

BOOK REVIEWS

HOW INTERNATIONAL LAW WORKS: A RATIONAL CHOICE THEORY BY ANDREW T GUZMAN (NEW YORK, US: OXFORD UNIVERSITY PRESS, 2008) 260 PAGES. PRICE US\$35.00 (HARDBACK) ISBN 9780195305562.

REPUTATION AND INTERNATIONAL LAW

I INTRODUCTION

Inevitably, every work comes out of a particular context. The present context is a poor United States record of compliance with treaties, for example, the withdrawal from the *Optional Protocol to the Vienna Convention on Consular Relations*.¹ An apparently economic approach to international law by Goldsmith and Posner argues that international law is just cheap talk and has no compliance pull. States merely engage in the rhetoric so as to not appear uncooperative.² Andrew T Guzman's project is a constructive and progressive one, from an internationalist perspective, to show that international law is to be taken seriously. He points to the need to bring in social theory to support this argument and refers to the work of F M Abbott.³ This is to alert us to the fact that the context is almost wholly (it is always hazardous to say 'wholly') US scholarship. That in itself is not a criticism, if no significant sociological debates are being generated outside the US.

Guzman sets out his stall very lucidly in terms of a rational choice approach. After rejecting what one might describe as the Chayeses' 'transactions costs' approach to rules (where they are clear and facilitate coordination), Guzman says he makes no assumption that states have a preference to comply with

¹ *Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes*, opened for signature 24 April 1963, 596 UNTS 261 (entered into force 19 March 1967) ('*Optional Protocol to the VCCR*').

² Jack L Goldsmith and Eric A Posner, *The Limits of International Law* (2005). Guzman's study is not taken to be a law and economics approach to international law and will not be reviewed in that context. The work is much closer to the field of diplomacy than economics, although economic rhetoric such as 'discount' or 'payoff' is used throughout the book. Therefore, the reviewer's original plan to compare this work with Goldsmith and Posner and also Joel P Trachtman, *The Economic Structure of International Law* (2008) has not been followed.

³ Andrew T Guzman, *How International Law Works: A Rational Choice Theory* (2008) 13 citing Frederick M Abbott, 'Modern International Relations Theory: A Prospectus for International Lawyers' (1989) 14 *Yale Journal of International Law* 335.

international law.⁴ It is probably better to quote him:

the book adopts a set of rational choice assumptions. States are assumed to be rational, self-interested, and able to identify and pursue their interests. Those interests are a function of state preferences, which are assumed to be exogenous and fixed. States do not concern themselves with the welfare of other states but instead seek to maximize their own gains or payoffs. States, therefore, have no innate preference for complying with international law, they are unaffected by the 'legitimacy' of a rule of law (Franck 1995), past consent to a rule is insufficient to ensure compliance, and there is no assumption that decision-makers have internalized a norm of compliance with international law (Koh, 1997).⁵

After noting that these assumptions are accepted in a wide range of (in fact, exclusively American) literature, Guzman remarks that, more importantly, the argument rests on the assumption that states are actually hostile to cooperation and will only engage in it when there are clear 'payoffs' (in rational choice terms).⁶

Guzman concludes his introductory chapter by considering alternative social theories of international law. This places him firmly within the discipline of international relations, which is hardly intended as a criticism and which may explain the absence of European international law literature — not to mention that from any other continent — in his readings. He dismisses the realist concern that security is a primary priority of states.⁷ There are many areas, such as the environment and trade, in which security is not a predominant concern. I think this subject will come to haunt Guzman as many of the illustrations of his theory are recognised by him as instances where the reputational advantages of observing legal obligations are trumped by security considerations. He sets himself the heuristic task of exploring the value of the rational choice approach without crusading against other theories. This shows a commendable tolerance — and might be an example to others — but the recurring problem of security in his book suggests to this reviewer that a second edition should engage more closely with this specific theory.

The same need not necessarily be said of Guzman's sidelining of liberal and constructivist theory. Each of these theories wishes to go inside the box of the state: the former to study the sub-state groups which make up the state; the latter to stress how international society at least plays a significant role in constructing the very identity of the state, even if the process may well remain a dialectical one. Guzman's tolerant attitude is that, while it is obviously open for someone to adopt these approaches, they have no well-established predictive value, given the complexities of the internal workings of the state.⁸ Therefore, they do not serve his purpose, which is, in international law terms, the fairly progressive one of showing that international law will very frequently enjoy compliance by states (including the US as one more rational actor), notwithstanding the hiccups of such incidents as the US withdrawal from the *Optional Protocol to the VCCR*.

⁴ Guzman, above n 3, 16.

⁵ *Ibid* 17.

⁶ *Ibid*.

⁷ *Ibid* 18.

⁸ *Ibid* 19–21.

II STATE COMPLIANCE

The next essential stage in Guzman's argument is to clear the way, as far as possible, for his concept of 'reputation' as the key element to identify assurance of some measure of compliance by states with international law.⁹ He eliminates the usual candidates of legal theory, for instance, the presence of a precise sanction or mechanism of third-party settlement. If the state does not care to obey the rule, it will be indifferent to the sanction. For instance, the European Union will not observe the World Trade Organization rulings on genetically-modified food products, regardless of the retaliation made possible by the WTO. More importantly, dispute resolution usually represents an acceptance by the states that they are already willing to abide by the ruling of the tribunal. That is, with the consent of the parties, the tribunal is merely adding more rules that they are willing to accept anyway. This supposedly means, for example, that a willingness to accept compulsory arbitration of investment disputes does not add anything *much* to accepting the obligation to respect investments in investment treaties.

A difficulty with Guzman's style of argument is that he does not go on to provide any precise measure of how much his theory of reputation will explain with respect to treaty compliance. He talks to his readers of 'payoffs' and 'discounts' following nonobservance. He says that the more precise the legal obligation violated, the greater the loss of reputation from noncompliance, but if that is the case, he comes back to admit the huge importance of third party settlement to ensure compliance with international law. Nonetheless, it is with the lightness of touch of an essayist that Guzman disposes of the entire campaign of the common law world, particularly the British, to bring disputes among states under the rule of law by excluding arguments that the legal aspects of disputes are outweighed by so-called vital or political interests.¹⁰ Instead, Guzman discounts the systemic significance of tribunals in explaining compliance with international law — and thereby their relevance for international order — by pointing out the arbitral and essentially ad hoc function of third-party dispute resolution in international law.¹¹ It is not his academic style to take note of literature opposed to his view, nor does he indicate whether he is aware that the point he is making has already been made rather often. This should ultimately matter only if one were to remain unconvinced as to the self-evidence of his argument. It so happens that this particular reader and reviewer has no particular problem with this specific argument and does not mind to see it restated.

Guzman then comes to what he calls the 'three Rs': reputation, reciprocity and retaliation.¹² His concern is, as always, to identify whether reputation is the most significant of the three. After largely discounting the other two, he goes on

⁹ Ibid ch 2 (A General Theory of International Law).

¹⁰ See, eg, Hersch Lauterpacht, *The Function of Law in the International Community* (1933), praised by Martti Koskenniemi at a recent celebration of the Lauterpacht Centre for International Law as the greatest international law book of the 20th century: see Martti Koskenniemi, 'The Function of Law in the International Community: Keynote' (Speech delivered at the 25th Anniversary of the Lauterpacht Centre for International Law, Cambridge, 11 July 2008) available from <http://www.lcil.cam.ac.uk/25th_anniversary/anniversary_audiovisual.php>.

¹¹ Guzman, above n 3, 49.

¹² Ibid 33.

to devote an entire chapter to reputation, the very heart of the book.¹³ In an undogmatic style, Guzman is not interested to discount completely the significance of reciprocity and retaliation in ensuring compliance. However, he finds it easy to show cases where they usually play no role, such as human rights conventions, and also areas where the role they can play is limited by the potentially mutually-destructive character of reciprocal behaviour or retaliation, for example in respect of the *NPT*¹⁴ or even the WTO. Guzman argues that reciprocal negative reactions and retaliation will usually nonetheless be driven by the desire to show resolve in the face of noncompliant behaviour, which is, in fact, a matter of reputation.¹⁵

III REPUTATION

Guzman defines reputation as ‘judgments about an actor’s past behavior used to predict future behavior’, drawing on the work of Gregory Miller, in the area of security studies, and other international relations theorists.¹⁶ Reputation sends a signal about a state’s willingness to honour its international legal obligations, of which other states take note, thereby affecting the state’s capacity to induce others to cooperate with it, particularly by entering into future legal commitments. States have no interest in reputation as such, but only insofar as it affects ‘payoffs’ in continuing relations with other states. Crucial to its role is the repetitive and limited nature of the options open to states in their relations with one another.¹⁷ The difficulty that immediately emerges from the vagueness of Guzman’s language of ‘discounts’ and ‘payoffs’ means that it is not going to be easy to measure when, for instance, states will sacrifice reputation for security. In the final analysis, Guzman’s book is a work of social theory and is not normative, whether philosophically, morally or legally. He is concerned only to find a framework within which to predict state behaviour, even though it can be said that his argument, on balance, brings some reassurance to international lawyers as to the credibility of their enterprise.

Guzman does not react judgementally if states do in fact sacrifice reputation to what they regard as security interests. The general theory chapter contains extensive discussion of the *ABM Treaty*.¹⁸ While the US and the Soviet Union were relatively equal powers, both stood to gain from not engaging in a mutually-ruinous arms race. Once the Soviet Union was collapsing and unable to compete with the US, the latter had every interest to withdraw from the *ABM Treaty*. This ‘increased the incentive for the United States to violate the treaty, and ultimately led to its withdrawal from the treaty’.¹⁹ When the US thought it could develop an anti-ballistic missile system with its technology, and other countries did not appear to be able to compete, then it had no incentive to enter

¹³ *Ibid* ch 3.

¹⁴ *Treaty on the Non-Proliferation of Nuclear Weapons*, opened for signature 1 July 1968, 729 UNTS 161 (entered into force 5 March 1970) (*‘NPT’*).

¹⁵ Guzman, above n 3, 44 (on reciprocity), 47 (on retaliation).

¹⁶ *Ibid* 33.

¹⁷ *Ibid* 35, 41.

¹⁸ *Treaty on the Limitation of Anti-Ballistic Missile Systems*, signed 26 May 1972, US-USSR, 994 UNTS 13 (entered into force 3 October 1972) (*‘ABM Treaty’*).

¹⁹ Guzman, above n 3, 55.

into or, supposedly, to keep any such agreement.²⁰ This is in fact the classical 'state interest' argument against the viability of international law, which mainstream international legal theorists always thought had to be met at the level of normative theory, not social theory.²¹ Yet, I am not sure that Guzman is not coming around full circle here and finding himself, once again, in the company of Goldsmith and Posner with their not-quite-so-relaxed *The Limits to International Law*.²²

Nonetheless, it is this reviewer's view that Guzman's service to international lawyers is very considerable in drawing their attention to the place of reputation in stimulating reflection on the practice of their profession. In particular, it provides a very illuminating framework in which to understand fundamental aspects of the US (and probably the whole of the community of states') approach to problems of compliance with international law. The woolliness of Guzman's resort to the language of economics and law does not distract at all from the vital service he provides at the interface between international law and a concept that does not appear in his book, but which underlies it and which he effectively brings into the centre of consideration: diplomacy. The use of 'diplomacy' is often understood to involve the use of tact and other non-confrontational and polite words, in order to either gain a strategic advantage for oneself, or find a mutually-agreeable solution. There is no mention of law as such in this definition, but it does focus attention precisely on the importance of how a state is regarded by other states. That regard will fundamentally be determined by the quality of the state's behaviour towards them. What is crucial is how other states see the relevant state, and not what its subjective intentions are. It is possible to see that a state which is indifferent to generally-accepted standards will lose considerably in its power to act effectively towards other states. It will become, in fact, a rogue state. Indeed, Guzman's book might be taken as a dispassionate, social science theory of the rogue state and international law. Its relaxed, non-crusading style lets it slip into this role almost unnoticed. It reflects, at a theoretical level, a sea change in the approach to international law which has occurred since the George W Bush Administration and which has now become anchored in the Western international law tradition. Hence, it may not really matter if, in one book alone, Guzman has not precisely marked the relationship between reputation and other issues such as security. It is more important to bring the concept of reputation itself firmly onto the agenda of international lawyers.

A *Applying 'Reputation' to International Relations*

Chapter 3 is devoted entirely to the idea of reputation and is of crucial importance. The following two chapters, on treaties and customary law, stand or fall on the strength of this chapter. They say only that the reputational costs of breaking fully-binding treaties are so costly, that care is taken about entering them. The ease with which states find partners will also depend upon their reputation, for instance, their reliability as a partner. A useful argument is that

²⁰ Ibid 56.

²¹ Consider any of the works of Hans Kelsen and Hersch Lauterpacht, or the numerous works about them.

²² Goldsmith and Posner, above n 2.

the distinction between ‘hard’ and ‘soft’ law is not so important, because it is a product of the extent to which states attach their reputation to compliance. So all rests on this concept of reputation. Surprisingly, it is little further developed. This is partially because of the closed-box nature of rational choice theory. Reputations are a function of externally-observed behaviour with respect to legal norms. There may be some dispute or uncertainty about the precise meaning or extent of legal obligations, however, the concept of reputation is, by definition, social — it is a matter of what others think. So a rule has been broken if most countries *think* it has been broken. The offending state had better take that into account or its reputation will suffer. The black box theory of the state as a legal person means that other states cannot know what the state subjectively thinks are the relative advantages of keeping its word, compared to the ‘payoffs’ of breaking it. The other states must measure, from their own perspective, the objective fact of a record of promise-keeping or promise-breaking and do the best that they can to assess how significant a particular breach is. For instance, Guzman thinks that states will be relatively tolerant of others who break agreements in what can generally be seen as an emergency situation, whether of a military or economic nature.²³ Further, track record is crucial to the whole idea of reputation. A state which already has a poor reputation will not make it worse by breaking a few more agreements, that is, if it could have persuaded any other state to become a partner. Such a state will have an uphill struggle to take effective steps to get on the reputational ladder. It will have to make big commitments, apparently contrary to its interests, such as Mikhail Gorbachev did on behalf of the Soviet Union.²⁴

A serious difficulty begins to emerge with the examples which pepper the chapter on reputation. They effectively concern not only contemporary diplomatic history, the history of observance or otherwise of major agreements, economic treaties, human rights and humanitarian conventions, but also strategic military and political treaties, whether bilateral or multilateral. The *NPT* appears again. There are many examples in the chapter which represent the standard and most casually-rehearsed American views of world society, making more urgent the questions about the character of the scholarship of the book and its virtually exclusive reliance upon US academic sources. Indeed, the obvious examples of North Korea and Iran appear, as rogue states, those without a reputation to lose.²⁵ Russia is described a little more tolerantly, but its nuclear support for Iran is described in terms which encourage the reader to overlook the fact that there appears nowhere in Guzman’s text objective empirical data on how the world community of states actually regard Russia, North Korea and Iran, in comparison to the US or the United Kingdom. Since 2003, many empirical studies of attitudes to the reputations of the major powers have been published.²⁶ It is rather too easy, if not lazy, for Guzman to say that he is offering a theoretical and not

²³ Guzman, above n 3, 78.

²⁴ *Ibid* 89–90.

²⁵ *Ibid* 81.

²⁶ See, eg. Pew Global Attitudes Project, *Global Unease with Major World Powers: 47-Nation Pew Global Attitudes Survey* (Report, 27 June 2007) <<http://pewglobal.org/reports/pdf/256.pdf>>; BBC World Service, *Views of China and Russia Decline in Global Poll* (Press Release, 6 February 2009) <http://www.bbc.co.uk/pressoffice/pressreleases/stories/2009/02_febuary/06/poll.shtml>.

an empirical study of the nature of reputation. In that case he should confine himself to all the possible conceptual permutations of the word itself and not evidence of acquired or lost reputations of individual states.

Guzman cannot make the conceptual jump into diplomatic history in order to acquire a more sophisticated framework within which to analyse how individual persons within particular states (the only level at which diplomatic history can be written) calculate the costs and advantages of treaty compliance. This is because it would involve breaching the black box of the state, which is the starting point of his rational choice theory of international law observance. However, what he imposes in place of diplomatic history is a parochial litany of US prejudices. For instance, he speaks of Russia balancing the (economic) advantage of aiding Iran's nuclear program and the loss of reputation if seen by other powers to be facilitating Iran's acquisition of nuclear weapons.²⁷ A little earlier Guzman comments on whether the US, as a designated nuclear-weapon state, could violate the provision of the *NPT* prohibiting it from assisting non-nuclear armed states to acquire weapons. He thinks this is unlikely because it would destabilise the community of nations.²⁸ There is no refutation of the well-documented argument, from the over 500-page study by Adrian Levy and Catherine Scott-Clark, that Pakistan built a nuclear arsenal with US aid money, and every US administration since the Carter Administration knew of this and falsified and destroyed evidence provided by US and Western intelligence agencies to conceal Pakistan's intentions.²⁹ One can imagine that in the perhaps precious intellectual atmospheres of Berkeley, Columbia, New York University and Princeton, the arguments of Levy and Scott-Clark, if taken to attention at all, would provoke a bored yawn.³⁰ One could comment as well on the recently-concluded US nuclear and other military and industrial negotiations with India. But these comments would add nothing to the general point this reviewer wants to make. Guzman and his admirers do not engage with the world outside US academic opinion. However, the US is not well-served by having senior international lawyers who do not engage themselves directly with ideas and ideologies from outside their country, which constitute real dangers to American interests and security.

These reservations do not detract from the important service Guzman does by putting reputation at the top of the agenda both in terms of international law compliance and its inevitably very close connection with international governance. Reputation is here to stay as the central rubric around which Western states, led by the US, are attempting to order the world. Guzman has undertaken a necessary intellectual task, which, it is safe to say, European international lawyers are by and large virtually incapable of conceiving, never mind undertaking, if one imagines the pedantry of the legal positivism prevailing

²⁷ Guzman, above n 3, 82.

²⁸ *Ibid* 80.

²⁹ Adrian Levy and Catherine Scott-Clark, *Deception: Pakistan, the United States and the Global Nuclear Weapons Conspiracy* (2007).

³⁰ An allusion to the advance acclaim for Guzman's work coming from Anne-Marie Slaughter, Benedict Kingsbury and José E Alvarez. Slaughter has moved from Princeton to the State Department, while Alvarez has moved to New York from Columbia. Guzman is at Berkeley — all universities with splendid reputations! While authors have advanced acclaim imposed upon them by publishers, I am not aware that these particular authors are any more critical in their reflections on US conduct overseas than Guzman.

in Britain and continental Europe. Hence, the reviewer does not necessarily consider it a great loss that only North American authors are cited in this work. Nor does it necessarily matter that Guzman does not want to write up the relationship between rational choice theory and constructivism in one book. The point is that he should have stopped at the border of conceptual theory, unless he was prepared to offer empirical attitudinal studies of the relative standing of states' reputations — grounded in the appropriate quantitative and qualitative social science techniques. Diplomatic historians may find such detail tedious but it certainly has its place.

IV THE WIDER PROBLEMS OF A REPUTATIONAL APPROACH

The difficulty and danger is that Guzman, and those who hold the reins of power in the West, appear uncomfortable with the emotional intuition that all human relations have a dialectic dimension. Thus, they launch themselves on amateurish reputational excursions, which are not without consequences. In his first major speech after ceasing to be Tony Blair's main political and foreign affairs adviser, Jonathan Powell discussed the case for military intervention, which he justifies, *inter alia*, with the example of Iraq. In the course of his speech, he touches upon the case of Iran essentially in terms of reputation, although not exactly in the same sense as Guzman, since he resorts to social psychology rather than rational choice theory.³¹

In Iran, I am not in favour of a military option because I don't think it is practical. No one is suggesting invading Iran to overthrow the regime. That is the task of the overwhelmingly young population that wants to be rid of the corrupt mullahs. The difficulty we face is one of timelines. The regime will be overthrown. *And if there was a democratic and stable regime in place, I suppose, as in the case of India, we would not object so much to a nuclear-armed Iran.* But we don't know when it will be overthrown. In the meantime, they are developing nuclear weapons, helping attacks on our troops in Iraq and in Afghanistan and supporting Hizbollah and Hamas. Western policymakers have yet to come up with a way of dealing with these different timelines and I do not have the answer either, although I suspect it lies in a combination of sanctions targeted on the regime. There is nothing like measures that affect the bank accounts of the Republican Guard to get their attention quickly.³²

If one comes back to Guzman's comments on the great crusading events recounted with such gusto by Powell, one will find no similar partisan enthusiasm. Guzman is a rational choice theorist. Nonetheless, the picture of the normative structure of international society — which he presents with such detachment — is not reassuring for those who wonder what will happen when the makers of reputations resolve that 'something must be done'. To be fair to Guzman, he is not 'doing resolve' in his study. He distinguishes himself from international relations scholarship about reputation (for instance, North American scholarship), which 'is concerned with reputation for resolve rather

³¹ Guzman, above n 3, 77. Here, Guzman identifies his argument as based on rational argument and distinguishes it from Mercer's model, which is based on social psychology.

³² Jonathan Powell, 'Why the West Should Not Fear to Intervene', *The Observer* (London, UK) 18 November 2007, 34 (emphasis added).

than for compliance with international law'.³³ The difficulty remains, in this context, in grasping what significance, normatively or in terms of social theory, Guzman attaches to what most of the profession will regard as international law. The following are two quotations at random (not taken in the order they appear in the book) on the US intervention in Iraq. They are of course not part of a doctrinal discussion of the 'law on the use of force'.

More generally, though many international agreements demand commitments or actions that implicate matters of a state's security and survival (or other essential interests), there is no reason to think that the legal obligations will trump the state's fundamental interests. Another example is provided by the Charter of the United Nations. When states enter the UN system, they agree to refrain from the use of force except in self-defense or when authorized by the Security Council. In the actual conduct of their foreign affairs, however, it is clear that states use force in many other contexts, as illustrated by the United States' invasion of Iraq in 2003, the intervention in Kosovo led by the North Atlantic Treaty Organization (NATO) in 1999, and any number of other examples.³⁴

[I]t is similarly difficult to believe that states have a single reputation across issue areas. ... [For example] Pinochet's Chile benefited from a reputation for compliance with economic commitments but surely had a much weaker reputation on human rights issues. The 2003 American-led invasion of Iraq offers another example. Though there was some spillover to other areas, in the main the reputational harm to the United States seems to have been limited to matters of peace and security.³⁵

These passages show a thoroughly dispassionate, nonpartisan series of analysis from the perspective of social theory. However, it appears to this reviewer that the author is in fact combining a rational choice theory of the state with a classical realist theory of international relations, for instance Hobbesianism. It is this combination which fits comfortably within an exclusively American academic institutional background to produce a uni-dimensional perspective on how reputation is constructed, for instance 'under Western eyes'.³⁶

Because of the carefully-constructed boundaries of Guzman's book, it has to remain out of place to launch a full scale constructivist critique of the rational choice theory as a framework for analysing state behaviour. Indeed, constructivism poses the question of compliance with international law differently from rational choice theory, because it supposes that international legal rules themselves constitute essential parts of the identity of states.³⁷ So the wider resources of constructivism in explaining how states also construct one another, that is, the processes whereby they construct their images, and therefore reputations of one another, are unfortunately lost and cannot easily be explored here. However, it may not jump the boundaries of a book review to raise the meta-rational choice theory question — whether rational choice theory is itself

³³ Guzman, above n 3, 115.

³⁴ Ibid 125–6.

³⁵ Ibid 102–3.

³⁶ To borrow the title of a novel by Joseph Conrad on 19th century Russian terrorism and nihilism: Joseph Conrad, *Under Western Eyes* (1911).

³⁷ The standard work is Alexander Wendt, *Social Theory of International Politics* (1999).

part of the specific self-construction of American identity. Of course, the identity of one country can be better highlighted by contrasting it with that of another.

V A CONTRAST THROUGH A CONFUCIAN ARGUMENT

It is particularly relevant to Guzman's concern with reputation to look to aspects of the construction of China's foreign policy since roughly 2001, which has been marked by a resort to a Confucian argument in favour of the construction of a world order on the basis of what might be called 'family values'. The Confucian argument asserts that political relations, whether domestic or international, must be based upon the values of empathy and morality that should mark family relations.³⁸ In other words, conflicts of national interest and security can be banished from international relations. With this argument, the Chinese aim is precisely to counter American foreign policy discourse — a discourse that treats China as a potential threat to the US position in the world that must be confronted with political alliances and military positioning. China is so relevant to Guzman's argument because Chinese policy formation is concerned entirely with the issue of reputation. China is very aware of the destructive paths which Germany and Japan took on their way to achieving 'Great Power Status'. China has studied the catastrophic consequences for Japan and Germany of their foolhardy disregard of their reputations for respecting international law. Doctrines of 'Peaceful Rise' or 'Peaceful Development' have in mind the fate of Germany and Japan. Guzman mentions Nazi Germany's disregard of its loss of reputation after the breach of the *Munich Pact*,³⁹ but he could have gone on to mention the Allies' policy of unconditional surrender. The political and diplomatic disempowerment of Nazi Germany after March 1939 supports Guzman's thesis about reputation and the need to comply with international law.

China urgently wishes to present a systemic normative vision of international society, and its place within it, which excludes not merely itself as a threat and danger, but also the very idea of threat and danger at a theoretical level. It is doing this by opposing the atomistic foundations of a rational choice theory of the state, which sees the only possible basis of peaceful interstate relations as one constructed on a compromise of interests. It has been the argument of this review that Guzman needs to return to the relationship between his theory and realism, because he admits so frequently that one cannot expect a state to let international law obligations trump a state's security interests. China sees the shaky relationship between definitions of state interest and state perception of danger as rooted in the isolation of the state from the moral values of family and personal relations, which Confucianism believes should be translated from the domestic to the national and the international. In other words, the conceptual framework of China's foreign policy, also with respect to observance of international law, is constructed around a rejection of a rational choice approach to international relations as having an inherent and inevitable tendency to slip into more troubled waters. Most importantly, it identifies this approach, which it opposes, with the

³⁸ Qing Cao, 'Confucian Vision of a New World Order?: Culturalist Discourse, Foreign Policy and the Press in Contemporary China' (2007) 69 *The International Communication Gazette* 431.

³⁹ *Munich Pact* (signed and entered into force 29 September 1938).

US, as the leading representative of Western culture.⁴⁰ This Chinese political philosophy has not only circulated among intellectual elites. Qing Cao shows how it has also become official state policy through its adoption by Hu Jintao and Wen Jiabao and has been propagated through the media with a view to shaping public opinion.⁴¹ In other words, in the context of a battle about reputations and international order (and law), one might look to the possibilities of compromise between these opposing visions of world order. It has been well argued that both sides are marked by immense complacency and lack of self-reflection, which augurs danger for world society. After characterising the two *Weltanschauungen* as ‘discourse #1’ (China) and ‘discourse #2’ (US) and providing a roughly 146-page analytical summary of their elements, Metzger concludes ominously:

So long as such epistemic smugness, a not so distant cousin of fanaticism, is not replaced by a new, shared sense of epistemic failure and Socratic inquiry, discourse #1 and discourse #2 will persist as clashing definitions of political rationality. The resulting mutual sense of confronting an irrational adversary will thus long continue to aggravate political communication between the US and China.

Harder to resolve than concrete conflicts of interest, generated by the divergence between two old, equally proud intellectual traditions, this disagreement about the nature of political rationality indeed is the cloud across the Pacific.⁴²

Guzman’s work on reputation and international law compliance has set a very important agenda. There is plenty of scope to develop it further: through an empirical development of the application of his chosen rational choice theory, through a combination of that theory with constructivist diplomatic history and through Metzger’s call for a critical dialectic between Chinese and Western political theory.

ANTHONY CARTY*

⁴⁰ This argument is developed primarily from a wealth of analysis of leading Chinese and Western political philosophers, also connected to state policy utterances on the American side, by Thomas A Metzger in his monumental work, *A Cloud across the Pacific: Essays on the Clash between Chinese and Western Political Theories Today* (2005).

⁴¹ Cao, above n 38.

⁴² Metzger, above n 40, 147.

* Sir Y K Pao Chair of Public Law, University of Hong Kong.