks, perhaps the greatest task, weighing on modern international lawyers is to craft a universal law and legal process capable of ordering relations among diverse people with differing religions, histories, cultures, laws and languages. In so doing, we need to take the world's people as we find them and not pretend out of existence their wide variety. This proper respect cuts two ways. We should neither be presumptuous about Western religions, morals and ethics, nor should we avoid them. Given their real importance, we ought to pay them, as well as the religions, morals and ethics of other traditions, due regard.

The idea of discussing the relationship between religion and international law took on concrete form in a panel held on April 21, 1988, in Washington,

D.C. at the 82nd Annual Meeting of the American Society of International Law. The essays here numbered 6, 7, 10 and 11, by Nicholas Grief, David Kennedy, M. H. A. Reisman and me first appeared at that time. These have been reworked and elaborated in this volume, except the one by David Kennedy which is simply reprinted here with the kind permission of the American Society of International Law from their 1988 *Proceedings*. The 'Religion and International Law' panel was well-attended and several scholars there volunteered to join in a collection of essays. Several others were invited to participate. This book is the result.

As editor, I am convinced both that we have done much and done little. On the 'much' side, there is, I think, no like collection of essays elsewhere. Our authors provide much more background, insight and analysis about the relationship between religion and international law than heretofore available. On the 'little' side, I know that much remains to be done, not only about the religious traditions not dealt with here, but also about those traditions we do discuss. The literature relating to religion and international law is rich and we have only begun to tap the lode. We have, for example, restricted ourselves to topics relating to the influence of religion on international law. There is just as much to be said about the impact of international law upon religion. But our book is, I hope, a useful beginning. We encourage others to contemplate and to set pen to paper to explore what we think is an important and too often neglected subject.

I hope the reader will find that I have organized the essays logically. The first six essays set in Part I, 'History and Doctrine,' are more or less chronological and are intended to give the reader an idea of the influence of religion on the development of international law over time from the points-of-view of diverse cultures. The five essays in Part II, 'Perspectives and Values,' have, I think, more pointed arguments than the essays in Part I. I have tried to arrange the Part II essays more or less from the most general to the most specific. Plainly, each of the eleven essays individually has both historical and argumentative aspects, but I think the present order makes for a good reading text.

My warm and heart-felt thanks are due the essayists. They are one and all gentlefolk and scholars with whom it has been a great pleasure to work. Thanks, too, to Delia Roy and Sandy Michalik who did so much so well to prepare the manuscript, to John Flynn who conscientiously prepared the index, to Alan Stephens and Lindy Melman at Martinus Nijhoff who so kindly and so ably helped in the conception and the execution of the book, and to friends like Louis Sohn, Richard Kay, Hugh Macgill and Carol Weisbrod who have encouraged me on this and similar projects a little beyond the formal side of international law.

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