

Book Review – Malcom Evans' International Law

Malcom D. Evans (ed.), International Law, 1st ed., Oxford University Press, Oxford, New York et al., 2003, 841 + LI pp., ISBN 0-19-925114-2

*By Stefan Kirchner**

At a time when International Law is subject to fundamental discussions and changes, it becomes more and more of a challenge to write a comprehensive textbook which will remain at the forefront of the bookshelves for some time. And while, in his attempt at an enduring treatment of the field, Malcom Evans recognizes the need for a new edition in the foreword to his book, he may have actually achieved some degree of permanence with this effort.

The most remarkable feature of this new textbook on International Law is the fact that not less than 32 scholars and practitioners of International Law contributed to the project, among them some of today's most renowned experts on the subject. The list of contributors looks something like a "Who is who" of contemporary International Law scholarship. This wide choice of contributors not only results in a refreshing mix of styles but also reflects the diversity of international law in an age of fragmentation.

While Parts I to VI introduce the reader to more general questions of International Law, Part VII, entitled "The Application of International Law" provides a look at some aspects of specific fields of International Law, such as International Environmental Law (Catherine Redgwell), the International Protection of Human Rights (Henry J. Steiner), International Criminal Law (Antonio Cassese), the Law of the Sea (Malcom D. Evans), International Economic Law (Gerhard Loibl) and International Humanitarian Law (Christopher Greenwood).

The practical aspects of international law are given a particularly prominent place, treated in some depth in an introduction entitled "International Law in Practice." Among the contributors to this introduction are: Judge Rosalyn Higgins ("Reflec-

* Stefan Kirchner, Diploma in International Law (Helsinki); Diploma in International Humanitarian Law (Geneva/Bonn/Bochum); aide (studentische Hilfskraft) to Prof. Dr. Thilo Marauhn, M.Phil (Wales) at the Chair for Public, International and European Law at the Faculty of Law of Justus Liebig - University in Giessen, Germany. Email: kirchner@justice.com.

tions from the International Court"), Lord Millett ("The *Pinochet* Case - Some Personal Reflections), Ian Brownlie ("The Perspective of International Law from the Bar"), Campbell McLachlan ("Reflections from the Practice of International Litigation"), UN Assistant Secretary General Ralph Zacklin ("A Personal Perspective on International Law") and Michael Wood ("The Perspective of a Foreign Ministry Legal Adviser"). Here, these luminaries of the field share their personal and professional views on International law. Especially students of international law will profit from this interesting way to introduce the reader to the subject.

In Part I ("The History and Theory of International Law") Stephen C. Neff provides a short history of International Law while Martti Koskenniemi asks "What is International Law for?" Iain Scobbie then examines "some common heresies about International Law." And although Ian Brownlie once referred to theories of international law as "one of the principal causes of low morale among students of international law,"¹ international legal theory may be more necessary today than ever before. Although it may seem questionable to the general public, International Law has at no time in history been as important as it is today, given the wide range of subjects it covers, literally encompassing the the Deep Sea Bed regime to the Outer Space Treaty. This wide range of subjects makes collisions between different aspects of international law unavoidable. For example, the dispute between Mexico and the U.S. over the protection of dolphins and the trade in Yellowfin-Tuna took about three decades before it was settled in early 2003, and still, the last word has not yet been spoken on the relationship between environmental protection and free trade. The same is true for the relationship between Human Rights and International Peace and Security. At the same time International Law keeps on changing and appears to be in a constant flux. Simply being content with the *lex lata* without questioning or attempting to develop International Law is insufficient, since there is a constant need for the further development of international law. Yet in order to do so, understanding the underlying theories upon which present day international law is built is key. After all, both the Soviet and the New Haven Schools of International Law were, although opposed to each other, always aimed at guiding the practitioners of international law (p. 78). And even if one shares the view of the *New Approaches in International Law* (NAIL) movement that calls for more detachment of theory from practice, one cannot avoid admitting that international legal theory matters today when thinking of the recent impact of Allott's *Eunomia - New Order for a New World*.² Scobbie can take credit for clearly emphasizing the importance of International Legal Theory today.

¹ IAN BROWNLIE, INTERNATIONAL LAW AT THE FIFTIETH ANNIVERSARY OF THE UNITED NATIONS, IN: 255 RECUEIL DES COURS 22 (1995).

² PHILIP J. ALLOTT, *EUNOMIA: NEW ORDER FOR A NEW WORLD* (2001).

The sources of International obligation are examined in Part II. Hugh Thirlway presents the sources of international law, Malgosia Fitzmaurice examines the "Practical Working of the Law of Treaties" while Dinah Shelton has a closer look at relative normativity. Responses to breaches of international obligations are examined by Nigel White, Ademola Abass, John Merills, Hugh Thirlway and Christine Gray in Part VI.

The subjects of the international legal order are the topic covered in Part III, in which Colin Warbrick, Dapo Akande and Robert McCorquodale look at states, international organizations and the increasingly important role of the individual in the international legal system.

The sovereignty of states and its limits as well as the relationship between international and domestic law are examined by Vaughan Lowe, Hazel Fox and Chanaka Wickremasinghe (Part IV), while James Crawford, Simon Olleson and Phoebe Okowa introduce the reader to the field of state responsibility (Part V).

The structure of the book allows for a coherent presentation of contemporary international law while at the same time each chapter can be read as a "self-contained unit" (p. xxvi). The range of opinions and perspectives, combined with the authors' expertise, is unique for a contemporary textbook of international law and could best be compared with the approach known to readers familiar with German commentaries from the *Alternativkommentare*, although, of course, in the form of a textbook rather than a commentary. In that manner, the authors almost bridge the gap between classical textbooks and works of reference. Each chapter is followed by a list of suggestions for further reading and if the book has a weakness, it is the fact that the reading lists do not include judgements, Security Council resolutions and the like, since in the main text, readers will often find only short excerpts of those. Yet the overall quality of the book easily compensates this small weakness by far. Especially the attention given to both the foundation on which international law stands and the general rules it contains is impressive. And although readers will miss a closer look at some more aspects of International Law in Part VII, the main reason for this will be the high quality which is maintained throughout the book. Given the limitations in terms of total pages, the editor's choice focuses on specialized aspects of international law, which are both fundamental (like the Protection of Human Rights, the Law of the Sea and International Economic Law) and timely (such as International Criminal Law, International Humanitarian Law and International Environmental Law).

By bringing together such a wide range of highly renowned authors, as well as contributing the chapter on the International Law of the Sea, Evans has created a unique and invaluable resource for practitioners, researchers, scholars and students alike.