Book Review

Eugenia López-Jacoiste Díaz

El Banco Mundial, el Fondo Monetario Internacional y los Derechos Humanos


El Banco Mundial, el Fondo Monetario Internacional y los Derechos Humanos by Prof. Dr Eugenia López-Jacoiste Díaz analyses the interrelationship between the World Bank (WB) and the International Monetary Fund (IMF) and their human rights obligations. In the time that this book has been in print, it has become a compulsory reference for all with a commitment to accountability in the international legal and economic order. As a work of legal scholarship, it is a model of jurisprudential virtue. As a work of public advocacy, it is sure to have a policy impact. As a work of academic narrative, it is a joy to read and learn from. In every respect, the book is original, significant, and rigorous. Coming from Professor López-Jacoiste Díaz, an expert in the governance of the United Nations System (see her earlier, prize-winning monograph, Actualidad del Consejo de Seguridad de las Naciones Unidas: La legalidad de sus decisiones y el problema de su control), that is hardly a surprise.

The book is original. It is original because so very few commentators have dealt with the interrelationship between international financial institutions and international human rights in the way that the author has. I do not with this claim seek to discredit the work of Alston, Bradlow, Clapham, Darrow, McBeth, McCorquodale, Skogly, and, of course, Shihata. Indeed, their work sets the doctrinal foundation for any research project on global governance and the author rightly refers to these commentators. Nevertheless, except perhaps for Darrow’s ten-year-old monograph on this topic, their work does not have the depth and width that this book has. The book is wide in scope because it is a survey of the response of international financial institutions to developments in the international law of human rights. The book is deep, too, because the survey has the WB and the IMF as its case studies and the International Covenant on Economic, Cultural and Social Rights as its main regulatory concern. The scope of the book, therefore, is original. Its approach is equally original. The author, a legal
scholar at the prestigious University of Navarra (with, what is for many, the best law school in Spain), takes a continental approach, deliberately so, refreshingly so. Except for the work of one or two research groups in The Netherlands (the Limburg Principles are a notable initiative), European academics have shied away from this topic area. The author comprehensively and convincingly fills the gap in the literature in Europe and, most specifically, in Spain, where the literature offers little more than the occasional works of Bermejo and Fernández Liesa.

The book is significant. It is significant because the author presents readers with a powerful proposition the performance of international human rights obligations is no longer the exclusive competence of the nation state; it is a shared competence with the WB, the IMF and the various other international financial institutions. Yes, the Universal Declaration of Human Rights recognises the dignity of the person. And, yes, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Cultural and Social Rights codify the rights and freedoms of the person. Ultimately, though, those rights and freedoms, that essential claim to human dignity, come into conflict with the economics of the profit motive. Advances in unified communications and air travel in combination with the endless liberalisation of trade and investment have globalised the international political economy. The end result is that human rights along with all the other public goods that we so often take for granted are now interdependent and so, as Petersmann proposes, they need multilevel governance, international financial institutions included, or risk their loss. This transitional-cum-transnational process is not without tension.

The author valiantly acknowledges that tension. There is a tension between those who argue that the work of the WB and the IMF should accord with the international law of human rights, the principle of environmental sustainability and the fight against corruption and those who argue that the work of the WB and the IMF should be free of any such considerations, since international human rights obligations are not among the provisions that comprise their Articles of Agreement and suchlike constituent treaties. To explain that tension, the author puts three questions to readers. First, what are the international human rights obligations that affect the WB and the IMF and that may be relevant to the performance of their lending functions? Secondly, are the policies and programmes of the WB and the IMF compatible with their international human rights obligations? Thirdly, what accountability mechanisms are available to curb human rights violations by the WB and the IMF and what legal responsibilities do such violations create?

In answer to these questions, the author divides the book into two parts. Part I states the law as it is. It does so over two chapters. Chapter I critically