

8-1-2010

## Book Reviews

Kevin Baggett  
*Louisiana State University Law Center*

Lucy Cox  
*Rutgers University Law Library*

Victor Essien  
*Leo T. Kissam Memorial Library, Fordham University School of Law*

Heather Hamilton  
*Louisiana State University Law Center*

Dean C. Rowan  
*Berkeley School of Law, Boalt Hall*

*See next page for additional authors*

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### Recommended Citation

Baggett, Kevin; Cox, Lucy; Essien, Victor; Hamilton, Heather; Rowan, Dean C.; and Timmons, Ronald C. (2009) "Book Reviews," *International Journal of Legal Information*: Vol. 37: Iss. 3, Article 11.  
Available at: <http://scholarship.law.cornell.edu/ijli/vol37/iss3/11>

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**Authors**

Kevin Baggett, Lucy Cox, Victor Essien, Heather Hamilton, Dean C. Rowan, and Ronald C. Timmons

## BOOK REVIEWS

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***Customary Law of the Internet: In the Search for a Supranational Cyberspace Law.*** By Paul Przemyslaw Polanski. Cambridge; New York: Cambridge University Press, 2007. Pp. 437. ISBN 978-90-6704-230-7. UK£66.00; US\$125.00.

While reading this book, I was reminded of the famous The Who lyric that declared, “meet the new boss, same as the old boss.” The old boss in the earliest form of legal systems was custom. Custom is recognized by legal scholars worldwide as an essential foundational element of all legal systems, especially in the realm of international law. The growth of the Internet has affected just about every aspect of law and how to resolve the legal issues raised by the Internet has been a hot topic for the better part of the last decade. Polanski attempts to reason that the “old boss”, custom, could be the “new boss” when dealing with supranational electronic commerce disputes. He does so with mixed results.

This book is divided into four main parts. The first part gives an overview of the development of the Internet, main legal issues that have arisen during the growth of the Internet, governance of the Internet, and segues into a meatier discussion on the recent (2000-2007) attempts at international codification of Internet laws. During his chapter of Internet governance, Polanski discusses a few groups that have tried to provide a legal framework for the Internet including The Working Group on Internet Governance (WGIG), Internet Corporation for Assigned Names and Numbers (ICANN), TRUSTe, and UNIDROIT. Polanski concludes that these organizations, while interested in governance of the Internet, are ineffectual at controlling it. His conclusion of the next chapter on attempts to create globally binding written laws echoes this same sentiment. While well meaning in their intent, the 2005 UN Convention on the Use of Electronic Communications in International Contracting and the 2004 UNIDROIT Principles of International Commercial Contracts and other such declarations lack the teeth of enforcement.

The second part explains the role of custom in international and national legal systems, then discusses a theoretical application of Internet custom. Polanski uses examples from the International Court of Justice to show how custom has been used in practice on an international stage. Polanski concludes that although the doctrine of international custom provides a basis to draw upon the analysis of customary practices on the Internet, a new methodology must be proposed due to the Internet’s informality and inconsistency.

In the third part, the author proposes a three step methodology to address the problem of evidencing custom on the web and how to best apply it as a source of law. This methodology includes an analysis of the functionalities of websites, a practice examination test, and a literature review test. Polanski then presents some case studies in which this methodology is used to evidence custom on the web. He identifies two major customary “norms” found with this new methodology. These two norms- “All web-based transactions should be electronically confirmed immediately after the placement of an order” and “All Internet banks should support strong encryption of transactions” seem like a no-brainer even to the average web user. Yet, Polanski creates a very sound scientific method of identifying custom on the Internet.

The fourth and final part identifies more general Internet customs and makes the case for a supranational legal solution to international e-commerce disputes. Polanski argues that a supranational Internet law could supplement recognized domestic and international legal regimes and could serve as a basis for solving cases in which both parties failed to choose a national legal system to interpret the disputed contract. He concludes the final part and the book with the idea that customs will become more apparent, new customary practices will be created as e-commerce between nations grows, and the evidencing of custom in deciding these disputes must be distributed to the legal community.

The book presents a unique solution, albeit an antiquated solution, to adjudicating international e-commerce disputes. Polanski will no doubt have his detractors, as many would argue that the current mechanisms of international law have proved to be accommodating to the changes that the Internet brought to international commerce. Still, Polanski gives a great introductory overview to the legal issues facing international e-commerce disputes and the book would be a welcome addition to any legal collection that features a heavy Internet law section.

Kevin Baggett  
Librarian  
LSU Law Center  
Baton Rouge, LA USA

*International Law, 6<sup>th</sup> ed.* By Malcolm N. Shaw. Cambridge; New York: Cambridge University Press, 2008. Pp.clxvi, 1542. ISBN 978-0-521-72814-0. UK £:38.00; US\$75.00

In paperback, the sixth edition of this well known, comprehensive, and scholarly text is 1542 pages, some 250 pages more than the 5<sup>th</sup> edition from 2003. Most of the chapters in this extensively revised and updated version have the same titles as did the earlier ones and cover all the usual areas of international law, including its historical development, sources, various theories regarding its role, protection of human rights, treaties, jurisdiction, territory, etc.. The most obvious change is a new chapter on “Individual Criminal Responsibility in International Law. “ This new chapter consists of two parts, the first dealing with the international courts, tribunals, and “hybrid” judicial bodies that have direct jurisdiction over individuals for breaches of specific crimes. The second part of the chapter deals with international crimes, specifically genocide, war crimes, crimes against humanity and aggression. Specifically, the chapter covers the International Criminal Tribunal for Yugoslavia, the International Criminal Tribunal for Rwanda, the International Criminal Court, and eight “hybrid” or “internationalized” domestic courts. These courts constitute a new type of judicial institution containing both national and international elements. They were created to deal with difficult post-war situations. The eight hybrid bodies covered in the chapter are the Special Court for Sierra Leone, the Extraordinary Chambers of Cambodia, the Kosovo Regulation 64 panels, the East Timor Special Panels for Serious Crimes, the Bosnia War Crimes Chamber, the Special Tribunal for Lebanon, the Iraqi High Tribunal, and the Serbian War Crimes Chamber.

Prof. Shaw begins the new chapter with a succinct summary of the historical background, pointing out that traditionally piracy and perhaps slavery were the only crimes for which individuals, rather than states, could be held accountable under international law. The true beginning of international criminal law holding individuals responsible for specific crimes was marked by the Nuremberg Tribunal, the Carter of which became part of international criminal law along with grave breaches of the 1949 Geneva Conventions and their 1977 Protocols and the Genocide Convention. The atrocities committed in the conflicts related to the break-up of Yugoslavia and the mass slaughter in Rwanda were the catalysts for creating the two international criminal tribunals, to be followed by the establishment of the permanent International Criminal Court in 1998.

The details of the creation, organization, and jurisdiction are set out for every court under its own heading, as are the main features of each of the four international crimes. Readers of this book will learn exactly which

Security Council resolutions established each specific court, that Article 4 of the Statute of the ICTY gives a definition of genocide, but that it is the case-law before the ICTY and ICTR that clarifies many of the relevant principles of this, as well as other crimes. Prof. Shaw is very good at giving precise summaries of seminal cases decided by the two tribunals, which include decisions regarding *mens rea* in determining what actions constitute genocide or other war crimes, and establishing that war crimes may be prosecuted whether committed during international or internal conflicts. Reading Prof. Shaw's concise analyses of the complex issues involved in the cases before the ICTR and the ICTY makes clear the grave importance of their opinions in forming the basis for future judicial decisions, including those of the International Criminal Court.

This new chapter is typical of Prof. Shaw's method and style throughout the book. It combines historical and theoretical background, the specifics of various aspects of international law, and the application of that law to actual events. Although this book is full of details and references as shown by the many footnotes at the bottom of each page, it is so clearly and elegantly written that it is easy to follow. The updating seems to be at least into May 2008. It includes a table of treaties and a table of cases. It is recommended as a valuable source for learning about all aspects of international law.

Lucy Cox  
International and Foreign Law Libraria  
Rutgers University Law Library  
Camden, NJ USA

***The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2006.*** Edited by Malcolm Evans and Rachel Murray. Cambridge; New York: Cambridge University Press, 2008. Pp. xxv, 509. ISBN: 978-0-521-88399-3. UK£65.00; US\$135.00.

In 2002, Malcolm Evans and Rachel Murray published a collection of essays on the first fourteen years of the African human rights system.

<sup>1</sup> Written by individuals intimately involved with the system, it revealed the challenges faced by the system and yet each author concluded with optimism for the future of human rights in Africa. Chief among their reasons for

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<sup>1</sup> THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS: THE SYSTEM IN PRACTICE, 1986-2000. Malcolm Evans and Rachel Murray, eds. Cambridge: Cambridge University Press, 2002.

optimism was the proposed African Court on Human and People's Rights as a complement to the extant regime for policing human rights in Africa.

With the creation of the new African Court of Justice and Human Rights<sup>2</sup> and the emergence of the new African Union ("AU")<sup>3</sup> as the successor pan-continental institution to the Organization of African Union ("OAU"), the African human rights system has changed in character and pace. This more than justifies the need for a new edition of the earlier work. Again relying on the contributions of insiders, the present edition brings up to date the topics discussed in the first one and covers new topics engendered by the recent institutional changes.

The second edition starts with an introductory preface by Germain Baricako where he describes the "creation, maturation and materialization of the African Charter on Human and Peoples' Rights." He also cites some of the problems encountered during the early stages of the Charter such as the question of incompatibilities, as some members of the African Commission on Human Rights held simultaneous governmental positions in their country of origin that prevented them from serving independently on the Commission.

In chapter one of the book, titled "The African Union and the Regional Human Rights System", Gino J. Naldi chronicles the primacy of human rights and democratic principles under the Constitutive Act of the new African organization. He explains that "by directly associating sustaining economic development with safeguarding human rights, the Constitutive Act acknowledges that a human rights culture is indispensable in fostering economic growth." Naldi further reveals how the new AU is building on the steps that the erstwhile OAU built to promote human rights and the way the organs originally created under the ancien human rights regime are adapting to conform with international human rights standards.

In chapters two, three, and four, Malcolm Evans and Rachel Murray, Frans Viljoen, and Rachel Murray respectively reprise their roles in the earlier edition, writing on the state reporting mechanism, communications procedure and the evidence and fact-finding system under the new dispensation. Each

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<sup>2</sup> The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of African Court of Human and Peoples' Rights was adopted by the AU Summit in Ouagadougou, Burkina Faso on June 9, 1998 and came into effect on January 25, 2004, thirty days after receipt by the AU Commission of the 15<sup>th</sup> instrument of ratification.

<sup>3</sup> The Constitutive Act of the African Union was adopted by the 36<sup>th</sup> Ordinary Session of the Organization of African Unity (OAU) meeting in Lome, Togo, in July 2000; the establishment of the AU was declared by the 5<sup>th</sup> Extraordinary Session of the OAU, meeting in Sirte on March 2, 2001; Decision on the African Union, OAU Doc. EAHG/Dec. 1 (V).

chapter carefully notes the changes that have taken place and the prospects for further improvements.

Chapters five, six and seven are devoted to substantive rights under the African Charter on Human and Peoples' Rights. In chapter five dealing with Articles 1 to 7 of the African Charter, Bronwen Manby points out that even though the bulk of the decisions of the African Commission concern civil and political rights under those articles, the Commission has not, in general, used the opportunities presented by those cases to go much beyond following international precedent on similar provisions. While admitting that the Commission has improved over time, Manby encourages the Commission to still fight to receive the respect and status it should have by right. In chapter six, Kolawole Olaniyan examines civil and political rights under Articles 8 to 14 of the African Charter. These include freedom of conscience and religion, the right to information and freedom of expression, freedom of association and assembly, freedom of movement, the right to participate in the government of one's country, and the right to property. In his conclusion, Olaniyan considers that the system has worked far better than originally expected. He maps out ways in which the system, in particular the Commission, could improve. He notes that "one way the African Commission could advance its creative or interpretative functions is to begin the adoption of General Comments, which would help to develop a better understanding of the normative content and breadth of protection offered by the African Charter." In chapter seven, under Group Rights, Clive Baldwin and Cynthia Morel discuss the Charter's unique contribution to international human rights by its distinct recognition of peoples' rights. The regret for them is that, to date, the African Commission has under-utilized these provisions and has not helped in the development of the relevant jurisprudence.

In chapters eighth through eleven, Nobuntu Mbelle, Fiona Adolu, Rachel Murray, and Bahame Tom Mukirya Nyanduga respectively describe the roles of treaty bodies and other stakeholders within the African human rights system. Mbelle notes that the African Commission encourages collaboration with civil society, in the nature of non-governmental organizations, in carrying out its mandate of protecting and promoting human rights on the continent. National human rights institutions, on the other hand, have yet to define their role in the Commission's mandates and activities. Mbelle maintains that the support from these quarters notwithstanding, the Commission should still strive to attract financing to undertake its functions. In her account on the role of the Secretariat, Adolu laments the rather crippling lack of funding for the Secretariat which continues to undermine its proper functioning with serious implications for the work of the Commission. Reviewing the role of Special Rapporteurs in the African human rights system, Murray characterizes it as, on the whole, disappointing. Murray



would like to see the Commission establish more working groups rather than appoint Special Rapporteurs. Nyanduga's report on the work of the working groups explains why Murray prefers them to the Special Rapporteurs. It is obvious that they have enhanced the efficiency of the Commission and could do more with additional resources.

The last two chapters of the book are devoted to two recent phenomena; namely, the new African Court of Justice and Human Rights and the new Protocol to the African Charter on the Rights of Women in Africa. Both chapters reflect the dissonance between promise and performance. Both insinuate that the success or failure of each would depend on the political support of all concerned.

Evans and Murray have succeeded in dissecting the African human rights system in these thirteen chapters. The writing is lucid and enlightening. It is recommended reading for all who are interested in the state of human rights in Africa.

Victor Essien  
The Leo T. Kissam Memorial Library  
Fordham University, School of Law  
New York, NY USA

***The Rise and Fall of the EU's Constitutional Treaty.*** Edited by Finn Laursen. Leiden; Boston: Martinus Nijhoff Publishers, 2008. Pp. xvii, 560. ISBN 978-90-04-16806-0. € 147.00; US\$ 208.00.

One risk in purchasing a book which contains a compilation of essays on a given topic by various authors is that the reader who attempts to read the book from start to finish may find the change in writing styles and points of view disruptive. One way to resolve this, and the method used by the editor of this book, is to break down the subject matter, in this case the failed EU Constitutional Treaty, into smaller subtopics and group essays covering those smaller topics together. In *The Rise and Fall of the EU's Constitutional Treaty*, Finn Laursen starts with an introductory chapter to introduce the reader to the background events and place the book's essays into context. He then divides the book into six sections covering 1) the policy and pillar aspects of the Constitutional Treaty, 2) case studies of national preferences, 3) roles of presidencies and community actors in getting the treaty ratified and in its eventual ratification failure, 4) the negotiation process itself, 5) issues with ratification, and 6) a final section on perspectives and assessments of the failed treaty. Because the subsequent Lisbon Treaty incorporates many of the same policies and much of the same language as the Constitutional Treaty,

this book remains relevant and much of the analysis contained within this book remains on point.

This collection of essays attempts to answer the questions raised by the Constitutional Treaty, such as why it was felt that the EU needed a constitutional treaty so soon after the Treaty of Nice and what the preferences of the member states were. Of special significance to the scholars is the question of why the treaty was rejected by referenda in France and the Netherlands. These failed referenda effectively killed the treaty even though it was ratified by a majority of the Member States. After the rejection of Constitutional Treaty in France and the Netherlands in 2005, the European Council met in 2007 and decided to negotiate an alternative treaty, which retained the essence of the Constitutional Treaty, save for erasing any mention of an EU constitution; this reform treaty became the Lisbon Treaty.

A minor quibble with the book is that, save for a few sentences within the preface, there is no clear road map given for how each section relates to the others. Taking a paragraph or two in the introductory chapter to lay out the structure of the book would have been helpful to the reader, but the lack of a roadmap does not ruin the book by any means. Otherwise, the essays are clearly written and understandable. This is not a work of strictly legal scholarship, but rather a book written with a view towards political science. Thus, legal readers may be taken aback by the citations, or rather, the lack thereof, within each essay. Nonetheless, browsing through the bibliographies at the end of each chapter makes it clear that each scholar has researched his or her topic and relied on a commendable mix of primary and secondary sources. Another difference for legally minded readers may be the fact that an author's essay may display a significant slant towards the importance during the proceedings of one country over based on that particular author's viewpoint. An example of this occurs in the chapters regarding the significance of Spain and Germany, respectively, in the proceedings involving the Constitutional Treaty.

By far the strongest part of the book is the section offering case studies on national preferences regarding an EU constitution. This is also the largest section of the book and each chapter within it is dedicated to a different country. There are seven country perspectives: Spain, Germany, France, the Netherlands, the United Kingdom, Poland, and Denmark. As mentioned earlier, the bias of the author may create a slant towards one country over another in each of these chapters, but they remain the most interesting chapters of the book. Because each chapter takes the events from a certain country's point of view, these chapters run the risk of being overly repetitive but the focus on the specific needs and concerns of the individual countries saves this section. Furthermore, while this section deals primarily with the leanings of individual countries within the EU, there are other

chapters in other sections that focus on Italy and Ireland, and there is another entire section that goes into greater detail on France and the Netherlands and their decisions to reject ratifying the Constitutional Treaty.

The scholars chosen to contribute essays come from Europe, the United States, and Canada, and their combined knowledge of, and participation within, the EU is impressive. The majority of the contributors hold PhDs in political science, international relations, or economics, although two contributors have studied law. Finn Laursen, editor of the collection, explains in the acknowledgements that this book is the outcome of a research conference organized by the EU Centre of Excellence (EUCE), which is financed by the European Commission's Directorate-General for External Relations, but that the EU itself is not responsible for the information or views expressed within the book.

This is a well written book and a refreshing change of pace for those of us who spend the better part of our days reading and conducting legal research. Seeing an issue like the failed ratification of the EU Constitutional Treaty from a vantage point of political science allows international law scholars fresh insights on the causes and ramifications of that failure, as well as shedding light on the newly passed Lisbon Treaty. This is a valuable book for any EU scholar's collection.

Heather Hamilton  
Foreign, Comparative, & International Law Librarian  
Louisiana State University Law Center  
Baton Rouge, LA USA

***Charlemagne: The Formation of a European Identity.*** By Rosamond McKitterick. Cambridge; New York: Cambridge University Press, 2008. Pp. xviii, 460. ISBN: 978-0-521-71645-1. UK£15.99; US\$29.99.

The title evokes one of those epic public access educational television productions aired in installments over several weeks, a fusion of biography and imperial history replete with captivating images of palaces, churches, monasteries, panoramic foreign landscapes, magnificent treasures, rare manuscripts and maps, and reenactments of spectacular battles and ceremonies. A distinguished scholar-celebrity narrator with a voice that radiates erudition. A soundtrack featuring passages of a formative Gregorian chant. And a dramatic narrative arc as sharply delineated as an encyclopedia article.

This book is none of that. It is arranged thematically, not chronologically. Its only illustrations consist of tables of facts and figures, and

eight concise grey scale maps. It is not in fact a biography of Charlemagne, but rather a reassessment of the evidence we have about him. Rosamond McKitterick (Medieval History, University of Cambridge, and Fellow, Sidney Sussex College) is a prolific, preeminent scholar of Carolingian culture and history, whose project in this latest book is to identify and revise where scholars of Carolingian history have turned assumptions into conclusions about Charlemagne's life and rule. She is at pains to return to the primary documents and to reexamine the inferences, hypotheses, and speculations reasonably to be made upon them.

In this English translation (presumably her own) of her *Karl der Große*<sup>4</sup>, McKitterick naturally relies on many of her prior publications, particularly her work dealing with writing and manuscripts as vehicles of memory and transmission of culture. The more than sixty-page bibliography of primary and secondary sources, not to mention a two-page fine-print index of manuscripts, attests to the density and extent of learning synthesized in the work, but it is evident that *Charlemagne* is fundamentally McKitterick's application of historiographical methods she has elaborated in, for a recent example, her *History and Memory in the Carolingian World*. There she explored themes relating to the embodiment of memory in early medieval texts. Having gleaned in *History and Memory* "the ways by which various medieval societies constructed and understood their pasts,"<sup>5</sup> McKitterick sets out to show in *Charlemagne* how those modes of historical construction were deployed by the chroniclers of her eponymous subject not only to develop a biography of the ruler, but to craft a legacy for his realm and construct identities of the peoples who inhabited and interacted with it. Moreover, she shows how Charlemagne's own methods of governance intended similar kinds of historical construction.

The first of the book's five chapters addresses the relatively slight extant documentary and material evidence of Charlemagne and his reign, emphasizing especially the few known recensions of the *Annales regni francorum*, a contemporary history of Frankish kingdoms, including Charlemagne's. From the very outset, McKitterick exhibits her formidable strengths in philology and codicology, skills she wields throughout her work in support of the historical accounts she develops. Two queries occupy much of the chapter: the number and stations of the authors of the *Annales*, and the special significance of the chronicle's coverage of the last sixteen years of Charlemagne's reign, during the second of which he was crowned emperor. For McKitterick, the question of the identities of authors helps to reveal

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<sup>4</sup> Darmstadt: Wissenschaftliche Buchgesellschaft, 2008.

<sup>5</sup> Rosamond McKitterick, *HISTORY AND MEMORY IN THE CAROLINGIAN WORLD* (Cambridge: Cambridge University Press, 2004) 1.

details of how and why such histories were composed. Her related examination of the text's treatment of Charlemagne's imperial years notes a shift in the *Annales*, from a focus on Charlemagne the man during the early years to one more concerned with the extent of his realm and character of his rulership during the later period. This shift is important to McKitterick's themes of memory and historical construction, for it reflects how the chroniclers facilitated continuity of governance when following Charlemagne's death in 814 one of his son's, Louis the Pious, succeeded to the throne. The chroniclers thus produced "a clearly articulated and controlled overture to the reign of Louis within the narrative." McKitterick's theme of a ruler's control over time and space of his royal legacy is a persistent one in the book.

Having demonstrated how the mechanics of Carolingian historical chronicling might have been used in the service of fashioning a kingdom, McKitterick then devotes each of the following three chapters to special aspects of that kingdom: respectively, its early expansion, the nature of the royal court, and the means of communication and transmission of information. Chapter 2, addressing military and other means of expansion of the realm, continues the theme of succession and the rise to prominence of the forerunners to the Carolingian family. McKitterick's shows how the stage had been set for Charlemagne by policies and achievements of his ancestors, and thereby corrects the simplistic notion that the king largely single-handedly forged an empire. She disputes the claim that his early shared rule with his brother Carloman was marked throughout by fraternal conflict, seeing instead a discrete episode of "temporary dissension." Charlemagne then extended his authority not only through campaigns of aggression, but also in defense of vulnerable borders, and by political and ecclesiastical disposition of his offspring. McKitterick's second chapter thus complicates the image of warrior-king commonly associated with the ruler.

Complexity is a keynote as well of the third chapter, an examination of the nature of the royal court, which commences with a paragraph that reflects elements of a keynote to the entire book:

Political power and its location had become more decentralized and less institutionalized in the post-Roman world. The Carolingian construction of a network of regional centres of power, a 'topography of power', appears to offer an instance of such decentralization within the much-expanded *regnum francorum*, with a 'great chain of palaces' whose symbolic role was enhanced from time to time by the king's presence or by the conduct of the king's business (p.137, footnotes omitted).

Decentralization, networks, symbolic power, manifestations of the king: these are topics that crop up across McKitterick's study. In Chapter 3, they pertain primarily to the existence and operation of a unified court, a stable cadre of administrators who wielded power through itinerancy led by the king. McKitterick questions and puts the lie to such a hypothesis, concluding, "All the available evidence undermines the traditional notion of an entire court on the move." Instead, Charlemagne ruled by communication and distributed exercise of authority, using diplomats and diplomatic texts to expand his influence where his physical person could not practically be. To illustrate the process, McKitterick revises and greatly simplifies the traditional account of Charlemagne's travels in 775. Her simplification draws on charter evidence and a challenge to the assumption that where a charter appeared, there must the king have been in person. Armed with evidence that undermines the assumption, she shows how the issuance of charters afforded remote rule. She concludes in summary at the outset of the following chapter that under Charlemagne "royal government became less dependent on the king's own movements."

Chapter 4 examines the communications media of Carolingian remote rule, primarily the capitularies. After a brief discussion of assemblies (occasional in-person modes of governance) McKitterick develops a taxonomy of capitularies, the written ordinances or accounts of administrative activities. Those associated with the early, pre-imperial years (i.e., pre-800) of Charlemagne's reign she identifies as "programmatic," which "set out royal policy and extend the king's aspirations for orderly government, justice and a well-regulated Christian realm to the newly acquired territories." Several other pre-800 capitularies she deems "regional," for they address relatively local concerns following the assimilation to and consolidation with the realm of discrete territories, such as Aquitaine and Saxony. Finally, the post-800 capitularies pertain predominantly to administrative procedures, rather than to substantive policy and law. McKitterick refers to these as "administrative capitularies."

Another mechanism of governance developed during his reign was diplomacy, which for Charlemagne entailed the deployment of a network of representatives in lieu of his own physical presence. Furthermore, a network of embassies served more than a practical decentralizing function according to McKitterick. The "personal affiliations" resulting from diplomatic operations contributed to the formation of ethnic, political, and other group identities (*cf.* the book's subtitle) that served to define relationships among negotiating parties. She depicts Charlemagne as having extended the reach of his influence not exclusively by conquering and assimilating foreign peoples, but by insinuating influence through official channels where the exercise of mutual respect forged cooperative bonds.

In the final chapter, McKitterick introduces a concept of which there are hints in prior chapters, *correctio*, to formulate yet another element of Charlemagne's ideological and political strategies, and to bolster the argument that a consequence of these strategies was the formation of a Carolingian identity. *Correctio* is the principle motivating Charlemagne's "promotion of correct thinking and correct language [as] an essential component of an overall strategy of control." The criteria of correctness stemmed from religious and cultural dictates embraced and prescribed by the emperor, both as governing ruler and individual adherent. Chapter 5 is thus concerned with the religious and literary interests of the court, and it pursues these concerns through examination of the material production of religious and instructional texts. The former produced a "sacred topography" of the realm, the latter a "geography of learning." In these epithets, McKitterick distils again the functions of networks of influence, emanations of Charlemagne's personal practices of piety and learning out across the lands he ruled, transmitting markers of cultural identity. In this chapter McKitterick again exercises her codicological and palaeographical skills to inform her speculations as to, for example, how scribes worked and organized their operations, or how the production and circulation of texts, like the production and location of capitularies described in Chapter 4, help to illustrate the spread of Charlemagne's authority.

McKitterick's challenges to the entrenched reception of Carolingian history can be viewed as sweeping, as they forcefully unsettle if not virtually overhaul the "agreed stereotype" of Charlemagne accreted in the work of generations of scholars before her. But viewed another way, she mostly identifies and adjusts a number of heretofore mistaken but discrete accounts of the man, his reign, and his realm. After all, the book does not really dispute the substance of "this stereotype of Christian emperor, mighty conqueror and patron of learning." What it does do is question and begin to explain how he has been "seen as a sort of composite super-emperor," a source of myth and propaganda that have improperly come to color our historical knowledge. The questioning and explanation tend to enrich and complicate our understanding of the both the historical record and the methods and goals of historical scholarship.

It is fair to wonder of what interest *Charlemagne: The Formation of a European Identity* might be to readers of the *International Journal of Legal Information*. The book is a solid work of history and historiography, examining how historians worked during the Carolingian era and prescribing how scholarship ought to be produced in our own time, but it is not primarily a legal history. Much of the book deals with Charlemagne's system of governance and with his strategies for dissemination of legal information, notably in the Chapter 4 treatment of the capitularies, but then much of the

book also deals with unresolved non-legal issues of Carolingian history, such as the significance of the palace at Aachen to the ruler and his court during his later years. Still, there is a perceivable wide area of interests shared by McKitterick's Carolingian specialist colleagues and *IJLI*'s information professionals. Both cohorts are concerned with the cultural manifestations and technological platforms of "memory," the historical record, and the popular assimilation of (or resistance to) the contents of that record. Historians, librarians, lawyers, and legal scholars alike have complementary interests in how texts acquire and convey authority, not least through their having been collected, organized, copied, and retransmitted. McKitterick's *Charlemagne* illustrates these phenomena and, by so doing, sets an example for future study.

Dean C. Rowan  
Reference & Research Services Director  
Berkeley School of Law, Boalt Hall  
University of California  
Berkeley, CA USA

***The Europeanisation of International Law: The Status of International Law in the EU and its Member States.*** Edited by Jan Wouters, André Nollkaemper and Erika de Wet. Cambridge; New York: Cambridge University Press, 2008. Pp. xvii, 225. ISBN 978-90-6704-285-7. UK£50.00; US\$99.00.

*The Europeanisation of International Law* highlights the complex relationship between European Union law, national laws, and public international law.<sup>6</sup> The EU's explicit commitment to the principles of public international law binds the EU to public international law while at the same time international law has increasingly become "europeanised." This phenomenon is commonly called European integration. The main focus of the book is on the effects of europeanisation on public international law within legal systems of EU states.

Instead of engaging in the "classic" process whereby constitutional law determines the applicability of public international law on the national level, EU states are engaged in a triangular balancing act between national,

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<sup>6</sup>This collection of works stems from a conference in 2005 at Amsterdam University's Centre for International Law. Details available at <http://www.jur.uva.nl/aciluk/events.cfm/15B650AB-6308-4A3C9A12E24-6A6E72CD7>.



international, and EU law. The first section of the book helps define europeanisation by analyzing it from various perspectives, while the second half addresses the consequences of europeanisation on international law, domestic legal systems, and the EU judiciary.

As an example from the first part of the collection, in chapter 4 Christian Tietje analyzes case law from the European Court of Justice in order to highlight the standing of international law in the EU. International agreements as interpreted by the ECJ are examined and it is convincingly argued that international agreements nearly have the force of primary law in EU member states.

In discussing the consequences of europeanisation in the second half of the book, the authors' works are especially useful when europeanisation is analyzed in the context of domestic legal systems. Astrid Epiney and Bernhard Hofstötter in collaboration with Markus Wyssling explore the legal systems of Austria, Switzerland, and Liechtenstein in chapter 8, and Nora Chronowski and Timea Drinoczi do the same for Hungary in chapter 9.

While the phrase "europeanisation of international law" has been used with increasing frequency as of late, this is one of the few texts to contribute substantial research to examination of the topic. *The Europeanisation of International Law* attempts to answer complex questions such as: 1) Are we dealing with the emergence of a distinct European system of public international law?; 2) To what extent do EU Member States actually recognize the effect of this "europeanisation" of international law?; and 3) What role does the European Court of Justice play with respect to the application and interpretation of "europeanised" international law within the EU Member States?

Not surprisingly, the answers to these questions are multifaceted and complex. This collection, however, provides readers with a thorough introduction and comprehensive analysis of europeanisation. Additionally, the contributors present compelling arguments. Law libraries wishing to provide their patrons with up-to-date research on European Union law and/or public international law should certainly purchase this text.

Ronald C. Timmons  
Graduate Assistant  
University of Illinois College of Law Library  
Urbana, IL USA