

EDITORIAL

The International Law Scholarship in Central Asia: New Voices

*Sergey Sayapin & Rustam Burnashev**

The Central Asian States (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan), as well as the region as such, are increasingly gaining in significance as international actors. During the Soviet period, their sovereignty was nominal¹ but in 1991, they became full-fledged members of the international community, and have, ever since, been constructing their respective schools of international law and international relations. International institutions such as UNESCO and the International Committee of the Red Cross (ICRC) were helpful in strengthening local academic capacities, in particular as far as general public international law (PIL), international humanitarian law (IHL) and international criminal law (ICL) were concerned. A few Central Asian international lawyers became prominent academics of an international standing, and the *Central Asian Yearbook of International Law and International Relations* was lucky to assemble some of them as members of the Editorial and Advisory Boards but further academic capacity building is required, given the challenges the region is currently facing.

Border issues, regional migration, drug trafficking, human trafficking, disputes over water, the rise of terrorism are just a few challenges, which require Central Asian States' cooperation among themselves, and with other States. The competing interests of especially China, Russia, the United States, and the European Union in the region are adding to the complex mosaic of regional dynamics.

The Central Asian States should learn to rely on international law, more proactively and consistently, as a tool for advancing their own lawful interests, and for maintaining regional and international peace and security. Kazakhstan's membership in the UN Security Council (2017-2018) was an excellent occasion to promote respect for international at the regional level. Other recent examples of such reliance include the adoption of a Convention on the Legal Status of the Caspian Sea in 2018, or an ongoing reform of criminal law and procedure in Uzbekistan, whereby the role of the State's obligations under international law is

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1 Cf. Article 3 of the 1924 Constitution of the USSR, Article 15 of the 1936 Constitution of the USSR, Article 76 of the 1977 Constitution of the USSR.

expressly emphasised.² Unfortunately, international law is still largely unknown among the general public, and even among some law professionals, or is regarded as “institutionalised politics”, and this paradigm must shift towards a more constructive, realistic and practical understanding of the phenomenology of international law. For this, a new generation of international lawyers – open-minded, passionate about international law and the future of their societies, and skilled linguistically – is brought up in Central Asia. These junior scholars will build upon their senior colleagues’ experience, and further integrate the Central Asian schools of international law in a broader Asian and international scholarly context.³

It is hoped that the *Central Asian Yearbook of International Law and International Relations* will become a useful tool in this process. The *Yearbook’s* inaugural volume brought together articles by a number of Central Asian authors as well as by foreign international law scholars dealing with Central Asia. The first article by our book review editor Rustam Atadjanov builds upon his doctoral thesis⁴ and reflects upon the notion of humanity in international law. Katja Samuel’s article on the legal character of due diligence is comprehensive and illuminating. The two following articles by former LL.M. students at KIMEP University’s School of Law, Sultan Sakhariyev and Selbi Durdiyeva, build upon their respective research on international anti-corruption law and the right to work at the intersection of IHL and international human rights law (IHRL). Alberto Pecoraro’s article deals with the application of the most-favoured nation principle in bilateral investment treaties.

Next, Muslim Khassenov discusses the collective bargaining systems in Germany and Kazakhstan, and Nazim Ziyadov compares the judicial analysis techniques at the Russian Constitutional Court and the European Court of Human Rights. It is hoped that lessons from foreign contexts, which the authors helpfully discern from the respective case studies, might be useful in the Central Asian legal systems.

After that, selected issues relative to the application of international law to ongoing developments in Central Asia are discussed. Bebit Shangirbayeva inaugurates the section by addressing the implementation of the International Covenant on Civil and Political Rights (ICCPR) in Kazakhstan. In the next article, Ekaterina Antsygina and John Quigley discuss some current issues of the Eurasian Economic Union (EEU). Khalida Azhigulova’s piece on regional labour mobility within the EEU adds well to the subject. An article by Evhen Tsybulenko and Anastassiya Platonova offers a thoughtful assessment of some legal instruments of the Shanghai Cooperation Organization. In conclusion of the

2 On 14 May 2018, the President of Uzbekistan issued Regulation No. PP-3723 “On Measures for a Cardinal Improvement of the System of Criminal and Criminal Procedure Legislation”, to which an according Concept was attached. The Regulation noted, in particular, an insufficient implementation of internationally recognised institutions of criminal law, including the absence of criminal responsibility of legal entities.

3 See Sayapin 2021, p. 169.

4 See *passim* Atadjanov 2019.

section, Khalida Azhigulova offers another insight – this time, on the Central Asian States' compliance with IHRL and international refugee law.

In the Book Review section, two notable publications are discussed: Rustam Atadjanov offers a review of a French-language *Dictionnaire encyclopedique de la justice penale internationale* (Encyclopaedic Dictionary of International Criminal Justice) edited by Olivier Beauvallet, whereas Tymur Korotkyi reflects on a Ukrainian translation of Philippe Sands' landmark *East-West Street*.

On behalf of the Editorial Board, we wish all readers an engaging intellectual journey with the authors of the *Yearbook's* first volume. It is dedicated to the memory of Professor Dr. Zhenis Kembayev who had kindly agreed to join the *Yearbook's* Editorial Board but passed away in January 2019. Professor Kembayev was a prominent international law scholar and will be remembered as such by his colleagues and students.

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Last but not least, we dedicate this volume to the brave people of Ukraine who are now resisting Russia's brutal aggression. This war will surely have profound effects on the international security architecture,⁵ and on the future of international law in the post-Soviet space.

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Editors

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5 See Sayapin 2022, p. 770.