

Book Review

Cathy Shrank and Phil Withington (eds), *The Oxford Handbook on Thomas More's Utopia* (Oxford: Oxford University Press 2023) ISBN: 9780198881018, 816 p, £135.00.

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Law and utopianism have a complex and often antagonistic relationship. Thomas More's *Utopia* famously has few laws and even fewer lawyers; implying that in a utopian society law would be rather superfluous.¹ And yet, Utopia is an imagined political society with a governance structure and political institutions.² Throughout the utopian tradition that builds on *Utopia*, the role of law is often interrogated.³ For example, in *Herland*, written by Charlotte Perkins Gilman in 1915, the narrator makes a distinction between criminal courts 'in our country' and the more informal trial before the 'Over Mother' that banishes Terry from the utopia,⁴ and in his utopia James Burgh offers *An Account of the First Settlement, Laws, Form of Government, and Police of the Cessaes, A People of South America* (1764).⁵ Often rejected within legal scholarship for being too fanciful and whimsical,⁶ utopianism is seeing somewhat of a revival in legal scholarship through ideas such as prefigurative legalities,⁷ and studies on progressive politics.⁸ In light of this revival, this book review engages

1 Thomas More, 'Utopia' in *Three Early Modern Utopias: Utopia, New Atlantis and The Isle of Pines* (Oxford University Press 2008) 94.

2 See Lyman Tower Sargent, 'Authority & Utopia: Utopianism in Political Thought' (1982) 14 *Polity* 565–584 cited in Miguel Angel Ramiro Avilés in his chapter 'Human Rights and/in Utopia?' (580).

3 For examples and a discussion see Miguel Angel Ramiro Avilés in his chapter 'Human Rights and/in Utopia?'

4 Charlotte Perkins Gilman, *Herland* (Vintage Books 2015) 175.

5 For a discussion see, Miguel Angel Ramiro Avilés in his chapter 'Human Rights and/in Utopia?' (584).

6 For example, Akbar Rasulov, 'The utopians' in Jean d'Aspremont and Sahib Singh (eds), *Concepts for International Law: Contributions to Disciplinary Thought* (Cheltenham: Edward Elgar 2018) 879–899. Akbar Rasulov, "From the wells of disappointment": the curious case of the international law of democracy and the politics of international legal scholarship' (2021) 32 *European Journal of International Law* 17–47.

7 For example, Davina Cooper, 'Prefiguring the State' (2016) 49(2) *Antipode* 335; Ruth Houghton and Aoife O'Donoghue, "'Ourworld': A Feminist Approach to Global Constitutionalism' (2020) 9(1) *Global Constitutionalism* 38; Amy J Cohen and Bronwen Morgan, 'Prefigurative Legality' (2023) 48(3) *Law & Social Inquiry* 1053–1082.

8 See also, Austin Sarat, Lawrence Douglas and Martha Merrill Umphrey (eds), *Law and the Utopian Imagination* (Redwood City, CA: Stanford University Press 2014).

with Cathy Shrank and Phil Withington's edited collection on More's *Utopia*, and considers how it might speak to the intersections between law and humanities.

The aim of *The Oxford Handbook on Thomas More's Utopia* is to interrogate the vernacular translations of *Utopia* and to analyse its appropriation across the world in the 19th and 20th century. To that end, the Handbook is very diverse, with chapters exploring the use of *Utopia* in China (Chapters 28) and Japan (Chapter 27), as well as the circulation of Latin editions before it was translated in Hungary in 1910 (Chapter 24) and its use in revolutionary movements in France (Chapter 20) and 20th century Russia (Chapter 23). The volume has 39 substantive chapters, which are divided into four distinct parts. Part One: 'Origins and Contexts' considers the multifarious influences on More and the writing of *Utopia*, including classical learning, Christianity, humanism, and 'an accelerating process of European expansion and colonization' (6). Part Two: 'Translations and Editions, 1524–1799' explores the vernacular editions of *Utopia*, and in particular considers the different circumstances that informed new publications of the text. This section also explores the different ways the text is used as part of critiquing specific political realities. Part Three moves onto 'Translations and Editions after 1800', and the focus shifts outside of Europe. Chapters in this section interrogate the political and ideological role of translation. Part Four: 'Beyond *Utopia*' is concerned with the appropriation of *Utopia* across different contexts, mediums, and cultural forms.

Although the edited collection does not claim to be exploring the relationship between law and utopia, in the opening pages of the introduction to the volume, the link between law and *Utopia* is cemented. Shrank and Withington place emphasis on More's career and training as a lawyer, noting that it was partly his legal work that set the context for the time he spent in Bruges in 1515 where (it is argued) he wrote Book Two of *Utopia*. They also note the legal training of Claudius Cantiuncula who translated *Utopia* into German in 1524 in Basel. Cantiuncula's edition of *Utopia* removed Book One and replaced it with a legal preface on the 'classical notions of equity' (7). This 1524 edition, then, materially represents the relationship between law and utopia.

Aside from this contextual and mostly biographical relationship between utopias and law, the chapters in the volume demonstrate how utopia is discussed by legal theorists,⁹ and how *Utopia* was circulated as an example of governmental theory or as a blueprint for reform. Indeed, Thomas Smith explicitly references

⁹ Janet Stewart in her chapter 'The Cultural Politics of Translation: Translating Thomas More's *Utopia* into German in the Late Nineteenth Century' highlights how 'academics such as the professor of law Friedrich Kleinwächter (1891), the jurist Arthur von Kirchenheim (1892), and the legal philosopher Rudolf Stammler (1892), produced monographs in which they offered sustained reflection on the genre of the literary utopia' (380).

Utopia in his ‘two treatises on the form, state and improvement of English politics, governance, economy, and society: the *Discourse of the Commonwealth* and *De Republica Anglorum*’ (131). Several chapters in the Handbook also explore the relationship between *Utopia*, utopias and colonialism, and that is an interrelationship that is supported, facilitated and often justified by law. Part one of this book review will highlight how the edited collection can be used to explore these substantive interconnections between utopia and law.

The Handbook’s focus on vernacular translations and the different publications of *Utopia* engages themes of authenticity, truth and authorship. As such, several chapters in the book engage with themes that are relevant to law and humanities scholarship. Part two of this book review explores the utility of the collection for legal methodologies in the law and humanities. When reading utopias, legal scholars can locate both radical ideas to inspire reform, but also (as this Handbook shows) reflect on methods and the construction of ideas of legal authority.

1 Utopia, Law and Colonialism

For Miguel Angel Ramiro Avilés, *Utopia* is replete with law. In this edited collection, he argues that More underpins *Utopia* with the rule of law so as to restrict tyranny (590–591; 594), as well as using laws to govern utopians’ dress, travel and working day (580). In ‘Human Rights and/in Utopia?’ Ramiro Avilés considers how Thomas More’s *Utopia* ‘contributed to *inventing* what we know today as human rights’ (579). Drawing on the Enlightenment tradition of utopias, the chapter seeks to show how rights and freedoms are a ‘recurrent theme through the history of utopian thought’ (581). One Enlightenment utopia discussed in the chapter is William Hodgson’s *The Commonwealth of Reason* (1795) which is not a fictional utopia but rather a manifesto that proffers a constitutional text (587).¹⁰ This chapter can be read alongside Rebecca Weaver-Hightower and Musab Bajaber’s argument in Chapter 33 as both chapters demonstrate the close connection between constitutional legal texts and utopias.¹¹ The US Declaration of Independence is understood by Weaver-Hightower and Bajaber as a *utopian* text with its references to ‘utopian ideals’ such as equality, unalienable rights, liberty and happiness (557). Similarly, they label the US Constitution as utopian for its assertion of a ‘more perfect Union’ (557). These two chapters

¹⁰ For a discussion on the relationship between manifestos, constitutions and utopias see, Ruth Houghton and Aoife O’Donoghue, ‘Manifestos as constituent power: Performing a feminist revolution’ (2023) 12(3) *Global Constitutionalism* 412–437, 425.

¹¹ See also Fredric Jameson, *Archaeologies of the Future: The Desire called Utopia and Other Science Fictions* (Verso 2007) 36.

offer insights into the utopian demands of constitutions (and associated rights), and further highlight the need for these utopian roots to be interrogated within legal scholarship.¹²

A prominent theme across the collection is the relationship between utopia and colonialism. Jessica S Hower's chapter on 'Utopia's Empire: Thomas More's Text and the Early British Atlantic World, c1510-1625', explores the links between early modern colonialism and More's *Utopia*. Hower notes the role of *Utopia* 'as a means of inspiring colonial, promoting colonial scheming, or delegitimizing colonial pursuits' (123). Indeed, Gregory Claeys notes that 'When [Utopia is] overpopulated it sends out colonies, seizing the uncultivated land of indigenous peoples'.¹³ Within legal scholarship, and in particular in international legal scholarship, increasingly attention is being given to the role of fictional utopias and law in projects of colonialism.¹⁴ The techniques of "place-making" explored in *Utopia* mirror colonial mechanics in the early modern period.¹⁵ Hower's chapter serves as an additional point of reference for that work on law, colonialism and utopianism.

Continuing the theme of colonisation, and reflecting on the modern usages of *Utopia*, Weaver-Hightower and Bajaber's chapter discusses two key features of *Utopia*'s imperialism: isolationism and expansionism. Through an exploration of *Star Trek*, their chapter 'Utopia, the Imperial Setter Utopia, and Imperial Settler Science Fiction' shows how these two features are indicative of settler imperial utopias that have informed both the creation of the United States of America, and contemporary US foreign policy. As a wealth of postcolonial scholarship has shown, law (including international law¹⁶) is a key tool in the construction of settler colonies. Rather than dismissing utopia as whimsical, legal scholars must interrogate the (sometimes problematic) intersections between utopianism, specific utopian projects and law.

Largely absent from the edited collection is the relationship between *Utopia* and feminist utopias. One of the more obvious oversights would be Charlotte Perkins Gilman's utopia, *Herland*, which mimics the structure of More's *Utopia*. Located in a geographically-isolated area, the narrative – similarly to More's – follows travellers

¹² For one example of the interrelationship between utopia and constitutions, see David Landau and Rosalind Dixon, 'Utopian constitutionalism in Chile' (2024) 13(1) *Global Constitutionalism* 228-238.

¹³ Gregory Claeys, *Dystopia: A Natural History* (Oxford University Press 2017) 6 cited in Miguel Angel Ramiro Avilés in his chapter 'Human Rights and/in Utopia?' (580).

¹⁴ Shane Chalmers, 'The Utopian Law and Literature of Systematic Colonisation' (2023) 35 *Law & Literature* 179.

¹⁵ Ruth Houghton and Aoife O'Donoghue, "Utopia as "No-Place": Utopias, Colonialism and International Law' (2024) 27 *Law Text Culture* 204.

¹⁶ For a discussion, see Ruth Houghton and Aoife O'Donoghue, "Utopia as "No-Place": Utopias, Colonialism and International Law' (2024) 27 *Law Text Culture* 204.

as they are introduced to different aspects of life in the utopia and the indigenous population are exterminated at the beginning.¹⁷ This provides an additional intertextual example of how *Utopia* shapes the genre. The lack of engagement with feminist utopias in the Handbook mirrors similar gaps found in the studies of utopias within law. That said, across legal scholarship, both in constitutional law and international law specifically,¹⁸ there has been a turn towards reading feminist utopias as a form of feminist theory and feminist praxis. These feminist utopias depict alternative governance models or show how law could be “otherwise”, providing potential inspiration for radical law reform projects.

2 Utopia, Law and Humanities

The focus of the edited collection is on the intertextuality of *Utopia*. As such, chapters explore its relationship with other texts (with chapters that discuss texts as diverse as Machiavelli's *The Prince* (2–3), Greek classics, or *Star Trek*), its construction as a text (through translations, editing, and publishing processes), as well as the development of its canonical status. In so doing, the volume demonstrates the instability of *Utopia* as a text as there are multiple versions, edited with different political, social and commercial rationales in play, as well as the more complex and shifting relationship between *Utopia* and utopia. Chapters in the volume show how editors made decisions on whether to publish Book One and Book Two together, or just to publish one of the Books, they made editorial decisions to remove sections, or to add in additional paratextual materials. This iterative construction of the text allows us to reflect on questions of authenticity and authorship and these are themes that resonate with the study of the development of law and legal authority. In this sense we can read *Utopia* and utopias not just for their substantive suggestions on how to order the “good” society, as we can also use the intertextuality to inform legal methodologies. This review will now just highlight a few chapters that speak most productively to law and humanities.

One example of the interrelationship between texts is Chloë Houston's chapter which discusses *Utopia* alongside Francis Bacon's *Isle of Pines*. Houston places these

¹⁷ For discussions on the differences between *Utopia* and *Herland* see, Andrew G Christensen, ‘Charlotte Perkins Gilman's *Herland* and the Tradition of the Scientific Utopia’ (2017) 28(2) *Utopian Studies* 286–304; Alessa Johns, ‘Feminism and utopianism’ in Gregory Claeys (eds), *The Cambridge Companion to Utopian Literature* (Cambridge University Press 2010) 174–199.

¹⁸ See Dianne Otto and Anna Grear, ‘International Law, Social Change and Resistance: A Conversation between Professor Anna Grear and Dianne Otto’ (2018) 26(3) *Feminist Legal Studies* 351–63; Ruth Houghton and Aoife O'Donoghue, ‘“Ourworld”: A Feminist Approach to Global Constitutionalism’ (2020) 9(1) *Global Constitutionalism* 38.

two texts into dialogue to explore how *Utopia* informed other early modern utopian work. What the chapter highlights is the role of genre in the construction of “utopia”. Houston shows how conventions of travel-writing are utilised by More and Bacon and then how through the paratextual materials (preludes, letters added as appendices) the distinction between fact and fiction is blurred. This constructed ambiguity can raise questions for legal scholarship around ideas of form and the reception of a legal text, and specifically how the form of legal writing plays a role in the construction of its authority.

A prominent theme in the Handbook is an interrogation of the canonical status of *Utopia*. This is readily explored in Marcus Waithe’s chapter, ‘False Friends (and their uses): Thomas More’s *Utopia* Among the Victorians’. Waithe uncovers how in Victorian Britain, *Utopia* was utilised by different political factions, including the Edwardian Garden City movement and socialist reformers such as William Morris, as well as ‘Eton headmasters and paternalist Tories’ (9). Morris’ version of the book constructs *Utopia* as an explicitly socialist project. As Waithe explains, Morris’ ‘Foreword’ assumed a socialist audience (368). Other political factions were able to find alignment with different aspects of the story, for example ‘[t]he Utopian prohibition on hunting for pleasure and the ban on animal sacrifices appealed to a related strand of late nineteenth-century radicalism’ (371). Crucially, Waithe highlights the potential political ambiguity of *Utopia* as ‘[b]oth democratic and anti-democratic Victorians found things to like in More’s *Utopia*: it delivered a vision of communism pleasing to conservatives as well as Radicals [...]’ (374). This investigation of its multifarious political, social and cultural usage during the Victorian era works to unpack how *Utopia* was constructed as a canonical text. Such intersections between the political, social and cultural uses of a text act as a reminder to legal theorists of the plurality of factors that play into the construction of legal authority.

As noted above, *The Oxford Handbook on Thomas More’s Utopia* is not a book about law or legal scholarship, nor does it seek to explore the relationship between law and utopianism or law and *Utopia*, rather it sets out to offer a diverse and complex interrogation of the vernacular uses of Thomas More’s story. Nevertheless, in reading across the volume there is generative potential for legal scholars and legal theorists. Utopias can be read for their content, providing ideas for reform or offering critique on the status quo. But reading utopias and reflecting on the specific importance of the intertextual and paratextual (as discussed in this Handbook) raises methodological questions for legal scholars working on law and utopias.