

1981

## Book Reviews

---

### Recommended Citation

*Book Reviews*, 15 INT'L L. 519 (1981)

<https://scholar.smu.edu/til/vol15/iss3/9>

This Bibliography is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in International Lawyer by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

## **Book Reviews**

### **The Law of Contract in Malaysia and Singapore: Cases and Commentary**

By Visu Sinnadurai: Kuala Lumpur: Oxford University Press, 1979.

This book is especially useful to students and practitioners in Malaysia and Singapore because for the first time we have in one volume the reported cases which have been decided by the local courts relating to the law of contract as it is applied in these two countries. The Malaysian law of contract appears in the form of a statute which is based on the English law of contract. The English law of contract applies in principle in Singapore. In this book you will find decisions of the superior courts of Malaysia and Singapore and also those of the Judicial Committee of the Privy Council relating to appeals from both these countries and from India and East Africa which interpret the Indian Contract Act upon which the Malaysian Contracts Act, 1950 was patterned.

Each chapter of the book consists of four sections. The first section gives an introduction to the law under discussion with comments on the statute law which obtains in Malaysia and a comparison between the statutory provisions and the relevant provisions of the English law. The second section contains edited versions of cases. The editing however has retained all the essentials of the decisions as they were in the original form with the original headnotes postulating the principle of law for which the decision is authority. This is particularly helpful to students and practitioners as it enables them to appreciate the principle by following the reasoning of the court. Immediately following the cases cited are notes which are explanatory or critical comments on these cases and contain references to unreported cases which are relevant to the matter under discussion.

The third and fourth sections of each chapter where they appear give more particularised treatment of topics which qualify for more specific treatment than those appearing in the second section. The cases illustrative of the principles so particularized and treated are also followed by notes.

The last section of each chapter consists of a bibliography of selected authorities affording the diligent student a fount for research. These

authorities consist of leading books and articles which the author states are readily available in the local law libraries. These authorities are of diverse origins—Australia, Canada, India, New Zealand, United Kingdom and the United States. A comprehensive table of cases with full citations has been provided. There is also a very full table of statutes with a comprehensive list of the sections referred to in the book. Much thought and much effort must have been put in to produce this book which is well-arranged and extremely readable. The reader can by means of a quick glance at the table of contents, cases or statutes or the conventional index easily find the way to the answer to his specific problem or inquiry.

This is a book which will not only answer the long-felt need of the local student or practitioner but will also provide an excellent introduction to the common law principles of contract law generally and to the more particular principles of contract law applicable in Malaysia and Singapore. I have personally found it a very useful reference book and commend it to all those who would like to have a firm grounding in the contract law of Malaysia and Singapore.

DATUK L.C. VOHRAH  
Kuala Lumpur  
High Court

## **The Irish Triangle: Conflict in Northern Ireland**

By Roger H. Hull. Princeton: University Press, 1978. Pp. 271. Bibliography. \$4.95.

Legend has it that St. Patrick converted Ireland to Christianity using the shamrock to explain the mystery of the Trinity. In much the same way, Professor Hull uses the triangle to explain another mystery, the 300-year political conflict in Northern Ireland. Professor Hull's purpose is also conversion, to persuade Dublin, Belfast and London to turn away from the men of violence who for 300 years have spoken the loudest, and to place their faith instead in international law. Cautioning against both cynical disenchantment with international law and against overoptimistic faith in its efficacy, he argues that although some areas of international law are not enforced, "law at its worst is still far preferable to violence at its best." He recognizes that for some international law is nothing more than a solidification of the status quo and protection for the inequitable; that for others it does not exist at all. But for Professor Hull, we live in a world where future safety "depends on the rule of the law."

This book deserves a warm welcome from practitioners of international law. The unique analysis the author employs is particularly instructive.

Each chapter is divided into 5 parts: a noncontroversial introductory statement of the pertinent facts or law; the facts or law as seen from the Dublin, London and Belfast points of view; and the author's personal conclusions. The historical background and recent history are first examined. In subsequent chapters the legal status of Northern Ireland as part of the United Kingdom is discussed. Professor Hull then carefully examines several international legal issues, particularly human rights concerns. He finds that human rights are being systematically violated, but that humanitarian intervention is unlikely. In the final chapter, he concludes that Britain has now recognized with respect to Ulster, as Lord Acton said, that "power tends to corrupt and absolute power corrupts absolutely." He recommends: an end to terrorism by extending just and equitable treatment to all citizens; an international peace-keeping force to replace the British Army; maintenance of the political status-quo until a political solution can be found; and integration of the schools of Northern Ireland. He concludes that if the next generation of Ulster's citizenry is to live in peace, "it will take a momentous decision—as momentous as the 1954 decision of the United States Supreme Court regarding dual school systems—to shake Northern Ireland loose from its sectarian foundations and move it forward."

Professor Hull's analysis raises the central question whether international law can be effective as a counter to violence if individuals as well as nations do not have effective remedies for redress of legal wrongs. In 1978 the European Court of Human Rights considered Ireland's claim that prisoners in the Maze Prison in Ulster were being subjected to torture in violation of international law. The court found that sleep deprivation, hooding, exposure to hissing noises, reduced diets, and having to stand against a wall for hours, although inhuman and degrading, did not constitute torture. (*Ireland v. United Kingdom*, Judgment of January 18, 1978.) However, in this country, courts have recently given effective recognition to international rights. In *Filartiga v. Pena-Irala*, 630 F.2d 876, (1980), the United States Court of Appeals for the Second Circuit held that citizens of Paraguay who had applied for permanent political asylum in the United States, could bring an action against another citizen of Paraguay for wrongfully causing the death by torture of their son. The court reasoned that deliberate torture carried out under the color of official authority violates universally accepted norms of the international law of human rights and is actionable in the federal courts of the United States.

Closing this book, one is left with a profound sense of tragedy. The labor begun by St. Patrick when he came to Ireland from Wales, to gather a righteous people, "eager to do what is right," is not yet accomplished. Anyone who loves Ireland, north or south, or Britain, must wonder at the meaning of so much human suffering. The Irish Triangle remains a mystery which has imprisoned Dublin, London and Belfast and recalls the words of King Lear to his daughter at the close of Shakespeare's tragedy, "Come, let's away to prison; . . . we two alone will take upon us the mystery of things."

The real story, like an Elizabethan tragedy that might appropriately be titled "the Shame of Christianity" is told in the footnotes: the triumph of hate, violence and unreason over love, peace and international law.

Professor Hull tells this story through copious footnotes which often include quotations of the adherents, illustrating in dramatic fashion the wide chasm separating the participants. Hull translates the rhetorical positions of the parties set forth in the footnotes into the neutral language of international law, thus exposing the depths of the feelings on each of the three sides. Hate, recrimination, and savagery leap forth from the footnotes on page after page.

Professor Hull demonstrates that the Irish struggle does not yield easily to the demands of reason or international law. We sense that meeting the requirements of justice alone will not be enough; that if the persons involved in the struggle are to become more human, words such as love, mercy and forgiveness must become part of their vocabulary. How paradoxical and how very sad is the absence of forgiveness—this most Christian of virtues in this most Christian of countries—in a war fought and advocated on all three sides in the name of Christianity. Like St. Patrick who said, "Daily I expect either murder, or robbery or enslavement or the occurrence of some such calamity," but hoped in God, we can pray for God's blessing upon all of the people of Ireland in the words spoken to Moses: "The Lord look upon you kindly and give you peace." *Numbers* 6:26.

ARTHUR R. MATTHEWS, JR.  
Chicago

## **International Business Transactions**

Walter Surrey and Don Wallace, Jr., eds., Philadelphia: ALI-ABA 2d ed. 1980, vol. IV.

This book is part of a four-volume treatise on international business transactions. The eventual work (this being the third to be published, with vol. III expected as the fourth in the near future) is an "integrated" treatment of the subject, as the editors state in their Preface. There is provision for updating the work through pocket-part supplements.

Volume I, published in 1977, covered public law aspects of international business; volume II focussed on the financing of international trade; and volume III promises to be a study of various aspects of international investment, including United States and foreign antitrust laws and the like.

The present volume is a survey of "regional and new developments." It includes a detailed overview of the EEC and a discussion of the framework for foreign investment in Japan, in Latin America (both national laws and

the structures and regulations of regional institutions) and in developing countries. It also includes four essentially unrelated chapters: procurement by developing countries, United States capital controls to assist the balance of payments, international legal protection of the environment, and the United States Foreign Agents Registration Act of 1938.

Given this broad diversity of subject matter, it is difficult to assess the usefulness of this volume. As part of a larger work, it is valuable insofar as it rounds out and completes an attempted survey of the entire range of issues confronting the lawyer dealing with international business transactions. The best analysis of this volume is achieved by analyzing its treatment of its individual subjects, acknowledging their place in the overall scheme of the treatise.

The discussion of the European Economic Community, for example, is very comprehensive yet remarkably brief. There are many other volumes available which purport to describe and/or analyze the EEC; for an attorney who wants only a simple (though accurate) source of information, the present volume will be much more helpful than more detailed texts. What is particularly useful is this volume's extensive references in footnotes to original sources, thus allowing an interested reader to pursue matters of individual interest. Coupled with a detailed bibliography for each chapter, arranged (in the case of the EEC) by subject matter, the book is a wonderful beginning point for any lawyer with a matter in this area.

As with any volume on law, especially in the international area, this book is already out-of-date on certain details. What is unique about this book is that each chapter carries with it an explicit date; the EEC chapter, for example, states that it is current as of February 1979. Presumably the pocket-part supplements will eventually provide more recent information.

Other chapters, however, are much less helpful. It may be possible to summarize adequately the treatment of foreign investment in Latin America; by giving at least brief treatment to the national laws of the major countries in the region and to the increasingly significant regulations of regional organizations such as the Andean Common Market, an accurate and useful treatment can be obtained. To do the same for "the developing countries," however, is almost foolishly ambitious and is certainly less successful. The best that can be achieved is the use of some countries as illustrations of certain principles; Egypt, Malaysia and Indonesia seem to be the most common examples, although Latin American countries also recur in this chapter. Given the exceptionally brief (and almost useless) index, lawyers interested in any particular developing country will find the book of only limited utility. (The detailed Table of Contents is, in fact, much more descriptive than the Index.)

Also, given the structure of the "regional" material into the EEC, Latin America, Japan and the developing countries, certain other countries which are important to U.S. lawyers involved in international business transac-

tions appear to be omitted altogether: Canada, South Africa and Hong Kong, particularly.

A few chapters contain appendices of varying usefulness. The chapter on procurement by developing countries contains reprints of four articles on specialized subjects. The EEC chapter appends a list of names of members of the Commission and its directorates-general; this inclusion was an unusual decision, given that all Commission members were due to, and did, change as of January 1, 1981.

In general, then, this volume can be highly recommended to users of the entire treatise.

THOMAS M. HANEY  
Chicago

## **Human Rights and World Public Order**

By Myres S. McDougal, Harold D. Lasswell and Lung-Chu Chen, eds.  
New Haven and London: Yale University Press, 1980. Pp. 958. Index.  
\$45.00.

In 1959 McDougal and Lasswell produced an article, "The Identification and Appraisal of Diverse Systems of Public Order" (53 AM. J. INT. L. 621). In it they called for a reappraisal of the processes by which world order is maintained—particularly the doctrines and operations of international law. They pledged themselves to devote their scholarly efforts toward the realization of a "universal system of public order consistent and compatible with human dignity," and invited like-minded scholars to join them. Since then, they and their associates have given us several major books and many articles applying their characteristic techniques of analysis to various aspects of the problems associated with that basic goal.

The present book carries this work to a higher level of abstraction. It is addressed more to scholars than to official decision makers. In it the authors offer a comprehensive framework for inquiry about human rights and the institutional processes through which fulfillment and deprivations of such rights may come about. They view the subject from the standpoint of members of the community of humankind at large who seek to foster the realization of the largest possible shaping and sharing of the basic values the concept of human rights encompasses: respect (the core value) power, enlightenment, well-being, wealth, skill, affection and rectitude. The authors' approach proceeds from the assumption that all people and communities are interdependent, and all the basic human values are likewise interdependent. To analyze the claim of any particular sub-group of humankind to an increased share of a given value, it is necessary to analyze it in the light of

the effects that realization of the claim would have on other groups and on other values.

The institutional practices and processes of communities in which such claims arise also must be analyzed. The authors describe them in terms of participation, (the individual and group actors) perspectives (the demands, identifications and expectations), situations (geographic, temporal, institutional, crisis), base values, basis of power, strategies, and outcomes. These same value and process referents are used to analyze all contexts in which human rights claims arise.

After outlining the framework for analysis, the authors illustrate the approach through analyzing a number of contemporary human rights claims: for instance those relating to equality of opportunity and freedom from discrimination—racial, sex-based, religious, and linguistic. Claims for protection of aliens and the aged are also examined. The current status of such claims, and the prospects for eliminating through official and other measures obstacles to greater sharing of values in these areas are discussed and thoroughly documented. Future prospects are also projected.

This book is a major work of thought and scholarship. It is valuable not only for the theory it propounds (much of which is visible in the authors' earlier works), but also for the information about and analysis of particular human rights problems of contemporary global importance contained in it.

ROBERT C. CASAD  
Lawrence, Kansas

## **Foreign Enterprise in Developing Countries**

By Isaiah Frank, Baltimore: The Johns Hopkins University Press, 1980.  
Pp. 199. \$5.95.

Recently released from the Committee for Economic Development (CED), a private, non-profit research organization comprised of corporation heads and university presidents, this new study details important new changes taking place in the relationship between multinational corporations (MNCs) and developing countries.

The major theme optimistically asserts that MNCs have become sensitized to political and social needs of developing countries while those nations have become more pragmatic and cooperative in their dealings with MNCs.

To substantiate this claim, Dr. Frank, a former Deputy Assistant Secretary of State for Economic Affairs, analyzes the results of personal and written interviews with top managers of 402 subsidiaries from 90 MNCs based in the U.S., Europe, Japan, and Australia. The interviews cover a wide

range of controversial subjects such as finding independent sources for various components of a foreign investment package (unbundling), local borrowing, adaptation and licensing of technology, transfer pricing, investment incentives, export requirements and corrupt practices.

The bottom-line conclusion of Dr. Frank's analysis is that the majority of MNCs recognize that the developing country problems of poverty, population and social pressures are "on a scale that exceeds anything experienced in the Western World." Moreover, in their own interests, Dr. Frank points out, MNCs are accommodating host country needs by upgrading training of nationals, broadening local equity ownership, and adapting products and processes to meet the labor and market needs of the developing country. Simultaneously, these countries, because of increased contact with MNCs, are rapidly attuned to MNC operations and the need to create a more stable investment climate.

The strength of this work is that it does not pretend to offer prescriptions for MNC-host developing country relations. From the outset its objective is to present the view of this relationship from the perspective of top managers from various industrial sectors who must efficiently run subsidiaries while coping with the myriad pressures placed upon them by host governments. The results of these straightforward interviews highlight the problems and opportunities facing the MNC manager in the developing country while revealing important differences in the approaches of firms in various industries and from different home countries.

The weakness of this book is that it fails to examine the growing pressures that MNCs are facing from the various international organizations. Even though relations between MNCs and developing countries seem to be improving, the political debate, anti-MNC and regulatory efforts in the UN and other international fora are bound to continue.

The key point for MNC strategists to keep in mind is that in negotiating investments with developing countries there are two distinct levels at which these countries approach MNCs. The first level consists of the national authorities of trade, development and finance which are frequently eager to attract specific new investments. As Dr. Frank indicates, these officials, aware of the benefits that new enterprise and technology can bring their nations, are becoming increasingly pragmatic toward dealing with foreign investors.

The second level, on which Dr. Frank does not elaborate, consist of the LDC diplomats in the international organizations who act as spokesmen in global fora. These officials, though often prone to rhetorical diatribes against the *modus operandi* of MNCs, can nonetheless act as a source of pressure contrary to the perceived interests of MNCs in their traditional way of doing business in the present economic order as distinguished from the "New International Economic Order."

This pressure derives from the now well established bureaucracies (e.g. The UN Centre on Transnationals, The UN Conference on Trade and

Development Committee on Technology Transfer) which seek to increase the bargaining power of developing nations with MNCs. These bodies create a significant demonstration effect.

For although a given country may not immediately adopt a UN recommendation on corporate disclosure, technology transfer, or accounting standards, and may not have its decision on which company to deal with based entirely on a report by the UN Centre on Transnationals, all of these things gain legitimacy when they are cited in a speech by developing country officials, or used as the basis for a complaint by unions or other critics of MNCs. And, of course, the UN work is used as a source of company law by countries and sections of the several codes of conduct can find their way into National law.

Despite omission of a closer examination of third party pressure on the MNC—developing country relationship, *Foreign Enterprise in Developing Countries* is a convincing and well documented work that will command much attention for some time to come. It should be required reading for developing country diplomats in the international organizations. It would open their eyes to the slow but steady evolution of MNC relations that is taking place in their countries.

MICHAEL A. O'NEILL

## Letters of Credit

By William P. Streng and Fred C. Pedersen, Tax Management, Inc. Portfolio #418 (1980).

## Government Supported Export Credit

By William P. Streng, Tax Management, Inc. Portfolio #64-6th (1980).

Tax Management, Inc., a subsidiary of the Bureau of National Affairs, Inc., for some time has been publishing very useful Tax Management Portfolios dealing with various federal income tax topics. Its "Foreign Income Series" is devoted to foreign matters not limited to taxation matters. During 1980 it published two useful portfolios dealing with international financing matters.

The first, entitled "Letters of Credit" was prepared by William P. Streng, a partner of the Houston law firm, Bracewell & Patterson, (and formerly a Professor of Law, Southern Methodist University) and Fred C. Pedersen, an attorney with the Dallas law firm, Haynes & Boone. The second, "Government Supported Export Credit," also prepared by Mr. Streng, is a revision of a prior version of a portfolio on export financing.

The Letters of Credit portfolio is designed to be a basic working tool for persons advising with respect to international letter of credit transactions and for bank officers responsible for dealing with letters of credit. As the authors indicate, in international sales transactions the letter of credit is often a quite integral part of the export sales package (together with the contract of sale, shipping documents, transit insurance, and other related documents). In addition, as the Portfolio explains, significant financing and payment advantages can be obtained for both purchasers and sellers of goods, as well as for parties to other types of transactions, through the use of letters of credit, provided that these transactions are properly structured.

This portfolio covers both the "commercial" letter of credit and the "standby" letter of credit. In the commercial letter of credit context the topics treated include: The function of the commercial letter of credit, the basic types of letters of credit, the mechanics of letter of credit transactions, and common difficulties in completing the payment procedures under the letter of credit. In the section dealing with standby letters of credit, the portfolio examines the structure of standby letters of credit, the environment in which such instruments are used, and includes an analysis of the vital distinctions between a standby letter of credit and a guarantee. Quite useful working papers are reproduced in this portfolio, including examples of various types of letters of credit, as well as the pertinent international rules with respect to the interpretation of such letters.

The export credit portfolio analyzes the export credit support available under the various programs of the Export-Import Bank of the United States, the Foreign Credit Insurance Association, and its foreign government supported export credit competitors. The portfolio explains export credit insurance, commercial bank guarantees, Eximbank direct loans, domestic and foreign bank participation, and other export credit facilities. The working papers include diagrams evidencing the structure of the various types of export credit transactions, charts comparing the Eximbank programs with those of Eximbank's foreign competitors, and copies or summaries of various Eximbank documents and forms.

Both of these Portfolios will be quite useful to those lawyers having a need for a fundamental understanding of these two important aspects of international financing transactions. Both the fundamental concepts and their practical application are very cogently and analytically identified in these two quite useful publications. These Portfolios are extremely valuable additions to Tax Management's Foreign Income Series.

A.U. DE SAPERE  
Washington, D.C.

## The Oxford Companion to Law

By David M. Walker, Oxford University Press, 1980. Pp. 1366 with appendices, \$49.95

Dr. Samuel Johnson, known as "Dictionary Johnson," once described lexicographers as harmless drudges "doomed only to remove rubbish and clean obstructions from the paths through which Learning and Genius press forward to conquest and glory." Though *The Oxford Companion to Law* is not precisely a dictionary, Dr. Johnson's dictum is still, in part, applicable.

Through prodigious labor, David M. Walker, Regius Professor of Law at the University of Glasgow, has made a major contribution, in both clarity and precision, to the history of Western Law. His achievement in compiling the material for this work deserves more than a smile from students and scholars of the law, for they will certainly find that it facilitates their progress. Judging from a reading of his entries, one must conclude that Professor Walker is a man of wide reading, insatiable curiosity and enormous industry.

*The Oxford Companion to Law* is also not a legal encyclopedia. Rather, it is a reference book of concepts basic to the Anglo-American legal tradition. Its contents, however, are not limited to Anglo-American legal terms and institutions, but include explanations of their underpinnings in the earlier Greek, Roman and Germanic legal systems, from which they were derived. This compilation of important doctrines and principles of law is useful to lawyers and non-lawyers alike. Moreover, it is readable, a quality in scarce supply, that has probably led more than more one reviewer to praise a work undeserving on its merits. The book not only covers judges and jurists, who had a profound influence on the law, but also eminent men like John Wilkes, James Boswell and Richard Henry Dana, who gained fame in other fields, but left their imprint on the law.

In short, the book is a massive compendium of valuable legal information which covers the history of Western Law, from its early origins to the modern age. Professor Walker displays both practical sense and good judgment in his selection of materials. The book's only shortcoming results from necessity of condensation, a task at which Professor Walker displays considerable talent. It is a valuable and useful companion to essential legal reference books.

LEONARD J. THEBERGE  
Washington, D.C.

## **International Law Cases and Materials—with Documents Supplement**

By Louis Henkin, Richard Pugh, Oscar Schachter, and Hans Smit, eds. St. Paul, Minn. West Publishing Co. 1980 Pp. 1200. \$22.95 (text) \$5.95 (supp.).

## **International Law and World Order—with Documents Supplement**

By Burns H. Weston, Richard A. Falk, and Anthony A. D'Amato, eds. St. Paul, Minn. West Publishing Co. 1980 Pp. 1250. \$23.95 (text) \$5.95 (supp.).

The two texts reviewed here differ in their pedagogical approach. The first of them, by Henkin et al., follows the traditional approach. The various subjects of international law are treated in separate chapters, commencing with the nature and sources of international law, jurisdiction, and continuing to the use of force. The second of the texts, by Weston et al., has a problem oriented approach. It commences with a brief section of approximately three hundred pages on general doctrine and the views of commentators, and then followed by four clusters of problems grouped under such headings as war and peace, human rights, economic development, and the environment.

Lawyers who are in the practice of public international law will find the texts useful even though they are designed and expected to provide us the materials for teaching in the law schools. Each provides a fairly comprehensive survey of the subject and each brings together much of the recent materials and developments that must be within the grasp of any student or practitioner of public international law. Both have documentary supplements containing a selected and useful grouping of treaties, international agreements and other official documents.

There are however limitations in attempting to cover international law through case books. Most of the "materials" are articles or commentaries of the jurists and publicists and deserve to be read in their entirety instead of through extracts. The cases of the International Court of Justice and of other tribunals though lengthy along with the major treaties and international agreements should all be presented in full. There is a growing need to cite and provide the materials of foreign authorities—of foreign cases including the opinions of the arbitral tribunals.

While both case books will clearly serve the teaching of international law at the initial or law school level, the case books and texts of the future may be compelled to draw upon a common but large source of documentary materials maintained on a current basis. The writings of jurists might be placed on microfiche, for example, and made available in their entirety—thereby serving the smaller libraries in international law. These common

sources could be the repository for the teaching about the living, dynamic process of policy and the competing positions of modern states. In place of the case books and materials, it might be possible for future authors to provide us with instructional notes and aides to make some of this material more manageable.

Such an approach would bring us closer to the policy goals and policy orientation of Lasswell and McDougal and therefore closer to the realities of the global legal process that the practitioner is facing. The student might as well be exposed to all of this at an early stage.

Henkin et al. offers us an opportunity to look into two other features of international law that must be addressed in future textbooks and casebooks. The section on jurisdiction shows an awareness, but fails to provide for the full development of the policy implications of jurisdiction—the insistence of States in an interdependent world on regulating the activities and persons whose effects or actions affect the interests of the state. The Restatements have introduced the debate on this subject, and the cases cited in Henkin indicate a gradual development. However, an exploration into the “reasonableness” of greater state concern with jurisdiction that is concurrent, exclusive or primary (now illustrated most emphatically in the United States status of forces agreements) must be expanded in future texts: this, after all, is the fundamental policy issue of the future.

HARRY H. ALMOND, JR.  
Washington, D.C.

## **Israeli Occupation: International Law and Political Realities**

By Donald E. George. Hicksville, New York: Exposition Press, 1980.  
\$12.50

This book, the author tells us in his preface, began as a paper submitted in a law school course in 1973, and was recently brought “back into light” and published with new chapters to reflect post-1973 developments. In fact, the book remains the 1973 paper. Not one source in the extensive bibliography is later than that date, although the last seven years have produced considerable new insight into the subject of the legality of Israel’s continued occupation of territory taken in various Middle East wars. Only the Preface itself and a final chapter expand the discussion past 1973, into such obviously important topics as the Camp David Accords and the increasing Israeli withdrawal from the Sinai pursuant to those agreements.

The purpose of the book is to correct what the author calls Israel’s “control” of the media. It may be true that, until recently, the Arab position in

the conflict was poorly represented in the popular press in this country. If so, the corrective would be a balanced view, not (as this author presents) a position biased toward the other side.

This book cannot be recommended as even an introduction to the international law considerations of the subject. All of the author's sources are secondary; those sources which are cited are poorly used; and many other important sources are ignored. The author apparently claims no expertise or experience in international law. Doctrines, theories, treaties and opinions are thrown about loosely with little or no analysis.

The most serious drawback is its lack of topicality. The author's focus on occupied territory ignores the issue of the Israeli settlements. There is much more discussion of Gaza than of the West Bank, and a reference to the "Egyptian Gaza Strip" (p. 50) illustrates the complete absence of any Palestinian dimension from the discussion.

In short, there is no excuse for publishing in 1980 a book that was essentially written in 1973—especially one concerning a subject so volatile as this.

THOMAS M. HANEY  
Chicago

## Copyright Protection in the Americas

General Secretariat of the Organization of American States. Dobbs Ferry, New York: Oceana Publications, Inc., 1979. Loose-leaf. \$150 for two-binder set.

This is the fourth edition of a scholarly and practical work first published in 1943 by the then Pan American Union. Prepared by the Treaties, Information and Publications Unit of the Secretariat for Legal Affairs of the General Secretariat of the Organization of American States (OAS), this series consists generally of three parts: (1) national legislation; (2) international protection; and (3) texts of international treaties and conventions. The entire work is published in both English and Spanish combined in a loose-leaf format useful for keeping the work up-to-date.

For those who are not already familiar with this excellent publication, the fourth edition of *Copyright Protection in the Americas* contains summaries of the constitutional, statutory and regulatory provisions on copyright in each of the member states of the OAS, and reports on the status of international instruments considered binding in each country. Of particular interest in the current work is the addition of information on the national copyright legislation of new member states of the OAS: Barbados, Grenada, Jamaica, Suriname and Trinidad and Tobago.

Although the fourth edition is a considerable achievement and important contribution to copyright scholarship, a few changes in the present format might enhance its usefulness. When preparing future editions of this publication, consideration should be given to combining all material in English and all material in Spanish in two discrete volumes to be issued separately, perhaps in paperback form. The resulting publications may be easier to use and less expensive. The incorporation of the texts of most international copyright treaties and conventions should also be reconsidered. The inclusion of the texts of only the Inter-American treaties and conventions may be sufficient in light of other copyright publications.

PATRICE A. LYONS  
Washington, D.C.

## The Constitution of the Communist World

William B. Simon. ed. Alphen aan den Rijn, The Netherlands and Germantown, Maryland: Sijthoff & Noordoff, 1980. Pp. 644.

"A constitution—the legal definition of this term is basically the same in both communist and non-communist states: the fundamental law forming the basis of the body politic of both state and society." This is a collection of English translations of the constitutions or fundamental laws of fifteen Communist states: Albania (1976), Bulgaria (1971), China (1978), Cuba (as amended through 1976), Czechoslovakia (1960 and 1968), East Germany (as amended through 1974), Hungary (as amended through 1975), Kampuchea (formerly Cambodia) (1976), North Korea (1972), Mongolia (as amended through 1979), Poland (as amended through 1976), Romania (as amended through 1975), Soviet Union (1977), Vietnam (1960) and Yugoslavia (1974). These translations of the constitutions in force in the Communist bloc were specially commissioned by the Documentation Office for East European Law at the University of Leyden. The collection is intended to serve as an update to similar collections, such as Jan F. Triska's *The Constitution of the Communist-Party States* (Stanford, California 1968).

One of the premises behind this volume, discussed in its preface and introduction by William Simon, is that these fifteen constitutions share many of the same fundamental principles. These were adopted from the father of Communist constitutions, the 1936 Stalin Constitution. One of the most valuable parts of the book is its extensive "Systematic Index." The index is broken down into eighteen systematic headings, including "political system," "foreign affairs" and "courts/arbitration." Each heading has a number of detailed subheadings. The index is laid out as a matrix, loosely based on the current Soviet constitution. It is arranged to provide

an easy comparative reference to the fifteen constitutions. For example, by looking under the heading "political system" and subheading "state, definition of," you will discover that all fifteen constitutions contain a definition of the State in their first or second articles. The index entry under "centralized economy/plan" reveals that every constitution, except that of Democratic Kampuchea, contains at least four articles on the subject of a planned economy. This systematic index is an invaluable research tool.

Curiously, most of these constitutions are patterned on a Soviet Constitution that has been repealed. The old 1936 Stalin Constitution was replaced by the 1977 Brezhnev Constitution. This change in fundamental laws, as well as the amendment of at least ten of the other constitutions, gave rise to this book. Unfortunately, the volume is open to future changes. The editor is cognizant of this as he writes in the preface: "The printed word: it can be immortal or out-of-date before the ink is dry." In order to keep this collection up to date, the editor promises that any amendments or revisions will be published in the *Review of Socialist Law*, the quarterly publication of the Documentation Office for East European Law. This arrangement limits the usefulness of the collection because, by its nature as a hardback publication, it is impossible to update. Thus, the task of "Shepardizing" the constitutions to verify that their provisions are still in force is extremely difficult. Only a "Shepard's" of constitutions, which does not exist, or a looseleaf collection such as Blansetin's and Flanz's *Constitutions of the World*, which can be readily inserted, can solve this problem.

On the other hand, a looseleaf collection does not have the potential for comparative study as this volume does. Unfortunately, its potential is not fulfilled. Each translation is preceded by a very brief introductory note. The editor makes it clear that a "collection of translations is not a suitable vehicle for lengthy articles analyzing individual constitutions or discussing communist fundamental laws in a comparative context." These introductory notes vary in quantity and quality. Most are superficial summaries, often pointing out only the highlights or curiosities. The quality of these notes and the value of this volume could have been enhanced with a little spade work. The Albanian note, for example, discusses briefly the development of the Albanian Constitution and it begins to contrast the document with the Soviet Constitution. The Vietnamese note outlines the Vietnamese Constitution and provides the barest of a bibliography. Similarly, the Romanian note outlines the Romanian Constitution and notes what amendments have been made.

This collection could be improved by standardizing and upgrading the introductory notes, either by issuing guidance to the respective authors or through the editing process. For example, each note could have briefly summarized the general structure of the present constitution, indicated the key amendments or revisions that have taken place, and noted some of the historical background and philosophy to the constitution and its amendments. Further, each note could provide a bibliography listing where one

could find copies of earlier constitutions and suggesting writings which analyze the respective constitution in depth. To make the volume even more interesting, the editor could have expanded his introduction to compare and contrast the various fundamental laws to the Soviet Constitution. The systematic index is an excellent beginning for this comparative endeavor.

The recent years may have an impact on the constitutions of the Communist world. Kampuchea has been invaded by Vietnam and the Pol Pot regime replaced. Marshal Tito, the leader of Yugoslavia since World War II, has died. The People's Republic of China has lost Mao Zedong and is involved in its Four Modernizations. The Soviet power structure is growing even older and may face internal political strife. Nevertheless, this collection of constitutions, a single frame in the on-going political life of fifteen nations, is an invaluable addition to comparative and constitutional literature. Constitutions or fundamental laws are both a legal statement and a political statement of a society.

JOHN W. WILLIAMS  
McLean, Virginia

## **Comparative Law Yearbook, Volume 3, 1979**

Edited by Dennis Campbell. Alphen aan den Rijn, The Netherlands and Rockville, Maryland: Sijthoff & Noordoff, 1980. Pp. 287.

The 1979 volume of the *Comparative Law Yearbook*, issued by the Center for International Legal Studies in Salzburg, Austria, contains an eclectic combination of thirteen articles, ranging from a discussion of law reform in the People's Republic of China to the absence of the principle of consideration in Scots law. The articles are divided between a focus on a specific foreign law or legal situation, such as constitutional developments in Poland or merger controls in Germany, and comparative studies, such as a study of action ability criteria in the law of delict or of the application of the Uniform Law on International Sales. Except for articles on the *Sunday Times Case* in Great Britain, Polish constitutional law, and Western efforts to suppress terrorism (written by a Yugoslav), all the articles focus on aspects of commercial or private law. Furthermore, all of the articles, except for three, have a European or Western focus. The other three cover law reform in China, creditors rights in Zambia and the law of contempt in India. The articles also vary in scope, from a broad study of the transnational reach of American antitrust laws to a specific review of the impact of the English *Blohn v. Desser* case. The articles, most of which are extensively footnoted, vary in length from eight to twenty-eight pages.

The value of this collection is diminished by its inaccessibility. Unless one happens to see a copy of the *Yearbook* or a book review listing the contents, you would never know what gems could be available. It is indeed a shame that most yearbooks, especially hardback publications such as this, and annual periodicals are not indexed by the legal periodical indexes. Thus, if you were to turn to the *Index to Legal Periodicals* or the *Index to Foreign Legal Periodicals*, in the course of specific research or just keeping abreast of current literature, you would miss these and other articles. Inclusion of these articles in the periodic indexes would increase their availability, enhance their usefulness, and provide for wider circulation.

Given the absence of periodic indexing of yearbooks such as this one, a brief word about each article is in order. *The Sunday Times Case* is a recent decisions-style note on the 1979 British prior restraint of publication case that was decided by the European Court of Human Rights, which found that restraint imposed by an English court violated the European Convention on Human Rights. In 1976, Poland adopted a comprehensively revised constitution, whose history and provisions are the subject of an article. Two short articles touch on the *Blohn v. Desser* case, which involved enforcement of Austrian jurisdiction in England, and the absence of the principle of consideration in Scots contract law. Of interest to American corporate lawyers are an article on the Veba AG-Deutsche British Petroleum case, which involved the application of merger-control laws by German cartel authorities, and a survey article on the jurisdictional limits for the transnational reach of American antitrust laws, and some of the problems that result. One short article summarizes the 1976 European Convention on the Suppression of Terrorism, while another looks at the actual application of the Hague Sales Law, which is termed "a hopeless disappointment" in code uniformity. A longer article compares employee creditors rights in collective proceedings in England, France and Zambia. Another piece proposes criteria of action ability in the law of delict. A third lengthy piece, originally given at the International Arbitration Congress in Mexico City, discusses the potential of arbitration in long-term international commercial contracts.

While this volume has something for just about everyone, it has no single item for all. Thus, unless you have a specific interest in a particular article, subscription or purchase of the *Yearbook* may not be advantageous. However, reviewers and librarians should always be encouraged to publicize writings such as these. This is the only way in which readers will discover valuable, but non-indexed, pieces.

JOHN W. WILLIAMS  
McLean, Virginia