

Impressions

With Impressions, as the name indicates, we wish to provide a forum for a more personal, historical-contextual approach to book reviewing. We have asked some of our older, possibly wiser, scholars of public international law to revisit a book which very much influenced their thinking, a book that indeed made a lasting impression on them. Rather than presenting a critical assessment of the book, our reviewers will offer personal reflections on the impact a book has had on their own thinking as well as its past and continued relevance for public international law scholarship.

We begin this series with Karl Doehring, former Director of the Max-Planck Institute of Public International Law and Comparative Public Law, writing on Georg Dahm's *Völkerrecht*.

Georg Dahm. *Völkerrecht*, 3 volumes. Stuttgart: Kohlhammer, 1958–1961.

The scientific work that impressed me most when I started to deal with Public International Law was Georg Dahm's *Völkerrecht*.

My first 'encounter' with Public International Law was during World War II when I was an army officer and was ordered to teach soldiers the fundamentals of the Geneva Conventions. I was no lawyer back then. Later on, during the long years of war imprisonment, I became the object of this precise subject matter myself. In the battle against the British army in Africa, humanitarian law was observed fairly well, apart from the fact that we were repatriated only three years after the cessation of hostilities. Only in partisan warfare were the laws of war frequently violated, even though it was precisely this form of combat that warring parties were meant to avoid.

During my law studies in Heidelberg (1949–1951), Public International Law was more or less immaterial. No experts were available to teach the subject. Only Walter Jelinek gave a short lecture, which concentrated, however, on the distinction between constitutional law and Public International Law. It was when I became a research assistant at the Max-Planck Institute for Public International Law in 1951 that I came into closer contact with Public International Law, which later was to make up the largest part of my academic activity.

At that time of my studies there was little profound literature available on the subject. This form of law was viewed as a combination of politics and jurisprudence. The so-called deniers of Public International Law did not want to acknowledge that international law could be the subject of an exact jurisprudence, and the relevance of doctrinal considerations first had to be proven. In the United States of America, as well, Public International Law was classed among the political sciences by many observers rather than as a subject of legal science.

In German academia, it was especially Georg Dahm who set higher standards in legal science with his work on Public International Law (1958–1961). This is not to say that older academics, such as Georg Jelinek, had not already achieved a lot. Robert von Mohl, too, had laid down doctrinal foundations in the 19th century. The establishment of a legal doctrine of Public International Law always suffered from doubts as to the legal character of international law. Whether Public International Law really was law was questioned due to the lack of a universal authority in terms of a world constitution, i.e., the lack of a centralized power. Georg Dahm addressed these objections in an unprecedented way. Self-commitment by states, recognition, natural law – which? – and many other concepts cannot be sustained as explanations for the normativity of Public International Law. In the end, empirical findings – the prevention of chaos, the pressure to survive, as well as jurisprudence of interests – explain the formation of an international legal order. When reading Georg Dahm's introduction to this conundrum one is presented with all the considerations and explanations that had thus far been undertaken. They are the key to legal thinking *per se*.

How careful the author was in his presentation of the body of international law becomes apparent, for example, in his treatment of the general principles of law as a source of Public International Law. A second example is his analysis of whether and to what extent the right to self-determination of peoples and nations entails a right to secession. Time and again it may be seen that this work is an exercise in stringent legal thinking, without disregarding the influence of international legal policy. Much has changed since the volumes were first published. The legal method applied in this work, however, should remain the basis of international legal studies. All researchers, and in particular junior researchers, who engage with Public International Law should be introduced to the work of Georg Dahm as an example of a rigorous method. Other textbooks, especially those from a Common Law context, have to be criticized in this respect. They frequently cling to practice, pragmatism, and the effectiveness of law, while neglecting the need to think in doctrinally clear terms.

Georg Dahm's publication deserved to be translated into other languages. Thus, it would have crucially enriched the development of Public International Law. A substantial advantage

of the work is the fact that it was written by one person only. There are no contradictions and it maintains consistency in style and in the use of legal concepts. Today's comprehensive publications on the subject of Public International Law are mostly prepared by a team of authors. Such collaborations often lead to divergences in fundamental questions in one and the same volume. Old thoughts are frequently presented as new ideas, when authors believe they have detected something that others had actually thought of before them. While Georg Dahm comprehensively viewed law as a unity, the edited volumes of today frequently make the reader feel lost as far as connections between chapters as well as the big picture are concerned. The reader himself has to do the work of detecting repetitions and making sense of contradictions.

The three volumes of *Völkerrecht* by Georg Dahm were the first comprehensive work on the subject of Public International Law published in Germany after the War. The author does not spend much time on theory, but he offers a subtle and concrete (in the best sense) examination of the existing law. He omits puzzling theoretical or legal policy considerations, which are often found in more recent publications. Georg Dahm chose a sublime middle course between Common Law literature on the one hand, which often seems to be case-oriented and driven by pragmatism, and continental European literature on the other hand, which mainly concentrated on considerations of theoretical problems. He integrated empiricism into theory and the practical case as a starting point was always integrated into the general perspective, thus providing a comprehensive picture of the legal order. It is this combination of inductive and deductive approaches that distinguishes this publication. It so closely links research and theory that the reader finds a synthesis of textbook and methodical construction. Only an expert also in national law – which has been the fundament of Public International Law since Roman Law – could generate such a publication. This is not to deprecate other comprehensive publications like those by Anzilotti, Verdross, Guggenheim, Kelsen, Oppenheim–Lauterpacht, and Rousseau, to name just a few, but at that time the general overview that Dahm's volumes provided was exceptional. It was at the same time a handbook, in the manner encouraged by Strupp, and an outstanding textbook.

The idea to publish a new edition was considered several times. However, this has not yet been achieved. The attempt by Delbrück and Wolfrum has not yet come to fruition. Whether they will succeed is not yet known. The *Encyclopaedia of Public International Law*, as a new edition of the dictionary by Strupp/Schlochauer, edited by Bernhardt and now by Wolfrum, remains a reference book, in which renowned authors take a stand on individual questions. It cannot, however, replace a comprehensive view on Public International Law. No encyclopaedia is able to make law comprehensible as a unitary legal order. Public International Law originated in national legal orders, the common basic principles of which merged. For this reason, Rabel once told me that only those who fully understood the formation and development of a national legal order should be dealing with Public International Law. In respect thereof, Dahm's volumes marked a new beginning after World War II. Even today I would advise every legal novice to read these three volumes thoroughly. Unfortunately, Dahm did not treat the laws of war. In any case, his work inspired me to comprehend Public International Law as a legal order. The subject matters of Public International Law are changing, but the method of understanding it remains the same.

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