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Book Reviews

BOOK REVIEWS

EDITED BY A.U. DE SAPERE

Control of Securities Markets in the European Economic Community

By Dr. E. Wymeersch. Collection Studies, Competition—Approximation of Legislation Series no. 31. Brussels: Commission of the European Communities, 1978. Pp. 214. $5.20.

Professor Wymeersch of the Universitaire Instelling Antwerpen (Antwerp University Institution) has prepared a comparative study of the control of the securities markets in the Common Market countries, i.e., the Nine, before the accession of Greece, being Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom.

The European Commission has been in recent years attempting to bring some harmony in the company law of the various member countries. Studies of the Wymeersch type set the groundwork for such efforts. The diversity of systems and conditions in the security markets would make harmonization extremely difficult as Wymeersch often points out. One should not expect a securities code for Europe; yet certain harmonization has already been attempted and more is probable. Wymeersch's contribution to this effort is that he compares the various national systems and identifies points of convergence. It is not his goal to make qualitative evaluations, although a few slip in; his goal is to "provide the starting-point for subsequent harmonization." That he does.

There already exists a Recommendation concerning a European Code of Conduct relating to transactions in transferable securities. Among the general principles expressed there is the general duty of fairness resting on the directors of companies, and among the special principles there is the prohibition against price manipulation by fraudulent means and the obligation regarding equal treatment both as to the information published by the company and as regards the treatment of its shareholders. There is also an

obligation to treat shareholders fairly with regard to the transfer of controlling shares.

Generally one can say that the European approach contrasts sharply with that in the United States. In Europe the regulation and supervision is partly statutory but mainly imposed by the stock exchange authorities or the rules that issuers impose upon themselves. In America the way of dealing with these matters is much more by express legislation, implementing regulation and administrative action.

Securities regulation in Europe can be found to follow three organizational patterns when one weighs the influence of state or public action. One finds a Northern European pattern, as found in the United Kingdom, Ireland and the Netherlands. In sharp contrast is the French and Italian pattern with emphasis on state control. Between the two is a transitional area consisting of Belgium, Luxembourg and Germany. According to Wymeersch this division is not fortuitous: it is to be found in several fields of social organization and human behavior. Some speak of the Protestant, Germanic North against the Catholic, Romance South.

In Northern European countries, securities regulation is essentially stock exchange regulation. This is a system depending primarily on rules framed or imposed by contract. These are the states with the most important European securities markets, i.e., London and Amsterdam. Yet the regulatory machinery is not any less comprehensive or incisive than that existing in states where greater state control is found.

The Central European (here Germany, Belgium and Luxembourg) regulatory pattern consists of a limited mixture of official and stock exchange intervention. The public authority confines itself to setting up the legal and stock exchange framework and delegating the management of the stock markets to the stock exchange associations.

The Southern European organizational pattern has developed from that described for Central Europe to one mainly governed by the public authorities (although probably still not to the same degree as in the United States).

Wymeersch concludes with his proposals for harmonization. His goal is that harmonization should remove the obstacles which currently bar the way to interstate security dealings, but even more it should "contribute to more efficient, safe and above all intensive interstate securities transactions." Harmonization should ultimately serve to expand the financing possibilities of public authorities and business undertakings.

He puts aside obstacles such as foreign exchange controls, tax rules and practices concerning transfer of securities by book transfers or clearing of transactions. These are important but are beyond the scope of his work.

His proposals are of two types. One series concerns proposals for the harmonization of national rules concerning dealings in securities. The other suggests the formation of an integrated European securities trading system. These are complementary proposals but one does not depend upon the other for implementation.

Present efforts of the European Community have been in regard to financial disclosure. They have dealt with annual accounts, prospectuses and the admission of securities, together with the European Code of Conduct. Wymeersch suggests that much greater information about general operations of a company should be given through annual, semiannual and occasional reports. Less information would then be necessary in the prospectus which for him is basically sales information of limited value to investors. Most investors depend upon advisers who need more information than is currently available in the prospectus. Such information should be supplied on a continuing basis.

Wymeersch's proposal of an integrated European securities trading system is that there be established a mechanism based upon communication with a central computer for the centralization of securities orders. Securities traded in this system would be only those with considerable or potential international distribution. This system could considerably improve the depth of the market, offer greater possibilities of execution, especially for larger, mainly institutional, orders, and increase the flexibility and representativeness of price formation.

Wymeersch makes many useful suggestions in his study, and it provides a good, comparative introduction to the European systems of securities regulation.

THAD W.S. SIMONS, JR.
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The Mexican Civil Code

Translated by Michael Wallace Gordon. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1980. Pp. xxiv, 597. $40.

Translating legislation is a fascinating but difficult task. The object is to reproduce not what the legislator meant but what he said; to preserve each mistake and ambiguity; and to depict the actual enactment, like Cromwell's visage, warts and all. The technique is to translate "literally" (that is, with painstaking accuracy) and, above all, to use consistent equivalents for operative foreign words, in order not to create a distinction in English where there is no difference in the foreign text. The most "literal" equivalent is frequently one rooted in a common language such as Greek or Latin.

The 1950 translation of the Mexican Civil Code by the late Otto Schoenrich[1] is a model of that technique. "In making these translations,"

[1]SCHOENRICH, OTTO, THE CIVIL CODE FOR THE FEDERAL DISTRICT AND TERRITORIES OF MEXICO. New York: Baker, Voorhis & Co., Inc., 1950 (hereinafter SCHOENRICH).

he said, "I have endeavored to follow the Spanish text as literally as possible, even at the cost of elegance. . . ."[2] It is a measure of his success that if he sometimes amuses[3] he hardly ever confuses. A wart is a wart. His equivalents are so consistent and root-united one can usually guess the very Spanish word they stand for. Of particular value are his source-notes, citing the derivation of each article of the Code—a boon to analysis and an indispensable link to non-Mexican jurisprudence construing Code provisions imported from other nations.

After thirty years Judge Schoenrich's famous work has begun to show its age. Of the 3,044 articles he translated (constituting the entire 1950 residuum of the Calles Code of 1932) 222 articles[4] have been amended or repealed, chiefly to reflect new fashions in probate, guardianship, public registries, and women's rights. Jurisdictionally the Code has ceased to apply to the Mexican Territories (they all have become States, with separate self-adopted civil codes) and now governs only the Mexican Federal District. It is time for a good revised translation.

Professor Gordon's version was wisely "built upon the Schoenrich work";[5] my spot-check failed to find a single unamended Schoenrich article that is translated differently in Gordon. There, unfortunately, the similarity of the two translations ends. Conceptually the Gordon version is stunted by the omission of source-notes. In execution it is vitiated by numerous errors, including the translation as unaltered of p; ;sages that have been significantly amended since 1950,[6] the omission of key Spanish words,[7]

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[2]SCHOENRICH p. xii.

[3]*E.g.*, Art. 891: *Fruits are not considered natural or industrial fruits until they are visible or born.*

[4]A table of the articles retranslated by Professor Gordon (replacing the articles amended or repealed since the 1950 translation) is given at p. xv of the work here reviewed. In that table Art. 522 is erroneously listed as Art. 552.

[5]Gordon p. xvii.

[6]The Gordon translation does not specify the effective date of the amended Code on which it is based, but as the Gordon translation includes the substantial revision of the Public Registry provisions (new Arts. 2999-3074) that was effected by a decree dated December 28, 1978 (DIARIO OFICIAL, January 3, 1979, pp. 2-12 [hereinafter cited as the 1978 Decree]) I have assumed that the translation does not antedate the 1978 Decree. The following passages of the translation fail to reproduce amendments that were effected by, or made prior to, the 1978 Decree: (1) the caption of the Code and Article 1, its key jurisdictional provision, which were both amended in 1974 to eliminate the Code's application to the former Mexican Territories (DIARIO OFICIAL, December 23, 1974, p. 16); (2) Articles 56 and 130, which were entirely repealed by the 1978 Decree (DIARIO OFICIAL, January 3, 1979, p. 12); and (3) Article 1596, which is translated to include a phrase that was eliminated by the 1978 Decree (DIARIO OFICIAL, January 3, 1979, p. 5). The textual comparisons reflected in this review are based on the edition of the standard Mexican commercial publication of the Code issued next following the date of the 1978 Decree, namely LEYES Y CÓDIGOS DE MÉXICO, CÓDIGO CIVIL PARA EL DISTRITO FEDERAL (Mexico City: Editorial Porrúa, S.A. 46th Edition, 1979).

[7]*E.g.*, Arts. 267(XII), 287, 405, 3016, 3031, and 3073. Arts. 1915 and 2852 each omit an entire sentence.

wrong renderings[8] and an almost sportive inconsistency of equivalents.[9] The result is a deeply flawed book, capable of mischief if relied upon. Prudent librarians will quarantine it, hoard their Schoenrichs for his priceless source-notes and 2,822 unamended articles, and hope that a more worthy successor will appear before another thirty years have passed.

EWELL E. MURPHY, JR.
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The Rights of Man Today

By Louis Henkin. Boulder, Colorado: Westview Press, 1978, Pp. 173, Appendix, Notes. $14.50.

This volume derives from the Benjamin Gottesman lectures delivered by the author at Yeshiva University. The book is divided into three essays. The first considers the evolution of the idea of human rights and its emergence over two centuries. The second addresses the "universalization" of human rights as reflected in the spread of "constitutionalism" with a comparison of selected state constitutions from the three worlds, West, East and Third. The last examines the "internationalization" of human rights, that is, the intergovernmental and international institutional efforts to promote and protect human rights. The author concludes with a brief analysis of the preconditions and actions necessary in order to achieve a further expansion of human rights.

At best, this work is a basic introduction to the field of human rights. Although the author carefully and scholarly considers such issues as liberty versus equality; individual versus collective, community or state's rights; and the various kinds of rights, political, economic and religious, and although he lucidly describes the process of the past twenty decades in transforming *natural* human rights into *positive* legal rights, nonetheless, the reader must be disappointed in the lack of creative thinking in this tract. The author plows no new ground not previously worked. Regrettably the author has adopted essentially an historical approach to "the rights of man today" rather than an analytical one.

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[8] *E.g.*, "celebration by the wedding party" for *celebración conjunta de matrimonios* (joint celebration of marriage) (Art. 103b), "not contrary to the nuptials" for *no contraiga nupcias* (does not marry) (Art. 288), and "recorded" and "annotated" for *inscribibles* (recordable) and *anotables* (annotable) (Art. 3014).

[9] *Establecimiento de reclusión* is "prison" in Arts. 66, 120 and 129, but "rest home" in Art. 58. *Patrimonio familiar* runs the gamut of "family community" (Art. 2317), "family unit" (Art. 2917) and "family patrimony" (Art. 3042), while in Arts. 730, 735 and 737 its Spanish synonyms are translated as "homestead," the Schoenrich equivalent. *Hijo natural* is "natural child" in Arts. 78 and 79 but "legitimate [*sic*] son" in Art. 60. *Registro Público* is "public registry" in dozens of articles but "civil registry" in Art. 3001, "registry of property" in Art. 3010, and simply "registry" in Art. 3043.

Four present-day issues have been neglected—some more so than others. First, the author has overlooked international humanitarian law applicable in armed conflict as a part of human rights law. This is a common failing of human rights specialists. International humanitarian law applicable in armed conflict has evolved as a struggle between military necessity and humanitarianism. This body of law provides minimum protections of humanity to victims of war and also seeks to deal with the means and methods of warfare. How does the international humanitarian law applicable in armed conflict fit into the context of general human rights? Stated another way, what are the human rights of individuals in time of hostility? Are they modified? Restricted? Enhanced with new rights?

Second, what is the standing of individuals in international law to seek redress for violations of protected human rights? Although the author touches on this issue (at pages 23 and 94), closer examination of this enforcement technique in contemporary society is required. Individuals as subjects of international law challenge the traditional concept of international law as a legal system for states and the traditional role of the state vis-à-vis its own nationals.

Third, what is the relationship between power politics and human rights? The author discusses this relationship superficially (see pages 116 *et seq.*) and implies that human rights should prevail. He also criticizes the U.S. Government for its less than wholehearted support of human rights—but does so less than wholeheartedly. Yet, in a world of nation states, this reader is not at all convinced that human rights should be the prime objective of national policy. There are other policy considerations which at any time can be more important. In any event, this relationship deserves further attention. The reader encourages the author to write a third book beginning with the thoughts of this one and the author's earlier work, *How Nations Behave*.

Finally, the author makes what appears to be "the grand assumption" on page 119. He writes, "In general, we believe that the world would be a better place, and U.S. interests in it would fare better, if other countries were more like us in respect for human rights." This assumption and its implications could itself be the subject of a book. The book might be entitled, *Human Rights and Diversity of Values*.

One last observation. The reader noted instances in which the author was unwilling to take sides on issues. For example, as to whether customary international law has developed regarding human rights, the author noted that "it has been argued" and concludes that if so "perhaps, then, genocide, racial discrimination, torture and denial of fundamental fairness in criminal trials are violations of international law" (p. 101). More disturbing, however, are the instances in which the author understates the evidence. For example, at page 114, the author writes that "there is no evidence that Soviet acceptance of them [human rights principles in the 1977 Soviet Constitution] ushered in any substantial change in the condi-

tion of human rights in communist countries. . . ." In fact, on the contrary, there is considerable evidence as regards the treatment of dissidents that the Soviets have not accepted human rights principles.

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Space Policy and Programmes Today and Tomorrow: The Vanishing Duopole

By Nicolas Mateesco Matte. Montreal: Institute and Centre of Air and Space Law, McGill University, 1980. Pp. 183.

Professor Nicolas Matte continues his excellent series on the law of outer space with a 1980 volume of space policies and programs of the U.S., U.S.S.R., member States of the European Space Agency (ESA), Japan, Canada, and various developing countries. The historical treatment of these space efforts since Sputnik is a succinct summary of the past twenty years of space endeavors. A shorter, but no less interesting, treatment is given to the international law which has emerged to guide space activities, including the military uses of space. The conclusion neatly summarizes all the material in eight points.

The thesis presented is that the earlier competition between the U.S. and U.S.S.R. and their agreements which provided the basis for various principles of space law is being replaced by the increased number of States conducting their own space activities and drafting new space treaties as members of the Committee on the Peaceful Uses of Outer Space (COPUOS) at the United Nations. It is the national space policies and the bilateral arrangements which Matte finds to be the actual law of outer space. Indeed he labels the multilateral treaties negotiated through COPUOS in 1967, 1968, 1972, 1976, and 1979 obsolete, deficient and inadequate in practical application.

Prof. Matte further suggests the need for a revitalized legal regime for space to cope with the fact that space is quickly becoming an integral part of lives on earth and thereby presenting legal challenges which require new and imaginative solutions. He advocates effective international space law, within the framework of the New Economic Order, to deal with the activities of private enterprise; to coordinate access of states and international organizations to scarce natural resources; and to provide for the orderly transfer of technology.

One of the most interesting parts of this book is the annex which includes the announcements on space policy and programs by the leaders of the U.S., U.S.S.R., and ESA such as Eisenhower, Khrushchev, Kennedy, John-

son, Nixon, Brezhnev, Carter and Roy Gibson (ESA). Reading through past aspirations, one may wonder if the eventual pronouncement from President Reagan will continue the U.S. leadership in space or concede further endeavors to other States. In either event, lawyers who become interested or involved in space-related matters will find Matte's book a helpful source for background material on past and pending issues.

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Self-Determination: National, Regional, and Global Dimensions

Edited by Yonah Alexander and Robert A. Friedlander. Westview Press, Boulder, Colorado, 1980. Pp. xv, 392.

The quest for self-determination for all peoples has played a key role in reshaping the post-war world. The expansion of the membership of the United Nations to almost triple its original size is indeed a monument to the principle of self-determination in international law. At present no end to inflation in the size of the United Nations membership is in sight and it is possible that the ministate problem is likely to become more acute in the years to come. The United States pays 25 percent of the United Nations budget while eighty member countries—contributing at a rate of 0.02 percent—jointly pay only 1.6 percent but wield eighty times the voting power of the United States. Here is a problem international lawyers are to be concerned with.

The book under review is a collection of essays by fifteen American political scientists and legal scholars on self-determination and its changing ramifications in the contemporary world. It is a book well researched, well organized, and well written. It poses significant questions relevant to the subject matter and provides useful insights into fact and law. The contributors address three questions. First, is self-determination indeed a necessary precondition to international peace and stability? Second, is self-determination a basic international human right and part of the guaranteed fundamental freedoms proclaimed by the world community? And third, what will the effect of self-determination be upon the remaining decades of the twentieth century? As stated by the editors and also denoted by the title of the collective work, the focus of the articles is upon the dominant trends and socio-political realities with special emphasis on the national, regional, and global perspectives. The international lawyer may also be interested in the numerous remedies proposed for the uncertain future in the field of self-determination.

Except for a short foreword, as well as an introduction by the co-editors (i-xv), the book is divided into seven parts dealing with the concept of self-determination (3-18); self-determination in North and South America (21-78); self-determination in Western Europe, Great Britain, and in Soviet politics (81-190); Asia and Africa (193-239); the Middle East (243-303); international law and the United Nations (307-346); self-determination: future prospects (349-359). A selected bibliography (363-371), a detailed list of the qualifications of the contributors (375-378) and an index (381-393) conclude the volume.

Although this book is published as part of the series "Westview Special Studies in National and International Terrorism," the coverage of the interrelationship between terrorism and self-determination is only marginal. Thus, in the preface (xi-xii) Ray S. Cline only mentions that many of the numerous sovereignty changes since the establishment of the United Nations implemented in the name of self-determination have contributed to terrorism, guerrilla warfare, and international conflict. And he correctly states that "the question whether self-determination is a force for stability or international chaos is extremely significant for the balance-of-power assessment in the years ahead" (xii). The other statement of the interrelationship between terrorism and self-determination is by the co-editors when they admit that "self-determination has also been used as a rationale for terrorist acts, and, by so doing, undermine the very concept of a world public order" (xiv). However, many of the individual articles—in particular those dealing with the Middle East, Asia and Africa—abound with surveys of events and developments showing the link between terrorism and self-determination.

The general impression given by the book is that it is difficult to reconcile self-determination with the countervailing principle of respect for the territorial integrity of an existing state, whether old or new, because a desire to be self-determining directly challenges the order within the international system. Self-determination has been as much a disintegrating force as it has been a unifying factor. Mrs. Eleanor Roosevelt may have been right when she warned that "the principle of self-determination of peoples given unrestricted application could result in chaos" (27 State Dept. Bulletin, 919 (December 8, 1952), as quoted on p. 330, footnote 76 of the reviewed book).

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Company Formation in Mexico

By Alexander C. Hoagland, Jr. Mexico City Publishers: Lloyds Bank Group. Pp. 300.

Licenciado Hoagland's book is a valuable tool for all those who are interested in learning about investment in Mexico. It is far more complete than the title would suggest. Its ten sections, The Country, The Role of Foreign Investment, Legal Forms of Business Enterprises Through Which Foreigners May Operate, Taxes and Analogous Charges, Development Incentives, Labor Laws, Industrial Property and Copyright, Foreign Trade, Banking and Finance, and Human Factors, indicate just how comprehensive the book is.

At the end of each section the author has included either a list of suggested readings or a bibliography, all of which appear to be well chosen. If one were able to read twenty-five percent of the suggested readings, he would indeed become knowledgeable about Mexico.

In an introductory note the author describes his work as: "a collection of selected information designed to assist foreigners to begin to learn, accept, and respect the ways and laws of the complex land with which they are planning to do business." The necessity for consultation with competent Mexican counsel is emphasized in many places by the author.

The first section contains a concise description of Mexico, including its political and social history. The neophyte on his way to consult with his Mexican lawyer should read this section twice, because it will give him essential information as to how and why Mexico's laws and customs are as they are. This writer, having been there, would quarrel slightly with some of Hoagland's history of the 1911-20 revolution, but even Mexicans do not agree completely about their revolutionary history.

In between sections A and K of the book there is a cornucopia of solid legal information about Mexico and investment there. Section K, dealing with human factors, is only seventeen pages long, but here again, one finds essential reading. Two paragraphs, discussing "cultural shock" and influence-peddling, should be read several times.

Section B, The Role of Foreign Investment, discusses the carefully defined limits of foreign investment in Mexico. The laws are peculiarly Mexican. The fact that $4.7 billion of United States investment exists in Mexico proves that investment is feasible. A knowledge of the history of foreign investment in Mexico is indispensable to an understanding of the laws and regulations that exist today. The author simplifies to the extent possible the exceedingly complex set of laws and regulations that govern foreign investment.

Section C examines the forms of juridical organizations that may be employed by foreign investors to do business. The author points out that it is almost impossible to operate through the branch of a foreign corporation.

The eight types of entities that are theoretically available are discussed, and the two that are most practical are given fairly complete treatment.

Section D is a concise study of business taxation in Mexico. Taxation is as subject to change in Mexico as it is elsewhere. Fortunately, the book is bound in looseleaf form. It will probably have to be rewritten annually. However, the basics are well presented and will be of continuing value.

Section E deals with the various incentives available to foreign investors. Mexico's development plans are complex and purport to lay out a system that will prevail throughout the 80s. That they will be modified during this decade is a relatively safe prediction.

Mexico's sweeping set of laws to protect labour are the subject of Section F. Since labour's rights to protection arose out of the Constitution of 1917, they are of constitutional status. They are so distinct in character that a lawyer interested in Mexico should read carefully not only this section but many of the suggested readings contained in the book.

Industrial property and copyright law are treated in Section G. For most of its history Mexico followed traditional law as it found in Civil Law countries, but changes of recent years make Mexico's industrial property law almost *sui generis*. Many products considered patentable in most countries may not be patented in Mexico. The doctrines of "tainted trademarks" and "linkage" are discussed by the author who warns us of the uncertainty of the outcome of these unusual theories. The protection afforded copyright holders in Mexico is more clear.

Mexico's policies, laws, and regulations with respect to foreign trade are the subject of Section H. The author points out that these are frequently changed. The United States is Mexico's principal trading partner, and many incentives are available to foreign investors who agree to export a substantial part of their production of goods. Mexico is not a member of GATT but generally follows its principles. It has in recent years moved toward a more liberal policy of freer trade. However, import-licensing requirements still affect many products.

The banking system and methods of financing are reviewed in Section J. While security transactions in both real and personal property are succinctly discussed, perhaps a few more caveats should be included in this section.

This is a book no lawyer representing a prospective investor in Mexico should be without. It should continue to be very valuable as time moves on and change occurs, because it can easily be kept up to date by revisions as needed in the ten sections. Although the book is looseleaf in form, it is well-bound and attractive in appearance.

VICTOR C. FOLSOM
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Inflation and the Personal Income Tax: An International Perspective

By Vito Tanzi. Cambridge: Cambridge University Press, 1980.

The United States is Europe given another chance on a new continent.[1] It is an exotic blend of social attitudes held together by European values. Today some illness is laying waste to the country. Our values are dying, leaving us with Americans who are frightened, angry and confused.[2] Our ways of looking at life, a sense of what is right and wrong, evolved when there were no machines. The question presented is whether they can survive the strain of the industrial age.

A partial answer to this question can be found in a simple dialogue. The following is an illustration. The IRS collects taxes. The grand inquisitor (a fictitious character representing us) might ask, "Why are you taking money people want to keep?" The IRS might respond with a series of arguments based upon institutional ideals. The inquisitor might say, "Your arguments and ideals are no better than my own." If we can put aside our points of view, sympathetic rules reflecting the concerns of both of us might arise.

In *Inflation and the Personal Income Tax*, Vito Tanzi attempts to do just that. Inflation, he says, has distorted the tax system.[3] It affects whom we tax; the level of taxation; and the size of tax collections.[4] If inflation is factored into the computation of net income for tax purposes, the interest of the government in collecting taxes and the citizen's interest in paying it on real income only can be served.[5]

The following is an illustration. Bob, Ted and Alice work for George More, Inc. Each earns roughly 35,000 dollars a year. The inflation rate for the years in which they are taxed is 10, 14 and 16 percent. The question presented is what is their real income for purposes of collecting personal income tax. Assuming a dollar is worth a dollar in an arbitrarily selected year, 1977, the computation would be as follows.

REAL INCOME	INFLATION	YEAR
35,000	$ = $	'77
31,500	.10 = .90	'78
27,090	.14 = .77(4)	'79
22,750	.16 = .65	'80

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[1] *See* WOUK, WINDS OF WAR (1971).

[2] *E.g.*, *Dollars and Sense in Hard Times*, K.C. Times, November 19, 1980, at A-14, col. 3; Cleaver, *Religious Right Abusing the Call*, K.C. Times, December 3, 1980, at A-19, col. 4.

[3] TANZI, INFLATION AND THE PERSONAL INCOME TAX: AN INTERNATIONAL PERSPECTIVE 1 (1980).

[4] *Id.* at 2.

[5] *See id.* at xi. *Cf.* Samuelson, *Inflation exists because people prefer it*, K.C. Times, December 3, 1980, at A-19, col. 1. You can adjust for inflation by broadening the width of the tax bracket to which a progressive tax applies.

Of course, Tanzi accounts for inflation in a more conservative way. He would not index net income for inflation. He would adjust exemptions, deductions and credits in the tax schedule.[6] If, for example, Bob received 8800 dollars a year in rental income on property worth 100,000 dollars, his real income would be computed as follows.

Illustration[7]

NET INCOME = \$ −[Depreciation (1 + inflation) + Property Tax]
4,950 = 8800 −[2500 (1.10) + 1100]

To assure itself that a tax would be paid on that income, the government might announce the number of days Bob had to make his payment;[8] and the penalty he would pay if he were late.[9]

The schemes in the book produce several desirable results. First, they allow the government to collect taxes. Second, the tax burden is confined to a citizen's real income. Third, it forces the government to be circumspect about how it spends collected revenue, since it would be collecting less.

Of course, giving the government less money to spend may be what we genuinely want. Unfortunately the government like the individual would have smaller sums to pay for essential goods or services. If real income for taxes is constant while inflation spirals up, annual tax collections in real dollars will shrink. Mindful of that, Tanzi recommends the following.

1) Adjustment for inflation annually, confining it to part of the inflationary charge, e.g., 80 percent of the erosion in the purchasing power of the currency;[10]
2) Adjusting the tax structure only when the rate of inflation, in a particular year, exceeds a stated level, e.g., 5 percent:[11]
3) Taxing a person on his inflated income, restoring thereafter what inflation took with a tax cut.[12]

Whatever is done, says the author, the government can specify the number of days which may elapse between the date of assessment and payment.[13] That is a way to minimize the decline in the purchasing power of currency the government expects to collect.

This is an unusual book. Though exciting reading, it has a flaw in it. Simple arithmetic could have been used by the author to make various points. The use of calculus in places dampens an interest in reading the

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[6] *Supra* note 3, at 6.
[7] *Id.* at 65.
[8] *Id.* at 82.
[9] *Id.*
[10] *Id.* at 16, 29-30.
[11] *Id.* at 16, 30-33.
[12] *Id.* at 5, 99-100.
[13] *Id.* at 75-83.

work. On balance, however, it is a thoughtful piece. Laypersons and academicians would profit from reading it.

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Basic Documents on Human Rights

Edited by Ian Brownlie. New York: Oxford University Press, second edition, 1981. Pp. 505. $65.00 hardcover, $45.95 paperback.

It is invaluable to have the major sources of international human rights law collected in the form of a handbook. Beyond the more obvious human rights documents (such as the International Covenants on Human Rights, the European and American Conventions on Human Rights, and the Universal Declaration of Human Rights), this volume includes the United Nations conventions on genocide, slavery, refugees, stateless persons, women, children, and religious intolerance; various instruments drafted under the auspices of the International Labor Organization and UNESCO; and studies showing the relationship between development and human rights. The dissenting opinion of Judge Tanaka in the 1966 *South West Africa Cases (Second Phase)* from the International Court of Justice is also featured as the best exposition on the concept of equality in existing literature.

The ten-year period since the first edition of this book has brought new sources on international human rights in the Final Act of the Helsinki Conference, the U.N. Declaration on Protection from Torture, material on the Commission on Human Rights of the Economic and Social Council, the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the 1979 judgment of the European Court of Human Rights in the *Sunday Times Case*, which concerned the right to freedom of expression. These additions have necessitated the omission of items included in the first edition, specifically provisions from national constitutions relating to fundamental rights and the 1968 Proclamation of Tehran.

Newly updated introductions precede each part and each document. For the most recent information, the reader is advised to consult *Multilateral Treaties in Respect of which the Secretary-General Performs Depository Functions*, wherein signatures, ratifications, and reservations are given, and the annual publications of the relevant organizations, for example, the Council of Europe, Organization of American States, and the U.N. Human

Rights Committee. For the text of underlying documents recognizing human rights in law, only this excellent volume is necessary.

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Principles of Public International Law

By Ian Brownlie. New York: Oxford University Press, third edition, 1979. Pp. 743. $47.00 hardcover, $27.50 paperback.

As with the first and second editions, the third edition of *Principles of Public International Law* is the best single-volume discourse in the field. Brownlie's object has always been to present his subject matter in terms of law and legal technique, with appropriate reference to the influence of policy and political conflicts. The present volume succeeds admirably. It is a comprehensive account of the law of peace based upon the modern practice of states, the practice of organizations of states, and the decisions of international and municipal courts. The indications of divergent tendencies in the law and the estimates of consensus or possibly emergent rules do not relate neatly to the view of any single state or group of states, although the references are predominantly English and French.

The major revisions in the 1979 edition reflect recent developments in various areas of the law, including the law of the sea, state immunity, and the status of foreign investments. All three areas have helpful information for the practitioner. For example, the 1972 European Convention on State Immunity is given a concise treatment along with a review of United Kingdom cases on the principle.

Having settled on a very successful format, Brownlie should now devote some attention to the inadequate indexes. His book is a goldmine of information, but gaining access to that information is unnecessarily difficult. While a recent student of international law may know the correct category for a specific issue, the practitioner is more likely to need a path guided by the key words of actual practice and tables listing the treaties and United Nations resolutions referred to in the text.

These criticisms are minor and are only offered as improvements for future editions. *Principles of Public International Law* is recommended unreservedly and should be on the shelf of scholar, student, and practitioner alike.

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Cyprus in International Tax Planning

By Chrysses Demetriades. Kluwer Publishing Limited, 1980. 447 pages. L30 per volume.

Mr. Demetriades' work is a timely and worthwhile publication for the international tax and business planner. The most vital function of the text is to alert the international practitioner to a new jurisdiction with great tax and business planning potential.

The title is misleading in that it only conveys the author's primary concern to present Cyprus as a low tax jurisdiction. The tax is in fact a thorough, twenty-five chapter compendium of the legal and practical aspects of doing business in or through Cyprus. His chapters discuss banking institutions, the use of trusts, estate planning, exchange control, foreign ownership of real property, and the intellectual property conventions to which Cyprus is a party. The book also provides a review of the business infrastructure on the island.

The work is centered around Demetriades' discussion of offshore companies and their tax advantages (chapter 10), offshore branches and their tax advantages (chapter 11), and Cyprus' double tax treaties (chapter 20). An amendment to the Cyprus Tax Laws (Number 37) was legislated in 1975 in response to the 1974 Turkish invasion. The specific purpose of this legislation was to promote Cyprus as an international business center, and so offset the damage to the national purse created by the invasion and the ongoing occupation of the more prosperous northern half of the country. Under the legislation, Cyprus companies and resident branches of foreign companies engaged in business outside of Cyprus are taxed at 10 percent of the normal company rates.

In chapter 20, the author discusses the bilateral tax treaties in force or presently being negotiated between Cyprus and other nations. He highlights the importance of such tax treaties in avoiding double taxation of residents of the party nation and to favor the residents of either country with reduced rates of taxation on certain types of income.

This volume is well written and well organized. It can be useful to all international practitioners. Based on the material presented, one can only agree with the author that the interplay between the tax advantages to offshore companies and the existing and proposed tax treaties give Cyprus great potential as a financial center, particularly to the European and Near Eastern businessman and investor.

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