

## Book Review

David Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy*, Princeton, N.J.: Princeton University Press, 2016: pp. 312, \$29.95 (hardcover)

Reviewed by Zinaida Miller

How and why does a world in constant conflict come to appear as one of legal, political, and economic order? In *World of Struggle*, David Kennedy argues that people deploying the vocabularies of expertise shape the global order by first engaging in continuous, ruthless battles and subsequently hiding those skirmishes from view. In the process, “struggle and distribution disappear as experts embody the voice of reason and outcomes are assimilated as facts rather than contestable choices” (5). In many arenas, those facts become the hardened concrete of unequal distribution, a set of arrangements made incontestable through invisibility: the obscurity of the expert decision-makers, the rationalized language of decision, and the veiling of prior struggle in present agreement work together to naturalize the status quo. In this ambitious and far-reaching book, Kennedy reveals what is at stake in understanding struggle and conflict as endemic rather than exceptional and in comprehending law as a tool for distributing resources and power rather than an instrument “for ordering, problem-solving, or expressing global values” (12).

Structured in three parts, the book first analyzes global political economy by focusing on how background ideas about economics and politics (as well as about actors and structures) shape distributional outcomes and how expert struggle (which blends “the saying, the insisting and the enforcing” (54)) constitutes the world. In the second part, which examines particular professions through their area of expertise, Kennedy explains how expert knowledge “operates to constitute actors and shape structures” while serving as an instrument of allocation (86). The final part explores the multiple ways in which international legal expertise simultaneously distributes and obscures its distributive role. In *World of Struggle*, law plays a key role both as a ubiquitous aspect of global struggles over authority and legitimacy and as a cautionary tale about the inequality and injustice produced by systematically ignoring the power of expertise.

**Zinaida Miller** is Assistant Professor in the School of Diplomacy and International Relations at Seton Hall University. She thanks Aziza Ahmed, Robert Blecher, Karen Engle, and Lisa Kelly for their insights.

*World of Struggle* offers both substantive and methodological interventions in studies of global governance, expertise, international law, and political economy. It is in many ways a culmination of Kennedy's work over past decades as well as a primer in the author's eclectic method; it both revisits and builds upon earlier themes and discussions. The book is preoccupied not with experts as a group of individuals (Kennedy goes to some lengths to explain that the experts themselves are only part of the story<sup>1</sup>) but rather with expertise itself—or, perhaps more precisely, the project of deploying expert languages in both their technical and vernacular forms. The book offers a self-consciously “mid-level” intervention that avoids causal explanation and largely eschews agent/structure debates. Rather, the work focuses on how those who use the language of expertise “see and create” the world (124), how and over what they argue, whom they seek to persuade, how and where coercion and persuasion meet or diverge, and how what begins as an argument comes to be seen as a fact—and can, expertly, be reformulated once again as argument (136). More than in any past work, Kennedy here takes his reader through his own cartographic technique, tracing his efforts to map the habits, thoughts, consciousness, and actions of those who deploy expertise. In the process, he demonstrates how the mobilization of expert knowledge entails the production of decision and interpretation as fact and common sense.

Kennedy's exploration of expertise also considers the capaciousness of the vocabulary not only to encompass competing and contradictory arguments, but to “straddle the technical and the political” (194). In parsing the experience of expertise, Kennedy describes the allure and power of what he calls “sophisticated disenchantment,” (194) a posture characterized by a peculiar combination of faith and cynicism and a particular mechanism of diffusion. Through this mechanism, an increasingly indeterminate expert vocabulary—often expressed as or through law—becomes prevalent precisely by virtue of its plasticity and malleability. Fields with staying power are those, like law, that combine “complexity and fragmented loss of decisiveness” (153) and whose practitioners are aware of “the diverse and contradictory quality” of the ethics, materials, and institutions of their expertise (252). Kennedy writes early in the book that “[i]n sophisticated and disenchanting fields, the vocabulary deployed to make, defend, and interpret decisions is composed of arguments that accommodate sharp disagreement and subtle compromise and in which people seem both to be invested and to have lost faith” (9). He finds this same fulcrum of conviction and doubt among multiple actors—including “lawyers, economists, businesspeople, scholars and policy makers” (90)—and in different arenas, primarily international law, human rights, and economic development.

1. “I use the terms ‘expert’ and ‘expertise’ with some hesitation because they focus attention on a class of people and a kind of knowledge rather than a characteristic role and mode of speaking, deciding and acting in struggle.” (3) *See also* p. 137 (“Although foreground players might be thought to specialize in ‘broad debates’ while background experts tended to ‘technical argument,’ in contemporary global economic and political life everyone makes arguments and accepts assertions of both types.”).

Through this focus, Kennedy revisits fields that appeared in earlier works, particularly *The Dark Sides of Virtue: Reassessing International Humanitarianism* (2005).

In this review I examine Kennedy's notion of "sophisticated disenchantment" specifically as it functions within the "virtue fields" of humanitarian and human rights, thus focusing on only one particular part of the worlds and work of expertise depicted in *World of Struggle*. I do so by returning to *Dark Sides* to reflect on the gaps and consistencies between the two works, published twelve years apart.

Looking at the two works in tandem illuminates the images in each: The picture painted in *World of Struggle* of human rights and humanitarian professionals differs subtly but markedly from that depicted in *Dark Sides*. The human rights professionals of *Dark Sides* are unwitting perpetrators of incidental harms whereas the experts in *Struggle* have incorporated doubt into their daily practice. Comparing the two works raises the question: Did *World of Struggle* represent a self-critique of earlier work, or did humanitarians take up (indirectly) some version of the challenge to "disenchant [their] routine humanitarian practices"<sup>2</sup> and, in the process, become both more sophisticated and more resistant to the deeper sense of responsibility in governance that Kennedy calls for in both works?<sup>3</sup>

In *Dark Sides*, Kennedy argued that endemic blind spots and biases in humanitarianism made it difficult for practitioners to see the consequences of their work. He began the book by cautioning:

The international humanitarians I have known rarely place the darker sides of their endeavors center stage, where they can be assessed and either refuted or taken into account in future work . . . . With so much evil out there to fight, it hardly seems worth it to focus on the downsides of the few humanitarian practices which have been set in motion. But these darker sides can swamp the benefits of humanitarian work, and well-intentioned people can find themselves unwittingly entrenching the very things they have sought voice to denounce.<sup>4</sup>

In this reading, the experts may be at times aware of the dark sides of their work, but they avoid taking those consequences into account strategically. The dark sides are marginal to the enchanted nature of the work; as a book, *Dark Sides* thus focused on unintended consequences, blind spots, and biases. The diagnosis was of an aversion to critique and pragmatism; the cure would come through self-assessment, weighing of costs and benefits, and an admission of

2. DAVID KENNEDY, *THE DARK SIDES OF VIRTUE: REASSESSING INTERNATIONAL HUMANITARIANISM* xix (2004) [hereinafter *DARK SIDES*].

3. As Karen Engle notes, Kennedy began to contemplate some of these questions already in 2009. Karen Engle, *Self-Critique, (Anti) Politics and Criminalization: Reflections on the History and Trajectory of the Human Rights Movement*, in *NEW APPROACHES TO INTERNATIONAL LAW: THE EUROPEAN AND AMERICAN EXPERIENCES* 41, 47 (José María Beneyto & David Kennedy eds., 2012).

4. *DARK SIDES*, at xiii.

responsibility for not just virtue but vice. More than once, Kennedy referred to the need for humanitarian professionals to “disenchant” themselves and their tools, always referring to the hope that such disenchantment would itself produce a sense of responsibility, power, governance, and rulership.<sup>5</sup> In many ways, disenchantment is the key term of *Dark Sides*, the glue that holds together the explorations of different fields. In the final pages of the book, Kennedy calls for a new humanitarianism through that very process:

For the humanitarianism I imagine, we would need to disenchant our practices, our expertise, and our professional postures, let go attachments to much that humanitarianism has become. I have written about my own experiences of disenchantment because I am convinced that for each of us moments of decision, of responsibility and of freedom in unknowing, will arise from our own moments of disenchantment . . .<sup>6</sup>

Trenchant and provocative in 2004, such considerations seemed quickly to have been internalized rather than rejected by those very same fields, perhaps most directly the humanitarian aid and human rights enterprises. By the mid- and certainly late 2000s, many humanitarian professionals, activists, and experts openly articulated the critiques themselves.<sup>7</sup> Revealing costs or consequences was potentially less disruptive than it had initially appeared or was hoped; pragmatically weighing upsides and downsides, acting without total faith in the work, and using the fields’ tools without enchanting them soon became tools of the trade themselves. To be involved in humanitarianism was, itself, to be committed to incorporating and reconstructing the critiques themselves—not perfectly or universally, but also neither sporadically nor infrequently.

In recent years, scholars of humanitarian aid and human rights have highlighted the propensity of those working in these fields to incorporate the declaration of “dark sides” into their practices, to make it potentially

5. *Consider, for example, the following*: “Perhaps we will learn to disenchant our routine, humanitarian practices and understand the damage we sometimes do.” *Id.* at xix. On humanitarianism writ large: “I am concerned to identify common assumptions or terms of reference which blind policy makers to the consequences of their effort, preventing them from viewing their initiatives with cool, pragmatic eyes. But even when humanitarians are able to work pragmatically, disenchanting their tools and entering the instrumental cost/benefit world of modern policy making at its best, problems can remain.” *Id.* at 114. On the law of war: “By rooting out bias, disenchanting the doctrines and institutional tools which substitute for analysis . . . we might achieve a humanitarianism which could throw light on its own dark sides.” *Id.* at 309.

6. *Id.* at 355.

7. The change is even more evident in comparison with Kennedy’s much earlier foray into ambivalence and ambiguity in human rights, a personal account of a human rights mission to Uruguay in 1985, which was even more ambivalently received. That article was first accepted and then rejected by the *Harvard Law Review*, a change Kennedy later attributed to the editors’ sense that such “moral ambiguity risked sacrilege.” DAVID KENNEDY, *THE RIGHTS OF SPRING: A MEMOIR OF INNOCENCE ABROAD* 9 (2009).

even a required aspect of the job.<sup>8</sup> Human rights lawyers and activists and humanitarian aid workers in the Israeli-Palestinian context provide a particularly striking (but hardly unique) example.<sup>9</sup> They have developed an entire vocabulary for discussing the inevitable, inherent, and endemic bad consequences of ostensibly virtuous work. Israeli human rights lawyers debate the cost of legitimizing a broader system of oppression through their litigation on behalf of individual clients.<sup>10</sup> The justifications for continuing their work despite the evident dark sides differ depending upon the individuals, nationalities, activities, and stakes involved, but in each case, their thinking begins from the premise that their work actively facilitates the very system that it aims to chasten, limit, or overturn.<sup>11</sup> This thinking has now been woven into their professional discourse: Articulating cynicism, bad faith, disenchantment, dark sides, or consequences now represents a critical aspect of the work itself. Foreign aid workers frequently voice the concern that their work subsidizes or normalizes an occupation they normatively oppose.<sup>12</sup> In a 2015 article, the U.S.

8. Some years earlier, Alex de Waal had gestured already to the capacity of the humanitarian aid field to absorb critique in ways that embraced at best minor reform rather than fundamental change. See ALEX DE WAAL, *FAMINE CRIMES; POLITICS & THE DISASTER RELIEF INDUSTRY IN AFRICA* (1997). See also *THE GOLDEN FLEECE: MANIPULATION AND INDEPENDENCE IN HUMANITARIAN ACTION* (Antonio Donini ed., 2012); MICHAEL BARNETT, *EMPIRE OF HUMANITY: A HISTORY OF HUMANITARIANISM 195-219* (2011). For a crucial engagement with critiques of rights and human rights as a foundation for continuing human rights work and litigation, see Karl Klare, *Critical Perspectives on Social and Economic Rights, Democracy and Separation of Powers*, in *SOCIAL AND ECONOMIC RIGHTS IN THEORY AND PRACTICE: CRITICAL INQUIRIES* 3-22 (Helena Alviar García, Karl Klare & Lucy A. Williams eds., 2015).
9. For a related discussion, see Zinaida Miller, *Perils of Parity: Palestine's Permanent Transition*, 47 *CORNELL INT'L L. J.* 331 (2014). For a discussion of both the special but also shared nature of human rights lawyering in the Israeli-Palestinian context, see Daphna Golan & Zvika Orr, *Translating Human Rights of the "Enemy": The Case of Israeli NGOs Defending Palestinian Rights*, 46 *LAW & SOC'Y REV.* 781 (2012).
10. Golan and Orr discuss a 2007 discussion hosted by the Association for Civil Rights in Israel, in which leaders of major Israeli human rights organizations described their work as rearranging the chairs on the *Titanic* or as a "fly on the emperor's nose" and asked whether human rights litigation was in fact assisting the occupation. Golan & Orr, *supra* note 9, at 782.
11. One leading Israeli human rights lawyer who has repeatedly grappled with these questions summarized one of the dilemmas in a 2012 interview: "When you're faced with a system that's systematically violating human rights, on a huge scope, is it right or wrong to sustain internal, as opposed to external, resistance? Because when you resist from within, you legitimise the system." Michael Sfard, *Is Israel on the High Road to Fascism?*, 972 *MAG.* (Mar. 31, 2012), <https://972mag.com/sfard/39804/> [<https://perma.cc/XNT3-3DXS>].
12. See, e.g., Peter Hansen, *The Response of Western Governments and the U.N. to the Humanitarian Crisis and Its Political Implications*, in *THE POLITICS OF HUMANITARIANISM IN THE OCCUPIED PALESTINIAN TERRITORIES: CONFERENCE PROCEEDINGS* (The Van Leer Jerusalem Institute, Apr. 20-21, 2004, CD-ROM).

executive director of the humanitarian organization Médecins sans Frontières framed the dilemmas directly:

What our staff sees, day in and day out, are the medical consequences of the occupation. But while we can treat some of our patients' symptoms, we can't alter the underlying causes of their suffering. And as the suffering has become normalized, we have been questioning the wisdom of our presence. This is the humanitarian's dilemma: how to alleviate the suffering of a population while not enabling the powers at the root of the pain.<sup>13</sup>

The repeated invocations of costs and dilemmas suggest less unintended consequences than an uncertain and uneasy choice to carry on despite the inevitable harm.

In a recent ethnography of the Palestinian human rights situation, Lori Allen discusses cynicism and its uses in a context of ongoing conflict and limited—if any—human rights victories.<sup>14</sup> In speaking with Palestinian rights workers, she found

widespread awareness of the systemic problems inherent in the human rights industry as it developed after Oslo. Simply knowing that they were caught in a structure built on crumbling, if not rotten, foundations, however, was not enough to cause many to flee it entirely. In the stories of human rights workers that I recount . . . they describe their efforts to sidestep the debris as they figured out where to go next.<sup>15</sup>

In Allen's reading, cynicism about human rights in a context of its continual failure under occupation can be a productive "mode of understanding, a location from which at least some people remain aloof from the power structures that are trying to sweep them up."<sup>16</sup> Although the productive cynicism of Palestinian human rights activists differs from the confessional collaboration of international aid workers or the existential dilemmas of Israeli human right litigators, there are related links in the very stability of the machinery. Human rights and humanitarian workers are well aware of the dark sides of their work; their acknowledgment of harm becomes part of humanitarian expertise.

Kennedy's call in *Dark Sides* for practitioners to pragmatically assess costs and benefits reads quite differently against the background of experts whose declarations of dark sides operate as performative elements of the work itself. In this sense, there was a parallel between *Dark Sides* and its own targets:

13. Jason Cone, *The Humanitarian's Dilemma*, FOREIGN POL'Y (July 15, 2015), <http://foreignpolicy.com/2015/07/15/the-humanitarians-dilemma-palestine-gaza-doctors-without-borders/> [https://perma.cc/L9UQ-NEQ3].

14. LORI ALLEN, THE RISE AND FALL OF HUMAN RIGHTS: CYNICISM AND POLITICS IN OCCUPIED PALESTINE 15 (2013) ("[H]uman rights has become the object and inspiration of cynicism for many Palestinians, the result of years of unfulfilled promises, unregistered claims, and unsuccessful battles for political change.").

15. *Id.* at 67.

16. *Id.* at 16.

human rights, particularly in its naming and shaming mode, often aimed at remedy through revelation. Exposing abuse would contribute to its end. In an ironic twist, parts of *Dark Sides* seemed to aim at something similar: remedying blind faith through revelation and thus deepening the possibility for critique to shatter rather than merely reform. Over the years, however, both human rights abuses and the human rights enterprise remained entrenched and stable even in the face of revelation and disclosure.

*World of Struggle* takes on this conundrum directly through the notion of sophisticated disenchantment, making it central to the experience, discourse, and practice of expertise. Contrary to his earlier calls to search out blind spots and biases, here Kennedy suggests that in doing so, analysts might “underestimate the flexibility of expertise. . . . Opposing interests and ideas really have been domesticated into their argumentative material” (161). Whether in critique of his earlier argument or as a reflection of the changing character of expertise in the twelve years between the two books, *World of Struggle* uses the notion of sophisticated disenchantment to describe the ways in which indeterminacy, indecision, and contradiction are both endemic to expertise and foundational to its seductive appeal.

On this basis, Kennedy explores the ways in which experts speak through a language of predictability, clarity, and consistent linkages between theories, methods, doctrines, and outcomes even while remaining aware that other experts will have an equally plausible set of counterarguments that link method or doctrine to outcome differently (152). *World of Struggle* offers an expansive vision of a world in which expert knowledge and practice seek less to escape or obscure their unintended consequences than to incorporate them. Kennedy does not leave biases and blind spots behind; throughout the book, he highlights the ways in which the practice of expertise relegates interpretive choice and distribution to the background. But at the same time, he contextualizes doing so as part of a life of “sophisticated disenchantment” in which there is no ultimate faith without question but rather in which questioning in a particular way has become part of faith.

In this sense, Kennedy suggests a spectrum of belief and unbelief, or faith and its loss, rather than the binary that the terms might suggest. Experts in his work do not precisely act in bad faith, nor have they lost faith; rather, their faith has morphed, changed, and expanded through struggle. It is, as Kennedy says, “an ecumenical, eclectic, and disenchanted faith”—and for that reason, it is “astonishingly appealing” (20). Experts maintain the membership in their guild by neither professing faith nor confessing its loss.

This analysis—and Kennedy’s particular “mid-level” approach—leaves open questions about the experts themselves and the operation of this spectrum. For example, How universal is the experience of sophisticated disenchantment? Does it function differently for experts in, for example, finance than in the “virtue fields” discussed above? Moreover, how does the vernacular of expertise function differently for those embedded in one locale and for those

transnational practitioners who move from place to place in a world they understand as “globalized”?

Another way of considering this question is to ask who, precisely, is included in this broad category of not just experts but all those who deploy the language of expertise. Kennedy’s framework makes possible—and facilitates, through his open attention to method here—ongoing and plural queries about how different professional communities relate to distribution and decision-making.<sup>17</sup> At the same time, it leaves open multiple sociological and ethnographic questions. The expert experience of peace builders in eastern Congo might be different from that of those delivering aid in Afghanistan or litigating human rights at the Israeli Supreme Court. Kennedy’s decision to discuss a vernacular, attitude, and language rather than a particular group or community suggests further fruitful inquiry into the conditions under which communities of experts, advocates, and practitioners become—or resist becoming—both sophisticated and disenchanting.

What has remained consistent from *Dark Sides* to *World of Struggle* is the plea for attention to law’s role in distribution and for the greater responsibility that comes with recognizing the character of one’s governance power. In his discussion of international legal expertise in *World of Struggle*, Kennedy suggests that “a kind of professional faith or practice of fealty . . . strengthens law’s authority while weakening the profession’s sense of responsibility” (218). While the experts of *Struggle* more comfortably inhabit ambivalence in a way that reduces the “unintended” aspect of the consequences, the experts and activists in both works govern from the background in a way that shies away from acknowledging power. Much of what *World of Struggle* illuminates, particularly in this dimension, are the reasons for the system’s stability. Exposing the dark sides or asking experts to face the unintended consequences of their work—critical activities that seemed at one time destined to change the way the world worked—turned out to be part of the motor of continuity. It is a conundrum with which Kennedy begins the book: The object is “not to foretell collapse, but to explain the strange resilience of arrangements so many intuit to be nearing their end” (16).

In exposing and challenging that “strange resilience,” *World of Struggle* rests not only on Kennedy’s socio-legal investigations of expertise but on his experiences as a teacher: “As a law professor, I train experts” (277). The book begins and ends with the invocation and call to students and readers alike to imagine today as “1648,” the year of the Peace of Westphalia and Kennedy’s shorthand for a moment when the world can be remade. Yet, he also begins

17. Levels of sophisticated disenchantment might differ depending on a variety of circumstances. For example, in her 2014 ethnography of international peace builders, Séverine Autesserre reveals an industry built upon specific blind spots and biases, including dividing local from foreign and masking the reproduction of inequality. SÉVERINE AUTESSERRE, *PEACELAND: CONFLICT RESOLUTION AND THE EVERYDAY POLITICS OF INTERNATIONAL INTERVENTION* (2014). Her work recalls one of the early, foundational critiques of the destruction unwittingly wrought by the development enterprise. PETER UVIN, *AIDING VIOLENCE: THE DEVELOPMENT ENTERPRISE IN RWANDA* (1998).



and ends with a concern that even in the face of an urgent, 1648-like moment, the response of his students (and others) remains one of ambivalent reform that will simply “kick things down the road, manage expectations, and, by rendering the problems sustainable, reaffirm the current distribution of powers” (17).

Implicit here is a call to arms to teachers as well as to practitioners, professionals, and students. The production of sophisticated disenchantment occurs not only once a lawyer practices or a development practitioner reaches “the field,” but through a series of educational engagements that build their expertise. Indeed, it is a key aspect of much professionalizing pedagogy and apprenticeship, most obviously in law, to learn how to argue as if one believes a particular position, while at the very same time displaying the knowledge that it could plausibly be argued the opposite way. To do so requires enough investment to advocate passionately and enough detachment to appropriately accommodate counterargument. It breeds not loss of faith but a reformulated, optimistic, reformist, pragmatic, ecumenical faith (20). The requirement to internalize indeterminacy and to argue with certainty creates the foundation for a lifetime of expert engagement, so that the “most accomplished experts are not surprised—or troubled—by the uncertainty of their expertise. Often they seem emboldened. People make strong arguments but seem to have lost confidence in the determinacy of their analytics. The odd thing is that it does not seem to matter” (9-10).

Kennedy describes a world in which neither conflict nor argument destabilizes expertise; rather, those arguments recur and reproduce based on a “collective sensibility about what would ‘go too far’ ” (10). It is both in and after school that experts learn those boundaries and govern through and within them. Shared assumptions allow for arguments on the same terrain—but the unspoken common sense underneath the assumptions makes it all the more likely that even those seeking great change will fall back on familiar reform agendas.

Given the tendency of hidden background decisions and dominant scripts to reproduce inequality and injustice, what role *should* expertise play? *World of Struggle* argues less for abandonment than reimagination. In this work, Kennedy continues his long-term project of uncovering the hidden implications of multiple mundane “expert” decisions that shape a paradoxical world: one both unstable and unshakable. Here, finally, is the foundational ambition of *World of Struggle* and its challenge to readers: to undo the hegemony of common sense, to unlearn the boundaries of reason, to unsettle what has seemingly been seamlessly resolved, to untell the familiar stories of binaries and boundaries, to uncover the struggles that expertise obscures, and thus to unleash the possibility of remaking the world.