

BOOK REVIEWS

Emmanuelle Tourme Jouannet, *A Short Introduction to International Law*, Cambridge, Cambridge University Press, 2014, 126 pp., ISBN 9781107086401 (hb)/9781107451360 (pb), \$19.99/\$59.99
doi:[10.1017/S0922156516000170](https://doi.org/10.1017/S0922156516000170)

The little book *A Short Introduction to International Law* is the translation into English of a book written by Emmanuelle Tourme Jouannet, Professor of International Law at the Sciences Po Paris School of Law, originally published in French (*Le droit international* (2013), Presses Universitaires de France, Collection Que sais-je?). It relies on two of her earlier books, also translated from French: *The Liberal-Welfarist Law of Nations* (CUP 2014), 328 pages and *What is a Fair International Society?* (Hart Publishing 2013), 252 pages. This new book totally departs from traditional introductions to international law, describing the content and functioning of that law. The book explains that current international law is the product of an evolution that began at the beginning of the eighteenth century and that was influenced by the political, sociological, and cultural context. This historical-contextual approach gives a realistic and critical vision of international law. Thus, the author departs from the traditional positivist point of view that dominates French speaking academia. She also makes a valuable contribution to other introductions to international law by English-speaking academia that, when it studies international law in context, usually only examines how international law is influenced by international politics.

The book contains three chapters, each analyzing a different dimension of international law. Chapter 1 sees international law as the result of history and culture; Chapter 2 conceives international law as a legal order which is the French traditional view; Chapter 3 apprehends international law as an instrument of regulation and social intervention. In the first chapter, Emmanuelle Tourme Jouannet emphasizes that international law began to emerge late in the history of human societies, in the eighteenth century when modern states were being consolidated in Europe and not, as often asserted, with the Treaties of Westphalia in 1648 (p. 4). The author identifies three characteristics featuring the historical evolution of international law up to the end of the Second World War. First, international law was a 'liberal pluralist system of law' (p. 5), grounded on states, then the sole subjects of international law. States were characterized – and this is still the case today – by their sovereignty, that reflected their independence. Their intent or will constituted the primary source

of international law. International law was a law of relations among states and, as pointed out by the author at the beginning of her study, was first known as the 'law of nations' (p. 4). It was neutral with regard to the political and religious choices made by states in their domestic legal orders. In sum, international law was to ensure the free exercise of the rights and duties pertaining to each state. This could have only been possible in a peaceful world order. However, and this is the second characteristic outlined by the author in the evolution of international law, this law authorized the resort to force by states as a means of dispute settlement. Here, Emmanuelle Tourme Jouannet points out an interesting paradox of classical liberal international law: it aimed to ensure the security of states but failed to do so when recognizing an extensive liberty to wage war. In fact, the law of war formed one of the most important branches of international law. It was only after the First World War that the decision to go to war was controlled by an international organization, the League of Nations, then prohibited by the Briand-Kellogg Pact. The author then describes the third and most striking characteristic of the history of international law: international law was in reality not international. Classical international law was produced by and applied to European-American states, seen as the 'civilized states'. Uncivilized or less civilized states had to endure the domination of civilized states to accede to the benefits of civilization. The author convincingly explains that international law justified the exploitation and colonization by Europe of almost all the rest of the world, which of course ran counter to the liberal principles of neutrality, equality and freedom of traditional international law.

The second chapter of the book, presenting international law as a legal order, is closer to a classical formal introduction to international law. It addresses four questions. First, Emmanuelle Tourme Jouannet examines whether contemporary international law, having undergone considerable changes after the Second World War, stands apart from the classical inter-state legal order and whether it corresponds to a new legal order. She concludes that there is at the moment an overlap of the old legal order and a new model of international law. The second question raised is that of the definition of international law and of its distinction from other systems of law. The author defines international law by its international origin. For her, international law 'is composed of the set of legal rules, practices and discourses arising from the subjects of international law' (p. 27). The author correctly notices that, although the international legal order is traditionally dissociated from internal legal orders, this separation is progressively disappearing. Indeed, many rules which are internal to the state have an international origin. Furthermore, transnational autonomous legal regimes are developing. Similarly, the distinction between public international law and private international law is fading away. Then, Emmanuelle Tourme Jouannet attempts to identify some of the main components of international law, its subjects and rules. States and international organizations are the main subjects of international law. The author, however, notices that a growing number of other actors tend to become subjects of international law. She warns of an excessive weakening of the state in its sovereignty. Indeed, weakened states are a source of instability and cannot protect individuals as effectively. Furthermore, sovereign states could limit the implementation of international rules of dubious legitimacy or

legality. In a similar vein, there is a diversification and an increase of rules and practices with variable normative character, including soft-law, alongside traditional formal norms of international law such as treaties and customs. The appearance of new types of norms reflects the needs of certain groups of actors of international society. As the author points out, international law has now a 'social (instrumental)' function as well as a 'normative (universal)' function (p. 47). As international norms develop, there is a risk that they lose their effectiveness. As eloquently expressed by Emmanuelle Tourme Jouannet: the international norm 'is asked to control everything, to regulate everything, but because law cannot satisfy everything, this may ultimately make it partially ineffective, devalued and delegitimised' (p. 51). Finally, the author turns her attention to a very much debated question, the one of the unity or fragmentation of the international legal order. After having reviewed the factual and doctrinal situation, the author adds a nuanced opinion to the debate and concludes that international law cannot be defined as 'an ordered, autonomous and logical arrangement of its various components' (p. 62) anymore. She rightly explains that, with the development of international relations, international law has become a complex 'network of processes and sets of rules, discourses and practices' (p. 62) interconnecting with each other.

The last chapter of the book considers international law in terms of its purposes and its main areas of application. The author first shows that international law has evolved toward a law of regulation and intervention. It is a law of regulation because it governs coexistence and co-operation among states and other actors and subjects of international law. This liberal aim of international law is the legacy of classical international law. It was reaffirmed after the Second World War and in particular after decolonization when the equal sovereignty of states was emphasized. International law is also a law of intervention because it aims to govern the lives of individuals and peoples. This welfarist purpose has developed from 1945. This gave rise to the emergence of a multitude of rules that increasingly steer the way in which individuals and peoples live. Emmanuelle Tourme Jouannet then examines three areas of application of international law, corresponding to the purposes enshrined in Article 1 of the United Nations Charter: peace, development and human rights. The United Nations Charter marked a turning point in the evolution of international law in imposing a general ban on the use of armed force between states, with some exceptions. States, however, often do not respect international law on the use of force. The author notices a reappraisal of the legal or illegal use of force by states. She criticizes the resort to force in pursuance of a humanitarian aim. Indeed, it may reintroduce the old concept of 'just war' in giving moral legitimacy to unlawful interventions. Furthermore, it can be seen as the expression of a new imperialism of great powers. For Emmanuelle Tourme Jouannet, development is another essential domain of current international law. The United Nations has become a major centre of aid for poor states. In that evolution, the focus was on economic development. As the author critically notices, the concept of development is not neutral, it reintroduces an inequality between states, distinguishing between 'underdeveloped' and 'developed' nations (p. 89). Legal practices concerning the economic development of poor states continue to exist whereas the concept of

sustainable development emerged after the Cold War. It comprises three pillars, economic, social and environmental. This makes its implementation particularly challenging, as rightly pointed out by the author. Finally, Emmanuelle Tourme Jouannet considers human rights, seen as the third fundamental pillar of current international law. From the end of the Cold War, international human rights law strongly developed in normative and institutional terms. It now affects almost all areas of international law which transforms the liberal aim of classical international law. While welcoming the development of the protection of the rights of individuals, Jouannet warns of an ineffective overexploitation of the concept of human rights in international law. Furthermore, she emphasizes the necessity for international human rights law to adapt to cultural particularisms.

In conclusion, the book illustrates very well the complexity of international law, being not a simple, neutral legal technique but an international policy instrument to pursue certain finalities. International law now combines features of classical international law based on inter-state relationships, and new characteristics seen as a law of intervention. International law aims to govern the lives of states, peoples and individuals. This success of international law may lead to its partial inapplicability. The question of the legal nature of a law that is not totally efficient could have been raised – and this may be the only shortcoming that we notice in a book that is otherwise remarkable in its original, clear, synthetic and didactic analysis. Emmanuelle Tourme Jouannet does not give a univocal answer to what international law is – such is not her objective – but invites the reader to think of the aims of international law and of law in general. Adopting a historical and socio-political approach to international law, the book is of interest to a broad readership, including those who do not have a background in law. It is also to be recommended to academics specializing in international law, as well as undergraduate and postgraduate students of international law, as a supplement to a positivist study of international law, providing a refreshing and original perspective.

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Maartje Abbenhuis, *An Age of Neutrals: Great Power Politics, 1815–1914*, Cambridge, Cambridge University Press, 2014, 239 pp., ISBN 9781107037601, (hb), \$110.00
doi:[10.1017/S0922156516000182](https://doi.org/10.1017/S0922156516000182)

The history of the law of neutrality is a dynamic one. Never has there been an area of law that has undulated to the whim of state interest and contended with the extreme demarcation between belligerency and non-belligerency in the way that neutrality has. The struggles of neutrality over the centuries, particularly as an important contributor to the history of international law, have remained largely neglected within academic scholarship. Few authors have embarked on a qualitative

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