

Berman's *Global Legal Pluralism* is a must read for anyone interested in the discussions on Global Governance. It builds on his earlier scholarship on legal pluralism,²² and provides a clear enunciation of the potential contribution of legal pluralism to debates about the fragmentation and unity of international law and influence of transnational law.

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Jeffrey L. Dunoff and Mark A. Pollack (eds). ***Interdisciplinary Perspectives on International Law and International Relations: The State of the Art***. Cambridge: Cambridge University Press, 2013. Pp. 696. £75. ISBN: 9781107020740.

While international law and political science disciplines were quite distant from one another for most of the past century, they have come closer to 'rediscovering' each other numerous times during the last two decades. The growing intersection between the two has been scrutinized, analysed, and promoted by many international law and international relations pioneers. The present collection brings together the leading scholars writing at the crossroads between the two disciplines to consider and reflect on the current state of interdisciplinary international law and international relations scholarship. The result is a book of high calibre that is not only essential, but also very delightful and enriching reading for scholars and students of international law and international relations.

The volume under review can be understood as a continuation of the dialogue between international law and international relations scholars that was first prompted by Kenneth Abbott's 'canonical' manifesto in 1989, and later convincingly reiterated by Anne-Marie Slaughter and Robert Keohane in the 1990s.¹ These prominent interdisciplinary pioneers argued that international lawyers and political scientists were not communicating enough across their professional divide, and suggested various frameworks for collaboration. This new collection of powerful essays edited by Pollack and Dunoff demonstrates how innovative and insightful those pioneering proposals were: overcoming the international law (IL) and international relations (IR) divide was indeed a very fruitful exercise, which led to the birth of what the authors in the present volume call the 'IL/IR scholarship'. The volume demonstrates that IL/IR scholarship has overcome the disciplinary divide and developed into a unified sub-discipline, where both lawyers and IR scholars adopt the same conceptual approaches, employ the same tools, use common references, and deploy similar language. The division between the two intellectual traditions has disappeared and become invisible in the (no longer so) new IL/IR cross-discipline.

The volume is divided into five main parts. The first part serves as the general introduction, the second provides theoretical overviews, and the remaining three parts focus on different

¹ See Abbott, 'Modern International Relations Theory: A Prospectus for International Lawyers', 14 *Yale J Int'l L* (1989) 335; Slaughter, 'International Law and International Relations Theory: A Dual Agenda', 87 *AJIL* (1993) 205, at 220; and Keohane, 'International Relations and International Law: Two Optics', 38 *Harvard Int'l LJ* (1997) 487.

²² Berman, 'Global Legal Pluralism', 80 *S California L Rev* (2007) 1155; Berman, 'The New Legal Pluralism', 5 *Annual Rev L & Social Science* (2010) 225; Berman, 'A Pluralist Approach to International Law', 32 *Yale J Int'l L* (2007) 301; Berman, 'Towards a Jurisprudence of Hybridity', *Utah L Rev* (2010) 11.

substantive aspects of international law: the making, interpretation, and enforcement of international law in the anarchical world of interdependent sovereign states. Together they provide an outstanding survey of the state of the art in interdisciplinary research on international law and tribunals, as well as an investigation into how we can build on earlier research to advance our understanding of international law-making.

Two essays in Part I introduce the origins of the interdisciplinary dialogue and set the agenda for future research. The first chapter, written by the editors themselves, provides a brief overview of IL/IR's emergence as a cross-disciplinary field and critically explores what they call 'terms of trade' between the two scholarly communities. They note that the unification of the IL and IR disciplinary traditions has been largely moving in one direction, with international lawyers 'importing' and 'adapting' theoretical frameworks and methodological guidance developed by IR scholars (at 4). This, the authors observe, has caused certain disciplinary tensions that are particularly stressed by some international lawyers, such as Jan Klabbers, who claims that there is a strong imbalance between the two disciplines in favour of IR.² Dunoff and Pollack argue that the tensions were largely caused by (1) different substantive theoretical approaches, (2) different epistemologies, and (3) different conceptions of law within the two scholarly communities (at 11–21).

Building on the one-sided 'terms of trade', Kenneth Abbot and Duncan Snidal in Chapter 2 claim that the time has come to reverse the prevalent imbalance between IL and IR and propose that scholars of the now unified sub-discipline 'engage more concretely with the practices of international law' (at 33). They argue that only by combining the rationalist IR approaches with the normative IL perspectives will the next generation of IL/IR scholars be able fully to comprehend the rich and nuanced interplay between law, legalization, and politics.

The causes of disagreement are considered positively by the authors as informing the potential challenges inherent in interdisciplinary work that are worth addressing and pursuing. While the authors admit to the pervasive imbalance between IL and IR disciplines and frame it as a factor that needs to be 'rectified' in future research, they leave open how exactly that should be done.

Part II of the volume focuses on theory and discussions of the role of international law in global politics. The four chapters in this section are structured in accordance with the main theoretical approaches to the study of international relations: institutionalism, liberalism, constructivism, and realism. Each author contends that his or her approach is indispensable to understanding the role of international law in global politics and that it will be even more important in the future. For example, Andrew Moravcsik in Chapter 4 on liberalism claims that 'international law will increasingly come to depend on the answers to questions that liberal theories pose' (at 83). Contributions here focus on defending specific approaches and implicitly highlight their respective intellectual superiority in the study of IL/IR rather than devoting attention to the overlap between those approaches and the potential added value of such overlap for interdisciplinary research. For example, in her chapter on institutionalism, Barbara Koremenos contends that 'the presumption in the institutionalist literature that international institutions matter made it amenable for connections to law scholars, much more so than the other paradigms in the field of IR' (at 60).

While the four IR approaches presented in Part II are theoretically mastered at a very high level and have all had a lot of influence on international law studies, their protagonists seem to be reluctant to engage in conceptual dialogue with each other. Whereas international *legal* scholars commonly rely on aspects of more than one theoretical perspective, this reluctance reflects the very strong theoretical boundaries prevalent in the IR community and indicates

² See, in particular, Klabbers, 'The Bridge Crack'd: A Critical Look at Interdisciplinary Relations', 23 *Int'l Relations* (2009) 119.

that these boundaries were also quietly 'imported' into the IL/IR sub-discipline. The prevalence of strong theoretical 'labelling' among IR scholars indeed could be called into question, as IR approaches are defined in such broad terms that each of them overlaps with the others to a considerable degree. Where, for example, does the realist perspective end and the liberal begin in the analysis of international law? If one admits that state power matters, as everyone is invited to do by Richard Steinberg in Chapter 6 on realism (it is impossible to argue that it does not!), does that scholar immediately become a 'realist'? Or does research that underlines the role of domestic interests need to be automatically labelled as 'liberal'? These questions have been puzzling the international law community, that is not traditionally trained in IR theories, for a long time and the volume does not answer them in a satisfactory way: it fails to convince that the different IR approaches are exclusive analytical frameworks that lead to different findings in the study of international law.

The collection continues with Part III on the making of international law, which covers inter-state, trans-governmental, as well as transnational modes of law-making. The seven contributions in this part constitute comprehensive guides through the academic landscape and existing research on law-making by international organizations, NGOs, regulatory networks, as well as the interactions of hard and soft law-making, flexibility, legitimacy, and the institutional proliferation in international affairs. Chapters 9–11 emphasize the increasing role in international affairs and law-making played by non-state actors. For instance, Peter Spiro in Chapter 9 argues that both IL and IR scholarship have under-theorized how NGOs utilize their power against and through international actors other than states. Chapters 12 and 13 focus on more general concerns related to the legitimacy and fragmentation of international law. For example, Kal Rautiala in Chapter 12 explores institutional density and potential inconsistencies arising in overlapping legal regimes and fragmented international legal order as well as different approaches to these issues adopted by international lawyers and political scientists.

Questions of economy, efficiency, and flexibility become crucial here as the requisite criteria to make a normative comparison between different types of rule-making and to assess which might be best suited to solve particular problems that states or other actors face. The answer is not necessarily treaty-based hard international law. As Shaffer and Pollack argue in Chapter 8, the answer might include many different alternatives. International law may not necessarily be the normatively most attractive option. It is rather to be regarded as one of several alternatives on the broader horizon. Interestingly, the closing Chapter 13 of this part, where Daniel Bodansky focuses on the legitimacy of international law, is about the only exception to the theoretical dominance of IR in IL/IR scholarship, as the question of legitimacy has sparked the IL community's interest in theoretical developments based on the concepts of global constitutionalism or global administrative law, among others.

Part IV puts under the microscope and closely scrutinizes social science research on the interpretation of international law and the role of international tribunals. The questions of how the creation of international courts and delegation of decision-making authority impact on international affairs and global politics are centre-stage in this part, which provides a very well-informed and up-to-date companion to existing research.

As noted by the contributor of the opening chapter in this section, Karen Alter, many areas of IL/IR have become increasingly 'judicialized' (at 345). Her essay aims to compensate for lack of attention traditionally given to courts as a group of actors rather than agents of law in IL scholarship. In Chapter 15, Barbara Koremenos and Tim Betz apply the rational design analytical framework to understand the design of international tribunals and argue that states deliberately include (or do not include) specific dispute settlement provisions as a design choice to address specific cooperative problems. While such an explanation may be plausible for issue areas without distributive conflicts among the most powerful states, the rational design project

fails to acknowledge that states may pursue their interests not only *collectively*, but that they also (and primarily) do so *individually* in pursuit of international mechanisms that reflect their own national preferences most.

In Chapter 18 Joost Pauwelyn and Manfred Elsig boldly extend the IL/IR scholarship on international courts that addresses the relationship between judicial behaviour and the interests of the states by analysing courts as deliberative, norm-driven enterprises. This line of research could be seen as an attempt to incorporate normative legal theories on treaty interpretation into IL/IR scholarship, and indeed should be welcome as an endeavour to make IL's conceptual contribution to cross-disciplinary works more visible.

Part V then invites the reader to take a closer look at the role of enforcement and compliance in the international legal order. Six contributions present different perspectives and normative approaches to the study of compliance as well as different mechanisms to promote it. As explained by Jana Von Stein in the opening of this section with her comprehensive overview of the compliance literature, essays here aim to go beyond the outdated questions of 'whether IL matters' and 'whether it is law at all', by focusing on how compliance with IL can be induced and what are the broader implications for world politics brought about by states' compliance with IL (at 477). The following essays consider several particular mechanisms as potential compliance inducers or non-compliance preventers: Alexander Thompson in Chapter 20 looks at military, economic, and diplomatic sanctions; Rachel Brewster concentrates on reputation in Chapter 21; and Joel Trachtman emphasizes in Chapter 22 the domestic political and legal processes as compliance inducers.

In addition to providing superb quality reviews of the existing research on these subjects, the authors add a layer of originality by developing their own distinctive models and arguments. For example, Brewster advances a counterintuitive narrative of how the inclusion of dispute settlement provisions might *reduce* rather than increase the reputational costs associated with non-compliance (at 538–540). In the same vein, Trachtman develops a novel model of compliance with IL based on causal impact of domestic voting and lobbying patterns (at 561–564).

Steven Ratner in Chapter 23 gives an overview of the analytical frameworks for compliance that range from the classic static theories, encompassing institutional and rational choice assumptions and promoted mainly by American IR scholars, to the Habermasian theories of persuasion and deliberation promoted by the German constructivist IR scholars. Moreover, Ratner builds on his experience with the International Committee of the Red Cross and constructs an innovative model for analysing the persuasive and rhetorical strategies available to international actors to promote compliance (at 577–583). Finally this part concludes with a provocative and insightful contribution by Lisa Martin, which challenges what Martin calls a mistaken focus on compliance rather than effectiveness as the object of IL/IR research. Martin claims that compliance is a legal concept that is rather 'ill-suited' for identifying causal effects, which is at the heart of social science research (at 591). It has to be noted that such insights are not very common among legal scholars themselves; and indeed bring certain new angles to the research agenda by challenging the normative value of certain well-accepted legal concepts that have been traditionally taken for granted by international lawyers. Whether Martin's criticism in fact amounts to something more than just playing around with different social science vocabularies and has practical implications remains to be seen.

The volume draws to a close with two concluding essays. First, Anne-Marie Slaughter goes 20 years back to the early 'canonical' call for interdisciplinary scholarship in her 'A Dual Agenda', and from there takes the reader on an IL/IR 'journey' to the present day. Slaughter discusses real life details and how the cooperation between scholars in IL and IR began: people, conferences, and events that raised momentum, as well as her own personal experience with IL/IR as an academic and US foreign policy official. Based on her government experience, which she discusses in some detail, Slaughter claims that if she had to revise 'A Dual Agenda' for the

next decade today she would focus much more on issues that traditionally fall within the domain of legal scholarship rather than IR. Namely, the future IL/IR agenda should focus on the three main areas: an entire new legal domain which she calls 'humanity law', 'public-private partnerships', and 'liberty and security in virtual space'. In all three areas, Slaughter claims, distinctive insights by the lawyers will be of paramount importance (at 618–622).

The volume's editors Dunoff and Pollack conclude the collection by summarizing what IL/IR scholarship has brought to light about the making, interpretation, and enforcement of international law. They discuss distinguished contributions in each area and finally sketch out the 'lacunae' and 'blind spots' that have so far been ignored by IL/IR scholarship but provide new challenging opportunities for future IL/IR research.

Taken together, the contributions in Dunoff and Pollack's volume provide an insightful overview of contemporary IL/IR scholarship and investigation into how this interdisciplinary research might advance our understanding of the role of international law in international relations.

While the whole volume itself has a certain positive tone to it about the very long 'way' that IL/IR research has come and the ever-faster growing number of exponents, one might critically ask if that is really the case. The book reflects frameworks and perspectives that are mainly developed and pursued in the USA (and, perhaps, Princeton, Duke, Michigan, and Arizona in particular). As explained by Slaughter, the contributors to this volume are mainly from the same group of American scholars who know each other and each other's work very well (see at 613). Thus, one might ask whether the interdisciplinary IL/IR research has indeed become so widespread in those last two decades or whether it is still an intellectual activity among a small circle of lawyers and mainly IR scholars.

It can hardly be a 'coincidence' that many contributors realized the 'missing part' of IL in the joint venture of IL/IR scholarship, and tried not only to hypothesize its potential benefits for the future agenda (like Abbott and Snidal in Chapter 2) but also incorporate certain real-life examples from contemporary political affairs (like Slaughter in Chapter 25) to support the case for stronger emphasis on IL in this joint intellectual enterprise. On the one hand this reflects the prevailing imbalance between the disciplines; on the other the problem is identified and ready to be 'rectified'. Let us see whether the future IL/IR agenda will be able to accomplish this task.

Another observation, perhaps related to the prominence of American IR scholars, is that most of the contributions put a lot of emphasis on the anarchic nature of international affairs and frequently adopt rational choice assumptions about the instrumental role of international law. This makes the volume similar to the earlier research projects on international law by the same legal scholars, such as the Dunoff and Trachtman edited *Ruling the World?*³ On a more general level, the emphasis on the *instrumental* nature of international law in world politics makes this book comparable to the works of Mark Mazower⁴ and John Ikenberry,⁵ who provided convincing narratives on the politics behind the expansion of international law during the past century. This collection of essays is at the centre of high-powered and forceful discussions about the effect that international law has on international affairs and on how international politics might impact on the international legal order.

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³ J.L. Dunoff and J. Trachtman (eds), *Ruling the World? Constitutionalism, International Law and Global Governance* (2012).

⁴ M. Mazower, *Governing the World: The History of an Idea* (2012).

⁵ G.J. Ikenberry, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order* (2011).