drafted, while the latter rose to prominence after severe and global economic shocks in the 1970s. But both were preceded by intellectual projects and political struggles, and grew organically. Polanyi once famously asserted that even laissez-faire was planned.[12] Surely this gives hope to international lawyers who may embark upon the daunting project for which Lang has paved the way.

*Ruben Zandvliet**

Ernst-Ulrich Petersmann, *International Economic Law in the 21st Century: Constitutional Pluralism and Multilevel Governance of Interdependent Public Goods*, Oxford, Hart Publishing, 2012, 540 pp., ISBN 9781849460637, £47.00 (pb).
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In his latest monograph Ernst-Ulrich Petersmann challenges established thinking in international economic law (IEL), providing a necessary reboot of the discipline. *International Economic Law in the 21st Century* makes the argument for a paradigm shift in IEL as the only possible response to the regulatory difficulties of the new century. And it does so convincingly.

The Westphalian conception of international law among sovereign states may indeed continue to influence diplomatic practices everywhere but its application to IEL is no longer appropriate. What is more, Westphalian approaches to international law – be it to the law of the United Nations or to the law of the World Trade Organization – do not present a sound basis for a multilevel – effective and legitimate – governance of interdependent public goods in a world that is permanently integrating into a global economy. A more cosmopolitan regulation of the global division of labour at regional, transnational, and national levels is necessary if law is to be an effective protector of human rights, consumer welfare, the environment, democratization, and constitutional coherence among diverse legal orders.

Most governments and other participants in the global division of labour take economic decisions with only partial knowledge of the international rules of the game and, worse still, their implications for the international economic system. And so the incentives for abuse of economic power, in many cases due to inadequate competition and consumer protection rules, remain high. The sovereign debt crisis in the eurozone is a case in point. As individual European Union (EU) member states can no longer resort to policy options such as currency devaluation and monetary expansion amidst the loss of national instruments of economic policy, they face ever new regulatory challenges to protect monetary stability and economic growth. The less transparent and justifiable national/unilateral, bilateral, regional, and worldwide government interventions become, the more citizens are likely to contest the legitimacy of the often opaque redistribution of income through economic

12 Polanyi, *supra* note 4, at 147.
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regulation (the public bailouts of insolvent industries, banks, and foreign sovereign debts come to mind).

International Economic Law in the 21st Century is about the joint responsibility of citizens and governments to institutionalize a more legitimate public reason for a more cosmopolitan IEL. This responsibility is not exclusive to governments. Citizens also have it. Citizens, as primary subjects of the global division of labour and democratic owners of all institutions of governance, must demand of the polity the cosmopolitanization of IEL and, thereby, remove any remnant of local bias so that people everywhere – the citizens of the world – have reason to support its interpretation and enforcement. Just as private life has to be lived morally with respect to other people and ethically with respect to ourselves, so must public life – law and governance – remain justifiable in terms of justice rather than in terms of crude utilitarianism. The less people understand IEL and its institutions of governance, the higher is the risk of a democratic contestation of the rules. Indignant protestations and Tea Party-like movements share a sense of outrage against the current political system. Simultaneously, the less people understand IEL, the higher is the risk that its very rules come under abuse, among other things, by states eager to join projects like the eurozone in flagrant violation of the relevant rules. In the EU, for example, the Excessive Deficit Procedure has never been taken seriously. France and even Germany have had running deficits without financial sanction.

International Economic Law in the 21st Century proposes a bottom-up reform of IEL in order to better protect the rights of citizens and the transnational supremacy of the rule of law. The proposal relies on the classical constitutional method; that is, it seeks to empower citizens to challenge market and governance failures through stronger legal and judicial remedies that promote public reason. By showing that rules of IEL (like the transparency disciplines and judicial remedies of Article X GATT) can indeed support human rights and that democratic resistance to top-down governance is a real prospect, this work calls out to scholars in law as in the areas of human rights and multilevel economic governance. After all, IEL has a mission to advance the welfare of the peoples of the world. Thus, the Preamble of the Agreement Establishing the World Trade Organization beckons members to an open trading system that raises living standards, ensures full employment, and increases real income for poor countries.

Unashamedly true to the Western intellectual tradition, ultimately, the proposal here is for bottom-up cosmopolitan constitutionalism as a challenge to the inter-governmentalism and the power politics that goes with it. Rulers far and wide may want to resist the challenge that cosmopolitan rights and judicial remedies would undoubtedly bring on and may indeed opt to continue justifying political realism over and above justice and human rights. Yet, the proposal remains valid because it is, fundamentally, respectful of constitutional pluralism. Admittedly, national, regional, and worldwide regimes for the protection of aggregate public goods can and do differ – quite legitimately so – depending on their diverse value premises (in a world of scarcity and of partial non-compliance, different regimes balance civil, political, economic, social, and cultural rights differently). And the proposal remains viable for comparative constitutionalism, which, for Petersmann, Armin

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von Bogdandy, Mattias Kumm, and others, remains the most important approach to reforming international law, as a methodological basis for the development of constitutional pluralism. Constitutitional law is a bridge between national and international actors on the path towards greater legitimacy in IEL, away from the limitations of state control.

International Economic Law in the 21st Century differs from other books on IEL with its reliance on constitutional and public goods-theories, all proceeding from the premise that economic regulation needs to be justified and justifiable in moral and political as well as economic terms. Rawls, Dworkin, and Kant all lend support with their commitment to intellectual reflection as the basis for moral and political reasoning resistant to economic imperatives. Economists define public goods in terms of their non-excludable and non-rivalrous use for the benefit of citizens everywhere, which may prevent commercial supply of public goods in private markets. Due to the transformation of many national public goods into international public goods, multilevel rules and institutions for public goods increasingly impact on the infrastructure and welfare of states. Thus, the production, design, enforcement, and – importantly – justification of international public goods cannot be resigned to inter-governmental power politics and social engineering. As the multilevel governance of interdependent, international public goods becomes the most important policy challenge of the twenty-first century, their current under-supply requires an urgent incorporation of stronger constitutional, cosmopolitan, and democratically justifiable foundations into the IEL edifice. Without bottom-up legitimacy, without a transnational approach to the constitutionalization of free trade, international public goods as vital as clean air and water fall prey to private goods producers eager to lower transactional costs without care for negative externalities.

With this new title, Petersmann does much to settle the controversy with Robert Howse and Philip Alston about the proper relationship between human rights and economic freedoms. And it develops the research agenda for IEL that he proposed in *Constitutionalism, Multilevel Trade Governance and International Economic Law* (with Christian Joerges) (2011), all consistent with his earlier works on free-trade constitutionalism. For his distinct and distinctive reconceptualization of IEL, Petersmann deserves our thanks and praise.

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