BOOK REVIEWS

Interdisciplinary Perspectives on International Law and International Relations: The State of the Art by Jeffrey Dunoff and Mark Pollack [Cambridge University Press, Cambridge, 2013, 969pp, IBSN 978-1-107-02074-0, £75.00 (h/bk)]

The fields of international law and international politics have discovered and rediscovered each other many times in the past several decades. The relationship between the two has been fought over, glossed over, and puzzled over, by generations of scholars. The present volume collects about 30 scholars who operate at the intersection between international law (IL) and international politics and gives them an opportunity to reflect on scholarship at the frontier. This list includes many of the leading voices active today and the quality of their essays is uniformly high. The authors are clearly speaking about material that they know very well, and the book is a pleasure to read.

The volume frames itself as part of a conversation that was sparked by Kenneth Abbott in 1989 and Anne-Marie Slaughter in 1993—indeed, new essays by these authors bookend this volume as well (Abbott with co-author Duncan Snidal). The earlier essays by Abbott and Slaughter presaged the current volume by noting the extent to which legal scholars and international relations (IR) scholars were studying many of the same phenomena but without adequately communicating across their professional divide. This was diagnosed as being caused in part by the use of different professional languages and in part by different conceptual starting points. Therefore, the pay-off to Abbott in 1989 and Slaughter in 1993 was to demonstrate the various fruitful ways that insights or concepts from one could be adopted by the other. The IL–IR relationship at the time was seen like an import–export business: the concepts or research methods familiar to one side could profitably be sent over to the other.

The new Dunoff and Pollack collection shows that Abbott and Slaughter were right about the benefits to be found from crossing this boundary. It documents the flourishing intellectual field that they call ‘IL/IR scholarship’. It also makes the case that this scholarship has moved beyond seeing the two as separate camps that are in conversation, and instead it shows a remarkably unified field of scholarship. This is demonstrated by the extent to which the lawyers and the political scientists in the book speak and write in a common language and cite common references. It is not evident from style or from substance whether a chapter was written by a lawyer or a social scientist. The distinction is increasingly unimportant.

The book begins with a set of essays that introduce the meta-debate about the place of international law in world politics. This is framed with categories that are borrowed from IR theory (and works somewhat against the theme of unification mentioned above). They consider the realist, liberal, constructivist, and institutional approaches. Each of these chapters makes a case that its approach has something essential to contribute to understanding law in world politics. These are interesting in themselves but the whole would be stronger if there were more occasions to bring them into conversation with each other. The chapters seem concerned with justifying their favoured approach, and with scoring points for the home team, but it is the overlap among them that is most provocative and this deserves more attention.

Consider the following: Richard Steinberg, in defining realism, says ‘state power . . . is central to realist theory and is its most distinctive feature’ (p 150); he concludes that one cannot get very far in understanding international affairs ‘without considering which states are powerful and what their interests may be’. Barbara Koremenos, in defining her version of ‘rational design’ institutionalism, begins from the premise that ‘states . . . are assumed to have an interest in cooperation’ (p 69) and thus ‘if states design international agreements purposively, the arising agreements should generate


state behavior and outcomes that match the predictions of rational design’ (p 66). Cooperation is by definition ‘valuable to both sides since otherwise there should not have been an agreement in the first place’ (p 71).

What Koremenos and Steinberg propose are very agreeable positions—indeed, perhaps too agreeable. It would be difficult to find a scholar of IR or of IL who disagreed with the claim that one must pay attention to which states are powerful, or that states approach international agreements in a ‘purposive’ way. These essays are looking to show that their favoured approach is important to the study of international law, but they are defined in such expansive terms that each encompasses the others. Where does one end and the next begin? This is a quandary that IL/IR imports directly from IR theory, where the conceptual foundations of the different approaches are not often clearly spelled out, but it could be done more carefully. Wider scope may be good marketing, but it begs the question of whether there really is any debate among the approaches, and if so what is at stake in it.

Steinberg ends with the observation that, given the importance of state power, ‘everybody is still a realist’ (p 167). This seems to me exactly right, if we define as ‘realist’ any research that is concerned with state power. Not much can be said about the world if one ignores state power. This leads to problems, however, when we apply the same thinking to the other chapters in the section: if we decide that any research that considers the domestic aggregation of interests is therefore ‘liberal’ (Moravcsik), and any research that notices that states strive for treaties that serve their interests is ‘rational-design’ or ‘institutionalist’, and any research that notices the importance of interaction and shared understandings is ‘constructivist’ (Brunnée and Toope), then almost everybody is very nearly all of these things. This is so because the alternatives to each are unreasonable: that state power doesn’t matter, that domestic constituencies don’t matter, that interests or ideas don’t matter. None of these is a coherent, respectable position for scholarship.

Steinberg goes the furthest in noticing this pattern, and his chapter is excellent. By acknowledging that every one can be a realist he implies that we are realists and equally we are the other things at the same time. In the spirit of eclectic theorizing for IR this seems very reasonable, but it leaves unanswered the more pressing questions: are these competing starting points for scholarship or not? Are there important implications of taking one rather than another? What is lost by taking one of these approaches rather than another (rather than what is gained)?

After the theoretical overviews, the bulk of the book consists of chapters that examine substantive questions at the law–politics boundary. These are organized into sections on law-making, courts and interpretation, and enforcement and compliance. These essays together constitute an excellent overview of the state of affairs in social science research on international law and courts.

The substantive essays put strong emphasis on scholarly literature, rather than on the practice or consequences or history of international law and politics. The chapters generally approach their task as charting and explaining the academic landscape, of explaining who has said what about international law and international politics and how this or is not useful or interesting. The chapters on reputation, persuasion, and legitimacy (Brewster, Ratner and Bodansky) give accounts of scholars who have made claims about the working or importance of these issues. There is more empirical material in the chapters on NGOs, international organizations, and flexibility, and in the several chapters on courts and tribunals (Spiro, Johnstone, Helfer, and Alter, Voeten, Conant, among others), but they are also best seen as guides to existing research—and for this they are very good.

These substantive chapters also share a general intellectual foundation on the idea of international anarchy—or, more exactly, in the idea of international law as the alternative to international anarchy. The essays reflect the mindset in which international cooperation, including hard- and soft-law-making between states, is seen a choice made necessary and desirable by the

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3 R Sil and PJ Katzenstein, Beyond Paradigms: Analytic Eclecticism in the Study of World Politics (Political Analysis) (Palgrave 2010).
problems that exist in an anarchic international system. This is implicit rather than explicit, as the concept of anarchy is mentioned only a handful of times, but it is pervasive. With anarchy as the background, one is encouraged to see the international system as a state of nature to which international law provides some much needed (and mutually beneficial) rules, order, and stability: law is here identified with order, and the absence of law/order is seen as a problem.

This gives the essays a very particular attitude toward international politics. It allows Koremenos to assume (as noted above) that the existence of an international treaty is decisive evidence that it must have been seen as mutually beneficial at the time of inception. It also underpins the US State Department’s grand strategy of building ‘an international order based upon rights and responsibilities’ (Slaughter, p 616). It provides the foundation for the normative commitment to international law as a more desirable mechanism for managing inter-state disputes than the available alternatives.

But this might also be posed as a question rather than taken by assumption: is law better than the alternative? Is this specific law better than the alternative? What is the alternative? Many of the essays cite approvingly John Ikenberry’s work on the development of the international legal-institutional order after World War II, and its reflection of US power and interests—but none of the essays take up the key issue that he raises: what is the difference between international law and American power? There clearly is a difference, otherwise there would be no appeal for states to organize their relations through law rather than in other ways.

A few of the essays point out that international law is not necessarily normatively good (Johnstone, Slaughter, and Steinberg are perhaps those most careful to avoid making this generalization) but these are exceptions to the overall theme which embraces international law as an answer to disorder, or to power politics. The book reflects the rationalist conviction that an international agreement is a unit of net benefit to the world, a benefit either because it solves a substantive problem or because it is Pareto-improving by definition.

This gives short shrift to the power and the politics behind international law. The book therefore might usefully be read (or assigned) alongside work that looks more historically at the development of the international rule of law as an organizing structure for international affairs. This might be John Ikenberry, or perhaps Mark Mazower or Sam Moyn, or Ruti Teitel, each of whom gives an account, however incomplete, of the politics behind the rise of international law through the twentieth century.

A world of interdependent sovereign states will necessarily give rise to international law. This will then necessarily be connected to international politics, both as input and as output: law serves to channel and shape politics, and power will channel and shape law. Isaiah Berlin said that ‘Politics [is] the art of living in a polis . . . it is intrinsic to living a successful human life.’4 The essays in this volume help document that this is equally true of inter-state life: sovereign states necessarily must engage in politics among themselves, and it is characteristic of our age that a good deal of this politics takes place in a legal frame. This book is firmly situated at the heart of very important and dynamic debates, and it will certainly help to shape those debates for a coming generation of scholars: what does the international legal system do to international politics, and what does international politics do to the international legal system? These are the key questions.

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