LITERATURE

BOOK REVIEWS*

Korea and the United Nations, by CHI YOUNG PAK, Kluwer Law International, The Hague/London/Boston, 2000, ISBN 90-411-1382-7, pp xvi, 242 (including notes and appendices)

In the author's preface, the book is described as 'the first systematic and in depth study on the Korean question in the United Nations' and that 'it attempts a comprehensive analysis of the political and legal issues of the Korean question in the United Nations' (xiii). It covers a broad spectrum of political and legal issues spanning half a century, from the origins and development of the Korean problem in the context of the Cold War, at one end, to current problems concerning refugees and the North Korean nuclear programme at the other. It includes a consideration of the roles of the United States, the Soviet Union and China, and the influence of Third World states, against the background of UN politics. Having identified the Korean War as a turning point in the development of the United Nations, this is considered to merit detailed analysis, including an examination of the UN resolutions on the Korean question. Finally, the book aims to assess the United Nations participation of both Koreas in the light of their roles in the new world order of peace, prosperity and humanity.

This is undoubtedly an area that offers tremendous scope for scrutiny and analysis. The Korean problem has been a consistent feature in international relations in the second half of the twentieth century; it has been on the agenda of the United Nations for most of that time. It has been played out in the context of the development of the United Nations itself and against the backcloth of a changing international en-

vironment, both affecting and being affected by international politics on the wider stage. Korea has been one of the most complex and difficult of problems for the United Nations, one that still has contemporary relevance since not all of the tensions there have been resolved. It has particular relevance for any study of the United Nations, as the Korean War represented the first major case to test the capacity of the UN to enforce peace. The topic is therefore a pertinent one, and the relationship with Korea an excellent medium in which to discuss the history of the UN. As the author points out, the Korean question has shown both the potential and the limits of action by the United Nations.

This is indeed an ambitious project for a text amounting to a mere 177 pages. The scope of the attempted coverage is thus substantial, and arguably far wider than can adequately be considered in such a short volume. Within the scope of such a brief work, depth of analysis inevitably suffers, with the result that the book raises more questions than it can answer. In-depth analysis is sacrificed for a synthesis that at times inevitably appears merely superficial.

Part I of the book covers the origin and development of the Korean problem. After briefly sketching the origins and nature of the problem, the main chapter concentrates, in the context of the United Nations, on the rivalry between South and North Korea; it traces the development of the relationship from a quest for political legitimacy to the current concern with prosperity and humanity. The author leaves the reader in no doubt where his sympathies lie. An underlying theme in this chapter goes beyond the confines of the Korean problem itself. The history of the relationship between Korea and

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the United Nations is played out in the context of a major theme in the late-twentieth-century world: a changing political milieu, where the rise of the Third World eroded the dominant position of the United States and the Western bloc.

This theme is explored further in the next two chapters, discussing the role of Korea in the Cold War, as regards both the US role in the Korea War and its repercussions for Sino-Soviet relations. This is a section where the disadvantages of the brevity of the book become tantalisingly apparent. The author makes reference to the various interpretations of the events surrounding the outbreak of the war, but does not have the opportunity to expand the argument. The final chapter of this section considers the position of the non-aligned countries. In contrast to the previous chapter, it is full of detailed primary information regarding the voting of the non-aligned countries in the UN, leading to the conclusion that they comprise a relatively cohesive group, especially in the earlier part of the years under consideration.

Part II of the book considers political and legal issues. This section of the book arrives at the heart of the title, assessing a number of aspects of the relationship between Korea and the United Nations. The political significance of the question of UN membership for both Koreas is considered, followed an analysis of the role of the UN in the Korean War. This latter is identified as a pivotal point in the political development of the UN, testing both the potential and possibilities of for the United Nations as the instrument of international peace. The role of the Secretary-General developed and was strengthened during this time: a development that owes much to the UN's intervention in the Korean problem.

Part III of the book raises further interesting issues concerning the present day, presenting a chapter each on the problem of refugees and on the North Korean nuclear weapons development programme. In discussing the international status of Korean refugees, this is put in the context of a shift in emphasis in the UN, marked by an evolution from concern with mechanical or procedural peace and security towards a greater focus on distributive justice, and from the 1990s to an emerging vital concern with human rights.

The issue of refugees is again one deserving of much deeper analysis than can be provided

here. In the context of Indo-China the blurring of the distinction between refugees under the Geneva Convention definition, on the one hand, and economic migrants on the other, becomes acute. This is far from a localised problem, but one that has occupied politicians in many parts of the world. The legal analysis in this section is less than convincing. The author sees no difficulty in categorising the escapees from North Korea (tens of thousands of whom are estimated to be in Russia and China) as Convention Refugees: 'An escape from poverty has become an act of a political nature, even if the motive is economic'. In practical terms this may well be the case, and the distinction between the two is notoriously difficult to draw; however, the extension of Convention status where the motive is economic is less satisfactory in terms of legal, rather than moral, status. The discussion of the politics surrounding the question of nuclear weapons is stronger, as is the final chapter of this section, highlighting the participation of Korea in the UN system. This latter contains details of activities and voting patterns as well as an analysis of areas of North-South confrontation. The conclusion is that 'North Korea's political system has inhibited a meaningful participation in the UN', in contrast to South Korea, which 'has been active in the UN programs for peace, prosperity and humanity'.

Part VI of the book 'An Evaluation of the Korean Question' sums up in a few pages the themes of the book and also looks to the future, ultimately ending on a positive note that relations between North and South Korea will ultimately improve.

The book lacks a bibliography; although there are footnoted references, it would have benefited from a full bibliography. It usefully includes in the Appendices (which amount to around 40 pages) a number of documents, including UN General Assembly and Security Council resolutions as well as a number of communiqués and statements.

Dr PENNY ENGLISH
Middlesex University Law School, London

Yearbook: Law and Legal Practice in East Asia by A.J. DE ROO and R.W. JAGTENBERG (Editors-in-Chief), Kluwer Law International, The Hague/London/Boston, 1999, Vol. 4, pp. xvi and 260, ISBN 90-411-1349-5, hardback.

The series of books entitled *Yearbook: Law and Legal Practice in East Asia* aims to provide 'the business community and the legal professions with accessible, up to date information and insight into legal issues arising in this region' (p. ix), and this is the fourth volume in this series. Due to the important events of 1999, this volume focuses primarily on the laws and regulations of the People's Republic of China (PRC). Only three of the eleven articles deal with India, Taiwan, and the law of Asia in general.

Three important themes, Constitutionalism, Legal Profession, and Business Law, are selected to be the main foci for this volume. The order of these three themes is interesting, as the editors attempt to cover all important topics to give an insight into the law of East Asia for readers who have very little knowledge of it. The first theme strikes the readers' interest effectively by discussing the fundament of law, Constitution, and how it emerges and plays a supportive or negative role for the character and vigour of legal systems. This theme begins with an informative article by R. Cullen and H.L. Fu. Although this article does not well reflect the opinion of the Chinese towards their Constitution (p. 4 and 6), it provides comprehensive information on the Chinese Constitution both from 'Western' legal and political points of view. The following article by K. Zou and Y. Zheng engages in a deeper investigation of the Chinese Constitution and its third amendment. It has very clear objectives and represents stronger views of the Chinese towards this amendment (for example, at p. 36). It is well written, very easy to follow; their analysis very much answers the questions posed earlier. In addition, M.J.A. Cooray examines the experience of Hong Kong and Human Rights, which emphasises the relevance of this theme.

The second theme gives an in-depth analysis, revealing the importance of the structure of the profession, specialisation and professional attitude to foreign investors and lawyers who would like to work in the target countries. This topic is less exciting as there is only one paper – by K. Wong and C. Hui – and it offers a

deeply critical opinion concerning the legal profession in Hong Kong Special Administrative Region (Hong Kong SPR), also discussing how this has developed since the handover in 1997. The authors also suggest the way in which foreign lawyers should prepare for a move, and what functions they would be expected to perform in the future, particularly after the amendment of the law relating to the admission of foreign lawyers (p. 134).

The third theme – Business Law – attempts to provide a review of the current development of this area of law. S. Kumar provides an excellent contribution to this book, as his analysis on doing business in India is most clear, critical, and comprehensive. It is very well written; it demonstrates that the author has done much research on this topic and has analysed the issues thoroughly. R. Xia also provides useful information on financial reforms in China and the laws on Commercial Banking, yet provides no further analysis of the extent to which the reforms have positive or negative impacts upon the current Chinese financial market.

This book is particularly useful for anyone who would like to study the details of domestic legal issues of the law of East Asia, as it covers a wide range of interesting topics and presents them well in a logical manner. The form of 'yearbook' allows the editors to choose particular areas of law on which they wish to focus in each volume, a method indeed aimed of benefit to readers.

Yet this *Yearbook* is disappointing for a reader who looks for deeper and wider legal analysis of international law, particularly of the developments emerging from this region of the world. One cannot deny that China and Japan are two of the most powerful countries, playing very important roles in the international community. In particular, they are both members of the United Nations Security Council. Their views and practices regarding international law can, therefore, not be disregarded. This *Yearbook* would thus be more useful and draw greater attention from a wider group of lawyers if it could focus more closely on international issues, such as international financial law, international economic law, and international environmental law. In addition, as S. Kumar contributes a very good article concerning India, this might be an indication that the readers may expect more writings from other jurisdictions

as well as that from East Asian countries. If it does not go against the objectives of the *Yearbook*, this should be of value to researchers.

Having said which, the *Yearbook: Law and Legal Practice in East Asia* can be regarded as the definitive work, providing extensive information on and investigation into the law and legal practice of the countries in this region. It is therefore highly recommended not only for students and researchers who would like to study further on the law of East Asia, but also for foreign lawyers who seek to practise in those target countries.

Ms BANTITA PICHYAKORN
Ministry of Foreign Affairs, Thailand

The Razor's Edge: International Boundaries and Political Geography, edited by CLIVE SCHOFIELD *et al.*, Kluwer Law International, London/The Hague/New York, 2002, ISBN 90-411-9874-1, Euro 200, USD 184, GBP126.

This is a collection of essays published by a group of academics working in the International Boundaries Research Unit of the University of Durham in honour of Professor Gerald Blake, to mark his retirement from the University. Indeed, it was Professor Blake who established the Research Unit in the late 1980s to promote research into international boundaries, both maritime and land. Since its inception, the Unit has been at the forefront of research activities in this area, and a number of useful publications have been published as a result of the work carried out by this Unit. As stated by Newman in the first chapter of this book, "political geography has undergone a major renaissance" in recent years; this book makes an attempt to present this renaissance in the study of the area of international boundaries.

Altogether there are 27 chapters, grouped under four subject areas with a special focus on the Middle East. The first six chapters deal with political geography and territorial issues; the next set of seven chapters is devoted to the examination of maritime boundaries. The third part of the book contains eight chapters all dealing with international land boundaries. The final part of the volume, consisting of six chapters, examines various boundary issues in the Middle East. Although the title of the book gives the

impression that this is a book dealing with international boundary issues from the perspectives of political geography, it is an interdisciplinary book consisting of chapters examining the legal, political, geographical, and economic aspects of international boundaries. Indeed, a number of chapters deal with the boundary issues in international law. While Newman's chapter deals with the development of political geography as a sub-discipline within human geography, McHugo's chapter explores the extent to which Islamic States have adopted international law in the field of title to territory. In doing so, this chapter examines the existence of a regional Islamic international law.

Another chapter, by Carleton, provides a fascinating survey of the development of maritime zones and boundaries in international law from 1964 to the present. Similarly, the chapter by Judge Anderson contains useful material on both the techniques and the process of the negotiation of maritime boundaries. The chapter on "Evidence before International Tribunals in Maritime Delimitation Disputes" by Bundy is the third chapter dealing with boundary issues from a legal point of view. There are a number of other chapters dealing with regional seas such as the Adriatic Sea, the Aral Sea, and the Arabian Gulf, or certain bilateral boundaries such as the demarcation of the northern sector of the Burma-Thai Boundary or the Israeli-Palestinian boundary; these provide interesting legal, political, geological, and geographical insights into boundary disputes. Of course, the quality of chapters in as large a collection of essays as this varies; the current volume is no exception. While some chapters provide an in-depth analysis of the theme or subject area chosen for examination, others provide merely a rather brief overview of the subject matter.

However, what is interesting about this volume is the interdisciplinary approach to international boundaries. Although this collection is not only about boundary disputes, most of the chapters devote attention to analysing such disputes in different parts of the world from different perspectives. All in all, the volume as a whole provides a wealth of valuable information and insight into international boundaries. It especially represents a rich source of information for those interested in the Middle East, Africa, and South East Asia, as well as for those interested in the treatment of land and maritime

boundaries in international law. The editors of the volume have done a superb job of assembling such a wide range of interesting essays in a single volume such as this, designed to honour a leading political geographer of our time, Professor Blake, who transcended his boundaries in advancing the study of international boundaries.

SURYA P. SUBEDI

Middlesex University Law School, London

The World Court Reference Guide: Judgments, Advisory Opinions and Orders of the Permanent Court of International Justice and the International Court of Justice (1922-2000), compiled and edited by BIMAL N. PATEL, with an Introduction by SHABTAI ROSENNE; Kluwer Law International, The Hague/London/New York, 2002; ISBN 90-411-1907-8.

This is a monumental work prepared with care and skill by Bimal Patel, and a very useful tool for anyone interested in the work of the World Court. This single-volume compilation provides a comprehensive overview of procedural aspects of the jurisprudence of both the Permanent Court of International Justice (PCIJ) and its successor, the International Court of Justice (ICJ). This reference guide includes information in chronological order about both the advisory and contentious cases dealt with by the PCIJ and the ICJ. It contains all of the basic information on all of the cases referred to the PCIJ and the ICJ between 1922 and 2000. A typical entry on a particular case includes statements of the initial claims and counter-claims of the contentious cases, and questions submitted for the

advisory opinions; it summarizes details of all orders, the duration of the oral and written proceedings, and the coverage of requests for extension of time-limits, summaries and headnotes, as well as the texts of the operative and final paragraphs of all judicial decisions, the composition of the Court and declarations and opinions, separate or dissenting, of its Members; there is also a systematic reference to legal instruments, and the coverage of information on litigation teams.

As stated by Professor Shabtai Rosenne in his introduction to this Reference Guide, Bimal Patel “photographs” the procedural history of each and every case dealt with by the PCIJ and the ICJ, from the institution of the proceedings to the final decision. Indeed, this book fills an important gap in the reference materials for both the PCIJ and the ICJ. Patel has demonstrated the organizational, methodical and meticulous skills that he possesses, and that are necessary in editing and compiling such a book. The Reference Guide is an important reference tool for international and national judicial and quasi-judicial bodies, legal advisors to government departments, and for other legal practitioners as well as for teachers of and researchers into international law. This is a very useful publication for any law library or a diplomatic office. It tells the reader what a case before the World Court was about, what the Court decided, and who were the personalities involved, both on the Bench and at the Bar. The present reviewer can happily recommend this Reference Guide to everybody interested in the work of the International Court.

SURYA P. SUBEDI

Middlesex University Law School, London