

Carola Canelo Figueroa. (2014). *Derecho procesal internacional*. Editorial Jurídica de Chile. ISBN 978-956-10-2310-9

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The goal of the work reviewed here is to summarize the evolution of International Procedural Law in Chile to contribute to the development of this important discipline in other states and in the international community as a whole.

We begin with the importance of the judicial matter that the work addresses, *International Law*, because it should be emphasized that this legal discipline dates back to the origins of humanity itself given that there has been a need to understand relations among peoples since the beginning of the human race, although in ancient times one could not speak of an international community. Nevertheless, there has always been the need to attend to relations among peoples and the multiple consequences and problems they produce. That is, when a community said, "This is us, and these are the limits of our territory", and there were other peoples "foolish" enough to believe them, the need appeared to study and analyze how to find the best solutions for these intercommunity relations because, strictly speaking, borders have been detrimental to humanity.

History has demonstrated the need for, and as a consequence, the creation of rules for understanding between primitive human groups. Agreements between communities in antiquity were written on clay tablets or on different monuments. Their contents addressed matters of borders, alliances, and peace agreements, which were formalized through religious acts or oaths. Among these agreements, one can find the "Eannatum, King of Lagash in Mesopotamia and Umma in 3100 BCE" treaty in which the inviolability of borders stands out as the most important point. Beginning in this period, the notions of asylum, extradition, diplomatic missions, regulation of war and peace, and trade relations arise. Also of note are agreements and arrangements regarding International Law in legal codes documents that have had and continue to have a major impact on human development, such as the Law Code of Manu, the Code of Hammurabi, the Bible, agreements between the Egyptians and the Hittites, the documents of Islam, Christianity during the Crusades, and others.

In the formal sense, doctrine attributes the birth of International Law to the beginning of nation-states, which are attributed sovereignty under their domestic laws. The time frame for this occurrence is between the sixteenth and seventeenth centuries; the treaties of Westphalia of 1648, in particular, establish a founding precedent. International relations in that period are characterized by their integration into a balance of power framework, with limited rules of engagement. During this stage of humanity, the center of international relations is located in Europe, whose countries compete for the conquest and colonization of other continents, including Africa, America, and Oceania. The treaties of Westphalia constitute the basis of International Public Law and constitute the basis of modern international society to a large degree.

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The evolution of International Law adopted a distinctive tone after World War II. To the extent that the horrors of the regimes that unleashed this war began to appear, the idea began to develop among the participating states that protection of human rights had ceased to be only a domestic matter subject to the free will of states and had now become an authentic matter of International Law.

For José Carlos Bartolomé Senzano, "the authoritarian regimes of the first half of the twentieth century and the Second World War that they authored clearly demonstrated the need to take a further step in the recognition and guaranteeing of fundamental rights" (Bartolomé Senzano, 2003). In effect, it was necessary to recognize and protect human rights in a truly universal setting and thus to strengthen International Law. In the same sense, J. H. Burgers states that the horrors of the Second World War are not the only factor, although perhaps the most important one behind this process of international enshrining of human rights (Burgers, 1992: p. 448). It is clear that, as a consequence of the devastating world war of the third and fourth decades of the twentieth century, a broad-based movement began for the recognition and defense of human rights in the international sphere, which generated a renewed impetus for International Law.

At present, International Law has been constructed as the most likely basis for consolidating and reinforcing the balance of power in the international community, that is, to moderate or rectify the free interplay of power relations. Thus, learning and teaching about this topic is important. In the contemporary world, strict state borders have been weakened, and they have become zones of interaction between international and domestic law, thus transforming traditional conceptions of sovereignty. Thus, the phenomenon of the rapid evolution of the boundaries of domestic law in a progressively interconnected, increasingly international and pluralistic universe has occurred. In some cases, this development can even be described as the global rule of law. Some authors describe this situation by referring to it as a new global legal order (Cassese, 2005: pp. 663-694) and suggesting that this new reality requires a global rule of law (Palombella, 2009: pp. 442-467).

The most common position regarding the doctrine resides in this perspective, contending an evolution of international law and stating that the concept of sovereignty is now superseded; hence, the significance that international law has acquired with respect to constitutional law. In this regard, Giovanni Biaggini states the following:

Since the end of the Second World War, international law has reached a substantial increase in importance as it solves present problems, a majority of which are not limited by national borders... Sovereignty in the classic sense no longer applies to *jus* constitutional states that are internationally linked in different ways (Biaggini, 2003: pp. 43-75).

Indeed, International Law is of capital importance for promoting economic and social development, as well as for international peace and security. Many of the treaties sponsored by the United Nations constitute the regulatory basis governing relations between nations. Although attention is not always paid to it, the work of the United Nations in these matters has an impact on the everyday life of the population of the entire planet. Over the years, the United Nations has supported broad multilateral agreements regarding a broad range of questions of common interest to states, agreements that are binding for the states that ratify them.

Given the importance of the subjects included in the specific area of International Procedural Law, this recognition of International Law is reflected in the work of Professor Figueroa. The author structures the contents of the book around four thematic axes, which are integrated into their respective chapters, regarding: the rules of international legal jurisdiction; the application of foreign law; international legal cooperation; and some considerations regarding International Procedural Law in the digital age.

In the first part, Figueroa explains the rules of international jurisdiction of the Chilean state, reviewing the legal framework of the country and emphasizing the lack of a regulatory framework for these matters. Nevertheless, the author affirms that there is an exceptional case for the extraterritorial application of its powers established in the organic code of Chilean courts. The author explains the internal rules of jurisdiction in civil and criminal matters, rules of international jurisdiction in civil and commercial cases, the arbitration of international jurisdiction, the rules of jurisdiction in criminal cases, and immunities regarding jurisdiction and enforcement. In a final point included in this first thematic axis, the author includes an explanation regarding the rules of international jurisdiction for the European Union.

In the second part of the work, a specific topic of great relevance to International Procedural Law is addressed, that is, the application of foreign laws. In this part, there is a systematic treatment of subtopics regarding the legal nature of foreign law, the recourse of appeal, extradition, and the broad issue of proof when enforcing foreign laws. Making creative contributions, the author explains how, under Chilean legislation, the doctrine has largely held that foreign legislation is a "fact", based on article 411 of the code of civil procedures of the country. This is because, as she states, only facts are proven, meaning that it is thus possible to prove foreign law through the testimony of experts and that, therefore, it is necessarily a fact both in its contents and in its validity. Nevertheless, the author proceeds to offer her opinion that it is possible to prove foreign laws not only because they are factual but also because there is no fictional or assumed knowledge on the part of local judges with regard to those foreign laws, thus allowing for parties to justify their text, validity, and meaning through the certification of experts. The author concludes in this part that regardless of the source of the means of evidence, foreign law continues to be law, as the local judge must ultimately interpret and possibly apply it as law and not as facts.

In the third thematic axis of the work presented here, the author analyzes an extremely important matter in International Law: the matter of international legal cooperation. Here, she presents the Chilean system of legal cooperation with regard to civil and criminal matters. The author provides a detailed explanation of the procedure for the execution of letters rogatory in this country based on domestic regulations and international treaties. In this part, Figueroa recommends reforming the regulations that govern international warrants in Chile. She proposes that the model to follow is the European model of cooperation because it establishes a more comprehensive and flexible procedure that includes criteria for harmonization. She proposes for Chile that the road should be that of regulatory reform. In addition, she writes that public authorities must be convinced of the need to recognize the rights of the Chilean community within an international perspective and, thus, with a degree of certainty in the case of controversies in the international arena.

In the final part of this third thematic axis on international legal cooperation, she proceeds to explain the advanced system of the European Union on these matters. It is

explained that the best manifestation of international legal cooperation is that of the European Union, which, by simplifying its procedures, provides justice that is more expedited, opportune, and borderless. She states that the basis of this cooperation is that the European Union was conceived as a zone or space of freedom, justice, and security, that this region recognizes the right of each individual to move from one country to another, to freely conduct business, actions, and legal actions, including those of the family in any of the member states and that this necessitates that the Union provide people with security.

Figuroa, in highlighting the benefits of the European system of international legal cooperation, emphasizes the importance of foreseeing which court will have jurisdiction in the case of conflicts, what law will be applicable, and the recognition on the part of states obliged to cooperate for a justice beyond borders that does not hinder the exercise of individual rights.

To conclude, in the fourth part of the book being reviewed, there are certain thoughts regarding the use of computer science under the title *International Procedural Law in the Digital Age*. The author notes the importance of moving forward in the use of electronic media in procedures for judicial assistance applied through international cooperation, as well as for supporting the negotiation, signing, and ratification of international treaties.

To conclude, it is important to note how carefully the work is edited, including the aesthetics of the graphic design of its cover, its typography, and editorial quality. The work is illustrated with interesting doctrine and jurisprudence, and it constitutes a key scholarly contribution for lawyers, legislators, judges, academics, and students.

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