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Daniel L. Wade†

GENERAL REFERENCE


For the most part, this festschrift in honor of John Henry Merryman, Nelson Bowman Sweitzer and Marie B. Sweitzer Professor Emeritus of Law, Stanford University, and author of the classic, The Civil Law Tradition, focuses on comparative law, but there is also one section on private international law. With respect to comparative law, the twenty-three essays are divided into three sections: John Henry Merryman and Comparative Law, Comparisons of Legal Systems, and the Convergence and Integration of Legal Systems within Europe. Two essays are especially noteworthy: Professor Mirjan Damask's "Atomistic and Holistic Evaluation of Evidence: A Comparative View," and Professor David S. Clark's superb synthesis of recent scholarship describing the convergence of the civil law and common law systems, "The Idea of the Civil Law Tradition."

The three articles on private international law are "Internationalism in Private International Law," "Transnational Bankruptcies in the Late Eighties: A Tale of Evolution and Atavism," and "The Return of Cultural Property Expropriated Abroad."

The volume includes a moving personal account by Professor Capelli of his more than twenty-five year collaboration with his Stanford colleague, and concludes with an extensive list of the writings of Professor Merryman.


This volume celebrating the centennial of the Yale Law Journal, generally focuses on domestic law, but does contain the New Haven School founders' seminal article, "Legal Education and Public Policy: Professional Training in the Public Interest," 52 Yale Law Journal 203 (1942). In the article, Harold Lasswell and Myres McDougal argue that law schools should be educating students to become policy makers. The volume in-

† Foreign and International Law Librarian, Yale Law School Library.
cludes Professor McDougal's reflections upon the article almost fifty years later in which he promises to publish soon the lectures and materials, albeit somewhat updated, from the famous seminar he taught with Lasswell, "Law, Science and Policy."

The volume consists of the compiler's methodological essay, "The Most-Cited Articles from the Yale Law Journal," 100 Yale Law Journal 1449 (1991), sixteen of the most-cited articles (as determined by frequency of citations in the journals indexed by the Social Sciences Citation Index), and four important older articles, including the above-mentioned one by Professors Lasswell and McDougal, and brief reflections upon them by the authors or other scholars.

Copies of this volume are available for $46.70 from: Yale Law Journal Anthology, Yale Law School Business Office, Box 401A Yale Station, New Haven, CT 06520. Checks should be made out to the Yale Law School.


This handsome, highly readable volume is the first of a projected three volume set (the second volume to be devoted to substantive law, and the third, community policies) dedicated to defining and explaining the concepts and terms of the new legal system of the European Community. The subject of this volume is institutional law, which Professor Toth broadly defines to include "the constitutional, administrative, and external relations of the Communities, the law of remedies and of procedure, and the sources and general principles of Community law."

The author, a Professor of Law at the University of Strathclyde, in Glasgow, Scotland, includes more than two hundred entries ranging in subject from equity to human rights and running in length from several sentences to several pages. The longer articles include bibliographies, some of which are quite extensive.

In addition to the alphabetically arranged entries, there are tables of cases, community treaties, community acts (including regulations, directives, and resolutions of the European Parliament), court rules, international agreements, and statutes.

The problem with the work, of course, is the need for updating. It would have been preferable to publish the volume in looseleaf format so that with new developments new pages could be substituted. Perhaps this will be the case with the subsequent volumes, though the preface offers no promise of future updates.
Noteworthy New Titles

HUMAN RIGHTS


Two Professors from our law school neighbor have brought us this highly readable introductory survey of the legal process and substantive law developing under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The work is arranged in two parts, the first devoted to the institutions and procedures of European human rights law, and the second focusing on substantive legal issues, including torture, respect for private life, freedom of expression, and the right to a fair and public hearing in the determination of civil rights and criminal charges. The authors intend their work as a textbook, with a "Notes and Questions" section at the end of each chapter. The book quotes extensively from judgments of the European Court of Human Rights.


Professor Francis M. Deng, formerly Sudan’s Minister of State for Foreign Affairs and Ambassador to the United States, and currently a senior fellow at the Brookings Institution responsible for African Studies, and a lecturer at the Yale Law School on African law and development, is coeditor of this important work. It is a collection of papers delivered at a workshop on cross-cultural perspectives on human rights in Africa, sponsored by the Woodrow Wilson International Center for Scholars in Washington, D.C., in 1988. One of the papers, "Traditional Culture and the Prospect for Human Rights in Africa," is authored by James Silk, a 1989 Yale Law School graduate.

After a brief introduction by the editors, the thirteen essays, authored by law, political science, sociology, and philosophy professors and researchers, are divided into the following sections: Western Cultural Origins, Religious Perspectives, the Context of the Nation-State, African Cultural Perspectives, and Prospects for a Cross-Cultural Approach.

The major thrust of this work, namely, to argue against the idea that human rights is peculiar to the West and thus may be rejected by third world governments because it is a foreign concept, must be applauded. The variety of African cultural values and the traditions relating to human rights
articulated in this volume will no doubt enrich the reader's approach to human rights.


"The study of human rights is the study of the whole of human nature." Besides including this notable quote in its introduction, this volume contains eleven lectures and papers, written predominantly by law professors, but including others, such as the Bishop of Oxford, which were delivered to the British Institute of Human Rights at Kings College, London, between 1987 and 1990. The papers address a wide variety of issues, from "Human Rights in Theological Perspective" and "Patients, Doctors, and Human Rights" to "The Right to a Fair Trial Under the European Convention on Human Rights" and "The United Nations Human Rights Committee." The editors, who are affiliated with the British Institute of Human Rights, hope that the papers will serve as a general introduction to the study of human rights.


This book's central object is to enhance our understanding of human rights through analysis and documentation of the growing number of international actions involving rights. The author, a prolific writer on human rights, and a Professor of Political Science at the University of Nebraska, approaches the subject from the perspective of a political scientist, employing the terminology of that discipline. In addition to his concluding section, the author has arranged his work into six chapters: "Human Rights in a Global Perspective;" "Human Rights and International Law: Basic Values;" "Human Rights and the United Nations: Change and its Significance;" "Human Rights and the Organization of American States: A Regime Analysis;" "Human Rights and the United States: Exceptionalism and International Society;" and "Human Rights and Private Transnational Action: The International Committee of the Red Cross." The work is amply footnoted, and there is a useful though brief appendix on researching basic sources on human rights.

The work is valuable in that it provides "insights into political behavior without rigorous theory or formal models." The author looks at patterns of behavior and the causes and significance of behavioral changes, in analyzing human rights actions.
PUBLIC INTERNATIONAL LAW


This book focuses on the handling of the Southern Rhodesia question by the United Nations and the legal issues implicated over a two decade period of that nation’s history. The Rhodesian case was the first instance in which the Security Council imposed comprehensive mandatory sanctions and a rare example of its authorization of the use of force. As a source of several important precedents, the Rhodesian case can serve as an excellent case study for analyzing some important international legal concepts, particularly non-recognition. In the light of the Iraq-Kuwait crisis, the work should make for an intriguing comparative study.

The book has a three-part structure: Part I discusses the law of decolonization with respect to Southern Rhodesia and the UN assertion of international jurisdiction over it; Part II analyzes the determination by the UN that Southern Rhodesia’s unilateral declaration of independence in November 1965 was both illegal and invalid; and Part III explores the use of collective measures within and without Chapter VII of the United Nations Charter.

The volume includes tables of UN resolutions, cases, and statutes. There is also a substantial bibliography and an appendix with the numerous pertinent UN resolutions.


In this brief volume, the author, who is affiliated with the Centre for Defence Studies, at the University of Aberdeen, describes and analyzes the major West European international organizations that have arisen since World War II, including the Organization for Economic Cooperation and Development, the Council of Europe, the European Communities, the European Free Trade Association, the North Atlantic Treaty Organization, and the Western European Union.

The text discusses the reasons for the organizations’ establishment, outlines their founding treaties or documents, traces the main developments in their history, including their achievements and their failures, and analyzes their contributions to member states and Western Europe.

Before discussing each organization in separate chapters, the author introduces his subject with a chapter on the general nature of international
organizations, and another on the historical background that gave rise to these organizations. The work includes a brief bibliography at the end of each chapter.


This work explores the political role of the Secretary-General of the United Nations and the "diplomatic means" available to the office in the prevention of conflicts, with a particular focus on article 99 of the UN Charter. The author examines the efforts of the various Secretary-Generals to anticipate and resolve conflicts from 1945 to the end of Pérez de Cuéllar's first term. After this historical analysis, the author studies the organizational and operational reforms of the Secretary-Generals (especially those of Javier Pérez de Cuéllar) in carrying out the mandates of article 99.

The author, a Professor of Peace Studies at St. Johns University, Collegeville, Minnesota, is currently director of the PRISM project (Policy Review in International Security and Multilateralism) and a research fellow at the Institute for Resource and Security Studies in Cambridge, Massachusetts. The author delivered one of the chapters at the Warsaw Seminar on War-Risk Reduction held in April 1989 and cosponsored by the Yale Program for International Security and Arms Control.

**INTERNATIONAL TRADE LAW**


The importance of this compilation of international economic law documents for the international law researcher and practitioner is clearly signaled by its appearance on LEXIS and WESTLAW. But for someone who has the need to continually refer to these documents, there is this paper edition, which comes to more than two thousand pages. The editors state that they have focused on documents as they existed on November 1, 1989, bearing on private trade transactions and international intergovernmental regulation, and have omitted documents reflecting the regulations of a single nation. In determining which documents to include, they have relied heavily on the suggestions of the Interest Group on International
Economic Law of the American Society of International Law. The documents are quite comprehensive in scope and are divided into eight parts as follows: Regulation of International Trade; Regulation of International Finance; Regulation of Foreign Investment; Protection of Intellectual Property Rights; Regional Economic Organizations; Instruments Governing Private Commercial Transactions; Instruments Governing International Litigation; and Instruments Governing International Arbitration.

Each document is introduced with scholarly background information and a brief bibliography. There is also a highly useful brief essay by Marian L. Nash, Editor of *Digest of U.S. Practice in International Law*, on researching treaty law, which guides researchers in determining whether the document they are using has been amended.


This work, though oriented toward practice, is a comprehensive treatment of international arbitration. It is the fourth in a series of handbooks devoted to arbitral dispute resolution, highlighting the advantages of arbitrating in the United States under the American Arbitration Association rules and procedures. The author, is an arbitrator on the American Arbitration Association’s commercial, construction, and labor panels.

The author has divided his book’s twenty-seven chapters into the following four parts: International Arbitral Procedure, covering in detail such topics as arbitral institutions and rules and the arbitration agreement; The Concept of International Law, a potpourri of a wide range of topics on international law from sovereignty to the "act of state" doctrine; The Arbitrator’s Role, discussing such topics as the arbitrator’s pre-hearing role, subpoena power, and award; and Forms, including both international arbitration forms and litigation forms.

The volume has quite an extensive appendix that contains several international treaties, a collection of both U.S. and foreign arbitration laws, both American and foreign institutions arbitral rules, and a brief bibliography. This handbook should provide a good introduction to a novice arbitrator or anyone else interested in better understanding international arbitration.

This book, originating as a doctoral thesis at the University of Cambridge, surveys and synthesizes the great number of international arbitral decisions over the past twenty years, primarily involving commercial disputes arising between states and foreign private persons. The author focuses on the arbitral process in the hope of better understanding its underlying values and articulating its fundamental characteristics, and pays particular attention to institutionalized arbitration, citing some sixty-six institutions involved in hearing commercial arbitral disputes.

The work is divided into two parts, the first covering the central theoretical problems that arise in the context of arbitration between states and foreign private parties, and the second focusing on problems arising from a few of the institutions hearing international arbitral disputes, namely, the International Chamber of Commerce, the International Centre for the Settlement of Investment Disputes, and the Iran-United States Claims Tribunal. The author concludes with a few words of caution and prescriptions on the mixed international arbitral process.