

inconsistencies (e.g., chapter 1 p. 29 and chapter 3 p. 257), and typing errors (e.g., pp. 217, 536). In substance, it would have added further value to the book, if there was a more balanced description of US, European and developing country positions throughout the book. For a comprehensive book on the WTO written in German, which will be read mainly in Europe, more focus on EU positions would have been of interest.

Taken as a whole, the book is an important contribution to make WTO law and policy comprehensible. It gives a broad overview on the state of affairs of the WTO up to the Seattle Ministerial Conference in 1999 and thus provides a solid basis for understanding the current WTO negotiations going on in the framework of the Doha Round. The book is not only valuable for a first touch with WTO law and structure, but also as a reference book for looking up basic information on issues and outstanding problems of the WTO. Even readers with an extensive knowledge on the WTO will find interesting details they are not familiar with. In addition, the book contains a large bibliography, which serves as further reference to get deeper into the various areas of WTO law and practice. Of additional value would have been a table of cases cited, as well as more reference to relevant websites, especially the excellent website of the WTO (<http://www.wto.org>), which is a useful and easily accessible source for documents and further information on the WTO.

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SIENHO YEE; WANG TIEYA, eds., *International Law in the Post-Cold War World: Essays in memory of Li Haopei*, Routledge, London 2001, xxix + 529 pp., hardback, UK£95. ISBN 0-415-23608-8.

This *festschrift* to honour the memory of the eminent Chinese jurist, Li Haopei, comprises thirty-one essays, divided into four sections, covering an extremely broad range of topics. The subjects range from the approach of the Russian Constitutional Court to human rights to the legal regime governing maritime cultural property. Fittingly, in view of Prof. Li's final appointment as Judge of the Appeals Chamber of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, twelve contributions consider either the law of war crimes or the use of armed force in Yugoslavia.

Edward McWhinney opens the brief first section 'Trends and Perspectives' by asking whether international law has undergone a paradigm shift since the end of the Cold War. While the move from a bipolar paradigm to an international system dominated by a single hegemon has enabled certain actions such as the use of force by NATO in Kosovo which would have been unthinkable during the Cold War, McWhinney sees countervailing tenden-

cies at work. The decisive role played by NGO's in securing widespread international agreement to the Land Mines Treaty and to the International Criminal Court demonstrates that international law is no longer 'a highly arcane exercise appropriated by political leaders and their attendant bureaucratic advisers', but a process increasingly open to the influence of civil society. In his contribution, Sienho Yee also identifies a paradigm shift from an international law of co-existence during the Cold War to an emerging international law of co-progressiveness. Despite admitted 'blemishes', such as the failure of the international community to prevent the genocide in Rwanda, the author, with remarkable optimism, argues that the growing involvement of individuals in international law, greater respect for human and group rights and the more dynamic role of the UN Security Council demonstrate the emergence of an international law whose goal is to ensure human flourishing.

In a second section on 'Sources of International Law', Antonio Cassese considers the new life breathed into the concept of general principles of law recognised by the community of nations by the International Criminal Tribunals. Although the Statute of the Permanent International Court of Justice provided that these general principles constituted a source of law, in practice both the Permanent Court and the International Court rarely mentioned general principles in their decisions. However, as Cassese demonstrates, since international criminal law is 'rudimentary and replete with lacunae', the International Criminal Tribunals have resorted to the concept of general principles in order to clarify questions regarding, for example, the scope of defences concerning duress, necessity and superior orders and the definition of rape.

In a masterly contribution, Bin Cheng returns to the theme of his seminal 1965 paper on customary law, namely the nature of the concept of *opinio juris*. Cheng argues that in suggesting that the only requisite constituent element of general international law is *opinio juris*, he was not thereby dispensing with the need for state practice; in fact, state practice remains the evidence of the *opinio*. Through an analysis of judgments concerning duress as a defence to charges of murder in armed conflict, Bing Bing Jia considers whether judicial decisions themselves can form a source of international law or whether they are simply evidence of a rule derived from precepts of national law. Having considered the judgments of a series of military tribunals, the author concludes that, in view of the substantial differences between the circumstances in which a domestic offence and an international crime are committed, it is indeed the judicial decisions themselves rather than the antecedent municipal law which defines the defence.

Georges Abi-Saab opens the third and longest section 'Substance and theories of international law' by examining the development of the concept of war crimes from the Lieber Code to the Statute of the International Criminal Court. The culmination of this story, namely the definition of war crimes in Article 8 of the ICC Statute, is far broader than general international law on some points, such as war crimes in internal conflicts, yet far more restrictive on others, such as the protection of civilians against bombardment and the use of indiscriminate weapons of mass destruction. Abi-Saab suggests that far from reflecting the state of international law after 140 years of development, Article 8 demonstrates the dominant

influence of the United States over the negotiations; it is unfortunate that space precluded the author from exploring this interesting point in more depth.

Bartram Brown's analysis of the impact of the Asian financial crisis on IMF governance rests on a series of very questionable assumptions. References to a post-war Anglo-American vision of international economic globalisation and to the shared enthusiasm in 1945 of the United States and the United Kingdom for an IMF to support monetary and financial discipline ignore the fact that numerous studies, ranging from Armand van Dormael's meticulous 'Bretton Woods: Birth of a Monetary System' to Robert Skidelsky's more recent biography of J.M. Keynes, have demonstrated that the US and UK were profoundly divided at Bretton Woods on almost every aspect of the IMF. Brown's subsequent suggestion that attempts at the 'negative politicisation' of the IMF's policy on access to its resources have been unsuccessful verges on the surreal in the light of the increasingly overt efforts over many years by the United States to introduce ever-greater conditionality into the Fund's activities.

In a detailed analysis of the jurisprudence of the Russian Constitutional and Supreme Courts, Gennady Danilenko argues that the Courts have adopted an extremely progressive approach to implementing international law. In the *Labour Code* case, for example, the Constitutional Court relied upon a provision of ILO Convention No. 111 which requires states to formulate policies to promote equality of opportunity in order to declare age discrimination in labour relations unlawful. As Danilenko concludes, it 'is unprecedented in the history of international law that such a large country has so rapidly opened itself to direct reception of both treaty and general international human rights law'.

Christine Gray and Vaughan Lowe consider the legality of NATO intervention in Kosovo. In a careful analysis, Gray argues that, despite the arguments put forward by the NATO states in the *Legality of Use of Force* case, it is very doubtful whether previous state practice had given rise to a right of humanitarian intervention. Lowe also reaches the conclusion that there was no clear legal justification for the intervention, but suggests that a right of humanitarian intervention should be encouraged to develop. Lowe argues pragmatically that it would be better to define a narrow legal principle of humanitarian intervention rather than viewing the Kosovo intervention as a *sui generis* action which may subsequently be invoked by any state as a precedent for the use of force in circumstances which it declares to be exceptional. One anomaly in Lowe's interesting paper is the suggestion at p. 282, without any supporting authority, that the US Secretary of State, Madeline Albright, was concerned about the lack of legal justification for the Kosovo intervention. A more accurate description of Albright's deep respect for international law may be found in 'A Very Personal War', the memoir of James Rubin, then US Assistant Secretary of State for Public Affairs. Rubin notes that, on learning that the Legal Adviser to the British Foreign Office had expressed doubts about the legality of the use of armed force, Albright's reaction was: 'Get new lawyers'.

In the final section on courts and adjudication, Ronald St.J. Macdonald considers what means are available to ensure execution of judgments of the European Court of Human Rights now that it is increasingly called upon to deal with grave and endemic breaches of human rights. The author suggests an interesting range of improvements, ranging from conferring

greater monitoring powers on the Committee of Ministers to awarding punitive damages against states which repeatedly fail to comply with their obligations. In a very practical recommendation, Judge Macdonald argues that as Italy violates Article 6 of the Convention ‘on a constant, even a systematic, basis’, punitive damages might lead the Italian government to calculate that it would be cheaper to invest the money in improving the resources of the Italian courts. In an analysis of the *Legality of Use of Force* case, Jiangmin Shen strongly criticises – aided by the powerful dissenting judgments – the reasoning of the International Court concerning both the interpretation of Yugoslavia’s declaration under the optional clause and the ability of the parties to invoke a new ground of jurisdiction after the initial filing of an application.

The editors of this volume have not sought to develop any comprehensive theory concerning the changing nature of international law after the end of the Cold War. Instead, they present a wide-ranging series of snapshots of different areas of international law in flux. As well as the diversity and complexity of the subjects covered, another striking feature of this book is the great warmth of the personal tributes paid to Prof. Li by many contributors. In its breadth and ambition, this book forms a fitting tribute to the memory of a distinguished scholar.

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1. The views expressed are wholly personal and do not represent the views of the European Commission.