

agency might be a sound innovation in this field of activity, although he is aware:<sup>8</sup>

that, in terms of the political and psychological realities of the 'third world', any such proposal is unrealistic in the extreme. If this were so, the reasons for this state of affairs would be an accurate measure of the even more utopian expectation that, in such a climate, further export of private capital on any major scale to the majority of capital-importing States could be more than the worst type of gift-one unintended by the donor.

Professor Schwarzenberger's *Foreign Investments and International Law* is a most useful contribution to the legal literature concerned with this complex, but highly significant issue in international economic relations. Apart from serving as an analysis of the problem, it provides an example of the work that may be done in various specialised fields of international law and not merely in the financial or economic area. Graduate students seeking thesis topics might not find a subject upon which to write, but they would be well advised to examine the approach and the method and apply them to their own researches.

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<sup>8</sup> *Id.* 180-1.

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THE LAW AND ORDER. By Alois Troller. Leyden: Sijthoff. 1969. Pp. 90.

LAW WITHOUT SANCTIONS. By Michael Barkun. Montreal: McGill University Press. 1968. Pp. ix and 179. \$6.50.

AN INTRODUCTION TO THE SCIENCE OF PEACE (IRENOLOGY). By J. G. Starke. Leyden: Sijthoff. 1968. Pp. 214.

THE POLITICS OF PEACE-KEEPING. By Alan James. London: Chatto and Windus for the Institute of Strategic Studies. 1969. Pp. 452. \$12.50.

The significance of law and order for the maintenance of peace in society is a matter of continuing concern for both municipal and international law. Each of the books under review makes its own contribution to this problem. Dr. Troller's *The Law and Order* is described as an introduction to thinking about the nature of law and rests on the premise that every facet of life is by its nature based on order, which he finds to be essential for man in community: "If man had the power to rebel against the order regulating his community life, and made use of that power, he would surely perish for it is the structure which supports his existence on Earth."<sup>1</sup> By legal order the author means the "order" which regulates the relations of men *inter se* "as individuals and as individuals within groups or to humanity as a whole."<sup>2</sup> Its purpose "is to regulate all interpersonal relationships, great and small, and to preserve human society by enabling it constantly to solve the problems and threats facing it."<sup>3</sup> Having thus set out what he

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<sup>1</sup> Troller, *The Law and Order* 11.

<sup>2</sup> *Id.* 13.

<sup>3</sup> *Id.* 22.

means by legal order and its purpose, Dr. Troller proceeds to describe the nature of justice, of natural and positive law, of the relationship of morality and custom to legal order, sanctions—"legal sanctions are necessary to protect the vast majority, honest people, against the few who are evil or unprincipled,"<sup>4</sup> and peace. He then devotes the latter portion of his monograph to the machinery of legal order. He points out that:<sup>5</sup>

...lawyers learn the legal method in college and by working with other lawyers in the courts, in chambers and offices and in industry. Since [however,] the legal method is nothing more than an explicit form of a disposition present in almost everybody, namely to derive principles from particular circumstances, laymen often achieve a remarkable degree of proficiency in it.

All in all, an interesting introduction to the idea of law, which will probably be of more interest to the pre-law student than the student of law.

Professor Barkun's *Law Without Sanctions* is concerned with order in primitive societies and the world community—a relation that some believers in the international rule of law would probably reject. It is interesting to compare his approach to law with that of Dr. Troller, for Professor Barkun points out that:<sup>6</sup>

Law has always appeared as one of society's mysteries, hedged about with taboos, and frequently cloaked from public view, but the development of mysteries is part and parcel of the process of professionalization. Substance and procedure may vary, but the arcane nature of the law is never wholly dissipated.

This mystery is not simplified when one bears in mind that "the theoretical apparatus of the legal professional has involved logical manipulations of a legal corpus more often than the empirical study of patterns of human behavior."<sup>7</sup> On the other hand, the breakdown of colonialism and the appearance of new nations has of necessity made the problem more human, for the comparative lawyer has found value in the work of the social scientist and the anthropologist, and:<sup>8</sup>

...the legal systems of new nations, bequeathed by the former colonial powers, now reel under the collision of multiple legal systems: those of the former metropolitan powers and the indigenous systems that had been effectively suppressed.

The primitive society that Professor Barkun compares with the international society is the segmentary lineage society of equatorial Africa with its essentially tribal structure, and both forms of society he sees as "stateless, self-regulating systems, with autonomous but nested components,"<sup>9</sup> with conflict prominent in both so that one of the prime functions of law becomes the regulation of conflict. Nevertheless, while "it may be true that a world without conflict would neither need nor have a legal system, certainly it is not true that a legal system guarantees the absence of conflict."<sup>10</sup> The purpose of the

<sup>4</sup> *Id.* 51.

<sup>5</sup> *Id.* 59.

<sup>6</sup> Barkun, *Law Without Sanctions* 1.

<sup>7</sup> *Id.* 3.

<sup>8</sup> *Id.* 6.

<sup>9</sup> *Id.* 33.

<sup>10</sup> *Id.* 36.

law is to accommodate and channel conflict," and in so doing it produces the social support on which the society rests and in which the law functions.

For the sociologist of law Dr. Barkun has produced an analysis of the role and function of law which will enable him to see the interplay between his discipline and others and to realise that law is perhaps the mainstay of societal life as we know it—that is to say as seen by westerners for " 'non-law' is whatever fails to measure up to refined Western expectations."<sup>12</sup> This view helps to put paid to the idea that "law" is universal and can be defined for all men in all societies at all times. Nevertheless, the purpose is perhaps universal and all-pervading, for:<sup>13</sup>

...law provides a means for maintaining change within humanly acceptable limits, for allowing innovation by increments while keeping the general scheme of things within accustomed tracks—for perpetually altering the status quo while perpetually preserving it.

While Drs. Troller and Barkun are concerned with order and conflict resolution, Mr. Starke propounds a new science, that of Irenology, named for the Greek goddess of peace Irene. The aim of this science is to establish the conditions that are necessary for the establishment and maintenance of peace, while militating against those conditions which threaten to disturb it.<sup>14</sup> From the lawyer's point of view the most interesting chapter is that devoted to the legal framework of peace. The author points out that the maintenance or restoration of peace is not to be considered as the main purpose of international law, for this really serves to facilitate international intercourse of every kind.<sup>15</sup> However, this does not mean that there is scope for "world law", for because of the attitudes of the great powers this "must remain a vision and an abstraction until the international system is mature enough for its transformation into a working reality."<sup>16</sup> In the meantime, there is value in propaganda on behalf of an international rule of law, which should go hand in hand with a more definite formulation of the rules of law, "which are urgently required for situations not previously regulated by international law."<sup>17</sup>

Mr. Starke's book is exactly as he describes it—an introduction to the science of peace. Some of the reasons for its remaining an ideal rather than a practical proposition are to be found in Mr. James' study of *The Politics of Peace-Keeping*. Mr. James provides a survey of the successes and the failures of the United Nations in this matter and concludes that the task of such operation is to patch up, prevent deterioration (prophylaxis) and to proselytise, that is to say change international society by eradicating situations which may be considered undesirable. For the political scientist the book serves as an indication of what the United Nations has attempted to do and the way in which concrete measures may be applied in a conflict situation. For the lawyer it serves as a companion to the various works

<sup>11</sup> *Id.* 58.

<sup>12</sup> *Id.* 161.

<sup>13</sup> *Id.* 166.

<sup>14</sup> Starke, *An Introduction to the Science of Peace (Irenology)* 15.

<sup>15</sup> *Id.* 155.

<sup>16</sup> *Id.* 162.

<sup>17</sup> *Id.* 171.

which have been published by writers like Bowett and Seyersted on the legal nature of peacekeeping operations. It shows the background against which the lawyer has had to frame his regulations and indicates why what has often looked like a simple legal situation readily amenable to settlement, has in fact turned out to be highly dynamic, politically unstable and seemingly beyond reach of legal regulation.

From the point of view of the reader all these books supplement one another, going from the theory of law and its purpose as an establisher of order to the difficulties that lie in the way of those who would seek to rule the world by legal rules and legal methods.

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**POLISH FAMILY LAW.** By Dominik Lasok; with a chapter on Adoption, by Ludwit Frendi. Law in Eastern Europe, No. 16. Leyden: A. W. Sijthoff. 1968. 304 pp. inc. index.

The author of this book, Dominik A. W. Lasok, is to be congratulated for writing on a subject on which little has been previously written. This book is number sixteen of a series of publications brought out by the Documentation Office for East European Law at the University of Leyden.

Professor Lasok remarks that this book is intended to be neither a text book of Polish Family Law nor a comparative treatise in the accepted sense of the term. It has been written with the limited aim of providing a rudimentary exposition of the salient features of the system of Family Law now in force in the Polish Peoples' Republic and is set against their historical background. It is to be remarked, however, that he has gone beyond his stated aim for he has not only referred to other systems of laws such as Canon Law, Swiss Law and English Law but also to the decisions of the Polish Supreme Court and current juristic writings. He has drawn attention to contrasts and similarities between "socialist" and "capitalist" law, and in doing so, challenged some of their conclusions.

When Poland was drawn into the Soviet orbit, Polish family law, like the law of the other countries of the Eastern bloc, underwent strong Soviet influence. The basic concepts and institutions of Soviet law were copied: full equality of the husband and wife; the "unified divorce", cause of the breakdown of marriage; a marriage property system based on a community of acquisitions. On the other hand, Polish legislation showed a certain independence in the field of parent and child by embracing the earlier principle of Soviet law concerning the equality of legitimate and illegitimate children at the time when Soviet legislations had thrown away this principle. Within the last two decades, to shape the Marxist ideas into codes of law, three major codifications of Family Law were made, and the Code of 1964 is the subject of Lasok's present study. Despite these modifications, the Code of 1964 contains many parallels with the Western Law. Major changes in the law have been noted in this book.