

BOOK REVIEW: ESTABLISHING NORMS IN A

KALEIDOSCOPIC WORLD

Hermine Van Coppenolle – PhD Candidate at the Ghent Institute for International and European Studies

Book citation: Brown Weiss, E. (2020). *Establishing Norms in a Kaleidoscopic World*: Brill | Nijhoff. €18.00 / \$25.00, paperback, also available as an e-book

‘A collection of law lectures in pocketbook form’. This catches the eye when opening Edith Brown Weiss’ book ‘Establishing Norms in a Kaleidoscopic World’. The line refers to the General course of International Law she taught in 2017 at The Hague Academy of International Law, bundled into a pocketbook in 2020. Over the course of two weeks and in 528 pages, Brown Weiss expertly combines the introduction and explanation of integral concepts of international public law, such as its sources and underlying theories, with various detailed case studies including the challenge of climate change and geoengineering, frontier technologies like cryptocurrency and gene editing or equity in supply chains. More of note, however, is the overarching framing of the book: that of the ‘kaleidoscopic world’ in the Anthropocene epoch, or a changing world with a multitude of actors and long-term challenges to the public commons. A framing that sees establishing norms as a foundation for international public law as one of the main answers. This perspective provides guidance in what would otherwise be an almost insurmountable challenge: explaining the whole of international public law in a succinct way.

The book has a sound structure, with the first five chapters laying the theoretical and legal foundation for the norm- and case-central chapters in the rest of the book. The argument forms a neat circle, with chapter one setting the scene. The development of international public law is sketched out, then the tension is introduced: we are made familiar with Brown Weiss’ ‘kaleidoscopic world’, one marred with rapid changes and inherent conflicts. The final chapter ties the book, but mostly Brown Weiss’ central argument, together pointing to additional tensions and threats to international law and restating the need for a norm-based legal order.

One of the strengths of this work is how Brown Weiss is able to unravel the intricacies of a concept or a topic, whilst still highlighting the approach befitting her greater argument. One of these examples can be found in the fourth chapter: ‘Commons and Public Goods’. She introduces the tragedy of the commons and offers four approaches to deal with it: to privatize and rely on sovereignty, to regulate through international

and legal instruments, to rely on market incentives or, finally, to co-operate and rely on voluntary measures and actions. The student gets to know the concepts, learns of the history of sovereignty, gets familiar with existing international agreements, prior uses of economic incentives and the dynamics of co-operation when dealing with the commons. This breakdown alone has value. But to the book's larger argument it is made clear that, in a fast-changing kaleidoscopic world, action needs a strong foundation, not short-term incentives or complex instruments. The conclusion then easily follows that this strong foundation is found in the all-encompassing nature of fundamental global norms. The construction of her argument, deftly interwoven with her teaching, makes the book a treat to read.

The framing of the challenges and nature of international public law from the perspective of the kaleidoscopic world is central to the book. This is not new to Brown Weiss, as she has already presented the concept at a conference in 2009 (Leary & Pisupati, 2010, p. 16), followed up by several publications (Brown Weiss, 2011, 2013). The main purpose of the kaleidoscope is to point out fundamental changes to the international system where a multitude of shifting coalitions of actors take the reigns, all with different interests and perspectives. In the book, different chapters highlight different challenges. Globalisation, the development of information technologies, increasing bottom-up empowerment faced with tightening top-down structures and the dispersion of risks, be it climate change, geoengineering or cyberattacks, to name a few. Other tensions are the bottom-up threat to the rule of law, totalitarian danger and the loss of privacy. The concept is operationalised differently depending on the topic at hand. This approach, though it fits the multifaceted nature of the kaleidoscope and allows for a good amount of flexibility, does muddle the concrete boundaries of the concept.

The fluidity of the kaleidoscopic world allows for a broad selection of cases to be interwoven with the legal norms she proposes. The norms put forth, those "that are fundamental to a just, peaceful and environmentally robust international system" (Brown Weiss, 2020, p. 145), remain consistent throughout the book. These norms are co-operation, avoidance of harm, human dignity, intergenerational equity and accountability. The book also identifies two emerging norms in the form of transparency and anti-corruption. The choice for these norms is clearly founded in Brown Weiss' attention for the commons and focus on the Anthropocene. Her connection of the complex kaleidoscopic world with its short term challenges with the Anthropocene and its long term impacts (aridification, climate change, etc.) is a valuable one and ties both her normative approach and her case selection together.

A critique regarding the construction of Brown Weiss' argument is that one main counterargument to her premise is not mentioned until the final chapter. Here, she identifies three threats to international law, one is the controversy surrounding the idea of universal values. As mentioned before, the need for a "normative foundation to international public law" (Brown Weiss, 2020, p. 63) is central to Brown Weiss' argument. As she points out in this important final section, some voices consider the Western nature of international law as undermining the possible universality of any norm coming out of that system. Though she offers some excellent alternative readings to support her position, treating this question earlier in the book as well as offering more time and space for those critical opinions, would have been of value to her greater argument.

Overall, this pocket-sized treatise of international public law does exactly what it sets out to do. Brown Weiss' approach to teaching international public law, was to focus on norms, on the foundation the international system should be built on. Overall, she argued for awareness of short term and long term threats to an ever-changing system, those risks inherent to the kaleidoscopic world that are undermining the universality of this foundation. Her appreciation of the Anthropocene and attention to the commons results in a valuable case selection for anyone interested in environmental politics, law or economics. The eye for detail and care in representing the wide variety of cases makes the book even more valuable. It is a great primer for some of the biggest ongoing (and upcoming) challenges and debates: much more than a collection of law lectures.

BIBLIOGRAPHY

Brown Weiss, E. (2011). International Law in a Kaleidoscopic World. *Asian Journal of International Law*, 1(1), 21-32. doi:10.1017/S2044251310000019

Brown Weiss, E. (2013). Rule of law for nature in a kaleidoscopic world. In C. Voigt (Ed.), *Rule of Law for Nature: New Dimensions and Ideas in Environmental Law* (pp. 27-45). Cambridge: Cambridge University Press.

Brown Weiss, E. (2020). *Establishing Norms in a Kaleidoscopic World*: Brill | Nijhoff.

Leary, D., & Pisupati, B. (2010). Introduction. In D. Leary & B. Pisupati (Eds.), *The future of international environmental law* (pp. 1-16). Tokyo: United Nations University Press.