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BOOK REVIEW OF JOYCE DE CONINCK, THE EU'S HUMAN RIGHTS RESPONSIBILITY GAP: DECONSTRUCTING HUMAN RIGHTS IMPUNITY OF INTERNATIONAL ORGANISATIONS, BLOOMSBURY PUBLISHING, 2024

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[The EU's Human Rights Responsibility Gap: Deconstructing Human Rights Impunity of International Organisations](#)

This book extensively analyses of the European Union's (EU) approach to Integrated Border Management (IBM), its impact on human rights and EU accountability. Joyce De Coninck tackles the legal and operational challenges that arise and discrepancy with human rights obligations due to operational priorities. The book is particularly relevant in light of the increasing complexity of EU IBM, with further cooperation with third states and increased mandate of agencies such as Frontex. With a robust interdisciplinary methodology, De Coninck provides a nuanced examination of human rights accountability in IBM. Through comparative legal analysis, she contrasts EU and international legal frameworks, as well as EU *lex specialis* and *lex generalis*, identifying critical areas of misalignment. Her work is firmly grounded in both practical realities and the broader academic discourse. As the book's central thesis, EU IBM is

characterised by normative incongruence between its formal commitments to human rights and its operational practices, identified by systemic accountability gaps stemming from the EU's fragmented governance structure, the use of informal agreements with third states, and the operational focus on migration control. The book situates these issues within the broader context of the EU's *sui generis* legal framework and its complex relationship with international human rights law. De Coninck ultimately calls for a recalibration of the EU's legal and operational frameworks to ensure alignment with its human rights obligations.

De Coninck divides her analysis into four parts in eleven chapters. In Part 1, she introduces IBM and systemic accountability gaps, using the example of EU cooperation with the Libyan Coast Guard to facilitate pushbacks leading to the return of people to unsafe states. De Coninck critiques the EU's reliance on externalisation techniques, including carrier sanctions, visa restrictions, and the deployment of migration management teams and technology in third states, restricting individuals' right to leave and safe access to protection. In Part 2, she addresses the EU's historical position as an entity not originally conceived as a human rights actor. De Coninck critiques the EU's delegation of border control to third states, shifting human rights compliance to actors with weaker accountability mechanisms, emphasising that this delegation does not absolve the EU of its international law obligations. Procedural barriers hinder effective human rights protections and limit individual redress. She concludes Chapter 3 by arguing that the EU's relationship with international human rights law is characterised by selective engagement. In Chapter 4, she describes the unique legal and structural framework of the EU as a hybrid entity that combines supranational and intergovernmental elements. This enables the EU to create binding obligations that extend directly to individuals, embedding its legal authority within member states' jurisdictions.

However, this structure complicates accountability, fragmenting responsibilities among EU institutions, member states, and third parties, creating compliance gaps. De Coninck cites informal agreements like the

EU-Turkey Statement as an example of externalising responsibilities while avoiding direct legal obligations. She critiques reliance the *Bosphorus* presumption, which while reinforcing mutual trust among EU member states and upholding mechanisms like the Charter for Fundamental Rights, it inadequately addresses EU policies or practices that fall short of European Convention on Human Rights standards. De Coninck also discusses Article 14 of the Draft Accession Agreement as potentially useful but notes that the co-respondent mechanism, despite recognising the EU's composite governance, presents practical and procedural challenges in ensuring accountability for actions stemming from informal agreements with third states.

Part 3 assesses systemic accountability gaps. In Chapter 5, De Coninck critiques the Court of Justice of the European Union (CJEU) for its limited approach to non-refoulement, focusing on individual cases while neglecting systemic violations from EU policies, such as cooperation with third states. Procedural hurdles, like restrictive standing requirements under Arts. 263 and 340 Treaty of the Functioning of the European Union, hinder challenges to EU actions or omissions, particularly in indirect violations like pushbacks by third-state partners. The division of responsibility among the EU, member states, and third states further exacerbates accountability gaps. De Coninck contrasts the CJEU's reluctance to directly assess EU responsibility for actions with the European Court of Human Rights *Hirsi Jamaa* ruling. She argues that the CJEU must scrutinise EU policies and practices more thoroughly to align with broader international human rights frameworks. Chapter 6 considers the procedural and practical barriers that prevent people in need of international protection from accessing EU visa regimes. De Coninck critiques the *X and X v Belgium* ruling for failing to align the EU's normative commitments with its practices of limited humanitarian visas, inconsistent member state application, and documentation requirements often unfeasible for those fleeing war and persecution.

Chapters 7 and 8 expand on the interaction between *lex specialis* and *lex generalis* by analysing what she describes as "incongruence clusters", the interconnected legal, procedural, and operational failures in the EU's

approach to human rights accountability. While *lex generalis* provides a theoretical foundation for human rights protection, its practical application is frequently subordinated to *lex specialis* rules and the EU's fragmented governance structure. De Coninck argues the EU's indirect complicity in third-state human rights violations through EU funding, support, and policies, described as "outsourcing accountability" to evade scrutiny while benefiting from stricter border controls. Additionally, she proposes the precautionary principle as a tool for addressing human rights risks such as high-risk partnerships with Libya and Turkey. Chapter 9 concludes Part 3 by examining the processes of legalisation and de-legalisation in IBM. Legalisation brings procedural clarity but often prioritises operational efficiency over substantive rights protections which she critiques for lacking effective oversight mechanisms and failing to address systemic issues like inadequate reception conditions. De-legalisation, alternatively, involves shifting toward non-binding agreements or operational arrangements which she identifies as a deliberate strategy to maintain flexibility and evade legal scrutiny. De Coninck concludes that the use of legalisation and de-legalisation creates systemic accountability gaps, enabling the EU to prioritise migration control over human rights.

Part 4 explores challenges and solutions for systemic accountability gaps. The distribution of roles across entities creates ambiguity, complicating accountability for specific actions. She critiques existing EU and international legal frameworks as inadequate for multi-actor scenarios. De Coninck proposes relational responsibility, focusing on shared accountability and interconnectedness. This approach ensures the EU remains accountable for its contributions to harmful practices, even when violations are executed by others. She advocates for binding legal frameworks for external agreements with explicit human rights safeguards and judicial review mechanisms and independent oversight bodies with clearly delineated responsibilities to monitor and enforce accountability in EU operations. Additionally, she stresses strengthening the European Parliament's role in scrutinising external agreements and activities. Framing EU governance as a test of its human rights

commitment, she views accountability gaps as fundamental challenges to the EU's identity as a normative power, urging bold reforms to align actions with commitments.

This book is a significant contribution to the study of IBM and human rights accountability of the EU. A key strength of the book is its functional approach, which thoroughly examines IBM's interconnected methods and highlights overlooked issues like restrictive visa regimes blocking safe access to protection. By addressing systemic issues, the book captures the real-life implications of EU policies, making its analysis both practical and impactful. De Coninck aptly highlights how courts inconsistently apply attribution tests undermining access to justice. A major asset of the book is its critique of the inadequacy of the current human rights accountability system in addressing the realities of multiple actors. De Coninck effectively argues for a clarification of human rights responsibilities and who they are owed to in which situations, emphasising the need for shared responsibility frameworks to ensure consistent outcomes across different forums of adjudication that reflect the complex realities of modern governance. Her analysis of legalisation and delegalisation trends within EU migration governance is particularly relevant now regarding the New Pact on Migration and Asylum. On one hand, the pact introduces many additional procedural hurdles, such as border procedures and possible non-suspensive appeals, echoing the ineffective humanitarian visa regime. On the other hand, the pact also exemplifies delegalisation through its encouragement of further third-state cooperation and allowance for derogations with vague clauses in the Crisis Regulation, reflecting the EU's continued reliance on flexible yet legally ambiguous mechanisms to manage migration.

A key innovation of the book is De Coninck's proposal for a relational human rights responsibility framework. By decentering traditional state-centric models and unveiling power imbalances, she offers a nuanced approach that reflects the complexities of contemporary migration governance. The book's focus on power imbalances between individuals seeking protection and the hurdles of IBM could open avenues for further research into the geopolitical dynamics between the EU, its member

states, and third states. These broader dimensions of relational responsibility could provide a more holistic understanding of power dynamics in migration governance. Overall, this book is a rigorous and thought-provoking work that challenges existing paradigms of migration governance and accountability. Its comprehensive analysis, innovative frameworks, and practical critiques make it an essential read for scholars, policymakers, and practitioners. The outcomes of De Coninck's further research into developing a more detailed framework for a relational system of responsibility will be highly anticipated and valuable for advancing this area of study.