is not inconsistent because common principles applicable to shipwrecks embedded either in sovereign or in international waters exist. Among the noteworthy cases that have spelled out these principles are cases relating to the *Alabama*, the VOC shipwrecks, the *Juno* and *La Galga*, the *Binkerhead*, *La Belle*, or the *Sussex*, not to mention the more recent *Erebus* and *Terror*, the *Spartan*, several German *U-Boats* cases, the *Admiral Nakhimov* or, even, the *Titanic* or the *Lusitania.*

This linguistic, cultural and geographic selectivity is also apparent in the author's selective bibliography, one almost exclusively comprising publications written in English (and six Dutch bibliographic references) and focusing on Anglo-American literature. Completely omitted is the rich tradition of opinions by Italians or French, as well as Spanish and German international lawyers. The result is a partial evaluation of the current law and the 'universal' character of the assumptions underlying admiralty law. This weakens Boesten's generally well-crafted research.

The analysis of the third main part of Ms Boesten's book focuses on the new legal framework offered by the 2001 UNESCO Convention, once it comes into force. The conclusions drawn together in this part provide a very useful tool for the future improvement of the global regime, which, generally speaking, underwater cultural heritage deserves. The author leads the reader through the main problems that arose during the drafting of the Convention. However, her claim that '[n]o consistent practice can be found which would indicate that the explicit abandonment of sunken warships is required nor has any customary international law developed on this subject' (at 147) is open to doubt. Perhaps a more elaborate analysis of cases reported above would have yielded a different conclusion.

Having said this, Ms Boesten's analysis of other main items discussed in Paris — including the relationship of the 2001 Convention with UNCLOS, the so-called 'jurisdictional issues' or the problems regarding the activities indirectly affecting the underwater cultural heritage — is clear and generally convincing. The author should be praised, in particular, for continuously striving to challenge the 'constructive ambiguities' adopted both in Montego Bay and in Paris with interesting proposals in order to find a workable regime. Indeed, from my perspective, the main credit due to Ms Eke Boesten is for seeking to develop new frameworks from the legal canvas analysed. One cannot but agree with her conclusion that existing norms do provide principles for a new legal regime on the protection of underwater cultural heritage.

The principles and general rules — first and foremost, the duty to preserve underwater cultural heritage, in general, and valuable shipwrecks, in particular — are well identified, re-elaborated and applied (in a deconstructive and constructive process) by Eke Boesten. Those principles include *in situ* protection under the archaeological rules annexed to the 2001 Convention, non-commercial purposes in underwater activities, and the balanced respect of sovereign rights of flag and coastal states, not to forget the preferential rights of especially interested states. Finally, one would have to agree with Ms Boesten that cooperation, both particular and regional, seems to be the best workable tool to protect the time capsules embedded in the sea floor for future generations.

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John Strawson (ed.). *Law after Ground Zero*. London: Glasshouse Press, 2002. Pp. 256. £19.99 paperback. ISBN: 1904385028.

Reading *Law after Ground Zero* is a bit like eating a *hors-d'oeuvre*: satisfying bits but never a completely satisfying meal. Some of the chapters in this book will surely titillate the taste buds and should at least leave you desiring more. The book, like so many other publications on the events of September 11, seems to be a product of a conference and, hence, there is a wide diversity of theoretical approaches to the topic. While this diversity can sometimes detract from the cohesiveness of an edited volume, in this instance I thought

this diversity actually added to sharpening points of contention over a number of issues. But before I get to these points of contention, there are two common themes that run through the book: first is the fact that the recent policies of the US in its ever continuing 'war on terror' and the War in Iraq (though the book was published before the invasion of Iraq) have caused it to act outside the framework of international law; second is the idea that there is a determined ideological and legal project to delineate an enemy or outlaw figure against whom the coercive armoury of the US and its coalition is directly targeted.

'Law's First Strike', the first section of the book is most likely to promote and stimulate discussion on international law post-September 11, especially among readers of this Journal. Bill Bowring kick starts the section with a solid piece on what may be called the deformalization of international law, with a thread that runs through the bombing of Libya in 1986, the Gulf War, Kosovo and the recent war on terror. This is a useful chapter and places the recent 'war on terror' in a broader frame of analysis. Nevertheless, it suffers from one of the weaknesses of the entire volume, namely, the failure to place these developments in terms of changing conceptions of global order and politics. To what extent do the developments in international law reflect a more fundamental rupturing of the principles and practices of international liberalism that remained central to the post Second World War international order? Taking the book as a whole there is a failure to locate mutations in form and structure of international law in terms of broadly gauged changes in international politics.

Bowring's chapter sets the stage for a set of provocative chapters by Costas Douzinas, Peter Fitzpatrick and Anthony Carty. Striking a somewhat contrary posture to other chapters in the book, both Douzinas and Fitzpatrick see a subtle form of imperialism in the universalism of human rights. Douzinas traces some of these more contemporary concerns to just war theory and its accentuation of ethical decisions that robs individuals of political agency. Douzinas argues that 'the continuous references to humanitarianism ... indicate that our recent wars are a return to the pre-modern idea of just war conducted according to the modern protocols of police action' (at 29). In a brief intervention, Fitzpatrick picks up these themes in suggesting that the war on terror represents a new form of warfare — a kind of civil war within the global community, where opponents are criminal rather than political opponents. Indeed, one of the strengths of both these chapters lies in highlighting the emergence of a new type of war and the consequent criminalization of its opponents.

Anthony Carty follows after these post-positivist arguments with perhaps the most stimulating chapter in the book. This suggests in very 'Schmittian' terms that 'there is built into the liberal international order a contradiction. Subjectivity in the assessment of one's obligation and the capacity to enforce one's subjective views means that international order requires a coercive mechanism to overcome difference' (at 46). He attributes this to the predominant influence of the Hobbesian argument in classical theories of international law. More to the point, his argument echoes the work of Richard Tuck[1] in noting that one of the paradoxes of modern liberalism is that the vividness of the picture of individual autonomy on which liberal social contract theory rests on a conception of the international system which is akin to a 'state of nature'. The really provocative question that arises here is: If this is correct, what does the more coercive policing of the current international systems by the hegemon teach us about the future of the notion of individual autonomy that is such a constitutive picture of modern liberalism?

The contemporary relevance of this Hobbesian argument should be obvious. Liberal interventions as in Iraq are justified on the basis of a thin rendering of the Westphalian system as existing 'in a condition devoid of

[1] Richard Tuck (2001) *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*, Oxford University Press, pp. 214–225.

right'.[2] It is but a small step from this to the illiberal imposition or policing of the international system in order to promote liberal values. The rendering of the international order in terms of 'anarchy' prepares the ground for effective implementation of illiberal policies and practices in the defence of liberalism. In fact, Kant — as Carty notes — though often read against Hobbes (as in Robert Kagan's[3] tendentious account of Kantian Europe and the Hobbesian US) remains very much in debt to Hobbesian anthropology. It is at this stage that the book would have benefited from a more rigorous understanding of the way formal international law has been turned into a pragmatic policy-oriented system whose effect, as Koskenniemi[4] has so astutely argued, is to make international law less formalistic. One of the problematic aspects of the chapters in this section of the book relates to the failure to analyse the deformalization of international law and the way formal international law is embodied — very imperfectly in a notion of political equality. Portraying the Westphalian system as being akin to 'legal chaos' not only diminishes the character of formal international law but also has profound negative implications for emancipatory movements within the global order especially in the fact that we now witness a substantial retreat from notions of formal political equality of states. It is a pity that this critical understanding of international law and the restraint that it places on states have been lost in the more general argument about the instrumental character of law for the powerful states within the international system. In fact, the failure to make these distinctions runs the risk that critical theorists of international law such as Fitzpatrick will end up throwing out critical universalism of the international law baby with the imperialist bath water.

The next part of the book entitled 'Grounding Rights' explores the way in which rights have been destabilized by the events of September 11. This section as a whole stands in tension to some of the arguments of the first part and a more explicit critical engagement within the book would have been of some benefit. The chapter by Van Borght and Strawson explores, through a case study of Cuba and the Helms Burton Act, how the extra-territorial reach of the United States has allowed it to shape the international order in the image of its own security. While the material on Cuba is interesting, I would have preferred more extensive detailing of how the trends identified by the authors have been amplified in the post 9/11 era. The other chapter in this section by David Metzer is a very useful critique of the legal and practical pitfalls under which the war on terror has been conducted. For example, he suggests that considering Al Qa'ida as an irregular force rather than terrorists would serve to limit the ambit of legal and military claims made under the rubric of the war on terror. I found this an instructive chapter, clearly written, and lucidly argued; and while one may not always agree with specific recommendations it displays balance and practicality in dealing with issues of terrorism.

In the next chapters in this section, Siraj Sait and Qusia Mirza turn their attention to the Middle East. Sarit examines international refugee law in relation to the Palestinians and argues that it 'conspired to strip them [Palestinians] of their most obvious status, removing them from law's protection and banishing them forever from their homes' (at 104), while Mirza examines the role of feminist interpretive methods in potentially reforming Islam. Both these chapters are useful and interesting, even if they have strayed somewhat from the main focus of the volume. On the other hand, Rhiannon Talbot's excellent

[2] Immanuel Kant [1797] (1970), in 'International Right in the Metaphysics of Moral', published in Kant's *Political Writings*, Hans Reiss (ed.), Cambrige University Press, p. 165.

[3] R. Kagan (2003) *Paradise and Power: America and Europe In the New American World Order*. Atlantic Books.

[4] M. Koskenniemi (2002) 'The Lady Doth Protest Too Much': Kosovo, and the Turn to Ethics in International Law, *The Modern Law Review* 65 (154–175).

chapter on British counter-terrorism law is right on target. She neatly documents the way this legislation has served to curtail civil liberties and is unlikely to be of much long-term practical value in defeating terrorism. This should be compulsory reading for all those politicians — especially in Britain — biting at the bit to give the executive even more discretionary power in combating terrorism at grievous peril to civil liberties.

The final section of the book entitled 'Ground Zero Prospects' includes a set of chapters that cover a broad range of topics. Keith Hayward and Wayne Morrison have a solid chapter on the use of notions of risk and criminality in the new international order. In the next two chapters, Tareq Ismael and Jacqueline Ismael in 'September 11 and American Policy in the Middle East', and Rafiq Latta in 'Palestine/Israel: Conflict at the Crossroads' turn their attention to the Middle East and the way 'Islam' and the 'Arab world' have been constructed as the enemy. The final chapter in the book by John Strawson examines how the British press has dealt with Islamic Law. This is a rather curious topic to end a book on September 11, and one that is really some distance from the initial themes of the book.

All in all this is a book that will provide a useful contribution to the literature on September 11. The best chapters in the book raise stimulating issues that all those interested in International law post-September 11 need to carefully consider. Even a meal of *hors-d'oeuvre* is better than the often bland fast food that has been produced in the wake of September 11.

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Mohamed Sameh M. Amr. ***The Role of the International Court of Justice as the Principal Judicial Organ of the United Nations***. Leiden: Brill Academic Publishers, 2003. Pp. 472. €128, US$ 173. ISBN: 9041120262.

Writing about the role of the International Court of Justice is a daunting task. There is no scarcity of books and articles on the subject, including seminal works by such authorities as Briggs, Fitzmaurice, Lauterpacht, Rosenne, Sohn and Waldock. They and other scholars have extensively analysed the evolution of the Court's role within the United Nations system and in international relations in general. Many authors have put forward proposals to enhance the role of the Court, including far-reaching ideas requiring significant changes in the United Nations Charter and the Court's Statute.

There are, however, few books that focus not so much on the functioning of the Court but, more generally, on its role within the United Nations system. This is precisely what Dr. Amr's book, based on his Ph.D. thesis submitted to the London School of Economics, seeks to do. He undertakes the ambitious task of 'provid[ing] a comprehensive analysis of the role of the International Court of Justice (ICJ) as the United Nations' principal judicial organ in the light of its practice over the last fifty-five years since its creation' (at 1). The author sees his book as being different from numerous other works in that it 'concentrates on those aspects which are pertinent to an evaluation of how the Court works within the structures and purposes of the United Nations (UN), and what the Court has contributed to the development of the UN, an approach which has hitherto received little attention' (at 1).

Indeed the approach and the structure of the book are somewhat unconventional. The author examines the Court and its role within the system of the United Nations as one might examine the role of a court within a domestic legal system. Using this framework, he discusses the role of the Court in interpreting the United Nations Charter and in exercising judicial review over the acts of the United Nations organs and agencies. This approach offers significant advantages. Through an implicit comparison with a domestic system, the reader is led to focus on what powers and attributes normally associated with domestic courts the Court does or does not possess.