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## BOOKS REVIEWED

HANDBOOK ON OCEAN POLITICS AND LAW. By James C.F. Wang. Westport, Connecticut: Greenwood Press, 1992, 568 pp.

In his new book, James Wang comprehensively explores the law of the sea, from the basics of the physical features of the ocean floor to complex legal and political conflicts among nations concerning use of the seas. The *Handbook* begins by providing a geographical and ideological underpinning for understanding the issues concerning oceans and other waterways. Wang then examines each legal issue from the various conventions on the seas separately, and concludes with a look at the parties to the most recent convention. The *Handbook* is an excellent reference guide that provides an abundance of important information on ocean law. In chapter one, Wang succinctly explains the geography of the oceans and tributaries crucial to understanding the legal and political issues which arise. Particularly important for its legal significance is the discussion of the continental rise, shelf, and slope.

Wang provides legal background in chapters two and three. In chapter two, Wang reviews international treaties concerning the use of the seas. The Hague Conference of the League of Nations in 1930 was the first treaty attempting to codify international law. The United Nations held conferences on the law of the sea in 1958, 1960, and 1982. The Third UN Conference on the Law of the Sea (UNCLOS III) is significant because it is the first "comprehensive legal framework for all uses of the oceans."

Wang discusses the principles behind these treaties in chapter three, which might properly be read before chapter two. The history of the main principle of freedom of the seas has been shaped by the economic, political, military and ideological factors that motivate nations. The Roman Empire's concept of freedom of the high seas with limited ownership of the Mediterranean Sea survived various conflicts among nations, and evolved into the seventeenth century principles of open sea and narrow coastal belts. More recent developments since World War II include the influences created by ocean technology, new nations, and the demand for ocean resources. The chapter concludes with separate discussions of subordinate principles. The principle of common heritage is the most controversial, and Wang mistakenly suggests that, although the United States continues to object to this principle, it will be binding

upon the U.S. once it becomes customary law.

Chapters four and five deal with living resources, the former dealing with access, and the latter dealing with fishery commissions and species protection. Chapter four begins with a review of historical access to living resources and their economic and dietary importance. The trend away from freedom of the seas results from recognition that certain resources are exhaustible and a flood of unilateral claims of fishing zones. Conventions and bilateral treaties now regulate access to fishing, based on various political, economic, and biological factors.

In chapter five, Wang begins by focusing on the regional fishing commissions established to regulate and coordinate conservation and management of resources. Next, Wang explores the consequences of the quasi-territorial zones established by coastal states and the unfortunate results of technical advances in the fishing industry. The chapter ends with a look at the UNCLOS III approach to the various fish life cycles, which occur without respect for human borders.

Chapters six and seven deal with non-living resources. In chapter six, Wang discusses minerals, oil, and the energy source of heat currents in the ocean. The chapter ends with an examination of strategic minerals in the deep sea bed, concluding that these minerals are becoming less significant because they are not economical to retrieve. Yet, chapter seven deals in great detail with deep sea mining. The U.S. has resisted the emerging principles of common heritage and technology transfer, and proposed an alternative system. Whether the two systems can coexist is doubtful, and Wang suggests that the UNCLOS III agreement will have to be renegotiated at future conventions. This chapter suffers from the author's use of alphabetical rather than topical ordering, introducing the reader to various arms of the International Seabed Authority before explaining the organization itself.

Chapters eight and nine discuss marine environmental problems. Sources of marine pollution include offshore platforms, ships, and land based sources. The Intergovernmental Marine Organization's expansion to cover pollution and recent conventions attempt to reduce the flow of pollution into the seas. Chapter nine focuses on regional pollution control efforts. Several examples show regional cooperation, especially the agreement on the Baltic Sea, where the participants diverged drastically in ideology. Other agreements have not fared so well; in Kuwait any cooperation was devastated by the Iran-Iraq and Persian Gulf Wars. Wang concludes with the Western Legislative Conference and its recommendations.

Chapter ten explores the military uses of the sea. Military actions are restricted in sovereign waters, and some entire zones such as the Indian Ocean and the deep seabed have special military restrictions.

Mines are permissible provided that they are not used against commercial ships.

In chapter eleven, concerning navigation and shipping, Wang explores sea lanes, air overflight, communications (satellite and cable), and safety at sea. Coastal and flag state jurisdiction rules provide forums for damages claims. Criminal issues such as terrorism and interdiction at sea are also explored.

The last legal issue, discussed in chapter twelve, is marine scientific research. Wang defines scientific research as "any systematic study whose objective is to increase knowledge about the marine environment." UNCLOS III covers the rights of states and international organizations, but not scientific institutions, to conduct research. The researching state must provide certain information to and receive consent from the coastal state. The thirteen articles in UNCLOS III dealing with the complex issue of technology transfer are broad, and so far there is no agreement.

Chapter thirteen, the final chapter, focuses on the major groups of players in UNCLOS III. Wang recognizes five, the Group of 77 (Asian and African countries), Landlocked and Geographically Disadvantaged countries, Latin American countries, the USSR, and Western Europe (EEC). The chapter is broken down by an examination of each group as well as the impact of Archipelagic States, the United States, and Japan.

*Handbook on Ocean Politics and Law* provides a useful overview of the evolution of the law of the seas. While Wang's arrangement of chapter subheadings in alphabetic rather than topical order is, at times, distracting, the book is readable for those not well informed in either law or oceanography. As a reference guide, it provides the broad background, legal details, and underlying political factors necessary for researching the development of ocean law. The appendices provide a useful guide for future research, listing various treaties grouped by subject, as well as other international organizations involved in ocean law. One drawback is that the book fails to look forward towards new possibilities in our post Cold War world.

**EXTRATERRITORIAL EMPLOYMENT STANDARDS OF THE UNITED STATES: THE REGULATION OF THE OVERSEAS WORKPLACE.** By James Michael Zimmerman. New York: Quorum Books, 1992, 206 pp.

In *Extraterritorial Employment Standards of the United States: The Regulation of the Overseas Workplace*, James Michael Zimmerman, an attorney in private practice, analyzes the impact of U.S. employment laws that regulate employment abroad. Mr. Zimmerman examines extraterritorial fair employment standards applied to U.S. nationals working in foreign countries and international workers' rights applied to the international work force in general.

Mr. Zimmerman provides a thorough overview of the entire regulatory system regarding extraterritorial employment. The author traces extraterritorial regulation from the initial determination of need through the haphazard development and implementation of the regulation. In so doing, the author evaluates the effectiveness and shortcomings of enforcing the regulation.

Part One of the book focuses on U.S. enforcement of internationally recognized workers' rights in the world community. The author explores the various economic means through which the United States has sought to encourage foreign governments and employers, both local and transnational, to adhere to employment standards accepted by the world community.

In Chapter One, Mr. Zimmerman provides an historical analysis of the efforts of various international organizations to enact and enforce international fair labor standards. He begins by tracing the development of international fair labor standards, noting the efforts of the International Labor Organization (ILO). Further, he examines the relationship of international fair labor standards to world trade and the General Agreement on Tariffs and Trade (GATT). In the remainder of Part One, Mr. Zimmerman discusses the methods through which the United States has attempted to link trade benefits with the recognition of international fair labor standards. He suggests that such linkages have been principally motivated by the ILO's ineffectiveness (due to its lack of enforcement capability), and the exclusion of workers' rights from GATT.

In Chapter Two, the author analyzes U.S. preferential duty programs and the shortcomings resulting from the independent administration of the programs. He explores the effectiveness of the U.S. Generalized System of Preferences (GSP), the Caribbean Basin Initiative (CBI) and the Most Favored Nation (MFN) provision. Preferential trade treatment under these programs is conditioned on the adoption of

internationally recognized workers' rights. Although each program provides for the revocation of preferential treatment if internationally recognized workers' rights are violated, enforcement of these revocation provisions is not coordinated. Mr. Zimmerman suggests that this lack of coordination could lead to the revocation of benefits under some programs while permitting benefits to continue under others.

Similar to the preferential duty program incentives, the U.S. has also attempted to link investment guarantees with the rights of workers overseas. Investment guarantees were developed to stimulate economic development in less-developed countries by encouraging overseas private investment. As an incentive to implement internationally recognized workers' rights, guarantees are to be extended to countries only if they take steps to adopt and implement the rights.

Mr. Zimmerman's third chapter focuses on the various investment guarantee incentives of the Overseas Private Investment Corporation (OPIC), the Multilateral Investment Guarantee Agency (MIGA) and the Export-Import Bank (Eximbank). He notes the ineffectiveness of OPIC, a U.S. corporation, in screening and monitoring companies with regard to implementing internationally recognized workers rights. MIGA, an international organization, has simply failed to adopt formal workers' rights policies and procedures. While it has labor requirements in force, Eximbank's effectiveness may be undermined by a recent statute that requires Eximbank to further evaluate overseas labor practices.

Chapter Four addresses the use of federal trade sanctions and import restrictions to penalize foreign governments and employers that fail to adhere to internationally recognized workers rights. Mr. Zimmerman studies the Smoot-Hawley Tariff Act of 1930, the amended § 301 of the Trade Act of 1974, and the International Emergency Economic Powers Act. Mr. Zimmerman analyzes both the humanistic and egocentric justifications for the U.S. legislation.

In Chapter Five, Mr. Zimmerman analyzes the effectiveness of extraterritorial employment standards in the form of mandatory codes of conduct imposed on transnational companies operating in countries with historically repressive labor practices. The use of mandatory codes resulted from the ineffectiveness of voluntary code adoption, and the resulting lack of enforceability of such codes. The author cites codes applied in South Africa and Northern Ireland.

Mr. Zimmerman shifts his focus in Part Two to U.S. fair employment standards and U.S. nationals employed abroad. Chapter Six provides the reader with an historical overview of the extraterritorial fair employment standards. The author focuses on the presumption against extraterritoriality and the Supreme Court requirement that unless the

legislation explicitly reveals a contrary congressional intent, federal legislation must be given an interpretation which is domestic in nature.

The limited situations in which federal wage and hour regulations are given extraterritorial effect are highlighted in Chapter Seven. The author briefly expounds upon the intended application of the Seaman's Act, the Fair Labor Standards Act (FLSA), and the Equal Pay Act (EPA), and notes the subsequent modifications of the acts that limit their extraterritorial application because of cultural inconsistencies.

Zimmerman focuses on extraterritorial private rights of action created through the overseas application of U.S. fair employment statutes in Chapter Eight. He surveys the Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964, the Export Administration Act of 1979, discrimination in employment of civilian personnel at Department of Defense facilities in foreign countries, and U.S. case law in reviewing the need for a congressional mandate or U.S. court application to employ the U.S. fair employment statutes extraterritorially.

The Defense Base Act (DBA) and the War Hazards Compensation Act (WHCA) are briefly reviewed in Chapter Nine. These acts establish worker compensation standards for employment at overseas military facilities or in areas where the risk of war hazards exists. The author provides a simple explanation of the coverage of the federal legislation but provides no analysis of their effectiveness.

In his concluding chapter, Mr. Zimmerman discusses the implications and policy concerns of the extraterritorial employment standards in Part Three. He traces the bases upon which the United States has jurisdiction to regulate the overseas workplace and then discusses the limitations on this jurisdiction, and the violation of sovereignty which often results from the imposition of extraterritorial regulation.

Mr. Zimmerman concludes his book with his suggestions to improve the effectiveness of extraterritorial employment regulation. As an alternative to our nation's current unilateral, and often politically motivated approach, he recommends that the United States make greater use of multilateral approaches to extraterritorial regulation through increased involvement with the ILO.

Overall, Mr. Zimmerman's analysis of United States' regulation of extraterritorial employment provides the reader with a thorough overview of the subject. His book is unique in that it is the first to thoroughly reference extraterritorial employment standards.

**PERSPECTIVES ON THE ROLE OF A CENTRAL BANK.** By Paul A. Volcker, Miguel Mancera and Jean Godeaux. Washington, D.C.: International Monetary Fund, 1991, 88 pp.

*Perspectives on the Role of a Central Bank* was compiled from speeches made at the International Conference on Central Banking held in Beijing, China during January 15-17, 1990. The conference was jointly sponsored by the People's Bank of China (PBC), the International Monetary Fund (IMF), and the United Nations Development Programme (UNDP). The conference was designed to bring international central bank expertise to China. Three renowned central bankers, Paul A. Volcker, former Chairman of the Board of Governors of the U.S. Federal Reserve System, Miguel Mancera, Governor of the Bank of Mexico, and Jean Godeaux, former Governor of the Bank of Belgium and President of the Bank for International Settlements, were invited to share their central bank experience with senior Chinese government officials. The speakers' comments were based on both personal experience and familiarity with the results of various fiscal policies that have been implemented in other countries.

The conference was divided into four sessions dealing with the role of monetary policy, the implementation of monetary policy, the role of regulation and supervision of the central bank, and the structure of the central bank. At the start of each session, Chinese officials provided a contextual background to the issues being examined by giving information about China's economic situation and fiscal objectives.

All three speakers concurred that governments across the board face multiple objectives. These include growth, development, full employment, external equilibrium, price stability, and equitable income distribution. The central issue addressed at this conference was how a central bank could facilitate the accomplishment of these goals. The speakers were in agreement that the single most important contribution a central bank can make is to create an environment of price stability. Stability of prices, in turn, helps stimulate greater savings, investment, and exchange rate stability—all essential elements of economic growth and development.

The factors contributing to successful implementation of monetary policy provided the basis for another topic addressed by all speakers. The degree of price and wage flexibility were cited as key structural factors. Likewise a government's fiscal policy was noted as particularly important. Based on the experience of both developed and developing countries, the speakers concluded that the pressure applied to a central bank to finance an existing, excessive fiscal deficit can serve to inhibit the implementation of monetary policy. This practice frequently hurts



an economy by crowding out investment and leads to excessive foreign borrowing.

The panel also discussed the importance of continuity in monetary policy. Concluding that a stable market is the ideal state, they warned against policies that would result in either "boom or bust" scenarios. In order to achieve such continuity, the panel suggested utilizing a medium-term framework to aid daily decision making as well as a periodic assessment of this framework. Additionally, the speakers suggested that government officials take cues from changes in the money supply, exchange market, and external reserves.

That regulation and supervision are necessary to establish monetary policy and a strong financial system was a consensus amongst the speakers. A central bank must not only enforce regulations but must also take great care in evaluating the soundness of financial institutions and their activities. At the very least, they recommended that a central bank be responsible for implementing all monetary policy related regulations.

Also addressed was the importance of having a strong and autonomous central bank. Technical expertise, professionalism and nonpartisan conduct were cited as the hallmarks of a strong central bank. Pointing to the important role a central bank plays, the speakers stressed the fact that a central bank must be autonomous. They defined autonomous as a central bank not subject to another department's authority. Furthermore, the bank must be financially independent. Nevertheless, a central bank must consider the social, economic, and political climate from which its monetary policy is derived. Lastly, a central bank must be sensitive to the public need for information and attempt to explain the rationale underlying its policy decisions.

*Perspectives on the Role of a Central Bank* highlights the importance of having a strong central bank and also provides a comprehensive how-to guide on strengthening a central bank. The advice offered by these three economic experts reflects years of practical experience. This book is well organized and interesting and gives insights regarding both fiscal and monetary policies that apply across the board.

The recommendations concerning central banking outlined in this book should be heeded by China as well as other developing and developed countries. The tremendous impact that inflation and failing banking systems have on economies across the globe should propel governments all governments, including the United States, to continue to strengthen their respective central banks. Continued vigilance is of paramount importance in light of the dramatic impact of the central bank's policies on the health of an economy.

CONSTITUTIONAL SYSTEMS IN LATE TWENTIETH-CENTURY ASIA. Edited by Lawrence W. Beer. University of Washington Press: Seattle and London: Asian Law Series 12, 1992, 752 pp.

*Constitutional Systems in Late Twentieth-Century Asia* provides American readers with a fascinating survey of the various Asian constitutional systems and short examinations of the diverse societies which produced them. Editor Lawrence W. Beer has selected a distinguished group of constitutional scholars from around the world to perform this task. Beer has offered this book as a "partial remedy for the widespread Western unfamiliarity with Asia's constitutional systems."

The book begins and ends with commentaries by Beer. The introduction acquaints the reader with both western constitutional philosophy and the various ways Asian nations have adapted western-style constitutionalism to their own particular political systems. Beer explains how historical and cultural influences have led to the adoption of single-document constitutions by all Asian countries in the post-World War II era. The author then shows how these influences are reflected in the form and text of the Asian constitutions.

The essays in the book are arranged geographically. The first group of essays describes the constitutional systems of eastern Asia (China, Japan, North Korea, South Korea, Taiwan, and Vietnam), where Confucian influences are significant. The second half deals with southern Asia (Brunei, India, Indonesia, Malaysia, the Philippines, Singapore, and Thailand), a region of more diverse cultural legacies, where Malay, Muslim, and Hindu traditions exhibit themselves in varying degrees. Most of the contributors comment on the influence of western constitutional ideas in Asian constitutions. Many of the essays make direct comparisons with American governmental and legal institutions. All of the essays describe the structure and functioning of each constitutional system, and place each system in historical perspective.

In his conclusion, Beer proposes the constitutional institution of universal human rights standards in both Asia and the United States. He argues that "human rights have become the most widely accepted universalist, secular basis for government and law in the world," and should be institutionalized by all nations. He notes that since 1945, despite "formidable obstacles," the commitment to human rights by many Asian countries has been impressive. By contrast, Beer maintains that the image of the United States as a world leader in the human rights movement is based more on "afterglow" and 18th century abstract ideals, than on its "current substantive performance."

Beer concludes the book by suggesting ways that the ideals of human rights constitutionalism can be incorporated into the U.S. Con-

stitution. For example, a new Preamble, eloquently stating the principles of American constitutionalism, should formally recognize judicial review, restrain militarization and the possession of arms, recognize socioeconomic rights, and more realistically set forth first amendment rights that might, for example, allow public religious education in a spirit of tolerance.

Beer's commentaries about Asian and American constitutional systems are illuminating. (Readers unacquainted with 20th century philosophical terminology may find these commentaries challenging). In addition, Beer's proposal for the worldwide institution of a universal standard of human rights, although well-intentioned, is beyond the scope of the book. His argument could justify a separate work in its own right. One would hope that Beer's suggestions for changing the U.S. Constitution will be presented in a broader forum. It is doubtful that many members of Congress and other policy makers will be exposed to these dramatic ideas when they are contained in a volume principally focused on Asian constitutional systems.

Beer's editing has resulted in the consistent quality of the essays. The articles are clearly written and very informative. As most of the Asian constitutions have undergone dynamic changes since 1945, the material is timely and engaging. Beer also deserves commendation for gathering such a diverse range of scholars to contribute to his book. Overall, *Constitutional Systems in Late Twentieth Century Asia* should prove to be a valuable research tool for those seeking to learn about the constitutional system of any Asian country, and for those who wish to learn how these systems emerged and evolved.

In his introduction, Beer outlines the purpose of his book as an attempt to "further understanding of constitutionalism in many radically diverse Asian nations while taking note of instances where United States constitutional experience has been influential or relevant." Beer has succeeded with both objectives. This book is a valuable guide for comprehending Asian constitutional systems. Moreover, it is an engaging view of the successes and failures of the American constitutional system, which Beer suggests may have lost its place as the global constitutional model.