

International Law; Jan Klabbers; Cambridge; Cambridge University

Press; 2013; xxv + 350; pbk, £29.99

Book Review

Carrie Fox

Jan Klabbers, Professor of International Law at Helsinki University, has contributed many articles on a variety of topics within the field of international legal studies. He has authored or edited over a dozen books (for a full list of his publications as of October 2012, see his university webpage at <http://www.helsinki.fi/eci/Staff/Klabbers.html>). *International Law* is his first general textbook.

The book is divided into three parts: 'The Structure of International Law'; 'The Substance of International Law', and 'The Surroundings of International Law'. The first two sections make up the bulk of the book and they are those one might expect to find in an International Law textbook, covering such content in the first section as the law of treaties, subjects of international law and international courts and tribunals, and in the second section, substantive topics such as the law of armed conflict and the law of the sea.

Part III, on the other hand, alerts the prospective reader that this textbook comes at international law from a different angle than most. Professor Klabbers has worked closely with Martti Koskenniemi, who is *inter alia* a Professor of International Law at Helsinki University. Klabbers subscribes to Koskenniemi's theory that international law is the 'continuation of politics' (see p. 13 of the textbook). The third section then is intended to describe the context of international law, and the idea that it 'does not exist in a vacuum' but is related to politics, ethics, global governance and national legal systems (see Preface, p. xxi). Though necessarily shorter than the other two sections

(the book is, after all, a textbook on international law) it includes reflections on all these topics and their relation to international law.

That the emphasis in this textbook is a bit different from the standard approach can be seen even in the first two sections. In Chapter 1 the reader is given 'The Setting of International Law' and introduced to the ideas that are discussed more thoroughly in Part III, as well as to Koskenniemi's theory concerning the structure of international law. This, in Klabbers' words, is the idea that international law is 'constantly in search of a compromise between the naturalist and the positivist traditions' (p. 13). Klabbers' substitution of 'naturalist and positivist traditions' for Koskenniemi's more nuanced 'ascending arguments based on concreteness' and 'descending arguments based on normativity' (see Koskenniemi *From Apology to Utopia: The Structure of International Legal Argument* reissue with new epilogue, CUP, 2005, chapter 1 *et seq*) is unfortunate as it appears to oversimplify Koskenniemi's thesis considerably. Despite this quibble, and the fact that this reviewer is not entirely convinced of the accuracy of Koskenniemi's theory, the different approach to the textbook does provide a much more accessible introduction to some of the theoretical disputes in international law than any other work to date.

Klabbers warns the reader that all he intends to provide is a framework to the rules of international law, rather than the rules themselves, and for the most part this approach is successful. Particularly where the topic is one that Klabbers has spent a fair amount of time discussing elsewhere, the reader finds certain areas of international law illuminated quickly in a way that previously took many hours of study to reach. Perhaps if this reviewer had had access to Klabbers' discussion on what is a treaty (Chapter 3) available to her three years ago, she would have found preparing for her international law exam a far less onerous task! In other places however, this approach does at times

risk confusing the student. For example, after discussing the sources of international law as embodied in Article 38 of the Statute of the International Court of Justice (ICJ) (Chapter 2), Klabbers then moves on to 'other possible sources'. This is essentially a discussion of soft law, but as he does not like that term (as he has explained elsewhere 'The Redundancy of Soft Law' (1996) 65 *NJIL* 167) he instead considers whether international law needs a new criterion for distinguishing between law and non-law. Or rather, he states that international law 'lacks a proper criterion' for doing such – a statement that in and of itself might be considered a bit controversial in some international law circles. He gives this discussion nearly as much space as he does his discussion on customary law a few pages earlier. A student new to the study of international law might not realise that s/he was now moving in the grounds of critical discussion rather than simply a 'framework' to the accepted rules, particularly if s/he was relying too heavily on the one textbook.

There are also points in the book where Klabbers' desire not to be simply reciting a list of rules and to split his text up into three neat parts means that he has included material in places where one would not normally expect to see it discussed. This also could lead to confusion on the part of the undergraduate. For example, in his chapter on the subjects of international law (Chapter 4), under his discussion of states as one of the main players in international law, he includes a subsection on the acquisition of territory. States' acquisition of territory, however, is not normally considered part of the discussion of their status as subjects of international law, and its placement in the section is jarring. Should acquisition of territory show up in an undergraduate essay on the subjects of international law, it is doubtful whether the marker of that essay would be too impressed.

Overall, this volume provides an interesting addition to the field of International Law textbooks. It offers a good introduction to the more theoretical approaches to international law, and is written in

an easily accessible style. The footnotes are abundant, and include references to works by authors from many countries and in several languages, far more than one finds in any other introductory textbook on international law. However, students using this book should note the fact that Klabbers' easy writing style does not mean that the ideas he is presenting are easy. They should probably heed Klabbers' own advice to be aware of the more thorough textbooks available (such as those suggested by Klabbers – Crawford, *Brownlie's Principles of Public International Law*, 8th edn, OUP, 2012; Evans (ed.), *International Law*, 3rd edn, OUP, 2010; Shaw, *International Law*, 6th edn, CUP, 2008), and that 'the interested reader could do worse than to pick one of these to read alongside the present book' (Preface, pp xx- xxi).

Undergraduates may be delighted to find such a slim textbook available, and it is, indeed, very instructive in places, but they should still be prepared to rely on more substantial textbooks in order to be sure they understand which parts of international law are reasonably settled and which are contested.

**Aberystwyth University Law and Criminology Student Journal (AULCSJ), 1st Edition
published online by the Department of Law and Criminology, Aberystwyth University on
behalf of the AULCSJ. August 2014. Article downloaded from
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criminology/informationforcurrentstudents/studentactivities/auslcj/](http://www.aber.ac.uk/en/law-criminology/informationforcurrentstudents/studentactivities/auslcj/)**