

## Book Reviews

mitted by Argentina, Australia, Belgium, Canada (common law jurisdictions), Finland, France, Germany, Great Britain, Greece, Israel, Italy, Japan, the Netherlands, New Zealand, the province of Quebec, Sweden, Switzerland and the USA. Although the reporters were requested to answer a specific questionnaire, the reports rather vary in length and in detail. The questions referred to *forum non conveniens*, *lis alibi pendens*, foreign choice of jurisdiction clauses, arbitration agreements, and restraining foreign proceedings. However, according to the title of the questionnaire, the inquiry was restricted to 'civil and commercial matters'. The term, which might appear somewhat vague to a common lawyer, is defined in Art. 1 of the Brussels and Lugano Convention on Jurisdiction and the Enforcement of Judgements. It relates to an ordinary private law matter in contrast with a public law matter, an administrative law matter, matters involving questions of status or legal relationship, wills, succession, bankruptcy or social security.

The main part of the book comprises the General Report written by J.J. Fawcett (70 pages). It is an outstanding work on comparative law. For the most part, Fawcett follows the structure of the questionnaire. After some introductory comments on jurisdictional background, the author starts with a section on the subject of *forum non conveniens*. While staying on a more or less descriptive level, one might sense, reading between the lines, the author's predilection for the concept of *forum non conveniens*. This predilection becomes apparent in the following section on *lis pendens*. Having admitted several disadvantages of the *forum non conveniens* approach (pp. 30–31) Fawcett rather sharply criticizes the so-called first-seized approach as well as the recognition prognosis approach (pp. 34–35, 38–39). This could come as a surprise to civil lawyers who might object that, to a certain extent, Fawcett underestimates the advantages of these concepts. Civil lawyers might argue that the 'simplicity' (p. 34) and the 'obvious logic' (p. 38) of these approaches pave the way for certainty and predictability of the law. See, e.g., Chris-

toph Dorsel, *Forum non conveniens* (1996) 176–178 and Peter Huber, *Die englische forum-non-conveniens-Doktrin und ihre Anwendung im Rahmen des Europäischen Gerichtsstands- und Vollstreckungsübereinkommens* (1994) 145.

The next two sections focus on foreign choice of jurisdiction agreements and arbitration agreements. Again, the civil lawyer might be surprised that even in these cases, the judge of a common law country has a certain power to exercise discretion. In the last section, Fawcett explains how states deal with the problems of forum shopping.

Apart from pure academic use, the General Report can be recommended to any lawyer in need of a general survey on international jurisdiction and its problems. However, the reader is advised to pay attention to the meaning of the terms 'to deny/to decline jurisdiction' and 'to stay/suspend/dismiss proceedings' (n. 1), which differ even among common law jurisdictions.

Kerstin Strick  
Bonn University

Hague Conference on Private International Law. *Proceedings of the Seventeenth Session 10 to 29 May 1993*. I-1; I-2.

On 19 May 1993, the Hague Conference on Private International Law celebrated its centenary. In volume I, the reader is presented with an excellent survey of the work and achievements of the Conference. The volume is divided into two parts. The first part includes mainly the minutes of the Opening and the Closing Sessions, the text of the Final Act of the Seventeenth Session as well as preliminary documents for, and the conclusions of, the Special Commission of June 1992 on general matters and policy of the Conference. A special bibliography at the end of this part (78 pages!) might be of particular interest to the reader as it incorporates all the preceding bibliographies edited by the Conference, as well as new articles and works which have appeared up to 15 June 1995.

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The second part of volume I is devoted to the centenary of the Conference. It contains a list of all delegates who ever participated in the diplomatic sessions of the Conference.

Volume II is concerned with the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. The topic was not new to the Conference. In 1965 the Conference concluded the Convention on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions, which, in its thirty years of existence, was only ratified by Switzerland, Austria and the United Kingdom. But the problems of intercountry adoption, as well as the public's sensitivity to the matter, have increased dramatically in recent years. In drawing up the Convention of 1993 the Conference made a second try. The task was particularly difficult because the rules of private substantive law governing adoption vary significantly from one country to another. Therefore, the idea of a *loi uniforme* as well as the classical techniques of private international law had to be abandoned. Instead, the Convention is restricted to setting criteria and to improving practices and procedures for intercountry adoption by establishing a system of Central Authorities on the model of the Hague Child Abduction Convention. Although the institutional weight of the Central Authorities as well as the administrative costs might be criticized, the Convention has been a remarkable success. As of November 1996, the Convention had been signed by twenty-eight states and has been ratified by eleven, namely Mexico, Romania, Sri Lanka, Cyprus, Poland, Spain, Ecuador, Peru, Costa Rica, Burkina Faso and the Philippines.

In volume II, the reader finds a number of preliminary documents, including a general report on intercountry adoption by J.H.A. van Loon (50 pages). Following this report are the working documents, the minutes, the text of the Convention, and the explanatory report by Professor G. Parra-Aranguren, which constitutes an autonomous commentary on the Convention.

On the whole, volume II is an indispensable source for research on intercountry adoption.

Kerstin Strick  
Bonn University

Cassese, Antonio. *Inhuman States: Imprisonment, Detention and Torture in Europe Today*. Cambridge: Polity Press, 1996. Pp. ix, 141.

This slender, elegantly-written volume is an excellent translation of a book that appeared in Italian in 1994. It describes the author's experience during his five years as the first President of the European Committee for the Prevention of Torture, established by a Council of Europe Convention and endowed with unique on-site inspection powers. While the work of the Committee is confidential, Cassese cannot resist the urge to 'repeat what the establishment wishes to keep hidden from the public eye'. He reconciles this with his 'vows' by omitting the names of the countries and towns visited, except where such information is already in the public domain. Much of the action, but by no means all, is clearly set in Turkey. This is a moving and highly readable account of the dilemmas of being an internationally sanctioned human rights monitor with limited powers, confronted by a deep-rooted tradition of torture and abuse of detainees that is still remarkably commonplace throughout Europe.

Mara Bustelo  
European University Institute

Prémont, Daniel (ed.). *Droits intangibles et états d'exception. Non-Derogable Rights and States of Emergency*. Brussels: Etablissement Emile Bruylant, 1996. Pp. xxvii, 644. 2,550 BEF.

This completely bilingual, multi-authored collection is divided into four parts: general themes, international instruments which provide for derogation, those that