

INTERNATIONAL ORGANIZATION. By Philip Jessup, Adolf Lande, Oliver J. Lissitzyn, and Joseph P. Chamberlain. New York: Carnegie Endowment for International Peace (Columbia University Press), 1955. Pp. vi, 173. \$1.75.

Modern international organization, rather than being the result of an idealistic approach to international relations, arose from the compelling circumstances of interstate contacts. Beginning with the second half of the last century, it became clear that the state, as a separate unit, could not deal adequately with many of its functions, especially those relating to public health, communications, transportation, and commerce. The resulting endeavor at coordination and planning, which is referred to as international organization, found its expression in numerous international conventions and in the emergence of public and private unions serving the non-political interests of the national and international community. While the term international government is clearly an overstatement, and is rightly considered as misplaced even if applied to the United Nations, the evergrowing number of treaties creating international organizations may be regarded as a rudimentary form of an international constitutional law.

International Organization describes the growth of this law and the methods by which it helps to bring unity and purpose into a system which is described as the "laissez faire" stage of social development.¹ This volume, which deals exclusively with economic and social organization, includes two essays. One of these is a collective work of Philip C. Jessup, Adolf Lande, and Oliver J. Lissitzyn; the other is by the late Joseph P. Chamberlain and is a reprint of an article which appeared in *International Conciliation* in 1942. The essays form a logical whole and deal with the practical aspects of international social and economic activities which "determine the way the everyday life of the world is carried on."² Apart from the phenomenon of total war, international economic and social organization seems to be the most important factor contributing to the gradual emergence of a new concept of the law of nations. By its very nature, it tends to modify the principle of the state as the sole subject of international law, and at least weakens the traditional doctrine of sovereign equality of nations.

1. BRIERLY, THE OUTLOOK FOR INTERNATIONAL LAW 11 (1945).
2. P. 1.

International regulation of economic and social interests is by no means a concern of the governments alone.³ As in the national community, individuals and private groups combine to take action which would serve their economic and social needs. Thus there exist international pressure groups which exercise a powerful influence on international legislation. Many a convention, far from being a result of the initiative of the individual governments, has come into being because of the persistent pressure of a well organized "international lobby" which has made itself felt in the legislative councils of the leading states.

While the post-1918 system of granting international protection to minorities and according international validity to acts of individuals was abandoned, the new organizations, both universal and regional, regard the private individual as more than a mere object of international law. The Charter, and to a certain extent the practice of the United Nations, elevated the individual to new importance. Perhaps most far-reaching are the rights accorded to the individual under the trusteeship system. Although the human rights provisions of the Charter have, to a large degree, remained a dead letter, the consistent efforts to formulate a human rights convention are a clear indication of a change of approach to one of the fundamental concepts of the law of nations. The European Human Rights Convention, which introduced for individuals a limited right of petition, is the most radical expression of this trend.

Of similar significance is the new role of non-governmental organizations which were granted a consultative status with the United Nations and its specialized agencies. While only indirect, their cooperation with the organs of world organization often serves to promote private interests not sufficiently protected by individual national governments. Providing a compromise between the traditional approach to international law and the requirements arising out of modern technological changes, the new role of non-governmental international organizations can be rightly described as "the piercing, but not tearing down, of the governmental wall between private interests and the international society. . . ."⁴

The second modification of the traditional concepts of international law is even more significant. It consists of limitations on state sovereignty, without which economic and social organization would be extremely difficult, if not impossible. The authors provide a very useful survey of the inroads made on the sovereign equality of states in such matters as repre-

3. Action, of course, can be taken by the national governments but "in carrying out the treaties they are agents of the international society, acting conjointly each within its own jurisdiction." P. 100.

4. P. 33.

sentation, voting, and decision making. The prospect of being deprived of the advantages of participating in technical international organizations concerned with international health, transportation, and communications, induces the member states to accept decisions reached by majority vote and rules and regulations elaborated by a small group of experts.

International bodies with quasi-state functions have achieved general recognition as representatives of the organized community of mankind. This is best illustrated by the position and prestige of international civil servants. Their work and their "continuous availability constitute a conspicuous factor giving reality to the existence of international organizations as bodies distinct from the states of which the organizations consist."⁵ Indeed the staffs of international organizations, composed of technical experts in a great variety of fields, have become a tremendous reservoir of technical and organizational know-how, and their services are often made available to the underdeveloped countries which have more limited resources and experience.

A descriptive treatment of the organizational and legal aspects of international non-political agencies performing quasi-governmental functions is undoubtedly useful for a student of international law and organization. Yet it lacks full meaning unless evaluated from the point of view of the prevailing concepts of contemporary international law, and from that of the political development of world community. Had the authors attempted such an evaluation, their judgment would have probably been much more reserved than the tone of their discussion seems to imply. It is fair to note that the authors of the first essay were aware of the limited potentialities of the organs of international economic and social cooperation. This flows clearly from their statement that "the more closely a new problem is connected with questions of national power the more difficult it becomes under present conditions to find a solution by peaceful compromise."⁶

Both legally and morally, the international regulation of common economic and social interests reveals a considerable amount of precedent for a new approach to the law of nations. But the scope and intensity of deviations from traditional orthodoxy is still very limited. Indeed, the recent practice of states and of the United Nations does not indicate a tendency toward the extension of these trends. Although the emergence of general organizations, such as the League of Nations and the United Nations, has greatly extended the scope of international cooperation, it has

5. P. 76.

6. P. 2.

failed to bring about any fundamental changes in international law. In fact, some of the most important modifications result from activities of the older technical organizations, such as the Universal Postal Union.

The concept of state sovereignty—however outmoded it may appear in the age of nuclear energy and the bipolar division of the world—appears to be firmly entrenched both in theory and practice. Its limitations in the sphere of international non-political organizations are indeed insignificant if compared to the jealously guarded insistence on the principle of sovereign equality in other, especially political, fields. The attempts to formulate a legally binding covenant of human rights, granting international validity to acts of private individuals, have been singularly unsuccessful; the post-war crusade to advance the rights and freedoms of individuals has come to a stop. While opposition to the covenants was based on a variety of reasons, the objections of many governments were influenced by the traditional "object theory of the individual." Even the Genocide Convention, which has been hailed by many as a most radical innovation, has retained the monopoly of the state as bearer of rights and duties under international law. The reluctance of governments to accept further limitations of their freedom of action is best demonstrated by the delays and frustrations which have accompanied the work of the International Law Commission, particularly with regard to the draft convention on Arbitral Procedure.⁷

It is not possible to separate international economic and social organization from the broader political framework in which it operates and develops. A critical evaluation of its relation to the problem of world political integration appears to justify the following three conclusions:

1. International technical cooperation, resulting from the work of agencies with quasi-governmental functions, has been successful only in strictly defined and narrowly limited spheres in which the self-evident standards of reason rather than considerations of power prevailed.⁸ When faced with the problem of national self-interest, the different agencies of economic and social cooperation also proved to be unable to harmonize the competing policies and demands of the individual states. While there may be further extension and intensification of their activities and influence, international functional organizations have been unable to assert themselves in the area of basic power-political conflicts.

2. Important and useful as they may be, international functional organizations cannot serve as models for a future general organization of

7. U.N. GENERAL ASSEMBLY OFF. REC., 10th Sess., Supp. No. 1, xiii (1955).

8. SCHIFFER, *THE LEGAL COMMUNITY OF MANKIND* 225 (1954).

mankind. Their procedures, institutions, and methods, being based on a non-political approach, are not suited for the solution of fundamental conflicts of a power-political character.⁹

3. Granted definite limitations of their scope of action, international economic and social organizations help to create an atmosphere favorable for the solution of the basic political problems of world organization.

Perhaps the most interesting feature of Professor Chamberlain's approach is the parallel which he draws between the modern development of the state and that of international society. Technological changes have caused immense intensification and complication of social life and have therefore necessitated continuous adjustments in the rules and institutions of society. Within the state such adjustments are achieved by increasing the regulatory functions of government. International society has followed a basically similar trend; the new circumstances of international life have led to an increase in the number of international administrative bodies and multi-partite treaties. This assumption of a definite similarity in the development of human affairs on the national and international level inevitably imposes a further, more significant, limitation on the scope and role of international non-political organizations. Within the state, the establishment of a central political authority preceded the emergence of law with its enforcement apparatus and administrative agencies. Can we believe that the international community will develop differently? It may well be, as Brierly suggests,¹⁰ that in the international sphere effective law and genuine organization can also emerge only after the establishment of a reasonably secure political order.

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9. *Ibid.*

10. "But always there has to be order before law can even begin to take root and grow." Brierly, *op. cit. supra* note 1, at 74.

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