

1-1-2005

## Book Reviews

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### Recommended Citation

Mills, Thomas; Mason, Elisa; Partin, Gail A.; Raisch, Marylin J.; Rumsey, Mary; Stanton, Teresa; Turack, Daniel C.; Neacsu, Dana; Rasmussen, Scott; Rowan, Dean C.; Johnsrud, Karin; Somers, Herb; and Cox, Lucy (2005) "Book Reviews," *International Journal of Legal Information*: Vol. 33: Iss. 2, Article 12.

Available at: <http://scholarship.law.cornell.edu/ijli/vol33/iss2/12>

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**Authors**

Thomas Mills, Elisa Mason, Gail A. Partin, Marylin J. Raisch, Mary Rumsey, Teresa Stanton, Daniel C. Turack, Dana Neacsu, Scott Rasmussen, Dean C. Rowan, Karin Johnsrud, Herb Somers, and Lucy Cox

## BOOK REVIEWS

The books reviewed in this issue of the INTERNATIONAL JOURNAL OF LEGAL INFORMATION (IJLI) cover a broad range of topics. Some authors take a new look at traditional areas of international law such as human rights, treaty law, and the European Union. Others cover emerging issues in transnational law such as international criminal law and the fight against terrorism. There is also a diverse range of writers who have contributed reviews to this issue. While most work in academic law libraries, there is also a review written by a law professor and one written by a legal editor.

Over the years the IJLI has reviewed a broad range of material from many publishers; even so, I continue to work with publishers to expand the selection of books reviewed in the IJLI. Your suggestions of books for review are also very welcome. If you know someone with a legal background who would like to write a book review for the IJLI – or if you would like to review a book yourself – please contact me at [twm26@cornell.edu](mailto:twm26@cornell.edu) and we can discuss the details.

*Thomas Mills, Book Review Editor  
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***Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons.*** Edited by Scott LECKIE. Ardsley, New York: Transnational, 2003. Pp. xx, 433. ISBN 1-57105-241-0 (hardcover) US\$125.00.

This volume is the first to provide a comprehensive overview and analysis of the complex issue of ensuring the housing and property rights of people returning home after having been forcibly displaced by conflict, gross human rights violations, or systematic discrimination. Scott Leckie, the editor of the volume and author of the first and last chapters, reviews the tremendous progress that has been made over the years. In the past, the *de facto* assumption was that refugees and internally displaced persons (IDPs) had no hope of ever recovering their homes and lands. Today, the expectation is reversed, and over the last decade, literally millions of people who were once uprooted, some for many years, have successfully reclaimed the houses and properties once lost to them. While Leckie acknowledges that the direction of

this trend is positive, he also sounds a cautionary note. Millions of individuals are still waiting in either refugee camps or other temporary accommodations to return home and fresh displacements of many more will very likely occur in the future. For this reason, Leckie underlines the importance of understanding why this trend has occurred in order to determine whether and how it is likely to continue, or if it is destined to be a short-lived aberration in judicial history.

To answer this question, Mr. Leckie begins by laying out the intricate infrastructure of international legal rules and norms, voluntary repatriation and peace agreements, and national mechanisms that have been established over the years to address housing and property issues for returning refugees and IDPs. He follows this summary with a review of the institutions and principles which helped to jumpstart support for housing and property rights for refugees and IDPs. The chapter concludes with a lengthy list of the very real obstacles to restitution that continue to confront returning residents.

The second and third parts of the volume highlight case studies that focus on housing and property issues in particular countries and for certain groups of people. Part two examines six countries: Bosnia and Herzegovina, East Timor, Guatemala, Rwanda, Kosovo, and South Africa, in which restitution programs are either ongoing or have been completed. Each country chapter reviews the pertinent land and property issues that arose in each case, assesses the policies and legal and procedural mechanisms established (or not, as the case may be) to address these issues, and summarizes the lessons learned from the various experiences.

Part three begins by looking at three unresolved restitution cases: the first focuses on the six million Palestinian refugees still waiting to return to their villages of origin and for whom few legal options realistically exist; the second reviews the situation of internally displaced persons in Georgia; and the third analyzes the situation of displaced Kurds in Turkey. The section ends with two chapters that discuss the opportunities for property restitution to specific groups, namely indigenous people and internally displaced persons, respectively.

In Part four, the final chapter enumerates 21 “best practices” gleaned from the recommendations and evaluations made in the preceding case studies, the aim of which is to better assist those who might be involved in future housing and property restitution endeavors and to help ensure the positive trend laid out earlier in the book is continued.

Despite the number of individuals affected, the subject of housing and property restitution for forced migrants has not been addressed in more mainstream published texts until now. Scott Leckie is an international human rights lawyer by training and the executive director of the Centre on Housing Rights and Evictions (COHRE), a Geneva-based non-governmental organization which maintains a “Housing and Restitution Programme” and

has prepared a number of relevant publications including *Legal Resources on Housing and Property Restitution* (2001).<sup>1</sup>

The 15 case study authors have all had direct experience with the countries or groups they describe, although in a variety of capacities (e.g., with international organizations, human rights groups, national commissions, etc.). Because of their diverse backgrounds and affiliations, the style and tone of the chapters range from the very legalistic and analytical to the more descriptive and pragmatic. The volume in its entirety offers a nice blend of both international and national perspectives, and the case studies are regionally diverse. While the book is not designed specifically as a reference tool, the legal rules, regulations and norms it cites (and in many cases, reproduces in some detail) represent invaluable resources. This one-of-a-kind book would be a useful addition to any academic law library as well as to more specialized collections that focus on forced migration issues.

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***Introduction to International Criminal Law.*** By M. Cherif BASSIOUNI. Ardsley, NY: Transnational Publishers, 2003. Pp. xxxvi, 823. ISBN 1-57105-286-0 US\$85.00

The recent resurgence of interest in international criminal law has led to heightened discourse and scholarly writing on many aspects of this discipline. Yet, in the midst of this flurry of communication and publication, one key area has remained relatively unexplored--until now. With this publication, Professor Bassiouni has entered into the uncharted waters of the international criminal law textbook. *Introduction to International Criminal Law* is the first English language treatise to be written specifically for use as a textbook. (p. xxxi) Construction of a first-rate textbook requires an ability to bestow clarity on complex concepts and to impose structure on a multi-faceted field of study. And there is no one more qualified to undertake such a project for international criminal law than Professor Bassiouni. In confirmation of its excellence, *Introduction to International Criminal Law* was awarded the American Society of International Law's Certificate of Merit at its spring 2004 meeting "for a work exhibiting high technical craftsmanship and high utility."<sup>2</sup>

Synthesis of the multi-disciplinary field of international criminal law into a single interconnected framework is one of the central themes of this

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<sup>1</sup> Visit <<http://www.cohre.org>> for more information and to access the texts of COHRE publications.

<sup>2</sup> *Shany, Bassiouni, Ku, and Jacobson Receive 2004 Certificate of Merit*, ASIL NEWSLETTER 15 (May/July 2004).

text. Professor Bassiouni creates a cohesive structure out of the multiple layers of analysis and methodology that have developed in the field of international and comparative criminal law since its beginnings several centuries ago. He acknowledges that his newly formulated framework for international criminal law is simply a starting point and hopes that his book will stimulate “others to expand upon it and refine it.” (p. xxxv)

Chapter one presents a general overview of the discipline and traces the historical development and sources of international criminal law. Subsequent chapters present a clearly articulated discussion of contemporary international criminal law systems, focusing on the subjects of international criminal law (*ratione personae*), international crimes (*ratione materiae*), criminal responsibility, direct and indirect enforcement systems,<sup>3</sup> new models of international criminal justice,<sup>4</sup> and procedural issues. The final chapter offers insightful commentary on the future of international criminal justice in an increasingly globalized world.

Professor Bassiouni is a prolific author in the field of international criminal law, with over one hundred books and articles to his credit. Thus, it is only natural that parts of this text are drawn from the author’s prior writings and are identified as such in the Acknowledgments as well as within the text itself. The book is one of a series of books in the *International and Comparative Criminal Law Series* published by Transnational Publishers. Special features include a Table of Abbreviations, a Bibliography, and a thorough index. The Table of Abbreviations is quite useful in that it provides the complete citation information to major international criminal law instruments and writings. Especially noteworthy is the comprehensive fifty-nine page bibliography of books and articles related to the discipline of international criminal law.

The careful arrangement and logical presentation of the subject matter in this textbook, coupled with the author’s sophisticated discussion and analysis of the issues relevant to contemporary international criminal justice, create a synergy of excellence deserving of awards and accolades. Professor Bassiouni’s dedication and passion for his work is readily apparent in the pages of this treatise, making it an excellent textbook to inspire the same characteristics in the generations who follow. In what might be his final major contribution to international criminal law (p. xxxvi), he concludes by

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<sup>3</sup> This includes chapters on international cooperation in penal matters, international criminal investigations and prosecutions, and the International Criminal Court.

<sup>4</sup> Descriptions of U.N. initiatives in Cambodia, Kosovo, East Timor, and Sierra Leone.

reminding us that “to remember and to bring perpetrators to justice is a duty we also owe to our own humanity...” (p. 739)

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***Legal Traditions of the World: Sustainable Diversity in Law.*** By H. Patrick GLENN. 2nd ed. Oxford; New York: Oxford University Press, 2004. Pp. xxvii, 401. ISBN 0-19-926088-5 (paperback) GB£26.99;US\$35.00.

Having reviewed the first edition (2000) of this work for this publication, I now offer a review of this subsequent edition and would like to take this opportunity to comment on it in light of my recent experience assigning significant portions of it to students in my international and comparative legal research class.<sup>5</sup> *Legal Traditions of the World: Sustainable Diversity in Law*, 2d ed., remains a unique work incorporating religious and indigenous legal systems into the methodology of comparative law. As such, it provides a fresh look at legal concepts and moves the conversation about the very nature of law itself into the 21<sup>st</sup> century. There is a kind of postmodern break here from the text-based code and case law of the classic comparative law treatises, which compared primarily the civil law and common law traditions of Western Europe. Professor Glenn includes some of the insights of legal anthropology and embraces the diffuse sources of Talmudic and Hindu law given slight attention in past, perhaps owing to the “messy” non-linear character of traditions developed in religious law. Finally, the recognition of indigenous and tribal “chthonic” law as the originally unwritten form of law underlying and preceding all law, even in the European tradition, seems intended to have a kind of leveling effect which at once corrects the notion of “primitive” systems and reflects the borderless world of peoples seeking self-determination.

The core strength of the book remains its theory of tradition as information, noted in my review of the previous edition, and the transmission of the information across borders to enable members of a legal tradition to create an “epistemic community” thanks to the internet and mass media.<sup>6</sup> That is, communities with a shared legal tradition can form strong links with diaspora communities of the same tradition and also become known to the world at large and peoples of different traditions.

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<sup>5</sup>H. PATRICK GLENN, *Legal Traditions of the World: Sustainable Diversity in Law*, 31 INT’L J. LEGAL INFORMATION 124, (2003) (book review).

<sup>6</sup>*Id.* at 124.

In his preface to this second edition, Professor Glenn claims to have given “some themes... more extended treatment,”

...notably the nature of tradition, the increase in constitutional protection of chthonic law, the emerging phenomenon of transnational law, the development of Islamic commercial law, and the intense debate in China on the role of law in that country.<sup>7</sup>

There is some text added at points, particularly some details on Islamic banking and its forms of partnership, and here and there some clarity is added to the argument about tradition. But if one were to ask if the changes in the second edition regarding the main text were substantial, I would say not. The addition of useful (but very selective) web sites to the bibliography and expansion upon both footnotes and bibliography are the principal changes for the second edition. While minor, these would be the main reasons for a library to add this new 2004 edition.

Use of this text for teaching presents the problem which is the only real flaw in the presentation of this book and which is common to both editions: Professor Glenn’s eccentric style and erudition assume a great deal. While this interdisciplinary treatment of a theory of tradition, accounting for the nature and development of law itself, contains elements that might stand alongside H.L.A. Hart’s *The Concept of Law* and Rawls’s *Theory of Justice*,<sup>8</sup> a better text for basic comparative method remains Zweigert and Kotz’s *Introduction to Comparative Law*.<sup>9</sup> Students longed for a clearer and briefer summary of the characteristic features of each legal system or tradition.

As to the rather complex theory of tradition that Professor Glenn advances, it can be compared to a theory of legal change and transmission explored by Professor Alan Watson in *The Making of the Civil Law*.<sup>10</sup> Despite the much less ambitious range of study in Watson’s book, his notion of how Roman law created simple blocks of law and legal rules for each type of contract and each capacity of a person, for example, makes sense of how legal rules can be passed on from one generation or even society to another. Basic and separate as these chunks of law might be, with capacity to acquire rights distinct from the rights themselves, they proved very portable as concepts for teaching legal rules.<sup>11</sup> This in itself illustrates the transmission of

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<sup>7</sup> H. PATRICK GLENN, *Preface to the Second Edition*, H. PATRICK GLENN, *LEGAL TRADITIONS OF THE WORLD: SUSTAINABLE DIVERSITY IN LAW*. 2d ed. (Oxford; New York: Oxford University Press, 2004), xxiii.

<sup>8</sup> H.L.A. HART, *THE CONCEPT OF LAW*. 2nd ed. (Oxford : Clarendon Press ; New York : Oxford University Press, 1994); JOHN RAWLS, *A THEORY OF JUSTICE*. Rev. ed. (Cambridge, Mass. : Belknap Press of Harvard University Press, 1999).

<sup>9</sup> KONRAD ZWIEGERT AND HEIN KÖTZ, *INTRODUCTION TO COMPARATIVE LAW*. 3rd rev. ed. (Oxford : Clarendon Press ; New York : Oxford University Press, 1998).

<sup>10</sup> ALAN WATSON, *THE MAKING OF THE CIVIL LAW* (Cambridge, MA: Harvard University Press, 1981).

<sup>11</sup> *Id.* at 18-19.

legal rules and concepts within just one tradition quite clearly and in a manner that students and their like can grasp readily. Watson even argues that these teachable chunks of tradition account for the spread of the civil law tradition over two millennia. Teachers of comparative law or its sources for legal research might be better served by this older text and select only some chapters as readings from Glenn's book. Glenn does cover Hindu, Islamic, and Asian law at greater length than any other book currently available.

In spite of its complex theoretical explorations and lack of clarity at some points, the ground-breaking nature of Professor Glenn's book remains remarkable, and it has changed the landscape of comparative law study. It remains for other scholars, or perhaps future editions of this book more substantially revised, to carry forward this new vision of legal systems as part of the very ground of human society, religion, and any theory of how knowledge is communicated.

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***Transnational Commercial Law: International Instruments and Commentary.*** By Roy GOODE, et al. Oxford: Oxford University Press, 2004. Pp. xlx, 1108. ISBN 0-19925-167-3 GB£125.00;US\$250.00.

One of the 21<sup>st</sup> century's most hackneyed phrases is "increasing globalization." (As one of my less-articulate students wrote this year, "globalization is increasing across the globe.") Nonetheless, it is undeniable that transnational business has taken on a major role even among small companies. Thus, more and more lawyers advise clients on cross-border transactions. The authors of *Transnational Commercial Law* designed this book to lay out harmonized national law and international law affecting those transactions.

Aimed more at practitioners than at academics, *Transnational Commercial Law: International Instruments and Commentary* would be useful in law school libraries as well. The authors have selected the most important primary documents in transnational commercial law: treaties, model laws, uniform rules, principles, and EC directives. The approximately sixty instruments are grouped into categories, preceded by detailed commentary. The documents are presented in English, except for a few Mercosur documents in Spanish. The expected readership for the volume includes transnational law practitioners (particularly those dealing with commercial litigation, finance or banking, sales, and insolvency), and academics interested in commercial law.

The book's preface claims that the search for international and regional commercial law instruments can be "frustrating and time-consuming." Users of the American Society of International Law's EISIL web site<sup>12</sup> would dispute this claim. Nearly all of the instruments have a corresponding, easily-retrievable record in EISIL, with links to full text. Granted, practitioners will probably appreciate the convenience of having a hard copy of relevant instruments. Difficulty in retrieving them, however, is not a sufficient reason to buy the book.

Lawyers new to the area will benefit from the careful selection of the instruments. One of the first questions in any transaction is where to look for governing documents, and on that score, this book excels. The authors chose straightforward and practical groupings of instruments, such as "Electronic Commerce" (Chapter 3), "International Sales" (Chapter 4), "Agency and Distribution" (Chapter 5), and "International Secured Transactions" (Chapter 7). The book's wide scope extends beyond the initial structuring of transactions. Its twelve chapters encompass cross-border insolvency, conflict of laws, and international civil procedure and commercial arbitration. The detailed table of contents and even more detailed index help readers pinpoint the documents they need.

In addition to alerting readers to key texts, the authors provide thorough introductory essays before each group of instruments. By defining terms, tracing the development of international law and practice, and explaining the force and role of each instrument, the authors provide information of value to novice or experienced commercial lawyers. The discussion of each instrument highlights the key provisions, with footnotes citing the precise article or articles in question. A lack of references to scholarly works ranks as a minor drawback.

The authors bring an impressive mix of academic and practical expertise to the task of selecting and explaining the texts. One of the co-authors, Herbert Kronke, is the Secretary-General of UNIDROIT as well as professor of law at the University of Heidelberg. At UNIDROIT, he helped develop some of the key instruments of international commercial law. Another author, Jeffrey Wool of Perkins Coie, was chosen as one of the world's top aviation lawyers by Legal Media Group's "Expert Guides." Roy Goode, Emeritus Professor of Law at Oxford, played a key role in the drafting of several important instruments, such as the Principles of European Contract Law. The fourth co-author, Ewan McKendrick, is also a law professor at Oxford and a leading authority on international contract law.

The book includes several finding aids in addition to the table of contents. The front matter includes tables noting where each of the following texts is referenced: cases; international treaties, conventions, and model laws; national legislation; European conventions and legislation; and other instruments. Individual instruments have their own table of contents for quick

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<sup>12</sup> <http://www.eisil.org>.

reference. Finally, the index deserves special mention. It provides meticulous page references not just to instruments, but to concepts that appear repeatedly in various instruments, such as immunities, implied terms, public policy, customary law, and damages. Page references to the authors' commentary appear in italics, so the reader can easily distinguish between discussion of an instrument and the instrument itself. The least useful feature is the status information for treaties and protocols; for some instruments, this information is already outdated. The authors include web sites at which readers can update the status information, but they should probably have dispensed with this piece altogether.

Although I would not call this book "indispensable," as its publishers do, the expert selection and commentary make it a valuable addition to libraries whose patrons practice or study international commercial law.

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***Treaty: Let's Get it Right!*** Hannah MCGLADE, editor. Canberra, ACT: Aboriginal Studies Press, 2003. Pp. ix, 222. ISBN 0-85575-433-8. US\$18.00.

This collection of essays was commissioned by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) from the think tank of the Aboriginal and Torres Strait Islander Commission (ATSIC). The intent was to stimulate discussion and debate about a treaty between Indigenous and non-Indigenous people in Australia.

All of the authors are Indigenous people from various parts of Australia. They include lawyers, law professors and other university professors from various disciplines, research fellows, and at least one member of the Australian federal parliament. The essays cover issues of sovereignty and governance; constitutional change; histories of treaty, settlement and agreement making within and outside of the native title sphere; intellectual and cultural property; international human rights law; and concepts of citizenry and matters of identity.

The book's foreword and preface indicate that the publication is part of ATSIC's public awareness effort as well as its strategy to provide theoretical and practical direction within the treaty debate. This collection is primarily concerned with communicating treaty matters to as wide an audience as possible. ATCIS think tank members wrote from their own specialized areas of interest, and their essays contain several models for securing a treaty and for handling matters that need to be addressed within the

treaty development process. A note about each of the fourteen essays follows below.

*Citizenship, Assimilation and a Treaty*, by Michael Mansell, focuses on a concept of self-government based on political equality. He argues that central to the whole treaty debate is the indigenous vision and that the model for a treaty need not be based on assimilation, countering the argument that Aborigines are also Australians and thus cannot make a treaty with themselves.

*Practical Steps Towards a Treaty – Structures, Challenges and the Need for Flexibility*, by Larissa Behrendt, discusses mechanisms for treaty making in Canada and identifies the need for a flexible approach in constructing a treaty negotiation framework for Australia.

In *Unfinished Business: A Shadow Across Our Relationships*, Michael Dodson analyzes the way in which treaty making can be accommodated within the Australian Constitution.

*Negotiating Settlements: Indigenous Peoples, Settler States and the Significance of Treaties and Agreements* was written by Marcia Langton and Lisa Palmer. The authors look at the trend toward treaty making before and after the 1994 Native Title Act.

In *How Do We Treat Our Treasures? Indigenous Heritage Rights in a Treaty*, Robyn Quiggan and Terri Janke examine how treaties would be an effective way to deal with intellectual property issues and would be especially valuable in the recognition of collective ownership.

*Indigenous Education, Languages and Treaty: The Redefinition of a New Relationship with Australia*. Lester-Irabinna Rigney discusses the effect a treaty would have on the preservation of Aboriginal languages and culture.

In “Who’s Your Mob?” – *The Politics of Aboriginal Identity and the Implications For a Treaty*, Louise Taylor looks at the framework for defining a person as Aboriginal and identifies the extent of diversity between Aboriginal peoples. She suggests that the integrity of the “test for Aboriginality” is also the test of the integrity of the framework developed to negotiate a treaty.

*A Story of Emergence – NIYMA’s Views on a Treaty, by the National Indigenous Youth Movement of Australia (NIYMA)*. This essay urges Aboriginal people to set goals and strategies in response to spiritual and cultural prerogatives. It discusses the importance of identifying themselves outside of white culture and forming a vision for the role and function of a treaty.

*Native Title, “Tides of History,” and Our Continuing Claims for Justice*, by Hannah McGlade, analyses sovereignty and native title and demonstrates how a treaty can provide a remedy.

*International Human Rights Law and the Domestic Treaty Process*, by Megan Davis, details the human rights framework from which human rights treaties are negotiated and argues that these methods can be used to negotiate a treaty in Australia.

*Indigenous Disadvantage, Indigenous Governance and the Notion of a Treaty in Australia: An Indigenous Perspective.* Darryl Cronin analyses the history of administrative practices in relation to the concepts of self-governance and identifies the necessity for the treaty concept to reflect Aboriginal governance structures.

*Treaty and the Self-Determination Agendas of Torres Strait Islanders: A Common Struggle*, by Dr. Martin Nakata, discusses how funding differs at local, state and federal levels and how these arrangements are the key to understanding the relationship between Indigenous peoples and government.

*"Mabo" Ten Years On – Small Step or Giant Leap.* This is a speech given by Senator Aden Ridgeway in which he argues that a treaty is the way of ensuring that governments are accountable to Indigenous Australians. He states that good public policy can emerge only when there has been an honest and accurate analysis of past errors and omissions, and where there is a genuine commitment to meeting the needs and aspirations of those affected by new policy.

*Sorry Day Speech*, by Nova Peris, ATSIC's Treaty Ambassador. In this speech Peris addresses the relationship between a treaty and the idea of a democratic nation and argues that a treaty makes it possible to reconcile past injustices.

*Treaty* also has an extensive bibliography of materials related to Aboriginal legal and social issues, and includes publications about other Indigenous peoples. It also has a note section and lists a few leading cases out of Canada, the United States, and Australia.

This collection of essays is informative as to facts and educational in the presentation of legal, cultural, and social issues from the viewpoint of leading Aboriginal scholars and activists. I recommend this publication to both the novice and the expert with an interest in the social and legal issues surrounding Indigenous peoples today.

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***Legal Instruments in the Fight against International Terrorism: A Transatlantic Dialogue.*** Edited by C. FIJNAUT, J. WOUTERS, and F. Naert. LEIDEN, Boston: Martinus Nijhoff Publishers, 2004. Pp. xlv, 744. ISBN 90-04-13901-X. €143.00; US\$204.00.

The title of this book is somewhat of a misnomer as one might think that the contents contain a multitude of actual international documents and some commentary from the contributors on the documentation. That is not

the case. The genesis of this book's contents emanates from an international conference held at the European Parliament in Brussels on May 7-8, 2002, that was part of an ongoing discussion concerning the European and American approaches to international terrorism in light of September 11, 2001. The diverse list of attendees from both sides of the Atlantic included practicing lawyers, academics, policy-makers, social scientists, and representatives of governments and international organizations.

More recent events, such as the train bombings in Madrid, Spain, on March 11, 2004, and the subway and bus bombings in London, England, on July 7, 2005, show that counterterrorism measures require cooperation between Europe and America. This book covers the legal dimension of that cooperation and conveys notions of the directions needed for the future. The book contains the topics discussed during the various sessions of the conference. The authors have adapted their presentations and supplemented them with contributions especially for this volume. These essays have also been updated prior to publication so the reader is apprised of the current state of legal affairs.

Following a Forward on the importance of this dialogue and introduction by the editors, the volume is divided into five parts, comprising twenty essays plus the editors' epilogue. For some reason, the editors did not number the essays, which would have made it easier for the reader. Each essay is extremely well-researched, and there are a legion of footnotes that attest to the completeness of each contributor's erudition and desire to show the thoroughness of investigation. The myriad of footnotes cover references appearing in many tongues, which should assist readers on both sides of the Atlantic. Essays deal with every legal aspect involving international terrorism and Islamic terrorism, but they do not focus on contributing factors such as the nature, scope, spread, methods, etc. of both phenomena.

In Part I, comprising one essay, the author sets out European Union (EU) and the United States (US) policy prior to September 11, 2001, and what their responses were immediately afterwards. The antiterrorism measures that were implemented are traced to illustrate the adopted policy. Part II, entitled "Police and Judicial Cooperation," contains five essays. In the first essay, the reader learns how evidence is gathered in criminal cases; the basics of extradition and alternative choices to that formal process; the immediate transformation in the American legal system following 9/11, including how the Bush administration changed the legal standard between war and terrorism; and a summary of the Patriot Act of 2001. Emphasis on evidence gathering outlines fifty methods of coercion employed by the US to obtain documentary evidence abroad, illustrative cases using letters rogatory, and the use of mutual legal assistance treaties. A short analysis of the various components of extradition should have been expanded rather than just highlighting the criteria involved. There is an ample discussion of the fairness aspect and human rights adherence in the US approach towards its citizenry and foreign nationals when terrorism is concerned.

Although the second essay in Part II is designated as an overview of what cooperation has taken place within the EU, the commentators have been too modest; their presentation carefully explains the arrest warrant framework decision, the proposal for a framework decision on combating terrorism, the enhancement of the role of Europol, the new mechanism of Eurojust as well as laying out extensive critical coverage of EU-US cooperation. The third essay links the threat of terrorism with organized crime and explains how the EU has tackled this dual threat. A cursory examination of the EU police cooperation to combat all possible types of terrorism is outlined in the fourth essay. The fifth essay gives a short overview of Eurojust, what it has done, is doing, and hopes to do to combat terrorism.

Part III contains two essays that survey financial counterterrorism initiatives. In the first essay, the author points to the measures taken to overcome money laundering in the early to mid-1990s. In the late 1990s, at the impetus of the G-8, the need to exploit the financial vulnerability of terrorist groups was recognized, which culminated in 1999 in the UN's adoption of an International Convention for the Suppression of the Financing of Terrorism. Development of earlier measures and the 1999 treaty are assessed approvingly. The second essay concentrates on how Europe met the financial challenges and scans the national statutory implementation in the EU member states.

Part IV contains five essays appearing under the rubric "Human Rights, Democracy and Rule of Law." Not surprisingly, human rights were initially overlooked in adoption of counterterrorism measures after 9/11. The first essay's focus is on how existing human rights principles were gradually reinforced to balance anti-terrorism mechanisms through a review of case law and decisions handed down by international courts and monitoring bodies. Readers will find much merit in this survey of international human rights jurisprudence developed in this reactive period of time. How human rights fared in US practice after 9/11 is the subject of the second essay. Did American practice comply with customary international law or US treaty obligations? Is international terrorism war? What law applies to terrorism? These general questions are answered based on US actions and the author's viewpoint. Numerous particular human rights and American practice regarding them are assessed. The subjects covered include targeted killings, death of prisoners in custody, responsibility for bombing deaths, due process of law, judicial review, detention of foreigners abroad, military commissions, and whether there is equality before the law.

An in-depth analysis of the EU's two framework decisions is the subject of the third essay. This contribution reviews the fight against terrorism at the EU level by specifically looking at how human rights, democracy, and the rule of law are impacted. The author explains how the European Arrest and Surrender Warrant operates, and he evaluates its significance. The fourth essay looks at the cooperation between the US and European governments after 9/11. Here the author draws on the case law

under the European Convention on Human Rights, the International Covenant on Civil and Political Rights, and the UN Human Rights Committee, all of which appear to trump the US approach to terrorism. Specific issues explored encompass deportation, extradition, the right to life, torture, a fair trial, electronic surveillance, and data protection. As the United Kingdom (UK) has had a long experience with terrorism, dating back to when it had a colonial empire that sought independence, the final essay in this part provides insight into how the UK has dealt with emergency situations. The various measures taken with respect to Northern Ireland are recounted as is the UK's peculiar constitutional position. Moreover, the importance of the British Human Rights Act of 1998 and its relationship to the European Convention on Human Rights and protocols are amply reviewed. Specifically with respect to Article 15 of the European Convention on the Justiciability of State decisions before the European Court, the reader will find a lengthy discussion on the article's structure and the Court's case law. There is also an adequate evaluation of Lord Lloyd's report on terrorism in the UK and the legislation that the UK adopted as a consequence.

Part V, entitled "International Law Aspects," contains seven essays. In the first essay, one finds a multitude of issues that could be said to have sent shockwaves through international law following 9/11. Among the topics to be encountered are the legality of the use of force to combat terrorism, i.e., unilateral action and international action by the UN, NATO, the OAS; the latitude of anticipatory self-defense and pre-emptive strikes; the applicability of the rules of armed conflict and international humanitarian law; terrorism as an international crime, a war crime, or as a crime against humanity; and the repercussions of terrorism on other branches of international law. The second essay examines the escalating threat of Al-Qaida and the US military response, US legislative activity, the limits of criminal trials in the federal courts, and President Bush's option to authorize military commissions. A review of the UN conventions on specific aspects of terrorism and the key obstacles in developing a comprehensive general antiterrorism convention are subjects dealt with in the third essay. This question of a possible general comprehensive convention is carried forward in the fourth essay, but from an EU standpoint of what would be required for the EU to support this move. In September 2001, the UN Security Council adopted Resolution 1373, which established the Counter-Terrorism Committee (CTC). The fifth essay is devoted to a review of the work of the CTC, the CTC's accomplishments during the first two years of its operation, the outstanding political issues in need of resolution, and six major challenges facing the CTC that must be overcome to make certain that the UN membership fulfills its legally binding obligations concerning counterterrorism.

In the sixth essay, the author discusses the "smartness" of the antiterrorism sanctions adopted by the UN Security Council and how they affect individuals. Here, there are questions that center on the limits of Security Council power to impose sanctions, and the further issue of whether

sanctions are limited when in conflict with human rights or international humanitarian law. The final essay contains the concluding remarks at this colloquium prepared by a politician of considerable local, national, and European parliamentary experience.

In the epilogue, the editors provide a superb summation of how legal instruments in the fight against terrorism have been developed, refined, and reshaped at the national and international levels on both sides of the Atlantic. They point out where there has been European and US consensus, and where there is ongoing disagreement.

This reviewer suggests that for the purpose of deriving the maximum benefit of what is contained in this massive volume of information and debate, the reader should have at hand the legal instruments referred to in the text in order to fully comprehend the contributors' arguments. The editors have also included an organized index of authorities in chronological order to assist readers and researchers who seek guides to light paths through this book. However, there is no general or topical bibliography; thus, the reader should benchmark references in the footnotes for later consultation. Readers will also appreciate the table of abbreviations and comprehensive index, which, in the case of the latter, carries its own set of instructions. This work represents an extraordinary achievement.

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***Sustainable Development Law: Principles, Practices, & Prospects.*** By Marie-Claire Cordonier SEGGER and Ashfaq KHALFAN. Oxford; New York: Oxford University Press, 2004. Pp. xxv, 464. ISBN 0-19-927671-4. £30.00; US\$65.00.

Both authors, Marie-Claire Cordonier Segger and Ashfaq Khalfan, are directors of the Centre for International Sustainable Development Law, an institute that is affiliated with the most prestigious faculties of law Canada has to offer. All the other contributors have similarly impressive backgrounds. For example, the former vice-president of the International Court of Justice, Judge Christopher G. Weeramantry, wrote the forward. His reputation reassures the reader that *Sustainable Development Law* is a worthwhile read.

*Sustainable Development Law* is designed as “a beginning guide, resource, exploration and reference source for multiple stakeholders: academics, policy-makers, negotiators, students and practitioners of international sustainable development law. It serves both the legal community, and a broader group of development, environment and human rights scholars and professionals affected by intersections of laws in these

fields.” (pp. 7-8) The book starts by pointing out the difficulty with the concept of “sustainable development,” which has multiple meanings. This is partly due to the fact that sustainable development refuses to be intellectually affiliated with progressive Euro-centric philosophy. It is this author’s guess that such total failure to notice it might be due to the fact that this philosophy’s reputation has been tainted by association with the failed social experiments that it inspired. Nevertheless, its core aspirations for a decent lifestyle for all cannot but remain perennially valuable, especially from the point of view of sustainable development.

No one can dispute that *Sustainable Development Law* is both well structured and instructive. The first part, “Foundations,” offers a survey of the origins of the concept of sustainable development and settles on the 1987 Brundtland Report definition of it. The concept covers “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (p.2), and it calls for integrating ecological and economic issues within the international law agenda (p.18). Part I also covers the results of the 2002 World Summit on Sustainable Development. The reader learns that the Summit’s main goal was to “halve by 2015 the proportion of the world’s people living on less than US\$1 a day and who suffer from hunger.” (p.37). Nevertheless, one would have liked more than a summary of the Summit’s results. For example, it would have been intellectually more interesting had the proposed principle of “sustainable development” in Africa been critically analyzed instead of merely described.

The next three parts follow the title’s structure. Part II, “Principles,” examines the principles of international law relating to sustainable development. The principles that emerged from the International Law Association’s New Delhi Declaration receive extensive coverage. Of telling importance for this body of law is the meaning of the “principle of equity and eradication of poverty.” This principle is supposed to cover both rights of the people of the current generation (intra-generation) as well as those of future generations (inter-generation) to have fair access to the common patrimony, i.e., the “Earth’s natural resources.” The principle does not aim to guarantee a decent lifestyle for all whether they belong to the current or future generations.

Part III, “Practice,” includes examples of the various degrees of integration among social, economic, and environmental issues in international instruments, such as within the North American Free Trade Agreement. Part IV, “Prospects,” contains essays written by different contributors that focus on six priority areas of intersection between international social, economic, and environmental law. Of special interest is Sumudu Atapattu’s section on international human rights and poverty law. It further details the state of the current global fight against poverty, which even within the “sustainable development” area is only being fought from an “empowerment of the poor” point of view.

*Sustainable Development Law* successfully familiarizes the reader with this area of international law. Furthermore, its finding aids, e.g., table of declarations, table of treaties, indexes, etc., which cover almost 100 pages, offer the reader information about all relevant legal information in this field. This is another reason for libraries whose collections cover international law extensively to purchase this volume.

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***Legal English.*** By Rupert Haigh. London: Cavendish Publishing Limited, 2004. Pp. xxvi, 250. ISBN 1-85941-950-X. GB£18.00.

The author of this book is a qualified solicitor, and holds an M.A. in English and an LL.M. in public international law. He is based in Helsinki and is managing partner of a firm that provides language training to legal practitioners and managers. Destined primarily for non-native speakers, *Legal English* yet manages to incorporate some elements that will be of interest to native speakers.

The book is divided into three thematic sections: writing legal English, speaking legal English, and contractual legal English. The writing section covers ground familiar to anyone who has read books devoted to legal writing style (or, come to that, to English writing style generally). An introductory chapter discusses parts of speech, punctuation, and problem words. The chapter dedicated to writing legal English will be familiar to students of this subject as will chapters relating to legal drafting conventions. The chapter on how to write legal letters and e-mails has useful examples to accompany them, and their lay-out is clear and helps to get the author's point across.

The section on speaking legal English is probably meant for the classroom. To merely read through the exercises is not especially enlightening, though this section is enlivened by some insights into the importance of small talk, tone of voice, and body language when communicating, even when the communication consists of conveying professional advice. The chapter on client interviewing is fairly standard, but the one on negotiation techniques is more compelling. It contains a long table comparing the advantages and disadvantages of different negotiating strategies and an assessment of the differences in negotiating style between the U.S. and U.K. Also, there is a nice recitation of negotiation tactics. Some readers could probably identify "the quivering quill" ploy, but how about the one called "I'm only a simple grocer"? The section is rounded out by

chapters dealing with chairing meetings and making presentations, and how to conduct oneself on the telephone.

The section on writing contractual English attempts to pull it all together. This is the section that might be of real benefit to readers outside the author's target market, such as law students, recent law graduates, legal editors and even translators learning from the examples. The basic notions of Anglo-American contract law are set out, as is the language that tends to appear in contracts (idioms, technicalisms, turns of phrase, etc.). Contract content and structure are handled well, and the section closes with a chapter devoted solely to the close reading and analysis of a typical U.K.-style share purchase agreement. The book is appended with seven glossaries dealing with obscure words and phrases, phrasal verbs, easily confused words, business abbreviations, foreign terms used in the common law, and legal terminology.

A generally useful book, if not an indispensable one. With all the other books that have taken on this subject, not to mention the many on-line resources available, its appeal beyond its primary market of non-native speakers of English is very likely limited. The book's presentation is attractive and it is edited well.

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***Aboriginal Societies and the Common Law: A History of Sovereignty, Status, and Self-Determination.*** By P.G. MCHUGH. Oxford; New York: Oxford University Press, 2004. Pp. ix, 661. ISBN 0-19-825248-X. GB£80.00;US\$150.00

In an absorbing, dense, and detailed account of the interactions of indigenous groups of North America, Australia, and New Zealand with British settlers and "conquerors," *Aboriginal Societies and the Common Law* presents not only a history, sweeping in its coverage of time and place, but also a pointed depiction of the vicissitudes of law. This latter aspect is significant, because it indicates a phenomenon all too often obscured when scholars implicitly treat law as a merely a-historical, officially decreed, instrumental agent mediating or facilitating the genuine advances of society and civilization. Law does not always simply evolve from stage to stage, and the confrontation of empire with indigenous societies provides one context in which the complexity and nebulosity of law can be particularly pronounced. One prominent scholar of American Indian law, for example, notes such an "objection" to the state of his field: "A common lament is that

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<sup>13</sup> Mr. Rasmussen is a legal editor and translator.

federal Indian law is riddled with doctrinal inconsistency. Even Supreme Court Justices sometimes admit that the law is a mess.”<sup>14</sup>

P.G. McHugh does not so forthrightly declare the British imperialist common law, whose engagements with multiple indigenous societies constitute his focus, to be “a mess.” In fact, he notes its “strong continuity across several jurisdictions” (p. 3), and describes the regimes that emerged following British and American establishment of dominance in colonized non-Christian territories as “Empires of Uniformity” (pp. 48-49, 117-214).<sup>15</sup> The epithet, however, suggests imperial ambition vis-à-vis the indigenous populations, rather than a reference to the character of the law. The uniformity sought was a desideratum to be imposed upon assimilated tribal peoples, rendering the aborigines “a constitutionally homogenized population.” (p. 49) Furthermore, the gradual accretion of a homogeneous empire distinguishes only one stage of McHugh’s history, a period roughly coinciding with the nineteenth century following centuries of exploration and conquest during which the British, and later the Americans, first sized up the indigenous communities whom they encountered.

Several other stages comprise the history that McHugh advances to the present day. Following an introductory overview, he devotes a chapter to the centuries, ranging mostly from the sixteenth through the eighteenth, during which British law awakened to the existence of competing polities whose distinctive aspect, from the British point of view, was their non-feudal, non-Christian, non-individualistic constitution.<sup>16</sup> This is the first chapter of three comprising a section entitled “Sovereignty,” which teases out many of the subtleties and vagaries of a malleable concept. McHugh shows here how the common law’s implementation of that concept afforded the British the means to establish authority, slowly and erratically, over the tribal groups. The scope and source of sovereignty, its relationship to aboriginal custom and identity, and a sometimes unstated yet lurking presumption that indigenous groups, too, enjoyed some degree of their own sovereign powers, were factors that contributed to the knotted conundrum of legal disputes and relations between the polities. Such disputes involved by now familiar questions of the extent to which indigenous legal institutions could legitimately regulate and adjudicate purely intra-tribal activities, as well as the complementary question of imperial and colonial jurisdiction over such activities.

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<sup>14</sup> Philip P. Frickey, *Doctrine, Context, Institutional Relationships, and Commentary: The Malaise of Federal Indian Law through the Lens of Lone Wolf*, 38 TULSA L. REV. 5, 9-10 (2002) (footnotes omitted).

<sup>15</sup> McHugh cites JAMES TULLY, *STRANGE MULTIPLICITY: CONSTITUTIONALISM IN AN AGE OF DIVERSITY* (New York: Cambridge University Press, 1995), as the source for the term.

<sup>16</sup> By “constitution,” I intend here not its strictly legal meaning, but the more general notion of a population’s political, social, religious, economic, and cultural structures and composition.

McHugh traces the evolution of sovereignty from its largely “jurisdictional” sense, expressed in practices of treaty-making and ad hoc relations between state-settlers and tribes, to a “territorial” sense, in which a crystallized and expanding ambition for land acquisition by the British and Americans provoked more emphatic and notorious exercises of exclusion, removal, and control, an outcome McHugh refers to as “positivization” of the common law. (p. 29) “A more doctrinaire and absolutist approach,” he writes, “superseded the essentially improvisatory ways of the old jurisdictionalism.” (p. 119)

The shift also reflects the consequences of increased proximity of settlers to the indigenous peoples, and their resulting mutual interactions, such as intermarriage between settlers and tribal members. Proximity entailed “a very real physical domination over the indigenous peoples” (p. 119), and spurred policies of assimilation portending an “apparent twilight of tribalism.” (pp. 215-16) This early evolution, culminating in McHugh’s scheme around the end of the nineteenth century, sets the stage for the advent of a new framework in which aboriginal assertions of identity and political interests acquire prominence and definition. “Self-determination” is thus the theme of twentieth century aboriginal law and policy, although it remains grounded (an inescapable pun) in claims to land, thus maintaining the common law’s positivized nature.

Before proceeding to the four chapters comprising the book’s “Self-determination” section, McHugh situates a brief “Intermezzo” pertaining to aboriginal societies and international law, in which he identifies parallel courses of international and local legal systems. An abbreviated history of international legal concepts notes the ways in which aboriginal peoples were variously ignored or marginalized, their treatment in the maturing international legal regime being conflated, for example, with that of minorities who had achieved substantially greater recognition in the international arena, but whose interests were ultimately distinct from those associated with strictly aboriginal rights. McHugh reviews critical instruments of the regime and notes their bearing on the status of indigenous groups. He further identifies the mutual influences of international and local legal development. Questions of aboriginal status and sovereignty (turning on a positivized juridical standard of “civilization”), individual and collective rights, self-determination, and discrimination all emerged at the international level. Their resolution at that level informed and was informed by their resolution at levels ranging from the state to the municipality.

The pursuit of group self-determination, then, replaced a failed effort at assimilation of tribal members as individual citizens of an imperial settler-state. In each of the regions examined by McHugh, self-determination “became the overarching dynamic for legal development in each jurisdiction.” (p. 316) The “Self-determination” section comprising the work’s last half traces this development. The 1970s and ‘80s were the “period of recognition” and of a concomitant increase of tribal participation in political, economic,

and cultural activities, a time when “aboriginal peoples demanded equality pitched at the highest level—the governmental one—not atomized at the lowest into individualized, undifferentiated citizenship.” (p. 354) The courts more actively challenged the traditional exercise of broad executive discretion characteristic of the twilight period of the twentieth century, a period of marked imperial dominance and paternalism. Recognition of tribal self-determination prompted the courts to identify and protect inherent substantive and aboriginal rights accruing to tribal polities.

Accordingly, McHugh depicts the 1990s as an increasingly complicated time of accelerating rights conferral, careful adaptation of tribes to settler-states, adjustment of tribal customary practices to new political and economic realities, and “a deepening and broadening legalism” of aboriginal affairs (p. 537). The involvement of the courts increased as tribes initiated litigation to resolve claims, particularly to land. But the heightened litigiousness also spawned a corresponding drive toward reconciliation between aboriginal groups and states, a process of rhetorical and material negotiation and compromise the outcome of which fell far short of the once-idealized prospect of total assimilation.

The foregoing précis of McHugh’s vast text fails to specify its important vein of comparative analysis. As was mentioned at the outset of the present review, *Aboriginal Societies and the Common Law* investigates the consequences of advancing empire in Canada, the United States, Australia, and New Zealand. Throughout the chapters and sections summarized above, McHugh surveys the forces at work in each of these territories on the legal ramifications of confrontation between the *arriviste* settlers and the indigenous peoples. While the courses taken in each region—exercises of “jurisdictional” sovereignty leading to more aggressive efforts toward assimilation, for example—often ran parallel, McHugh also carefully notes their distinctions. He shows, for example, how the encroachment over tribal lands of the imperial legal regime during the nineteenth and twentieth centuries in Australia resulted in “adaptive as well as antagonist” interactions, where elsewhere the latter predominated, no doubt a consequence of geographical circumstances. He also indicates the influence of the pertinent developing American common law, represented most significantly by the Marshall Court trilogy of cases in which American Indian tribes were “denominated domestic dependent nations,” which both reflected international understandings and informed the subsequent course of English common law doctrine.<sup>17</sup> It should be remarked, too, that although a titular protagonist in McHugh’s narrative is “the common law,” he necessarily devotes significant space to accounts of legislative actions by each jurisdiction.

The foregoing also fails to give McHugh’s formidable stylistic and intellectual skills their due. Being a work of history, it is amply constellated

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<sup>17</sup> *Cherokee Nation v. Georgia*, 30 U.S. 1, 17 (1831).

with the requisite historical, bibliographic, and documentary references, but being as well a work of jurisprudence, it is often abstract and conceptually dense.

*Aboriginal Societies and the Common Law* is an aptly difficult text addressing difficult legal and historical issues. Indeed, McHugh is sometimes unforgiving of his reader, for although he has structured the book chronologically, he takes many occasions to summarize a theme's entire historical progression before backing up to pursue the theme in greater detail. He revisits many of the themes several times as his context shifts, lending a repetitive quality to some of the discussion. One could argue that these techniques of review ought to assist the reader's grasp of a complicated story, but they also occasionally expand the girth of an already sizable tome. Overall, though, these are negligible criticisms of a richly crafted treatment of a worthy topic of immediate as well as historical significance. McHugh has performed a tremendous service in synthesizing the enormous scholarly, judicial, and legislative literatures pertaining to each of his subject jurisdictions, and he has done so without sacrificing the subtle distinctions that constitute a living law.

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***Law and Language in the European Union: The Paradox of a Babel United in Diversity.*** By Richard L. CREECH. Groningen, The Netherlands: Europa Law Publishing, 2005. Pp. viii, 176. ISBN 90-76871-43-4. US\$84.00

How has the European Union adapted as the number of official or regulation languages has increased from the original four to twenty-two? Has it properly incorporated all the new languages into its institutions? Should it have done so? Has the increase in languages, especially the addition of the Eastern European languages following the 2004 Enlargement, affected the EU's commitment to free movement of goods and people? Where do minority and regional languages fit into the EU's linguistic scheme? Should they be protected? Is there a fundamental right in the European Union to use the language of your choice in communicating with the government of any member state? These questions are explored by Richard L. Creech in *Law and Language in the European Union: The Paradox of a Babel United in Diversity*. The book investigates and analyzes the complicated relationship that exists within the European Union relating to languages and language diversity.

Mr. Creech begins with an historical overview of how language diversity has grown within the European Union through successive enlargements. He discusses the translation difficulties that arose when unfamiliar languages, such as Finnish, Greek, and Slovak, became regulation

languages. (It is said that the Finnish translations are so poor that the Finns frequently use the English versions of the official documents. (p. 18, note 40)). As the number of languages increased, it became harder to find qualified people to translate all the new documentation. Thus, the use of pivot languages has grown, resulting in many documents being translated twice – first from the original language to a pivot languages and then into the rest of the languages of the European Union. Since “every translation represents at best a diminishment, and at worst a corruption, of the original statement’s communicative value” (p. 27), the use of pivot languages can have a profound impact on the quality of the final product in many of the languages. The impact of linguistic variance between speakers of the “same language” in different countries is also discussed. This was most relevant with the accession of Austria, where the German spoken is significantly distinct from that spoken in Germany.

The second chapter delves into linguistic diversity and how the EU has shown a commitment to fostering it. Since the book was written before the defeat of the Constitution for the European Union, there are references to the language used in the Constitution, including “united in diversity,” which helps with the analysis of language use. The author points out that the EU has a varied history of protecting languages. As an example in the area of education, the Lingua Program was created to increase the opportunities to learn a less widely used language. However, in practice, the program “finances the study of those languages which are generally deemed to be the most valuable for use in international business.” (p. 55) The increase in the member nations has also led to a rise in the number of minority and regional languages that are present in the EU. These languages are not equal in status to regulation languages and their allowable use by native speakers is one of the current main linguistic questions within the EU. The EU’s commitment to linguistic diversity comes to the fore when the European Court of Justice is asked to review a state regulation that in effect, if not in exact text, limits the rights of speakers of minority languages.

The third and fourth chapters review language protection as it relates to the European Union’s policies on the free movement of goods and free movement of people. Articles in the EC Treaty prohibit restrictions on the flow of goods, services, and citizens between member states, unless there is a recognized state interest. (p. 71) Individual state’s economic regulations that have an affect on language use are discussed. The analysis in these chapters involves a review of European Court of Justice cases that interpret “the interaction between a state’s language policy and the provisions of the EC treaty.” (p. 17)

As a means to conclude the book, Mr. Creech examines the concept of language rights as human rights. He ties this idea into the prior chapters by reviewing some of the cases introduced during the discussion of the free movement of goods and people and looking at them from a human rights perspective. One of the author’s purposes is to illustrate that the European

Union's economic-focused origins influence its current handling of language issues. He sees the 2004 Enlargement as an opportunity for the EU "to re-conceptualize language as being more than a medium through which commerce is conducted and to recognize that it is at the core of what it means to be a human being." (p. 158)

Mr. Creech's writing style is clear and he provides numerous examples to illustrate his points. The book is heavily footnoted with both citation information and explanatory materials, which generally provide good clarifications for the text. While an understanding of the nature of the EU institutions is helpful when reading *Law and Language in the European Union*, the book serves as a clear exposition on the subject and would be useful to anyone with an interest in languages and linguistic diversity.

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***Business and Human Rights : a Compilation of Documents. (The Raoul Wallenberg Institute Human Rights Library, 13).*** Edited by Radu MARES. Leiden ; Boston : Martinus Nijhoff Publishers; Herndon, VA : Distributed in Canada, USA and Mexico by Brill Academic Publishers, 2004. Pp. xxx, 654. ISBN 90-04-13656-8. €201.00;US\$287.00.

The violent protests at the World Trade Organization's Ministerial Conference in Seattle in 1999, and the protests at subsequent G8 economic summits, have thrust the issue of economic globalization and the role of transnational corporations out of the boardroom and onto the international stage. As a direct result of these protests, calls for international standards and greater scrutiny of alleged abuses of corporate power by multinationals have become more frequent and insistent. In addition, the successes of human rights advocates in using civil litigation in U.S. courts to address the human rights abuses of transnational corporations, using the Alien Tort Claims Act (ACTA), have prompted in-house counsel to address the linkage between corporate practices and human rights.

As a result of these developments, we have seen a proliferation of voluntary codes dealing with human rights and labor practices among U.S.-based clothing manufacturers, retailers, and other industries. These codes serve as guidelines to subcontractors to promote good labor practices, as well as marketing tools that signal to socially-conscious consumers that the companies in question respect human rights. Such policies have proliferated over the past decade and have become a standard feature of responsible corporate governance throughout the world.

In addition to the voluntary efforts of the business community, many international organizations and non-governmental organizations have developed guidelines for corporate responsibility, labor practices, and environmental standards. Perhaps the most famous of the instruments developed by civil society are the Global Sullivan Principles of Social Responsibility, drafted by Reverend Leon H. Sullivan and introduced by Secretary-General Kofi Annan at a special meeting of the United Nations in 1999. International organizations, such as the International Labour Organization, have also drafted numerous international instruments dealing with workers rights and working conditions of direct relevance to transnational corporations.

*Business and Human Rights: a Compilation of Documents*, edited by Radu Mares, offers a collection of these human rights and business standards and it is the latest volume in the *Raoul Wallenberg Institute Human Rights Library*. This compendium, Volume 13 in the series, compiles over 130 hard and soft law instruments, corporate codes of conduct, and standards for the reporting, certification, and labeling of goods. Issuing bodies include governments and intergovernmental organizations, non-governmental organizations, and business entities. The work's table of contents arranges the documents by type of issuing body; a brief alphabetical index is also included. Each entry includes a website address for the document from the issuing agency, when available. An excellent introductory essay by editor Radu Mares opens the work and serves to frame the relevant issues regarding transnational business and human rights.

Given the diverse provenance of these often difficult-to-locate documents, this work provides an extremely useful one-volume compilation that will appeal to corporate counsel, human rights advocates, and those interested in corporate governance and ethics. Libraries wishing to enhance their collections of human rights materials will also find *Business and Human Rights: a Compilation of Documents* to be a valuable addition.

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***Text, Cases, and Material on EU Law.*** By John TILLOTSON and Nigel FOSTER. 4<sup>TH</sup> edition. London; Sydney; Portland, OR: Cavendish Publishing, 2003. Pp. lxvi, 630. ISBN 1-85941-777-9. GB£27.45;US\$46.00.

The twenty chapters of this book provide an account of the main constitutional, institutional, administrative and substantive features of European Community law. Although intended specifically for law students in the United Kingdom, this book could be used anywhere as a source on this subject, not only by novices but also by those already familiar with European

Union law who might gain fresh insight and perspectives from the book's thorough coverage of both factual and theoretical material. The authors, John Tillotson, who taught at the University of Manchester, and Nigel Foster, who teaches at Cardiff University, state in the preface that the focus of their book is on the European Community, which is only one, but by far the most important part of the European Union, and on the European Community Treaty, the most developed part of the Union legal system. However, there are references to the other sectors as well.

The first chapter traces the history of the European Union, from the six-member Treaty of Paris of 1951 to the 1957 Treaty of Rome, which established the European Economic Community, and on through the successive treaties, with the most important points of each treaty set out and explained. This historical tour of the development of the European Union gives a sense of the increasing importance and widening ambit of the Community's influence, and the wariness some countries felt as to its encroachment into their national prerogatives. While this theme runs through the entire book, some of the basic concepts underlying it are treated in chapter 3, "Federalism, Sovereignty, Competence and Subsidiarity." Discussing the question of whether the European Community is a federal entity, the authors state that it is not, that the powers it has were transferred to it by the Member States themselves, and that it contains both federal and intergovernmental elements and is therefore a "hybrid," a federation in the making, but only if the political will of the Member States would find that desirable. They explain how the important principle of subsidiarity, which was formally incorporated into the Maastricht Treaty of 1992, was meant to allay concerns of member states regarding loss of sovereignty to the European Union by delimiting the competencies between the states and the Union, but they then make very clear that where the lines should be drawn is still much in dispute.

Other chapters, including some with titles such as "The Nature and Main Sources of Community Law," "Law Making and the Community's Political Institutions," and "Community Acts," explain the importance of the treaties as the primary sources of Community law, the structure and functions of its political institutions and of the European Court of Justice and Court of First Instance, and the various types of secondary legislation for which these institutions are responsible. In emphasizing the importance of the treaty basis, it is pointed out that every piece of secondary legislation must be based on specific treaty provisions, or the legislation may be challenged as invalid. The powerful role of the European Commission as the "initiator" of policies as well as its ability to fine corporations for infringement of competition policy is explained, as is the struggle of the European Parliament to eliminate the "democratic deficit" regarding its role in the legislative process. How the Court has to intervene in disputes regarding legislative prerogatives between the various Community institutions is set out in detailed examinations of cases such as the famous ERTA decision. Substantive areas of Community law are dealt with in chapters dealing with topics such as competition policy,

free movement of persons and citizenship, and equal treatment of men and women. The last two chapters of the book examine questions of judicial review and remedies against Community Acts, as well as the obligations member states have to the Community.

Discussion of the evolution of fundamental rights in the Community includes the “unwritten Bill of Rights” created by the Court, and the Charter of Fundamental Rights, which was drawn up by a special Convention in 1999 and then adopted as a political statement at the Nice Summit in 2001. The background issues surrounding the Charter, including its relationship with the European Convention of Human Rights, should be especially interesting to readers of this text in view of its incorporation into the new constitution/treaty, which was approved by the leaders of the European Union in June.

A particularly valuable component of the book is its liberal inclusion of pertinent and interesting writings by other authorities, which complement, illuminate and reinforce the commentary of the authors. Anyone reading this book will become very familiar with the leading scholars on the European Union. Every chapter ends with a useful list of “References and Suggested Readings.”

The book’s method of presentation includes much repetition. References to and extracts from the famous cases re-occur throughout the book, and certain points are made repeatedly, e.g., that the Commission is the “European body” while the Council represents the Member States. Rather than being an annoyance, however, the repetition serves to reinforce important concepts and facts. The book includes both an alphabetical and chronological table of cases, a table of treaties and conventions, and a table of other legislation. The index is comprehensive.

The 3<sup>rd</sup> edition of this book was published in 2000 under the title *European Union Law: Text, Cases and Materials*, with Prof. Tillotson the sole author. This edition’s coverage ends in the spring of 2003. New material includes discussion of some important recent cases, among them the Carpenter case, which clarifies citizenship within the Union, and a highly anticipated Court of First Instance decision on the scope of private parties to bring litigation before Union courts. Also included are new policies regarding competition law. Those who already have the previous edition will have to decide whether or not these recent developments warrant obtaining this new edition. However, for everyone else, this book is recommended for its range and depth of coverage and for its thorough discussions of both factual and theoretical issues regarding European Union law. It would be useful not only for classroom use, but also in academic libraries as a valuable source for anyone interested in this topic.

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