

Articles

Introduction - Ruptures in International Law

*By Ignacio de la Rasilla Y del Moral**

The papers gathered under this special issue draw on presentations from the International Legal Theory Workshop under the auspices of the 4th Conference of the European Society of International Law, which was held at Cambridge University in September 2010. The essays cover some key developments in international law since the fall of the Berlin Wall. In the pages that follow, you will find an examination of the rise of the notion of 'harmonious society' in China as well as an insightful analysis of how this concept can influence international law; a detailed study of the regime of responsibility of international organizations that has gained momentum in the wake of the proliferation of international organization since 1989; a proposal for a fiduciary theory of international human rights, conceived as an alternative model to post-9/11, interest-balancing approaches in the field of national security law; and a reflection on the endurance of the notion of rogue states and state-criminalizing approaches to international relations, beyond the confines of the Bush doctrine. These essays are started off by two papers that address, from different angles, the current state of theorizing of international law.

As is already evident from this outset, all of the essays collected here are inspired by the important transformation that has occurred in public international law over the last two decades, which the working group for the 2010 Conference attempted to capture with the concept of "rupture." The authors represented here all responded to the definition of rupture as it was offered in the original call for papers, which read thus:

Rupture (n): 1. a. Breach of a covenant, intercourse, or the peace. b. A breach of harmony or friendly relations between two persons or parties. c. Breach of continuity; interruption. d. The act of breaking out into arms. [...] 3. a. A break in a surface or substance, such as the skin, flesh, etc. b. A break in the surface of the earth, etc.; a ravine, chasm, gorge, rift. 4. The act of breaking or bursting; the fact of being broken or burst.

Rupture (v): 1. a. To break, burst [...] b. To cause a breach of; to sever [...] 2. intr. To suffer a break or rupture (Oxford English Dictionary).¹

* Post-Doctoral Max Weber Fellow in Law, European University Institute. Adjunct Professor of International Human Rights, New York University in Florence. M.A. & Ph.D. (Graduate Institute of International and Development Studies, Geneva), LL.M. (Harvard Law School).
Email: ignacio.delarasillaydelmoral@graduateinstitute.ch.

The question put to the authors along with this definition was whether and to what degree international legal theory had experienced *rupture* during the period from 1989-2010? If so, we wanted to know from our colleagues, how have these ruptures been expressed, understood and/or taken account of theoretically? How (if at all) have significant ruptures documented in intellectual, institutional and political history affected theoretical discourses in and about international law? In particular, what, if any, ruptures were effected in international legal theory, by or in connection with events of 1989? When and how (if at all), and with what implications, has theoretical inquiry or critique ruptured established trajectories of international legal thought during the past two decades? What are the implications of approaching and/or appraising international legal scholarship by reference to supposed watersheds or instances of rupture?

Now that we have the papers before us and are reading them in the context of a vibrant and continuing debate over the fate and prospects of international legal theory, it appears as though we have only begun to grasp the contours of ruptures in international legal thinking post-1989.

As the guest editor of this special issue of the German Law Journal, I am grateful to its editors and, in particular, to the students who over the past months worked hard on getting the essays ready for publication. Finally, I am of course very much indebted to the authors and colleagues who have helped make this issue a reality. Its publication testifies to the value of an ever-evolving and on-going communal thought-exchange among international law scholars, professors, students and researchers, with regard to the past, present and future interpretations – and shaping – of important international legal phenomena.

¹ This text has been adapted from the original 'call for papers' for the IGLT symposium. Also, *see generally* the definition of 'rupture' in The Oxford English Dictionary, *Rupture*, OED.COM (Apr. 24, 2012), available at: <http://www.oed.com/view/Entry/168984?rskey=CYXqEx&result=1&isAdvanced=false#eid> (last accessed: 24 April 2012).