Book Reviews

Bleckmann, Albert. *Allgemeine Staats- und Völkerrechtslehre.* Köln: Carl Heymanns Verlag, 1995. Pp. x, 975. DM 280; öS 2,200; sFr 280.

Even though different fields of law exist, they do influence each other and reveal common structures which, in turn, change depending on the current circumstances. For some time now, a tendency in international law can be observed, away from a law of coexistence, which essentially aims at distinguishing and securing spheres of state competence towards a legal order which focuses more on cooperation. According to the author, the cause for this lies in the emergence of universal interests. Internationally a development is occurring which took place nationally a long time ago and which can be observed very clearly also in European Community law. Intellectually always on the go, this is justification enough for the author to draw parallels between all branches of law and to predict the future development of international law.

If one does want to look at several legal orders at the same time, it is necessary to keep some distance. Hence, refined dissections cannot be expected in all the areas that are mentioned, like sovereignty, the notion of state, sources of law, enforcement and even a section on the general system of science and its methods (which fortunately remains mostly in the area of jurisprudence). Also, one has to be forbearing that the author does not discuss the appropriate literature exhaustively. He relies mostly on his earlier works--which is not unusual for him--and consequently remains in the cosmos of his own thoughts in which terminology and doctrines at times take a somewhat peculiar appearance. This is regrettable because some problems have already been better brought to a point. Also, Bleckmann would not have been able to talk quite as lightheartedly about individual and general interests of both subjective and objective natures--notions of principal importance to him--and about the procedures with which they have to be determined.

I am not disputing that growing interdependence of states affects their sovereignty and international law. One might also discuss if a change of paradigm is due to better explain international relations and their legal rules. One might further make suggestions how international law can be given more effect under the altered circumstances. This requires a precise analysis of current international law and its deficits which is equally precisely contrasted to the advantages of ones own view, a work that has yet to be done.

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Hohmann, Harald. *Precautionary Legal Duties and Principles of Modern International Environmental Law.* Norwell, USA: Kluwer Academic Publishers Group, 1994. Pp. xvii, 369. Index. Dfl 225; £75; $125.

"International environmental law must therefore not be limited to issues surrounding the economic distribution of natural resources; it must first and foremost be concerned with optimal management of resources." It is this avowal that the author places at the very beginning of his book, the German version of which was a doctoral thesis submitted to the University of Frankfurt/Main. Some parts of its English translation were supplemented and updated. Hohmann points out the necessity of a shift from an approach based on an anthropocentric understanding which relies on state sovereignty and where distribution of resources is aimed at maximal exploitation towards a "modern resource-economical and ecological approach" which protects nature for its own sake. According to the committed author, this change of paradigm--which began with the Stockholm Conference 1972--is well established in international environmental law today. The international documents examined encompass all media (air, water and soil) as well as endangered species. However, they neither prove nor fail to prove this develop-

ment as certainly as it appears. The author himself concedes that the economical perspective was never formulated strictly; safety and health issues have always played a role. On the other hand, he defines his ecological approach very openheartedly: Foresighted management of the environment and prudent use of natural resources in the interest of long-term and enduring exploitation are deemed to suffice. Precautious management of the environment are, however, already imperative in view of the clearly increased extent of interference and the realization that reciprocal and long-term effects can only be predicted to a limited degree. The fact that the environment has become a common concern of mankind and that generation transcending conceptions are being pursued does not imply that the environment is protected for its own sake.

However, motives for research or underlying principles are not that significant. It is more important to spell out the current state of international environmental law and to what extent and by what means it seeks to protect the environment. But in the book treaties--a primary source of international law--are remitted to the secondary level. Hohmann says that they mostly address only a specific problem and regularly follow general developments of the law. It seems that, as a consequence, the author does not consider them representative for the entire field. One would have to add that they also do not seem to support his generalizing hypothesis sufficiently. If one disregards these hypotheses, a treasure box remains containing references to global and regional treaties on the protection of all natural media and which informs about means and deficits of existing protective mechanisms. The book provides a comprehensive survey in this respect.

This also holds true for resolutions passed by international organizations (UN, UNEP, ECE, OECD, Council of Europe) or at conferences (Stockholm, Rio) and for the works of the International Law Association, the Institute de Droit International and the International Law Commission. But Hohmann does not stop here. He considers these to be not mere forerunners for conventions, despite citing many examples where regulations passed as unbinding recommendations were eventually incorporated in international treaties. It is rather suggested that many of these proposals have had an astounding "juridical career" and have become--within a short period of time--customary law, in some cases even *ius cogens*. Such a general statement is indeed surprising. Justice is not being done to the debate on sources of international law over the past decades: Resolutions of international organizations or of state conferences--let alone documents passed by private bodies or the International Law Commission--cannot readily be considered as expressions of an *opinio iuris*, albeit they may produce rules that can be consented on. State practice cannot be briefly abandoned as a constitutive element of customary law and ultimately in reference to Ago (*diritto spontaneo*), Bin Cheng (instant customary law) and the necessity to create binding rules quickly. Even in the English version, supplemented in this respect, the discussion of this debate remains insufficient and the statements remain abstract.

A book that contains a good survey of the materials on international environmental law, which is to be handled with care in respect to its statements on the legal validity of regulations and on underlying principles.

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Merten, Detlev (ed.). Die Subsidiarität Europas. Berlin: Duncker & Humblot, 1994. Pp. 146. Index. DM 48; öS 375; sFr 48.

The principle of subsidiarity has captured widespread attention of scholars ever since its inclusion into the Maastricht Treaty. This is especially so among German scholars, who, in connection to the ongoing debate on German federalism, have often called for more regionalism in the European Community. And yet it still remains open how to define the principle's basic contents, especially when a proposed action cannot be sufficiently achieved by the Member States and can be better achieved