

Philip Dann: The law of development cooperation: a comparative analysis of the World Bank, the EU and Germany

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Philip Dann: The law of development cooperation: a comparative analysis of the World Bank, the EU and Germany

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International development has often come along with lessons for recipient states, in particular through the imposition of good governance standards. Philip Dann opens a relatively new and extremely interesting inquiry into another aspect of development cooperation: the norms that have progressively come to regulate the action of development institutions. As he asks, 'in the long run: why shouldn't foreign aid also grow out of its politicised niche and become an autonomous legal regime that can be used to effectively check political powers?' (pp. 32). Dann sets up a political project of regulating international action on development through law, in particular as a way of promoting the interests of recipient states and the rights of their citizens.

The book, based on the translation of a German habilitation thesis, is based on a comparative and in-depth analysis of three institutions that convey official development assistance: an international organisation (the World Bank), an organisation of regional integration (the European Union) and finally a donor state (Germany). On the basis of the comparison, this foundational work retraces the prolegomena of a new field of transnational law: the law of development cooperation.

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The book is structured as follows. First part provides a historical overview of the development cooperation. Second part attempts to identify 'what could be called the constitutional foundations of the law of development cooperation' (pp. 22). Four principles are identified: the principles of development, of collective autonomy (i.e., recognition that the aid-receiving state should determine its own development orientations), of individual autonomy (e.g., human rights) and of coherence and efficiency. These principles appear to provide a consistent and comprehensive framework to analyse development cooperation, although one may wonder whether developments over the last decades could suggest the apparition of an additional principle which would relate to procedural fairness, legitimacy and stakeholders' participation (as seems to be suggested, *in passim*, in chapter 9).

The third and last part of the book builds on this framework and provides a detailed comparison of the administrative law of development cooperation on the basis of the three case studies. A tension appears throughout the discussions between the requirement of collective autonomy and that of individual autonomy, revealing a well-wishing but potentially counter-productive and sometimes patronising attitude of aid-providers in discounting the legitimacy and distrusting the competence or integrity of the governments of aid-receiving states.

The book features not only a precise and convincing legal analysis based on meticulous research, but also a thorough analysis of the political dynamics underlying international development. Much emphasis is rightly put on the tension between the legal principle of equal sovereignty and the reality of very unequal power relations between donors and aid recipients. By elegantly framing international development as a matter for cooperation between a donor state and a recipient state, rather than assistance from the former to the latter, Dann promotes 'a king of legal 'equality of arms' between the parties' (pp. 244) to official development assistance. Through an innovative yet solid liberal doctrinal analysis, the author builds the foundations for a legal analysis of international development between, but at a reasonable distance of both, utopia and apology. Profound insights are offered regarding the possible role that law could play, as an instrument of emancipation but also possibly an instrument of domination, in regulating official development assistance.

The reader might, however, at times, regret that no more efforts were made to improve the readability of what remains, by and large, a habilitation thesis with up to seven levels of headings, essential explanations reported through cross-references, relatively long dispensable theoretical developments, and a terminology sometimes more opaque than necessary (e.g., “heterarchical” to mean non-hierarchical). The translation is, at the same time, an asset by making a large array of German scholarship available to the reader, and a relative weakness when essential Anglo-Saxon sources or ideas are not integrated. None of these caveats, however, affects the inherent quality of the book, which should become a reference for anyone interested in North–South international relations, in particular with regard to international development.

Naturally, this foundational project leaves room for further research (as explicitly recognised, for instance, at pp. 513). Other institutions, for instance, would deserve similar studies, including bilateral aid from other states as well as, for instance, agencies of the United Nations organisation such as the UNDP (which features very different political dynamics from the World Bank). The relation between funding states and international development institutions would also be worth inquiry, in particular for what regards possible procedural safeguards against a disproportionate influence of funding states. While Dann focuses on the sole official development assistance, further research would need to survey the law applicable to other forms of aid to development, as well as, for instance, climate change adaptation funding. Lastly, further research could explore litigation avenues for the implementation of the law of development cooperation.