

chapter on British counter-terrorism law is right on target. She neatly documents the way this legislation has served to curtail civil liberties and is unlikely to be of much long-term practical value in defeating terrorism. This should be compulsory reading for all those politicians — especially in Britain — biting at the bit to give the executive even more discretionary power in combating terrorism at grievous peril to civil liberties.

The final section of the book entitled ‘Ground Zero Prospects’ includes a set of chapters that cover a broad range of topics. Keith Hayward and Wayne Morrison have a solid chapter on the use of notions of risk and criminality in the new international order. In the next two chapters, Tareq Ismael and Jacqueline Ismael in ‘September 11 and American Policy in the Middle East’, and Rafiq Latta in ‘Palestine/Israel: Conflict at the Crossroads’ turn their attention to the Middle East and the way ‘Islam’ and the ‘Arab world’ have been constructed as the enemy. The final chapter in the book by John Strawson examines how the British press has dealt with Islamic Law. This is a rather curious topic to end a book on September 11, and one that is really some distance from the initial themes of the book.

All in all this is a book that will provide a useful contribution to the literature on September 11. The best chapters in the book raise stimulating issues that all those interested in International law post-September 11 need to carefully consider. Even a meal of *hors-d'oeuvre* is better than the often bland fast food that has been produced in the wake of September 11.

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Mohamed Sameh M. Amr. *The Role of the International Court of Justice as the Principal Judicial Organ of the United Nations*. Leiden: Brill Academic Publishers, 2003. Pp. 472. €128, US\$ 173. ISBN: 9041120262.

Writing about the role of the International Court of Justice is a daunting task. There is no scarcity of books and articles on the subject, including seminal works by such authorities as Briggs, Fitzmaurice, Lauterpacht, Rosenne, Sohn and Waldock. They and other scholars have extensively analysed the evolution of the Court’s role within the United Nations system and in international relations in general. Many authors have put forward proposals to enhance the role of the Court, including far-reaching ideas requiring significant changes in the United Nations Charter and the Court’s Statute.

There are, however, few books that focus not so much on the functioning of the Court but, more generally, on its role within the United Nations system. This is precisely what Dr. Amr’s book, based on his Ph.D. thesis submitted to the London School of Economics, seeks to do. He undertakes the ambitious task of ‘provid[ing] a comprehensive analysis of the role of the International Court of Justice (ICJ) as the United Nations’ principal judicial organ in the light of its practice over the last fifty-five years since its creation’ (at 1). The author sees his book as being different from numerous other works in that it ‘concentrates on those aspects which are pertinent to an evaluation of how the Court works within the structures and purposes of the United Nations (UN), and what the Court has contributed to the development of the UN, an approach which has hitherto received little attention’ (at 1).

Indeed the approach and the structure of the book are somewhat unconventional. The author examines the Court and its role within the system of the United Nations as one might examine the role of a court within a domestic legal system. Using this framework, he discusses the role of the Court in interpreting the United Nations Charter and in exercising judicial review over the acts of the United Nations organs and agencies. This approach offers significant advantages. Through an implicit comparison with a domestic system, the reader is led to focus on what powers and attributes normally associated with domestic courts the Court does or does not possess.

The author engages in a stimulating discussion of the role of the Court as a constitutional court within the United Nations system and its power of judicial review over the acts of United Nations organs. The introduction to this discussion raises the reader's expectations, as the author seems to be laying the groundwork for revealing a significant role for the Court in these areas. Unfortunately, those readers who do get excited by this introductory discussion (as I did) are likely to be somewhat disappointed: in the end, the author comes to the disappointing but inevitable conclusion that the Court's role as a constitutional court and its powers of judicial review are rather limited.

The book argues that the Court should play a more significant role in both areas, a proposition that proponents of the Court would certainly endorse. The author carefully analyses the Court's practice of cautiously but consistently seeking to enhance its power of judicial review within the limitations of the United Nations Charter and the Court's Statute. The analysis reveals the tools available to the Court for the purpose of exercising indirectly some limited review: through the interpretation of the Charter (as in the *Admissions* case, where the Court interpreted the provisions of the Charter relating to the admission of new members), and through the exercise of its advisory and contentious jurisdiction in the context of specific requests or disputes (as in the *Expenses* case, where the Court gave an opinion on whether certain expenses had been validly authorized by a series of General Assembly resolutions).

Next, the book discusses the role of the Court as a court of appeals. The author is fully aware of the severe limitations of the appeals function of the Court. This function has been restricted to employment disputes, the Court has reviewed on appeal only four cases, and its appeals authority was further curtailed in 1995. Instead of discussing the virtually non-existing appeals function of the Court in an entire chapter, the book would have benefited significantly from delving into matters that the author mentions only in passing. The Court has a mandate to deal with the funda-

mental principles and purposes of the United Nations and is called to rule on the basis of international law by applying treaties, rules of customary international law, general principles of law, and legal doctrine. With this in mind, should the Court have been asked to be a court of appeals for employment disputes in the first place? Isn't it better suited to serve as a court of appeals for the decisions of international courts and tribunals adjudicating or arbitrating matters of public international law? These and other questions, which now feature prominently as part of a renewed interest in the interaction of various international tribunals, come to mind when reading about the appeals function of the Court, but remain disappointingly unaddressed in this volume.

The author's analysis is more persuasive, however, when he follows the more traditional approach of addressing separately the Court's contentious and advisory jurisdictions. The book offers a thorough, detailed and methodical discussion of the Court's role in promoting the purposes and principles of the United Nations and its functions as an advisory body. The author follows the school of thought supported by many scholars of the Court arguing in favour of expanding the Court's advisory jurisdiction. He raises interesting points that provide fertile ground for future debate. One such point, for example, relates to what the author refers to as the 'binding' advisory opinion: the situation in which states and international organizations agree in advance, whether in treaties or on an *ad hoc* basis, to give binding effect to the Court's advisory opinions on certain matters. Provisions to that effect have been included in some agreements, such as the Headquarters Agreement between the United Nations and the United States and the Convention on the Privileges and Immunities of the United Nations. The legal significance of this 'binding' advisory function should not be underestimated — it brings together the Court's advisory and contentious jurisdictions; moreover, it *de facto* expands the Court's contentious jurisdiction *ratione personae* to cover international organizations in addition to

states. The author, however, leaves unanswered the question whether he believes that this practice should be expanded and, if so, how.

The author argues persuasively that the Court plays a significant role in the development of the institutional law of the United Nations. The Court's contribution to the institutional law of the United Nations tends to be underestimated by the international community, including by students of the United Nations. The focus has always been on the law-making functions of the Security Council and the General Assembly. However, the book's analysis of the cases in which the Court has addressed the relationship between the principal organs of the United Nations in the maintenance of international peace and security, including its own role in that area and its interaction with the Security Council, shows that the Court has become increasingly involved in law-making through its interpretation of the law of the United Nations, and that this trend is likely to continue.

Where this analysis is somewhat too concise is the section on the Court's role regarding its contribution to the development of the 'other purposes and principles' of the United Nations. For example, the author spends only a couple of pages each on the Court's contribution to such critical principles and purposes of the United Nations as the threat of the use of force, self-defence, and non-intervention. There are only scant references to cases that define and elaborate on these fundamental principles of international law, such as the *Nicaragua* case and the *Nuclear Weapons* opinion.

Among the most stimulating parts of the book are the author's conclusions and suggestions. Most interesting, of course, are the author's suggestions for enhancing the role of the Court. A number of these are hardly novel (for example, creating a universal compulsory jurisdiction or prohibiting reservations when accepting the Court's compulsory jurisdiction), but follow logically from the author's analysis. Others are rather original, such as those in the area of the enforcement of the

Court's judgments (section 2.4 of the final chapter).

Several critical remarks need to be made, however, on the conclusions and suggestions put forward in the book. One is a matter of structure and consistency. The conclusions and suggestions at the end of the book are somewhat divorced from the book's analysis and, notably, from the conclusions at the end of each chapter. The general conclusions on the enforcement of the Court's judgments, for example, are not preceded by any discussion that would have laid the basis for the concluding thoughts and suggestions. Indeed, the conclusions at the end of each chapter are reasonably upbeat, while the suggestions at the end of the book appear more sober and thus somewhat at variance with the earlier optimistic evaluations. For example, while the author persuasively discusses the significant impact of the Court's judgments, decisions, and opinions, it is not until the final chapter that he recognizes that the number of advisory opinions (24) rendered by the Court is not very high (at 377) and that the acceptance of the Court's compulsory jurisdiction in contentious cases has not been sufficiently broad.

Finally, what seems to be missing from the book is a more extended discussion of the Court's need for resources, budget, and internal reorganization — a need that inevitably arises out of the increased caseload of the Court in recent years. The short subsection on the Court's budget (one page) in the concluding chapter does little more than simply flag the issue.

These criticisms, however, should not detract from the fact that the author's conclusions and suggestions provide a fresh look at the possibilities for enhancing the Court's role as the principal judicial organ within the United Nations system.

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