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## SVÁK JÁN, MAREČEK LUKÁŠ ET AL.: MEDZINÁRODNÉ PRÁVO VEREJNÉ A ÚVOD DO VEREJNÉHO MEDZINÁRODNÉHO PRÁVA [PUBLIC INTERNATIONAL LAW AND INTRODUCTION TO PUBLIC INTERNATIONAL LAW]. WOLTERS KLUWER, 2024 / Petra Paľuchová

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International law represents a distinct legal discipline, markedly different from domestic branches of law or legal orders, particularly in terms of its functioning, enforceability, diversity of sources, and the subjects that constitute it.<sup>1</sup> This distinction naturally also manifests in the teaching of this field as a standalone subject at law faculties. Unlike domestic law, which is typically rigid and hierarchically structured, international law operates on the principles of mutual agreement and cooperation among states and other entities. This dynamic nature must also be reflected in the approach of professors wherein they must ensure that students not only acquire theoretical knowledge but also gain a broad understanding of its practical application and learn to use their theoretical insights in context. Such a task can sometimes seem quite challenging, given that many students are often motivated to pursue more traditional legal career paths, such as becoming advocates or prosecutors.

In a rapidly changing world, international law often seems to recede into the background, overshadowed by domestic legal disciplines. Students tend to prioritise

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<sup>1</sup> International law as a discipline is distinguished by several characteristic features that set it apart from traditional positivist domestic legal branches, with various authors classifying these features differently in terms of scope and number. Among the most prominent are those outlined above, including, but not limited to subjects, sources, court jurisdiction, and the enforceability of law (Mareček and Golovko, 2022, pp. 10-13).

information that appears to have direct practical applicability, leading to a diminished focus on international law in favour of national legal frameworks. Given the overwhelming influx of information they encounter daily, it is perhaps natural for students to favour subjects they perceive as immediately relevant to practice, a relevance they do not always associate with international law. As a legal framework governing inter-state relations and international obligations, it may appear distant from the routine legal challenges they anticipate encountering in their professional careers. The understanding of peremptory norms, enforcement mechanisms, or the resolution of disputes between states may seem less pertinent, as their practice is unlikely to involve the regular handling of inter-state conflicts.<sup>2</sup>

The perspective on the current state of international law is exemplified by the broad publication under review. The distinctiveness of this textbook is evident from the very beginning, which does not include merely a preface, acknowledgments, or an introduction preceding the main content. Instead, it begins with an "introduction to the introduction," explaining the intent to offer an unconventional approach to educating young legal professionals in international law. The aim is to present this expansive and omnipresent discipline as a clear and practical benefit, extending beyond the confines of academic study and serving as a unifying thread among various branches of law, civil, labour law, criminal law, commercial law and number of others, by emphasising the centrality of the individual as the ultimate recipient of all international legal norms. This focus on the individual, including legal professionals themselves, whether graduates or students for whom this publication is primarily intended as a resource for the courses International Public Law I and International Public Law II, underscores the need for a broader outlook. A lawyer, even after completing seminars on international law, should comprehend the extensive and pervasive reach of this discipline. They must, crucially, be equipped to address diverse and complex legal issues, many of which intersect with international law, at least through domestic legal norms that invariably reflect international legal principles to some extent<sup>3</sup> and, even more concretely, in the respect for fundamental human rights.

The domain of fundamental human rights, as highlighted in the introductory passages of the textbook, serves as a mirror reflecting the contemporary nature of international law. Human rights today represent a cornerstone of modern international law, significantly contributing to its so-called humanisation – a transformation from a traditionally state-centric system into a legal order centred on the protection of the individuals and their dignity.<sup>4</sup>

The textbook emphasises the ongoing evolution of the international legal system toward a more individualised and humanised character. In its introduction, it highlights

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<sup>2</sup> On the concept of declining interest in the field of international law, see also Svák (2023, pp. 112 -113).

<sup>3</sup> The seven principles, which are an authoritative enumeration of the fundamental principles of international law, and which are based on the UN General Assembly Declaration (A/RES/2625(XXV), *Declaration of Principles of International Law Concerning the Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations (1970)*) are reflected in national legal systems in various ways. For instance, the principle of the equality of sovereign states is enshrined in constitutional provisions affirming national independence. The prohibition of the use of force is evident in criminal legislation, while the right to self-determination is manifested in constitutional protections for minority rights. Similarly, respect for international obligations is incorporated through the primacy of international treaties over domestic norms and their alignment with general international law. Furthermore, the principle of mandatory cooperation is reflected in national legislation addressing global challenges, such as climate change and transnational crime.

<sup>4</sup> This progression is extensively examined in various publications that portray international law in the context of its gradual "humanisation," underscoring its shift towards prioritising the individual and universal human dignity across diverse legal fields (see, e. g., Meron, 2006).

that the historical foundations of this concept were established in the aftermath of the Holocaust and World War II, marking a pivotal shift in international law's focus toward the protection of the individual. This shift was notably advanced through the codification of human rights, particularly with the adoption of the Universal Declaration of Human Rights in 1948.<sup>5</sup>

The textbook reflects this trend by illustrating the importance of understanding the individual's position within the framework of the norms of international law, a domain inherently characterised as a branch of public law. The unifying thread throughout all sections of the textbook is the individual, both as a subject of international law and as an active member of the broader public. In the latter role, particularly as a legal professional, the individual contributes to shaping international law itself.<sup>6</sup>

This approach is evident, among other things, in the very title of the book translated as *International Public Law and an Introduction to Public International Law*. The second part of the title, beginning with "*an Introduction to Public International Law*", carries a deliberate significance. The author, Ján Svák, emphasises that it does not imply an oversimplification of the subject matter (as the term "introduction" might suggest), nor is it a mere play on words or a rejection of the traditional division between public and private international law. Instead, the title reflects that the textbook offers a novel, modern, and genuinely groundbreaking perspective on the field of public international law within the given context. Rather than reiterating conventional topics, the book examines how international law evolves in response to contemporary global challenges, such as political conflicts, climate change, technological innovation, and global inequality. It highlights that the public, beyond states as the traditional primary subjects of this field, plays a crucial role in the creation, interpretation, and application of international legal norms. This influence extends not only to everyday life but also to addressing the global challenges.<sup>7</sup> By including the word "public" first, it indicates that it has the ambition to "move" the understanding of the field of international law as public law closer to the public, and thus to make international law as a public field truly accessible to the public as such, and thus to the people - individuals.

The structure of the textbook is built upon this foundation. It can be conceptually divided into two comprehensive sections, which, in the traditional approach to legal textbooks, could be referred to as the *general* and *special* parts.

The first section comprises four chapters dedicated to the classic themes of international law.

**The first part** aligns thematically with its title, logically marking the beginning of the textbook's core content. It gradually outlines the entire field of international law, both as a body of norms regulating inter-state relations throughout human history and through

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<sup>5</sup> The strong emphasis on the status of the individual *vis-à-vis* the state in international law is also addressed in the publication of Anne Peters, Director at the Max Planck Institute for Comparative Public Law and International Law (*in concreto* Peters, 2009, p. 514).

<sup>6</sup> Individuals are key actors in the international legal system, whether as lawyers, scholars, politicians, or heads of state. Every act attributed to the state - waging war, signing a treaty, or harming the environment - is in fact the result of decisions and actions of individuals within the structures of authority - the state. (Further see: Peters and Sparks, 2024, p. 2.)

<sup>7</sup> Given that the textbook emphasises the concept of *constitutionalisation*, particularly *internationalist constitutionalisation*, multiple times in its introductory text, it is worth highlighting its close association with the idea of building a global legal order founded on the principles of the rule of law, human rights protection, the separation of powers, and democratic values. If the intent was for this concept to reflect the overarching focus of the textbook as a work on public international law, then it has been successfully achieved. The textbook departs from the traditional formalist understanding of international law and instead explores how these principles are integrated various domains within the international legal system.

the doctrines that have evolved over time, significantly shaping the scope of international law to this day. Naturally, this section includes a chapter addressing the relationship between international law and domestic law as a whole, as well as its interaction with other branches of law. It also examines its connection to supranational legal systems, with particular emphasis on the European legal framework. In this regard, the role of European Union law and the law of the Council of Europe, as the most significant regional systems within the Slovak context, is thoroughly explored.

**The second part** of the textbook focuses on the sources of international law. It delves into the creation of normative sources related to the codification of international law and its progressive development. Notably, the textbook adopts a practical perspective on the progressive development of international law, addressing current global issues rather than limiting itself to theoretical distinctions between the progressive development and codification of international law. This section also examines treaty law, emphasising the fundamental principles of treaty-making and providing a practical view of the Vienna Convention on the Law of Treaties. Furthermore, it explores precedential international law and the role of legal professionals in resolving inter-state disputes and applying the law within supranational legal bodies dedicated to the protection of rights. By demonstrating that international law is not an abstract theory but a practical system that shapes relationships between states and individuals, even at the supranational level, the textbook once again underscores the critical role of individuals in shaping and applying international law.

**The third part** of the textbook addresses the issue of international legal personality, offering a broader perspective on its contemporary understanding within international law. It provides an analysis of the status of states as the traditional subjects of international law, while also dedicating significant attention to international organisations and other entities that increasingly contribute to the creation and application of international norms. An essential component of this chapter is the examination of the role of domestic authorities and institutions in implementing international law, thereby highlighting the practical application of inter-state relations through foreign affairs bodies. The chapter also reflects two dominant approaches to understanding international law: as a system of rules fostering coexistence and cooperation among states, and as a mechanism to ensure that states fulfil their obligations toward the individuals who constitute them, particularly in the ever-relevant domain of protecting fundamental human rights.

Following this is **the fourth part** of the textbook, which focuses on the concept of responsibility in international law – a framework that operates within a consensual environment requiring states' agreement to fulfil international obligations, guided by specific rules. It examines the international responsibility of states as well as non-state actors and international organisations. Particular attention is given to the sanctions mechanism, which remains a challenging area of international law due to the frequent lack of effective enforcement tools and limited coercive measures. The chapter also addresses issues of international security, especially in the context of state responsibility for violations of obligations that threaten peaceful coexistence on a global scale. In line with the textbook's overarching focus, significant emphasis is placed on so-called *targeted sanctions*. A distinct section is devoted to analysing methods of dispute resolution in international law, whether non-binding or institutionalised within bodies such as the International Court of Justice or the Permanent Court of Arbitration. Additionally, the chapter explores relatively specialised topics, often omitted in standard international law textbooks, such as investment arbitration. This inclusion, while aligned with the

textbook's focus on the individual, represents a welcome expansion of the conventional scope of dispute resolution topics, enriching the overall substance of the material.

Again, the question of subjectivity is revisited in the imagined *special part* – the second section of the textbook, **in the fifth part**, this time from a different perspective, focusing on the individual. It examines the historical development of the individual's status in international law as well as the current legal framework. This section analyses the rights and obligations that international law directly confers upon individuals, with particular emphasis on their practical application.

This section, quite aptly, does not serve as an exhaustive overview of the entire field of human rights protection, a decision that can be regarded as a positive feature. While human rights undoubtedly play a pivotal role in international law, textbooks on the subject should remain consistent with the established curriculum of the discipline to ensure that students are not deprived of the foundational knowledge of traditional international law. A dedicated part addressing human rights, which integrates various subfields such as citizenship, diplomatic protection, refugee law, humanitarian law, and international criminal responsibility is particularly commendable. This approach is especially valuable from a practical perspective, as it embodies the textbook's primary objective: to illuminate the position of each individual within the intricate framework of international norms.

**The sixth part** of the textbook focuses on issues related to international spaces, including outer space, airspace, and the seas. Considerable attention is devoted to environmental protection, an especially noteworthy emphasis given the current prominence of environmental concerns as one of the most pressing challenges of our time. This topic is addressed not only as a subject of international legal regulation but also through the lens of a relatively new concept, the integration of environmental protection within the framework of human rights. The concluding pages of this final section are perhaps the most unexpected, as they turn to the digital space. This emerging domain presents significant challenges and opportunities, offering key insights and stimuli for the future development of international law.

The book effectively combines theoretical concepts with practical application, incorporating practical examples at the end of nearly every chapter. Perhaps an even greater strength lies in its deliberate effort to make this field more accessible to students by highlighting Slovakia's historical experience within the context of international law. This approach thoughtfully considers its primary audience, students of the Faculty of Law at Comenius University Bratislava, for whom the textbook is recommended as essential reading for their studies.

Notably, the textbook stands out for its clear language, logically structured sentences, and well-chosen terminology, all of which significantly enhance its comprehensibility and readability.

Overall, the textbook successfully fulfils the objective set out in its introductory text: to help legal professionals not only understand the fundamental rules of international law but also recognise that it is no longer a rigid system of rules applied solely between states. Instead, it increasingly accounts for individuals, organisations, and the broader public as active participants, linking this evolution with the growing significance of human rights.

Through its comprehensive treatment, structured presentation, and integration of theoretical foundations with practical examples, the textbook can be ranked among the most outstanding works in the field of educational legal literature. Its content engages readers with international law in a manner that is captivating, modern, and simultaneously accessible. Naturally, given the nature of its target audience, or at least a segment of it,

namely, students in the process of developing their legal reasoning, certain expansions or additions could be considered. Such enhancements might further contribute to a more holistic and profound understanding of the foundational topics within this discipline.

Many students approach the study of international law with minimal theoretical knowledge in this field, often focusing predominantly on domestic legal disciplines. While the textbook excels at presenting the practical aspects and contemporary challenges of international law, its exceptionally modern and accessible style occasionally assumes a level of theoretical foundation that students may not yet possess. This approach could lead to some topics being perceived in isolation, without a broader contextual understanding or a full grasp of the more complex issues in international law. The inclusion of additional, detailed theoretical explanations could help students build a stronger foundational knowledge, enabling them to engage in genuinely critical rather than merely rote thinking about international law.

Given its quality and engaging nature, it is both likely and, in the author's view, desirable that this textbook achieves success and becomes an integral part of legal education.

In potential future editions, the textbook could benefit from expanding its content to include more theoretical foundations, to further address the needs of students who are still in the process of developing their legal reasoning in the field of international law. Additionally, it could incorporate new and pressing topics, as well as case studies that reflect the dynamic nature of this ever-evolving discipline. International law, which continuously adapts to global challenges such as cybersecurity, the climate crisis, and artificial intelligence, offers rich opportunities for even greater integration of theory and practice. Given the high quality and modern approach of this publication, it is evident that the authors are well-equipped to maintain this standard in future editions, ensuring the text remains both relevant and practically applicable. In doing so, the textbook could further enhance the perception of international law as an engaging and attractive field. By continuing along the established trajectory, the textbook will not only meet but likely exceed its already ambitious vision.

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