

*EVENTS: THE FORCE OF INTERNATIONAL LAW* EDITED BY FLEUR JOHNS, RICHARD JOYCE AND SUNDHYA PAHUJA (OXFORD, UK: ROUTLEDGE, 2011) 312 PAGES. PRICE £75.00 (HARDCOVER) ISBN 9780415554527.

Shortly after the September 11 attacks, Antonio Cassese published an article entitled, 'Terrorism Is Also Disrupting Some Crucial Legal Categories of International Law'.<sup>1</sup> The title invokes an imagery of disruption, of a breakdown of the categories through which we make sense of our world — of the idea that 'language fails in the face of reality'.<sup>2</sup> The substance of Cassese's article, however, is much more reassuring than the title suggests. It discusses and finally captures the September 11 attacks in well-established legal categories, such as 'crimes against humanity' and 'armed attack', and ends with a call to base the fight against terrorism on those general principles that form the basis of the international community. While the September 11 attacks challenged our previous understanding of several legal categories, at the end of the day, international law has the capacity to adapt in the face of new realities and still offers a valuable framework to guide counterterrorist operations.

Cassese's article offers a good example of the main topic of the volume *Events: The Force of International Law*, edited by Fleur Johns, Richard Joyce and Sundhya Pahuja. The contributions to this volume, the editors argue, are situated around the contradiction between 'irruption and containment'.<sup>3</sup> Events initially challenge the existing international legal framework, presenting dangers of disruption and instability. However, international law meets the potentially disruptive force of events 'directly with an imperative to account for, respond to, contain, incorporate and overcome them'.<sup>4</sup> In this way, events are turned from disruptive forces into constitutive elements of the international legal order — and maybe even opportunities for international law to think itself anew. The containment of events can never be complete, though. They remain as a reminder of the never-ending closure of international law, of the 'possibilities which remain, or the continuing operation of instability and potential in events, even after their ostensible containment by international law'.<sup>5</sup>

The volume is divided into 19 chapters dealing with a broad range of topics, varying from the Westphalian peace treaties and the Spanish School in international law, to art 38 of the *Statute of the Permanent Court of International Justice*, *levée en masse*, decolonisation, post-socialist transition, Nelson Mandela's release, the Tokyo Women's Tribunal, genocide in Rwanda, the

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<sup>1</sup> Antonio Cassese, 'Terrorism Is Also Disrupting Some Crucial Legal Categories of International Law' (2001) 12 *European Journal of International Law* 993.

<sup>2</sup> Ulrich Beck, 'The Silence of Words and Political Dynamics in the World Risk Society' (2002) 1(4) *Logos* 1, 2 <<http://logosonline.home.igc.org/beck.htm>>.

<sup>3</sup> Fleur Johns, Richard Joyce and Sundhya Pahuja, 'Introduction' in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge, 2011) 1, 4.

<sup>4</sup> *Ibid* 3.

<sup>5</sup> *Ibid* 4.

formation of the European Union, the World Trade Organization protests, the September 11 attacks and the Torture Memos. The end result is a thought-provoking and original analysis of the different ways in which the 'event' relates to international law. As the editors state: 'from the book's chapters, no shared conception of the event emerges'.<sup>6</sup> This is somewhat of an understatement. Throughout the book, the phenomenon (or lens?) of the event is treated in different ways, without much discussion between the various chapters. Some chapters contain elaborate reflections on the concept of the event, while other chapters use the concept more casually. This leaves the reader questioning whether all of the chapters are indeed addressing the same phenomenon. While there are family resemblances between a number of conceptualisations of the event in the book, sometimes the reader also gets the impression that chapters use the same term to denote different things. This is not to say that the chapters are just a random collection of essays. They all work, albeit to different degrees, within the traditions of critical (legal) studies, post-structuralism and post-foundational thought. Moreover, they all share some sense of the event as a force that can never be fully captured, and thus of the idea that rethinking international law in terms of events reminds us that 'the chance and challenge to determine what international law does, and what it is for, remain open'.<sup>7</sup>

It is impossible to do justice here to all of the 19 chapters, including the various readings of the event and the different fields of application. This is a pity, since the contributions to the volume are of high quality, and they generally offer fresh perspectives on international law which deserve more extensive discussion. It is possible, though, to give the reader some idea of the different ways in which the concept of the event is used throughout the book. In order to do so, I will focus specifically on a few chapters that use different, yet overlapping understandings of the event.

The first chapter I selected is by Peter Fitzpatrick, entitled 'Latin Roots: The Force of International Law as Event'. Fitzpatrick's conception of the event is derived from Derrida and Deleuze, who regard the event as combining the elements of the determinate and the responsive, and 'in that very combining the event is a generative force'.<sup>8</sup> Fitzpatrick transposes this notion of the event, and the combination of determinacy and responsiveness, to the realm of international law — and in particular to the work and impact of Francisco de Vitoria. Fitzpatrick shows how de Vitoria constructed a system of natural law that binds divine will and, thereby, made natural law valid and knowable even without recourse to God. He calls this move the 'event that makes possible the modern notion of the event generally', namely the death of God — ironically carried out by a scholastic theologian.<sup>9</sup> The secularisation brought about by de Vitoria comes at a price: 'With it goes any transcendental resolution of the antinomies of the event'.<sup>10</sup> Fitzpatrick's chapter subsequently demonstrates how de Vitoria's

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<sup>6</sup> Ibid 15.

<sup>7</sup> Ibid 16.

<sup>8</sup> Peter Fitzpatrick, 'Latin Roots: The Force of International Law as Event' in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge, 2011) 43, 46.

<sup>9</sup> Ibid 43.

<sup>10</sup> Ibid 48.

work became the forerunner of one of the foundational paradoxes of modern international law: international law is supposed to be created by independent sovereign states, who in turn depend on international law for their constitution and recognition.

A different approach towards the event can be found in Gerry Simpson's contribution, 'Paris 1793 and 1871: *Levée en Masse* as Event'. Simpson contrasts two forms of *levée en masse*: the invention of state-led mass involvement in war on the one hand, and the spontaneous, unregulated uprising against invasion or occupation on the other. The first form represents the Napoleonic move towards the formalisation and totalisation of war; the second constitutes its 'romantic counter-narrative ... a moment of self-defence defined by the very absence of organization or the time for such organization'.<sup>11</sup> Both forms found their way into the laws of armed conflict: the regular fighter as the 'normal condition' for the application of its provisions, and the irregular uprising as the temporally limited exception.<sup>12</sup> Simpson readily admits that the *levée en masse* does not constitute an event in the Badiouian sense. After all, the *levée en masse* is recognised in the laws of armed conflict (albeit in a particular form only) and thus 'pre-registered or already neutralized by its status in law'.<sup>13</sup> Still, the *levée* reminds international law of the possibility of rupture, of the fighting other that endangers the normalcy of legalised war — of the incapacity of law to fully capture the event.

Not all contributions in the book regard the event as potentially disruptive for international law. An example is Frédéric Mégret's contribution, 'The Liberation of Nelson Mandela: Anatomy of a "Happy Event" in International Law'. Mégret offers an original analysis of the way in which Mandela's release was (or could be) narrated as *also* belonging to international law. According to Mégret, the liberation of Mandela was a 'happy international law event' for three reasons.<sup>14</sup> It showed that the promises of international law could actually become real — although he recognises it remains unclear to what extent Mandela's release was actually brought about by international law. Moreover, it constituted a brief moment in time when the tensions that constantly plague international legal argument seemed to dissolve. Thirdly, it symbolised how the collapse of apartheid had transformed international law as well. Mégret is well aware of the fact that the promises that came with Mandela's liberation have not quite been lived up to. Yet, he argues, maybe that is not the way to look at happy events: 'perhaps the beauty of the "event" is that it remains encapsulated in time, a moment disconnected at once from its cause and outcome, splendidly isolated from the ebb and flow of time, the reminder of a promise rather than of what went wrong'.<sup>15</sup>

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<sup>11</sup> Gerry Simpson, 'Paris 1793 and 1871: *Levée en Masse* as Event' in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge, 2011) 81, 83.

<sup>12</sup> *Ibid* 85.

<sup>13</sup> *Ibid* 87.

<sup>14</sup> Frédéric Mégret, 'The Liberation of Nelson Mandela: Anatomy of a "Happy Event" in International Law' in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge, 2011) 117, 125.

<sup>15</sup> *Ibid* 126.

Another take on the ‘event’ can be found in the chapter by Patricia Tuitt, ‘From the State to the Union: International Law and the Appropriation of the New Europe’. Tuitt bases her analysis on the Schmittian notion of ‘land appropriation’ as an act that precedes the establishment of sovereign order. Contrary to conventional wisdom, she argues that the creation of a European legal order is based on land appropriation in the Schmittian sense, not on the ever expanding empire of legal norms as such. This enables her to provide a highly innovative reading of the free movement regime of the EU in two phases. The first phase consists of the destruction of the ‘obsolete economic and political forms ... of the nation states in Europe’<sup>16</sup> via the establishment of the rights to free movement. This, Tuitt argues, resonates well with the notions of exploration and discovery of space. The second phase involves the creation of European citizenship as a form of settlement. Together, the two phases accomplish nothing less than a transformation of European space and the creation of a new political order.

Ruth Buchanan takes yet another perspective on the event in her analysis of the 1999 protests in Seattle, entitled ‘Protesting the WTO in Seattle: Transnational Citizen Action, International Law and the Event’. Buchanan emphasises two aspects of an event: the element of surprise and its irreducible plurality. The first aspect is related to Arendt’s reading of the event as something that ‘is never wholly explicable; its faculty transcends in principle all anticipation’.<sup>17</sup> The second aspect is related to the idea that events are the product of the persons that experience them, intellectually, but also affectively and bodily. Buchanan aptly illustrates this by a quote taken from ‘Event Horizon’, a pamphlet written by a collective which describes, inter alia, the experience of mobilisation: ‘It’s a physical thing. The hairs on the back of your arms stand up. You get goosebumps. There’s a tingling in your spine. Your heart is racing. Your eyes shine and all your senses are heightened.’<sup>18</sup> Events, therefore, escape authoritative interpretations, as they are created and recreated via personal experience, new readings and alternative narratives. Buchanan’s chapter shows the unpredictable, open nature of events through her reading of the 1999 demonstrations in Seattle.

My brief discussion of only five out of 19 chapters does not do justice to the richness of *Events: The Force of International Law*. The book makes an excellent contribution to rethinking the relation between international law and the event. Moreover it shows how established domestications of events can be challenged, politicised and opened up again. The net result is not a clear and

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<sup>16</sup> Patricia Tuitt, ‘From the State to the Union: International Law and the Appropriation of the New Europe’ in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge, 2011) 177, 179.

<sup>17</sup> Ruth M Buchanan, ‘Protesting the WTO in Seattle: Transnational Citizen Action, International Law and the Event’ in Fleur Johns, Richard Joyce and Sundhya Pahuja (eds), *Events: The Force of International Law* (Routledge, 2011) 221, 225, quoting Hannah Arendt, *The Portable Hannah Arendt* (Penguin, 2000) 459.

<sup>18</sup> *Ibid* 226–7, quoting Free Association, ‘Event Horizon’ (2005) 5 *Ephemera* 568, 569 <<http://www.ephemeraweb.org/journal/5-4/5-4free.pdf>>.

coherent conceptualisation of the event nor a uniform understanding of the interrelationship between events and international law. On the contrary, the book makes abundantly clear that any attempt at capturing the event in a definitive misses the point. Events are there to be experienced and re-experienced, narrated and counter-narrated, embraced and disputed, constructed and deconstructed — and this is exactly what makes this book worth reading.

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