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Oktawian Kuc, *The International Court of Justice and Municipal Courts: An Inter-Judicial Dialogue*, Routledge, London, New York: 2022, pp. 304

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There have been many attempts to strengthen the role of national courts in the application of international law. The Routledge series *Research in International Law* has been recently enriched by a monograph *The International Court of Justice and Municipal Courts: An Inter-Judicial Dialogue* by Oktawian Kuc. The book is a revised doctoral thesis defended at the University of Warsaw.

The goal of the book has not been clearly defined. It is only after almost 4 pages of the introduction that the reader is informed (in a rather unsurprising fashion) that “the main purpose of this book is to examine whether inter-judicial dialogue between the International Court of Justice [ICJ] and municipal courts is in fact taking place”. According to the author, the World Court and its domestic counterparts are already engaged in intensifying specific discourses. In the monograph under review he aims at “scrutinising different aspects of this phenomenon and providing some basic data as a further point of reference for future studies”. Additionally, the author announces his intention “to address the problem of relationships between the Court and municipal judicial organs in a comprehensive and broad manner by identifying and analysing all aspects of the inter-judicial dialogue between these institutions”. Whether the latter task is attainable in the book under review is doubtful, especially given the lack of a theoretical framework on the relationship between the domestic adjudicators/courts and the principal judicial organ of the United Nations. Much more modestly, the author speaks of examining “the main aspects of the inter-judicial dialogue between domestic judicial organs and the ICJ”, and such restraint seems very warranted.

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The first chapter examines the problem from the perspective of the ICJ. It does not refrain from quoting a municipal court decision by name, and the author should be commended for examining all the rulings by the ICJ delivered between the years 1946 and 2020. Out of these almost one fifth referred at least once to a municipal judicial ruling.

In the first chapter the author also analyses how municipal courts deal with different sources of international law, following the classic sequence as enshrined in Art. 38 of the ICJ Statute. This is followed by a brief comment on how the World Court reacts to international wrongful acts arising out of municipal courts' decisions. Another important aspect tackled in the reviewed book is the influence of municipal courts' decisions on the ICJ's jurisdiction and the admissibility of cases.

It is of utmost importance to determine the extent to which the ICJ draws (or not) analogies from national procedural rules. To speak in this regard of the influence of municipal courts seems artificial or exaggerated, since the core of international procedural law, necessarily informal, is to leave it for the Court itself to decide. Therefore, the ICJ (as well as most other international judicial institutions) may simply find a decent solution in domestic law, and not in the rulings of the municipal courts themselves.

Firstly, both domestic law and domestic judicial rulings would be considered as facts by the ICJ. The growing importance of this can be seen with regard to provisional measures. Secondly, these rulings may as well manifest the exercise of sovereignty over a disputed territory, i.e. may be an element in proving the title to territory. Some important examples are provided by comparing the findings of fact first made by the domestic courts, and then determined by the ICJ.

Subsequently, the author explains, by means of several examples, the question of the (status of) municipal law before the World Court, which can perhaps serve as a kind of introduction of one of the general and fundamental questions, namely: the ICJ's position towards municipal courts and the latter's role in the ICJ jurisprudence. When examining whether the ICJ is competent to assess municipal judicial decisions in light of international law, the author considers the role of the Hague Court as an ultimate court of appeal for criminal issues, and correctly discards such a role. Instead he rightly asserts that the ICJ performs a merely supervisory function, i.e. to assess the accordancy of national judicial decisions with international law and to pronounce on their legal effects on the international plane. The implementing role of municipal courts is also delineated and examined here, despite the matter being dealt with separately in the entire Chapter 2. Between them come some brief (3 pages) suggestions (directives) by the ICJ to municipal courts on how the latter should deal with questions of international law.

All those interactions, including the citation of the municipal rulings by the ICJ, confirm Lauterpacht's approach that international law is administered by both international and municipal courts. Unfortunately, the reader is merely presented with some case law illustrating this overview and is offered only modest comments here by the author.

The two chapters that follow concentrate on the post-adjudicative phase. In Chapter 2, the author scrutinizes the enforcement of ICJ decisions in municipal courts. At times, reference is also made to the respective position by the Iran-United States Claims Tribunal. When analyzing the legal framework of enforcement, the starting point is the binding force of the ICJ's decision. Naturally, reference is made here to Art. 94 of the United Nations Charter and the corresponding role of the Security Council. Yet for unknown reasons the author fails to refer to the Security Council's enforcement function here, and instead refers to it further under the heading "other methods of enforcement," where he rightly refers to the ICAO framework or to the corresponding mechanism enshrined in the Pact of Bogota.

The analysis of the respective practice of the municipal courts starts with a classification, which the author labels as "useful". In this regard, Kuc distinguishes between the domestic enforcement *sensu stricto* (defined at p. 99, where a State entitled under an ICJ decision initiates proceedings before a national court, so that the national system of justice and the coercive apparatus of the State are used to give effect to the ICJ's given decision); and *sensu largo* (where the respective action before a national court is initiated by a private party). Some further sub-categories have also been referred to, but the very distinctions and their respective manifestations are not given in an entirely consistent manner (and at times they intersect). In addition, Kuc also distinguishes "quasi enforcement", whereby judicial protection is sought before a domestic court by a natural or legal person with regard to an analogous or similar breach of international law to that declared by the ICJ.

A separate treatment is offered with respect to the implementation of advisory opinions. The main problem with Chapter 2 is its hidden (indirect) analytical part. The reader could have been presented with more in-depth comments, and instead needs to rely on descriptive parts before arriving at the general overview to find the very interesting, albeit a bit suspended, conclusions.

The third chapter is devoted to the reception of the ICJ jurisprudence by municipal courts. This particular form of inter-judicial dialogue may be translated into the involvement of domestic courts in the development of international law. The author describes, analyses, and then offers conclusions on this method of dialogue. The decisions of the ICJ may be considered as either evidence of international law, or as an authoritative treaty interpretation. The municipal courts may as well shed additional light on the rationale behind the relevant international norms. Thus,

the ICJ jurisprudence may provide assistance to municipal courts in defining the status of, and clarifying the interplay between, the different sources of international law. In this regard, the extent of conformity is crucial, but as rightly observed by the author of the reviewed book, the collision of arguments and attitudes may differ, thus contributing to the development of more comprehensive and widely-accepted answers to legal questions. The Chapter ends with some conclusions on the status of the decisions by the ICJ in the jurisprudence of municipal courts. These are certainly relevant for the entire book under review. Kuc is definitely right when he qualifies the rather infrequent involvement of national adjudicators as “a symptom of the willingness on the part of national courts to become more involved in the inter-judicial dialogue vis-à-vis the Court” (at p. 221).

The “Final Conclusions” deserve a separate comment, since the 23-pages-long text goes well beyond the problems analysed in the main body of the book. The highly interesting remarks introduce several entirely new aspects, no trace of which can be found in the preceding pages. At times, some of the conclusions seem to artificially include municipal courts. Therefore, they cannot be considered a traditional summary of the arguments espoused on the pages of the reviewed monograph, although they offer, *inter alia* a description of the general role to be played by the ICJ, and its role vis-à-vis other international courts and tribunals. This part has been written with great vigor and offers a high quality legal argumentation.

The author should be also congratulated for relying in his analysis on the rich literature and – more importantly – broad base of judicial rulings by different courts. Quite surprisingly however, Kuc does not refer to the seminal examination of the subject, i.e. *Regulating Jurisdictional Relations between National and International Courts* by Yuval Shany. The cursory (at best) reliance on the deliberations of the topic “The Activities of National Judges and the International Relations of their State” within the Institut de Droit International also comes as a surprise.

In sum, despite the (mainly structural) criticisms mentioned above, the book by Oktawian Kuc is certainly worth recommending, not only because of the highly interesting problem it tackles, but first and foremost for being a thought-provoking read which stimulates further consideration of the topic.