10-1-1970

Book Review

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Available at: http://scholarship.law.nd.edu/ndlr/vol46/iss1/6

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BOOK REVIEW


If any one generality can be made about the 1960's, it is that there was an awakening of the need for, and importance of, the concept of "person" — both in the eyes of the law and in the mind of the public.

The close of the Sixties saw three notable events which emphasized this point — celebration of the International Year for Human Rights in 1968; observance of the fiftieth anniversary of the International Labor Organization, a pioneer in the field of international human rights, in 1969; and finally, the observance of the silver anniversary of the United Nations' establishment in 1970. All these public observances are very much in the mind of the author of UN Protection of Civil and Political Rights as he summarizes and evaluates the machinery available for the protection of human rights. He remarks in the introduction to his book that his intention is "to help in bringing to a fruition in 1970 the evaluation [of methods of protecting individuals] commenced by the UN in 1968."

What progress there has been in the area of international human rights has, unfortunately, been restricted largely to defining substantive points. This has left a gap between maturing substantive law and an almost undeveloped system of implementation. In short, progress in the substantive area has outstripped that in the area of creating effective institutional machinery for implementation. The purpose of Carey's study is to fill that gap, insofar as is possible, by summarizing and evaluating the available techniques of enforcement. In doing this, Mr. Carey maintains a balanced position. He has no romantic visions about the ushering in of a new age for mankind. His experience as Alternate United States Member and Representative of the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities (1966-69) and on the United Nations Commission on Human Rights (1968) stand him in good stead when he evaluates the effectiveness of U.N. actions.

He does not hesitate to be critical where necessary. Carey's is not the carping criticism of the partisan; it is the precise analysis of the practicing scholar. Professor Richard B. Lillich, general editor of the Procedural Aspects of International Law Series, comments in his preface to the book that Mr. Carey "eschews a theoretical or highly conceptualistic approach and concentrates primarily on the nuts and bolts of various existing and proposed implementation techniques." Substantially, this is true enough, but the American lawyer, unfamiliar with international practice, will look in vain for procedural methodologies that offer secure patterns for protecting the rights of individuals. If Carey's book does nothing else (and it does a great deal more) it again underlines the inchoate state of international protection.

Carey does indeed give valuable information on the reporting, fact-finding,
and sanctioning processes. The key to the entire book, however, is centered in Chapter VI, on the problem of enforcement. In that chapter Carey considers the effectiveness of the U.N.'s enforcement power, and concludes that there is no instance where the Security Council has been asked to secure compliance with a judgment. He then undertakes a somewhat labored comparison between the attempts at moral suasion by the International Court of Justice and the series of school segregation cases in the United States, beginning with Brown v. Board of Education. These similarities, while apparent to Carey, seem to be too elaborately wrought for the typical reader.

The most intriguing, even exciting, chapter deals with the U.N.'s investigation of charges of torture and ill-treatment of police prisoners in South Africa. Without a doubt the decision by the U.N. to enter into the investigation was a landmark. Carey notes that within a year after having done this, the U.N.'s Economic and Social Council (ECOSOC) had expanded the original investigation to include examination of African trade union rights, and similar investigations were simultaneously urged for Haiti and Greece by the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities, of which Mr. Carey was then a member. Carey rightly terms this "a novel development for the U.N." Although seemingly provided for in the United Nations Charter, ECOSOC had traditionally avoided taking action. The work was, therefore, a significant breakthrough. It goes without saying that the government of South Africa resisted the inquiries. Unhappily, the Commission on Human Rights, in establishing the Ad Hoc Working Group of Experts (which was to formally conduct the investigations), issued a strong statement condemning the very practices which the Working Group ostensibly was to investigate! Carey quotes the chairman of the Ad Hoc Group as commenting that the Working Group was investigating charges considered already proved in order to defend the rights of victims of apartheid. To all this must be added an unfortunate refusal of the Working Group to make significant use of a previous study sponsored by the International Red Cross which included interviews of prisoners. The Working Group itself never entered South Africa.

Carey goes to some pains to show that the Ad Hoc Group's primary leverage was world opinion. He even goes so far as to suggest that the Working Group should have attempted to enter Namibia illegally in order to stir up "the excited notice of all the world." Carey advocated seeking permission to enter from the de jure authorities, which in this case he identifies as the U.N. Council for Namibia. While this observes the legal niceties in one sense, it is also a bit unreal, since the Council itself has never been allowed into Namibia, and evidently does not plan to enter by the dramatic means suggested by Carey.

In 1969 the Human Rights Commission gave the Ad Hoc Group five further assignments, all dealing with questions of human rights in southern African

4 Id. at 50-51.
6 J. Carey, supra note 1, at 95.
7 Id. at 96.
8 Id. at 99.
9 Id. at 122.
states. Evidently its work will continue for some years to come. As Carey points out, it must adopt tighter methods if its work is to be creditable.¹⁰

The reality remains that political means are the most effective method of protecting international human rights. Perhaps we should all like to see a clear procedural methodology — certainly Mr. Carey would — but it is still a distant expectation. For that reason alone, this excellent book is a frustrating one.

This is the eighth volume in the Procedural Aspects of International Law Series that has been published for the Procedural Aspects of International Law Institute by the Syracuse University Press. It is the first to deal with private rights, and happily it bears the announcement that it initiates a project involving four future monographs on international procedures to protect private rights. This program has been funded by a substantial grant from the Ford Foundation to deal with human rights, property rights, and procedural rights, especially of aliens before national tribunals. If the remainder of this series is of the quality of this one, the basic research tools will be available for those who are involved in developing the effective enforcement of the norms protecting human rights in international law.

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¹⁰ Id. at 125.

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BOOKS RECEIVED


ANTITRUST ISSUES IN CONGLOMERATE ACQUISITIONS. By Betty Bock. A study examining the historic roots of the enforcement agencies' programs directed at closely related conglomerate acquisitions, and analyzing the issues in the more recent cases where the merging partners are not closely related. New York: National Industrial Conference Board, Inc. 1969. Pp. v, 42 (paperbound). $5.00.


The Checkless Society — Its Cost Implications for the Firm. By William H. Mateer. A study of the checkless society in which the author has developed a model for determining the point at which it becomes advisable for the firm to adopt the services of an integrated financial exchange facility administered by the banking system. East Lansing, Michigan: Michigan State University. 1969. Pp. vi, 129. $7.00.


Coordinate Magistrates. Edited by William G. Andrews. A collection of materials intended to fill the gap of regular constitutional law casebooks. It presents extended constitutional law arguments by Congressmen and Presidents on major issues that have come before the Supreme Court and the leading decisions that have been made. New York: Van Nostrand Reinhold Co. 1969. Pp. vi, 186. $2.45 (paperbound).


DEMOCRACY, DISSERT, AND DISORDER. By Robert F. Drinan, S.J. The author explores the basis on which law commands obedience, while at the same time taking issue with some of our contradictory laws, our discriminatory laws, and irresponsible lawmakers. 1969. Pp. viii, 152. $4.95.


THE EFFICACY OF LAW. By Harry W. Jones. A book emphasizing the fact that sustained inquiry must be made into the practical effects of law and legal institutions if we wish to evaluate them. Evanston, Ill.: Northwestern University Press. 1969. Pp. vi, 117. (Price unreported.)


THE ORGANIZATION OF JUDICIAL POWER IN THE UNITED STATES. By Carl McGowan. A discussion of the growth of our federal and state court system, the problems of conflict in such a dual system, and possible solutions and alternatives. Evanston, Ill.: Northwestern University Press. 1969. Pp. vii, 133. (Price unreported.)

OUR CRIMINAL SOCIETY. By Edwin M. Schur. A sociological critique which refutes many of the commonly accepted notions about the causes of crime. The role of such factors as military involvement, criminal legislation and "respectable crime" is examined. Englewood Cliffs, New Jersey: Prentice-Hall, Inc. 1969. Pp. 238. $2.95 paper, $6.95 cloth.

Books Received


Selective Service and American Society. Edited by Roger W. Little. An analysis of the recruiting services, the makeup and attitudes of those who serve on local draft boards, the criteria for deferment or rejection from service, and the application of the principle of universality in the present draft laws. New York: Russell Sage Foundation. 1969. Pp. xvi, 220. $7.50.


BOOKS RECEIVED


THE STATUS OF LAW IN INTERNATIONAL SOCIETY. By Richard A. Falk. In this companion volume to Legal Order in a Violent World, Professor Falk brings the outlook, methods, and concerns of the social scientist into closer association with international law. He devotes special attention to the political setting which shapes international law and the intellectual perspectives that contribute most to the strengthening of world order. Princeton: Princeton University Press. 1970. Pp. xvi, 678. $15.00.


YOU CAN'T TAKE IT WITH YOU. By Ralph Richards. An examination of how a will should be made out in order to assure that the money will go where one wants it to go. New York: Crown Publishers, Inc. 1970. Pp. 96 (paperbound). $3.95.
Pages 247-248 are Intentionally Blank.