

*Ordering Anarchy—International Law in International Society.* By REIN MÜLLERSON. [The Hague: Martinus Nijhoff Publishers. 2000. xi + 387pp. ISBN 90-411-1408-4. Price not given. (H/bk.)]

THIS book by Professor Müllerson consists of three closely linked parts. Part One is mainly theoretical; Part Two is focused on the political context of international law; and Part Three concentrates on certain of its practical aspects. It takes into consideration all the significant changes which have occurred recently and which have influenced the structure of international society and of international law and which precipitated the re-evaluation of certain institutions of international law and society. The problems are not only discussed from the purely legal point of view, but also from the point of view of political science, and they are analysed in their political context. The adoption by the author of this interdisciplinary approach is, in my view, one of the best features of the study.

In Part One, the author presents an in-depth critical study of many contemporary theories of international law. Especially interesting is the part devoted to the New Haven School of thought. The author says that: “[t]he map of inquiry, proposed by Professor McDougal and his associates, ‘both comprehensive and selective’ seems to be, on one hand, too wide including practically everything that may be relevant for the study and application of international law and, on the other hand, too rigid if meant to be always applied. Therefore, it looks more like a menu (very useful . . .) from which, depending on circumstances, a researcher can choose, or guidelines not to be forgotten rather than rigorous theory. In that sense . . . comprehensiveness has defeated the rigour” (p. 36); and that “[i]t seems . . . that the New Haven school may also represent one of those examples . . . when theorists put too strong an emphasis on certain aspects of the phenomenon under study in response to competing theories’ neglect of these very aspects” (p. 37). The author concludes that this theory neglects and underestimates rule-orientated approaches. Another original and very interesting part of Chapter Two in Part One is devoted to theoretical problems of “newstream” versus mainstream theories. A particularly interesting aspect of this part is the polemic of the author with Professor Charlesworth on the issues concerning the feminist theory of international law, in particular concerning the broadening by the Trial Chamber of the ICTY of the concept of genocide by the inclusion of rape (pp. 64–65).

The recent changes in international society have had an influence on the structure and the notion of the State. In Part Two the author examines who pulls the strings in international society and the relationship between the State and society. The author submits that a new practice developed in the 1990s, “when the world community through various international bodies . . . has monitored or even organised elections and referenda in many countries thereby legitimising elected authorities” (p. 117). Further, the author states that in international society it is the human rights movement that “represents international society’s pressure on states’ domestic characteristics that have ceased to be irrelevant from international society’s point of view” (p. 117).

A chapter which well illustrates the high standard and interest of the author’s research is that on the problems of law-making in international society. The author concludes that in

contemporary society there is a need for norms and procedures which are “defined as political and non-legal”. That does not mean, however, in the author’s view that these types of norms and procedures can substitute for legal norms. It means that “the international system needs different normative regulators” (p. 250).

Part Three discusses current changes in three linked fields of international law: human rights, the use of force, and international humanitarian law. The author submits that, first, not all human rights are universal; and secondly that, though some human rights have been accepted as natural by the whole world, human rights are not natural but are social constructs which are chosen to be believed to be natural; and thirdly that globalisation will sometimes undermine the capacity of States to promote and protect human rights, and thus result in fragmentation of human rights. This phenomenon may result in people seeking recourse to religious extremism and nationalism. The human rights discourse is linked with the problematic of the use of force, in particular in connection with civil wars which have become an international concern. The eruption of internal conflicts has had the result that “the traditional hiatus between humanitarian law applicable in international armed conflicts and in armed conflicts of a non-international character had greatly diminished. . .” (p. 363). One of the reasons for this has been the development of international human rights law (in particular of non-derogable norms), which have bridged the gap between these two branches of humanitarian law. The author of the book concludes that: “. . . the transformation of international society, which is closely linked with and often prompted by radical changes in many domestic societies, is transforming the environment in which international law functions. This in turn, has precipitated the need for a reevaluation of some central and well-established concepts of international law” (p. 365). The author rightly concludes that one of the main difficulties in the contemporary world appears to be the coexistence and competition between inter-national (interstate society) and a global society and corresponding competing visions of the world.

The book under review is an accomplished study of international law and society in time of transition. The author presents an excellent analysis of modern international law theories combined with a very comprehensive study of contemporary international practice in selected fields. Undoubtedly this combination makes the book of interest both to theorists and practitioners. The value of the book is enhanced by the adoption of an interdisciplinary approach by the author which is necessary in order to evaluate fully the modern, multifaceted structure of international society. The book has a clear and logical structure and is very well written. Mention must be made of the unusually broad use of literature and various sources. In conclusion, the book under review is an excellent study of modern international law theories and of practice, which, no doubt, will contribute greatly to our better understanding of the complicated structure of the modern world.

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