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Review of Jennifer Lander, Transnational Law and State Transformation: The Case of Extractive Development in Mongolia

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trade and investment are legally embedded, this collection opens the readers' eyes to fundamental issues and original perspectives.

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Jennifer Lander, *Transnational Law and State Transformation: The Case of Extractive Development in Mongolia* (Routledge, 2020), 284 pages.

“Why countries want to take a percentage of a high risk investment is beyond me,” reads a comment on a recent *Financial Times* article concerning global mining group Rio Tinto’s negotiations over the future of its copper mine in Mongolia. Why does Mongolia not simply seek to set the royalties “as high as possible,” the commenter asks, and “let the company take the risk?” As an interested follower of the long-standing and seemingly never-ending saga surrounding the Oyu Tolgoi copper mine in Mongolia, I have had a similar reaction. I have also felt that journalistic reporting often leaves me with more questions than answers. How and why did this “deal” come to be in the first place, for instance, and what are the political, economic, and legal factors underlying and perpetuating this seemingly intractable conflict?

I was intrigued, therefore, to read Jennifer Lander’s *Transnational Law and State Transformation: The Case of Extractive Development in Mongolia*. This book aims to deepen our understanding of “the process of state transformation in the pursuit of global economic competitiveness,” and provide “some explanation as to why this process is fraught with legitimacy crises as national publics and global economic constituencies seek to influence its trajectory.” In meeting these aims, the book focuses on the “correlation between mining, markets and the recurring question about the role—and identity—of the state” (xiii).

There has been much discussion about the purpose of academic books and their reviews in the information technology age. Pondering the walls of books in my own office, the folders of unread articles, and four different apps on my laptop containing e-books I have yet to read cover to cover, my sense is that a review should lead by addressing the question that first comes to mind for most academics: “Given all the constraints on my time, finances, and mental resources, should I read this book, and why (not)?”

I think you should. Reading this book was an enriching experience and answered many of my questions. Even more significantly, it prompted new questions relevant for my own research. However, given how broad the topic is and its explicit interdisciplinarity, integrating schools of thought that “are rarely all brought together in the same place” (8), different readers are bound to gain different insights from this book—and, indeed, are likely to have different points of critique.

Lander’s book, the culmination of her doctoral research, follows the familiar structure of introduction, theoretical positioning, and explanation of methodological approach (Part I); analysis—here, the case study of Mongolia’s mining regime (Part II); followed by synthesis and conclusions drawn from the analysis, as well as a discussion of their broader significance for the theories in which the research is based (“theory-building”) and for the ongoing issues involving the Mongolian mining sector (Part III).

All good dissertations (and this one was clearly “excellent”) are firmly and clearly grounded in existing scholarship. However, if you are inclined to give such chapters a cursory read (as, admittedly, I am), you would be remiss to do so with Lander’s chapter 1. Here, Lander manages to skilfully weave together diverse *disciplines* (for example, law, economics, international relations, and political anthropology), *schools of thought* (for example, “new constitutionalism”), and specific *theories* (for example, “transnational legal ordering”) into a comprehensive and coherent theoretical framework. This framework also makes for a compelling narrative that reverberates throughout the book and leaves you thinking long thereafter—even, I would argue, if your own thinking is not necessarily (fully) aligned with the scholarship on which Lander builds her research. Moreover, the richness of the manuscript’s analysis vividly demonstrates the value of such conceptual approaches for studying complex problems like state transformation or the development of the extractive industry in post-socialist Mongolia.

The book proceeds to provide a stimulating example of sociolegal research in the areas of international economic law and political economy, as the case study considers, in Perry-Kessaris’s terms, “not only legal texts, but also the contexts in which they are created, destroyed, abused, avoided, and so on; and sometimes their sub-texts.” Legal text, context, and subtext are not narrowly employed in a “preconceived hypothesis,” which a “test case” like “extractive development in Mongolia” would then either prove or disprove (56), but rather to “construct a kaleidoscopic imaginary of how different elements produce an overarching pattern of norms and relations” (55).

The “legal text” in question consists primarily of Mongolia’s constitution(s) and various national laws concerning and related to Mongolia’s mining regime (notably, adopted between 1994 and 2014). “Context” and “subtexts” are constructed by means of illuminating historical perspectives—for example, on market capitalism (25-27, and chapter 3)—and through relevant state and international development institutions’ policy documents, as well as a variety of empirical material collected through extensive “qualitative field work” and “semi-structured interviews” (57).

We have all come across, I would venture, variations on the phenomenon where senior academics, typically meaning well, tell doctoral students or early-career colleagues to enjoy the immersive experience of conducting detailed, in-depth, systematic research that will be difficult to replicate later in one’s academic career. Lander’s book is a testament to why we absolutely need to foster, facilitate, and finance this type of scholarship *throughout* the typical academic career trajectory. The book also shows why, as Lander argues, there is a continued need for more research that develops “a detailed empirical picture” (56).

I found the arguments set out in Part II (and later synthesized in Part III) to be at their most persuasive where the analysis draws on the material constituting the case study’s legal “texts,” “contexts,” and “subtexts” in (roughly) equal parts (notably, in chapters 4 and 5). To be sure, distilling the “subtext” can be tricky. In this case study, the inclusion of short excerpts or direct quotes from (anonymized) interviews mostly succeeds in this purpose. Nevertheless, there are instances (especially in chapter 6) where the argument draws more strongly on the subtext as provided by anonymized interview-quotes, and where the inclusion of specific quotes invariably raises questions—such as “who said this, in what context, what was the question put to the interviewee, and what was said before and after the quoted sentence?”—that detract from the strength of the argument.

Most importantly, the book provides alternative *perspectives* and *narratives*—for example, on the “fundamental inter-dependency between state, market and law in capitalist political economy [that]

is particularly revealed in contexts where the state imports capital” (243); why and how there is “limited room for manoeuvre for the role of the state,” which in the case of Mongolia’s mining economy “highlights the relationship between the centrality of capital-access and the range of policy options available” (ibid.); and on the framing of “domestic corruption and elite politics as the sole cause” of “Mongolia’s ongoing ‘underperformance’” when it comes to mitigating political risk” (234). These perspectives and narratives are exactly those that are sorely needed in international economic legal scholarship and academic teaching, not to mention in the financial press.

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