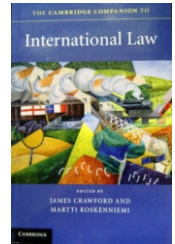


## Book Review

**Title** : *The Cambridge Companion To International Law*  
**Author** : James Crawford and Martti Koskenniemi  
**Publisher** : Cambridge, UK: Cambridge University Press,  
2012  
**Book Reviewer** : Achmad Gusman Siswandi\*



This book provides a thorough introduction to international law in a way that is rather unique compared to similar references. The subject matter is divided in a more concise way, while still giving rich perspective as it covers not only theories but also case studies and practices. This book consists of four parts, namely: the contexts of international law; international law and the state; techniques and arenas; and projects of international law.

In part one, three distinguished international law scholars – Gerry Simpson, Martti Koskenniemi and Frédéric Mégret –contribute their thoughts with respect to the basic characteristics and functions of international law. Gerry Simpson observes the role that international law has played throughout the diplomatic history. He argues that there are three questions that seem pertinent to the relationship between international law and international diplomacy: does international law really influence the diplomatic system? Has international law been a force for good in diplomatic history? And is it really possible to analyze a single body of norms called 'international law'? Within this context, he identifies that there are at least three ways of thinking about international law: international law as virtuous and marginal; international law as constitutive and responsible; and international law as a combination of norm and aspiration. By looking at the development of the diplomatic history from the Westphalian period to the Copenhagen summit in 2009, Simpson concludes that international diplomacy is unimaginable without international law.

The second chapter in part one is contributed by Martti Koskenniemi, who observes the position of international law in the world of ideas. In this context, he analyzes the development of international law from the history of European ideas to the twentieth-century controversies. Koskenniemi also discusses the interaction between international legal ideas and philosophical as well as jurisprudential debates, especially in the following themes: international community; individual; sovereignty; peace; and welfare. He concludes that international law is an aspect of

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\* Lecturer at International Law Department, Faculty of Law Universitas Padjadjaran S.H. (Unpad), LL.M. (London), Ph.D. (ANU) .

the world of philosophical, historical, political and even religious ideas, and it expresses large aspirations for a better world.

The third chapter in part one, written by Frédéric Mégret, attempts to address a recurring question: what is the characteristic of international law as a legal system? In light of this question, Mégret analyzes the classical view of international law as a legal order by scrutinizing the following dimensions of international law: subjective dimension (between states and non-states), ethical dimension (between pluralism and cosmopolitanism), social dimension (between anarchy and hierarchy), epistemological dimension (between positivism and naturalism), normative dimension (between horizontality and verticality), and functional dimension (between decentralization and centralization). Based on these dimensions, Mégret observes that there are five positions with respect to the legal characteristic of international law: the 'deniers', the 'idealists', the 'apologists', the 'reformists', and 'the critics'. These different attitudes toward international law, he argues, must be understood within a dynamic and constantly evolving international system, and currently, international law still remains as the appealing default position of the system.

Part two of this book is dedicated to discuss the relationship between international law and the state. Karen Knop presents her ideas about statehood; focusing on the issues of territory, people and government, while James Crawford discusses sovereignty as a legal value. The issue of jurisdiction is discussed by Bruno Simma and Andreas Th. Müller, while the issue of warfare is analyzed by David Kennedy.

With regard to statehood under international law, Knop observes that although states have been long considered as the only full legal subjects under international law, recent developments indicate that there have been increasing roles of non-state actors in the international system. These developments are particularly evident in numerous areas of international law; including human rights and international environmental law. Nevertheless, Knop also observes that the state has reappeared as the central organizing idea in the international system, especially in the context of the constitutionalization of international law. Thus, she concludes that the state has multiple significance as a structuring concept in international law, and consequently international lawyers will have different views with respect to the importance of the state in the development of international law.

In the next chapter in part two, James Crawford discusses about sovereignty as a distinct attribute of the state. In this context, Crawford poses a number of questions related to sovereignty, including the difference between sovereigns and non-sovereigns, the consequences of sovereignty, and whether sovereignty still matters in today's world given the erosion of state prerogatives in many fields. The legal

implications of sovereignty within the state and among states is one particular topic mainly discussed in this chapter. An important point to note in this regard, is that sovereignty does not mean freedom from law but freedom within the law. As a consequence, international law may place a restriction upon the exercise of the sovereignty of state. Nevertheless, sovereignty still plays a central role in the making of international law, particularly in treaty-making, where states are free to decide whether or not to become parties to certain treaties.

Following the chapter on sovereignty, the exercise and limit of jurisdiction are discussed in length by Bruno Simma and Andreas Th. Müller. The discussion begins with the rationale for an international law of jurisdiction, followed by basic principles for the allocation of jurisdiction in international law, which include the territoriality principle, personality or nationality principle, protective principle, universality principle and extra-territorial jurisdiction. In explaining these principles, Simma and Müller do not only discuss the 'classic' or landmark cases related to jurisdiction, but also the more recent ones, such as *Cyprus v. Turkey* (2001), the *Arrest Warrant* (2002), the *Wall* (2004) and the *Armed Activities* (2005). Simma and Müller also observe that the theory of jurisdiction in international law is currently facing great challenges as the world has become more complex and interconnected. In this respect, they conclude that the law of jurisdiction appears to lag behind the evolution of general international law.

The final chapter in part two discusses about international law and war, written by David Kennedy. He basically argues that currently, law has shaped the institutional, logistical and physical landscape of war. In this context, the law which structures the macro and micro-operations of warfare is far broader than the 'law of force', the 'law of armed conflict' or 'international humanitarian law'. Thus, warfare also has to take into account a wide array of branches of law, including environmental law, social security, human rights, law of the sea, and conflict of laws. Kennedy further argues that modern international law has a pivotal role to ensure a framework for cross-cultural discussion about the justice and efficacy of wartime violence. Nonetheless, he observes that the modern partnership of war and law leaves all parties feeling their cause is just and no one feeling responsible for the deaths and sufferings of war. Within this context, Kennedy argues that law and war have become oddly reciprocal, communicating and killing along the boundaries of the world system. Therefore, a reorientation of law and war is needed to allow law to be written into the ongoing wars that structure the political economy and ethical vernacular of peacetime routines.

Part three of this book, titled "Techniques and arenas", explores ways and methods through which international law is implemented. Hilary Charlesworth contributes her analysis on sources of international law, while Benedict Kingsbury

discusses the role of international courts. The development of international institutions is presented by Jan Klabbers, while the questions with respect to the enforceability of international law are discussed by Dino Kritsiotis.

On sources of international law, Hilary Charlesworth argues that they are a complex tangle of ideas, commitments and aspirations. Referring to the previous works of other scholars, Charlesworth elaborates the development of sources of international law, which is exceptionally different from that of national law. Taking the invasion of Iraq in March 2003 as an example, she further elaborates the contestability of the sources of international law. Charlesworth further explains the sources of international law pursuant to Article 38, paragraph (1) of the Statute of the International Court of Justice, namely: international treaties, international custom, general principles of law, and judicial decisions and the work of scholars. In addition, Charlesworth explains the soft law and discusses its interaction with the traditional sources of international law. She concludes that recently, the international law-making is no longer dominated by states, but international organizations as well as non-governmental groups and individuals have also played a significant part in the law-making process.

On the role of international courts, Benedict Kingsbury provides an overview of the formation of basic types of international courts, which include inter-governmental claims commissions, standing international courts, international criminal courts, regional human rights courts, the World Trade Organization (WTO) dispute settlement system, and investment arbitration tribunals. Having discussed these types of international courts, Kingsbury notes that new global tribunals have mostly been created as parts of specialized regimes, rather than as courts of general jurisdiction; which may not be in line with what the initiating states wish to see investigated and adjudicated. In addition, he observes the behaviors of the states in accepting the jurisdiction of international courts. In this regard, he concludes that the world's most populous states tend not to accept in advance the jurisdiction of the International Court of Justice (ICJ), the International Criminal Court (ICC), human rights courts, or the United Nations Human Rights Committee. However, almost all are in the WTO, and in the United Nations Convention on the Law of the Sea (UNCLOS). Kingsbury also points out that the effective role of international courts in the implementation of international law would very much depend on the global political order, which has become more multi-polar and may add to the complexities of the behaviors of the states in forming and accepting the jurisdiction of international tribunals.

On the development of international institutions, Jan Klabbers provides an overview of the historical development of international organizations, particularly since the late nineteenth and early twentieth century. Klabbers observes that the

story of the rise of international organizations since those periods could be told in a number of ways: as a historical progression from loose to more intense cooperation; as a narrative of progress in international cooperation; or as a move from politics to management in international life. Having discussed the functions and limitations of international institutions in the implementation of international law, Klabbers concludes that much of the appreciation for international organizations, and much of the law of international organizations, results from the interplay between the concept of formality and that of informality. Organizations cannot be regarded in complete independence from their member states; nevertheless, at the same time, international organizations are not just created to achieve tasks set by their member states, and organizational leadership has its own role, relatively independent from the member states.

In the final chapter in part three, titled "International law and the relativities of enforcement" Dino Kritsiotis attempts to address the question of whether international law cannot be enforced as, according to Austin, it is not part of the laws properly so-called. Within this context, Kritsiotis analyzes the enforcement system of international law by discussing the prohibition of the threat or use of force, counter measures, sanctions and the techniques of treaties. Throughout the discussions, Kritsiotis provides case studies to elaborate the enforcement element of international law, from the *Military and Paramilitary in and against Nicaragua* to the economic sanctions of the Security Council. In addition, he discusses the remarkable powers of the ICC, including the ability to issue international arrest warrants against heads of state. Having observed these developments, Kritsiotis concludes that international law had already developed a system of enforcement by the time of Austin's reflections in the nineteenth century. Moreover, international law has produced a variegated system of enforcement that is defined and shaped by the particularities of norms themselves.

Part four of this book is mainly aimed to discuss various aspects in the field of international law, titled "Projects of international law". Seven prominent scholars contribute their thoughts on a wide range of issues, from the relationship between international law and international order to the conservation of the world's resources. This part begins in chapter twelve, which discusses the proper relation between international law and international order, written by Anne Orford, followed by the analysis on the legitimacy of the international rule of law, written by B.S. Chimni.

Chapter fourteen, contributed by Susan Marks, adds to the rich discussion in this particular part of the book by discussing human rights in disastrous times; followed by Sarah M.H. Nouwen, who provides a detailed analysis on cases before the ICC, especially the situations in Sudan and Uganda. Moving from human rights issues,

Hélène Ruiz Fabri presents her analysis on international law aspects in the fields of trade, investment and money in chapter sixteen. In the next chapter, Thomas Pogge explores the aspiration and reality of international law, focusing on the issues of poverty, while in chapter eighteen, Sundhya Pahuja contributes her thoughts on international law in relation to the conservation of natural resources.

The discussions in part four fittingly complement the basic discussions of international law presented in previous chapters. It manages to capture different fields as well as different actors of international law, thus reaffirming the multifaceted nature of this particular subject. Therefore, this book would be suitable for readers who are not only interested in theories of international law, but also in how it works in practice. The supplementary chapter on guide to electronic sources of international law, written by Lesley Dingle, is notably useful, especially for readers with no or little background on international law.