arduous task for the student to perceive the links between the general and particular concerns.

Some of the topics also merit more extensive treatment. For instance, the topic of a human right to a clean environment, which is the subject of many books[5] and articles, raising heated discussions not only as to its content but also as to its very existence. Likewise, more attention would be welcome to such important problems – with great legal connotations – as common heritage of mankind and common concern of mankind (such as the problem of who is an injured party in case of damage to the areas under the regime of common heritage of mankind).

The above remarks, however, do not diminish the great value of the book under review. This book has a rare feature – it stimulates thinking; and that would be reason enough even on its own for the work to merit wide use.

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1. J. Seed, 'Anthropocentrism', in B. Devall and G. Sessions, *Deep Ecology: Living as if Nature Mattered* (Salt Lake City, Utah, Gibbs M. Smith 1985) p. 232.

2. See, e.g., C.M. Brölmann and M.Y.A. Zieck, 'Indigenous Peoples', in C. Brölmann, et al., eds., *Peoples and Minorities in International Law* (Dordrecht, Martinus Nijhoff Publishers 1993) p. 187; M. Fitzmaurice, 'The Sámi People: Current Issues Facing an Indigenous People in the Nordic Region', 7 *FYIL* (1996) p. 200

3. '... recognising the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitable benefits and practices relevant to conservation of biological diversity and the sustainable use of its components.'

4. C. Marchant, *Radical Ecology; The Search for a Livable World* (New York, Routledge 1991) p. 315.

5. See, e.g., A. Boyle and M. Anderson, eds., *Human Approaches to Environmental Protection* (Oxford, Clarendon Press 1996).

L. HANNIKAINEN; F. HORN, eds., *Autonomy and Demilitarisation in International Law: The Åland Islands in a Changing Europe*, Kluwer Law International, The Hague 1997, US$ 179.00. ISBN 90-411-0271-x.

1. Introduction

The case of the Åland Islands is famous in international law. It illustrates in many ways the diversity and complexity of 'minority rights issues'. At the same time, however, it is relevant for a series of other debates in international law. Before discussing two aspects of the Åland Islands' case in more detail – the concept of autonomy and the

issue of protecting a minority within a minority – it may be correct to give an overview of the chapters of the book, at least by mentioning their titles and authors.

Apart from a very informative introductory chapter by Gunnar Jansson and general conclusions by Rainer Hofmann, the book consists of ten chapters: 'Åland in the New Europe: A Case of Post-Sovereign Political Life' (Pertti Joenniemi); 'The Åland Islands as a Demilitarised and Neutralised Zone' (Allan Rosas); 'Demilitarised and Neutralised Zones in a European Perspective' (Christer Ahlström); 'The International Legal Basis of the Autonomy and Swedish Character of the Åland Islands' (Lauri Hannikainen); 'The Autonomy of the Åland Islands in the Constitutional Law of Finland' (Sten Palmgren); 'The Constitutional Setting of the Åland Islands Compared' (Markku Suksi); 'The Right of Domicile in the Åland Islands in the Light of Human Rights Treaties and the European Integration Process' (Kristian Myntti and Martin Scheinin); 'Minorities in Åland with Special Reference to their Educational Rights' (Frank Horn); 'The Special Status of the Åland Islands in the European Union' (Niklas Fagerland); and 'The Åland Islands in International Law and Cooperation: The Legal Capacity of an Autonomous Region' (Athanasia Spiliopoulou Åkermark).

2. The Åland Islands and their concept of autonomy

The Åland Islands, according to Pertti Joenniemi, are 'the most prosperous region in Finland' (pp. 16-17), and consider themselves 'less than a State, but more than a region' (Athanasia Spiliopoulou Åkermark, p. 268). They are located in the Northern Baltic Sea, composed of some 6,500 islands and skerries, 80 of which are inhabited throughout the year. The inhabitants are mainly Swedish-speaking, and enjoy autonomy under the sovereignty of Finland. In addition, the Islands are a demilitarised and neutralised zone. In his introduction to the book, Gunnar Jansson says that the 'Åland Islands Question' arose in the turmoil at the end of World War I, mainly as a result of the Wilson doctrine of the right to self-determination (p. 2). Already before the independence of Finland in December 1917, a political movement had been initiated within the Åland Islands towards secession from Finland and reunion with Sweden, owing to the fear of the political situation in Russia and its possible consequences for Finland. In May 1920, the Finnish Parliament enacted the Act on the Autonomy of Åland. Jansson notes: 'It goes without saying that Finland reluctantly offered Åland autonomy for fear of losing the Åland Islands completely' (p. 3). The result of the Finnish way of dealing with the issue – that is to say: granting autonomy, without consultation of the Åland Islanders – was that the Åland Islands did not accept the Act. Finally, the question was referred to the newly established League of Nations, as a dispute between Finland and Sweden (on this issue see the contribution by Lauri Hannikainen, pp. 57-60). Jansson observes: 'The opinion of the Ålanders was not canvassed; they were not invited to the League in Geneva. When, finally, their representatives appeared there, they were perceived as rather odd creatures who had big hands and did not speak any foreign languages' (p. 3). In June 1921, the Council of the League of Nations made its final decision, with, as Jansson notes, 'something in it for everyone: 1. sovereignty over Åland for Finland; 2. autonomy for Åland; 3. demilitarisation and neutralisation of Åland for Sweden' (p. 3).

After the League of Nations' decision, the debate on the position and status of the Åland Islands continued. By the end of the century, the Åland Islands have their third generation Autonomy Act, which came into force on 1 January 1993. According to the present law, the Åland Islands do have legislative competencies on a range of topics. A few aspects of the relevant section (18) of the Autonomy Act, printed as an Annex to the book, are:

'1) the organisation and duties of the Legislative Assembly and the election of its members, the Government of Åland and the officials and services subordinate to it;
. . .
3) the flag and coat of arms of Åland and the use thereof in Åland, the use of the Ålandic flag on vessels of Åland and on merchant vessels, fishing-vessels, pleasure boats and other comparable vessels whose home port is in Åland . . .;
4) the municipal boundaries, municipal elections, municipal administration and the officials of the municipalities . . . ;
5) the additional tax on income for Åland and the provisional extra income tax, as well as the trade and amusement taxes, the bases of the dues levied for Åland and the municipal tax;
6) public order and security, with the exceptions provided by Section 27, subparagraphs 27 [firearms and ammunition, WvG], 34 [the armed forces and the border guards, WvG] and 35 [explosive substances in relation to state security, WvG]; the fire-fighting and rescue service;
7) building and planning, adjoining properties, housing;
. . .
10) the protection of nature and the environment, the recreational use of nature, water law;
. . .
12) health care and medical treatment . . .;
13) social welfare; licences to serve alcoholic beverages;
14) education, culture, sport and youth work . . .;
15) farming and forestry, the regulation of agricultural production; provided that the State officials concerned are consulted prior to the enactment of legislation on the regulation of agricultural production;
16) hunting and fishing, the registration of fishing vessels and the regulation of the fishing industry;
. . .
19) the right to prospect for, lay claim to and utilise mineral finds;
20) the postal service and the right to broadcast by radio or cable in Åland . . .;
21) roads and canals, road traffic, railway traffic, boat traffic, the local shipping lanes;
22) trade . . . [subject to a series of limitations, amongst other things, when foreign trade is concerned, WvG];
23) promotion of employment;
. . .

26) the imposition of a threat of a fine and the implementation thereof, as well as the use of other means of coercion in respect of a matter falling within the legislative competence of Åland.'

This section of the Autonomy Act illustrates two things. Firstly, the concept of autonomy as such is an interesting but vague notion, which always has to be 'filled in' before it is tangible. In this respect, it is also worth mentioning that the book contains many examples of autonomy arrangements in other places in Europe – such as Spain, Denmark, France, Portugal and Croatia – which are compared to the Åland case (see, amongst other contributions to the book, the essay of Markku Suksi). Secondly, the quoted text shows what autonomy means in the case of the Åland Islands: it relates to procedures of political decision-making, large parts of the cultural and economic life, and even – see section 26 – the use of means of coercion, in respect of matters falling within the legislative competence of the Åland Islands. In other words: in the Åland case, the concept of autonomy has a broad content and, as has been shown throughout the book, it is a success formula. As Suksi once observed: 'When discussing territorial autonomy and minority protection, the model of the Åland Islands is often brought to the fore, and not without good reason. The Åland Islands may be presented as a case in which autonomy helped to solve a conflict situation.'[1] Having read the book under review, I can fully agree with Suksi.

One of the interesting points in relation to the Åland Islands' autonomy concerns its relation to the European Union. 'Normally', one would say that relations between autonomous areas and organisations such as the EU would be arranged along intergovernmental lines. This would mean that it is a matter of external, Finnish state relations, and not of the Åland Islanders themselves. In the case of the Åland Islands, however, the Autonomy Act led, for instance, to the obligation for Finland to organise a separate regional referendum on the question of whether the Islands' inhabitants were prepared to join Finland's accession to the EU (which they did, with almost 74 per cent in favour, see p. 7). But while acceding is one thing, influencing EU policy after having accepted its membership is another. Therefore, it has been decided that the Islands have direct relations to the EU (see section 59a-c of the Autonomy Act, added to it in 1994 and in force since 1 January 1995). On the basis of the amendment, the Åland Islands have the right to be informed by the Finnish government about matters being prepared by the organs of the EU 'if such matters fall within the jurisdiction of the [Ålandic] Government or may otherwise be of importance to Åland' (section 59a). In addition, according to the same section, the Ålandic government is entitled to representation in relevant Finnish bodies when preparing issues in this field, to take part in the formulation of 'the national positions of Finland' (section 59b), and to be a member of the Committee of the Regions of the European Community (section 59c). In the book under review, Sten Palmgren (pp. 94-95) and Niklas Fagerlund (pp. 232-236) deal in detail with the participation of the Åland Islands in the EU decision-making process. One of Fagerlund's conclusions is that 'the underlying rationale has been to create a flexible system allowing the Ålandic authorities to decide for themselves when to pursue a particular matter' (p. 235). The words 'flexible' and 'for themselves' need to be especially underlined.

3. Protection of a minority within a minority

At present, the Åland Islands have about 25,000 inhabitants. Nearly 95 per cent of them speak Swedish as their mother tongue; the rest speak Finnish and other languages (Jansson, p. 1). As Frank Horn rightly notes, in international legal doctrine the legal status of the Swedes of Finland is 'frequently considered a model when discussing minority guarantees' (p. 151). Over the last decades, the position of minorities has been given a lot of attention in several international fora. In the framework of the United Nations, for example, one can think of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; the 1994 General Comment of the Human Rights Committee on Article 27 of the International Covenant on Civil and Political Rights (the article dealing with the protection of persons belonging to ethnic, religious or linguistic minorities); and the Working Group on Minorities, established by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (established in 1995 and chaired by the Norwegian minority rights expert Asbjørn Eide). At the regional, European level one can mention the Organisation on Security and Co-operation in Europe and its many efforts to deal with the issue, especially the 1990 'Copenhagen Document', giving detailed standards for minority protection and the creation, in 1992, of the post of High Commissioner on National Minorities. In addition, the Council of Europe adopted a European Charter for Regional or Minority Languages (1992) and a Framework Convention for the Protection of National Minorities (1994). One could also add the many efforts of the European Union dealing with the issue, for instance, in the framework of the realisation of the Pact on Stability in Europe ('Plan Balladur', 1994) and the negotiations on association agreements with several Central and Eastern European countries. In general, one can say – at least for the moment – that the position of minorities is receiving a great deal of attention on multilateral as well as bilateral levels. Considering the position of the Swedish minority within in Finland, one can say that the book under review confirms the previous statement that it can be seen as a model situation.

What about the position of minorities within minorities, as, in this case, the position of the Finnish minority within the Swedish-speaking minority? What about their right to use their own language, for instance, in official contacts, and their right to education in the minority language? According to Horn:

> 'The aim is to find out whether the autonomy regime of Åland may contradict minority rights or human rights. The autonomy regime in itself provides one of the highest forms of minority guarantees, going far beyond the minority rights as embedded at present in international legal instruments. The first step would be to clarify whether Finnish-speakers in Åland do constitute a minority with the capacity to invoke minority rights in spite of the fact that they belong to the majority population of Finland as a whole. If the answer is in the positive, would the autonomy regime violate internationally binding minority rights? Or, alternatively, would the special measures for the protection of the Swedish culture and language be in conflict with commitments under human rights treaties?' (p. 160).

And:

> 'With regard to which territorial unit should the numerical criterion of a minority be fulfilled? Should it be asserted only with respect to the entire territory of the State or could it also be asserted with respect to territorial sub-units? Naturally this issue could not be determined with reference to any area whatsoever, but only with respect to an administrative unit, a unit vested with a minimum amount of legislative and executive powers.'

In his contribution, Horn deals with these questions by discussing, amongst other things, the case law of the Human Rights Committee, which had to take a (small) series of decisions in minority rights cases (based on alleged violations of Article 27 of the International Covenant on Civil and Political Rights). Horn quotes the majority view of the Committee in the cases of Ballantyne, Davidsson and McIntyre (Nos. 359/19989 and 385/19989), that 'persons are necessarily excluded from the protection of Article 27 where their group is an ethnic, linguistic or cultural minority in an autonomous province of the State, but is not clearly a numerical minority in the State itself, taken as a whole entity' (p. 163). He rightly adds, however, that 'nothing in the preparatory works would hint that such an understanding had been intended by the drafters' (p. 164). This position is also supported by the European Court of Human Rights in the *Belgian Linguistics* case (Judgment of 23 July 1968). Horn observes: 'Basically, the idea was accepted by the European Court that Dutch-speaking Flemish could constitute minorities within French-speaking Wallonia and that French-speaking Walloons could do so in Dutch-speaking Flanders' (pp. 164-165). Despite his arguments, Horn must admit, however, that there is no clear-cut answer to some of the present questions, and that only a close scrutiny of the exerted juridico-political powers at the local level can bring solutions in concrete cases (p. 165).

In addition, Horn discusses a series of human rights instruments, relevant to the case in point (for instance, the 1960 UNESCO Convention against Discrimination in Education and the above-mentioned 1992 European Charter for Regional or Minority Rights), in order to answer the question of whether the language and education sections in the Autonomy Act are in conformity with existing international law. The Autonomy Act states, for example, that the official language of Åland shall be Swedish (section 36), and that 'in a matter concerning himself a citizen of Finland shall have the right to use Finnish before a court and with other State authorities in Åland' (section 37). Excluded is, for instance, the right to speak Finnish to the Åland administrative authorities. Horn concludes that no conflict exists between legal Ålandic provisions and existing human rights treaty law (p. 181). He admits, however, that in case somebody would like to maintain that the provisions in the Autonomy Act are not in conflict with certain provisions in human rights treaties, the question would still have to be answered of which of the provisions would have to prevail (p. 181): 'No predominance can be established due to the fact that the relevant norms [related to the autonomy regime, respectively internationally recognised human rights treaties, WvG] belong to different categories of norms under international law' (p. 181). To be frank, this argument does

not convince me, and maybe not even the author either. Supporting his thesis, he speaks of arguments, which are, in the end, 'of a more speculative kind' (p. 182). Rainer Hofmann, in his conclusions to the book, reformulates – and responds to – Horn's central problems as follows:

> 'In my opinion, neither general international law nor international treaty law guarantee – as yet – an unqualified right of persons belonging to a national minority to instruction in or of their mother tongue in schools maintained or funded by public authorities; the same conclusion would apply *a fortiori* to persons belonging to a local minority such as the Finnish-speaking population of the Åland Islands. Thus, the present linguistic regulations applicable in Åland cannot be considered as a violation of international minority law. If, however, one adheres to the view that such a right does exist under current international human rights law, the question arises as to whether the specific legal status of the Åland Islands, based upon customary international law, prevails over Finland's obligations resulting from the relevant human rights treaties to which it is a party. Since, in my opinion, the linguistic regulations presently applicable in Åland constitute the necessary domestic implementation of the pertinent contents of the international customary law regime pertaining to the Islands, those Ålandic provisions are to be considered as "special legislation" which, pursuant to the rule *lex posterior generalis non derogat legi anteriori speciali*, would prevail over later human rights treaties as constituting general legislation' (pp. 289-290).

It is a conclusion which can be based on solid arguments, yet one may wonder if it can still be upheld after a complaint by a Finnish-speaking citizen before the European Court of Human Rights concerning the fact that he is not allowed to address the Ålandic authorities in his mother tongue. A similar situation can occur when Finland has to report on its practice regarding the implementation of the Framework Convention on National Minorities of the Council of Europe. After all, the Convention says, in Article 10(2), that

> 'in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.'

In the Explanatory Report to the Convention, it is added that the term 'administrative authorities' 'must be broadly interpreted to include, for example, ombudsmen'.[2] It would be interesting to hear the judgment of the Court, and the opinion of the advisory committee and the Committee of Ministers respectively.

4. Concluding remarks

As all minority situations, the case of the Åland Islands is the result of a series of historical, political and coincidental circumstances. The book under review consists of a broad range of extremely interesting issues in the field of international law, only some of which have been discussed in the present contribution. Other issues are, for instance, related to the right to self-determination, the right of domicile, the demilitarisation (and the demands for remilitarisation) and neutralisation of the Åland Islands and the relevance of the *clausula rebus sic stantibus* in relation to the Autonomy arrangements of the beginning of the present century.

Let me conclude this review by paraphrasing the words of Pertti Joenniemi, in a very interesting chapter, entitled 'Åland in the New Europe: A Case of Post-Sovereign Political Life'. There he discusses, amongst other things, the Åland strategy towards a maximal realisation of its wishes to be more than 'just a region somewhere in the world'. As Joenniemi notes, the Åland Islands have applied a certain *dual strategy*, aiming at offence rather than defence:

> 'Åland has been able to avoid being discredited, disempowered or mentally exiled. Instead, by cautiously exerting its "nuisance power", it has been able to remain a topical issue in the debate. These policies have helped Åland to avert the various efforts of disciplining Åland and of enforcing a return to the standard hierarchies that are assumed to prevail within the nation-State and the context of the sovereignty-based old agenda. Instead of becoming docile, it seems to have taken on a whole new life since the late-1980s. Åland has elevated itself, by guarding its position as a deviant case within the old agenda, into an actor that is not just interesting in view of the traditional constitution of political space, but also in regard to issues high on the new agenda' (p. 19).

Joenniemi speaks about 'issues high on the new agenda', such as regional representation in the EU and creating autonomy in a fruitful manner. The case of the Åland Islands rests, as Joenniemi says, 'along with a number of other region-like configurations, on a certain plurality that pertains to the overall figure of the European political landscape, but at the same time it adds to and fortifies this plurality' (p. 19). Adding to and fortifying European plurality has been one of the results of almost century-long struggle for the preservation of a separate Åland identity.

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1. *Autonomies locales, intégreté territoriale et protection des minorités/Local Self-Government, Territorial Integrity and Protection of Minorities*, the Swiss Institute of Comparative Law in coopera-

tion with the European Commission for Democracy through Law of the Council of Europe (Venice Commission) (Zurich, Schulthess 1996) p. 93.

2. H (95) 10, Strasbourg, February 1995.

D. NELKEN, ed., *Comparing Legal Cultures*, Dartmouth Publishing Co. Ltd., Aldershot 1997, viii + 274 pp., paperback UK£ 17.50. ISBN 1-85521-898-4.

This book is published in the Socio-Legal Studies Series, which brings together scholars with an interest in the functioning of law in society. The series is founded on the paradigm that law occupies a prominent place alongside other social sciences. This perspective at once exhibits the intriguing character of the book and of its title. Since cultures have a profoundly local rootage, what purpose does it serve to compare them? What modality of comparison should be adopted? What lessons for practical causes, would emerge from such comparison?

Such issues call for original analysis, which is what the book seeks to provide in the form of essays.

The book is divided into two Parts: Part I entitled 'Invoking Legal Culture: Debates and Dissents'; and Part II entitled 'Disclosing Legal Culture: The Production of Difference'. Part I contains eight essays that take controversial conceptual positions, or provide rejoinders to such positions. Part II comprises five essays which provide specific illustrations on the problem of law and culture.

In his introduction to the book, David Nelken emphasises that the object of the contributors is not merely to juxtapose the respective features of the legal system in a certain number of countries, merely for the purpose of providing learned discourse, but to facilitate a true understanding of 'the other' system in its functional character, taking advantage of the mirror-effect of the comparative method: 'the aim of this collection is to consider the possibilities and advantages of using comparative work so as to clarify the meaning and character of *legal culture*' (p. 1).

Roger Cotterrell, in chapter 1, sets the stage for the theoretical debate by discussing the concept of legal culture. He argues that the main conceptual mechanisms of comparative law have one major limitation, as regards its possible application in respect of the sociology of law: such mechanisms do focus on legal *doctrine*, whereas the sociology of law is primarily concerned with legal ideas and practices that inhere in the social context:

> 'One of the enduring problems of comparative law has been its inability to demonstrate convincingly the theoretical value of doctrinal comparisons separated from comparative analysis of the entire political, economic and social (we might call it contextual) matrix in which legal doctrine and procedures exist . . . Comparative law has seemed unable to provide viable frameworks for comparison of laws or legal systems treated as aspects of or elements within a political society . . . ' (pp. 13-14).