History and Theory of International Law. *Chinese Contemporary Perspectives on International Law: History, Culture and International Law (Pocketbooks of The Hague Academy of International Law)* by Hanqin XUE. Leiden/ Boston: Brill/Nijhoff, 2012. 288 pp. Softcover: €15.00.

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Book Reviews

History and Theory of International Law

Chinese Contemporary Perspectives on International Law: History, Culture and International Law (Pocketbooks of The Hague Academy of International Law)
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This book provides an overview of China's engagement with international law over the sixty-year period since the founding of the People's Republic of China in 1949. Written as a series of lectures for the Hague Academy of International Law by Judge Xue Hanqin, currently serving on the International Court of Justice, the book continues work begun twenty-one years earlier in a special Hague Academy course by Xue's mentor, scholar Wang Tieya.[1] His course traced the history of the relationship between China and international law from ancient times, highlighting the impact of unequal treaties imposed by the colonial powers on China's attitude towards international law. In this spirit, Xue provides a study of the perspective of China on international law as an example of "how international law operates in [a] specific political, economic and social context" (p. 16).

Chapter 1 outlines China's attitude towards international law from 1949 to 1979, which Xue describes as informed by "two distinct features: critical rejection and positive construction" (p. 22). She notes that, like other Third World countries that oppose imperialist and colonialist rules and principles of international law, China has never rejected international law itself. Indeed, the People's Republic endorsed the purposes and principles of the UN Charter from the moment of its founding, along with the importance of the sovereign equality of all states. The chapter explores in depth how China's approach to the recognition of states has been deeply informed by the "Taiwan issue" (p. 41). Chapter 1 concludes with a brief discussion of the past thirty years of "dramatic changes" in China, beginning from 1978 (p. 54). These include the "remarkable" economic transformation that has "lifted more than 200 million Chinese people out of poverty," (p. 54) as well as the settling of territorial disputes, such as Hong Kong.

Chapter 2 revisits topics relating to the basic structure of international law that were discussed in Wang's Hague lectures. Xue first highlights the continuing importance for China's approach to international law of the inviolability of sovereignty and the principle of non-interference. Sovereignty is "a claim about the way in which how different political and social systems, different forms of civilization and culture should correlate and treat each other in international relations" (p. 95). For China, these principles and the idea of nationhood remain important, notwithstanding the influence of natural law in international human rights, environmental, criminal, and humanitarian law.

Chapter 3 takes up the topic of human rights as both an objective for social progress and a long process. Xue highlights the progress that China has made with specific reference to developments in constitutional, administrative, and criminal law. These illustrate "a gradual, progressive and evolving process, concomitant with the legal construction and socioeconomic development of the country" (p. 147). She emphasizes the need to consider human rights from a Chinese perspective, notably the importance of the right to development, and the belief that collective and communal interests may at times prevail over those of the individual.

1. WANG Tieya, "International Law in China: Historical and Contemporary Perspectives" (1990) *Recueil des cours*, 221, 195–369.

In Chapter 4, the evolution of environmental legislation in China is presented within the context of the challenge of rapid economic development. From a Chinese perspective, the international law of sustainable development is inextricably linked to the right to development, and the need to address the "inequality and underdevelopment of the present generation", a prerequisite to generational equity (p. 198). Actions on climate change should thus accord with the principle of common but differentiated responsibilities, and account should be taken of historical emissions by industrialized countries. Xue is explicit: "the pursuit of sustainable development should serve as the guiding principle for international actions on climate change" (p. 203).

The fifth and final chapter illuminates China's engagement with multilateralism and regional co-operation. Excluded from the United Nations prior to 1971, China was subsequently very selective about the international organizations with which it would engage, preferring those with technical, social, and cultural objectives that were less sensitive politically. Following China's adoption of economic reforms, China ratified and acceded to many international treaties, and quickly joined all major UN institutions from human rights to nuclear non-proliferation to trade. It also greatly increased regional co-operation, including with ASEAN and the Shanghai Co-operation Organisation.

In a brief conclusion, Xue reminds the reader of the dramatic change in China's approach and engagement with international law over sixty years. Despite this, China has remained deeply committed to the principles of sovereign equality, territorial integrity, and non-interference. To fully appreciate this stance, and thus the Chinese perspective on international law, requires an understanding of history, and of political, economic, and social context. This book makes an important contribution to this project.

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How Interpretation Makes International Law: On Semantic Change and Normative Twists
by Ingo VENZKE.
Oxford: Oxford University Press, 2012, xvii + 313 pp. Hardcover: £74.00.
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Identifying the nature and source of international law is an important aspect of international adjudication. The traditional place to look for the sources of international law is the Statute of the International Court of Justice Article 38(1). Against the static, textual, and statist understandings of the sources of law, Venzke moots for a departure to locate the sources in the practice of international institutions (IIs) and courts and tribunals (ICTs). The author posits the view that practice and not just the text alone have to bear the burden of the international law-making process (p. 4). For Venzke, legal interpretation contributes to creating what ICTs find. Large crops of old and new ICTs stabilize normative expectations by the semantic struggle between text and actors where an effort is made to wrest control over meaning and acquire legitimacy. In this semantic battle, legal normativity is partially relocated from sources to practice (p. 6), i.e. from text to action. In such ways, the book concerns itself with the authority of international institutions.

To make his case Venzke studies two international institutions: the United Nations High Commissioner for Refugees (UNHCR) (in Chapter III) and the World Trade Organization (WTO) (in Chapter IV). The UNHCR has been chosen to study the making of refugee law by interpretation (pp. 72–130). He finds that international bureaucracy within the milieu of UNHCR has functioned as "technical rationality" (p. 83). Venzke concludes that the UNHCR makes international refugee law by "communicative action", a term borrowed from Habermas. The study of the WTO is centred mostly on GATT Article XX and the role of precedents. All in all, an effort has been made to link the adjudication power of IIs with their authority and legitimacy. The question remains whether, by extending the web of legality through the use of precedents, the WTO squeezes politics, of which it is a product, from the mercantile narrative of global trade law (pp. 167–72). Venzke finds that the WTO