

## Jan Klabbers

*Advanced Introduction to the Law of International Organizations* (Edward Elgar, Cheltenham, 2016).

Jan Klabbers' *Advanced Introduction to the Law of International Organizations* covers a lot of ground in scarcely more than a hundred pages. It offers a comprehensive and accessible account of how international organizations operate, how the international legal system does (and does not) regulate them, and how their member states control them (or fail to do so). Importantly, the picture that Klabbers presents isn't static. He explains how international organizations have evolved over time—as have efforts to govern them. And he argues convincingly that the law and practice of international organizations must evolve still further to address mounting concerns about their lack of accountability, especially to individuals who are directly affected, and in some cases seriously harmed, by those organizations.

The *Advanced Introduction* is perfectly targeted to students, practitioners, and scholars who are familiar with the basics of international law and who seek to better understand the power and promise of international organizations as well as the risks that they pose. Given the pervasiveness of international organizations and the manifold roles they play in the international legal system, international lawyers can hardly avoid becoming familiar with at least one or two such organizations. Klabbers' book supplies readers with the bigger picture, allowing them to better understand the universe of such organizations and the law that governs them. In other words, there is a sizeable audience that would profit from reading Klabbers' *Advanced Introduction*. It is worth noting, too, that Klabbers' lucid prose and vivid explanations ensure that it's a pleasure to do so.<sup>1</sup>

To frame his discussion, Klabbers draws on a pair of articles published in the *European Journal of International Law*.<sup>2</sup> These articles reconstruct and then critique what he calls 'the theory of functionalism'—a theory that, in his view, dominates international organizations law and scholarship. According

1 To take just one example, try not to smile when reading Klabbers' description of the accountability problems that redelegations can create: "[I]f John orders his son to get him a soda from the fridge, the son delegates the task to his sister, who in turn delegates it to a cousin, who in turn delegates it to a friend who happens to be in the same place, then who should John blame (or thank) if instead of a soda, he is eventually brought a beer?" (p. 76).

2 Jan Klabbers, 'The EJIL Foreword: The Transformation of International Organizations Law' (2015) 26 *European Journal of International Law* p. 9 ('EJIL Foreword'); Jan Klabbers, 'The Emergence of Functionalism in International Institutional Law: Colonial Inspirations' (2014) 24 *European Journal of International Law* p. 645 ('Emergence').

to Klabbers, almost everyone who thinks about or deals with international organizations is a functionalist—perhaps even without being aware of it.<sup>3</sup> This includes scholars and practitioners, as well as some social scientists.<sup>4</sup> And yet, Klabbers tells us, no one has explicitly set out and defended the tenets of functionalism.<sup>5</sup>

So what exactly is functionalism? And what work does the theory of functionalism do? At the outset, Klabbers suggests that functionalism rests on a particular conception of what international organizations are. He explains that functionalists “all have adhered to the basic insight that international organizations are functional entities, set up to perform specific tasks for the greater good of mankind and, as such, in need of legal protection.”<sup>6</sup> Thus, “the law should facilitate and stimulate” international organizations and generally help them to advance the purposes for which they were created (pp. 3, 113). The claim is both descriptive and normative. As a descriptive matter, functionalism delineates the core attributes of international organizations. As a normative matter, functionalism explains why the law ought to protect and nurture them. Because Klabbers traces this view back to the turn of the twentieth century and the first scholars to systematically address international organizations, I’ll refer to this as the “early-scholar strand” of functionalism.<sup>7</sup>

Elsewhere, Klabbers has described functionalism differently, as “essentially a principal-agent theory, with a collective principal (the member states) assigning one or more specific tasks—functions—to their agent.”<sup>8</sup> Thinking about international organizations in this way, Klabbers explains, has two “important and immediate (and somewhat contradictory) ramifications.”<sup>9</sup> First, “the agent is likely to have some discretion and autonomy.”<sup>10</sup> Second, Klabbers says, “[i]f the agent misbehaves or does something wrong, the principal can be

3 EJIL Foreword, *supra* note 2, p. 22: “Almost all international organizations lawyers have been, and are, functionalists, even if they might not realize it themselves.”

4 *Ibid.*, p. 15.

5 *Ibid.*, p. 10.

6 *Ibid.*, p. 11.

7 Klabbers traces to Paul Reinsch the conception of international organizations as being set up to “perform specific functions,” “technical and non-political” and “a force for good”—specifically, the “global common good”: *Advanced Introduction*, p. 3.

8 EJIL Foreword, *supra* note 2, p. 10; *see also ibid.* pp. 24–26: “The basic idea behind functionalism is that states delegate functions to entities that they create for this purpose: international organizations. International organizations are usually considered to be the agents acting on behalf of a principal, and functionalism is no exception.”

9 *Ibid.*, p. 25.

10 *Ibid.*