

Vanderbilt Journal of Transnational Law

Volume 24
Issue 5 *Issue 5 - 1991*

Article 7

1991

Books Received

Law Review Staff

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/vjtl>



Part of the [Human Rights Law Commons](#), [International Law Commons](#), and the [Tax Law Commons](#)

Recommended Citation

Law Review Staff, Books Received, 24 *Vanderbilt Law Review* 1061 (2021)

Available at: <https://scholarship.law.vanderbilt.edu/vjtl/vol24/iss5/7>

This Book Review is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in Vanderbilt Journal of Transnational Law by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact mark.j.williams@vanderbilt.edu.

BOOKS RECEIVED

TAXATION IN THE PEOPLE'S REPUBLIC OF CHINA. By Jinyan Li. New York, New York: Praeger Publishers, 1991. Pp. 208. \$49.95.

While the People's Republic of China has provided a wealth of economic information to foreign investors, China's domestic tax structure has gone largely unnoticed. This seems odd since tax revenues account for ninety-five percent of the Chinese government's income. *Taxation in the People's Republic of China* provides a comprehensive overview of the taxes that affect individuals, as well as collective, state, and private business (including agricultural) concerns. Moreover, Mr. Li's book covers not only taxes levied on domestic entities, but those that touch foreign investors as well.

Following a historical overview of Chinese taxation law from the Imperial Period through the current Socialist Period, Mr. Li provides a detailed explanation of taxation of goods and services in China. In essentially free-market economies, taxes on goods and services impact both consumer prices and business profit margins because price levels tend to adjust for tax rates. In China, however, the government fixes the prices of goods and services and builds the tax rates into the price structure. Therefore, the business sector bears the entire burden of taxes on goods and services.

China, as a centrally-planned economy, uses taxation as a major force of governmental control. High taxation rates may be imposed on goods in short supply to discourage their purchase, while goods or services that the government wishes to promote—for example, tourism—and necessities are taxed at relatively low rates. China uses income taxes to achieve similar ends. For example, the government taxes income derived from labor less heavily than income derived from investment or property to promote social distribution of wealth according to work. The book also provides similarly detailed and illuminating explanations of the taxes levied on domestic and foreign businesses and agricultural projects.

Mr. Li's work is an approachable, well-organized introduction to the tax system in China. Students and practitioners wishing to learn more about taxation in socialist states and China in particular should find it quite useful.

LIBERATING THE LAW: CREATING POPULAR JUSTICE IN MOZAMBIQUE. By Albie Sachs and Gita Honwana Welch. Atlantic Highlands, New Jersey: Zed Books, 1990. Pp. 132. \$55.00.

Upon gaining their freedom from Portuguese rule, the citizens of Mozambique faced the dual challenge of maintaining their traditional principles and creating a legal system that centered around the principles of populism and democracy. *Liberating the Law* documents this post-colonial history of the Mozambiquan legal system from the viewpoint of a civil rights lawyer and Mozambiquan judge.

The book's focus is not on specific elements of Mozambiquan law, but rather on the underlying principles that have guided the law's development. For example, during the period of Portuguese colonialism, land use was directed under ownership principles. The colonial government and the colonialists selected valuable lands, but only small amounts of land were designated for ownership by indigenous Mozambiquans. After the revolution, the people deemed land inalienable, and the state directed land use toward popular goals.

Populism has played a significant role in the development of the Mozambiquan legal system. As is noted by the authors, Mozambiquan laws are written in common, everyday language to facilitate collective understanding. Procedural formalities in the courts are kept to a minimum by judges drawn not from the ranks of lawyers, but from the citizenry in community elections.

The book also illuminates the problem of constructing uniform rules of law when the inhabitants of a state belong to diverse cultures. For example, the majority of Mozambiquan families are patterned along matrilineal customs; one traces the family line through the mother and determines family relationships and rights of succession accordingly. Sizeable minorities, however, follow a patrilineal system or observe Muslim, Christian, or civil-law traditions in establishing family groups or disbursing property to heirs after death. In many cases, the popular courts have solved the problems posed by different customs by dispensing justice according to local customs, thereby eliminating the need for national, uniform rules of law.

Liberating the Law is an interesting introduction to the challenges faced by developing states in creating a post-colonial legal order. Additionally, the book provides valuable, if not systematic, information about the popular legal system in Mozambique.

INTERNATIONAL FUGITIVES: A NEW ROLE FOR THE INTERNATIONAL COURT OF JUSTICE. By Barbara M. Yarnold. New York, New York: Praeger Publishers, 1991. Pp. 168. \$37.95.

Incidents of illegal extradition, such as the kidnapping of Adolf Eichmann by Israeli agents in 1960, have generated a great deal of contro-

versy. Similarly, recent extradition disputes, such as the continued imprisonment of accused Irish Republican Army member Joe Doherty by the United States and the Ninth Circuit's recent decisions regarding the United States kidnapping of suspected drug traffickers in Mexico,¹ have generated a new round of legal scholarship on extradition policies among states.² *International Fugitives* suggests that the international tension caused by illegal extraditions could be alleviated if the International Court of Justice (ICJ) regulated not only extradition disputes, but also any criminal sanctions justifying extradition.

Ms. Yarnold's book begins with a practical discussion of extradition policies and the complications that arise when one state seeks extradition of an accused criminal from another state. For example, the two states may not have a formal extradition policy embodied in a treaty, one may choose to ignore its existing obligations under a treaty, or there may be a dispute over whether exceptions—such as political crimes—exempt the accused from extradition.

To bolster her thesis that international fora are uniquely equipped to make impartial decisions on cases involving extradition, Ms. Yarnold points to two flaws in the current practice of deciding extradition cases in territorial courts. First, she documents statistical trends suggesting that intangible factors, such as the defendant's political affiliations, influence extradition decisions in the United States and other nations. Furthermore, she points to the well-known incidents of extralegal extradition, most notably the Israeli abduction and trial of Adolf Eichmann in 1960, the United States invasion of Panama in 1989, and the United States government's mistreatment of accused members of the Irish Republican Army. Avoiding these international disputes, Ms. Yarnold suggests, are the most obvious benefits of shifting extradition cases to international courts.

However estimable, Ms. Yarnold's proposals may be impeded by a number of unmentioned practical obstacles. States occasionally have chosen to ignore the decisions of the ICJ, and powerful states, such as the United States, have done so with impunity. Thus, states might simply refuse to extradite an accused criminal despite a determination by the ICJ that extradition was appropriate. Furthermore, powerful states still could employ extrajudicial means of extradition against accused criminals that ICJ does not see fit to extradite. Also, many states harbor

1. See, e.g., *United States v. Alvarez-Machain*, 946 F.2d 1466 (9th Cir. 1991).

2. See, e.g., Kirk J. Henderson, *Fighting the War on Drugs in the "New World Order": The Ker-Frisbie Doctrine As a Product of its Time*, 24 VAND. J. TRANSNAT'L L. 535 (1991).

great hostility toward internationalization of their foreign policy interests and would probably oppose surrendering jurisdiction over crimes committed against them.

Other interests exist that must be factored into the feasibility of Ms. Yarnold's suggestion. Powerful states, such as China, might oppose criminal trials in the ICJ because defendants probably would receive more extensive procedural protections at the Hague than would be the case in their domestic courts. Since the United Nations defines the jurisdiction of the ICJ, Ms. Yarnold might have discussed the likelihood of obtaining the approval of security council members or the prospect that the members of the United Nations would agree to her proposals. This would have added a pragmatic element to an otherwise articulate and worthy model of international criminal justice.

EFFECTIVE LOBBYING IN THE EUROPEAN COMMUNITY: By James N. Gardner. Boston, Massachusetts: Kluwer Law and Taxation Publishers, 1991. Pp. xix, 162. \$45.00.

In recent years, the European Community (EC) has grown from a fledgling idea to a growing economic administrative body with an eye toward enacting legislation and enforcing existing commitments. Adding to these challenges are competing views on the still-undefined role of the EC in many areas. Some view the EC as the guarantor of a free trade zone, while others see the EC as Europe's regulator of monetary, labor, and environmental policy. The challenges all have led to the expansion of a heretofore uniquely United States institution—lobbying.

To acquaint the reader with the lobbying efforts now underway in Brussels, *Effective Lobbying in the European Community* provides a brief overview of the structure of the EC and the political forces that affect it. Large-scale private lobbies currently exist to represent the interests of businesses, workers, consumers, and the EC itself. The balance of the book contains an insider's guide to lobbying the EC. For example, Mr. Gardner points out that EC lobbyists must choose the targets of their efforts wisely from among the Parliament, the Council, the Economic and Social Committee, and the Commission. He then discusses the factors that lobbyists must consider when approaching each of these institutions.

Throughout his book, Mr. Gardner offers personal insight into the lobbying process at the EC—the culmination of many years of experience of living in Europe and working within the European-related lobbying process. Would-be lobbyists and interest groups who hope to advance their concerns in the EC would be well advised to consult *Effective Lobbying in the European Community*.

EUROPEAN HUMAN RIGHTS LAW. By Mark W. Janis and Richard S. Kay. Hartford, Connecticut: The University of Connecticut Law School Foundation Press, 1990. Pp. xiv, 405. \$29.50.

The European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) has served as one of the most reformatory sources of human rights law in the world. European states that have found themselves in violation of the Convention have altered their domestic laws, thereby helping to create a working body of human rights law for the European Community.

The first three chapters of *European Human Rights Law* focus on the history of human rights in the United States and Europe, including the Nuremberg trials and extending back to the philosophical underpinnings of the United States Constitution and the French National Assembly's Declaration of the Rights of Man and Citizen. The authors then provide an extensive discussion of the contents of the Convention, including the role of the European Court of Human Rights and the European Commission on Human Rights. The authors devote the final chapters of the book to the ECHR decisions on family law and privacy, inhuman or degrading treatment, freedom of expression, and the procedural requirements of the Convention.

European Human Rights Law provides a sound overview of the Convention and the case law that has developed from it. Moreover, the combination of case law and commentary by the authors should broaden the book's appeal. It could serve well as a treatise on the Convention or as a casebook for law courses on this subject.

