European Court of Justice inroads on national remedies and instead focusing its creativity on remedies at European level. Uniformity of remedies is seen as a goal to be achieved first and foremost by improving the effectiveness of remedies afforded by Community courts, beginning with standing requirements for annulment actions under Article 230 of the EC Treaty. Concerning direct effect, Professor Ward's conclusions are in line with Professor Prechal's. She also believes that the European Union rights should be vindicated quite independently from any question of direct effect.

Gerrit Betlem revises the case law on the doctrine of consistent interpretation. He remarks that the doctrine goes beyond, and to a certain extent takes precedence over, direct effect. However, for the sake of clarity and legal certainty, he argues for bringing the conditions for the application of consistent interpretation in line with those required under the direct effect doctrine.

The papers by JH Jans and JM Prinssen and by J Gerkrath trace the application of the direct effect doctrine at the national level. Divergence is spotted both between different Member States and between different jurisdictions within the same Member State. The various institutional actors, Community and national courts, and also the Community legislators are called to the task of clarifying the doctrine to avoid those divergences which are unnecessary and potentially harmful. A Nollkaemper revises the doctrine of direct effect in public international law. J Wouters and D van Eeckhoutte question how far Community law is permeable from direct effect of customary international law.

The concluding remarks by P-J Kuijper pay tribute to the doctrinal efforts put in developing the doctrine of direct effect; inspiration was taken from international law, but direct effect was developed much further in Community law. Professor Kuijper promptly acknowledges that a lot is yet to be done.

European/Community law is still haunted by the ghosts of case 26/62, *Van Gend en Loos* [1963] ECR 1 and case 6/64, *Costa v ENEL* [1964] ECR 585. The Court of Justice stated there that Community law was no traditional international law concerning States and States only. It stopped short from saying that it was just like domestic law. Direct effect was a way to convey this position. After 40 years we still have to fully cross the river and safely make for the bank opposite to 'international law'. The situation is uncomfortable and the papers collected in this book offer different ways out, some suggesting the time is overdue for a bold crossing while others cling to the old and presumed safe side. Most probably an unambiguous choice by a Constitution for Europe will be needed to ferry everybody safely and once and for all past the whirls of direct effect.

ROBERTO CARANTA

Methods of Resolving Conflicts between Treaties SEYED ALI SADAT-AKHAVI [Martinus Nijhoff Publishers Leiden/Boston 2003. 273 pp. ISBN 90–411–2031–9. €107/ US$ 144 (H/bk)]

The importance of treaties in the contemporary international legal order can hardly be overstated. Several important areas of international law, both old (such as the law of the sea and humanitarian law) and new (such as international trade, the environment, human rights, foreign investment, and communications) are regulated primarily by treaty, and the treaty remains the main vehicle for the development of international law. The conflict of treaties, or of rights and obligations arising thereunder, has therefore increasingly attracted the attention of both academics and practitioners of international law (eg regarding the relationship between human rights law, international trade law, and international environmental law). The relationship between treaties within a particular field of law can also give rise to conflicts. Accordingly, this book is a timely contribution dealing with a highly topical question, and it provides a clear and thorough exposition of the problems.

Part One, replete with Venn diagrams, sets out some preliminary considerations regarding the concept of conflict, and distinguishes between real and false conflicts. Part Two then considers the conventional, customary, and other rules of international law with a view to identifying the

existing law on the resolution of conflicts. This part includes an excellent discussion of the relevant provisions of the Vienna Convention on the Law of Treaties, namely Article 59 (abrogation of an earlier treaty by a later one), Articles 53 and 64 (invalidity of a treaty provision), which conflict with a norm of *ius cogens*; an interesting discussion of the relation between norms of *ius cogens* and obligations *erga omnes* and in this context covers Articles 40 and 41 (amendment and modification of treaties respectively); and finally, and perhaps most importantly, Article 30, which deals with successive treaties covering the same subject-matter. The discussion of Article 30 includes a thorough analytical account of the limits of this key provision, as well as an analysis of problems arising from the wide range of conflict-resolving clauses included in various treaties. The author correctly identifies the fundamental problem in this area as involving the need to strike a balance between the need to develop the law by subsequent treaties or amendments to original treaties on the one hand, and the need to respect the rights of States which are parties to the original treaties but not to the subsequent treaties or amendments, on the other. The author proposes a number of solutions to the problems not covered by Article 30. These include the problem of identifying what is meant by the central notions of the 'later', 'earlier', and 'future' treaties, as a number of possible dates (such as the date of adoption of the treaty text, date of entry into force, or the date the contractual relationship between the two States in question is established) could be applied for this purpose. The analysis is again thorough and well-reasoned, although the author might have usefully considered whether there is a role for Article 18 of the Vienna Convention (dealing with the obligation to refrain from acts which would defeat the object and purpose of a treaty pending its entry into force) in this context. A further problem, not covered by Article 30, is how a State may find itself with conflicting obligations towards different States under different treaty regimes. The author suggests two solutions; first, to procure the assent of States parties to the original treaty but not the amendment, or secondly, 'to elaborate a new instrument containing the same provisions as those of the original treaty and incorporating the content of the desired amendment' (73). The extent to which it is for the *law* to solve such problems is debatable, as these solutions would appear to depend ultimately on non-legal factors. Nevertheless, the strength of the author's analysis is its combination of scholarliness and pragmatism.

The author then provides a thorough examination of the customary law, general principles, and judicial decisions on the resolution of treaty conflicts. Regarding customary law, the author concludes, referring to the judgment of the International Court of Justice in the 1969 *North Sea Continental Shelf* case, that treaty practice does not provide a strong basis for the identification of a universally applicable rule. For the same reason, he also advocates caution regarding the ability of decisions of national courts regarding the resolution of treaty conflicts to count as practice leading to the establishment of general rules, because they were rendered in the context of specific treaties. However, while the conclusion is correct because it can hardly be said that there is 'general' practice, it would seem that the fact that the State practice (including judgments of national courts) relates to specific treaties should not necessarily minimize its relevance, especially where, as appears to be the case in many of the instances considered by the author, the consideration of specific treaty clauses was based on the invocation and application of established rules and principles of international law.

Part Three then considers the process of resolving conflicts in practice. The first section identifies the various stages in the process of resolving conflicts, and the author concludes, perhaps uncontroversially, that in the absence of any applicable treaty provision or customary law or intention expressed by the parties, the *lex posterior* rule must serve as a general rule for the resolution of conflicts. The author then examines a number of other principles and rules that would lead to conclusions different from those that would follow from an application of the *lex posterio* rule in three areas of law. With respect to human rights treaties, the author considers the principle of the 'more favourable position', which is aimed at safeguarding human rights recognized outside a given convention, where those rights are not recognized in that convention. With respect to treaties providing for dispute settlement, the author considers the principle of cumulative application (as distinct from derogation) of instruments, pursuant to which a State is to enjoy the choice of dispute settlement options afforded under new agreements. With respect to treaties on the

recognition and enforcement of judgments, the author examines the application of the principle of maximum effectiveness, according to which, in the event of a conflict between treaties having the same object and purpose, preference is to be given to the treaty that is more conducive to the achievement of that object and purpose. The analysis is detailed and thorough throughout.

The overall conclusion of the book is that Article 30 of the Vienna Convention reflects the position in international and general treaty law and some modifications to the text of Article 30 are suggested, based on the author's analysis.

This book contains a wealth of information, particularly with respect to treaty practice. The analysis is balanced and convincing. Given the importance and increasing relevance of the subject, it is highly recommended and should appeal to international lawyers in general, as well as to students of the methods and sources of international law.

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