Kriangsak Kittichaisaree: International Human Rights Law and Diplomacy

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International Human Rights Law (IHRL) is not a subject upon which there is a lack of academic literature. If anything, it is an area which has undergone a surge in interest in recent decades since the end of the Cold War, resulting in the publication of a multitude of texts. As such, at first glance it may be easy to overlook the release of yet another book on the subject which *prima facie* purports to offer a relatively general treatment of IHRL. However, this would be a mistake for two reasons. Firstly, the author of this book is Kriangsak Kittichaisaree, an eminently experienced figure in matters of international law and diplomacy. Kittichaisaree currently serves as a judge on the International Tribunal for the Law of the Sea, but has previously held various prominent roles as a senior Thai diplomat posted to several states and at UN fora. As such, this book brings the insightful perspectives that derive from a first hand experience and understanding of the issues explored. Secondly, the book adopts a different approach from most other IHRL texts which tend to focus on institutional or thematic readings of IHRL, concentrating on enforcement mechanisms for IHRL instruments or exploration of some of the most significant human rights issues. Kittichaisaree attempts to provide instead a more contextual understanding of the operation of IHRL. He notes at the outset that many books on the subject are skewed towards western liberal democratic perspectives on human rights, something he seeks to avoid. The book is intended to cater to a wide readership and thus avoids the technicalities in language which are standard in many international legal texts. His stated objectives are to offer insights into the exercise of power, diplomacy and decision-making in respect of human rights, exploring the intersection between law and politics in these processes.

The book is structured around eight chapters, each of which logically follows on from and leads into those which proceed and follow. The first chapter serves as

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an introduction to the objectives of the more substantive later chapters, while also setting out a number of key definitions which will be particularly useful to readers with no significant prior knowledge of the subject matter. It is chapter two, however, which really sets the scene for a central theme which pervades the book as a whole. Titled 'Universalism: Myth or Reality?', the chapter engages with the perpetual debate as to whether human rights can or should be universal in terms of their application. A common criticism of the international human rights system has been that it is western centric, an argument which Kittichaisaree convincingly rejects. Drawing on the religious and philosophical origins of human rights, he demonstrates that these can be found in non-western sources, while the reality is that there exists broad global support for the core IHRL instruments. At the same time, he acknowledges that there exist difficulties in the pursuit of universalism as a result of some states' pursuit of exceptionalism and unilateralism. Notwithstanding their divergence on many issues and their very different systems of government, both the US and China evidence failings here.

Chapters three and four introduce the main international and regional mechanisms established to promote and protect IHRL. The first of these is broadly concerned with the UN system, briefly setting out the limited role of the International Court of Justice in resolving human rights cases before attaching greater emphasis to the work of the Human Rights Council, a promotional and preventive body which exists as a subsidiary organ of the General Assembly. The body's legitimacy and effectiveness have been undermined by a number of political problems, including the withdrawal of the US from membership and the election of UN member states with dubious human rights records. The core international treaty mechanisms are also briefly introduced, as is the UN High Commissioner for Human Rights (UNHCHR), a coordinating office for wider UN efforts concerned with the promotion of respect for human rights. The limits of the various international human rights mechanisms are acknowledged with reference to the realities of international diplomacy.

In surveying regional human rights mechanisms, chapter four alludes to the benefits of attempting to apply universal norms on a local level, there being in practice a widespread preference for regional systems over that of the UN. The human rights systems of each region are detailed, some of the key controversies or difficulties to have arisen in some of them being explored further. For example, while considered the most homogenous region in terms of culture and values, the margin of appreciation applied under the European Convention on Human Rights, which affords for a degree of local difference, is seen as not unproblematic, the controversy over some states' imposition of a ban on the wearing of the hijab in certain settings bearing this out. In other examples of region specific focuses, the African system has been informed considerably by ideas concerned with economic, social and cultural, as well as collective rights, while some of the systems in place in the Middle East are heavily influenced by Sharia.

The core content of states' international human rights obligations is surveyed in chapter five, with reference to the nine core IHRL treaties in force. While an overview of these instruments is standard within IHRL texts, Kittichaisaree's approach deviates from those which routinely detail the obligations and compliance monitoring mechanisms introduced by each treaty to instead focus on the scope of their

application and acceptance by states. This is, of course, critical to their level of effectiveness and is related back to the contentious issue of the universality or relatively of human rights. While the vast majority of states are party to most of the treaties, there are some notable omissions, for example China's absence from the ICCPR. However, of much greater significance has been the use of reservations by states to absolve themselves from specific obligations under the treaties, an issue which Kittichaisaree probes well. The death penalty is a particularly contentious issue, its prohibition being subject to the highest number of reservations of any IHRL treaty provision, while protections for women's rights have met with objections on the part of several Arab or Muslim states who are not party to the Convention on the Elimination of Discrimination Against Women (CEDAW). Perceptions of US exceptionalism are further reinforced by virtue of the fact that it is the only western state not party to CEDAW, and its extensive reservations in respect of obligations under the Convention Against Torture (CAT).

Kittichaisaree takes a comprehensive approach in attempting to understand mechanisms for ensuring states' compliance with their IHRL obligations in chapter six. This is another significant distinguishing feature from standard texts, which focus largely on the institutional mechanisms established by the IHRL treaties themselves. While considering empirical findings on states' compliance with their treaty obligations, Kittichaisaree looks beyond these to note the roles which are performed by other processes in the "enforcement" of IHRL. In doing so, he touches on measures as varied as litigation in international courts or tribunals, sanctions, military intervention, and even the use of amnesties. The protection of human rights has also benefitted more generally from conceptual or doctrinal developments such as the emergence of the *Responsibility to Protect* doctrine and changed notions of the extent of state sovereignty.

The book's penultimate chapter represents a logical conclusion to its main themes as Kittichaisaree draws its threads together in order to issue some pointers towards the universalisation of international human rights norms via their adaptability to local conditions, revisiting some of the approaches employed in pursuit of this objective with reference to highly controversial issues surrounding the practice of female genital mutilation and blasphemy. In some respects, the final chapter appears a little misplaced, with its treatment of what are considered to be "new dimensions" in IHRL of cyberspace and the law of the sea. However, as the reader progresses through the chapter, their inclusion begins to become more logical, highlighting as they do the challenges posed to existing norms by new phenomena. The ever growing significance of cyber activity gives rise to potential difficulties, not least in respect of rights to privacy and freedom of expression, yet the rapidly changing nature of cyberspace makes it difficult for legal norms and mechanisms to develop sufficiently quickly to respond to developments. This is all the more problematic in respect of an area of activity truly global in nature, demanding of an integrated international response. By contrast, there is a long established body of law relating to the sea, predominantly found in the UN Convention on the Law of the Sea (UNCLOS). However, this was not designed with such modern challenges as human trafficking by sea in mind, leading Kittichaisaree to believe that the Law of the Sea will continue to evolve as a niche area of human rights.

International Human Rights Law and Diplomacy is a highly readable text and will be useful not only to those coming to the subject with little prior specialist knowledge, but also those already engaged in human rights scholarship. Notwithstanding the abundance of academic literature on IHRL in general, as has been illustrated, this book brings its own unique approach to the subject matter. The contextual approach employed is particularly effective in drawing out some of the key issues in understanding the applicability of and compliance with IHRL obligations and its place ought to be assured in any human rights or international law library.

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