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Book Reviews

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BOOK REVIEWS

LAW-MAKING IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION. By Thomas Buergenthal. Syracuse University Press, 1969. Pp. viii, 247. $10.50.

The study of the constitutional structures of international organizations is a subject still in its infancy. It suffers from a lack of interested scholars, unavailability of necessary documentary materials, and most crucially from the lawyer's point of view, a dearth of court decisions in which constitutional issues are carefully framed, argued, and decided. As a result, serious research in the field requires immersion in the work of a particular organization, examining volumes of debates in conferences, committees, and subcommittees to discover how the constitution is interpreted in the practice of "parliamentary" organs. Rather than making this effort, many writers in the area have taken an alternative approach—comparative textual analysis of the constitutive documents of several major international organizations. The weakness of this approach is aptly expressed by Professor Buergenthal in the introduction to his book (pp. 1-2):

> Although specialized international organizations evince a great many structural and constitutional similarities, each of them has, since its establishment, tended to develop an institutional personality or *modus operandi* of its own. . . .
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> These considerations tend to be overlooked by many who have written on the law of international organizations. The literature consequently abounds with comparative studies analyzing and juxtaposing the provisions found in the constitutive instruments and resolutions of a host of organizations as if they were fungible commodities. These frequently dazzling exercises in statutory interpretation, supplemented by tidbits gleaned from the practice of one or the other organization, fail more often than not to take account of the institutional transformation that the constitutive instruments or the organizations themselves have undergone. This in turn leads to factually untenable conclusions about the legal significance that attaches to the actions of these organizations.

Professor Buergenthal has chosen the more difficult approach—detailed examination of the actual operations of a single organization. The work required a high degree of patience and perseverance. Most delegates to the ICAO are non-lawyers whose primary interest is civil aviation, so its meetings include relatively little discussion of constitutional questions. Furthermore, important decisions are sometimes made inadvertently or by the application of laymen's "common sense" to questions of (unperceived) constitutional importance. Professor Buergenthal gives every evidence of a thorough knowledge of the first twenty years of ICAO practice, and his results

show just how indispensable this information is. The book is even more valuable because the author is refreshingly unafraid to point out the errors and misunderstandings of other, often more superficial, analysts (pp. 100, 116 n. 228, 173).

The book is divided into four areas of inquiry: membership, legislative powers, dispute settlement, and amendment of the Convention. The first and last have been fertile sources of constitutional questions for ICAO, and its solutions are interesting in terms of both substance and technique. Anyone familiar with the "legislative" solution of constitutional questions by international organizations will find his expectations largely confirmed in these two areas—decisions are taken with an eye toward immediate political effects; there is little appreciation for the constitutional significance or the history of the issues; and silent acquiescence often accompanies the decision-making process. Professor Buergenthal points out that if an issue is expressly identified as a legal issue, delegates are likely to consult with their foreign offices for instruction; but when a problem is not so identified, it is decided without such consultation. The consequences are sometimes anomalous. For example, an amendment to the provisions on amendment which was defeated in a formal vote was later followed in practice because the solution seemed to the delegates the only practical thing to do. Similarly, Professor Buergenthal's material on dispute settlement confirms prior expectations. Since ICAO Council Members staff their delegations with technical purposes in mind, the delegates are generally unfamiliar with the processes of international conflict resolution. The Council has been reluctant to involve itself deeply in the settlement of disputes presented to it, and its first response has been to suggest further negotiations between the parties and to delay in the hope, perhaps well-founded, that the political breakdown which led to the disagreement would eventually be smoothed over. It was not until after a dispute was actually presented to the Council that it dealt with the question of arbitration procedures, and most of the elements of the dispute settlement mechanism are as yet untested. In each of these areas—membership, amendment, and dispute settlement—this book will serve as a useful guide for those who will be faced with similar questions of ICAO practice and procedure in the future.

In the field of ICAO technical legislation, however, the constitution readers are in for a surprise which has fundamental implications for the design of new specialized agencies and ultimately for the strategy for attainment of a world order system. Writers on

international law and organizations (including this reviewer) have touted the ICAO legislative procedure as a possible "next step" on the road toward a more effective international legislative system, a system which completely avoids the requirement of ratification and abandons unanimity in the promulgation of the rule, putting on each state the burden of choosing to reject. Briefly (and without examining any of the pitfalls or inadequacies of the ICAO Convention which Professor Buergenthal considers so meticulously), the scheme is designed as follows: after consulting with the Members by soliciting their comments on the draft, the 27-member ICAO Council adopts by a two-thirds vote an Annex to the Convention on "matters concerned with the safety, regularity, and efficiency of air navigation."[1] The Annex, made up of Standards And Recommended Procedures (SARPS), is then submitted to the Members, who may within a specified time period (typically four months) signify their disapproval of all or any part of the Annex. All parts not rejected by a majority of the Members come into force for all Members at a subsequent date designated by the Council (normally a year). Any state which

> finds it impracticable to comply in all respects with any such international standard or procedure . . . or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to [ICAO] of the differences between its own practice and that established by the international standard.[2]

Thus while a Member does not have to follow a SARP, it may not ignore it. It must comply or positively specify its failure to do so and the respects in which its regulations differ from the SARP. Since many treaties contain clauses which permit withdrawal upon the giving of notice, typically after a time interval of a year or less, the net effect is almost the same as a treaty enacted by a Council with the acquiescence of a majority of the Members and closely akin to legislation in the true sense; all this is accomplished without elaborate special conferences or the struggle for approval by dozens of national legislatures. The ICAO scheme is therefore a substantial step forward—or so it would seem.

Professor Buergenthal has taken the time to examine the actual practice of ICAO Members with respect to the notification requirements and other aspects of implementation. The results are startling. As of 1965, fourteen Annexes had been adopted by the ICAO Council. If each Member had even one difference to report in relation

1. Article 37, Convention on International Civil Aviation, 61 Stat. 1180, T.I.A.S. No. 1591, 15 U.N.T.S. 295 (1948).

2. *Id.* art. 38.

to each Annex, there would have been just under 1500 reports, yet ICAO had received less than 700. These figures are representative of the long-term ICAO experience, and taken with the following items, they indicate widespread indifference rather than widespread compliance. In 1965, 50 percent of the Members were using operating instructions that corresponded to ICAO materials over three years out of date, and another 25 percent, materials one to three years out of date: Although a few states automatically incorporate by reference the current ICAO SARPS into their national legislation, many more pass their own substantive laws, which then have to be revised, if national laws are to be kept current, when ICAO Annexes are amended. On the judicial side, the ICAO Council has not arbitrated a single dispute to decision. Only three national court cases have had occasion to examine the effect of the ICAO SARPS, and one of the three held that they did not take effect nationally without implementing legislation.

Of course, there are explanations for this state of affairs. Primarily, many of the Members cannot spare the time of personnel with the technical and legal capacity to identify significant differences between national laws and the ICAO SARPS to prepare a report notifying ICAO. In recognition of the difficulty of this task, ICAO has twice revised its forms requesting notification of differences in the hope of improving reportage. Furthermore, ICAO technical assistance missions have helped with this problem in some countries. Simply informing the operating personnel of changes is problematic when there are over 100 Members with different languages and administrative structures. Nevertheless, these results raise basic questions about the value of "legislative" powers and the effective design of international organizations.

Are the ICAO SARPS law? For lawyers, this is the crucial question. What they mean by it is, would the SARPS serve as a deciding principle in court, resulting in a decision different from that which would be reached in their absence? On this issue, Professor Buergenthal reaches what this reviewer considers an unfortunate conclusion. Disagreeing with other writers whom he cites, he argues that given the present disregard for ICAO SARPS, it would not be reasonable for anyone (e.g., a pilot or a Member) to assume that the failure of another Member to notify ICAO of a deviation from a given SARP means that its regulations conform to the ICAO standards. Therefore, reliance on the SARPS should not be a good defense for an airline in a case such as the following: a plane from Member *A* crashes in the territory of Member *B* as a result of a maneuver in

accordance with the ICAO SARPS but in violation of conflicting Member *B* regulations of which the pilot was unaware and which were never communicated to ICAO. Consequently, injured passengers sue the airline and Member *B's* aviation authority. This reviewer would submit that, while in practice reliance on the SARPS might not be well-advised, where a court action involves an allocation of loss between an airline and a Member, the airline should win; the Member should not be able to assert successfully that the widespread disregard of the requirements of the ICAO Convention justified its failure to communicate differences. This principle would not increase the risk of accidcnt since sensible pilots will certainly have a significant incentive (their own safety) to inquire about local regulations. Furthermore, placing the burden on the non-complying State may serve as an incentive for it to comply.

Given the above information about judicial activity and the role of courts in the international legal system generally, however, the effect of SARPS in court is relatively unimportant. The designer and analyst of international organizations will also question whether ICAO SARPS are law, but he may mean something different by it—are the ICAO SARPS in fact followed in the conduct of the activities to which they relate? No thorough research has been done by ICAO to obtain an answer to this question. But the likelihood seems small, for here international law runs into bureaucracy, the same obstacle that occasionally impedes the effectiveness of national law.[3] Bureaucracies are rule-oriented systems. But bureaucrats are not lawyers or judges, and the rules that they follow are not the laws as such. The rules are found in handbooks, rulebooks, and organization manuals and they are a gloss on the law—sometimes a simplification, sometimes an interpretation, sometimes an elaboration or specification. Once the rules are in the handbook, they are effectively changed only by amendment of the handbook. No judicial decision, no legislative enactment, and no statement of national policy has operational impact until it has been filtered through the process of a change in the bureaucratic handbook. Even then some people in the administrative structure will not read the rule book, or having read it once will not take time to read it again. And there is the further obstacle that the people administering the system may be so unsympathetic toward the current rules that they will subvert them by simply carrying on in the old way.

3. These comments are inspired by the now-famous article by Roger Fisher in the *Harvard Law Review*. Fisher, *Bringing Law to Bear Upon Governments*, 74 HARV. L. REV. 1130 (1961).

In making international law effective, an additional layer of institutional structures must be penetrated. The national bureaucrat, assigned the task of implementing the laws of his nation, prepares the administrative rulebook on the basis of the enactments of the legislature. If the rules of international law are to be put in the bureaucratic rulebook. they must somehow be channeled through the legislature or the chief executive in areas within his exclusive competence. It is possible that the legislature would permit itself to become a direct conduit. It could simply provide that the current international law rules from a given source are to be treated as the law of the nation. Professor Buergenthal notes that Sudan and Laos do essentially this with ICAO SARPS, and in some countries, including the United Kingdom, the legislature has expressly *empowered* (but not required) the administrator to enact regulations giving effect to the SARPS. He also notes with surprise that ICAO itself has done no systematic study of the ways in which SARPS are implemented in national legislation or regulations. Absent this type of conduit approach, the administrator has no mechanical way of reaching the conclusion that international law should be incorporated in his rulebook; few will be so imaginative as to incorporate it on the basis of their own reading of the national constitution or high Court decisions holding that "international law is part of our law."[4] The subtleties of distinguishing self-executing from non-self-executing treaties and the relative absence of internationalist political pressure (combined with the danger of angering a national legislature jealous of its prerogatives) all reinforce the administrator's hesitation. A national analogy to this process appeared in the persistence, pursuant to state law, of dual systems of education in Mississippi, despite Supreme Court decisions and Congressionally approved terminations of federal aid. Perhaps in the long run the cautious attitude of the bureaucrat is appropriate, for the creative and daring administrator who pursues the ultimate legal truth as he sees it may be as much of a menace as a blessing. But the effect on international law is generally to limit its operational effectiveness to those circumstances where the legislature or the chief executive has made a conscious decision to include it in the national law out of which the bureaucratic rulebook is made. Thus the Nuremberg principles are operational to the extent that they appear (as they do) in the field manuals of the armed services. Occasionally, as the examples cited above attest, these rules will be incorporated bodily *because* they are the international rules; more often they will be

4. Paquete Habana, 175 U.S. 677, 700 (1900).

incorporated piece by piece after they have been evaluated on the merits by national decision-makers who consider their international origin and status as only one of many factors to be taken into account.

If the above analysis is correct, it might be argued that elaborate concern with the "legal" or "recommendatory" character of the resolutions of international organizations is misplaced. So long as their decisions become effective only after evaluation on the merits by national executives, legislatures, and high-ranking bureaucrats, it matters little in which form they are offered for consideration. To say that a resolution is "law" endows it with a mystique which may give it greater weight in the minds of national decision-makers because of what it communicates about the intentions of those who originally approved it, the desirability of international uniformity in technical fields, and the implications for international institutions if it is disregarded without compliance with the requisite formalities (*e.g.*, notification of differences). But the extent to which the characterization of a resolution as law will be decisive is open to question. It is significant in this context to notice another aspect of the "legislative" development of ICAO. Completely without authority in the Convention, the ICAO Council in its first years began to issue recommendatoryProcedures for Air Navigation Services (PANS) and Regional Supplementary Procedure (SUPPS). These recommendations elaborate and supplement the SARPS on a world-wide or regional basis respectively. The unimportance of this absence of constitutive support or legally binding quality is portrayed by the following evaluation by Professor Buergenthal (pp. 116-17, 118-19):

The one significant consequence of this status is that PANS and SUPPS relating to the Rules of the Air, because they are not incorporated by reference into Annex 2, are not governed by Article 12 of the Convention and thus cannot be deemed to be obligatory over the high seas.

Apart from this consequence, the non-obligatory character of PANS and SUPPS has no real practical significance. Since 1950, for example, the requirement for the notification of differences, which Article 38 prescribes for national deviations from international standards, has been applied not only to recommended practices but to PANS and SUPPS as well. PANS have, moreover, been gradually assimilated to SARPS to the extent that the Assembly lumps these regulatory materials together in setting guidelines for their formulation and implemention. *There is no reason to assume, furthermore, that the Contracting States distinguish between SARPS, PANS, and SUPPS when deciding whether or not to comply with these regulations.* The United States, for example, applies the same implementation criteria to PANS and SUPPS as it does to SAPRS. (Emphasis added).

. . . .

It is thus readily apparent that the ICAO Annexes, PANS, SUPPS, and Regional Air Navigation Plans constitute an integrated body of aviation

> legislation comparable both in structure and content to comprehensive air navigation codes. (footnotes omitted)

This conclusion is a very unsettling one, for it means that the effort of the drafters of the ICAO Convention to give the ICAO a greater legislative authority than, for example, the United Nations General Assembly, has essentially failed. The elaborate constitutional system for law-making has never grown beyond a system for recommending, and the crucial distinguishing legal feature, communication of differences, is widely ignored. Although the ICAO Secretariat has been working vigorously for several years on the problem of Member compliance, Professor Buergenthal indicates that there is little likelihood of a major alteration of the present state of affairs. This failure is strikingly at odds with the widely expressed expectation that the multitude of functional international organizations will quietly grow in strength and authority to such an extent that together they will operate as a world order system. The system has been building over the years, in the civil aviation field and elsewhere, but without the mortar of a substantial supra-national bureaucracy or an effective judicial system. The United Nations and the Specialized Agencies have less than 30,000 employees, while the United States Federal Government alone has over two million civilian employees. Their combined budget is less than one percent of that of the United States government. ICAO does have on paper a compulsory dispute-settlement mechanism, but it is as yet virtually untried, and many other international organizations, including the United Nations, lack even that. In these circumstances, whenever international relations are conducive to cooperation, and specialized international organizations like ICAO can produce model regulations which are technically sound and promise some degree of uniformity, this system will thrive. But without an international bureaucracy to administer these laws and without an operative supra-national court system to determine violations of the law, in a time of major and continuing international crisis the system could easily collapse, the uniformities and reciprocities evaporating under the pressure of perceived short-run national interest.

Viewed from this perspective, Professor Buergenthal's book adds to the evidence that the achievement of world order requires a radical transformation of our international institutions, rather than reliance upon the "natural" growth of existing institutions. Although growing in some ways, our present institutions are probably incapable of developing on a piecemeal basis into the kind of system ultimately hoped for. Even transformation of the international organization councils into legislatures, whether by amendment of their charters or

re-evaluation of their present powers,[5] may be of little consequence *unless* corresponding administrative and judicial institutions are equally strengthened, so that international law will be administered in preference to conflicting national law in the first instance, and in cases of alleged violation both national and international courts will apply international law in preference to conflicting national law. If so, there is much to be done before the dawn of a secure and orderly world.

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5. *See* Bleicher, *The Legal Significance of Re-Citation of General Assembly Resolutions*, 63 AM. J. INT'L L. 444 (1969).

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THE ROLE OF PSYCHIATRY IN LAW. By Manfred S. Guttmacher, M.D. Springfield: Charles C. Thomas, 1968. Pp. ix, 170. $7.50.

Of all the branches of medicine, psychiatry is the least capable of achieving the degree of accuracy so essential to the tenets of law. Yet, paradoxically, both law and psychiatry deal with that very elusive aspect of human beings, the interpretation of behavior and emotion. With such common bonds of interest between the two professions, it is surprising, as the author points out, that there is such a token inclusion of legal matters in the curriculum of psychiatry, and vice versa. It is not surprising, however, that the author has mixed feelings about the use of the jury trial in cases with heavy psychiatric implication. Using a jury to determine the responsibility of an individual is approved since it represents social judgment carried out by representatives of the community. On the other hand, competence to stand trial, commitment, or release from a psychiatric hospital are not considered matters for jury consideration.

The most difficult problem in legal psychiatry is the determination of criminal responsibility. Despite the great dissatisfaction expressed by leading psychiatrists today, the M'Naughton rule—the knowledge of right and wrong—remains the sole test of criminal responsibility in most of the states. Every psychiatrist has had experience with patients who knew right from wrong in every instance but who, because of psychotic motivation, felt perfectly justified in committing various crimes. Any attempt to make a more reasonable test of responsibility has met with disappointment to varying degrees because of the very complex nature of human behavior and its interpretation. The Durham rule of 1954—holding that a person is not criminally responsible if the offense was a product of a mental disease or defect—certainly is far superior to M'Naughton but leaves many loopholes and many unanswered questions.

Further complicating the picture is the factor of social responsibility (or irresponsibility) which can be pointed out in almost every case in which there is a psychiatric overlay. The patient brought up in a culturally deprived environment presents an overwhelming problem in determining individual responsibility because he may have been encouraged to commit crimes and he may lack the conscience which the average citizen possesses.

Perhaps even more puzzling are the questions of diminished responsibility, such as the cases of criminal acts carried out where intoxication prevents the degree of deliberation and premeditation required as necessary elements for convictions in the first degree. The

question of the patient with an abnormal electroencephalogram exhibiting bizarre behavior also presents a major problem. In cases such as these, the psychiatrist's data and its interpretation should be only one item of evidence to be given its due weight by the jury.

The irresistible impulse is at best considered a controversial concept. In actual practice, it is rarely used as a defense. Closely akin is the concept of temporary insanity. This overworked defense in criminal trials has brought about a general rejection of the theory, but in fact it remains a valid clinical condition not infrequently encountered. Bona fide examples of temporary insanity result, for example, in alcoholic withdrawal, post convulsion confusional states, and in temporary deliria. Perhaps the most common example is the so-called battle fatigue of World War II—the idea that every man "has his breaking point" apparently is valid. In supporting this concept, Dr. Guttmacher points out that Jack Ruby, the alleged killer of Lee Harvey Oswald and who the author examined one month after the slaying, represents a cogent example of temporary insanity. "[H]is weak ego which was for a day and half being constantly assaulted by great emotional stresses—was suddenly overwhelmed, permitting powerful, unconscious, hostile, aggressive impulses to gain ascendancy and to rob him of a realization of the wrongfulness of his actions and an inability to control his destructive impulses" (p. 72).

The author also discusses the controversial problem of whether psychiatric experts should be partisan or court appointed. Early in the formative years of the psychiatric body of knowledge, psychiatrists felt that they could best carry out their mission to assist the court in achieving justice by not testifying as partisans. The conflicts so often encountered in psychiatric testimony, particularly in the past few years, result chiefly from partisanship. Perhaps the most effective approach in resolving this problem is the court clinic itself. The controversial plea of insanity should have nothing to do with the adjudication of guilt where others think that the recognition of insanity as a defense seems to give the criminal law "a heart." One of the injustices results when the insanity plea is accepted and the person is committed to a mental hospital, where he often remains for long periods of time without further disposition. Similar situations often exist surrounding the question of competence to stand trial. Such a judgment frequently results in the defendant being relegated to the back ward of a mental hospital. To prevent injustices, periodic visits to the institution on the part of the trial court judge or his designee and routine reevaluation are essential. Therapeutically speaking, Dr. Guttmacher feels the courts

should be quite liberal in permitting psychiatrically disturbed defendants to stand trial. "Having had their day in court I believe that most patients make a better hospital adjustment and prove to be more responsive to treatment than if the spectre of a trial awaits them" (p. 104).

Presentation of new frontiers in psychiatric legal relationships are discussed. Becoming increasingly helpful is the family court where the great bulk of the work is sociological rather than legal and where individuals trained in psychiatry and sociology are valuable assistants. The undesirable aspects of penal incarceration tend to increase the psychiatric and emotional problems of the offender although little is done to correct the situation. The non-psychotic sociopaths, who make up a large percentage of the inmates in our penal systems, can be helped through new emerging treatment modalities. In general, these treatment programs revolve around reality therapy, token therapy, and behavior modification approaches. These new theories are making inroads on the classic psychoanalytic approaches of the past. Follow up out-patient care through a special category of therapists, the so-called correctional therapists, can greatly decrease the rate of recidivism.

The great pitfalls and dangers of enlisting false confessions through the use of lie detection and narco investigation are outlined. These tools of psychiatry have not reached the degree of clinical validation that chemical tests of the blood and x-ray tests have assumed.

The author concludes by outlining what he would like to see as the role of psychiatry in the future: the adoption of the Durham rule; the court-appointed expert; removal of the psychiatrist from the decision making functions belonging to the jury; avoiding expression of the defendants' criminal responsibility; the establishment of therapeutically designed institutions for the treatment of selected groups of offenders; the establishment of departments of criminology at universities and others. By no means are all the answers presented in the book, but the author discusses a most delicate subject fairly, presenting both sides in a subject matter no less complex than the very mind of the individual who is attempting to analyze it.

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THE DEVELOPMENT OF POLITICAL ATTITUDES IN CHILDREN. By Robert D. Hess & Judith V. Torney. Chicago: Aldine Publishing Co., 1967. Pp. xviii, 288. $9.75.

This book represents the first large-scale study of political attitude formation in children. It is based on a survey of 12,000 elementary school children in eight large and medium-sized cities. The research offers practical payoffs to the legal profession by imparting an understanding of the process by which potential actors in the American political system develop their political orientations and of the content of the child's political world. Considerable evidence indicates that the basis of many important political attitudes carried into adult life are firmly established by the termination of elementary school.[1] Consequently, a comprehension of children's induction into the authority system of American society may eventually contribute to the development of a more efficient law making and law enforcement system.

The authors present data relating to many aspects of children's orientations toward the political system. Throughout the book, attention is given to the description of the political orientations, their developmental sequence, and the agencies which influence attitudinal development. I shall focus here on only a few of the more significant aspects of the book.

The authors suggest that the important socialization agencies (*e.g.*, family, school, and religious groupings) fail to present the realities of political life to children. This omission may nurture apathy or contribute to the emergence in adult life of antisystem and illegal techniques for influencing the political system (p. 61). For example, political learning in the school does not sufficiently deal with the operation of local, state, and national government. By implication, a child who in later life desires to affect the government may be disadvantaged due to his lack of understanding of the political process. The authors state that school curricula under-emphasize the procedures open to individuals for legally influencing the political system; for example, the children exhibit an extremely limited knowledge of the techniques and effectiveness of pressure groups in the election and policy-making process (pp. 213, 218). It may be that a significant number of pre-adults and young adults in American society become involved in street demonstrations and even riots because they do not fully understand the normal channels of political involvement.

1. For a summary of the literature on this point, see Jennings & Niemi, *Patterns of Political Learnings*, 38 HARV. ED. REV. 443-45 (1968).

The chapter on attachment to government and regard for law should be particularly relevant to the legal profession insofar as the data presented relate to the development of support or non-support orientations toward the legal system. The authors are specifically interested in our compliance system, which they define as "a network of laws, persons, and institutions vested with authority to enforce their demands" (p. 50). Two dimensions of the compliance system are of concern: (1) "the child's view of the power of authority figures to punish non-compliance"; and (2) "the trust he has in the good intentions of rules and their justice" (p. 50). The children tested viewed laws as positive forces in society, seeing them as helpful and protective. Statutes exist to help run the country and not necessarily to punish wrongdoers. In seeing authority figures as benevolent, the children developed a positive regard toward the power of the legal process to punish law-breakers.

Hess and Torney imply that these initial orientations have vital implications for compliance later in life. Although trust in law decreases for the older children, the original high level of trust provides the criteria an individual may apply as an adult in assessing the performance of all authority figures. The authors assert that if an individual discovers at an older age that laws are not always just, he may nevertheless feel they should be. Accordingly, if he has an adult experience with authority figures who enforce the laws arbitrarily, he may be disillusioned and somewhat cynical about the incident, yet hold to the principle of fair administration of law (p. 52).

So far these children are supportive of the legal system. Hess and Torney present evidence, however, indicating the development of a serious problem in our legal system. Contrary to the popular notion that "crime doesn't pay," the percentage of respondents believing that punishment inevitably follows crime declined with age from 57 percent in the second grade to only 16 percent in the eighth grade. The authors furnish a possible explanation for this trend as follows: "Older children have learned, perhaps from their own experience, that punishment is not the inevitable consequence of misdemeanor and they generalize this conclusion to the legal system" (p. 57).

Among other orientations probed by Hess and Torney is the children's perceptual relationship toward the policeman. Recent studies indicate that police-community relations are often quite poor.[2]

2. These studies indicate that only a minority of whites hold a low opinion of the work of the police, but that a significant majority of minority-group members—Mexican-Americans, Puerto Ricans, and blacks—are either hostile toward or express a laek of confidence in the police.

Although no causal relationship between this phenomenon and children's political orientations is asserted by the authors, the survey results suggest that this circumstance is not limited to the adult world and is quite prevalent among children. The children interviewed indicated that the police would always respond to people in trouble. Yet, the older the child, the more the likelihood that he had no strong positive personal feelings for the policeman. Whereas the second-grade students indicated favorable attachments to the police, the eighth-grade students exhibited no such attachments.

Perhaps the most significant conclusion of the Hess and Torney effort is one of the least convincing, and leads us to a brief critical examination of several of the book's more serious shortcomings. They assert that "[t]he public school appears to be the most important and effective instrument of political socialization in the United States" (p. 101). The major evidence offered to substantiate this conclusion is a comparison between the children's responses to a number of political questions and their teacher's replies to the same questions. As the age of the child increases, teacher-child response conformity increases. The problem with this data lies in the absence of parent's responses to the questionnaire. Hess and Torney maintain that the teachers "as an occupational group, are not representative of the general population and may be expected to hold dissimilar views in several important respects" (p. 111). Since no evidence is offered to corroborate this assertion, it remains only a point of conjecture whether the school has more impact on the development of political orientations than any other agent. If the parent and teachers have similar political views, the conclusion would be that little attitude discontinuity exists between the older children and adults. If this were true the case for the school's impact would not be warranted.

A further shortcoming of the book, which probably was unavoidable, indicates the need for more research on the formation of political attitudes. Hess and Torney inquire inconclusively into a number of political attitudes. For example, the reader yearns to know more about the absence of favorable child attachments to the policeman. In another instance, six percent of a pilot test group of students stated that they would not obey a policeman when they thought he was wrong. Although it seems highly important to

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See TASK FORCE ON THE POLICE, THE PRESIDENT'S COMM'N ON LAW ENFORCEMENT AND ADMIN. OF JUSTICE, TASK FORCE REPORT: THE POLICE 144-207 (1967); TASK FORCE ON VIOLENT ASPECTS OF PROTEST AND CONFRONTATION, THE NATIONAL COMM'N ON THE CAUSES AND PREVENTION OF VIOLENCE, THE POLITICS OF PROTEST 241-92 (1969).

determine why these children felt they would not comply, the question was dropped because there were so few responses of non-compliance and the inclusion of this alternative was disturbing to some children and teachers (p. 54 n.14). The latter reason is an unfortunate circumstance of survey research, but the former criterion for dropping the question ignores the problem of identifying those individuals in society who do not comply with the law and discovering why they so act.

Given the enormous task of mapping the child's political world and relating findings to the political system, it can be said that this book marks an important contribution to a new area of inquiry. This type of research should be of interest not only to the psychologist, sociologist, and political scientist, but also to members of the legal profession, politicians, and other government officials who are ultimately responsible for the formulation and execution of laws. Civil disobedience, often in the form of violent disorder, is increasing in the United States. This circumstance may be one manifestation of the inadequate process whereby young Americans are inducted into the authority system. It indicates that our educational institutions must be more reality-oriented. Individuals who do not comprehend the complexity of society may respond to problems by side-stepping legal constraints that are a part of that complexity. In other words, they attempt to simplify an intricate system they do not understand by engaging in direct forms of political involvement, such as demonstrations. Educational institutions could contribute to the alleviation of violence in American society by developing a more community-oriented learning process. The courts could conduct an educational program dealing with the operation of the legal system.[3] Furthermore, the police could directly help young people comprehend the complex problems confronting the policeman in his attempt to maintain law and order. The message brought to us by Hess and Torney is that the early years during which the child develops his basic political attitudes cannot be ignored; indeed, they may be the crucial years.

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3. *See* Raskin, *Political Socialization in the Schools: Discussion*, 38 HARV. ED. REV. 550-53 (1968).

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