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Trevor Jackson, *Impunity and Capitalism: The Afterlives of European Financial Crises, 1690–1830* (Cambridge University Press, 2022).

Trevor Jackson's *Impunity and Capitalism* examines moments of financial crisis between 1690 and 1830—tracing the muddling of cause and effect and, in turn, responsibility and liability for this novel form of man-made disaster. For financial actors—those with outsized roles in shaping the context in which everyone else operates in the economy—social costs are seldom fully internalized. This is because legal duties do not extend nearly as far (or toward nearly as many) as they could. Jackson's history sets out to explain why.

In fact, Jackson charts at least three different histories that collude to generate this understanding, and eventually fuse financial capitalism with impunity.

Jackson's first history—the arrival of modern central banking—follows a shift in the incidence of impunity. Before the long eighteenth century, it was a quintessentially sovereign power. The monarch determined both the rules and who would be exempted from them—meaning usually himself, and those acting on his behalf. For instance, as Louis XIV racked up war debts, he relied on Samuel Bernard to perform many functions akin to a modern central bank. When Bernard's financial empire collapsed on the back of the Crown's excesses, Louis had discretion to extend protection to Bernard. And when he did, it forced the hands of Bernard's creditors in renegotiation. Jackson shows how this impunity—which really meant the discretion to extend it to others—soon shifted away from political actors. Ironically, this paved the way to crowning financial actors with their own extralegal regalia.

How did this happen? This is where Jackson's second history—the internationalization of financial markets—comes into play. Sovereign actors had long retained the privilege and power of impunity because investors continued lending to the sovereign despite all its attendant risks. As Jackson stresses, this is because there were few alternatives for productive investment in the early history of capitalism. The sovereign could thus raise debt and recharacterize it with little consequence. This fed wars of religion, the centralization of political authority, and the early stages of imperial conquest—as well as the eventual downfall of sovereign impunity itself. The internationalization of finance, and imperial developments that opened a range of new investment opportunities, soon began to erode the foundations that had sustained the once-exclusive sovereign power.

This development not only destroyed the preexisting system of accountability—it necessitated a new one. This is charted through Jackson's third history: the emergence of modern international economic ordering. Shortly after Bernard and the early globalization of finance, the Mississippi and South Sea Bubbles triggered the world's "first international financial crisis" in 1720. Jackson explains the responses that initially shaped different trajectories for French and British monetary governance. This limited the potential scope of coordination needed to resolve future international financial crises. But while such divergent approaches were unsustainable, a new regime was not forthcoming. By the time of the French Revolution, the search for an alternative paradigm of monetary governance continued. For instance, Jackson tracks debates over whether the Terror served as a response to the rise of financial impunity, or whether it actually represented a new form of impunity. An alternative permutation of impunity and accountability—one that would hold together a world of nation-states, central banks, and international markets—remained open for the making.

This changed with the Panic of 1825, where Jackson's different histories fuse together to establish a new tradition of impunity. In its aftermath, central banks took on the primary role in governing increasingly international financial markets, while their mandate remained tethered to the emergent gold standard and the emphasis it placed on maintaining stable exchange rates. Key decisions were thus insulated from public accountability, all while they began to determine "how many hundreds of thousands or millions of people should be unemployed at any given time, whether wages and living standards should rise or fall, and whether unprofitable businesses should fail" (213). Law made financial crisis appear as a natural occurrence outside of any particular jurisdictional borders. By cognizing such crises as "contingent, ahistorical, iterative and inevitable," law permitted what effectively became a new space of extralegality (255). These crises would be managed by central banks and the norms of the international economic order that conditioned their modes of operating, in lieu of domestic legal arrangements that provided a clear mechanism of accountability for both financial crises and their management.

From one view, the persistence of impunity in financial markets is difficult to contest. In the aftermath of 2008, individual accountability proved the rarest exception—certainly not the rule. Following the US Supreme Court's sweeping expansion of presidential immunity from criminal liability, the tradition of impunity itself now seems to enjoy impunity. Responsibility for man-made calamity no longer needs to be obscured from view. Now it can simply be excused. But from another view, it seems strange to think this could be a problem of too little law. Political scientists and legal scholars, such as Kathleen Thelen and K. Sabeel Rahman, stress that one feature of American political economy, and liberal market economies more generally, is its extreme litigiousness. They identify this with distributional maladies and political dysfunction—precisely the consequences that impunity cemented from Jackson's longer-term view.

If impunity is a rightful concern—and Jackson's history the proper measure of its deep history and tradition in financial capitalism—legal scholars need to be more creative in their response. There is no shortage of scholarship on law's role in constructing markets. Jackson adds to this corpus, explaining why law so often recurs to creating the same types of markets: full of moral hazard, and failing to ensure that private vices do not wreak public catastrophes. Lawyers, meanwhile, might be justified in remaining attuned to the risks of a legal system that tries to impose far-reaching duties—just like the 1719 *Chambre de Justice* that represented the last gasp of monarchical impunity before the rise of financial capitalism. As Jackson himself notes, this legal arrangement helped one group of financiers leverage a false promise of accountability to do little more than drive out their rivals. This led to new speculations and the beginning of the history that Jackson identifies as the origin of today's age of impunity. This is all to say that there is room for considerably more discussion between Jackson—as well as the many historians that will certainly follow his path—and students of Law and Political Economy. We should hope that it yields new ideas, rather than a return to old traditions.

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