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indigestion, by accepting a general duty of good faith. Both of those writers should know better. Indeed, McKendrick *does* know better, for, as he acknowledges a couple of pages later, the problem is really the converse. The Common Lawyers have absorbed a *general* notion of contractual liability all too well, and are reluctant to surrender core parts of it without good reason. It is the Common Lawyers' attachment to their *general* vision of contract, not some nebulous distrust of general concepts, that makes them reluctant to accept a different version of contract law.

Two of the essays consider "good faith" in other contexts. Carey Miller considers the many uses of the expression "good faith" in the Scots law of immoveable property. He concludes that while of course the expression does not mean the same thing every time it is encountered, none the less there is some scope for generalisation; he proposes a system of classification toward that end. Blackie tackles the (confused and confusing) area of personal bar (which is loosely analogous to the English law of estoppel by representation). This is less straight exposition of the law and more of a manifesto for clarification of it, with "good faith" as one possible tool for doing so.

This reviewer, who before reading this excellent collection had no definite view either way, can confidently say that it has helped him towards a firm view of the utility of "good faith" in the modern law. Having seen the reasons for supposing that it matters, he is firmly of the opinion that it does not, and he is now indifferent whether such a notion is accepted as part of the law. With McKendrick, he cannot see that either judges or legislators will find it worthwhile to introduce the principle, as it will always stand as a controversial route to conclusions that can be reached much more easily without it (47–48). And while no doubt not everyone will agree, none the less the book can firmly be recommended to others, as a thorough discussion of the pertinent issues.

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Johannes Morsink, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: ORIGINS, DRAFTING AND INTENT

Philadelphia: University of Pennsylvania Press, 1999. xiv and 378 pp. ISBN 0 8122 3474 X. £37.50.

In his rigorously researched work, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, Johannes Morsink considers in fine-toothcomb detail the process that led to the adoption of the Universal Declaration of Human Rights. He looks not just at the drafting history—but beyond it to the political situation of the time, historical events in the preceding years and the personalities of those prominent in the drafting process. The result is a well-documented work that proves to be a very readable and, by times, fascinating exploration of the genesis of the Universal Declaration.

Unusually for a work that analyses a drafting process, Morsink does not proceed on an article-by-article basis. Rather, the work is divided into various topics (such as "World War II as a catalyst", "Social security, education, and culture", "Privacy and different kinds of property"), each of which is broken down into a handful of sub-topics (for example, "The right to protection against unemployment", "The women's lobby and women's rights"). At first blush this approach may seem unhelpful to readers, most of whom are likely to consult a

book of this type for elaboration on the drafting of a particular article. Happily, however, Morsink ensures the reader loses nothing due to the format by obligingly providing an appendix allowing for cross-reference on an article-by-article basis. Morsink's use of a topic-by-topic format—which is intended to complement existing article-by-article commentaries on the Universal Declaration—results in a book that is vastly more readable than an article-by-article analysis. For those who do sit down with the book to learn about a particular topic area—the socialist contribution to the development of work-related rights, for example—the book provides an interesting overview of the development of each relevant article in the context of the broader topic. This allows a reader insight into the interrelationship between the subject-related articles, something that could not be explored as effectively in an article-by-article analysis. For example, with this format, he is able to guide the reader through the “twin birth” of arts 22 (right to social security) and 28 (right to a social and international order).

Morsink begins with a discussion of the process that led to the drafting of the Universal Declaration. The Human Rights Commission began the task in January 1947 and completed it in December 1948. Morsink outlines the seven drafting stages that resulted in the document: three plenary sessions of the Human Rights Commission (in January/February 1947, December 1947 and May/June 1948), two sessions of a Drafting Committee established by the Commission, and two meetings of the General Assembly (the Third Committee and Plenary in September–December 1948). At the first session of the Commission, it was agreed that a group should be formed to prepare an initial draft. This task was promptly delegated to the UN Secretariat, in the person of John P Humphrey, the Director of the Secretariat's Division on Human Rights, whose draft was presented to the Drafting Committee's first session in June 1947. While his initial draft was influenced by various existing documents and by the instructions from the first session of the Human Rights Commission and from EcoSoc, we are shown that the initial draft has Humphrey's “socialist stamp” all over it. It becomes clear that Humphrey's influence on the final product was greater than that of any other person. This process exemplifies what is well known to those involved in any drafting exercise: the more involvement one has at the earliest stages, the more likely it is that one's views will out in the final document.

Morsink proceeds to outline the factors leading to the elaboration of the various rights with great precision. In addition to focusing on the comments and proposals of various state representatives (those that were accepted as well as those that were rejected), he considers the influences of the day on the drafting process—influences such as the difficult nature of the relationship between the East and the West, the women's lobby and the tradition of Latin American socialism. Morsink's most fascinating chapter—and the one about which he is clearly most passionate—is his discussion of the influences of the Second World War, and in particular the Holocaust, on the Declaration. Through a careful parsing of the *travaux préparatoires* as well as an historian's knowledge of the activities of the Nazi regime, Morsink is able to find insights into the motivation of the drafters. Morsink makes clear that knowledge of the atrocities committed in the Holocaust permeated the entire drafting process, impacting on almost every article. He describes art 1 (“All human beings are born free and equal in dignity and rights [and] are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”) as “a trumpet call of victory after the battle”. From the establishment of general concepts (the apt reminder in the preamble's second paragraph that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind”) to the very precise civil and political rights (legal process and free speech) and economic, social and cultural rights (rights to work, to education to social security, to form unions), the drafters drew inspiration from their abhorrence of Nazi policies. Morsink notes that “[w]hile they often differed on the specific wording to be used, once it was shown that a violation of a certain clause or article

had in some way helped create the horrors of the war, the adoption of that clause was virtually assured”.

With an historian's zeal, Morsink offers the reader a view of the situation in Germany in the 1930s and 1940s. The scope of his examination is broad. It includes official memos from the Nazi establishment, an analysis of the oath taken by members of the SS, and speeches and writings from Hitler dating back to the 1920s. Moreover, he examines the legal system in place at the time in Germany, its legislative basis and its specific application. For example, he tells of a case involving a contract where a Jewish film producer was considered incapable of carrying out his duties as he had been declared legally dead and links this to the right to recognition as a person under art 6. Similarly, he draws the link between the arbitrariness of the application of the law in the Nazi regime (as illustrated by the example of a newspaper editor who was fired simply because a Nazi official wanted him fired) and the enshrining of the rights to fairness and independence in art 10. He concludes, “without the delegates' shared moral revulsion against [the Holocaust] the Declaration would never have been written”.

An underlying theme of the work is Morsink's attempt to rebut the charge that the Universal Declaration is ethnocentric. He describes the fifty-year-old document as suffering a “mid-life crisis”. It enjoys “unprecedented prestige” and “high moral visibility both in courts and in the trenches”, but because it is constantly subject to the charge of ethnocentrism it cannot walk as tall as it otherwise might. He cites a suspicion “nurtured in many intellectual circles, that something went wrong way back at the beginning”, and attributes this to an ignorance of what happened at the drafting process. Setting the record straight is apparently one of the purposes of this book; Morsink, however, is not always successful at convincing the reader of this. Indeed, he himself appears to be in doubt at times, conceding at one point that the drafting process “was dominated by nations from around the North Atlantic (with their friends and former colonies) and from Latin America, and that large regions of our world, such as Asia and Africa, were grossly underrepresented at the drafting table”.

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Tony Honoré, RESPONSIBILITY AND FAULT

Oxford: Hart Publishing, 1999. vii and 163 pp (incl index). ISBN 1 84113 005 2. £22.

Most of the essays collected here were first published relatively recently (from 1988 to 1998). The Appendix (“Can and Can't”) is the exception, first appearing in 1964, and there are also many references back to the author's widely known work with Herbert Hart on causation. No prior familiarity with that work is required for the enjoyment of these essays, however, which provide a helpful starting point for teachers and students. Nevertheless, the continuing relevance of these reference points from earlier decades illustrates one of the benefits of this collection. In contrast to the more familiar kind of collection, consisting of essays by a number of writers and providing a momentary indication of the variety of tort theory in circulation, this volume allows a wider audience to consider a number of related aspects of the thinking of one writer, and to reflect more fully on the successes or failings of the arguments presented.

There are other reasons why this book might be a first choice for those wishing to introduce students to philosophical approaches to law. Some of these are obvious to anyone who has