Five New Book Summaries

by Christopher M. Jackson

Global Norms with a Local Face: Rule of Law Promotion and Norm Translation, Lisbeth Zim-mermann, Cambridge UP, 2017

In *Global Norms with a Local Face: Rule of Law Promotion and Norm Translation*, Zimmer-mann sought to answer the question of how external rule of law promotion and local processes interact to "translate" global norms. The central purpose is to challenge the predominant exist-ing theories of norm socialization and localization and elucidate the interactive relationship between international institutions and local actors in promoting rule of law norms. While existing theories primarily address one-sided power dynamics in norm-diffusion, Zimmer-mann presented the process as two-way, in which feedback from local actors affects the norm "scripts" themselves. The author's main argument is that feedback loops between international and local actors cause external actors to become enmeshed in domestic discourse, frames, and political contestation. This in turn causes them to change their style of interaction and re-discuss norms jointly with domestic stakeholders.

To make this argument, the author considered three instances of international norm trans-lation in the case of Guatemala, a "paradigmatic post-conflict state." These types of norm translation are identified as complete rejection, reshaping through addition or omission, and full adoption as is. First, Zimmermann analyzed the process of translating international chil-dren's rights norms (Convention on the Rights of the Child) and found it was an interactive process that led to minor modification—though it remained within the bounds of UNICEF standards. For the convention to be adopted, UNICEF had to bring disparate political groups into dialogue, and frame it within the context of salient political issues at the time, namely security and family rights. Second, the author analyzed translation of global Access to Infor-mation (ATI) norms and found they underwent more substantial modification than the Con-vention on the Rights of the Child. The issue was polarized and received strong support from human rights and transitional justice groups but faced stiff opposition from the military and security establishment. Third, Zimmermann analyzed the translation of scripts on rule of law commissions and found it was a much more interactive process, given the low precision of the scripts. Furthermore, the trial-and-error type of approach to rule of law provided a highly interactive feedback loop to international stakeholders.

In sum, the author contended that this process is modeled in a feedback loop. Interna-tional actors initially press for full adoption. Such factors as the precision of norms, the style of interaction, and prevalent domestic frames determine how norms are modified or rejected. To conclude, Zimmerman argued that norm diffusion is best conceptualized as a process of appropriation, in which local preferences are paramount to adoption.

International Law as a Belief System, Jean D'Aspremont, Cambridge: Cambridge UP, 2018

In *International Law as a Belief System*, D'Aspremont sought to conceptualize international law and its practitioners as existing within a belief system in which fundamental doctrines and discourse define the community and reinforce its boundaries. The author identified three features of the international legal system that he contended form a belief system. First is ruleness, the idea that fundamental doctrines constitute dogmatic and system-wide rules. Sec-

ond is imaginary genealogy, a fictive history of the origins and development of fundamental doctrines derived from international instruments. Third is self-referentiality, explaining fundamental doctrines by using those doctrines. The combination of these three features creates the image of a composite order and validates behavior and sanctions for breach thereof. The argument put forth by the author is that these features constitute a belief system in which fundamental legal doctrines serve as a source of transcendental validation and reinforcement of the system.

To make the argument, D'Aspremont first considered the fundamental legal doctrines in international law. Though derived from a few international instruments, he posits that they serve as broader validation in legal practice, while also serving to constrain decisions. These fundamental doctrines, dominant in international law, do not naturally coalesce but rather are carefully orchestrated by practitioners. Jus Cogens serve as a justificatory space within the belief system, while customary international law links such orchestrated doctrines together. To conclude the book, the author invites practitioners of international law to unlearn their existing belief system and reimagine legal doctrines as based on actor interactions and processes not captured in the existing fundamental doctrines that define the system.

Grassroots Activism and the Evolution of Transitional Justice: the Families of the Disappeared, Iosif Kovras, Cambridge: Cambridge UP, 2017

In *Grassroots Activism and the Evolution of Transitional Justice: The Families of the Disappeared*, Kovras sought to answer the question of what role victims' groups and specifically families had in contributing to transitional justice norms and institutions. The narrative focuses specifically on the crime of enforced disappearance, which the author defined as the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state. The activation of transitional justice is conceptualized in three distinct phases. An early period, after a negotiated transition when security concerns and amnesties inhibit truth recovery. This is followed by a forensic phase in which recovery and identification of remains is the priority. The broader stage follows the forensic phase and includes criminal investigation of conditions and policies under which disappearances and atrocities occurred. The author argued that these phases are determined solely by the conditions of transition, which are political processes over which victims' groups and families have no control. Furthermore, the type of crime committed by a regime rarely influences the transition policies. However, organized victims' groups, existing prior to transition, can interact with favorable transition policies to trim amnesties, pressure forensic investigations, and judicialize truth-seeking, thus contributing the realization of a broader truth phase in justice.

To make his argument, the author employed a mixed methodology. A new qualitative database of disappearances and missing persons (DIMIDA), begun because of political violence since 1975, is introduced in the early chapters. However, the majority of the narrative is built upon five case studies. In the case of Argentina, the author identified the role of families, especially mothers and grandmothers that organized prior to the end of the dictatorship, as crucial agents of pressure for justice following the transition to democracy. In the case of Lebanon, families were less effective as a persistent fragile security situation and weak institutions marginalized opportunities for mobilization and justice. Cyprus provided a case in which security concerns and institutional silence were eventually overcome by changes in domestic leadership. In the case of South Africa, after transition from Apartheid to democracy, the ruling party had monopolized the problem of the missing, marginalizing the role of the family. The ANC decision not to pursue retributive justice and sacrifice justice for truth was unable to be challenged by individual families. Chile is a case in which the author described justice as "peeling the onion." A central role for judges and justice institutions in the forensic phase

translated into easy access for families and the judicialization of truth in the broader truth phase. In conclusion, the author contended that the broadening of the temporal and conceptual scope of transitional justice opens space for families and victims' groups to operate after the transition from the oppressive regime. However, the inherent tension between stability, legality, and morality affects both the type of transition and the opportunity to pressure for justice.

Humanity at Sea, Itamar Mann, New York: Cambridge UP, 2016

In *Humanity at Sea*, Mann conceptualized the refugee experience as a human rights encounter that challenged existing norms of sovereignty and social contracts. The author contended that refugees are privileged to the "rights of encounter." Those rights do not stem from inclusion in a political community or social contract but arise when individuals make demands in the name of their own humanity, pressing others to respond. This, he argued, creates a moral rather than legal duty for states responding to refugees. They are not bound by international law to rescue drowning strangers. However, there is a moral prescription to do so. Existing international law is based upon the norm of sovereignty by which refugees are not legally protected by authorities. Refugees thus seek to create a moral obligation for their addressees by appealing their conscience and implicating them in their own plight. Such a moral appeal for authorities is based on a normative desire to not collude in the claimants' killing.

To form his argument, Mann charted the human rights encounters of refugees in five cases. In the case of the *Exodus*, Jews departing post-war Europe for Palestine, the refugees appealed to authorities' normative obligations to not return them to Germany and also sought to make a positivist legal claim by establishing their own sovereign state and social contract. The case of the Southeast Asian "boat people" was one in which the claimants asserted their human rights through struggle, departing repressive states to create an obligation for other states to rescue them, thus granting them human rights. The following two cases, though, illustrate government attempts to avoid the human rights encounter by strictly invoking legal principle. In the case of Haitian refugees making for the U.S., authorities sought to avoid the encounter by intercepting them on the high seas and placing the legal onus on the claimants to demonstrate their status as refugees. More than 12,000 were returned to Haiti. In the case of Asian migrants trying to reach Australia, the Australian government sought to avoid encounters by ordering the coast guard to ignore refugee boats. The refugees, however, responded by engaging in self-harm and creating emergencies that fostered a moral humanitarian obligation for the Australian authorities. To finish the narrative the author presented the contemporary case of Libyan refugees attempting to reach Europe, in which legal and political discourse have begun to recognize the asymmetric relationship between claimants and authorities in the human rights encounter. In conclusion, the author calls for rethink of international refugee law, based not solely on sovereignty but on the question of how agents of the state should respond when faced with an unenforceable human rights encounter.

Electing Peace: From Civil Conflict to Political Participation, Aila M. Matanock, Cambridge: Cambridge UP, 2017

In *Electing Peace: from Civil Conflict to Political Participation*, Matanock presented an "External Engagement Theory" of post-conflict peace that challenges the types of commitment problems persistent in post-conflict literature. The central argument of the book is that external actors can minimize their commitment problem in post-conflict settings by including electoral participation provisions in the peace settlements. Electoral provisions for democratic competition, post-conflict, strains the external actors less to provide a prolonged armed presence and naturally facilitates enforcement. The coordination cycles of regular elections provide regular milestones for monitoring, benchmarks for compliance, and increase informa-

tion about the parties' preferences at moments of power distribution. Furthermore, this natural cycle provides a means by which external actors can mentor local counterparts and enforce best practices at a low cost and with a limited threat of resurgent conflict. The theory implies both more robust democracy and enduring peace in such settings.

To development the theory, the author first demonstrated a trend of increasing electoral participation provisions in peace agreements following the Cold War. Next, the author considered the causes of electoral participation provisions. Sufficient nonpartisan external engagement allows the parties in conflict to commit the agreement and positively correlates with the inclusion of electoral participation provisions. Inclusion of such provisions has increased post–Cold War, as interveners have lent more support and resources to democracy promotion rather than geopolitical security concerns. The outcomes the author identified are easier, lowered cost enforcement of agreements, and increased stability. Regular electoral processes reduce private information and provide a mechanism by which to easily sanction rule-breakers. In addressing stabilizing effects, the author rejected hypotheses that contend elections lead to instability. Instead, a stabilizing effect is demonstrated by which resurgent conflict is less likely and peace more durable. In conclusion, Matanock contended that external engagement theory and the inclusion of electoral participation provisions alleviates commitment problems, lowers the need for military invention, and increases the chance of post-conflict demo cratization and durable peace.