

Book Reviews

analysis of the complexities of contemporary conflict of laws.

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S. James Anaya, *Indigenous Peoples in International Law*. New York, Oxford: Oxford University Press, 1996. Pp. xi, 253. Index.

Indigenous peoples are often treated as a peripheral (and problematic) minority within their home states. Their perceived position under international law can be cased in similar terms.

The struggle of indigenous peoples to counter the impact of colonization on their lives and to protect their rights has included efforts to harness international law to aid their domestic agendas. The resultant strategies have had a dynamic, though rarely recognized, impact on international law. Indigenous peoples have facilitated the development of a specific body of law surrounding indigenous issues and, in a broader context, changed procedures in international forums and helped to define the substantive content of international norms. For example, the UN Working Group of Indigenous Populations has developed, within the United Nations, a forum whose procedures are reflective of the cultural values of the indigenous peoples involved. The flexible procedures have created one of the few areas within the United Nations system where an international forum is open to individual participants.

The situation of indigenous peoples also provides a good case study for the evaluation of the effectiveness and the shortcomings of the international human rights framework, both in substance and in practice.

Anaya confronts these evolutions, tensions and phenomena in *Indigenous Peoples in International Law*. His concise text is meticulously footnoted and laced with succinct, pertinent examples. Part I is a historical account of the development of international law and its employment to justify the colonization and dispossession of indigenous peoples throughout the world. He also describes how the emergence of a human rights framework transformed international law.

Part II describes the development of the norm of self-determination. Anaya eloquently discusses the different definitions given to the term and the implication of the adoption of each. He then links self-determination to other norms in the fabric of international human rights, arguing that these rights work together to give substance and flexibility to the notion of self-determination. Anaya clarifies the relationship of self-determination to decolonization, emphasizing the need to discern remedies from rights.

Part III looks at the relationship between international law and domestic law on matters pertaining to rights of indigenous peoples. Anaya also presents a survey of the various monitoring and complaints procedures available to indigenous peoples within the human rights framework.

The historical analysis and discussion of enforcement procedures (Parts I and III), though perhaps elementary to those working in the area, provide an excellent introductory synopsis of the position of indigenous peoples under international law.

The major achievement of the book is Part II. Anaya's distillation of the complex debate surrounding the content of the right to self-determination has a clarity that is often missing in discussions of the term.

Anaya's command of this area of jurisprudence is evident in his ability to understand the (continuing) complicity of international law in the colonization and dispossession of indigenous peoples whilst being able to celebrate the extent to which indigenous peoples have been able to harness international laws and gain access to international forums in order to advance their claims. He comprehends the enormity of the tasks accomplished by indigenous peoples as they have managed to utilize international law while understanding the limitations of the international system of rights. He understands that the glass is both half-full and half-empty.

The experiences of indigenous peoples under international law can give insight into many broader aspects of international law: the application of and effectiveness of human rights instruments, the impact of international law on domestic law, the evolving nature of the notions of sovereignty and non-

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interference. Anaya's presentation of the history, continuing struggles and achievements of the indigenous rights movement is exemplary scholarship.

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Garrett, James J. (ed.). *World Antitrust Law and Practice*. Boston, New York, Toronto, London: Little Brown and Company, 1995. Pp. lx, looseleaf. \$ 145.

In the wake of economic liberalization, business transaction with an international dimension have become a matter of routine. It has long been realized that this development entails a globalization of anti-competitive threats. There is no uniform system of world competition law in sight that could help to tackle these problems, but there is an increasing number of states that have adopted antitrust statutes. As business activities cut across national boundaries, so does the application of national laws against cartels and abuse of market power. This has prompted antitrust authorities from different jurisdictions to look for efficient forms of cooperation in antitrust enforcement. From an academic perspective, the emergence of a decentralized structure of mutually interdependent and competing laws (i.e. of a legal structure that is – somewhat paradoxically – copying the structure of the economic system it controls) is a most interesting field of research that is likely to spur lively debates for some time to come. From a practitioner's perspective, it may be just a burdensome exercise to keep up with the pace of entrepreneurial clients and relentlessly active national legislatures and authorities as their counterparts. James Garrett's *World Antitrust Law and Practice*, with contributions by 45 authors, is designed to assist busy practitioners (and confused clients) by providing them with, as Garrett puts it, 'a sort of road map through this maze of evolving laws and practices'.

The book is structured in three parts. In its first part, it covers US federal antitrust law; the second focuses on EC competition law; and the third part examines antitrust laws

from 31 jurisdictions, ranging from Norway to New Zealand. In terms of quantity, James Garrett's claim of 'the most comprehensive coverage of world competition law ever attempted in one volume' is undoubtedly justified. In terms of quality, the book leaves something to be desired. There are fourteen chapters on US antitrust, written with abundant expertise by American authors, all active or former partners and associates of US law firms. Seven chapters deal with EC competition law, treating the subject in less, yet sufficient detail, taking into account the purpose of the book to provide basic information on antitrust. But there is only a collection of brief sketches on the rest of the world (including national laws of EU Member States), some of which are shorter than five pages. The practical value of these chapters is rather dubious. At times, the quintessential message seems to be the advice to consult an antitrust expert as soon as possible. Besides, not much encouragement is given to the reader to use the second and third parts of the book. The index refers to US law only (as the reader is told), and so do the table of cases and the table of statutes (as the reader is not told). There are only two matrices, one on substantive law and one on enforcement, covering 'law in foreign jurisdictions'. Readers without specific knowledge in the field of competition law will certainly need more guidance to identify antitrust problems that might occur beyond the ambit of their national laws. This is even more so since a single phenomenon (e.g. franchising) may belong to different legal categories, depending on the law that applies. Moreover, in view of Garrett's foreword characterizing the multi-jurisdictional application of competition laws as one of the most important current trends, jurisdictional issues are not given the attention they deserve. If they are considered at all, the sections on these issues are rather superficial (compare § 15.1.1. and § 15.2.2. providing nothing but a thumbnail rule on extraterritorial application of EC law) or even misleading (compare the outdated 'double barrier' approach in Rupert Bondy's description of the relationship between UK law and EC law in § 25.1).

This criticism is not intended to discredit Garrett's ambitious project to present an