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Book Reviews

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BOOK REVIEWS

This issue marks the return of the Received and Noted column. After a year as book review editor, I am now receiving a sufficient number of books from publishers to compile a Received and Noted column at least once a year. After a book has been offered to the reviewers twice, it is moved onto the received and noted list. Thus, the titles on the list are current in their area of law and worthy of consideration as additions to your collections.

I am also working on increasing the number of publishers who send us review copies of their publications. Right now, books from the major publishers make up the majority of the items on the review list. I hope to add smaller presses and foreign publishers to the list of publishers over the next year. If you know of a book that you would like to review and that is not on the list of books available for review that I send out, please contact me with your suggestions.

Thomas Mills, Book Review Editor
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***Affirmative Action Around the World: An Empirical Study*.** By Thomas Sowell. New Haven: Yale University Press, 2004. Pp. x, 239. ISBN 0-300-10199-6. US$28.00.

Even though I am a long-time fan of Thomas Sowell's newspaper columns, this is the first book of his that I have read. While I have some critiques, I am pleased to report that his longer work reflects the same clarity of thought and precision of prose as his columns.

Sowell is a Senior Fellow at the Hoover Institute in Stanford, CA. He holds a Ph.D. in economics and has held professorships at many universities, including Cornell. He began his newspaper column in 1984 and continues to write about topical and controversial subjects today. His articles, books, and essays tend to have a conservative, libertarian slant.

In *Affirmative Action Around the World*, Sowell endeavors to place the United States' affirmative action policies within an historical and global context. He realizes that most Americans think that affirmative action as a uniquely American phenomenon and are unaware that other countries have had a longer experience with such policies. "Affirmative action" as used by

Sowell is the preferential treatment of a group, rather than equal treatment of individuals.

The book is organized by chapters covering affirmative action programs in India, Sri Lanka, Malaysia, Nigeria, and the United States. Sowell does not explain how or why the countries were selected for inclusion, and it would have been helpful to include China, Japan, or one or two countries from Europe to give a broader global overview. For the countries included in the study, Sowell sketches a profile of each country, giving information on its history, geography, culture, ethnic groups, religious groups, and government. He then explains the rationale behind each country's affirmative action program, its implementation, and its consequences.

The stories become sadly repetitive. Even though the five nations arrived at the decision to use affirmative action based on widely different circumstances, their experiences can be distilled as follows. A society perceives one group getting ahead of the other. Whether from good intentions (India, US) or self-interest (Sri Lanka, Nigeria, Malaysia), preferential group programs are put in place. The preferential treatment afforded to one group generates discord with the non-preferred group, whose members strike out. Political demagogs stir up racial, religious, or ethnic tensions. The preferential treatment that was designed to be temporary becomes entrenched. The divisiveness erupts into civil disorder, physical violence, or civil war. The pattern is true even if the groups coexisted peacefully or even collegially before affirmative action was implemented. In the case of the United States, while the country is not on the brink of war, but Sowell does see a backlash against the programs gaining strength.

The empirical study mentioned in the title is not what I expected. There is no single study that incorporates the five profiled counties or studies the aspects of affirmative action raised by Sowell for each country. The book does not contain the graphs, charts, or variable equations one might expect in a scientific paper. Instead, the empirical evidence Sowell has gathered over 30 years is folded into the narrative. The statistics cited are pulled from many different sources and are not explained in either the main text or text of the notes.

Sowell presents facts, figures, and statistics when the information is available. There are occasions where Sowell would like to have had data from empirical studies but such studies have not been done. The lack of hard data to support the benefits claimed by advocates of affirmative action frustrates Sowell. He sometimes attributes the lack of evidence to the fact that people have a distorted view of affirmative action, based on false assumptions, that causes them to ask the wrong questions or even worse, to ask no questions. Thus, the consequences of group preferences remain unexplored and are in need of a controlled, systematic study. If anything, this book is a cry for an empirical study.

Affirmative Action around the World is an informative, well-written book. The author cogently presents his arguments against group preferences

and does not attempt to provide a comprehensive global analysis. Affirmative action statutes, regulations, and judicial decisions interpreting the laws are not Sowell's focus. The reader should not expect a legal analysis. Sowell does present a critical view of the impact of affirmative action from social, cultural, anthropological, and political perspectives. I would highly recommend this book to readers studying in those disciplines and to individuals interested in expanding their horizons to think about affirmative action in a way that may challenge their assumptions.

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Comparative Labour Law and Industrial Relations in Industrialized Market Economies. Edited by R. Blanpain. 8th and revised edition. The Hague; London: Kluwer Law International, 2004. Pp. xxxii, 664. ISBN 90-411-2289-3. US $165.00

This work, a collection of essays which updates and revises most of the material from the previous edition[1], provides an international and comparative approach to labor law and information on legal procedure and development within individual industrialized countries. The book provides much useful information to attorneys, law professors and students. In his introduction to this work, Professor Blanpain observes that the need for comparative studies of labor law and industrial relations is increasing with 1) the growth of the free movement of labor, 2) greater international and multinational commerce and investment, and 3) expanding communication and information technology.

Contributors to this book come from several countries and represent perspectives from a range of contexts. The 664 page book is divided into four parts and consists of twenty three chapters. Each chapter concludes with a bibliography or list of sources, which provides a starting point for further research.

The first part with three chapters relates to methodology. An introductory chapter provides definitions and an overview of the methodology of comparative labor research. The next two chapters provide valuable information on print and internet resources relevant to comparative labor law research.

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[1] R. Blanpain & C. Engels (editors), *Comparative Labour Law and Industrial Relations in Industrialized Market Economies*. 7th revised edition,. The Hague, London: Kluwer Law International, 2001.

The next part consists of three chapters, two of which are concerned with international and regional nongovernmental actors, including international employers' organizations and the international trade union movement. The other chapter in this section discusses human resource management.

Part three of the book concentrates on sources of regulation. Chapter 7 covers international labor law with discussions of the International Labour Organization (ILO), and its history, conventions, and labor standards. The chapter also has brief references to regional sources of law. The next chapter in this section provides a good overview of the European Union's employment and social policies and their legal development. Chapter 9 discusses the development and meaning of the OECD's Guidelines for Multinational Enterprises. The final chapter in the section discusses conflict of law issues that arise in industrial relations and employment contracts, and international and national sources of law which have addressed these concerns.

The fourth part, international developments and comparative studies, consists of thirteen chapters, each one focusing on a specific issue relevant to contemporary labor law and industrial relations. The discussions follow a comparative model and provide an overview of both international and national developments. The topics covered include freedom of association, self-employed workers, equality and employment discrimination, employment privacy, employment security, national trade unions, employee representational participation, the European works council directive, collective bargaining, the law of strikes and lockouts, settlement of disputes over rights, and settlement of disputes over interests.

This book is intended to provide an overview of various issues common to industrialized labor systems. This does not allow for in-depth investigation of the economic, legal, and social complexities of national labor law systems. Nonetheless, this work provides a starting point for further research, illustrating common themes and issues and providing examples of different legal solutions to them.

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Russian Peasants Go To Court: Legal Culture in the Countryside, 1905-1917. By Jane BURBANK. Bloomington, IN: Indiana University Press, 2004. Pp. xxi, 374. ISBN 0-253-34426-3. US$49.95.

It is unlikely that the shelves of most law libraries are lined with books on Russian peasants and the law. This book, in which Professor Jane Burbank describes the use of the township courts by Russian peasants during the years 1905 – 1917, would make an excellent start to such a collection. The main premise of the book, as I see it in my simplified version, is that contrary to common belief, Russian peasants were not unruly, vodka-soaked miscreants who had no connection to legal culture, but were rather generally law abiding individuals who valued social order and turned to township courts to seek justice and legal recourse for many civil and criminal troubles that disrupted rural life.

Burbank approaches her topic by devising a study of more than nine hundred individual court cases that were heard before several township courts in rural Russia. She illustrates the results of her study in the book by using two techniques: the display of collected statistical data in the form of numerous charts and tables, and the recounting of individual case studies. The charts and tables scattered throughout the book succinctly illustrate data on factors such as frequency and subject matter of civil and criminal cases, gender of plaintiffs and defendants, and conviction rates. From one of these tables, the reader learns, for instance, that "trampling by animals" figured in nine suits between 1905 and 1917, and that a "fence controversy" was the subject of three suits. Thus, instead of bogging down the text with densely packed statistics, Burbank presents the hard data from her study in the form of numerous short tables and charts that are readily accessible to the reader.

The case studies are some of the most interesting material in the book. One of the studies documents the court adventures of Praskovia Aref'eva, an illiterate woman from a small village who brought an inheritance suit before the local township court. After the deaths of both her father and brother, Praskovia Aref'eva is poised to inherit the family land, but is dismayed when the land goes to the new husband of her deceased brother's wife. So Praskovia Aref'eva heads to court to settle the matter. This and other poignant stories about family controversies, affronts to personal dignity, and public disturbances of the peace and quiet of country life make the book an enjoyable read as well as a useful study of the application of Russian law.

In addition to reporting on her study, Burbank gives the reader a flavor of Russian legal culture and peasant society by including numerous pictures from Russian village life, e.g., scenes from broom-making tasks, family celebrations, and the selling of local wares, that add a human touch to the study. The reader is also treated to a mini course in the Russian language, learning such terms as *kharchi* (worker), *poboi* (beating), *vekseli* (bills of exchange) and *sel'skii skhod* (rural assembly) along the way.

One of the points that Burbank takes care to make throughout the book is that intellectuals tend to over generalize into discussions of "the hopelessly naïve mentality of 'the' Russian peasant" without examining individual peasants and their personal connection to legal culture. On the contrary, Burbank stresses that by using the township courts, "peasants demonstrated that they had a legal culture; they regarded township court decisions as a means to settle problems with their neighbors, laborers, employers, renters, buyers, sellers, and family members." In short, Burbank focuses on individual peasants with individual complaints. By her inclusion of story-oriented case studies, pictures, and Russian terminology, and by her close attention to the particularities of individual court cases, Burbank brings her point home.

The appendices of the book include information on the data sets and a list of misdemeanors adjudicated at township courts. A glossary of Russian terminology is also provided. Finally the book's website at http://www.nyu.edu/projects/burbank/index.html includes chapter by chapter summaries of the text, as well as many charts, graphs, and tables displaying the underlying statistical data. Some material on the website is not included in the book itself.

Although this book may be unique in its subject, *Russian Peasants Go To Court* would fit in nicely with any collection that highlights legal culture in different societies or at any law school offering Law and Culture or Anthropology and Law seminars in the curriculum. Burbank's study of Russia peasant courts is reminiscent of Walter Weyrauch's writing on the Roma and their singular legal culture, and continues the tradition of interdisciplinary legal studies. Burbank's study successfully incorporates statistics, law, and individual narrative into one intriguing volume.

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French Business Law in Translation. Edited by George A. Bermann and Pierre Kirch. Huntington, NY: Juris Publishing, Inc., 2005. Pp. xiii, 400. ISBN: 1-57823-180-9. US$195.00.

Undertaking research for current foreign law in English translation can be a frustratingly long and tedious exercise. Even countries in Western Europe present a challenge when the English-speaking researcher attempts to locate translated legislative texts. The recent publication, *French Business Law in Translation*, seeks to make identifying and reading foreign business

legislation more manageable. France is a major player in the international business law arena and of particular interest to American lawyers. According to the U.S. Bureau of Economic Analysis, in 2003, exports to France totaled approximately $11.0 billion, and in 2004, the level of U.S. direct investment in France was $58.9 billion. Given the current international trade and business environment, American legal practitioners are eager to lay their hands on translations of French law to streamline their research.

The editors, George A. Bermann and Pierre Kirch, bring impressive credentials to the work. Professor Bermann is the Jean Monnet Professor of EU Law, the Walter Gellhorn Professor of Law, and the Director of the European Legal Studies at Columbia University School of Law. Pierre Kirch, a member of the Paris and Brussels Bars, is a partner in the Paris and Brussels offices of Paul Hastings, Janofsky and Walker LLP with a practice devoted to French and EU competition/antitrust law and general European Community law. Columbia University School of Law supported the preparation of this work with the basic translations prepared by the JD and LLM candidates who were supervised by Professor George Bermann. Members of the Paris law firm of Paul, Hastings, Janofsky & Walker (Europe) LLP selected the pertinent texts. The editors prepared the definitive translations and chapter introductions.

This work, arranged into 15 chapters, provides translations of laws for a broad range of commercial and business-related areas. The first chapter addresses the French constitution and European treaties. Subsequent chapters cover such diverse topics as commercial and company law, securities, money and banking, labor, tax, consumer protection, environmental law, insurance, and real estate. Each chapter begins with a brief introductory analysis, no more than four pages in length, highlighting the main principles of law and an outline of the legislation translated. The translated texts follow and include selected sections of codes, laws, and regulations. The editors very clearly state that their reference date for the translated legislation is January 1, 2003. This work has no index. Access is available through the main table of contents or the individual chapter outlines.

A major caveat for the researcher is that this work does not translate entire codes or complete texts of legislation. As stated in the Introduction by Messrs. Berman and Kirch, "practitioners experienced in international business have identified and translated those parts of the applicable rules and regulations which tend to have a recurrent importance in the framework of international business transactions." Later in the Introduction, the editors continue, "[t] he selection of translated material is done in such way as to enable the reader to appreciate in their full scope the fundamentals of each area of the law…." Given the heavy regulated environment that is the French business landscape, the usefulness of carefully selected sections of pertinent codes, laws, and regulations to highlight the salient aspects of the French legal system cannot be overlooked. However, the researcher must supplement this

work with in-depth analysis of the business law environment in France, and the study of full-text legislation and European Union law.

For the researcher requiring complete codes in translation, the French government's portal to law, LegiFrance www.legifrance.gouv.fr/, is a comprehensive collection of treaties, codes, laws, regulations, and jurisprudence in French and includes several business-law related codes in English and Spanish translation.

As of August 2005, eight chapters contained translations. According to the Juris Publishing website <www.jurispub.com/>, the remaining translations are scheduled to be completed in 2005. The looseleaf format will permit timely updates to be incorporated into the work. This publication replaces an earlier publication entitled *French Law: Constitution and Selected Legislation*, last updated in 1998.

French Business Law in Translation is a useful addition to the shelves of the English-speaking attorney with an international practice focusing on France and Europe, and for law school libraries that support a foreign and international law curriculum.

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Environmental Law of Armed Conflict. By Nada Al-Duaij. Ardsley Park, NY: Transnational Publishers, Inc., 2004. Pp.xxv, 521. ISBN 1-57105-314-X. US $125.00

This work is based on two premises: (1) the condition of the environment is integral to the well-being of human beings both in peacetime and during armed conflict; and therefore, (2) the global community must not allow natural resources to be used as tools of war.

The author begins with sobering details on the types of environmental damage, both intentional and indirect, that take place in preparation for war, during armed conflicts, and in the aftermath. The author addresses the yet unsettled definition of "environmental law," first used by the Permanent Court of International Justice in 1923. Although the term "eco-war" was not coined until the 1990 Iraqi invasion of Kuwait, which resulted in the burning of 80-85% of Kuwait's 950 oil fields, the author observes that destruction of the environment has been utilized throughout history as a means of disabling or disadvantaging the enemy.

The terrible facts and statistics presented strengthen the author's argument that, in the context of armed conflict, we should be as concerned about preserving the environment as we are in the human condition itself.

Questions of responsibility, legal liability, and legal relief in the form of compensation, remediation, or restoration are not ignored. The author provides recommendations to various actors on the international stage, including the international community at large, individual nations, and non-governmental organizations.

The text is divided into six parts: Environmental Impacts of Armed Conflict; Environmental Protection in International Humanitarian Law; Environmental Law Rules; Enviro-Humanitarian Rules; Responsibility for Environmental Damage Caused by Warfare; and Recommendations.

The largest portion of the book analyzes the provisions of international humanitarian law, environmental law, and enviro-humanitarian rules. (Enviro-humanitarian rules are those not expressly adopted to protect either humans or natural resources, e.g., arms control and disarmament initiatives.) This portion of the book serves as an excellent resource for the identification and analysis of various instruments that seek to prevent, explicitly address, or arguably may be applied to the issue of environmental degradation in the context of armed conflict.

The author identifies the specific provisions of various sources, including treaties, conventions, statutes, civil codes, and religious texts, that serve, or may be argued to serve, as a basis for environmental protection. Each section discusses the definition of these categories of law, its potential relationship to environmental protection generally, and its scope and applicability. Considerations include limitations that create obstacles; the purpose and applicability of particular instruments; the unwillingness of nations to sign or ratify instruments; the principal of sovereign immunity; access to information; the challenge of reconciling laws from different legal systems; the unique status of civil (internal) wars under international law; and the difficulty of enforcement.

The chapters on environmental law rules (chapters 10 and 11) compare the national environmental laws of 12 countries and deal extensively with the relevance of particular provisions of United States and Kuwait environmental law to military activities.

Another significant part of the book approaches the issue of responsibility for environmental damage caused by warfare. The author defines two levels of responsibility: the liability of the "international person" and the state's liability for "criminal" environmental behavior. In this interesting examination of international and national responsibility, the author suggests the designation of the United Nations as an enforcement power. Referencing the importance of preserving the "global commons," the author also suggests that a standard environmental law be formulated, and that after opportunities to comment, it should be adopted as national law by each country. While acknowledging that some of the recommendations are unrealistic, the author concludes that we must be willing to adopt new ideas to advance the goal of environmental protection and to reduce damage related to armed conflict.

Environmental Law of Armed Conflict is a worthy addition to any library collecting in the area of environmental, international or human rights law, or the law of armed conflict. The volume might also be of interest to those in the fields of international studies, history, and political science. On its own, the extensive bibliography, which lists books, law reviews, Internet sources, journals and newspapers, conferences and symposiums, international instruments, international and national case law, and statutes and regulations, is a valuable reference tool.

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The European Union: A Polity of States and People. By Walter van Gerven. Stanford, California: Stanford University Press, 2005. Pp. xvii, 397. ISBN 0-8047-5064-5. US$27.95.

The author of *The European Union: A Polity of States and Peoples*, Walter van Gerven, is a Professor of Law at Katholieke Universiteit, Leuven, who has also taught at Stanford University. As a result, this book is an amazing product of clarity that takes into consideration the needs of both European and American students of European Union (EU) law.

Van Gerven's introduction to EU law starts in 1952 when the Paris treaty, concluded by six European countries (France, Germany, Italy, Belgium, the Netherlands and Luxembourg), established the European Coal and Steel Community. He then briefly summarizes the steps the European Community took before it became the European Union in 1993 with the ratification of the Maastricht treaty, and its subsequent enlargement to a union of 25 states on the verge of ratifying the first European constitution, the EU Charter. Van Gerven wrote this book before the Charter's defeat; thus, van his analytical narrative fails in its prediction regarding the making of an EU constitution, but it nevertheless offers insight into the reasons for the Charter's defeat, as it explains the meaning and the concepts behind an ever evolving European constitutionalism.

The general introduction to the EU opens with an instructive and easy to read overview of the EU institutions, identity, and values. It emphasizes differences between the common core of Western European and American values as they appear in the fundamental laws of the different legal systems. For example, Art 6(1) of the EU Treaty states that the "Union is founded on the principles of liberty, democracy, respect for the human rights and fundamental freedoms, and the rule of law." In stark contrast are the

American values as spelled out in preamble of the US Constitution, whose purpose was to " form a more perfect Union, establish Justice, *insure domestic Tranquility, provide for the common Defence*, promote general Welfare, and secure the Blessing of the Liberty to ourselves and our Prosperity." (emphasis added).

Van Gerven ably points out institutional differences between the EU and the United States, including their different approach regarding the ill defined but prevalent concept of the "rule of law." For example, in the EU the rule of law seems closer to the German notion of Rechsstaat, which refers to "a system in which all state authority is governed by law," where law is viewed as a product of the legislative body. In the United States, on the other hand, the rule of law functions according to the constitutional principle of judicial review, where courts are the ultimate arbiter of constitutionality. However, Van Gerven also notes that all EU state members have their own domestic constitutional courts, and some EU state members have adopted the American system of judicial review.

The analysis of the two legal systems remains equally perceptive when Van Gerven focuses on the meaning of good governance, and whether "social justice [is] a matter to be pursued by the welfare state as an objective of good governance." The answer differs wildly from one side of the Atlantic to the other. For example, in the United States, social welfare policies are "ostensibly designed to benefit the poor and the elderly," while in Western European states, "social welfare programs are set up to help the general public through social insurance," whose purpose is to appease the negative social effects of the economic crises that are inherent in capitalist economies.

The book ends with a discussion about the most appropriate form of government, parliamentary or presidential, the European Union should eventually adopt. Although earlier van Gerven explained that EU is not a state, this analysis remains both pertinent and instructive on several levels. First it objectively compares the advantages of the existing democratic forms of government, and then it advocates for a parliamentary system to enhance the Union's legitimacy, which, in the author's view, is a consensus democracy with a strong executive.

As a result of this insightful analysis of the ever evolving European constitutionalism, *The European Union: A Polity of States and Peoples* is a welcome addition to any academic library, whether general or law.

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EU Electronic Communications Law: Competition and Regulation in the European Telecommunications Market. By Paul NIHOUL and Peter RODFORD. Oxford: New York: Oxford University Press, 2004. Pp. liv, 802. ISBN 0-19-926340-X. £135.00; $295.00USD.

The European Union telecommunications market amounts to 250 billion euros annually. In less than a decade, e-communications has been transformed from traditional national telephone monopolies to an open, competitive EU marketplace. The EU has recognized the crucial importance of electronic communication networks for its very existence. In 2002, therefore, the EU adopted a series of directives and folded them into the New Regulatory Framework (NRF), which breaks down national monopolies, creates a competitive marketplace, and mandates that the new telecommunications infrastructure be able to cross national borders. During the transitional, period new entrants into this market must grapple with various laws, regulations, and cultural norms. For citizens, this new telecommunications market signals a move from a "universal service" model, with guaranteed service to all citizens, to a market where users are "customers" and can choose among telecommunications service providers.

This is not a marketplace for the weak. Entrepreneurs must grapple with a morass of laws and regulations on the national, international, and EU levels. They must understand that profit margins are subject to users' rights and laws of competition. The move from the "universal service" model, with guaranteed service to citizens regardless of geographical region, to the marketplace requires some adjustments in the legal and public policy arenas.

This book should surely be on the desktop of anyone trying to enter this marketplace —investors, attorneys assisting clients, and public policy analysts engaged in strategic planning or other types of consulting. Nihoul and Rodford organized this 800-page compilation elegantly. Without careful structure, such dense and complex information would be impossible to use. The tables of cases, treaties, and legislation, and the glossary are essential and placed in the front. The table of contents is well synchronized with the extensive outlines preceding each of the seven chapters, which makes it perfect for skimming and directing the user to the exact topic needed. The book is printed crisply on relatively thick paper, important for a book that will undoubtedly be consulted again and again.

If the publishing economics can be worked out, this book's next edition should be electronic. Its current excellent organizational structure would translate beautifully to a Web site with hyperlinks. The authors, in fact, ask the readers to "Help us continue." They envision a project for electronic communications in the legal sphere, with this book serving as the foundation. Contributors will be acknowledged in the expected future editions. Supporting this kind of project, i.e., scholarly interaction and collaboration on current topics in an ever-changing environment, is what the Web does best.

Both authors are eminently qualified to compile this information. Nihoul is Professor of Law at the University of Louvain, where he holds the Jean Monnet Chair of the European Information Society. Rodford is Directorate General for the Information Society in the European Commission, with years of experience in implementing policy. This complementary mix of the theoretical and practical distinguishes this book.

Chapter One provides a valuable overview, from which readers can go into further detail in subsequent chapters. The authors explain how national, international, and EU laws and regulations interrelate (or do not). They are quite candid about how untidy this legal and regulatory climate really is. The authors define the particularly difficult relationships among the actors: business to competitor; business to client; and business to authority. They outline how the market is organized, and how the laws of competition apply and relate to other bodies of law and regulation. The authors also state what they *do not* cover: data protection; equipment, and public procurement. This reviewer recommends that in future editions they include data privacy. While the book is focused on how the market is regulated and organized, it is hardly possible to ignore the increasingly important impact of data privacy laws.

The first chapter also explains how EU Member States should adopt and implement the 2002 NRF directives and how information will be exchanged among various governments and committees. Finally, the World Trade Organization (WTO) Rules on Telecommunications are included, just to make things even more complicated.

Subsequent chapters enhance the introductory information in exquisite detail. Chapter 2 details the principles and general rules of the EU's New Regulatory Framework (NRF). Amid the myriad of technical legal instruments are principles such as the freedom of citizens to choose their service provider and those followed to develop competition, with a very interesting emphasis on "transparency," an important "buzz word" in current international public policy discourse. Chapters 3 and 4 cover "Access to Facilities and Resources Controlled by Other Undertakings." The prospective investor can find out how to gain access to networks or other resources already owned or controlled by others. Chapter 4 is totally devoted to the applicable laws of competition including case law.

Chapter 5 is of particular interest to public policy analysts and actors as it considers "universal service" in the marketplace environment. The traditional telecommunications model assumes telephony as a public service regulated not by market forces, but by legislatures and the "public good." The material is presented as if to tell entrepreneurs what their customers are likely to expect from their provider's communications services. However, this is a rapidly changing set of expectations. What should be included in twenty-first century "universal service" and who defines it? Currently one assumes a package of electronic services offered to end users at an affordable price, regardless of geographic location. How does this model change with the

growing importance of the Internet? The use of cellular phones instead of the land-line public phone booth? The fax machine, which is now considered to be outdated technology? How is the "112" emergency number implemented? How are disabled users served? It is clear that universal service must evolve, not only because of market forces, but also because of changing technology and user expectations.

Chapter 6 contains the "nuts and bolts" of litigation and dispute resolution in the EU electronic communications environment. Included are a cross-border dispute resolution procedure complementary to the NRF framework, and likely disputes, such as new investors versus national regulatory authorities, users versus the "undertakings" (capital ventures), or users versus national regulatory bodies. Finally, Chapter 7 includes everything that did not fit neatly into previous chapters. Topics include the protection of users, the affirmative duty to provide information, and steps toward a European policy for sharing the radio spectrum.

This reviewer cannot imagine a better way to organize and present this complex and evolving topic, unless it would be on the Web. This publication is highly recommended for graduate business schools, law libraries, and public policy institutes as a reference tool.

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Socio-economic Rights in South Africa. Edited by Danie Brand and Christof Heyns. Cape Town, South Africa, Pretoria University Law Press. Pp. 309. ISBN 0-620-34086-X. US$45.00.

Socio-economic Rights in South Africa seeks to provide an overview and analysis of the available international, regional, and local legal materials for the enforcement of socio-economic rights. The authors who contributed to this volume are specialists in various areas of socio-economic rights such as the right to land, housing, health care, food, water, education, etc., all of which are provided for by the 1996 Constitution of the Republic of South Africa. In exploring the textual basis for these socio-economic rights, the authors look at the role played in the protection and advancement of the written promise of rights into legally enforceable entitlements that can be used to achieve social justice. They explore the way and means of their implementation through a variety of law making processes and institutions at both the national and international level. On the national front, they examine the role of the different branches of government in the implementation of these rights. They also look at the role of international and foreign law in the

interpretation of socio-economic rights, and at the duties of the state in guarantying the protections afforded these rights in the constitution.

The book is divided into eight chapters. The first chapter is an introductory chapter, that provides an overview of the rights in focus, the legal basis for these rights, and the process of interpretation as provided for in section 39 (1) of the South African Constitution. It also takes a critical look at the processes of implementation that occurs through a variety of law-making processes and institutions, and the problems encountered in the adjudication of the claims under these rights, and in the enforcement thereof.

The second chapter deals with the right to education and the importance of this right as the foundation and pre-condition to the exercise and understanding of the other rights. The authors carry out a detailed analysis of this right under international law, and under South African law as protected in section 29(1)(a) of the Constitution. Subsequent discussion identifies and analyzes the criteria, i.e. availability, accessibility, acceptability and adaptability (referred to as the four 'A's), for the protection guaranteed under section 29 of the Constitution to be accorded to all. The authors go on to examine the extent to which these criteria were being met in South Africa through the existing policy framework. The last few paragraphs note that these existing policies do not currently facilitate full enjoyment of the rights under section 29, and as such they should be revised.

The third chapter deals with the right to housing. It seeks to examine the scope and content of the right of access to adequate housing and other related rights as provided for in section 26 of the Constitution. The first few paragraphs examine the interpretation of this right in international law in order to determine the scope of the right in the South African context. The author then examines the practice of eviction under South African law, which is now rectified by the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act. Subsequent paragraphs look at the obligations contained in section 26 of the Constitution, and how effectively the state and all parties are carrying it out. An examination of the entitlements that form the core of the right is carried out, such as affordable housing, habitable housing, accessible housing, and culturally adequate housing. The last few paragraphs note that the right in section 26 does not provide an individual with a right to demand that government provides access to a house; however, it does spell out the duties of the state in progressively realizing the right.

The fourth chapter deals with the right to health, which is guaranteed under section 27 of the Constitution. It firstly attempts to distinguish this right from the "right to healthcare" or "right to health protection." The authors view these two types of rights as being more accurate and attainable than the "right to health," since the "right to health" in itself is too ambiguous of term to be guaranteed. The authors point out that at an international level, the other two types of rights are preferred due to their all inclusive nature. Different international treaties, declarations, debates, conferences and covenants relating to this right are examined in the context of states'

obligations in international law. The authors then look at the context and scope of the right in terms of the South African Constitution and the problems which bedeviled the health sector in the apartheid era. The chapter concludes with a critical look at the provisions of section 27 of the Constitution, and the way the courts have interpreted it, in view of the problems of structural inequality and the economic limitations of remedial action. It concludes with the acknowledgement of the fact that there has to be socio-economic empowerment of the population, that healthcare is not the only sector suffering, and that the government must take decisive steps to transform the sector and move the country towards horizontal equity in the provision of healthcare services.

The fifth chapter deals with the right to food, which is guaranteed under section 27(1) of the Constitution. It begins with a look at the protection of this right in international law. The content of this right and the duties of states under international instruments, as enunciated by the committee on Economic, Social and Cultural Rights, are examined under the headings of "availability," "accessibility," and "adequacy" of food to the population. The author then examines the steps suggested by World Food Summit Plan of Action in ensuring the eradication of hunger and malnutrition, and then looks at the protection of the right in the South African context and the duties of the state in this regard. Reference is made to judicial decisions which have interpreted the right to mean that the state must take reasonable measures to give effect to this and other socio-economic rights. The right to food is said to be interlinked with and interdependent on other rights. The chapter also provides an overview of the extent to which the constitutional right to food has led to a reform of the legal system in South Africa, and has created rights of social security that can be made to stand as guarantees of minimal protection and survival.

The sixth chapter deals with the right to water. It provides an overview of the international and comparative right to water standards, which may guide constitutional interpretation, as well as an analysis of the constitutional right itself. While noting that this right does not enjoy wide ranging explicit recognition at the international level, the authors point out that other internationally recognized human rights may entitle an individual to water for other purposes. The ICESCR, ICCPR, CRC, and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) are all noted to have provisions relating to the right to water. Reference is also made to regional laws relating to this right. This chapter further examines the obligations of the state in accordance with section 7(2) of the Constitution, with reference to case law, and notes that the right is qualified by the provisions of section 27(2), which talks about "reasonableness" and "availability of resources" as factors to be considered. In the conclusion, the authors state that although this right had been neglected, the increased conceptualization of water access in human rights terms had led to new international and national standards about water access being developed.

The seventh chapter deals with the right to social security and assistance. It begins in by noting that the terms "social security," and "social assistance" referred to in section 27 of the Constitution have no clear definition and are often used interchangeably with "social protection," "social welfare," and "social insurance." The authors analyze the content and context of these rights under different international law instruments and establish that there are ample provisions for the protection of these rights in international law. The authors then examine these rights under regional law, e.g., the African Charter on Human and People's Rights, the African Charter on Rights and Welfare of the Child, and note that they were drafted specifically to meet the uniquely African way of addressing social rights. This is the family based approach, whereby the duties of the family and the community are of paramount importance in the social protection of the most needy, and the duty to provide social protection is not only that of the state alone, but also that of the individual as a member of the society. In subsequent parts of the chapter, the scope of the right under South African law is examined. The constitutional scope of the right, the aims of the right, the duty of the state in affording the protection of the right and available resources are all examined. In the last few paragraphs, the authors emphasize the importance of a comprehensive social security system for South Africa.

The eighth chapter deals with environmental rights and analyses the content and scope of the protection of the environment under international law, noting that there is no comprehensive international treaty on the environmental rights, only instruments dealing with related rights. It includes a brief discussion of the three main approaches to the environment as a human right, i.e., recognizing an environmental right as a right in itself; protecting the environment under already existing and recongised rights, e.g., right to life, health, and dignity; and using procedural rights to extend environmental rights, e.g., the right of access to information (about the environment). The final portion of the chapter deals with the right under South African law as provided for in section 24 of the Constitution, and notes that the Constitution formulates the right as an individual right, while international instruments frame it as a collective right. The protection of the right in the South African legislation, the duty and efforts of the state, and also the qualification of the right as to the existence of reasonableness of action are all examined.

A multinational group of authors give this book an international perspective. The book contains a table of contents, table of cases, table of statutes of international and local documents, and a bibliography, all of which are useful companions to the extensive commentaries in the footnotes. There is, however, no index, which might make a researcher's work difficult. Overall, this book is a remarkable contribution to the study of the legal basis of socio-economic rights in South Africa.

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