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# Contribution a l'Etude des Accords Culturels vers un Droit International de la Culture

Howard C. Anawalt

*Santa Clara University School of Law*, [hanawalt@scu.edu](mailto:hanawalt@scu.edu)

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to recommend for this country a definitive future course of action on the broad subject of limitations of liability. Moreover, the terms of reference for such a panel ought to include liability limits under domestic as well as international law and for cargo as well as for personal injury and death.

ALLAN I. MENDELSON  
*Of the District of Columbia Bar*

*Contribution à l'Etude des Accords Culturels vers un Droit International de la Culture.* By Eulalia Ghazali. Grenoble: Service de Reproduction des Thèses de l'Université des Sciences Sociales de Grenoble, 1979. Pp. xiii, 505. Annex.

In this work, the author identifies and analyzes a developing "new domain of public international law," the international law of culture. This body of law is abstracted primarily from bilateral agreements between nations establishing cultural relations during the past century. The book consists of two parts: part I examines general principles, while part II surveys the actual practice of cultural relations under bilateral agreements. The book also contains an ample bibliography and several exhaustive appendixes.

The cultural accords that the author analyzes are classified into four separate historical epochs, each possessing particular characteristics: In the pre-World War I period, very limited cultural exchanges were established by agreement. Those agreements covered such items as the freedom of missionaries to teach and the rights of merchants to maintain their books in native languages. During the period of time between the First and Second World Wars many cultural agreements began to embrace a much larger realm of intellectual cooperation. The third period of development occurred during World War II when the Conference of Allied Ministers of Education met and prepared studies that proposed international cultural cooperation. These studies led to the creation of UNESCO after the war. During this wartime period there was, however, an evident fear that cultural cooperation might be a mask for a kind of cultural aggression, *i.e.*, propaganda. As a result, the conference urged that cultural conventions carefully exclude political and economic matters.

The present period begins with the end of World War II and the formation of UNESCO. In 1966, UNESCO listed a total of 4,600 cultural accords. The current abundance of accords raises the question whether they have the effect of creating any generalized international law. The author concludes that they do, but that it is necessary to distinguish between obligatory norms and ideals, both of which are present in cultural accords. The obligatory norms that are reflected in (and perhaps reinforced by) the cultural accords include: the obligation to refrain from using force, noninterference in matters of self-determination, and cultural sovereignty (pp. 75, 199).

The second part of the book is a study of the actual practice of cultural relations on the basis of general bilateral agreements. The study separates the nations of the world into three groups: countries having a free market economy, countries having a socialist economy, and countries in the process

of development. A sample of the author's conclusions from this study are shared here:

(1) Cultural treaties are bound to be concluded between countries of unequal bargaining strength. This is viewed as a reality of international relations that makes it inappropriate to demand that true reciprocity appear in the agreements (pp. 244, 456).

(2) Socialist countries have concluded more cultural accords among themselves than free market countries have. On the other hand, free market countries have concluded more accords with Third World countries than have socialist countries.

The book is a very valuable aid to anyone who wishes to examine the impact of bilateral cultural arrangements.

HOWARD C. ANAWALT

*University of Santa Clara School of Law*

*The British Year Book of International Law, 1976-1977*. Vol. 48. Edited by R. Y. Jennings and Ian Brownlie. Oxford: Clarendon Press, 1978. Pp. ix, 466. Index. \$75.

The leading article in this volume of the *British Year Book* is a magisterial study by F. A. Mann of *The Consequences of an International Wrong in International and Municipal Law*. The emphasis is on national law, and, for those familiar with the critical writings of Mann on the act of state doctrine and the *Sabbatino* case, there will be few surprises. A taking of property in violation of international law should be treated as null and void, and the claimant is likewise entitled to specific performance or a declaratory judgment in the event of an internationally unlawful breach of contract. Those who look to sources of international law other than the decisions cited by Mann, such as the Charter of Economic Rights and Duties of States, will of course disagree. Ultimately, the central problem does seem to be one of deciding where we get our law in these days.

James Crawford, whose book *Creation of States in International Law* was published last year, provides an analysis of a topic which has commanded relatively little attention in recent years—*The Criteria for Statehood in International Law*. One of the significant developments to which he calls attention is that UN practice has established something functionally equivalent to the collectivization of recognition (pp. 144-45) and of nonrecognition, as in the case of the South African Bantustans (pp. 176-80). He is on less sure ground when he writes of "international nationality" under the "effective link doctrine" (p. 115) and refers to the "Draft" *Restatement of Foreign Relations Law* (p. 140).

The Vienna Convention on the Law of Treaties, which has just entered into force, leaves many questions about *Reservations to Non-Restricted Multilateral Treaties*. D. W. Bowett tends to favor "objective" determination of the permissibility of reservations, rather than to leave this question to subjective