CHRISTOPHER P.M. WATERS (ED.), *BRITISH AND CANADIAN PERSPECTIVES ON INTERNATIONAL LAW* (LEIDEN: MARTINUS NIJHOFF, 2006)

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In a classical understanding of international law, and indeed of legal interpretation, the meaning and import of international legal norms are held to be homogenous across different contexts.[1] The universalistic view of international law has lost much of its appeal in the contemporary context due to two principal developments. First, the process of decolonization and the creation of numerous newly-created states eager to participate in as well as influence, often on different terms, the operation and development of international law led to the unearthing of the long obscured *problématique* of cultural diversity.[2] Second, critical and pluralist approaches to both legal interpretation and international law have contributed to the view that meaning can be assigned by interpretative communities and defined or influenced by context.[3]

One phenomenon whose importance has more recently become apparent relates to the diverse perspectives on international law which prevail within the Western world. The interpenetration between domestic law and international law and the latter's growing influence and relevance to the former has given rise to more assertive and distinct approaches to international law in a number of states, including those within the Western world.

British and Canadian Perspectives on International Law is a collection of articles which examines this last phenomenon with reference to the perspectives prevailing in Britain and Canada on the creation, application and interpretation of international legal norms. The editor of this book, Christopher P.M. Waters, aptly enough, studied law in Canada and currently teaches it in the United Kingdom. The contributors to this book include several Canadian and British researchers and practitioners, many of whom have had academic, work or other experiences in both countries.

Despite its title, this book, with the notable exception of Stephen Toope's contribution, does not explore Canada or Britain's engagement with, or commitment to, international legal normativity in an ideational or constructive perspective. Rather, the contributions in the book look at Canadian and British perspectives on approaches to, and developments in, specific areas of law.

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[1] Reem Bahdi, "Truth and Method in the Domestic Application of International Law" (2002) XV:2 Can. J. L. & Jurisprudence 255 at 258.

[2] See B.V.A. Röling, *International Law in an Expanded World* (Amsterdam: Djambatan, 1960).

[3] Bahdi, *supra* note 1 at 261.

The book has nineteen chapters divided into five main themes. The first theme is titled "Comparing Perspectives" and includes an introductory essay by Waters as well as a chapter by Toope. Waters traces the emergence of the field of comparative international law and its current preoccupation with dialogue, transnationalism and norm development. He also sets out the differences and similarities in Canada and Britain's relationships with international law. Although they hold multilateralism and international organizations in high regard and their legal actors show openness to comparative and international law, their positions in terms of material power and influence are markedly different. Toope assesses the international law content of newspapers in Canada and Britain over a three and a half year period, with the aim of examining public knowledge of, and commitment to, international law. He finds that international law is not well reported in either country, with the situation in Canada being worse, and that the treatment of international legal issues is often superficial.

The second theme is entitled "Crime." Christopher Harland compares, side by side and in a detailed manner, various elements of Canadian and British legislation implementing international humanitarian law. James Sloan considers the potential for the application of the ICC's jurisdiction to cases involving individuals who have been, or are being, dealt with under the Canadian and British justice systems. Helena Torojoa traces the development of accountability for international crimes under Canadian and UK law and analyses the current legislative schemes in both countries having regard to international criminal justice policy. Troy Lavers examines a number of jurisdictional issues arising out of the extraterritorial application of criminal law, most notably conflicts between different jurisdictional assertions, their varying reliance on statute, common law, custom and treaty and the need to develop a normative framework of jurisdictional competence. Chile Obeo-Osuji looks at the treatment of defective indictments in the jurisprudence of the *ad hoc* tribunals and argues that they should further rely on the law developed in Canada and the UK on this matter.

The third theme is entitled "Rights." Holly Cullen discusses the Canadian and British positions on and participation in various international and regional human rights petitions systems as well as their acceptance of the decisions rendered by these systems. Charlotte Skeet draws on the Canadian experience, in particular in a post-Charter perspective, to work out what the recourse to international law signifies for the strengthening of the human rights of women within the UK. Rebecca Wallace and Anne Holliday reflect on the development and application of gender guidelines in Canada and the UK to guide decision-makers in their interpretation of the *Refugee Convention*.[4] David Jenkins examines difficulties tied to the implementation of human rights norms during public emergencies in Canada and the UK, looking at factors relating to public and judicial discourses on emergencies as well as human rights and constitutional structure.

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[4] *Convention relating to the Status of Refugees*, 28 July 1951, 189 U.N.T.S. 150 (entered into force April 22, 1954).

The fourth theme is entitled "Human Security." Susan Breau provides an overview of the notion of human security and the doctrine of the responsibility to protect in international law and policy, with a brief statement of the views of Canada and the UK on these two matters. Marie-Claire Cordonier Segger analyses the role played by sustainable development in the international trade agreements, policies and practices of the Canada and the UK. Markus Gehring and Kristin Price address the role played by Canada and the UK in shaping the Kyoto Protocol and their early experiences in implementing the Protocol. Henry Lovat and Osman Aboubakr discuss Canadian and British legislative and policy developments encouraging and facilitating the compliance by corporations with the norms of corporate social responsibility. William Flanagan considers patent law reforms in Canada and the EU in line with developments in international trade and intellectual property law and the potential for such reforms to provide for better access to medicines in developing countries. Catherine Brown and Martha O'Brien compare the differing obligations undertaken by Canada and the UK within their respective regional trade agreements with respect to direct taxation and trade in services.

The final theme is entitled "Courts." Karen Eltis focuses upon the value of comparative constitutional law and the development of associative judicial communities to alleviate concerns over the lack of democratic legitimacy and due process of current extraterritorial applied criminal aimed at combating terrorism and other borderless crimes. Stéphane Beaulac reveals and untangles much of the confusion surrounding the application of customary international law in Canadian and British courts and in particular tackles the monist/dualist imbroglio and the doctrine of *stare decisis*. Hugh Kindred discusses differences in the internalisation of ratified treaty obligations in the *Teoh* case in Australia, the *Ahmed* case in England and in the *Baker* and *Suresh* cases in Canada.[5]

This book provides a useful comparative compendium of the positions, policies and obligations of the British and Canadian governments with respect of certain areas of international law as well as the law and practice of the reception and implementation of international law in these two countries. As is often the case with a collection of articles, the contributions in this book are uneven, not so much in terms of their quality as such, but in terms of their relevance to the overall theme of the book. Indeed, many chapters form rather conventional accounts of international law and policy in a given area and do not really engage with the project of setting out British and Canadian perspectives on these issues. Some chapters simply compare the details of domestic legislative developments with little analysis and no conclusions drawn on differences and the reasons which lie behind them. Although the reader will be better informed about the law and policy in the two countries under consideration, he or she will be left with little perspective on the nature, degree and mode of their engagement with and commitment to the international legal system.

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[5] *Minister of State for Immigration and Ethnic Affairs v. Teoh* (1995), 128 ALR 353; *R. v. Secretary of State for the Home Department, ex p. Ahmed*, [1998] INLR 570 (C.A.); *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817; *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 SCR 3.