

This review has sought to analyse the book from the perspective of an international or comparative lawyer, for whom it constitutes essential reading clearly illustrating the development and convergence of the two subjects and a useful introduction to the impact of EU law on international law and the obligations of Member States. Despite the criticisms made above, this is a timely and important contribution to this ever-changing field of debate, and constitutes one of the only books concentrating on the relationship between Public International Law and European law.¹³ It will also be a key volume for academics working in the field of 'Europcanisation', as it may now be known.

ANNA RIDDELL, JUSTINE STEFANELLI* AND FARIA MEDJOUBA**

The International Law Foundations of Palestinian Nationality: A Legal Examination of Nationality in Palestine under Britain's Rule by Mutaz M Qafisheh [Martinus Nijhoff, Leiden, 2008, 252 pp, ISBN 978-90-04-16984-5, €100, \$141(h/bk)].

History is integral to understanding how the Israel-Palestine conflict emerged. This is because almost all aspects of that conflict—from the question of self-determination to territorial boundaries—were forged in the past. Any serious study on Palestine therefore entails revisiting the colonial era when Palestine was carved out of the Ottoman Empire and placed under a League of Nations Mandate. Dr Qafisheh's book acknowledges the importance of history by examining Palestinian nationality during the Mandate era when many of the legal (and still unresolved) controversies concerning the Palestine question first arose.

This monograph is based on Dr Qafisheh's doctorate for which he was awarded a distinction by the Graduate Institute of International and Development Studies in Geneva. It is comprised of twelve chapters, beginning with an introduction and literature review, and then examines the Nationality Law of Palestine during the Ottoman Empire, followed by a chapter entitled 'Palestinian nationality in transition'. The latter chapter covers the era when Palestine was placed under British military occupation in December 1917, through to the Treaty of Lausanne of 1923, to the time when a Citizenship Order was first enacted in 1925. The former chapter examines the Ottoman Nationality Law of 1869 in some detail noting that it was inspired by the French legal model and 'transformed the idea of citizenship into a secular concept by abandoning religion as the basis for nationality' (page 27).

In his chapter on the Palestine Citizenship Order 1925, Dr Qafisheh makes the important observation that this law remains significant because, as he argues:

'(1) it was the final nationality text applicable in Palestine at the end of the Mandate; (2) it affected nationality laws enacted Israel in 1952 and in Jordan (when then included the West Bank), in 1954; (3) it was effectively applicable in the Gaza Strip under the Egyptian administration from 1948 to 1967; (4) it is still valid in all the Palestinian Authority areas at the present day; and (5) the Palestinian legislator would have no choice but to review that text in the drafting process of nationality legislation in the future Palestinian state' (page 75-6).

¹³ Earlier volumes include M Koskeniemi *International Law Aspects of the European Union* (Kluwer Law International, 1998), which includes only first and second pillar aspects and was written prior to the Treaty of Amsterdam, and V Kronenberger *The European Union and the International Legal Order: Discord or Harmony?* (TMC Asser Press, The Hague, 2001) which whilst current at the time of publication has in some respects been quickly superseded by the fast-paced developments in this field.

* Research Fellow in Public International Law and European Law, British Institute of International and Comparative Law.

** Research Fellows in European Law, British Institute of International and Comparative Law.

The next six chapters examine various aspects Palestinian nationality during the British Mandate, such as naturalization, expatriation, the recognition of Palestinian nationality by third states, the admission of foreigners into Palestine, and the applicability of international nationality instruments to Palestine. The penultimate chapter examines the nationality provisions provided for in the 1947 UN Partition Plan. Dr Qafisheh concludes his study by summing up the main findings of his thesis, and examines Palestinian nationality in the context of the right of return of the refugees displaced from their homes during the 1947–9 Arab-Israeli conflict, and the different legal statuses Palestinians have depending on whether they are residents of the West Bank, the Gaza Strip or East Jerusalem.

This study is well researched and referenced and brings to light forgotten cases, laws, and League of Nations documents. It is likely to become a very useful resource to which any serious scholar should turn to before writing on Palestinian nationality in the future. Whilst one may question Dr Qafisheh's claim that the Palestine Citizenship Order 1925 remains applicable in the occupied territories today, assuming, for instance, that it has not fallen into desuetude, history remains of the utmost importance to the Palestinians particularly when it comes to drafting any new nationality legislation. This monograph will be extremely useful to the Palestinian legal draftsman asked to write a new Palestinian nationality law should a viable Palestinian state emerge one day.

There are also some hidden 'gems' tucked away in this book, such as the material Dr Qafisheh discovered in the League of Nations archives in Geneva on those Palestinians who were resident abroad in 1925, (some 600,000 Syrians, including Lebanese and Palestinians, settled in the Americas in the years 1860–1914), when Britain enacted the Citizenship Order, which retrospectively denationalized them. Letters of complaint were sent to the League of Nations from Palestinians in Mexico complaining that they were not aware of the Palestine Citizenship Order 1925 because the Palestine Government would not authorize advertisements in foreign countries to bring instructions to their notice.¹⁴ Dr. Qafisheh cites a passage from the Palestine Royal Commission Report of 1937 which noted that out of 9,000 applications for citizenship submitted in the years 1925 to 1936 from persons born in Palestine, who had a real and effective link there, 'not more than 100 were accepted'.¹⁵ British consulates outside of Palestine also rejected applications for citizenship on the grounds that the applicants did not reside in Palestine for the six month residency period required. In contrast, as Qafisheh notes, 'special facilities were granted to foreign Jewish students abroad to obtain Palestinian nationality without requesting such students to be present in Palestine'.¹⁶

One hopes that in any second edition of this study, Dr Qafisheh will consider taking into account the wider historical and political trends that occurred in Europe and the Middle East in the inter-war years and perhaps bring it up to date. This might provide an explanation as to why the Palestine Mandate was, in many respects, most unusual especially when compared to other A-class Mandates in the Levant. One would also have thought that a more detailed analysis of what happened to Palestinian nationality after Israel was created in 1948 would have been appropriate even if this went beyond the temporal scope of Qafisheh's initial PhD. This would have enabled him to explain and elaborate on his claim that the Palestine Citizenship Order 1925 remains in force in the occupied territories today. If it is the case that this law remains in force then it could have important ramifications in the domestic courts of third states that occasionally have to deal with questions arising from the refugee status of Palestinians seeking asylum abroad.¹⁷ For instance, If Qafisheh is correct in saying that the Palestine Citizenship Order is still in force in the occupied territories today, can the Palestinians be regarded as stateless? One would have thought that the lack of a Palestinian state would preclude such a finding. However, as Qafisheh notes 'modern history has witnessed many instances in which non-independent states

¹⁴ *ibid* 104.

¹⁵ *ibid* 105.

¹⁶ *ibid* 106.

¹⁷ See eg MA (Palestinian Territories) and Secretary of State for the Home Department, judgment of the Supreme Court of Judicature Court of Appeal (Civil Division) on Appeal from the Asylum and Immigration Tribunal, 9 April 2008.

conferred their nationality on their inhabitants' (page 211). In order to elaborate on this important observation, Dr Qafisheh really should have engaged in a more in-depth analysis of the law of state succession, inter-temporal law, the *raison d'être* of the Mandate system, Israeli law and international humanitarian law. This criticism is not, however, meant to detract from the overall merits of this study, which as a piece of legal scholarship is of the first order.

VICTOR KATTAN*

Marine Resource Law by RONAN LONG [Thomson Round Hall, Dublin, 2007, cv + 840 pp, ISBN 978-1-85800-455-1, price not given (h/bk)]

For many coastal States, the surrounding seas are a valuable asset. The sometimes turbulent waters of the world's oceans conceal a veritable treasure trove of natural resources. This book discusses some of the key legal and policy issues that are raised by the management of marine resources. The focus of the analysis is on Ireland which has jurisdiction over a maritime area more than ten times the size of its land territory. With this in mind, *Marine Resource Law* sets out to describe the current legal and policy framework for the management of marine resources in Ireland. At the same time, it seeks to stimulate discussion of the future challenges facing maritime policy-making in Ireland and beyond.

The premise of the book is that the management of marine resources requires diverse interests to be taken in account and balanced against each another. According to the definition adopted by the author, marine resource law is the body of law which provides the legal framework within which this balancing process takes place. As well as legal rules and principles, the book also considers the management policies underlying marine resource law, such as sustainable development, the precautionary approach, the ecosystem approach, and marine spatial planning. Whilst not strictly speaking constituting legal principles per se, the author asserts that they are nevertheless important as 'they are ... capable of shaping the way the law is applied or interpreted by regulatory and judicial bodies' (para 1-52). In this vein, the author outlines the scope of these policies and describes the way in which they can influence current and future decision-making processes in Ireland.

Marine Resource Law begins with a historical background to the topic, including the major legislative and policy instruments put in place in Ireland between 1922 and 2006. The first chapter also analyses the current governmental framework for the regulation of maritime affairs in Ireland. Chapters two and three then describe in more detail the jurisdictional framework for marine resource law. These chapters consider both Irish law relating to the foreshore as well as the relevant principles of international law relating to the exercise of maritime jurisdiction by coastal states.

The remainder of the book is divided into individual chapters dealing with specific marine resources. It covers traditional marine resources, such as sea fisheries, aquaculture, and offshore oil and gas deposits, as well as resources which have only recently begun to be harnessed, such as marine aggregates and off-shore renewable energy. Separate chapters also deal with underwater cultural heritage, the protection of the marine environment, and marine scientific research, detailing how these issues relate to the utilization and management of marine resources. Although each chapter addresses a single marine resource, the author attempts to take an integrated approach to the topic so that each chapter considers the potential effects that the exploitation of one marine resource may have for the users of other resources.

Most of the chapters follow a similar pattern, beginning with basic background information followed by an in-depth consideration of the substantive legal framework. The author also describes which governmental bodies and institutions are responsible for the regulation of specific

* Teaching Fellow, Centre for International Studies and Diplomacy, School of Oriental and African Studies, University of London.