

BOOK REVIEWS

THE BORDER INDUSTRIALIZATION PROGRAM OF MEXICO. By W. Baerresen. Lexington, Mass.: D.C. Heath and Co. 1971. Pp. xvii, 133. \$12.50.

As the result of strong economic motivation on the side of both the United States and Mexico during the past five or six years, there has been a dramatic growth of U.S. industry on the south side of the border. From the Mexican side, the main drive has come from unemployment. The problem was somewhat alleviated by the *Bracero* program prior to its outlawing in 1965, and subsequently by the illegal entry of the so-called "wetbacks," probably exceeding a quarter of a million annually. But the problem still remains, partly because of the high birth rate. For a United States company, the chief advantage of a Mexican branch, sometimes one of paired, or twin, plants located along the border, is the relatively low cost of labor.

Despite the phenomenal growth of this trade, made possible by suspension of duties on foreign parts and materials for re-export from Mexico, and by the application of duties on imports into the United States only to value added in Mexico, Dr. Baerresen's is the first systematic study of this new and interesting development. The sequence of the central chapters reveals a business administration orientation of the study: plant location, labor situation, public services and infra-structure facilities, and the problems of customs clearance both into Mexico and into the United States. So also is the model, developed in Chapters 7 and 8, which identifies and shows how to assign relevant weights to the critical variables in decisions as to whether to establish a plant south of the border, where to locate, what cost relationships are important, and what their behavior must be to assure profitable operation.

The chapters dealing with each phase of business in border production facilities are amply provided with up-to-date statistical information, as well as with a wealth of objective information of less precisely quantifiable character, e.g., the time required at various "ports of entry" for customs clearance in both south and

north shipments, evaluations of telephone, water and other services in various localities, and the like. Baerresen has not only exploited all available quantitative sources, but bases his exposition also on extensive travels and interviews with officials and businessmen throughout the region.

Finally, it deserves to be emphasized that the study is not limited to "strictly business" matters; it reflects first-hand acquaintance with political, social, and human problems in Mexico. Thus, he points out¹ that some workers may require several weeks of employment before they acquire enough nourishment and energy for a full day's work. His appraisals of labor unions, of political parties, and of Mexican politics in general² are tolerant and benevolent. The concluding pages of the book afford a judicious appraisal of the Border Program from both Mexican and the United States viewpoints. Not merely productivity considerations, but many intangible political and sociological aspects argue strongly against a resurgence of narrow protectionist measures on behalf of labor or firms, in either of these neighboring countries. One closes the book with the feeling that an important but neglected problem has been treated with expert judgment.

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1. D. BAERRESEN, *THE BORDER INDUSTRIALIZATION PROGRAM OF MEXICO* 36 (1971).

2. *Id.* at 107, 116.

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THE CODIFICATION OF PUBLIC INTERNATIONAL LAW. By R.P. Dhokalia. Manchester: Manchester University Press; Dobbs Ferry: Oceana Publications Inc. 1970. Pp. xv, 367. \$12.50.

On December 17, 1970, the General Assembly of The United Nations decided to convene a Conference on The Law of the Sea to be held in 1973. (Resolution 2750 C(XXV)). This conference will deal generally with the establishment of an adequate international regime, including international machinery for the international sea-bed. Specifically, the Conference will consider a precise definition of the international sea-bed area; the regimes of the high seas, the continental shelf, the territorial sea (including its breadth and the international straits) and contiguous zone; fishing and conservation of the living resources of the high seas (including the preferential rights of coastal states); the preservation of the marine environment, including the prevention of pollution; and, scientific research. On the same date the General Assembly also adopted a Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Sub-Soil Thereof, Beyond the Limits of National Jurisdiction (Resolution 2749 (XXV)), which enunciated fifteen principles to govern the area. Among these principles are: the area and its resources are the common heritage of mankind; the area shall not be subject to appropriation by States or persons, and no State shall claim or exercise sovereignty over any part thereof; all activities regarding exploration and exploitation of the resources of the area shall be governed by the international regime to be established; the area shall be open to use exclusively for peaceful purposes by all States whether coastal or landlocked, without discrimination, in accordance with the international regime to be established; exploration and exploitation of the area shall be carried out for the benefit of mankind as a whole; an international regime applying to the area, including appropriate international machinery, shall be established, and it shall *inter alia* provide for orderly and safe development of the area and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries. Within this framework is found the authority and direction for a subject which promises to draw the greatest number of participants ever to attend a codification con-

ference. The calendar of meetings, symposia and seminars in advance of this important conference is as thick as the Bible. And of course, a tremendous amount of documentation is being prepared by governments, scholars, intergovernmental working groups and international officials in addition to that produced by the U.N. internal organs. Also appearing in advance of the conference, is the book under review which describes the history and progress of the codification movement.

Dr. Dhokalia believes that "the codification process represents the most substantial progress towards realizing fully the idea of a legally ordered society of states governed by a global law."¹ With the view that world organization and law must be interlinked in order to attain peace and order, and codification acting as the catalyst to coalesce the two, the author takes us on the historic road of codification.

The presentation is divided into three distinct parts. We first meet the pioneering advocates of world organization such as Dubois, Dante, Crucé, Grotius, Penn, Rousseau, Bentham, Mill, Kant, Jay, and Bluntschli. A synopsis of the work of the 19th century Peace Societies, the international peace congresses and inter-parliamentary conferences precedes a cursory examination of the peace movement in the 20th century through international organizations as exemplified by the International Labour Organization, the League of Nations and the United Nations.

The thrust of Part Two is concerned with an account of the attempts at the codification of international law. Herein we initially find an excellent brief of the codification projects by Bentham, Abbé Grégoire, Domin-Petrushevecz, Bluntschli, Field, Fiore, Duplessix and Internoscia. At times, the author provides a brief assessment or evaluation of the individual project. One criticism is that there is not enough of the author's personal evaluation in this area. In accordance with the author's desire to reflect important attempts at codification, the reader will find references to the work of Coline, Ferrater, Parodo, Bara and Katchenovsky. But admittedly, the list is not meant to be exhaustive. The role and contribution to the codification movement by some of the scientific organizations such as The American Society of International Law and The Institute of International Law are en-

1. R. DHOKALIA, *THE CODIFICATION OF PUBLIC INTERNATIONAL LAW* xi (1970).

countered. These individual and non-governmental group efforts really provide background leading up to eventual participation in the law-making process by nations which possess the law-making power.

Brief accounts are provided of the initiative of Catherine II of Russia in 1780 regarding neutrality; the impact of the United States compilation of a national manual of rules pertaining to land warfare in 1863; the influence of the Declaration of Paris of 1856, which formulated and reformed rules regarding naval warfare and influenced the promulgation of national maritime codes; and, the results of 19th century conferences, i.e., the Congress of Vienna of 1815, the Congress of Paris of 1856, the Congress of Geneva in 1864, and the Brussels Conference of 1874, all of which met for the purpose of determining rules and regulations for the conduct of war.

The labors of the Hague Peace Conferences of 1899 and 1907 are outlined, but their significance from a procedural point of view, with regard to the evolutionary process of international codification, cannot be overemphasized. It was here that the foundation of the principle of equality of states at last emerged.

Dr. Dhokalia assesses the reasons for failures at the conferences chiefly with respect to organization and procedure, but in a positive light he reflects that they set progress in motion; "they represented a climax in the codification movement, no comparable progress has since been recorded in the formulation of international law by general state consent until recently, under the auspices of the United Nations."²

A detailed analysis of the history, achievements and shortcomings of the First International Conference for the Codification of International Law of 1930 held under the League of Nations auspices, is offered to the reader. In his appraisal of the work of the Conference, the author finds the results disappointing and meager when considering the purpose for which it was called. The defects and flaws in the preparatory work, and the Conference procedure and confusion over the purpose of codification are put forward. For comparative purposes of the pre-United Nations worldwide international experience, the author presents an analysis of codification attempts and successes in the regional sphere, namely in the Inter-American System. The second por-

2. *Id.* at 109.

tion of the book closes with a summary of the important *Geneva legal code*, pertaining to various aspects of war codified as a result of the two world wars.

The last part of the book is devoted to an examination of the International Law Commission, its role and contribution to codification. It will be recalled that Briggs' book,³ the first on the subject, was limited in that it did not provide a critical legal appraisal of the results of the Commission's work. A careful treatment of the Commission's origin, purpose, composition and functions are presented. Dr. Dhokalia is straightforward in asserting that, in the main, the Commission is filled excessively with foreign office lawyers who are either official or unofficial governmental legal advisers conscious of their own national interests. A better balance, he suggests, would include academic lawyers. With regard to the qualifications for ILC membership, the author believes that non-western scholars are at a marked disadvantage, and their competence has lesser opportunity of being recognized because their writings are not in western languages. He also favors the creation of conditions whereby judges of the International Court of Justice would be appointed to the ILC. Currently it is a one way street leading to the Court. A two way street would unequivocally demonstrate to the world community the value and importance attached to codification.

In the final chapter, the reader encounters a summary of prospects for the future and some deep thought on how codification should proceed. The author echoes the viewpoint put forward by Professor Julius Stone that the subject matter studied for purposes of codification should not be viewed only from the juridical aspect but rather it should reflect the "sociological substratum." That is, the problem project should be considered in a social, political, technological and psychological setting. Sociological substratum of the law of nations could be researched by universities, research centers and scientific bodies with the results then communicated to the ILC. Greater input can be realized through the use of the work of the Inter-American Council of Jurists, the Asian-African Legal Consultative Committee, the European Committee on Legal Co-operation, and perhaps a similar body to be constituted by communist countries. Further achievement could be destined if codification conferences sponsored by the United Nations were held on a regular basis.

3. BRIGGS, *THE INTERNATIONAL LAW COMMISSION* (1965).

Progress is also predicated on a fundamental rethinking of international law because of the present expanded international community. If codification and growth of international law are not to be retarded it is suggested that an integration of certain external factors must occur, such as the diversity of legal systems (the African, Buddhist, Communist, Hindu, Islamic and Jewish), account for the proliferation of sovereign states in the last half century, and its off-shoot—conflicting national interests, and the communist ideology. General principles of law from the diverse legal systems are also potentially a fertile source of development of international law. One gap in the sources of international law is the absence of a compilation on questions of international law in the national courts of members of the United Nations, although undoubtedly, such a project would be a herculean task.

The book is very well written and documented. Anyone interested in international law will gain much from this historical approach and systematic treatment of the subject. It will be most interesting to continue following the preparatory steps leading to the codification conference scheduled for 1973; those charged with responsibilities for any aspect of that conference would do well to read the past record of codification to insure maximum effectiveness at the conference table.

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