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Review of Marco Pertile, Diritto internazionale e rapporti economici nelle guerre civili (Editoriale Scientifica 2019), ISBN 9788893919371, 330 pp, EUR 24.00

Longobardo, Marco

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**Marco Pertile, *Diritto internazionale e rapporti economici nelle guerre civili*
(Editoriale Scientifica 2019), ISBN 9788893919371, 330 pp, EUR
24.00**

Marco Pertile's book, *Diritto internazionale e rapporti economici nelle guerre civili* (*International Law and Economic Relations in Civil Wars*), analyses a difficult topic of public international law. Civil wars are complex phenomena at the crossroads of several international law regimes, where different actors (states, international organisations, insurgents, private entities such as corporations) are entangled in an enormous web of economic activities. The book tackles the problem of their international law regulation from a wider perspective, trying to apply two important international law rules – the principle of non-intervention and the principle of self-determination of peoples – to the totality of economic activities in civil wars. From this point of view, the book offers a wide-angled analysis that demonstrates a significant knowledge and understanding of general international law.

The main argument of the book, described in Chapter IV and summarised in the Conclusion, is that two different kinds of economic relations in civil wars should be identified: on the one hand, economic relations that pre-dated the beginning of the civil war (or that are otherwise unrelated to the civil war), on the other, economic relations that are established to influence the outcome of a civil war. In relation to the former, in contrast with the traditional view on the indivisibility of governmental functions within a state (referred to as a 'dogma' many times, eg at p 121), Pertile argues that once an insurgent movement acquires control over a portion of territory, it is able to deal with economic relations therein. This is a consequence of the effectiveness of the governmental activity performed by the insurgents (p 283) rather than a power conferred by international law. In addition, international law does not forbid third states from continuing pre-existing economic relations. In relation to the latter, ie economic relations established to influence a civil war, Pertile adopts a nuanced approach, focusing his analysis in particular on economic relations with the insurgents. Whereas, in his opinion, the principle of non-intervention does not bar the delivery of humanitarian assistance, he is more cautious in relation to the provision of non-lethal assistance and the supply of weapons to insurgents. Pertile argues that while, in the past, these two forms of economic relations might have been considered prohibited under the principle of non-intervention, most recent practice related to the civil wars in Syria and Libya shows a new trend towards an erosion of non-intervention: in Pertile's opinion, today states consider the provision of non-lethal assistance to be lawful, and occasionally some states hint at being open to the provision of weapons as well (pp 256-257). Correctly, on the one hand, Pertile points out that some States have considered that these interventions are justified in light of the principle of self-determination of peoples, which, in these States' view, can be exercised by armed groups against an illegitimate government. On the other hand, Pertile notes that the practice is so fragmented that it is impossible to find a solid and unique legal basis behind it. Accordingly, the author stops short of affirming that a 'Grotian moment'¹ has occurred in favour of recognising the legality of these activities, even though a significant trend exists.

Pertile's conclusions are solid, well-argued, and will spark interest and kindle future debates around this chaotic topic of public international law. However, these conclusions are only the tip of the iceberg. Before reaching them, Pertile's book offers a tour de force of the main legal issues concerned with the identification of the relevant actors and rules that must be applied to economic relations in civil wars. Chapter I lays the foundation of Pertile's research

¹ I borrow this expression from Boutros Boutros-Ghali, 'A Grotian Moment' (1994) *Fordham International Law Journal* 1609. See also Michael P Scharf, *Customary International Law in Times of Fundamental Changes: Recognizing Grotian Moments* (Cambridge University Press 2013).

by summarising the evolution of civil wars after World War Two. Chapter II deals with the traditional problems of defining the notion of civil war and the main actors that can be involved in a civil war (governments, insurgents, rebels, belligerents, terrorists, etc.). Chapter III complements the analysis by exploring which is the role of third states and international organisations in determining who is the legitimate government in a state torn by a civil war, and to what extent insurgents may receive any form of international recognition. The practice concerning the recognition of de jure and de facto governments is topical, especially in light of Pertile's considerations on the ongoing crisis in Venezuela (pp 188-189). All in all, Chapters I, II, and III are necessary to reach the conclusions embodied in Chapter IV on economic relations in civil wars, and illuminating for everyone with an interest in third states' interventions in civil wars more generally.

Pertile is aware that his arguments touch upon problematic issues, which are further complicated by fragmented practice, covert interventions of states, and lack of legal certainty over some crucial definitions such as civil war – which is a notion that is not defined in any binding legal text. Pertile's fine-grained analysis guides the reader through this legal maze, with a clear exposition and accessible information of the variety of public international law topics touched upon on the journey towards the book's conclusions. This way, the book under review is not only a useful resource for connoisseur of third states' interventions in civil wars but it is also a very good starting point for anyone who wants to approach this subject for the first time.

Each chapter is very well researched and strikes a fine balance between providing too little bibliographic information and too much. On the issues he touches upon, Pertile demonstrates a good knowledge of all the main primary and secondary sources, which are used properly to support the author's points or to debate competing views. The book demonstrates great attention to state practice, with a significant emphasis on most recent instances. In line with a long-standing Italian scholarly tradition, Pertile relies on primary and secondary sources in multiple languages, namely English, French, Italian, and Spanish. As a result, the book locates itself in a wide international scholarly debate.

For all these reasons, Pertile's book has improved significantly my understanding of the specific topic of economic relations in civil wars and of the wider subject of intervention / non-intervention in civil wars more generally. Occasionally, I got the impression that certain conclusions should have been substantiated in more detail. For instance, when the author argues that recognition of belligerency fell in desuetude (p 207), he should have preliminarily considered whether desuetude applies to customary international law, especially in light of the fact that some authors have argued that recognition of belligerency is possible today because desuetude is applicable only to treaties.² Likewise, using examples from the hostilities in the Gaza Strip in relation to (the lack of) recognition of belligerency (p 207, fn 142, and p 208) would have needed more analysis in light of the judicial position that considers those hostilities as regulated by the law on international armed conflict even in the absence of such a recognition.³ An additional little source of puzzlement lies in the title: not making any reference to the word 'State', I expected that the book would have also addressed issues related to the protection of investments in civil wars and the commission of international crimes in the field of economic activities. These are two areas of research that are implicitly outside the scope of the book in Chapter I (p 98). Some minor typos in the footnotes (eg missing years and page numbers) could have been dealt with at the proofreading stage.

The book fulfils the author's aim of filling a lacuna in the extant academic literature (p 17). The book has some peculiar features, both in relation to its scope and approach, that makes it

² Eg Dapo Akande, 'Classification of Armed Conflicts: Relevant Legal Concepts' in Elizabeth Wilmshurst (ed), *International Law and the Classification of Conflicts* (Oxford University Press 2012) 32, 62; Iain Scobbie, 'Gaza', *ibid*, 280, 303-304.

³ See eg Supreme Court of Israel, *Public Committee against Torture in Israel v Israel*, H CJ 769/02, 13 December 2006, para 18, unofficial English translation in (2006) 2 *Israel Law Reports* 459.

stand among the most recent works on interventions in civil wars. Contrary to Pertile's approach, most monographs on interventions in civil wars mainly focus on military intervention rather than on economic relations,⁴ often from the standpoint of intervention by invitation.⁵ Even when economic interventions are addressed, international scholarship usually limits its attention to economic relations aimed at influencing the outcome of the civil war⁶ rather exploring also ordinary economic relations unrelated to outcome of the conflict as Pertile does. While the book under review explores the rules under general international law that are applicable to ordinary economic relations in civil wars, these relations are usually addressed from the standpoint of investment protection,⁷ which is a topic outside the purview of Pertile's research. Accordingly, from this brief overview, it is easy to understand that Pertile's book is successful in filling a lacuna in international law scholarship.

On balance, the research at the basis of this book deserves praise in light of its quality. Likely, the rigour and depth of this research will have a long-lasting impact on the legal understanding of economic relations in civil wars. In light of the quality of the conclusions reached by Pertile, it is likely that the present book will become a standard reference on this complex and multifaceted topic of public international law.

Dr Marco Longobardo
Senior Lecturer in International Law
University of Westminster
m.longobardo1@westminster.ac.uk

⁴ Eg Eliav Lieblich, *International Law and Civil Wars: Intervention and Consent* (Routledge 2013); Chiara Redaelli, *Interventions in Civil Wars: Effectiveness, Legitimacy, and Human Rights Rights* (Hart 2021).

⁵ See eg Erika de Wet, *Military assistance on request and the use of force* (Oxford University Press, 2020).

⁶ See eg Christina Nowak, *Das Interventionsverbot im Bürgerkrieg: Darstellung eines Wandels durch die Bürgerkriege in Libyen, Syrien, Irak, Jemen und Ukraine seit 2011* (Peter Lang 2018).

⁷ See, eg, Kathryn Greenman, *State Responsibility and Rebels The History and Legacy of Protecting Investment Against Revolution* (Cambridge University Press 2021).