Introduction

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This book is premised on the idea that international law consists of a family of professions in which a great variety of professionals are engaged. This idea is often neglected in scholarly work; it is more common to construe international law as a normative order meant to guide the behaviour of a wide range of actors or as a set of argumentative practices supposed to produce authoritative discourses. This book seeks to demonstrate that looking at international law as a profession provides refreshing insights on the dialectical relationship between international law as a formal and autonomous system (of rules or arguments) and international law as a set of professional practices. The chapters of this book accordingly examine how one's professional capacity shapes, informs and determines one's understanding of, and one's discourse about, international law. They simultaneously examine the extent to which such understanding or discourse about international law conversely impinges on the profession one is exercising.

One of the main drivers for this volume lies in the editors' belief that important insights may emerge from examining international law through the biases inherent in the different professional roles in which international lawyers engage with international law. Such assumption is itself premised on the idea that international law is 'a process of continuous interaction, of continuous demand and response, in which the decision-makers of particular nations states unilaterally put forwards claims of the most diverse and conflicting character ... and in which other decision-makers ... weight and appraise these competing claims in terms of the interests of the world community and of the rival claimant, and ultimately accept or reject them'.[1] It seems difficult to deny that legal professionals play essential roles in this process of interaction, as they constantly have to formulate and assess legal claims. It accordingly seems reasonable to

[1] M. S. McDougal, 'The Hydrogen Bomb Tests and the International Law of Sea', 49 *AJIL* (1955) 353, p. 354.

presuppose, as this book does, that international lawyers will be influenced by their particular professional role in a particular context and that, in turn, by exercising that role, they will contribute to, and impact on, the process of interaction and thereby on international law as such. In that sense, this book is built on the assumption of a continuous interaction between individual roles and choices and the social context, of which law is an integral part.[2] Thus stated, it is conspicuous that our approach bears a sociological dimension[3] as we presuppose that the behaviour of, and choices made by legal professionals are influenced by their social context, including their particular professional role.[4]

This introduction starts by offering a brief stocktaking of the existing works of international lawyers that engage with such a self-introspective exercise (Section 1). It continues by providing a snapshot of the various professional capacities in which international lawyers engage with international law (Section 2). Finally, the structure of the book and the way in which its various chapters are articulated with one another are presented (Section 3).

1 International Law As a Profession in the Literature

This section aims at taking a brief stock of the literature dedicated to the various international law professions as well as the discussions on how international law is perceived in specific professional contexts. Two important preliminary remarks are warranted. First, the community[5] of persons practising – albeit in different capacities – international law is immense. This the result of a variety of dynamics, one of them being the expansion of the scope *ratione materiae* of international law and the fact that most human activities and interests, from human rights to the law of the sea, from international trade to activities in outer space, are subject, to a lesser or greater extent, to some international legal rules or special international regimes. The professionals using these rules and regimes are now aplenty. It even happens that such professionals – especially domestic lawyers or judges, but also civil servants responsible for the

[2] See generally W. M. Evan (ed.), *Law and Sociology* (New York: Free Press of Glencoe, 1962); John Griffiths, 'The Idea of Sociology of Law and Its Relation to Law and to Society' in M. Freeman (ed.), *Law and Sociology* (Oxford: Oxford University Press, 2006) esp. 49–68.

[3] For a recent important contribution, see M. Hirsch, *Invitation to the Sociology of International Law* (Oxford: Oxford University Press, 2015).

[4] See M. Hirsch, 'The Sociology of International Law: Invitation to Study International Rules in Their Social Context', 55 *Univ. Toronto Law Journal* (2005) 891–939 at 891.

[5] On the various ways in which the notion of 'community of professionals' can be conceptualised, see Chapter 1.

implementation of international treaties – practice international law without full awareness of their using international law.

Second, international law is a profession that occurs in the greatest variety of contexts, takes a panoply of forms, and serves a multitude of purposes. Suffice it to consider, as illustrative examples, the involvement of diplomats, civil servants, practitioners and scholars in the preparation of written memorials submitted to international tribunals; the legal advice of military lawyers related to the selection and legality of potential military targets during an armed conflict; the legal assistance given by advisers to governments in dealing with compliance with international obligations; the participation of scholars and experts in the negotiation of international treaties; or the scholarly activities aimed at forming, training and inspiring future generations of lawyers. Whilst all these international law professionals are similarly involved in international law discourses and international legal argumentation, they do so in different ways, using different formal categories and seeking to achieve different agendas.

Against this backdrop, taking stock of the literature on the topic, appears to be rather an arduous exercise. Nonetheless, a quick scan of the literature suffices to realise that international lawyers have barely looked at international law as a professional activity. International law textbooks contain only occasional references to the persons or groups exercising these professions, normally in relation to their input to the development of international rules. Systematic and in-depth research of the question can hardly be found in monographs, collected volumes or scholarly articles either.[6] Leaving aside the publications intended to divulgate professional opportunities in the field of international law,[7] a few studies have however been dedicated to specific professions or particular professional bodies or institutions such as the International Law Commission,[8] the International Law Association,[9] or the Institut de Droit

[6] In literature, see N. P. Vogt (ed.), *The International Practice of Law: Liber Amicorum for Thomas Bär and Robert Karrer* (Basel: Helbing & Lichtenhahn, 1997); and T-H. Cheng, *When International Law Works. Realistic Idealism after 9/11 and the Global Recession* (New York: Oxford University Press, 2012).

[7] See, for instance, S. K. Park, S. J. Feathers, *Public Service and International Law: A Guide to Professional Opportunities in the United States and Abroad*, 3rd edn. (New Haven: Yale Law School, 1998); American Society of International Law, *Careers in International Law: A Guide to Career Paths and Internships in International Law*, 2009–2010; M. W. Janis (ed.), *Careers in International Law*, 2nd. edn. (Washington: American Bar Association, 2001).

[8] See, for instance, I. M. Sinclair, *The International Law Commission. 1948–1998* (Cambridge: CUP, 1987); A. D. Watts, *The International Law Commission* (Oxford: Oxford University Press, 2000).

[9] See, for example, F. Münch, 'L'influence de l'International Law Association sur la doctrine et la pratique du droit international' in M. Bos (ed.), *The Present State of International Law and Other Essays* (New York: Springer, 1973), 23–46.

international.[10] On the whole, the debate over international law as a profession – as far as it has taken place – is rather limited to articles or papers, which are normally rather short and to a certain extent biographical if not anecdotal.

A significant – and traditionally regarded as seminal – contribution was made by Oscar Schachter's 1977 article, which famously coined the expression 'the invisible college of international law' to describe the community of professionals engaged in a 'common international enterprise' directed at understanding and developing international law as a unified discipline.[11] This much-discussed article reflects a common feature of the debate on international law as a profession insofar as it was based on a rather reductive distinction and comparison between scholars and 'government advocates'. It nonetheless admits and welcomes the *pénétration pacifique* of ideas from one group to the other.

Along similar lines, about ten years later, Sinclair introduced a distinction between a scholar and a practitioner, the latter defined as 'a lawyer whose initial study of public international law has broadened and deepened by experience over a number of years of practical application, whether as legal adviser to a foreign ministry or to an international organisation, or as consultant, adviser or counsel to his own government or to a foreign government'.[12] This author nonetheless admits that 'one of the distinctive features of international legal practice is that the dividing line between the practitioner and the teacher is tenuous in the extreme'.[13]

Subsequent studies have focussed on a wide variety of distinct legal professions, or particular dimensions thereof. For instance, we have witnessed studies on the international projection of the activities of law firms,[14]

[10] See, in particular, C. De Visscher, 'La contribution de l'Institut de Droit International au développement du droit international, in *Institut de Droit International, Livre du Centenaire 1873–1973* (Bale: S. Karger S.A, 1973) 128.

[11] O. Schachter, 'The Invisible College of International Lawyers', 72 *Northwestern U. L. Rev.* (1977–1978) 217. The article was rapidly revisited at the 2001 American Society of International Law Annual Conference, see D. J. Bederman, L. Reed, 'The Visible College of International Law: An Introduction', 95 *Proceedings of the American Society of International Law* (2001) ix.

[12] I. M. Sinclair, 'The Practitioner's View of International Law' (1988), in *Contemporary Issues in International Law: A Collection of the Josephine Onoh Memorial Lectures* (The Hague – New York: Kluwer, 2002) 57, at p. 57.

[13] *Ibid.*

[14] Symposium: Paris Forum on Transnational Practice for the Legal Profession, 18 *Dickinson Journal of International Law* (1999) 1. On the barriers to a truly international legal profession, see N. B. Tanner, 'The Failure of International Law to Internationalize the Legal Profession', 17 *Journal of Law & Commerce* (1997–1998) 131.

recently with reference to global economy[15] and the age of digitalisation[16] and occasionally in a global constitutionalism perspective,[17] or on the role and responsibility of legal advisers,[18] or on the teaching of international law.[19]

[15] See, for instance, J. Barrett, 'Recent Development: International Legal Education in the United States: Being Educated for Domestic Practice While Living in a Global Society', 12 *Am.Univ. Jour. Int'l Law & Policy* (1997) 975; A. Blackett, 'Globalization and its Ambiguities: Implications for Law School Curricular Reform', 37 *CJTL* (1998) 1; A. Orford, 'Citizenship, Sovereignty and Globalisation: Teaching International Law in the Post-Soviet Era', 6 *Legal Education Review* (1995) 251, J. D. Cahn, 'The Global Legal Professional and the Challenges to Legal Education' 20 *Penn State International Law Review* (2001) 55; J. R. Maxeiner, 'Learning from Others: Sustaining the Internationalization and Globalization of U.S. Law School Curriculums', 32 *Fordham International Law Journal* (2008) 32.

[16] See, for instance, J. Drolshammer, 'A College of International Lawyers in a Networked Society? The Need for Conceptualization of the 'New International Lawyer', from a Global Perspective' in N. P. Vogt (ed.), *Réflections on the International Practice of Law. Liber Amicorum for the 35th Anniversary of Bar & Karrer* (Basel: Helbig & Lichtenhahn, 2004); L. Terry, S. Mark, T. Gordon, 'Trends and Challenges in Lawyer Regulation: The Impact of Globalization and Technology Colloquium: Globalization and the Legal Profession', 80 *Fordham Law Review* (2010) 266.

[17] C. Schwöbel, 'The Appeal of the Project of Global Constitutionalism to Public International Lawyers', 13 *German Law Journal* (2012) 1.

[18] On the role of legal advisors, see, in addition to the works referred above, note 7, L. H. Woolsey, 'Legal adviser of the Department of State', 26 *AJIL* (1932) 124; H. H. Bruff, *Bad Advice: Bush's Lawyers in the War on Terror* (Lawrence: University Press of Kansas, 2009; A. Carty, R. A. Smith, *Sir Gerald Fitzmaurice and the World Crisis: A Legal Adviser in the Foreign Office* (The Hague: Kluwer Law International, 2000); H. C. L. Merillat (ed), *Legal Advisers and Foreign Affairs* (New York: New York, Oceana, 1964); I. Sinclair, 'The Practice of International Law: The Foreign and Commonwealth Office', in Bin Cheng (ed.). *International Law: Teaching and Practice* (London: Stevens & Sons, 1982); United Nations, *Collection of Essays by Legal Advisers of States, Legal Advisers of International Organization and Practitioners in the Field of International Law* (New York: United Nations, 1999); C. Wickremasinghe (ed.), *The International Lawyer as Practitioner* (London: The British Institute of International and Comparative Law, 2000); R. B. Bilder, 'The Office of the Legal Adviser: The State Department Lawyer and Foreign Affairs', 56 *AJIL* (1962) 633; M. J. Glennon, K. Highet, 'The Role of the Llegal Advisor of the Department of State', 85 *AJIL* (1991) 358; J. G. Lammers, The Role of the Legal Adviser of the Ministry of Foreign Affairs: The Dutch Approach and Experience, 18 *Tulane J. Int'l & Comp. L.* (2009) 77; R. St J. MacDonald, *The Role of Legal Adviser of Ministries of Foreign Affairs, Recueil des Cours* (The Hague: Academy of International Law, 1977-III) 377; E. McWhinney, E., 'President Bush and the New U.S. National Security Strategy: The Continuing Relevance of the Legal Adviser and International Law', 1 *Chin. J. Int'l L.* 421 (2002); K. M. Manusama, 'Between a Rock and a Hard Place – Providing Legal Advice on Military Action against Iraq', 42 *NYIL* (2011) 95–122; M. Sapiro, 'Advising the United States Government on International Law', 27 *NYU J. Int'l & Pol.* (1995) 619; S. M. Schwebel, 'Remarks on the Role of the Legal Advisor of the US State Department', 2 *Eur. J. Int'l L.* 132 (1991); E. D. Williamson, 'International Law and the Role of the Legal Adviser in the Persian Gulf Crisis', 23 *NYU J. Int'l L. & Pol.* (1991) 361.

[19] See, in particular: M. Lachs, *The Teacher in International Law: Teachings and Teaching*, 2nd ed. (Dordrecht: Nijhoff, 1987); B. Broms, 'International Law in the Law School

The relationship between teaching and practice has also been the subject of discussion by several scholars[20] and in several fora, including the International Law Association. The debate was generated primarily by two opposite perceptions of the teaching of international and its objectives. According to the first view, the very essence of international law is the detachment from national jurisdictions. For the second view, on the contrary, international law should be anchored to the national jurisdiction it is thought in and be primarily functional to the domestic legal practice.[21] This possible tension between allegiance to international law on the one hand and connection to a particular legal and political system is surely of wider relevance to the international legal profession. However, perhaps leaving aside incidental studies on legal advisors and on the role of domestic judges,[22] there has been little sustained study of this duality and possible source of friction.

Curriculum' in R St J Macdonald (ed.) *Essays in Honour of Wang Tieya* (Dordrecht: Nijhoff, 1994) 79; B. Cheng, 'How should we study international law?', 13 *Chinese Yearbook of Int'l Law & Affs* (1994–1995) 214; J. Gamble, C. C. Joyner, *Teaching International Law: Approaches and Perspectives* (Washington, DC: American Society of International Law 1997); M. W. Reisman, 'The Teaching of International Law in the Eighties', 20 *International Lawyer* (1996) 987; G. Simpson, 'On the Magic Mountain: Teaching Public International Law' 10 *EJIL* (1999) 22; E. Hey, '*Teaching International Law: State Consent as Consent to a Process of Normative Development and Ensuing Problems*' (The Hague: Kluwer, 2003); J. Klabbers, M. Sellers, *The Internationalization of Law and Legal Education* (Vienna: Springer, 2009). See also the reports and the resolution of the International Law Association Committee on Teaching of International Law, available at www.ila-hq.org/en/committees/index.cfm/cid/1009; See also Florian Hoffman, 'Teaching General Public International Law' in J. Kammerhofer, J. d'Aspremont (eds), *International Legal Positivism in a Postmodern World* (Cambridge: CUP, 2014), 349–377.

[20] See, for instance: Symposium, 'The American Journal of International Law, International Law Teaching: Can the Profession Tell It Like It Is?', 66 *AJIL* (1972) 129; W. J. Gillis, 'The Case for International Law Schools and an International Legal Profession', 29 *International and Comparative Law Quarterly* (1980) 206; B. Cheng (ed.), *International Law: Teaching and Practice* (London: Stevens & Sons, 1982); J. Gamble, 'The Teaching of International Law: Future Role for the Training of Scholars and Practitioners', in ASIL – Nederlandse Vereninging voor Internationaal Recht, *Contemporary International Law Issues: Sharing Pan-European and American Perspectives* (Dordrecht: Nijhoff, 1992) 195.

[21] The ILA Committee on teaching international law noted a division of its members on the question 'whether the teaching of international law was or should, in its broader orientation, be "internationalist" or "municipalist/nationalist" – or perhaps even more focussed, for example feminist. In other words, do teachers teach international law as it will be used by practitioners within their respective jurisdictions, or is it rather a field which is "nationally-unbound"'.

[22] See eg Y Shany, 'Dédoublement fonctionnel and the Mixed Loyalties of National and International Judges', in F. Fontanelli, G. Martinico and P. Carrozza (eds.), *Shaping Rule*

This sketchy account of scholarship seems to show that the attempts to ignite a thoroughly and systematic debate on international law as a profession have so far remained largely unsuccessful. In this context, it seems difficult to contest that there clearly is a want of systematic and in-depth studies of the professions of international law. This book is an attempt to offer insights on international law from a long neglected perspective.

2 The Variety of International Law Professions

This book draws on the great variety of distinct professions that engage with international law.[23] It is thus presupposed here that the immense cohort of professionals that use international law can be segmented along professional roles. In this regard, one may be tempted to espouse an elementary – and somewhat intuitive – typology that distinguishes international lawyers as legal advisors of either governments or international institutions, international lawyers as counsel as part of law firms, international lawyers as judges (whether international or national) or arbitrators, international lawyers as scholars, and international lawyers as teachers. And yet, such a simple typology would be unsatisfactory if one wants to capitalise on the new perspective offered by this volume and the insights it can generate. A more refined framework is needed to capture the diversity of capacities in which international lawyers engage with international law. A few observations must be formulated in this respect.

First, each of the abovementioned professional roles is itself dramatically context-dependent. It is in this sense that it has been argued that 'experience of legal practice reveals the impressive diversity of contexts in which reference to international law is necessary'.[24] This significance of this context-specificity is further reinforced by functional differentiation and the variety of agendas at work in each profession, which, in turn, may have implications for the responsibilities and self-perception of the professionals concerned.

of Law through Dialogue. International and Supranational Experiences (Groningen: Europa Law Publishing, 2010) 27–42.

[23] For some remarks on this variety, see gen. for instance, R. L. Morningstar, 'The Three-Dimensional Practice of Law in the International Arena', 39 *Stan. J. Int'l L.* (2003) 285.

[24] I. Brownlie, 'The Work of an International Lawyer', 45 *Columbia Jour. Transnational Law* (2006) 1, at p. 3.

Second, the abovementioned typology is blurred by the degree to which professionals are, more or less, connected to domestic legal orders and their varying 'loyalty'. Indeed, in particular for legal advisors and judges, one may sometimes discern a twofold loyalty to their own state and to international law. Such fluctuating loyalties can be exacerbated when the profile of the professionals rendering the advice is not neatly defined and their relationship with a given state is ambiguous.

Third, professionals frequently change roles or even occupy multiple roles at the same time. It is noteworthy that, in this respect, all combinations seem possible: advisor/judge, judge/arbitrator, judge/counsel, advisor/scholar and so on. A classic example of such oscillation is the interruption of an academic career to serve as a judge in an international tribunal or as a legal adviser in an international organisation or for a government. In certain areas, oscillations have become frantic and taken more and more often the form of a revolving door through which professionals continuously switch their hats. The phenomenon is not exempt from risks, as it has become evident in the field of investment law, where the frequency and rapidity of switching role – from arbitrator to counsel to legal expert – have raised many eyebrows and stimulate a reflection on whether these roles need to be better distinguished. At any rate, these oscillations entail that one should be very careful in making hard and fast distinctions between professional roles. In other words, such oscillations of roles further diminish the descriptive value of the abovementioned taxonomy. Understanding how these multiple roles not only co-exist, interact and swap under the veil of in a single professional activity is one of the main aims of the present study.

Fourth, a mechanical distinction between professions does not account for the intense dialogue between the various professions. Professionals having different functions and roles related to international law are nowadays regularly called on to collaborate with and talk to each other. The proceedings before international tribunals offer an obvious example. Teams composed of different professionals (including diplomats, scholars and practitioners) contribute to the preparation of the written documents submitted to the tribunal and to the presentation of the legal arguments during the pleadings. In both the written and the oral phases they interact with the opposed team(s) and with the tribunal as a whole and its judges. Other legal arena where legal arguments are discussed, shared and criticised – such as the International Law

Commission, the *Institut de Droit international* and the International Law Association – ensure cross-fertilisation of the perceptions and understandings of international law that come with each profession. The same holds for academic institutions that are enticed to build bridges with practitioners and generate so-called 'impact'.

Fifth, the abovementioned taxonomy fails to reflect the extent to which these various professions compete with each other. Even if those professionals, as has been highlighted in the previous paragraphs, take advantage of numerous opportunities for dialogue and collaboration, they unavoidably enter in competition both on a daily basis, in order to push forward their arguments, their views and their perceptions of international law (and of the world).[25]

All-in-all, while acknowledging the segmenting of international law as a professional activity along professional roles – something which Part III of this volume does, this book remains premised on the necessity to account for the complex dynamics at work behind the various professional capacities in which professionals engage with international law – as is discussed in Parts I and II. It is the aim of the following section to further spell out the structure of this volume.

3 Structure of This Book

Approaching international law as a profession rather than something 'out there' ready to be interpreted and applied to problems of world politics, this book sheds light on the complex relation between one's profession and one's understanding of international law through a three-tiered structure. This structure distinguishes theoretical studies on the very idea of a profession (Part I), conceptual and theoretical inquiries into theories that inform the practice of international law and the relation between practice and theory (Part II), and more specific investigations in some concrete professional capacities in which international lawyers engage with international law (Part III). Taken together, these three parts reveal all sorts of new facets of the theory and practice of

[25] With regard to scholars, G. Abi-Saab, 'Les sources du droit international: un essai de déconstruction' in M. Rama-Montaldo (ed.), *International Law in an Evolving World* (Montevideo: Fundación de Cultura Univesitaria, 1994) 29, at 34, has observed that 'la doctrine peut favoriser en proportion de la force persuasive de ses arguments, le passage des solutions qu'elle préconise [de *lex ferenda* à *lex lata*] dans la perception de la communauté juridique internationale'.

international law, some of which are further spelled out in the conclusions. Each of these three parts is presented here.

Part I, entitled *Thinking of International Law as a Professional Practice*, includes chapters that discuss how international law is constructed as a distinct professional activity. This part offers general theoretical reflections on international law qua professional activity. This part starts with Chapter 1 by Jean d'Aspremont, which explores the variety of ways in which the professionalisation of international law can be construed. It submits that the rise of international law as a professional activity can be understood as a process of autonomisation, scientification, communification, pluralisation, and socialisation. Each of these understandings of the professionalisation of international law calls for some diligent use of multidisciplinary tools.

It continues with Martti Koskenniemi's 'Between Commitment and Cynicism' (Chapter 2). While the volume aims to provide new insights to the study of international law as a profession, this classic text is reproduced as it provides essential background for our enquiry and for the chapters that follow. The chapter's main claim that it is part of the 'psychological reality' of being an international lawyer to be caught in a dialectic between commitment and cynicism is relevant to an appreciation of many of the chapters that follow. The chapter is fundamental for the present volume because of the often-cited proposition that international law is what international lawyers do and how they think. This perspective collapses the distinction between practice and theory – a theme that is common to many chapters in this volume.

In Chapter 3, Richard Collins and Alexandra Bohm argue that attempts by international lawyers to use international law for particular ends (this would seem to cover all international legal professional activity) places a burden on international lawyers to uphold the relative autonomy of international legal practice. The persuasiveness of any legal argument would depend upon maintaining the idea of international law as a formal system according to which answers to legal questions can be derived from certain sources and principles whose validity depends on the internal logic of the system itself; and professionals would have a responsibility to maintain that idea. This claim thus articulates a unifying – though by no means uncontested – defining feature of legal professionals that cuts across various legal roles.

In Chapter 4, Anne Orford explores one particular dimension of the professionalisation of international law: the role of shifting ideals of science in shaping the work of professional legal scholars in different

times and places. The chapter demonstrates that the commitment to scientific values has been a strong unifying element in the development of the profession of legal scholars. The implications of such a commitment vary widely, as scholars have understood it as requiring different forms of conduct, different means of producing knowledge, and different relations to the state. While specifically focussed on scholars, the inquiry highlights the diversity within the profession and is surely of wider relevance.

Part II focuses on *The Practice of International Law and Its Theories* and revisits the common distinction between theory and practice in international law. The chapters included in this part of the volume come to question whether practising lawyers unavoidably work on the basis of theoretical assumptions, while theorising itself constitutes a social practice. They also look into whether theorising international law has become a specialised field, with its own modes of inquiry and legal reasoning, hierarchies, traditions, journals, etc.

In Chapter 5, Anne Peters argues that in the present time of 'ruptures', there is the possibility and the need and for a creative international legal scholarship. She argues that it is the job of international scholars, as professionals, to develop ideas which may have the power of transforming international relations. She defends scholarship against five types of challenges: the charges of epistemic nationalism, ideology, of unscholarliness, irrelevance and doctrinalism.

In Chapter 6, Gleider Hernandez examines the role of international legal academics as 'grammarians'. He argues that by employing the language of international law, they identify points of coherence and prescribe order, and do so at least in part out of a desire to be seen as relevant within a wider professional community of international lawyers. At the same time, the very act of doing so is constitutive of international law itself.

In Chapter 7, Akbar Rasulov explores the concept and role of heterodoxy in international legal scholarship. After first developing a general concept of critique as a pattern of academic practices, essentially grounded in set of specific social roles, the chapter explores the conditions that define the likelihood of failure and success for disciplinary heterodoxies in modern international law. It thus seeks to identify sets of factors that have determine the relevance and impact of 'critical' or 'heterodox' schools of thought, in particular focussing on new approaches to international law.