

Denver Journal of International Law & Policy

Volume 13
Number 2 *Winter*
Symposium - Human Rights

Article 1

May 2020

Vol. 13, no. 2: Table of Contents

Denver Journal International Law & Policy

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Recommended Citation

Table of Contents, 13 Denv. J. Int'l L. & Pol'y [vii] (1984).

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Denver Journal of International Law and Policy

VOLUME 13

NUMBER 2-3

WINTER 1985

SYMPOSIUM: HUMAN RIGHTS

INTRODUCTION: INTERNATIONAL HUMAN RIGHTS LAW

HAS COME OF AGE *Ved P. Nanda* 155

DEVELOPMENT AS AN EMERGING HUMAN RIGHT UNDER

INTERNATIONAL LAW *Ved P. Nanda* 161

Professor Nanda's article explores the parameters of the right to development. Professor Nanda argues that the right to development encompasses much more than economic wellbeing, and includes within its definition the guarantee of fundamental human rights. The article addresses and refutes the theories put forth by some scholars that a healthy economy must precede the development of civil and political freedoms. Professor Nanda suggests that both areas can be developed simultaneously and that "the ultimate objective of development is to provide a maximum degree of freedom. . . ." Professor Nanda concludes by recommending the U.N. Commission on Human Rights as the proper international forum to assure that nations pursuing development policies do so without violating the political and civil rights of its citizens.

SEX DISCRIMINATION IN BRITAIN, THE UNITED STATES

AND THE EUROPEAN COMMUNITY *Christopher A. Docksey* 181

In this article on comparative sex discrimination, Professor Docksey examines the legislation of the United States, Britain and the European community. By doing so, Professor Docksey highlights the problems facing women.

THE RIGHT TO COMMUNICATE *Howard C. Anawalt* 219

Professor Anawalt begins his article by exploring the definition of the right to communicate. The author surveys various international legislation and concludes that the right to communicate is intertwined with the right to development and includes the rights of access and participation in the media. The author points out the concept of a right to communicate as a fundamental human right remains nebulous by virtue of varying legal philosophies. By analyzing and comparing these philosophies, the author highlights the differences and conflicts which inevitably arise in establishing international legal standards. Emphasizing the need for a global interchange of ideas, Professor Anawalt concludes by stating that the success of developing the right to communicate as a guiding principle of international law will depend on the concurrent development of its implementation and enforcement.

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INFLUENCING U.S. FOREIGN POLICY ON

HUMAN RIGHTS *Otwin Marenin* 237

In this critical essay, Professor Marenin examines the Reagan administration's approach to human rights, and outlines the difficulties facing those who would attempt to shape and influence U.S. foreign policy on human rights. Professor Marenin concludes that one's work on influencing this policy is effective when it is "based on a clear understanding of how the complex foreign policy process works, what its limitations are and when advocacy is fueled by the indignation which all violations of human rights deserve."

ADVISORY OPINIONS OF THE INTER-AMERICAN COURT

OF HUMAN RIGHTS *Bert B. Lockwood, Jr.* 245

Professor Lockwood examines the Inter-American Court of Human Rights and its power to generate advisory opinions and the importance of these opinions in establishing procedural and substantive norms to further human rights in this hemisphere. Upon examination of the first two advisory opinions, Professor Lockwood demonstrates that the Court, although in its fledgling state, is a promising institution and is "off to a good start."

TRADE UNION RIGHTS IN THE WORKERS' STATE:

POLAND AND THE ILO *David A. Wirth* 269

Mr. Wirth discusses the tension between Polish and international law as it relates to Trade Union rights and the rise of Solidarity. The article addresses the contradictory actions Poland has taken which violates binding principles of the ILO. The author concludes with a discussion on the likelihood of Poland complying with ILO legislative standards and thereby avoiding withdrawal from the ILO.

The Marckx Case: THE IMPACT ON EUROPEAN JURISPRUDENCE
OF THE EUROPEAN COURT OF HUMAN RIGHTS' 1979 *Marckx*
DECISION DECLARING BELGIAN ILLEGITIMACY STATUTES
VIOLATIVE OF THE EUROPEAN CONVENTION ON

HUMAN RIGHTS *Marc Salzberg* 283

Mr. Salzberg provides an interesting historical background to the *Marckx* decision and updates the reader on subsequent decisions in European national courts. He considers the decision a landmark and finds the Court's success remarkable, attributing it to the confidence and respect that it has gained among member states because of its usually cautious and well-reasoned approach.

A REPORT ON THE UNIVERSITY OF DENVER'S INSTITUTE

FOR HUMAN RIGHTS
. *Ved P. Nanda and Matthew Lippmann* 301

The authors present this report on the human rights clinic offered at the University of Denver College of Law in the summer of 1983. Thirteen students were enrolled in the clinic. They worked on nine projects ranging from a complaint to the U.N. Commission on Human Rights prepared pursuant to ECOSOC Resolution 1503 on behalf of a Russian citizen, a brief

suant to ECOSOC Resolution 1503 on behalf of a Russian citizen, a brief prepared on behalf of the KaNgwane people for submission to the South African government, and an opinion on Argentina's then proposed amnesty law, to two briefs prepared on behalf of Haitian and Salvadoran refugees seeking political asylum and an amicus brief prepared for presentation to the Inter-American Court of Human Rights. The instructors share their experience with and offer suggestions to law teachers who might contemplate offering such a clinical experience to their students.

ARTICLES

THE INTERNATIONAL ORGANIZATION OF WHALES *Patricia Birnie* 309

Professor Birnie's article is a comprehensive survey of all international legislation governing the management of whales. Beginning with United Nations legislation, most notably the U.N. Environmental Programme, Professor Birnie discusses in depth the impact the U.N. has had in the conservation and management of the whaling industry. This article also analyzes the historical perspective and current function of organizations such as the International Whaling Commission. Professor Birnie illustrates that there is a growing network of treaties and conventions, in addition to the IWC, that govern whale management. The author suggests that this web of legislation is no cause for complacency. Political pressures, ambiguous instruments and ineffective enforcement all contribute to create transnational problems. The author concludes by proposing that further international collaboration is required to develop a successful global whale management policy. The pooling of scientific, technological and environmental resources will enhance the effectiveness of existing legislation.

OCEAN DUMPING *John Warren Kindt* 335

Professor Kindt's article on ocean dumping begins by noting the inherent irrationality of using mankind's last economic frontier as a global garbage dump. The article continues by defining what constitutes pollution in terms of technological reality. The author also discusses pollution as a legal term of art under various international conventions such as the Ocean Dumping Convention and the U.N. Convention the Law of the Sea. The author proceeds to present a thoughtful and analytical delineation of the ocean dumping problem and explores several possible approaches in confronting the problem. He states that because of the fragility of the marine environment an the severity of pollution levels, it is imperative that all nations act to develop protective legislation. The author concludes that "[a] single regulatory body . . . should not be deemed the only solution. A viable alternative would vest dumping control in regionally based regulatory authorities." Professor Kindt's discussion of various control mechanisms contributes toward the first step of resolution: recognition.

DEVELOPMENTS

THE EXTRATERRITORIAL ENFORCEMENT OF U.S. ANTITRUST LAWS AND RETALIATORY LEGISLATION IN THE UNITED KINGDOM AND AUSTRALIA 377