seamless presentation of interview material, which conveys its findings with balance and clarity.

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Charalampos Giannakopoulos. ***Manifestations of Coherence and Investor-State Arbitration***. Cambridge: Cambridge University Press, 2022. Pp. 356. £85.00. ISBN: 9781009153850.

Legal systems are built upon abstract concepts that are notoriously difficult to generally define. It is unsurprising that some of the most cutting-edge issues in law and policy-making hark back to fundamental questions that zero in on the meaning of justice and fairness. As a result, legal studies traditionally oscillate between general theories in law, on the one hand, and understanding their real-life manifestations, on the other. Coherence is one such concept. It is a pervasive ideal in law and beyond. It is an intuitive, innate foundation upon which our personal and societal structures are built. We recognize it when we see it, and we protest its absence. Yet it eludes a precise definition. We recognize it by its shadow – or, when we are too close to it, by its constituent parts. We see and note its patterns, we identify its manifestations, and contend that it is somehow there. A conceptual dark matter, an omnipresent fabric woven across the legal universe, which can only be observed indirectly through its effects on material (in this case, judicial) structures.

Charalampos Giannakopoulos, with his book *Manifestations of Coherence and Investor-State Arbitration*, gives us an informed, informative and well-grounded account of the many faces of this elusive concept. In his words, the core question of the book is to understand how 'considerations of coherence manifest in international adjudication and in [investor-state dispute settlement (ISDS)] in particular', buttressed by inquiries into the content of coherence, its relation to legal reasoning, its role in legal interpretation (in particular, the law of treaties and analogical adjudicatory processes) as well as the 'moral and ethical dispositions' of arbitrators (at 8).

Giannakopoulos is all too aware of the limitations, conundrums and possible pitfalls one faces when engaging concepts such as coherence. He begins by arguing that we take coherence for granted, possibly because we assume it comes to us naturally. The book sets the scene by elaborating on the differences between coherence, on the one hand, and adjacent concepts such as consistency, correctness and comprehensiveness, on the other. This distinction is instrumental to the subsequent inquiry, as conflation of these terms renders our understanding of coherence 'incomplete' (at 5). He also contends that our current understanding misses the many nuances etched into the fabric of coherence because, most of the time, we adopt a top-down, monolithic

perspective of it. This is not only true for different regimes within international law but also for international investment law as a specific domain (at 6).

He contrasts this top-down approach with a bottom-up approach, the latter of which successfully drives the narrative of his analysis until the end. However, his engagement with the former is rather limited and begs further elaboration. He justifies his preference of not using this top-down approach by the fact that international investment law does not stem from a singular regulatory legislative will, which is of course true. However, resting this justification on the existence of a single legislative will runs the risk of oversimplification. The notion of a 'single legislative will' makes one think of domestic legal framework and legislation almost instinctively, but a top-down view of this ostensibly singular structure might be less monolithic than he seems to assume. How singular is this will, really, for states where governments change, and potentially significantly diverge, in how this legislative will manifests? Perhaps ironically, this ebb and flow in domestic legal systems remains one of the primary contexts of foreign investor claims – there are many situations where a political party replaces another and undoes that which had been done by its predecessor. This nexus is important, particularly because the chief consequence of this bottom-up approach is that it focuses almost entirely on how international adjudicators and arbitrators deal with the notion of coherence in ISDS. The positioning of these two approaches as seemingly antithetical, as opposed to complementary, is possibly one of the main aspects of the book that leaves the reader wanting.

Giannakopoulos initially deals with the content of the concept of coherence through what the concept does not include. While he acknowledges that consistency, correctness and comprehensiveness are in one way or another associated with coherence, none are needed for coherence to exist. He notes, for example, that 'the existence of some inconsistencies does not necessarily mean that the whole is incoherent because of them' (at 21). Presuming that local or sporadic inconsistency is not an obstacle to coherence (and I agree with this statement), this is not to say that an inconsistent whole can nonetheless be coherent. In this case, to reach the conclusion that consistency is not necessary or important for coherence, one would have to demonstrate that inconsistent decisions, and only inconsistent decisions themselves, are nonetheless coherent within themselves.

Giannakopoulos' analysis of correctness, and, particularly, the thoughtful dissection of its determinative character, is difficult to disagree with. As he points out, legal argumentation, distilled to its essence, is 'a matter of degree and calling for judgment' (at 24). While one can certainly talk about manifest errors of law (a determination that largely depends on the degree of specificity and interpretative breadth one can afford to its reading), investment law is (in)famous for its broadly worded, ambiguous rules and obligations that have spurred decades-long debates as to their meaning: despite countless scholarly works on the subject, for example, it is difficult to argue that one singular correct reading of the 'fair and equitable treatment' exists. One may even argue that, if the language of the law falls below a certain benchmark of specificity, it becomes difficult to talk about 'correctness' – one may talk about plausibility

or 'consistency' *vis-à-vis* earlier readings of the provision, but correctness, in addition to being a subjective contention, asserts a certain degree of confidence in that conclusion.

Like consistency, noting that one or several incorrect decisions do not supersede the coherence of a legal system is not the same as arguing that a system that only produces incorrect decisions can be coherent. The former does not show with certainty that no causality exists between correctness and coherence. To detach the causality between what we may perceive as coherence and correctness, one would arguably have to demonstrate that, even where correctness is absent altogether, coherence can nonetheless exist. The second issue is, again, the subjective nature of 'correctness'. A legal argument or decision may be perceived as correct and incorrect at the same time – just as two individuals may perceive the same legal argumentation or legal system as coherent and incoherent simultaneously. For example, Giannakopoulos gives an example where an adjudicator may reach a 'morally correct decision which everyone would agree that the law ought to provide, yet do so through contradictory reasoning' (at 26). As moral correctness is also a determinative assessment, moral judgments are rarely accepted by everybody. As such, one can spontaneously argue that the decision is incorrect and incoherent and that the former causes the latter. Finally, while it is difficult to establish a definitive causality between the two, it is equally difficult to claim that they are causally detached.

As for comprehensiveness, which Giannakopoulos (rightfully) links to predictability, the practical consequence is legal certainty – indeed, a comprehensive system, defined as 'free of gaps' and able to 'supply an answer to each and every question that may be raised' (at 26). This definition, of course, does not mean that the answers available to every legal question will be correct or consistent in the way that they are defined. It can thus be argued that comprehensiveness is primarily (but not exclusively) a value of mass, rather than readily providing any appraisal of its constituent parts in terms of their normative, moral or legal value.

His conclusion, which posits that the existence of comprehensiveness improves the chances of coherence and vice versa (at 27), already takes the relationship between comprehensiveness and coherence beyond what would be the case if the relationship were merely correlational. If one element plays a role in augmenting the value of the other element, one can plausibly argue that there is at least some causation. His justification of the absence of causation focuses on the fact that neither guarantees the other: this is, without a doubt, an important observation, but a guaranteed outcome is not the exclusive (yet, admittedly, the strongest) form of causation.

Ultimately, the analysis insightfully demonstrates that the abovementioned concepts are not synonymous with coherence. This is of course demonstrably true. However, it does not establish how they holistically interact with coherence, nor does it explore the degrees of causality among them. For example (and readily accepting that all three are criterial, rather than interpretative, concepts), can coherence still exist where none of them are present? Demonstrating that their individual presence or absence is not necessary for coherence does not automatically lead to the conclusion

that it can exist in their collective, total absence. The argument deals with all three individually, yet not collectively.

Another key contention of the book is that coherence is a dual concept with substantive as well as methodological dimensions. In drawing parallels between coherence and legal reasoning, Giannakopoulos observes that, first, legal reasoning is a process of practical reasoning and deliberation as opposed to one that seeks to 'discover truth in the same sense as when forming an opinion about the way things are' (at 36). He further argues that legal reasoning, due to this practical nature, exhibits some features that are like coherence. For example, he contends that 'coherence describes a situation where a series of elements are linked together, mutually support each other, and express a unified viewpoint' (at 57). In addition, it is maintained that legal reasoning must contain not only a dimension of plausibility but also of logic – an emphasis on how the desirable ends must be bolstered by the chosen course of action, forming a unified viewpoint. Finally, he asserts that legal reasoning must be purposive (at 58). It is from these features and subsequent utilities these features offer that coherence sustains a dual role (substantive and methodological) (at 61).

Whereas Chapter 2 eloquently explains certain shared features between coherence and legal reasoning, it is in Chapter 3 that Giannakopoulos endeavours to show how coherence actually applies to legal reasoning. A key argument here is that two models of coherence can be devised. According to the so-called double coherence model, adjudicators can engage with a positivist analysis in easier cases where legal norms do not beget a multifaceted analysis on morality. It is only in the so-called hard cases that the adjudicator would have to complement its legal reasoning with morality. The single coherence model, favoured by the author, argues that considerations relating to law and morality guide the adjudicator throughout, without a distinction between what may be deemed as an easy or a hard case.

While the discussion mostly concerns the nature and content of law, the chapter is not clear on why this discussion is inherently linked to the role of coherence or, rather, why coherence as the notion thus far constructed in the book is essential to the methods discussed and developed here. When read in conjunction with the preceding chapters, the parallels and similarities in features are clear, but the toolkit and features argued for in earlier chapters do not clearly denote why the legal reasoning depicted in Chapter 3 warrants the dichotomy to be one of single and double coherence and not, for example, simply the role and interaction of law and morality.

Chapter 4 contextualizes coherence within the framework of treaty interpretation. Two primary sources of interpretation – namely the Vienna Convention on the Law of Treaties (VCLT)[1] and the use of analogies – are examined from the perspective of coherence. A clear linkage between the VCLT's framework and what one might expect from this framework from a coherence perspective is made from the outset, as Giannakopoulos notes that 'properly applying the VCLT rule means constructing a coherent narrative of contextual/interpretative assumptions, supported by relevant formal arguments provided by the VCLT, in order to reach and justify a normative

[1] Vienna Convention on the Law of Treaties 1969, 1115 UNTS 331.

outcome' (at 96). This is a navigational framework for the rest of the chapter and, indeed, for the entire book. It not only succinctly explains what coherence is but also clarifies how its purposive character manifests itself in practice. This is useful for several reasons. First, building upon the theoretical framework of the first three chapters, using the VCLT as a benchmark to concretize the theory shows readers how coherence actually functions. Second, it also demonstrates why coherence is the driving force behind international adjudication as the antecedent element *vis-à-vis* adjacent notions of consistency, correctness and comprehensiveness. The argument boils down to the suggestion that, instead of adapting a sharp schism between textualism and intentionalism, the two must be converged and blended into a coherent, contextualized interpretative method where both ends play their part. This understanding in fact captures a contained coherence embedded in individual cases.

Chapter 5 is exceptional scholarly work in and of itself, seamlessly showing how analogical reasoning informs and misinforms arbitral tribunals in their efforts to 'import' principles and methods from ostensibly adjacent legal domains into international investment law. It is informed, informative and well argued – a full circle from end to finish. However, as a part of a monograph, composed of chapters that bring together a full picture of how coherence manifests in investment arbitration, the chapter rarely ever refers to 'coherence', the central concept of the book. As such, expecting the notion of coherence to be at the forefront, many conceptual question marks are left hanging. In its conclusion, Giannakopoulos draws some parallels between the analogical method, on the one hand, and features of coherence, on the other (such as the latter's 'web-like' structure as opposed to a linear one); however, these parallels or similarities do not sufficiently establish that the analysis is of coherence on a methodological or substantive level.

For example, Giannakopoulos accurately identifies problematic analogies, most of them suffering from insufficient explanation (or a complete lack thereof) as to why the tribunals (or the dissenting arbitrators) reach a particular conclusion. For example, in the *United Parcel Service of America v. Canada* case,[2] the dissenting arbitrator, who substantially benefited from analogies drawing from World Trade Organization (WTO) case law, does not demonstrate 'why one should have constructed the non-discrimination obligations of North American Free Trade Agreement (NAFTA)'s Chapter 11[3] in the same way as they are constructed in the WTO context' (at 180). In another example, namely *Kim v. Uzbekistan*,[4] Giannakopoulos argues that the proportionality test developed by the tribunal, whereby the weighing of the severity of the illegality relating to an investment's establishment against the bilateral investment treaty's objective of protect foreign investment, 'resulted in incoherence of roles between the (national) legislative and the (international) judicial function' (at 203). Giannakopoulos further observes that 'the tribunal's approach … prejudiced certain substantive questions already at the jurisdictional stage of the case' (at 205). Beyond

[2] ICSID, *United Parcel Service of America Inc. v. Government of Canada*, ICSID Case no. UNCT/02/1.
[3] North American Free Trade Agreement 1992, 32 ILM 289, 309 (1993).
[4] ICSID, *Vladislav Kim and Others v. Republic of Uzbekistan*, ICSID Case no. ARB/13/6.

the accurate identification of clear errors of legal reasoning demonstrated by the tribunals, the book does not clarify why these are instances of incoherence and not, for example, of sheer incorrectness.

Chapters 6 and 7 masterfully incorporate adjudicatory reflexivity into the book's overall narrative and augment its argumentative strength. By reflexivity, adjudicators reconstruct the contracting parties' intentions into narratives, framing the contours of legal questions. Contextualizing, distinguishing relevant from irrelevant details and pondering one's institutional role when deciding a dispute are all activities that imply reflection (at 208). Giannakopoulos' examination of coherence from the perspective of reflective reasoning in Chapter 6 engages more directly and convincingly with the concept of coherence than preceding sections, where he draws structural parallels between different strata of the decision-making and adjudicatory processes, on the one hand, and coherence, on the other. Here, the author clearly demonstrates why coherence is part and parcel of reflective reasoning.

This is not incidental, as he clearly submits that 'reflective equilibrium as technique bears strong similarities with the content of coherence as interdependence, mutual supportiveness, and a web of propositions coming under a set of ordering values and principles' (at 225). He also expressly notes that 'reflexivity and coherence are conceptually linked notions' (at 225). His analysis in Chapter 6 goes far beyond establishing a linkage between coherence and reflective reasoning, however, and this is where this chapter distinguishes itself from some of the preceding chapters. By directly linking legal reasoning with reflective reasoning, Giannakopoulos argues that, since legal reasoning must be reflective, it must therefore be coherent. In a sense, this pathway establishes, and complements, the book's earlier contention that legal reasoning must be coherent. It completes the void between legal reasoning and coherence as it serves as an epistemic and methodological bridge that simultaneously serves as a link of causality.

Chapter 7 is, in its essence, about collective reflexivity. In Giannakopoulos' words, collective reflexivity is a way to 'bridge individually held views that often come into competition or conflict' (at 252). He further posits that 'judicial moral responsibility is a necessary component of an entire arbitral panel's search for collective reflexivity, and consequently, it is also closely related with this book's overall thesis on the dual role that coherence plays in legal reasoning' (at 266). The analysis under Chapter 7 complements and bolsters the argument made in Chapter 6.

This chapter champions the idea that collective reflexivity is tied to the acknowledgement of moral responsibility. This is a question of great import. However, it is not clear as to why this moral contextualization is only relevant for collective reflexivity (at 253). From the point where Giannakopoulos begins his discussion on arbitrator moral responsibility and judicial virtues, the focus of the argument becomes somewhat muddled. Having positioned moral responsibility as the gateway to collective reflexivity, the book suddenly shifts back to individual reflections and, more specifically, to its moral manifestations. This is perfectly fine, of course; however, it is placed somewhat confusingly. Chapters 6 and 7 could instead focus more directly on individual and collective reflexivity respectively, embedding moral responsibility both as an individual and collective endeavour in each chapter.

The book concludes with a coda that demonstrates how the dual role of coherence plays out in the context of the much-debated ISDS reform process under the auspices

of the UN Commission on International Trade Law's (UNCITRAL) Working Group III. The coda catches this parallel between the dual role of coherence and the two sides of possible ISDS reform: procedure and substance. Indeed, one persistent criticism of the ISDS reform process has been that it has been lopsided, ignoring to a very large extent the substantive issues that have been arguably just as important as, if not more important than, the procedural shortcomings perceived to exist in the system.

One thing that the coda emphasizes, which is surprisingly lacking in the book overall, is the role of treaty-making and, more broadly, systemic coherence in investor–state dispute settlement. The coda emphasizes that, from a substantive point of view, clearer principles might bolster systemic coherence. The book, on the other hand, focuses almost entirely on adjudicatory behaviour and processes – how arbitral tribunals interpret and apply the substantive principles rather than how these principles are designed and drafted. This directly relates to the express choice of focusing on a bottom-up approach on coherence at the expense of a top-down one. Coherence imminently manifests itself in overarching structural reform efforts. While UNCITRAL may not reflect a singular regulatory legislative will, it certainly serves as a stark example of how the so-called top-down and bottom-up perspectives are complementary.

Overall, *Manifestations of Coherence* is a brilliant piece of scholarship. By the end of the book, the reader will have learned a great deal about coherence and its role in international law, in general, and international investment law, in particular. Primarily through its reflexivity analysis, Giannakopoulos shows a plausible and practicable way of how coherence can be weaved into legal reasoning. It is exceptionally well researched, rife with relevant and accurate case studies that accurately make the points they are tasked to make. For this reason alone, this book is a sorely needed contribution to the scholarship on the theory of international investment law, as well as on coherence in general, as its conclusions are pervasive throughout international adjudication beyond investment arbitration. It will certainly provide valuable guidance to arbitrators, counsel as well as policy and treaty makers active in the field.

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Sophie Rigney. ***Fairness and Rights in International Criminal Procedure***. Edinburgh: Edinburgh University Press, 2022. Pp. 256. £24.99. ISBN: 9781474466318.

International criminal law has been subject to a plethora of publications over the last 20 years. These have ranged from euphoria to disillusionment and back, from granular detailed analysis to international criminal law's sense and sensibilities.[1] Within this context, Sophie Rigney's book on fairness and rights in international criminal procedure examines the concept of fairness in international criminal proceedings and

[1] See, e.g., Tallgren, 'The Sensibility and Sense of International Criminal Law', 13 *European Journal of International Law* (2002) 561.