

## Book Reviews

Roger Blanpain, *Labour Law and Industrial Relations of the European Union, Maastricht and beyond: from a Community to a Union*, Boston, Kluwer: Deventer (1992) 74p. + Annexes + Index

This book was completed barely two months after the Maastricht Summit (which is, perhaps presciently, translated throughout the book as the Maastricht Top) – the Prologue is dated 7 February 1992, the date of signature of the Treaty on European Union. Such was the speed of publication that, when praising the role the Commission played in the negotiation of the ETUC/UNICE/CEEP Accord of 31 October 1991 (p. 47), reference is made to 'the then Director-General of DG V, Mr J. Degimbe', who is still in post at the time of writing this review.

Chapter I (pp. 7-22), 'Europe: Problems and Perspectives', offers the author's views on recent global geo-political changes and their implications for the international economy and world peace. Two very brief chapters outline 'The European Union' (II, pp. 23-25) and 'The European Community' (III, pp. 27-30). The heart of the book is the two chapters on 'The New Social Dimension' (IV, pp. 31-53) and 'European Collective Agreements: A General Framework' (V, pp. 55-68).

These raise, though they do not resolve, many of the extremely complex legal issues resulting from the Treaty's Protocol on Social Policy and the Agreement annexed to it. Both are printed in Annexes to the book, which also helpfully include the text of the ETUC/UNICE/CEEP Accord of 31 October 1991 which was the source for the Agreement.

Given the speed of its production, and the intrinsic complexity of the problems, the discussion is brief and often leaves the reader anxious for more argumentation. It is a pity that Professor Blanpain did not find time to elaborate his influential views.

This was felt particularly as regards the issues of the constitutionality of the Protocol and Agreement, which the author states he will not treat *in extenso*, but where his final view of their relationship to Community law is not clear (contrast statements on pp. 31 and 32). This tantalizing quality, of issues highlighted but given only a stimulating introductory treatment, is the book's hallmark.

The issues touched upon include: (1) the complex of subsidiarity problems arising from the new law-making capacity through social dialogue at Community level and within Member States, as well as the normal Community and national legislative processes; (2) the extended competences of the Community in the social field, and the need to define the scope of those eligible for qualified majority voting; (3) the potential of collective bargaining in Member States to implement Community Directives; (4) the potential impact of the role envisaged for European collective agreements on the previous unwillingness of European employers to negotiate (what I have called elsewhere 'bargaining in the shadow of the law'); (5) the role of Council decisions implementing European collective agreements (he appears to take the view that the word 'decision' in Article 4(2) of the Agreement is not a term of art, but means that it may take the form of 'a regulation,

## Book Reviews

a directive or even, theoretically at least, a recommendation' (pp. 51, 67), but this is not always clear (p. 66); (6) the legal competence of the Court of Justice of the European Communities as regards European collective agreements, which he denies (p. 59), though he does concede it where agreements are embodied in Council decisions (p. 67) and seems to be advocating it elsewhere (p. 73); (7) in a section headed 'Master or Slave', the relation between the European collective agreement and the Council decision implementing it, an issue critical for the independence of the social dialogue at European level.

The value of the book lies in its identification of the myriad of new legal issues which now confront labour lawyers in the European Community. The reader becomes aware of how significant was the Maastricht breakthrough on social policy after years of stagnation. One looks forward to reading Professor Blanpain's further reflections.

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Ian Brownlie, *Treaties and Indigenous Peoples*, edited by F.M. Brookfield, Oxford, Clarendon Press (1992) pp. XIII-105

This book is an edited version of the Robb Lectures that Professor Brownlie delivered in 1990 at the University of Auckland in the sesquicentennial year of the establishment of New Zealand as a British colony, after the making of the Treaty of Waitangi of 1840. The book essentially revolves around the Treaty, which was made by the Queen of England and the Confederation of chiefs and subtribes of New Zealand. The treaty on the one hand gave the Queen complete government over the land of the chiefs and subtribes and the right to purchase land at an agreed price; on the other hand, it provided for the duty of the Queen both to protect the unqualified exercise, by the chiefs, 'of their chieftainship over their lands, villages and all their treasures' and to protect 'all the ordinary people of New Zealand' and grant them the 'same rights and duties as the people of England'.

As the Treaty to a large extent was about the recognition of group rights within a colonial framework, its examination gives the distinguished international lawyer an opportunity to dwell upon such important or topical matters as standard models of colonization and settlement (pp. 3-4), group rights (pp. 29-45), protection of minorities (pp. 46-47), self-determination of peoples (pp. 47-54), protection of indigenous peoples (pp. 55-72).

Admittedly, the subject of this book may not be of direct and immediate interest to some international lawyers. However, it should not be neglected that Brownlie looks at the Waitangi Treaty in its general context, namely within the framework of international law and human rights standards. As a result, his comments on the New Zealand situation are interspersed with judicious and penetrating remarks concerning the general matters referred to above: there, Brownlie takes up and elaborates upon some of his previous writings, chiefly his *Principles of Public International Law*.

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