

## Shorter Reviews

Gardner, J.P. (ed.), *Aspects of Incorporation of the European Convention of Human Rights into Domestic Law*, London: The British Institute of International and Comparative Law/The British Institute of Human Rights (1993) xxi + 119 pages. £15.

Hillgruber, Christian, and Matthias Jestaedt, *The European Convention on Human Rights and the Protection of National Minorities*, Köln: Verlag Wissenschaft und Politik (1994) 124 pages. DM 28.

When dealing with issues of human rights protection in Europe, the European Convention on Human Rights must be considered the major instrument. Accordingly the two books to be reviewed, especially since they deal with some of the most interesting issues of the ECHR, are of interest for everybody who works in the field.

The first work is the result of a conference held at the British Institute of International and Comparative Law in 1991. It comprises nine articles on the requirements of the Convention as to its own incorporation, on some national approaches to incorporation of the Convention and finally some articles on the Convention's place in the law of the United Kingdom. In his report J.A. Frowein argues in favour of an obligation of incorporation to be eventually derived from the Convention before then describing in some detail the effects the Convention has had in the municipal law of the Federal Republic of Germany despite the fact that the German constitution itself contains an elaborate catalogue of human rights which largely parallels the guarantees of the Convention. The report by H. Krüger questions, whether the fact that a state has incorporated the convention has some real-world effects on being found to have violated the convention. His report reveals the somewhat surprising fact that there are no major differences in this regard, which

could be based on the fact of incorporation or non-incorporation. He argues, however, that those states which have incorporated the Convention might be more swiftly able to react to decisions of the Convention organs.

Chapter III contains two national reports on the status of the Convention in both Norway and Denmark. It also describes draft legislation to incorporate the Convention into the domestic law of the United Kingdom. It is regrettable that none of the new democracies of Eastern Europe which have become parties to the Convention since the beginning of the nineties are dealt with in a national report, even more since the languages of most of them are only accessible to very few readers. Furthermore it has to be noted that despite the fact that the convention was incorporated in Denmark already as of April 1992 and that the book to be reviewed was published in 1993, this fact is only very briefly mentioned in a footnote although this example could serve as a very valuable model for other jurisdictions. (For a more detailed analysis the reader may turn to Hofmann's piece in *EuGRZ* (1992) 253).

A rather interesting article is the one written by R. Blackburn. He describes a bill which was introduced in the British House of Commons, the goal of which was to incorporate the Convention into the British legal system. It would have been helpful, however to reprint the text of the proposed bill in an annex even more since the bill only contains nine sections. The last four articles, which are all somewhat specific, deal with various aspects of the effects the Convention has had in the United Kingdom. The most rewarding one is the last piece dealing with the compliance of the United Kingdom with findings of the Committee of Ministers and judgements of the Court, which in particular contains a very helpful survey of decisions and respective British reactions.

On the whole, the book does not give an exhaustive overview over the issue of

incorporation but instead is really limited – as already indicated by its title – to some aspects of the problem. It largely focusses on the British perspective. Therefore it might be particularly useful for those readers who want to inform themselves about the British practice in the field.

The European Convention on Human Rights was drafted at a time when the issue of minorities seemed to have lost much of the importance it had previously gained after World War I. By now, however, and as demonstrated by recent developments in Eastern Europe, these questions have regained major legal and political importance. Since there is still no legally binding instrument on either the universal or regional level which deals with the protection of minorities, analyzing the ECHR as to whether it can be used as a tool to protect ethnic minorities is rewarding.

The two authors, after having first described the drafting history of the Convention outline the jurisprudence of the Convention organs and consider to what extent it deals with minority issues. In that regard the booklet gives an accurate and up-to-date description of the jurisprudence under the Convention and the guarantees which can be of relevance for members of national minorities (ranging from Articles 8, 9, 10, 11, 14 to Article 3 of the First Additional Protocol). It lacks, however, somewhat of a perspective when describing the current efforts within the Council of Europe to improve the system of the protection of minorities. In particular the authors should have updated the original manuscript when preparing it for translation and should have taken into consideration the Vienna Summit Document of October 1993. Another shortfall might be the fact that the very question what constitutes a minority, which is one of the most important and intrinsic problems as far as the protection of minorities is concerned, is only dealt with on two pages (p. 87-88), which is insufficient to deal with the different aspects of the problem.

On the whole, it might be said, that while the work is quite useful in order to gain a first insight into the relationship between the ECHR and the protection of minorities, it does not cover all various aspects of what is still one of the most challenging political issues in Europe.

Andreas Zimmermann

*Max Planck Institute for International and Comparative Public Law, Heidelberg*

Rebecca J. Cook (ed.), *Human Rights of Women: National and International Perspectives*, Philadelphia: University of Pennsylvania Press (1994) xiv + 634 pages + Appendixes + Index.

In the first of its five parts, this book, originating in an International Consultation on Women's International Human Rights hosted by the International Human Rights Programme of the Faculty of Law, University of Toronto, Canada, 31 August – 2 September 1992, contains report on a consultation of lawyers from different countries of Europe, the Americas, Africa, Asia, and Australia and shows the multiplicity of problems and perspectives linked with efforts to have human rights instruments applied correctly in order to repair the gender based injustice experienced by women.

The second part, entitled 'Challenges', contains five contributions that offer a series of thought provoking observations. First, Radhika Coomaraswamy states that effective implementation of women's rights as human rights fails in South Asia because of the lack of proper implementation instruments and because of ideological obstacles. Major barriers are family and personal law, which vary greatly from the secular state law. More generally, the existing system of human rights, supposed to imply universal application, in fact privileges a masculine world view – the whole system should be redefined and the existing insufficient model of non-discrimination abandoned. As Hilary Charlesworth points out, 'the