

BOOK REVIEWS

IUU Fishing as a Flag State Accountability Paradigm: Between Effectiveness and Legitimacy

by Mercedes ROSELLO. Leiden: Brill Nijhoff, 2021. xxii + 227 pp. Hardback: €133.00, E-Book: €137.00. doi: 10.1163/9789004463219

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On occasion, readers may judge a book by the resulting health of their stationary. The informative *IUU Fishing as a Flag State Accountability Paradigm* reframes the application of the oft-quoted, but elusive, inclusive, slippery—or even abused—concept of ‘illegal, unreported and unregulated (“IUU”) fishing’, thereby providing plenty food for thought and a highlighter graveyard. Rosello focuses on the implementation of ‘IUU fishing’ in interstate discourse and for reasons detailed in Chapters 1–2, primarily questions of high seas fishing (broadly construed) and flag state responsibilities. This book is a refined version of Rosello’s doctoral manuscript (p. ix) and a continuation of her published expertise in international fishing law and the European Union’s external fisheries policy.¹

The IUU fishing compliance paradigm has greatly contributed towards the development and consolidation of international fisheries law and its institutions, most notably the role of Regional Fisheries Management Organisations or Arrangements (“RFMO/As”). RFMO/As provide an authoritative source of rules for states bound by commitments in binding instruments, and expectations for others not legally bound to act in a consistent manner.

Rosello nonetheless highlights that the contemporary IUU fishing lens both obscures existing rules and responsibilities (inhibiting their further inclusive development/refinement) and inherits and/or amplifies existing legitimacy concerns in the decision-making processes of RFMOs. The latter affects the effectiveness and coherence of RFMO measures in addressing undesirable high seas practices. These shortfalls are identified as building blocks in Rosello’s thesis, but the book’s theme is clearly to offer a constructive proposal and solution to redirect market state and port state efforts towards an accountability mechanism that will produce *shared* interpretative and argumentative state practice (‘interactional legal theory’, Chapters 5–6). This collective practice could publicly detail states’ primary responsibilities and prompt developments in secondary standards for implementation, including greater due regard to objectivity, transparency and effectiveness in RFMO decision-making processes. Rosello’s persuasive argumentation holds promise as being in the self-interest of states and undemanding in implementation when compared to other pressures on international fisheries law reform (e.g. climate change).

This book traverses international fisheries law, state responsibility, the law of treaties, and the development of a suitable conceptual accountability framework. Thus, each chapter includes an accessible introduction and contextualisation in existing literature to guide readers.

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Asia's high seas fisheries and long-distance fishing fleets ensure this volume is pertinent to AsianJIL readers, especially considering the concerns expressed by some distant RFMOs and market states, as well as the case studies included in the book (Cambodia, p. 120). Interesting side arguments include identifying generally accepted international rules and standards ("GAIRS") for fishing vessels (Chapter 3 and p. 188), although the unregulated high seas fishing component will arguably not fully diminish (e.g. stateless vessels). Finally, perhaps with some tweaking, one could ask if Rosello's thesis could apply to coastal state accountability? Here too the 'IUU fishing' concept utilises assumptions and obscurities that do not always reflect practice, such as presupposed consistent baselines, maritime claims, maritime feature entitlements and due publicity of outer limits or delimitation boundaries.

Competing interests. the author declares none.

doi:10.1017/S2044251322000340

Capitalism as Civilisation: A History of International Law

by Ntina TZOUVALA. Cambridge: Cambridge University Press, 2020. viii + 268 pp. Hardcover: AUD\$ 160.95; Softcover: AUD\$41.95, E-Book: USD\$24.00. doi: 10.1017/9781108684415

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Ntina Tzouvala's first monograph, *Capitalism as Civilisation: A History of International Law*, is a brilliant and profound critical exposition of the so-called "standard of civilization" in the history of international law that will certainly make a major contribution to the literature for years to come. The last comprehensive study dedicated to the "standard of civilization" was written by Gerrit G. Gong over thirty-five years ago.¹ *Capitalism as Civilisation*, however, takes a unique historical materialist approach to critique international law – the book could be situated within the Marxist tendencies that have emerged in the past decade within critical international legal scholarship and, in particular, Third World Approaches to International Law (TWAAIL). With this book, Tzouvala attempts an impressive rereading of the history of international law revealing the constitutive and contradictory dynamics between international law, capitalism, and imperialism.

The main argument that runs throughout the book is that the "standard of civilization" should be approached as a historically contingent *structure* that emerged as a reflection of the inherent and "very real [material] contradictions" within the global capitalist system. It is a flexible "mode of legal argumentation" that oscillates between what she terms as the "logic of biology" (which emphasizes cultural/racial differences that prevent change), and "the logic of improvement" (which recognizes some possibility of transformation within the limits of capitalism). Imperial powers have inventively used these contradictions in various ways to legitimize imperial violence and exploitation, and entrench the capitalist mode of production around the world. Tzouvala traces the emergence of this standard to the nineteenth century, and moves to analyse the ways it was institutionalized during the interwar period of the League of Nations mandate system. She then goes on to do a close reading of

¹ Gerrit W. GONG, *The Standard of "Civilization" in International Society* (Oxford: Clarendon Press, 1984).