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at least a brief introduction to his unifying principles early in the book instead of waiting until the end, the abundant details of the numerous (excessive?) case studies could have been more easily assimilated into a theoretical framework. It is thus advisable to read the last chapter as a kind of preface.

Lowenfeld's ongoing quest is for less territoriality and broad judgment international law as 'reasonable expectations, genuine links, the duty to evaluate and balance, the distinction between overlap in regulation and direct conflict and between potential conflict and actual clash' (at 230). After all the effort the reader has made to reach this point in the argument, the final conclusion seems a bit underwhelming.

The question one must ask at the end of this book is whether a more unifying principle for a 'shared approach to international law' has emerged? Alas, in the absence of the author providing more in-depth guidance in developing an operational definition for such a principle, this reviewer's answer is a regrettable 'no'. In the end, Lowenfeld's principle of reasonableness is less a rejection of absolute values in international law than a plea for sound judgment and informed thinking; he calls for judges to consider factors beyond the balance of abstract sovereign interests. Despite Lowenfeld's sincere call for more cooperation and less unilateral decision-making posing as sovereign principles of law, it seems likely that the 'reasonableness-shared interests' exercise will inevitably come down in favour of sovereign interests, without a more refined test of balance.

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B.G. Ramcharan, *The Principle of Legality in International Human Rights Institutions*. The Hague: Kluwer Law International, 1997. Pp. Dfl 225, US\$ 140, UK£ 88

This book is a collection of legal opinions, legal analyses, notes for the file and statements of a legalistic nature relating to the UN's human rights programme. The formal 'legal opinions' are those of the UN's Legal Counsel and are reprinted from the *United*

Nations Juridical Yearbook, where such documents are eventually collected and published. Much of the rest of the material would seem to have been drafted by the author during his time as special assistant to a succession of heads of the United Nations human rights secretariat (known from 1946 to 1982 as the Division of Human Rights, from 1982 to 1997 as the Centre for Human Rights and now as the Office of the High Commissioner for Human Rights). Ramcharan started as an assistant to Marc Schreiber in the mid-1970s, moved on to assist Theo van Boven during his relatively short but highly productive and somewhat stormy tenure from 1977 to 1982, and then worked for Kurt Hemdl during much of the 1980s. Despite the major differences in approach and policy orientation of these directors, Ramcharan exercised considerable influence under each of them. That was a result not only of a tireless disposition to work and a capacity to insinuate his ideas into many different places, but also from his mastery of the legal dimensions of the work. These legal opinions and other materials offer a useful insight into some of the issues that preoccupied the United Nations in those days and provide an indication of how far things have moved, at least in some respects.

The procedural issues range from the competence of different UN organs, through questions of membership in them, credentials of delegations and their entitlement to participate in meetings, to the adoption of the agenda, the provision of documentation, procedures, voting, etc. More substantive issues include the drafting of treaties, the exercise of the good offices role, fact-finding, direct contacts, communications, non-governmental organizations, state responsibility and the nationality of claims.

The book hardly makes for riveting reading; indeed it is heavy going for the most part. The title itself is somewhat misleading since the book contains almost nothing about the principle of legality *per se*. From a brief discussion of the role of international law, legal analysis, and the rule of law, the author slips imperceptibly into references to the principle of legality, but the content of that principle and how it differs from the other aspects noted is not explained. A more accurate title might have been 'The Interplay

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of Law and Politics in UN Human Rights Decision-Making'. Some observers, particularly within the bureaucracy, might view the collection as an odd one, reflecting in part the author's wish to let no internal memo go unpublished. But while it is certainly unusual for the top drawer of an international official's filing cabinet to be emptied out and published in this way, the book does provide important access to primary materials for those who are interested in researching the human rights record of the UN during the 1970s and 1980s. It is not clear, of course, what has been left out of the historical record and the reader is more or less left to her or his own devices to discover the broader context into which the memoranda fitted. But that is in the nature of such a book and, had it been heavily annotated, the author would then have left himself open to the criticism that he was presenting only a partial version of events.

From a scholarly point of view, the real value of the book lies in the light it sheds on the role of law, legal opinions and lawyers in the work of international organizations. Few, if any, of the UN's official Legal Advisers have made a major impact in their own right and certainly none has succeeded in having the influence of, for example, Joseph Gold at the IMF, Ibrahim Shihata at the World Bank or Wilfred Jenks and Nicholas Valticos at the ILO. Within the UN itself, it is the Office of the Legal Adviser (OLA) which acts as the sole source of legal opinions within the Secretariat and its 'output' is faithfully reflected in the annual, although tardily published, volumes of the UN's *Juridical Yearbook*. While the contents of such opinions are inevitably influenced by the politics of the day on many of the more controversial and complex issues, it has usually managed to translate such controversies into dry and almost ritualistic legalese which succeeds in defusing some issues, reinforcing the majority view on others, defending the role of the Secretary-General, and on occasion pushing the frontiers of the law.

An example of the last-mentioned is an opinion given in November 1997 in response to the announcement in August 1997 by the Government of the Democratic People's Republic of Korea (known to most as North Korea), that it planned to denounce its ratifi-

cation of the International Covenant on Civil and Political Rights. Noting that there is no provision in the treaty for such action and relying in part upon the Vienna Convention on the Law of Treaties, the Office concluded that such denunciation can only take effect if it is agreed to by all other states parties to the Covenant. Since this is inconceivable, the Office has arrived at a legal interpretation in relation to a relatively unploughed field which will effectively prevent denunciation.

Within the Organization as a whole, the Office has generally sought to protect its own prerogatives as the source of official legal opinions. Indeed, the many substantive, specialized units within the UN proper have never had their own Legal Advisers, at least not officially so designated. Thus, even UNICEF, UNCTAD, UNDP and other semi-autonomous agencies, have always relied exclusively upon the OLA. There would seem to be at least as many arguments against such centralization as there could be in favour of it. Much of Ramcharan's book provides testimony to the extent to which analyses written in a legal style, and presented in a form imitating legal advice, albeit not characterized as 'legal opinions', can exercise considerable influence. This occurs in the identification of the issues, the manner of their presentation, the types of materials invoked to justify positions and the interpretations proffered. This collection demonstrates a considerable formalism in the argumentation, which would appeal to the average positivist.

By the same token, however, there is a determined rejection of any positivist hierarchy of sources of law. In its place is a somewhat introverted and almost circular form of argumentation in which the position taken by one political or expert body is cited as a precedent justifying the next innovation in either the law or procedure to be followed in a particular instance. Court decisions, the writings of scholars, the views of arbitral or other disputes settlement bodies, and other such sources are largely, although not entirely, absent. This is partly an accurate reflection of the paucity of human rights-specific jurisprudence, particularly in the years before the treaty bodies such as the Human Rights Committee began to flex their

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interpretive muscles. But it also reflects the rather hermaphroditic propensities of international organizations in some fields, in which self-citation and repetition become the primary legal tools of 'analysis'.

P. A.

Ryszard Cholewinski, *Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment*. Oxford: Clarendon Press, 1997. Pp. lxxii, 465.

Although international human rights law is, in principle, comprehensive in its scope and applicability, its practitioners have tended to focus heavily on those rights which are susceptible of gross violation and, in any event, to treat labour law as though it were a separate domain. It comes as no surprise then that the plight of migrant workers is far from the mainstream. As the dustjacket of this book notes, '[m]igrant workers and their families outnumber refugees and displaced persons, but are given far less attention when it comes to the international protection of their rights'. The book does as well as any could to remedy those shortcomings.

The author adopts a broad definition of migrant workers to include their families as well as undocumented and illegal migrants. Similarly, he adopts an appropriately expansive approach to their rights, with a strong emphasis upon their economic, social and cultural rights. While the first chapter is entitled 'International Migration for Employment: An Overview with Reference to the Right to Development', the relevance of the latter right is hardly demonstrated. Curiously, civil rights seem to be equated with the rights of citizenship and are overlooked, although this is a key area in relation to migrant workers. Some of the relevant rights are dealt with under a separate category of 'residency rights'. There is no analysis devoted to the pros and cons of according the right to vote (at least in local elections) to migrant workers, despite increasing attention to the issue in certain contexts. The author notes on the first page that 'basic' rights 'such as the right to life, the right not to be subjected to torture ..., and the right to freedom of thought, conscience or religion are

not discussed in any depth'. No explanation is offered, but it can be assumed that the general human rights regime is thought to be sufficient to protect migrant workers in relation to these matters. Such rationale would not seem to be applicable, however, in the case of religion, which is an area in which migrant workers suffer many, and sometimes rather violent, forms of discrimination. It thus seems an odd omission.

The analysis is divided into three parts. The first surveys general international legal standards, the second focuses on the work of the International Labour Organisation (ILO) and the UN Convention in this field, and the third consists of a detailed analysis of the Council of Europe and European Union standards and policies. The last-mentioned is especially well researched and comprehensive and the analysis is skilfully integrated. In the first part, considerable attention is given to the UN's 1985 clumsily-titled Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they Live. Cholewinski justifiably criticizes the shortcomings of the Declaration, but does not really explain the reasons for its virtual invisibility since its adoption.

His analysis of the ILO's work in this field is thorough and painstaking. It is, however, a little wooden, in the manner of so many analyses of the ILO that, for want of many alternatives, must rely almost entirely upon official ILO documentation, supplemented only by the writings of current or former officials of the Organization. His conclusion on the ILO succeeds in identifying the main question (in essence, why have the relevant ILO Conventions attracted so few ratifications?), but misses an opportunity to speculate as to the answers. The analysis of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) is first-rate. He mines the *travaux préparatoires* for all they are worth and draws on all the relevant literature to provide by far the most helpful analysis of the Convention available. He also asks why the Convention on the Rights of the Child, adopted one year earlier, now has 191 states parties while the ICMW has seven. He rejects the view that the ICMW might be a 'white elephant' and defends its importance.