

Rechtsordnung. Eine solche Reflexion darf und sollte auch Studierenden des Pflichtfachs zugemutet werden. Hilfreich und weiterführend wäre im Rahmen des theoretischen Abrisses oder der einzelnen Abschnitte zu den rechtsordnungsbezogenen Relationsbeschreibungen zudem eine etwas eingehendere Betrachtung der gegenwärtigen wissenschaftlichen Diskussion, insbesondere eine kurze Auseinandersetzung mit dem zunehmend an Bedeutung gewinnenden Ansatz des Rechtspluralismus. In der Gesamtschau aber vermögen diese – ggf. im Rahmen einer Folgeauflage zu berücksichtigenden – Aspekte den positiven Gesamteindruck nicht zu mindern.

Fazit: Ein in seinem didaktischen und konzeptionellen Zuschnitt überaus gelungenes, auf das inhaltlich Wesentliche konzentriertes Werk, das über die Vermittlung des examensrelevanten Pflichtstoffes hinaus auf die Schaffung von Systemverständnis angelegt und jedem Studierenden gerade zum Einstieg in die Materie nachdrücklich zu empfehlen ist.

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Tourme-Jouannet, Emmanuelle: What is a Fair International Society? International Law Between Development and Recognition. Oxford: Hart Publishing, 2013. ISBN 978-1-84946-430-7. 252 p. £ 30,- / **Qu'est-ce qu'une société internationale juste? Le droit international entre développement et reconnaissance.** Paris: Pedone, 2011. ISBN 978-2-233-00630-1. 306 p. € 38,-

Now available in English translation, this book by *Emmanuelle Tourme-Jouannet* takes up the French tradition of “droit du développement”, or law of development, and insightfully combines its teleological approach with critical legal studies from the Anglo-Saxon tradition.

For more than ten years now, *Tourme-Jouannet* has been publishing monographs and papers on the objectives, ideology, and development of international law. This book pursues this line of thought, confronting again the liberal and welfare dimensions of international law as did her prior monograph on “The Liberal Welfarist Law of Nations” (CUP 2012, in French “Le droit international libéral providence”, Bruylant 2011). Here again, she pairs her reconstructive agenda with due scepticism and considers the “dark sides” of the international project of justice. Going beyond the dominant discourse on human rights, her take is all the more significant as critical approaches (in the Anglo-Saxon sense) are still rare in the French-speaking international law discourse. The book thus plays an important role in bridging academic worlds, and its combination of approaches enriches both French and English-language discourse.

ZaöRV 74 (2014)

Tourme-Jouannet claims her methodology to be “a simple empirical observation of legal practices”, alongside a historical perspective. She demonstrates that the postcolonial and cold-war international society was (and is) marked by two cardinal injustices, identified in domestic societies by *Nancy Fraser* and *mutatis mutandis* observable at the international level: Economic inequalities between states that contradict their formal sovereign equality on the one hand; and a non-recognition of cultural and identity claims of stigmatised states, ethnic groups, minorities, indigenous peoples, and women, on the other hand. Hence the main argument is that the international society has developed two types of rules to address these injustices: development law and law of recognition. Both are described as still problematic but potentially vital for a more just, i.e. more equitable and decent international society.

The book is structured in two parts, respectively dedicated to development law and law of recognition (corresponding to the two international law “reactions” to global unfairness); their relationship is addressed at the end, as they are presented as intertwined but conceptually separate.

In the first part, *Tourme-Jouannet* analyses the notion of development in a broad sense, including human rights, social justice, and good governance. She traces the evolution of international rules, from the emergence of the notion after World War II and the impact of decolonisation to new redistributive models. The classical “droit du développement” undergoes a strong transformation with the New International Economic Order and its demise in the Washington consensus since in the 1980s, and now results in a so-called “new law of development” deeply linked to the neoliberal paradigm. Required to stabilise the whole system, this “new development law” is characterised by a greater attention to human and sustainable dimensions, implemented through the currently dominant ideas of “sustainable” development, and human rights based approaches. This narrative, common as it has become by now (see only *Philipp Dann*, *The Law of Development Cooperation*, 2013, p. 33 et seq.), nevertheless shows the virtue of a wide horizon and takes into account postcolonial criticism as well as third-world approaches to international law. According to *Tourme-Jouannet*, human rights effectively prevent the worst excesses of inhuman development projects, but fail to address unequal international economic structures embodied in international economic law, namely international trade law in its neoliberal form. As a solution, she suggests to (re)introduce “equity” as a general principle of economic law and a guiding principle for the International Monetary Fund, World Bank, and World Trade Organization. Equity does not mean full material equality, but should transcend formal equality (and mere

preferential treatment) in order to grant different states equal chances to take part in global economy.

The second part of the book is dedicated to the new international law of recognition. While development is about material aspects of justice, recognition relates to demands of “cultural” justice, i.e. immaterial aspects of equality linked to gender, language, history, culture, religion, or difference in general. It emerges from the post-cold-war awakening of new states, freed minorities and peoples, claiming to be recognised as “equal but different”. On a macro level, it has been expressed through the recognition of classical international law as discriminatory towards “non-civilised”. Decolonisation eventually realised formal equality of sovereign states, but the new international principle of recognition also applies to individual and collective rights: Indigenous peoples have been recognised by UN Declarations since 1997, minorities have been protected by the European Charter for regional and minority languages since 1992, and cultural diversity has been recognised as a legal principle by the respective UNESCO Convention from 2005. Subject to much controversy remains the manifestation of recognition in the form of reparation of historical wrongs. Should wrongs be repaired, even if they were legal at their time (as slavery, or colonialism)? Should reparation take symbolic forms? This may be risky, as it may conceal social and economic causes of the initial wrong. *Tourme-Jouannet* adequately elaborates on the difficulties to distinguish legitimate claims from fundamentalist extremes and harmful traditional practices, for instance. She also highlights how questions of recognition become subordinated to economic considerations, e.g. when it comes to the weak position of “cultural diversity” (to be recognised) in front of economic and power arguments. In the end, recognition entails the risk of inducing “voluntary submission” to an otherwise unjust legal order.

The interrelationship of “development law” and “law of recognition” is described at the end of the book. *Tourme-Jouannet* considers the two fields as overlapping, and international economic law appears as predominant, restricting positive effects of development law. The “dark sides” of recognition are paid their due, if only in passing, e.g. when it comes to problematic patterns of uniformisation that recognition processes impose on people who want to “play the legal game” in order to be recognised. The author makes her point by unifying her previous considerations and drawing a global picture of international law through the two poles of development and recognition, which appear as possible pillars for a fairer international society.

Given the critical posture *Tourme-Jouannet* takes in the previous parts of the book, one is left to wonder whether this skeptical analysis entirely sup-

ZaöRV 74 (2014)

ports her conclusion that development and recognition law can indeed be pillars for a fairer international society. Even when deployed as a duo at the end of the book, they do not emerge as strong enough to overcome challenges posed by the international economic order. The source of such optimism leaves room for further elaboration.

This is all the more so as some of *Tourme-Jouannet's* more hopeful points deserve at least some qualification. For one, her optimistic account of human rights does not engage with criticisms, such as the one that the inclusion of human rights into development in fact stifles their emancipatory potential (see e.g. *Sundhya Pahuja*, Rights as Regulation: Integrating Human Rights and Development, in: B. Morgan (ed.), *The Intersection of Rights and Regulation*, 2007, p. 167 et seq.). How can rights function within powerful development bureaucracies to prevent their excesses while at the same time empower the powerless against such agencies? Similar scepticism applies to the principle of equity. A Pious wish or wishful thinking, its postulation is certainly seducing but may lack realism – here it seems that the author partially left her initial empiricist position to take a posture that is not just critical and normative, but even idealist. How would a legal principle of equity come about? Scholarly reconstruction alone can hardly overcome the vested interests connected to the *status quo*, and the philosophical background of equity remains vague.

More generally, *Tourme-Jouannet's* treatment of equity points to a certain ambiguity in her register of analysis: She shifts from positivism to more normative or even prospective positions, and seems to bridge practice and theoretical discourse. This leaves, maybe inevitably, loose ends on both sides: For instance, the discussion of equity hardly engages with the nuances of the notions of justice, fairness, and equity, nor does it clearly conceptualise the relationship of general theories of justice to international law. While the interest of *Fraser's* works is indubitable, its transposition to international law deserves elaboration: Do her propositions on redistribution suit international development, which struggles to overcome redistributive perspectives? Is the switch from domestic analyses to a global level so direct and obvious?

Despite these criticisms the book remains a spirited resuscitation of French legal thinking on development and an important application of the critical method in this field. It synthesises a variety of approaches within one ambitious and committed, global project – a project that requires and deserves further elaboration.

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