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Chima Centus Nweze, Ed. Contemporary Issues on Public International and Comparative Law: Essays in Honor of Professor Christian Nwachukwu Okeke

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BOOK REVIEW

CHIMA CENTUS NWEZE, ED.
*CONTEMPORARY ISSUES ON PUBLIC
INTERNATIONAL AND COMPARATIVE
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PROFESSOR CHRISTIAN NWACHUKWU
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At first glance *Contemporary Issues on Public International and Comparative Law* is an eclectic collection of chapters by various scholars on a wide variety of topics of interest to international law, from economics, to tourism, to human rights, to security and, to legal personality issues. The review of such a compilation seems a daunting task, in which each of the twenty seven, seemingly unrelated chapter ought to be carefully read and analyzed one by one. However more careful attention leads to a different conclusion and, thus a different reviewing methodology. It is not for their disparities that the chapters are to be reviewed but, quite reversely, for what they have in common.

All of these chapters are written by non-westerners and offer a non-western perspective on international law. They represent viewpoints often ignored in the literature and scholarly debates. It is at this juncture that the *raison d' être* of the book becomes clear: it is a book in honor of Professor Christian Nwachukwu Okeke, whose life and career have been devoted to impart his great expertise in international law, while simultaneously fostering perspectives that are as diverse as his students and, as varied as the authors of this remarkable collection of essays. Like Professor Okeke does so well in his teaching and in his scholarship, the book challenges the reader to think from different view points, to accept different perspectives, to embrace in all academic respect, the challenges of new debates and new normative visions.

Another commonality arises at the reading to the essays: the ideal of justice impregnates all of them. They all display empathy: for women, for the poor, for developing countries, for the downtrodden. Once again, this is where we see the personality of Chris Okeke shine through the book. This is adequately introduced in the foreword by his Excellency Abdul G. Koroma, who from the start, tells us Okeke's lifelong story of trying to promote social justice and improve human condition. Therefore, wide ranging world views and the quest for an internationally based social justice form the underlying themes of this compilation and cement its unparalleled contribution to a better understanding of the world around us. Like Okeke's career, it tackles the challenges of establishing a legal system that can – and should – not only provide order, but also, justice.

Justice through the amelioration of trade laws and institutional reforms comprises an important part of the volume. "Globalization and least Developed States", by Ramesh Karky, Sunday Ogbodo's "The Evolving Role of Certain International Financial Institutions in Developing Countries Under International law, and Chika Onwuekwe's "Extending Habermas' Public Sphere into WTO: Prospects and Challenges", all critically look at the neo liberal order established at Breton Woods and, reproduced overtime by the so called Washington consensus, and they all lend a voice to the least developed states. Karky presents a compelling argument, acknowledging the opportunities for growth presented by free trade but insisting that justice and fairness require differentiated treatment for the least developed economies. Ogbodo deplors the persistence of the weighted voting at the IMF and the World Bank and calls for a greater participation of poor economies at the decision-making level. Onwuekwe goes further and calls for transparency at the institutional level. His insightful article, rich in legal expertise as well as in political theory, calls for a greater participation of the global civil society in international organizations.

Andrew Chukwuemerie in “International Commercial Arbitration and Third Party Interest: a Call for Urgent Reforms” and, Emeka Duruigbo in “The New Incarnation of the Stabilization Clause: Controversy in International Investment”, both call for a revision of past dispute settlement practices and call for a reform of both commercial arbitration and investment disputes which would account for new realities, and would give more leverage to developing economies at every stage of trade and investment negotiations. In essence, they both implicitly argue for a reversal of a structural order that has traditionally favored western countries as well as western corporate interest. Finally, “Recent Bankruptcy Law in Ukraine: from Socialist Traditions to Market Oriented Format” by Alexander Biruokov, tackles economic legal issues from a comparative perspective and offers an insider’s view point on former centrally planned economies. His article reveals the fundamental flaws of the old Soviet bankruptcy laws and well posits that the newly enacted reforms in Ukraine are a positive and essential step toward regional integration and the facilitation of economic relations with the EU.

Two other chapters, albeit different in scope, also provide insights into improving the economic life of all nations through careful regulation. Chun Hung Lin offers a “Comprehensive Review of Global Radio Communication and Spectrum Management under Radio Regulations”, in which she adeptly demonstrates that the radio frequency spectrum is a limited resource. This scarcity requires therefore adequate regulations in order to preserve equitable access for the benefit of all mankind. Finally, Phil Cameron in “Travel and Tourism Law of Thailand”, looks at the tourism industry as a generator of much needed revenue. His article is a remarkable example of the difficulty of maneuvering mazes of overlapping jurisdictions in a globalized world.

Alongside advocating a more just economic legal and institutional order, the book advocates justice through the amelioration of human condition and of human dignity. Indeed human rights issues take a prominent place in the compilation. Once again, the authors speak from either a comparative or a global view point, sometimes challenging long held western and dominant perspectives on human rights and they insist on greater understanding of specific economic and cultural circumstances. Several chapters bring in country and issue specific examples of human rights matters. Samuel U. Ogbu-Nwobodo and Nicholas Onyebuchi Agbo, look at Nigeria. Ogbu-Nwobodo’s “Pluralism in the Nigerian Constitutional Framework: A Comparative Study of the United States of America and the Republic of India” is a remarkable essay on the power of constitutional law to address and rectify if needed the challenge for any

country having to deal with pluralistic societies, be they racial, or in the case of Nigeria, ethnic and religious. His policy recommendations for the Nigerian polity are realistic and speak from an insider viewpoint. He underlines the fact that democracy while being a goal for all, does not necessarily know a universal definition.

Meanwhile, Agbo's chapter, "The scourge of Energy Production and Distribution in Nigeria with Particular Reference to Environmental and Human Rights Issues", establishes the links between human rights, environment and economic factors. The strength of this chapter lies in its policy recommendations aimed at reforming or revamping a legislative system that has not proven beneficial for the environment nor for human condition in Nigeria. Agbo's call for Nigerian lawyers to take action is a compelling one.

Also speaking from a comparative perspective, Ignazio Castellucci's chapter takes us to Eritrea. He provides an excellent historical context to the evolution of the Eritrean system, away from the Ethiopian framework. The chapter highlights the challenges of trying to incorporate democratic concepts while being conscious of cultural constraints and of a multi religious setting.

Two additional chapters by the same author deal with the horrendous impact of HIV/AIDS on human condition and the need to strengthen legal regimes in order to foster equality or at least equity in combating the disease. Simon Oche Ortuanya gives a voice to the developing world. In "HIV/AIDS Vaccine Trials in Developing Countries: Uneven Justice and the Need for a Legal Regime for the Protection of Research Subjects", he demonstrates the unfairness of a system whereby big pharmaceutical companies profit from using research subjects in the developing countries but do not let them partake in the benefits of new discoveries. In his second article: "Women and the Challenges of HIV/AIDS in Africa: of Gender Stereotyping and Structural inequality", he takes action not with MNCs but with inequality when it comes to gender issues. His chapter insists that redressing gender inequalities is part and parcel of the global struggle against AIDS.

The same underlying premise is echoed by Angela Otakula in "Political and Economic Rights of Women: Contribution to World Peace". She posits that women, as primary victims of war, should have a greater access to decision making in matters of security. Similarly, women, as the most impacted sector of the population in terms of poverty, should have their viewpoint incorporated in development strategies.

In addition, a chapter by Obiora Chinedu Okafor, “Righting the Right to Development: A social legal Analysis of Article 22 of the African Charter on Human and People’s Rights” deals with the new generation of human rights: the third generation of such rights, or the right to development. The analysis of Article 22 of the African Charter is an important contribution to an emerging literature on the issue. The chapter’s main contribution is to show the tremendous impact that Africa can have in a creation of international norms on Human Rights which traditionally have flowed from western countries to the continent and not the other way around.

The book also gives the reader two very interesting chapters on the increasing potential of regional and international adjudication in terms of human rights. Chidi A. Odinkalu’s study, “Forging New Frontiers: ECOWAS Court of Justice in the Protection of Human Rights” makes a strong case for regional definitions and enforcement of human rights. He expresses his hope that the newly reformed ECOWAS Human Rights Court will serve a normative role and be another stepping stone in the overall integration of western Africa.

Finally, Chima Centus Nweze, in “Evolving Jurisprudence of Contemporary International Criminal Tribunals: Implications for the Definition of Core Crimes in the ICC statute” provides a thorough overview of the concept on international crime and individual responsibility. He relates the huge progress in the recent jurisprudence of the ad hoc tribunals in making or rape and sexual assault of many kinds an international crime.

Justice also means security, and indeed several chapters deal with this issue, within the understanding that the use of force has been one the most difficult matter to regulate in international politics. Ozonnia Ojielo in “Rethinking Peace and Security in West Africa” takes us to a region that has been plagued with conflicts over time period that the author calls “the locust years”, well expressing the human tragedy resulting from wars. She explains why the current peace and stability is a fragile one and in turn advocates for bold solutions on all fronts: transitional justice, economic cooperation and the fostering of democratic ideals.

Willy Mamah expands the security debate, addresses the legal challenges of “Self Defense in an Era of Non State Actor Terrorism”, and argues that the war in Afghanistan was not in self defense, nor was it authorized by the Security council. While I disagree with the conclusions of the author, I applaud him for expressing controversial viewpoints in a clear and coherent fashion.

I decided to keep the chapters on sovereignty for the last section of this review. Indeed this where the non-western view point shines through the book. After all, the Westphalian order of independent sovereign nation states was a Euro centrist creation, which is now challenged by new realities. New states, with a very different perspectives on history have emerged, and there is exists now a global economy where non state actors, especially corporations, often display much more real power than most nation states. Starting with the latter point, Remigius Chibueze in "Legal Personality of Non-State Entities in International Law: A Settled Issue?" recapitulates a fundamental question of international law, that of legal personality in a changing world system. He challenges the absolutist view point which only confers full personality on nation states and offers a much broader, and let's face it, more realistic perspective. Indeed, sovereignty as it has been traditionally defined in the Westphalian order now has to face the imperatives of globalization. A clear example is offered by Salvatore Mancuso in "The Renunciation of State Sovereignty: Is it an Issue for the OHADA Treaty for the Harmonization of Business Law in Africa?" This article, while is applies to business law in Western Africa, is relevant for all regions in the process of integration. It questions the degree to which nation states willing to redefine sovereignty from its absolute form to one of "shared" sovereignty as it is now the case in the EU.

The evolving significance of sovereignty comes to light in Chris Anyanwu's "Future of the Modern Nation State: Challenges for Decolonized States". He provides an outstanding review of several theories of state. His article is particularly interesting in framing for the readers the subjectivity of such concepts as sovereignty, and self-determination.

Zakia Afrin brings us to another region of the world with her brilliant article on Iraq: "Transitional Authority in Iraq: Legitimacy and Governance under International Law", in which she raises a topical issue: what makes a government legitimate? The Montevideo Convention gives us objective criteria for statehood: territory, population, government but, true governance brings in subjective qualifiers that ought to be addressed especially in transitional situations.

Finally, traditional definition of sovereignty and the fact that the states know no higher authority than themselves in an anarchical system brings us and, the book to question military intervention. International law has always been clear on the principle of non-interference into domestic affairs. The post WWII law on the use of force has also been clear in restraining its use to military interventions authorized by the UN Security

Council or in self-defense. Yet, so-called humanitarian interventions under the responsibility to protect is often introduced as an emerging new exception to the prohibition of the use of force and to the respect of territorial integrity and political independence of other sovereign states. Not surprisingly, given the scope of the book, two chapters tackle this issue. A second chapter by Willy Mamah: “Is Humanitarian Intervention a Pseudonym for Aggressive unilateralism?” adopts the view point that unilateral humanitarian intervention is illegal and used as a Trojan horse by interventionist countries. Meanwhile, Kofi Quashigah in, “The Concept of Responsibility to Protect within the Africa Union Intervention System” acknowledges the controversies attached to the concept of humanitarian intervention and argues for multilateral interventions especially at the regional level. It is within this context that he highlights the opportunities – yet the tremendous challenges – for the African Union to prevent crisis as well as to better protect vulnerable populations.

Contemporary Issues on Public International and Comparative Law, is a book that takes the reader to many places, in Africa, Asia, Ukraine, Iraq; through matters of security, development and economics, human and women rights, communication and tourism. It helps refine definitions of sovereignty, of legal personality and of state hood. It takes us to places as far ranging as family law in Eritrea and the International court of Justice. In other words, it takes the readers in a remarkable intellectual journey, challenging them to re-think traditional perceptions of the world order and international law. The book epitomizes the qualities of Professor Okeke, its honoree: it is highly informative, intellectually stimulating, but moreover it pushes forward the cause of social justice. As such, it is a must read not only for scholars but for anyone for whom improving human condition world wide is a worthy and necessary cause.