law and little enforcement as enabling the 'hidden costs' that underpin the 'fantasy' of globalization: that we can have our $2.50 tinned tuna and cheaply shipped goods with ecological laws observed and living wages paid (at 192). The gift of the book is in making these hidden human and ecological costs – which we may already abstractly understand – visible and very human. Law is certainly complicit in creating structures that facilitate exploitation and abuse, but Urbina also depicts activists engaged in cat-and-mouse conflicts with governments through the 'art [of] finding legal loopholes … [and] provoking public debate' (at 126).

While the subject matter often makes for uneasy reading, this book provides a compelling and valuable account of the state of the oceans. It is worth the time of all interested scholars.

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Lorenzo Palestini. ***La Protection des Intérêts Juridiques de l'État Tiers dans le Procès de Délimitation Maritime***. Brussels: Bruylant, 2020. Pp. 520. €85.00. ISBN: 978-2-8027-6608-7.

The legal position of third states in maritime delimitation is a most complex and debated topic, raising numerous questions of international law. Such questions mainly concern the delimitation of the Exclusive Economic Zone (EEZ) and continental shelf because, within the 12-nautical-mile (nm) territorial sea, it is extremely unlikely that third states could claim any interest.[1] From the point of view of substantive law, questions include whether the existence of third states' interests in disputed maritime areas should qualify as relevant circumstances in delimiting boundaries by judicial process, and what impact, if any, that relevant circumstance should have.[2] One could also query the position of states that are not parties to bilateral delimitation treaties, especially whether such treaties can or should have any effect on the rights that third

[1] A case in which a third state claimed rights in the maritime areas closest to the coast of two litigant states was *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras; Nicaragua intervening)*, Merits, Judgment, 12 September 1992, ICJ Reports (1992) 351.

[2] 'Relevant circumstances' are a legal concept relating to the delimitation of the EEZ and continental shelf. In territorial sea delimitation, there is a largely corresponding, yet distinct, concept of 'special circumstances'. See M. Lando, *Maritime Delimitation as a Judicial Process* (2019), at 4–5.

states may claim in disputed maritime areas. States often lay claim over maritime areas in the context of judicial or arbitral disputes between other states, which raises procedural law questions broadly concerning their participation as third parties in judicial or arbitral proceedings.[3] Such questions include whether third states have an interest that can be protected by way of the intervention procedure and whether the *Monetary Gold* principle has any relevance in maritime disputes.[4]

Lorenzo Palestini's book sets out to deal with these and other questions relating to the position of third states in the delimitation process. Palestini, who has written his work in French, not only focuses on delimitation by judicial or arbitral process but also takes into account, at least in some respects, negotiated boundaries (at 18). His main purpose is 'to determine the circumstances in which the process of maritime delimitation calls into play the legal interests of a third State and, in addition, to identify the means which this third State has to protect those interests' (at 18).[5] To this purpose, he seems to add two others: first, better to frame and systematize a jurisprudence that is anything but predictable and, second, to renew some interest in the intervention procedure that, according to him, has been under-examined as a result of the International Court of Justice's (ICJ) restrictive interpretation of its aims and preconditions (at 20). Methodologically, Palestini's book situates itself within the doctrinal tradition of international legal scholarship. This methodological choice is not surprising: the author's focus on the judicial process lends itself to doctrinal disquisition.

In his analysis, Palestini brings together different types of documental sources. Beyond the inevitable judgments and arbitral awards, the author devotes considerable attention to pleadings, especially those before the ICJ. This attention is commendable as pleadings are too often neglected in the literature. Reading Palestini's book, one can nevertheless find that too much attention is dedicated to reporting opinions expressed in judgments, arbitral awards and pleadings. There are downsides to this excessive reporting. The author's voice and opinions are somewhat missing as a result or are diluted at least. Thorough referencing of documental sources is a strength of Palestini's work, yet he could have built a clearer line of argument. Moreover, the risk of the work's main purpose, which essentially is one of recapitulation, is that the end-product ends up being a series of chapters connected by a lone common feature, that of touching on the same broad topic. This approach to writing is typical of French and Italian legal scholarship. Considering this aspect, one cannot necessarily fault the author for the approach chosen. Nonetheless, Palestini's approach can feel foreign to

[3] Intervention in maritime disputes has been relatively common before the International Court of Justice, while it has not taken place before the International Tribunal for the Law of the Sea. In arbitration, a third state's right to intervene depends on the inclusion of such a right in the applicable procedural rules. So far, no intervention has taken place in maritime disputes before arbitral tribunals.

[4] *Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom of Great Britain and Northern Ireland and United States of America)*, Preliminary Question, Judgment, 15 June 1954, ICJ Reports (1954) 19, at 32.

[5] Translation by the reviewer. In the original: '[D]e déterminer dans quelles circonstances un procès de délimitation maritime met en cause les intérêts juridiques d'un État tiers et, d'autre part, d'identifier quels sont les moyens dont ce dernier dispose pour protéger lesdits intérêts.'

lawyers brought up in the English tradition, in which one's overall argument is considered to be the glue that holds together, and therefore makes or breaks, any piece of legal scholarship. One should take this criticism with a pinch of salt, as many of us tend to prefer things that we recognize as familiar. The book remains an excellent reference work from which to delve into the primary material.

The book is subdivided into two parts. The first part is dedicated to a variety of matters relating to the position of third states in maritime delimitation by judicial process (at 25–340). The second part concerns the intervention procedure in maritime delimitation cases before the ICJ (at 341–455). The structure of the latter follows the classic distinction between intervention as a non-party and intervention as a party, with the first of the two taking up the lion's share of the discussion. The considerations made in relation to intervention are not limited to maritime disputes and offer insights more broadly. Although Palestini has focused his work on maritime disputes, his approach is to identify the object of intervention both positively and negatively. For example, intervention can be identified, negatively, as the means by which not to introduce a new case and, positively, as the means by which to make the ICJ aware of the rights and interests potentially affected by its decisions (at 354–359). Positive and negative definitions of the object of intervention are complementary, which emerges from Palestini's description of submissions in which states have sought to define intervention both by reference to what it is and by reference to what it is not (at 354). One might extend this approach to applications for intervention in other kinds of cases.

The first part of the book, which elaborates on the legal interests of third states in maritime delimitation, is subdivided into two chapters, the second of which focuses on the *Monetary Gold* principle (at 259–340). This principle might be relevant in maritime disputes, which could have justified dedicating a chapter to it. However, the ICJ, the International Tribunal for the Law of the Sea and arbitral tribunals have never declared a case to be inadmissible based on that principle. The principle has also come under substantial criticism, including after Palestini's work was published.[6] One could thus query why an entire chapter, not much shorter than 100 pages, has been dedicated to the *Monetary Gold* principle or why the principle has not been deconstructed more critically. At the same time, one can understand that, for students of international law, the idea of 'third parties' necessarily evokes the *Monetary Gold* principle and that the principle is entrenched in international jurisprudence. Treatment of the *Monetary Gold* principle in connection with maritime delimitation anyway seems to be a cherry on top of an already rich cake.

Those interested in maritime delimitation are likely to find the first chapter the most stimulating section of Palestini's work. This chapter, which is longer than 200 pages,

[6] Mollengarden and Zamir, 'The *Monetary Gold* Principle: Back to Basics', 115 *American Journal of International Law* (2021) 41. The *Monetary Gold* principle had been the object of criticism also before the publication of Palestini's work. For example, see Paparinskis, 'Revisiting the Indispensable Third Party Principle', 103 *Rivista di Diritto Internazionale* (*RDI*) (2020) 49; Fontanelli, 'Reflections on the Indispensable Party Principle in the Wake of the Judgment on Preliminary Objections in the "Norstar" Case', 100 *RDI* (2017) 112; Orakhelashvili, 'The Competence of the International Court of Justice and the Doctrine of the Indispensable Party: From *Monetary Gold* to *East Timor* and Beyond', 2 *Journal of International Dispute Settlement* (2011) 373.

endeavours to identify the circumstances in which third states can be considered to have an interest in a maritime dispute. The first section elaborates on whether a third state may have an interest at play in maritime delimitation cases as a result of having an interest in the content of the international law on maritime delimitation more generally (at 29–48). Beyond this first section, the chapter deals with various topics relating either to delimitation by treaty or delimitation by the judicially developed three-stage process.[7] In most sections, examination of the judicial and arbitral approach to the position of third parties is interspersed with considerations relating to negotiated delimitations, putting these two manners of delimiting in relation to one another in a useful approach. Substantively, there is little with which one can fairly disagree. Palestini's exposition focuses on judicial and arbitral statements in an effort to bring them together and determine whether a third state's interests can be seen to be called into play in maritime disputes.[8] The work is critical of such statements only up to a point, as the author appears more intent on distilling lessons from the decided cases than criticizing the approach taken in those cases. This approach can be valuable because it gives certain readers the instruments to make sense of a jurisprudence that is clearly still developing. Those with knowledge of maritime delimitation as academics or practitioners may find this approach less stimulating.

By far the most interesting part of the book is that concerning what Palestini calls 'permutation des rapports de voisinage du tiers', which might translate to 'permutation of a third state's neighbouring relationships' (at 70–95). He defines this concept as 'the elimination of a neighbouring relationship always resulting in the establishment of a new relationship between two new neighbours' (at 70).[9] Imagine a situation where States A and B believe they have overlapping maritime claims or entitlements in a certain maritime area. In that maritime area, an international court or tribunal establishes a boundary between States B and C, which, as a matter of legal principle, is only binding between those two states. However, the practical effect of that boundary is that State A may not have any claims or entitlements overlapping with those of State B. Because of the judicial or arbitral decision, State A is not a neighbour of State B anymore but becomes a neighbour of State C. This 'permutation' appears to cause acute problems primarily where States A and B had negotiated a common boundary in the area where the international court or tribunal has established the boundary between States B and C. The result of the latter boundary is potentially to nullify the

[7] The established maritime delimitation process is in three stages: first, drawing a provisional equidistance line; second, adjusting that provisional line should relevant circumstances so require; third, checking the overall equitableness of the result by reference to the absence of disproportionality between the relevant coasts and the extent of the maritime areas found to appertain to each state. See *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, 3 February 2009, ICJ Reports (2009) 61, paras 115–122.

[8] In a field in which international law is chiefly developed by judicial decisions, this approach is inevitable at times. For example, see Chapter 5 in Lando, *supra* note 2.

[9] Translation by the reviewer. In the original: 'L'élimination d'un rapport de voisinage allant toujours de pair avec l'établissement d'une nouvelle relation entre deux nouveaux voisins.'

former one. The best example from the jurisprudence is the strand of cases involving Colombia, Costa Rica, Honduras and Nicaragua.[10]

The classic response to the 'permutation' problem is to invoke the rule under which judicial and arbitral decisions, as well as treaties, bind only the parties. Invoking this principle is straightforward but also wishful thinking. One can seriously doubt that treaties and judicial decisions establishing maritime boundaries have effects only between the parties. Take the example above of States B and C, which share a boundary drawn by judicial decision, and State A, which believes to have maritime entitlements in the area where States B and C share their boundary. Imagine that a ship flying the flag of State A is arrested in the vicinity of that boundary by the authorities of State C. In court proceedings in State C, could the representative of the arrested vessel argue that State C has no jurisdiction to arrest the ship because, first, State A has maritime entitlements in the area where the vessel was arrested and, second, State A is not bound by the boundary between States B and C? As a matter of legal principle, such an argument would appear sound. Yet, it strikes one as counter-intuitive in practice.

Palestini deals with 'permutation' by asking the question: 'can we say that the permutation of a third State's neighbouring relationships, considered independently of any encroachment on the maritime areas claimed by third States, calls into play that third States' interests?' (at 73).[11] This question, however interesting, does not grapple with the underlying issues. 'Permutation' does not pose problems unless it encroaches on the maritime entitlements claimed by a third state, at least in practice. The real question is the one that Palestini broaches at the end of the section dedicated to 'permutation': 'what of earlier delimitations after neighbouring relationships have changed?' (at 93–95).[12] This is the very reason underlying the concerns of third states in maritime delimitation. One could have wished for this question to have been the focus of the entire book, if not of a considerable part of it. There are numerous angles from which one could explore this question, which the author himself mentions, including nullity, opposability and termination of treaties (at 93–95). It is also possible to approach the question from the point of view of national legal systems by delving into judicial decisions concerning the arrest of ships, which would have been of tremendous interest and practical significance. Another interesting approach would have relied on the objective regimes doctrine, the relevance of which to maritime zones has not yet been the object of serious study.

[10] *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, Judgment, 8 October 2007, ICJ Reports (2007) 659; *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Merits, Judgment, 19 November 2012, ICJ Reports (2012) 624; *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua); Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua)*, Judgment, 2 February 2018, ICJ Reports (2018) 139.

[11] Translation by the reviewer. In the original: 'Peut-on affirmer que la permutation des rapports de voisinage en tant que telle, c'est-à-dire indépendamment de tout empiètement sur les espaces revendiqués par le tiers, met en cause les intérêts juridiques de ce dernier?'

[12] Translation by the reviewer. In the original: 'Qu'advient-il des délimitations antérieures une fois les rapports de voisinage permutés?'

Aside from these points, Palestini's book is of interest to the student of maritime delimitation who wishes to make their first foray into the complex topic of third states in relation to maritime disputes. The book is of interest also to the practitioner who needs a work collating the existing jurisprudence, both on the merits and on intervention. One should congratulate Palestini on a result that can also be a useful starting point for further study.

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Ntina Tzouvala. ***Capitalism as Civilization: A History of International Law***. Cambridge: Cambridge University Press, 2020. Pp. 276. £22.99. ISBN: 9781108739559.

Perhaps for the first time since the inception of the discipline, the role of capitalism as a driving force in the development of international legal discourse is taking centre stage in general theoretical debates. Given the prospects of a lingering global climate catastrophe and ever more scandalous manifestations of inequality on this planet, it is about time. Whilst the systemic rivalry between communism and Western-style capitalism structured geopolitical thinking in the 20th century, critical – let alone Marxist – engagements with capitalism and international law were prone to be received as ideological support for Soviet- or Mao-style socialism. And after the Cold War in the moment of a perceived 'triumph' of the West and its economic elites, critical engagements with global capitalism were often considered to be on the wrong side of history. Nonetheless, critical, post-modern and post-colonial thinking in international legal discourse has become in the meantime an established academic counter-reaction against Western liberal triumphalism and the accumulating devastations created by a globalizing neo-liberal economic orthodoxy.

Within critical scholarship, however, the relationship between critical and post-colonial approaches to international law, on one side, and central insights of Marxism, on the other, was and perhaps still is by no means a straightforward one. This has to do, of course, with the tensions between the indeterminacy thesis promoted by critical scholars and Marxist theories insisting on more or less determinate structural linkages between (international) law and capitalist exploitation. It is one of the main objectives of Ntina Tzouvala's insightful book to build a bridge between Marxian insights and critical, post-colonial and feminist approaches to international law. In her words, 'taking seriously the Marxist critique of capitalism … can offer a pathway to critiquing law's complicity with capitalist exploitation, environmental destruction and the devaluing of human life' (at 219).

The book undoubtedly offers a fresh reading of the standard of civilization in various historical epochs. Tzouvala manages to merge a range of existing critical historical