

Which are the chapters that most distinguish these two books? This reviewer appreciated finding extensive examinations of subjects like the international monetary system and economic sanctions in Lowenfeld's volume. These are easily accessible chapters, which can be added without any difficulty to students' reading lists. In the Matsushita, Schoenbaum and Mavroidis volume, this reviewer found the chapters on 'new issues' and those relating to ongoing developments particularly interesting. The authors, being as close as they are to internal developments in the WTO, give very interesting insights.

It follows that the continuously growing number of practitioners and academics interested in International Economic Law and in the WTO in particular have been given two books of extraordinary value. This author knows from personal experience that writing manuals on rapidly changing law subjects can be both a source of joy and pain. Not least it creates responsibilities towards those faithful readers who await a new edition. Of course, there is not yet any need for a new edition of either of these volumes. Indeed, the failure of the WTO Ministerial Conference of Cancun has decisively prolonged the shelf-life of these first editions. This reviewer, however, is certain that both of these volumes have already attracted quite a following that will, when the time comes, encourage the authors to update these books in order to maintain their place, as attributed at the beginning of this review, as classics of International Economic Law.

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Stephen C. Angle. *Human Rights in Chinese Thought. A Cross-Cultural Inquiry*. Cambridge, UK: Cambridge University Press, 2002. Pp. 304. US\$ 65 (hardback).

Errol P. Mendes and Anik Lalonde-Roussy (eds) *Bridging the Global Divide on Human Rights. A Canada-China Dialogue*. Aldershot, UK: Ashgate Publishing Ltd, 2003.

The universality of human rights has been widely discussed and questioned in international fora since the World Conference on Human Rights in Vienna in 1993.¹ During the 1990s, two sets of arguments were among the more substantive challenges to international human rights theory and practice: an economic argument and a cultural argument. The first is internationally related to the North-South divide, while the second links up to a cleavage between East and West. In the first discussion universality is challenged on the ground of the obvious unjust distribution of resources in the world. It is asked if there can possibly be equal rights for people having extremely different conditions of life, and in what way rights protection is influenced by material need. Universality is here addressed in economic and political terms. The second set of arguments pertains to cultural diversity, and the question is whether it is possible to find common values and standards 'in spite of' cultural and philosophical differences. These two discussions were highlighted by the Asian governments in Vienna and continued to be addressed through the 1990s by academics and activists in the so-called 'Asian Values Debate'.

In Vienna, representatives of East and Southeast Asian nations stressed that in the protection of human rights internationally, serious consideration must be given to economic inequality, and national implementation must be done in accordance with the cultural traditions of each region or country. A declaration was formulated at a preparatory meeting in Bangkok in March-April 1993, where both economic and philosophical arguments were brought forward. On economy the Bangkok Declaration strongly protested against attempts to make development assistance contingent on the human rights situation of any particular country and demanded that

¹ Kirsten Hastrup (ed.) (2001) *Human Rights on Common Grounds. The Quest for Universality*. The Hague: Kluwer Law International.

the North takes its share of responsibility for the skewed distribution of wealth in the world. On cultural differences it was recognized that human rights must be considered in the context of a dynamic and evolving process of international norm-setting, *bearing in mind* the significance of national and regional particularities and various historical, cultural and religious backgrounds. The formulations of the Bangkok Declaration were almost word for word incorporated into the Vienna-declaration, paragraphs 5 and 14.

In the ensuing debate Asian and Western scholars addressed a whole range of different issues — discussions of political strategies mixed with questions of a fundamental philosophical nature, weaved together in a very complex pattern.² One of the fundamental issues is how this 'bearing in mind' mentioned in both declarations should be understood. Economic and cultural differences shall be borne in mind while implementing international standards: but how much room for manoeuvre does this wording grant national governments and what role do other actors — like UN committees and civil society organizations — play in the interpretation of the scope within which states still can be said to comply with their international obligations?

The People's Republic of China has played a special role in this process. In 1989 — the very same year that saw the collapse of the Berlin Wall in Europe — the Chinese government forcefully crushed a month-long demonstration in the heart of Beijing, killing an unknown number of non-violent citizens. The response from the international community was swift and radical. Development aid was suspended, diplomatic exchanges cancelled, and trade negotiations halted. The Chinese government answered by insisting on non-interference in state sovereignty and began to publish so-called white papers defending its human rights policy. The arguments mostly

followed the economic reasoning that the right to subsistence has priority in a poor country. The gist of the argument was that economic and social rights can be endangered by political and civil liberties, and in that case the latter must be curtailed to protect the former.

Since the early 1990s China has continued to rank at the top of the list of human rights violators in the world, nearly replacing South Africa as *the* example of the most brutal regime in the world. For eight years in a row an anti-China motion was put on the table during the annual sessions of the Human Rights Commission in Geneva, and the Chinese government had to lobby extensively to prevent one from being adopted.³ From 1995 China changed tactics and began a series of 'human rights dialogues' with a number of countries, e.g. Canada and Australia in 1997 and The European Union in 1998. Furthermore, in 1997 and 1998 the Chinese government signed the ICCPR and the ICESCR respectively. Subsequently the National People's Congress (China's parliament) ratified the ICESCR in March 2001. Around the same time, efforts to agree on an anti-China stance in Geneva were discontinued prompting international human rights organizations and dissident Chinese groups overseas to criticize the international community for compromising external pressure to appease the Chinese state (read: market).⁴ The countries pursuing human rights dialogues with China have defended themselves by insisting that 'constructive engagement' is more effective than confrontation.

Parallel with this development, a rich debate on human rights and China has been ongoing, partly in the context of the Asian Values Debate, partly as political positioning from the official China (invoking the economic

² See O. Bruun and M. Jacobsen (eds) *Human Rights and Asian Values. Contesting National Identities and Cultural Representations in Asia*. (2000)

³ A. Kent *China, the United Nations, and Human Rights. The Limits of Compliance*. (1999)

⁴ *From Principle to Pragmatism: Can 'dialogue' improve China's human rights situation?* Report by Human Rights in China, June 1998, www.HRChina.org.

argument)⁵ or academic efforts to discuss the compatibility between the Chinese tradition and human rights thinking (discussing the cultural argument).⁶ Two publications, one from each group, will be reviewed here. They both have the objective of exploding existing myths of China and human rights and seeking common ground on which to accommodate the perceived divides between China and the West. They pursue this aim in different ways, one by discussing themes thought to be of common concern and using examples from different parts of the world, and the other by investigating philosophical traditions in the two different cultures with a view to exploring the possibilities of communicating in spite of differences.

Bridging the Global Divide on Human Rights, the Mendes and Lalonde-Roussy book is a product of one of the human rights dialogues, which the Chinese government has been pursuing since the mid 1990s. In fact, it has almost become part of a series, as it has a predecessor from 1997, edited by Errol Mendes and Anne-Marie Træholt.⁷ The Canada-China dialogue, as reflected in this volume, deals with different topics in articles written by either a Canadian or a Chinese scholar. The topics include un-related areas of

the human rights discourse at different levels of abstraction, some discussing certain rights, others going into the protection of special groups. The table of contents reflects this diversity: Implementation of international standards, sovereignty, the role of civil society, private property, detention of suspects, women's and children's rights, freedom of expression, corruption and workers rights. The aim of the publication is to 'ascertain whether there had been any further (reviewer's note: since the first publication in 1997) bridging of the global divide between China and Western scholars on human rights that had led China to see its way to acceding to these fundamental human rights conventions' (p. 2), particularly the ICESCR and ICCPR.

The book contains many interesting and scholarly articles within their respective fields. Some of the articles written by Chinese authors raise interesting and perhaps unexpected issues. The article on birth registration is a good example of a problem of fundamental importance, which the Western world tends to forget. Birth registration is the precondition for rights protection in almost all other areas, and in countries like China the lack of registration constitutes a serious violation that would probably not be addressed if Chinese scholars were not to draw attention to it. Efforts have also been made to include at least one Canadian and one Chinese author in each of the six parts of the book, and the very fact that representatives of the two cultures treat approximately the same topics can of course be taken as proof that common concerns exist.

There are, however, several shortcomings to the volume. The answer to the question posed in the introduction, for one, is difficult to come by as the individual contributions stand alone and are not really woven together. Indeed, if one looks within each part, the articles do not really talk to each other. For example, in part one on implementation three Canadian contributions discuss civil society, sovereignty and private property, respectively, while the Chinese contribution is on the detention system in China. Part three on

⁵ China Information Office: Several white papers on human rights can be found on <http://www.chinaonline.com>. A new journal on human rights protection in China was established recently exposing the views of official China.

⁶ Just to give a few examples: M. Svensson, *The Chinese Conception of Human Rights: The Debate on Human Rights in China, 1898–1949* (1996), W.T. deBary and Tu Weiming (eds), *Confucianism and Human Rights* (1997). M. Davis (ed.), *Human Rights and Chinese Values, Legal, Philosophical, and Political Perspectives* (1995). As well as various issues of the journal *China Rights Forum*, published by the New York based dissident organization Human Rights in China.

⁷ E.P. Mendes and A.-M. Træholt (eds) *Human Rights. Chinese and Canadian Perspectives*, Ottawa: University of Ottawa (1997).

children's rights include one Chinese article on birth registration as a human right and one Canadian article generally on children's rights as human rights, illustrated with Canadian examples. Some of the articles include recommendations on new policies, but they do not discuss how to influence the political system to realize these policies. Furthermore, too few of the articles address problems that are not treated elsewhere and could not as well be published in a more focused context. Finally, the selection of topics seems to lack a main thread.

Having participated in bilateral human rights projects myself,⁸ I fully recognize and understand the problems behind the production of a joint volume like this, and tend to conclude that this is as far as we can get at the present stage. Of course, flaws in joint academic activities are not confined to the cross-cultural arena; one easily finds weaknesses in much scholarly cooperation between people of the same nationality. But there may be specific difficulties involved in promoting dialogue between cultures that are so far apart. The communication between East and West — which the next book reviewed argues strongly for on more philosophical grounds — certainly exists and is developing very fast, but it is still difficult to undertake truly *joint* work. The Canadian dialogue is more or less similar to the EU dialogue treating mainly law reform issues and support for the protection of women's rights through academic exchange, seminars and publication of books or training manuals. Coordination between the different donors is pursued despite difficulties. Most often the cooperation consists of parallel tracks pursuing answers to similar but not identical problems.

Stephen Angle's book, on the other hand, fulfils the need for a thorough treatment of

one topic. *Human Rights and Chinese Thought* is a philosophical treatise with a rather practical (normative) goal. The aim is to argue for the possibility and fruitfulness of an open dialogue and engagement on the topic of human rights between China and the West, more specifically the US as Angle is an American himself. Essentially, the book seeks to answer two questions: Whether China has its own rights concept; and whether countries with their own rights concepts can criticize countries with rights concepts different from their own. His answer is 'yes' to the first question and 'no' to the second. China has a distinct idea of rights in its own philosophical tradition, but China is not immune from criticism from the international community. Cross-cultural engagement is both possible and desirable.

The basis for the quest for communication is pursued by Angle in, on the one hand, analytical frameworks drawn from Western philosophers like Robert Brandom, Allan Gibbard and Richard Rorty and, on the other, in analyses of Chinese rights discourses from the Sung dynasty (1100–1200) to Deng Xiaoping (top Chinese leader until his death in 1997). Angle draws on Western thinking to provide theoretical justifications for the possibility of communicating in spite of differences and for the consequences of moral pluralism. The analysis of Chinese thoughts seeks to prove that China has a distinct tradition of rights thinking.

The focus of the work is Chinese thinking, and Angle demonstrates with considerable insight and sophisticated knowledge how ideas of individual rights and interests have been discussed and perceived in traditional Chinese thought. Especially interesting are the sections dealing with the differences between Western and Chinese thought, which generally are believed to make it very difficult to adapt rights thinking to Confucian values, i.e. the predominance of collective rights over individual interests; the Chinese idea of harmony versus the Western idea of conflict as the dynamics of social relations; the greater stress on economic rights in socialist Chinese thinking in opposition to the traditional Western idea of human rights as freedom rights,

⁸ The human rights cooperation — conducted since 1999 — between the former Danish Centre for Human Rights (now The Danish Institute for Human Rights) and various Chinese institutions, and funded by the Danish Ministry of Foreign Affairs.

etc. Digging deeper into these issues Angle inevitably finds ‘something both different and more complicated’ than the usual Western interpretation (p. 222). Looking at dimensions of difference and similarity he finds differences between earlier and later Chinese thinking, and cross-cultural similarities between Western and Chinese thought as well as differences even within the contemporary Chinese discourse. That the contemporary Western discourse of human rights also spans great variations will be perfectly known to the readers of this journal.

Angle’s work is an excellent scholarly exposition of China’s rich philosophical tradition questioning many crude Western ideas about why the Chinese government continuously violates the international standards of human rights. But I have a few problems with the overall approach, which to my view rather unreflectingly mixes philosophical discourses and political realities and also mixes texts from scholars, activists and government spokespeople, which are all taken as representing a ‘Chinese’ idea or concept. Very few people will disagree that engagement and dialogue is a good thing and should be pursued in order to improve the protection of human rights in China. But the author tries to further this aim by quoting Western philosophers on the possibility of communicating in spite of differences of opinions and referring to Chinese philosophical discourses accepting concepts of rights. One consequently could get the idea that human rights violations in China take place because Chinese leaders do not believe in cross-cultural communication or do not know their own philosophical tradition. I do not believe this is the case. The injustices perpetrated by Chinese authorities against its own people are, in my view, linked more to the social, economic, and political structures of the present society than to the leadership’s non-engagement with other cultures or the Chinese philosophical past. This said, the book is a brilliant contribution to cross-cultural dialogue.

The two books prove that it certainly is possible and desirable to pursue a dialogue across the divide between East and West and

that there is much to be learned about each other to get a truer picture of which differences really matter and which do not. However, they only indirectly address the serious (political) question that lingers beneath the wish to communicate, namely how to prevent the human rights violations taking place in China or how exactly to bear differences in mind, yet still comply with international standards.

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Peter Radan, *The Break-up of Yugoslavia and International Law*, London and New York: Routledge, 2001, Pp. 288. £75 (hardback). ISBN: 0415253527.

This book, published in the Routledge Studies in International Law series, tackles one of the most disputed cases of state succession in recent history. Opinions continue to differ regarding the validity of the legal basis for the declarations of independence of the former republics of Yugoslavia and the lawfulness of their secession. Considerable ambiguity surrounded the claim made by Yugoslavia (Serbia and Montenegro) for state continuity until its admission to the United Nations in 2001. The reaction of the international community, including the United Nations and the European Community, during the Balkan crises attracted substantial criticism. The break-up of Yugoslavia placed notions of self-determination and secession at the forefront once again of the international legal and political debate in the 1990s.

The author of this volume, an Australian scholar and author of several articles on the question of secession, takes a critical view of the outcome of the break-up of Yugoslavia in order to make the case that there are no obvious legal reasons why the break-up of a federal state should take place using the borders of former federal republics. The