Buchbesprechungen

***Dunoff, Jeffrey L./Hakimi, Monica/Ratner, Steven R.*: International Law: Norms, Actors, Process: A Problem-Oriented Approach.** Burlington MA: Aspen Publishing, 6th edn. 2025. ISBN 979-8-8890-6281-3 (Connected eBook with Study Center + Hardcover). xxxi, 872 pp. US$ 313.95

1. Prominent international law cases in recent years involving (artificial) islands include the controversy surrounding the Chagos Archipelago and the dispute between China and the Philippines over the South China Sea. The two matters implicate distinct international legal regimes, including decolonisation and self-determination on the one hand and issues of the law of the sea on the other. A synthesis of these cases, which at first glance appear to have little in common, can be found in the first chapter of the sixth edition of the work by Jeffrey L. Dunoff, Monica Hakimi and Steven R. Ratner. The selection of these opening cases follows the book's stated objective, already signalled by its title: 'International Law: Norms, Actors, Process. A Problem-Oriented Approach'. The authors are highly regarded scholars whose reputation extends well beyond the United States (US).

In the foreword, they emphasise that the book is not centred on 'law as a set of detailed rules or doctrines', but on enabling readers – especially students – to understand the processes of 'making, interpretation, and application of international legal norms' (p. xxiii). In legal-realist terms, the focus is on 'law in action' (p. xxiii). Against this backdrop, the choice of the two introductory cases can be explained: They are characterised by decades of international legal disputes in which various actors ('not only states') raised claims under international law in different fora with reference to various 'international instruments' of 'varying degrees of legal authority' (p. 19).

The process-oriented framing of the two above-mentioned disputes – as well as the other 'problems' addressed throughout the book – is complemented by thorough contextualisation. With respect to the South China Sea, the chapter outlines the region's strategic and economic significance (including a map), the historical background of the dispute, relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS), and the arbitration between the Philippines and China before the Permanent Court of Arbitration (PCA); it also summarises third-State reactions to the 2016 award (pp. 4-10). The Chagos conflict is explained in a similarly multilayered manner, including a reprint of the relevant passages from the International Court of Justice's (ICJ) 2019 advisory opinion as well as a report in which Liseby Elysé (who is now well-known due to Philippe Sands' recent

book *The Last Colony*) describes the expulsion of the Chagossians from their homeland (pp. 10-19).

2. The landscape of international law teaching materials – textbooks and casebooks – is diverse.[1] Beyond basic differences such as length and language, a potential national or geographical orientation is another factor. While some books are used worldwide as reference works or for teaching purposes, many are primarily used within one jurisdiction or language community. Precisely for that reason, textbooks and casebooks are well suited for analysing national traditions in the understanding and teaching of international law – an approach often associated with the term 'comparative international law' as popularised by Anthea Roberts.[2]

National orientation may manifest itself in different ways: by addressing the relationship between international and domestic law within a given legal system; by highlighting a State's international legal practice; or by approaching international law in line with a particular scholarly tradition. In this context, two risks merit attention: disproportionate emphasis on domestic practice beyond what is necessary to explain domestic foreign relations law, and, at the extreme, the tendency to present domestic positions as if they were international law – a criticism sometimes directed at US international law scholarship.[3] The work under review avoids these pitfalls. With the exception of Part III, which addresses the relationship between international and domestic law in the US legal system, it adopts a decidedly international focus – both as concerns the choice of 'problems' addressed in the book as well as the domestic case law it draws upon. At the same time, its methodological approach – process orientation and 'law in action' – is characteristic of certain US approaches to international law, to which we will return.

A further distinction concerns the design of the work as either treatise/textbook on the one hand and casebook on the other hand (hybrid forms are conceivable).[4] Treatises and textbooks present a systematic account – treatises typically more comprehensive, textbooks more directly geared to teaching –,

1 See James Summers, 'Writing an International Law Textbook' in: Peter Hilpold and Giuseppe Nesi (eds), *Teaching International Law* (Brill 2023), 406-421 (409-413).

2 Anthea Roberts, *Is International Law International?* (Oxford University Press 2017); Anthea Roberts, Paul B. Stephan, Pierre-Hugues Verdier and Mila Versteeg (eds), *Comparative International Law* (Oxford University Press 2018); see also Robert Schütze and Mathias Siems (eds), *Comparative International Law. Foundations and Critique* (Hart 2026).

3 James Crawford, 'International Law as Discipline and Profession', *Proceedings of the ASIL Annual Meeting* 106 (2012), 471-486 (484): '[M]uch that passes for the study of international law in the United States academy is at best foreign relations law […].'

4 See Richard Dören, Business and Human Rights in den USA und in Deutschland (Nomos 2024), 60-62.

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whereas casebooks largely avoid a continuous presentation (of 'the law as it stands') in favour of the additional inclusion of excerpts from international and domestic decisions and other materials (including International Organisation/Non-Governmental Organisation [IO/NGO] documents and law review articles).[5] The present work belongs to the canon of US international law casebooks.[6]

3. The book is organised into six parts comprising fourteen chapters: Part I ('Introduction to International Law and Lawmaking'); Part II ('Participants in the International Legal Process'); Part III ('International Law and Domestic Law'); Part IV ('The Protection of Human Dignity'); Part V ('Interdependence and Integration: The Challenge of Collective Action Problems'); and Part VI ('Challenges to International Law'). Most chapters proceed from one or more real-world constellations – termed 'problems' – through which the respective topic is developed. Consistent with the book's approach, the aim is not a conclusive doctrinal survey of the relevant sources and rules, but to present a full account of the plurality of processes that constitute the issue.

Part II, treating 'traditional actors' (Chapter 3) and the participation of 'non-state actors' (NSAs) in international legal processes (Chapter 4), may illustrate this orientation. From a traditional standpoint, these chapters might be framed under the heading of 'subjects of international law'; unlike many textbooks, for example in Germany, however, the part does not begin with the doctrine of international legal subjecthood/personality. In that doctrinal framework, a distinction is commonly drawn between original and derivative subjects (persons) of international law. Yet the definition of subjects of international law as bearers of international legal rights and/or obligations, and the resulting classification of, for instance, private corporations as 'partial subjects of international law' (bearers of some rights and even less, if any, obligations), do not play a prominent role in the casebook under review.

By contrast, the introduction to Chapter 3 conceptualises the State as a 'participant in the legal process' (p. 97), thereby echoing former ICJ Judge – and renowned European representative of the New Haven School – Rosalyn Higgins' preference for 'participants' over the 'subjects/objects' dichotomy. In *Problems and Process* (1995), Higgins criticises that '[…] the whole notion of "subjects" and "objects"' has no credible reality and, in my view, no functional purpose. We have erected an intellectual prison of our own choos-

5 See Helge Dedek, 'Recht an der Universität: „Wissenschaftlichkeit" der Juristenausbildung in Nordamerika', JZ 64 (2009), 540-550 (547: 'Materialkompendien').

6 See generally David J. Bedermann, 'Recent Books on International Law', AJIL 98 (2004), 200-214 (209-211).

ing and then declared it to be an unalterable constraint.'[7] It would be, according to Higgins, more effective to focus on the flexible notion of 'participants'.[8]

Following this approach, the book only refers to (the concept of) subjects of international law or international legal personality in passing, for example when addressing the legal status of IOs (pp. 147 et seqq.) or, in the chapter on NSAs, in order to highlight the concept's limitations: with regard to NSAs, the book argues that '[t]raditional international lawyers and scholars rejected the notion that these actors could ever be true subjects of international law […]. This mythical construct never really corresponded to the way non-state actors and states interacted' (p. 179).

Whether the 'subjects' framework or a 'participants' lens is preferable remains contestable;[9] however, the book's flexible framing permits a wide range of issues to be examined from multiple angles without becoming arbitrary. Chapter 3, for instance, focuses on 'traditional actors' – States and IOs – and is divided into four sections. It analyses the emergence and collapse of States using the example of 'Catalonia's Secessionist Claims', the concept of State responsibility using the example of 'malicious cyber conduct', and the role of IOs as global actors, addressing the United Nations' (UN) handling of apartheid in South Africa and IO accountability with regard to 'sexual abuse by UN peacekeepers'.

4. Designed as a 'teaching tool' (p. xxiii), the book's primary objective is not to offer definitive answers to the issue in question. Instead, by combining introductory and summary texts by the authors with additional materials, it aims to stimulate reflection and prepare readers for the – Socratic – discussions that take place in law school. Accordingly, the book regularly includes 'notes and questions' addressed to readers, particularly students. Often using the 'law as it stands' as a springboard, these sections address various perspectives and viewpoints on international law and its use in practice; due to their scope, which goes far beyond positive law, they can also engage non-student readers.

Regarding the topic of business and human rights, for example, after referencing case law on the civil enforcement of human rights violations by corporations in various countries, the book asks whether the cited decisions imply corporate international legal obligations or whether liability (still) arises solely from domestic law. Furthermore – bearing in mind the many

7 Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford University Press 1995), 49.

8 Higgins (n. 7), 50.

9 See Roland Portmann, *Legal Personality in International Law* (Cambridge University Press 2010).

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facets of international legal practice –, it asks to what extent this distinction is of relevance for the legal counsel of a defendant corporation (e. g. Shell) or the respective human rights lawyers (p. 219). Chapter 5, devoted to US practice ('International Law in the Domestic Arena'), discusses the Alien Tort Statute, on the basis of which US courts for several decades have allowed human rights lawsuits brought by foreign plaintiffs with no connection to US territory (pp. 279 et seqq.). The accompanying 'questions' section invites readers not only to consider, among others, which international law principles might be invoked to support such proceedings, but also asks what 'interest' the US might have in such proceedings before US courts (p. 283).

5. One of the many strengths of this comprehensive volume, which are impossible to fully reference here, is its topical breadth. The book addresses Artificial Intelligence (AI) (pp. 416 et seqq.), the Covid-19 pandemic (pp. 836 et seqq.), climate change (pp. 632 et seqq.), the Israel-Gaza conflict (pp. 447 et seqq.) and the Russian aggression against Ukraine (pp. 340 et seqq., 728-729); there is hardly a topic that has preoccupied the world, and thus also international law, in recent years that is not covered.

The book also repeatedly addresses structural problems and challenges of the international legal order, such as postcolonial critiques and related North-South challenges. It gives particular importance to questions of 'compliance' and – increasingly pressing today – to allegations of 'double standards'.[10] Interestingly, the prohibition of the use of force and its violations by the military operations of Western States (thus) appears in the final part of the volume (Part VI), which is devoted to current *challenges* of international law. Once again, the questions raised are pertinent, for instance: To what extent do military operations by the US and other North Atlantic Treaty Organisation (NATO) States that violate international law (as discussed in the book – for example, the 2003 Iraq War) affect the credibility of Western States' condemnation of Russia's invasion of Ukraine (p. 729)?

Another strength of the book is its dense contextualisation of the addressed 'problems', including the incorporation of diverse materials such as maps and photographs. In the chapter on environmental law (Chapter 11), for example, the reader, in the part on international waters and disputes concerning the Nile, learns that only 2.5 per cent of all water on Earth is fresh water and that only a fraction of this is suitable for human use (only 0.007 per cent of all water on Earth, p. 593). The reproduction of a picture from the

10 See Anne Peters, 'The Double Effect of "Double Standards". Both Erosion and Strengthening of International Law', Verfassungsblog, 12 September 2025, doi: 10.59704/40f892bd65da8797.

Abu Ghraib prison in Iraq underscores that engagement with international law may entail confronting psychologically difficult matters (p. 482).

In the foreword to the volume, the authors state that 'only through an examination of international law's principal actors, methods of lawmaking, and key subjects can a student fully understand what it means to have law in a context that lacks a single legislature, executive, or judiciary' (p. xxiii). The book readily puts this approach into practice, focusing on processes, actors, and fora, as well as the (at times) interest-driven mobilisation of (international) legal argument. While this lens certainly prepares the reader for many facets of international legal practice, one may nevertheless gain the impression that international law appears, to a certain extent, to be contingent not just on context, but also on the absence of an internal logic that would compel a specific result. This understanding undoubtedly contains an element of truth: a sole, unreflective focus on *lex lata* (as a system of interrelated rules) may obscure reality. Nevertheless, particularly given the book's US context, one is inclined to ask: To what extent does such a framing (also) empower those totally denying (international) law's status as (binding) law and effectiveness or instrumentalising it opportunistically?

This, of course, draws attention back to the intention of the book: to prepare readers for discussions in law school. In international law courses at US law schools, countless international law professors expertly familiarise students with international law while promoting its values and preservation, as this reviewer experienced first-hand at the University of Michigan Law School with two of the book's authors, Steven Ratner and Monica Hakimi. The American Society of International Law repeatedly stresses its commitment to international law, most recently in its statement from January 2026 regarding the US's action in Venezuela.[11]

6. Examining national approaches to international law can – much as comparative law more generally – sharpen awareness of the contours and presuppositions of one's own legal perspective. This holds true for the present work: although aimed at US students, it can certainly also be engaging for European readers, not least because its questions invite reflection going far beyond positive law. Overall, it is an excellent new edition of a work that has, for good reason, long been regarded as the most widely used casebook on the subject in the US.[12]

11 See <https://www.asil.org/sites/default/files/pdfs/ASIL_2026_Venezuela.pdf>, last access 26 February 2026.

12 José E. Alvarez, 'Are Corporations "Subjects" of International Law?', Santa Clara Journal of International Law 9 (2011), 1-35 (5).

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Much as in the US, German-language international law scholarship can count itself fortunate to draw on a broad landscape of teaching materials, including works that are tailored to the case law of the ICJ and the Permanent Court of International Justice (PCIJ).[13] However, there is no prominent US-style casebook, even though the textbook by Peters/Petrig[14] formulates questions directed at its (student) readers which are to a certain extent similar to the ones in the book reviewed here; there are also no prominent works of this kind in constitutional law[15]. The combination of the doctrinal and systematic German approach to international law, which is still prevalent today for good reason, with contextualising and process-oriented considerations, as exemplified by the work discussed here, appears to be a valuable endeavour that has yet to be explored.

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13 See Wolff Heintschel von Heinegg, *Casebook Völkerrecht* (C. H. Beck 2005); Oliver Dörr, *Kompendium völkerrechtlicher Rechtsprechung* (2nd edn, Mohr Siebeck 2014).

14 Anne Peters and Anna Petrig, *Völkerrecht. Allgemeiner Teil* (7th edn 2026, on file with the author).

15 According to the foreword to the first edition, Ingo Richter and Gunnar Folke Schuppert, *Casebook Verfassungsrecht* (C. H. Beck 1987), is not a US style casebook. Instead, it provides a systematic presentation of German constitutional law alongside detailed reprints of decisions by the Federal Constitutional Court; this also applies to the current edition, see Christian Bumke and Andreas Voßkuhle, *Casebook Verfassungsrecht* (9th edn, Mohr Siebeck 2023).

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