Philippa Webb


It has been a very long time since the creation of the Permanent Court of International Justice (PCIJ) in 1922, an era where there were just a few international bodies. Since then, a proliferation of international courts and case law has been witnessed. In 2006, Koskenniemi's Report of the Study Group on Fragmentation of the International Law Commission (ILC) pointed out one of the main conclusions regarding this proliferation, as follows:

“[…] the emergence of conflicting rules and overlapping legal regimes will undoubtedly create problems of coordination at the international level. But […] International law will need to operate within an area where the demands of coherence and reasonable pluralism will point in different directions. In order for it to do this successfully, increasing attention will have to be given to the collision of norms and regimes and the rules, methods and techniques for dealing with such collisions” (emphasis added).1

The topic addressed by the ILC Study Group focuses on the relationship between regimes of rules rather than relations between international courts. Philippa Webb took note of this assertion in her book (previously as a JSD dissertation) by stating: “the conflict of norms” (and adding a relevant aspect): “as applied by international courts and tribunals”. That is to say, *the problem of development of international law through international courts and tribunals interpreting international law in a(n) (in)consistent manner*. This subject is part of the debate on integration versus fragmentation, which has been academically debated for decades and which is still debated today.2

---


Therefore, the main topic studied by Webb can be presented as follows: *How the increasing number of international bodies – in the absence of rules governing the relationship between them and without a hierarchical ultimate court – faces the idea of the unity of international law.* From an overall perspective, consistency in international law and the relations between international courts are covered in this book.

The publication begins with an introductory chapter (Chapter 1), which sets out the context and which includes a section focusing on methodology, resulting from the origin of the book as a Ph.D. dissertation. Here, the author’s notions of judicial *integration* and *fragmentation*, followed by a study of the benefits and disadvantages of each approach within the international sphere, are exposed. Webb understands the idea of integration as a “consistent manner to treat similar factual scenarios and similar legal issues by international courts” (p. 5). Likewise, the notion of “fragmentation” on which the book focuses is the “significant divergence in the reasoning on the same/similar legal issue or in relation to the same/similar factual scenario” (p. 6). Furthermore, Webb features in her work the notion of *apparent* and *genuine* integration or fragmentation (p. 12). In Chapters 2, 3 and 4, on the basis of the premises provided on methodology, Webb undertakes a thorough review of the elements of genocide (Chapter 2), immunities (Chapter 3) and use of force (Chapter 4) and how they facilitate integration or fragmentation. Later, in Chapter 5, the author carries out a legal analysis of elements described in previous chapters. This chapter operates as a corollary to previous ideas and can thus be considered the core of the book. The book closes with a chapter of conclusions (Chapter 6), wherein the author summarizes the theory’s implications and provides practical solutions to encourage judicial integration.

Some aspects of this book deserve particular attention. Webb comes out in support of an integrated international legal system. The author argues that fragmentation implies an incoherent, uncertain and unpredictable system. Therefore, an integrated focus is crucial to the justice dispensed by courts (p. 5). Consequently, the author provides an overview of three substantive areas of public international law (genocide, immunities of States and Officials, and use of force) as against this idea, through the findings of four major international courts: the International Court of Justice, the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. It would be difficult to find legal opposition to this stance, as the author is absolutely right: a coherent and

---