

David Schultz (ed.), **Leveraging the Law – Using the Courts to Achieve Social Change**, New York: Peter Lang (1998) 354 pp.

Alexis de Tocqueville noted in *Democracy in America* in 1840 that ‘There is hardly a political question in the United States which does not sooner or later turn into a judicial one’ and that ‘Americans have given their courts immense political power’. This stands in contrast to Alexander Hamilton’s view, as expressed in the Federalist Papers, that limitations upon the judiciary’s ability to enforce its decisions and upon how it would decide cases would ensure that the courts would not be powerful political institutions, but instead would be the ‘least dangerous’ branch of the government. This fundamental conflict is the point of departure of the book, however, not in a sense of whether the courts *should* have this kind of power but whether they actually *can* exercise the influence sometimes ascribed to them.

In his introduction, the editor presents the meta-questions which the book seeks to address: ‘Do courts and the law matter? Can legal institutions significantly affect public opinion, encourage political mobilization, or influence the functioning and operations of social institutions? Do legal norms constrain behaviour or are political preferences more important in controlling the choices of judges and political actors?’ To respond to these questions a first chapter by John Bohte, Roy B. Fleming and B. Dan Wood, of Texas A&M University, presents the results of an empirical study on the media impact of selected Supreme Court decisions, the idea being that if the media do not publicize important court decisions, there will not be the public awareness and debate which are necessary if the decisions are to stimulate social change. The results of the study are ambiguous. On the one hand, decisions such as *Brown v. Board of Education* or *Roe v. Wade* produced significant increases in media coverage of the areas. On the other hand, the amount of attention clearly depended also on the responses from the government and public at large and thus factors outside the control of the courts. Chapter 2 by Michael Paris and Kevin McMahan, formerly at Brandeis University, attempts a reassessment of the well-known studies by Rosenberg and McCann on the questions of social change brought about by courts. The authors essentially argue that Rosenberg’s approach ‘obfuscates’ the potential role of the courts. They advocate certain modifications to be made to McCann’s work as the best analytical framework. Chapter 3 by Robert Van Dyk at Pacific University shows that litigation by pro-choice activists was able to mobilize political consciousness and thus contribute to social change. David Schultz, University of Wisconsin River Falls, and Stephen E. Gottlieb, Albany Law School, co-authored Chapter 4, arguing that legal functionalism can provide new insights into how the courts and the law define and redefine structures, institutions and expectations and in that way exercise an important influence in social developments which tends to be underestimated. Similarly, Bradley Canon, University of Kentucky, concludes in Chapter 5 that the impact the Supreme Court has had and can exercise directly or ‘inspirationally’ suggests a power which is ‘vastly underrated’.

In Chapter 6, Gerald Rosenberg, University of Chicago, who has been much

criticized by the other authors, defends his position that the impact of the courts is frequently more based on hope and desire rather than 'hardcore evidence'. After having read the other chapters, which all come to largely opposite conclusions, this part is the most interesting of the book and forces the reader to take position. Chapter 7 by Marvin Zalman of Wayne State University adds a critique of recent works by political scientists who attempt 'juricide' by negating the impact or even existence of law. Lawyers will be consoled by his conclusion that, after all, 'law matters'. The book concludes with a vote by Michael McCann of the University of Washington in favour of new approaches in the definition of law, its role in society, and its power to trigger change, resistance, and consciousness.

A subtitle to this book could be 'Courts and Law in American Society', since it is clearly and exclusively focused on the American experience. However, after an initial disappointment at the lack of international comparative analysis, this reader discovered the wealth of doctrinal and methodological lessons which can be learned from the book and which can then be applied in a European context.

Frank Emmert

Petar Sarcevic and Paul Volken (eds.), **Yearbook of Private International Law, Vol. I**, The Hague/London/Boston: Kluwer Law International – in association with the Swiss Institute of Comparative Law (1999) 374 pp.

At the turn of the millennium the editors present a new periodical for intellectual exchange between specialists of private international law. They correctly predict that in spite of all efforts at the unification of substantive law, there will always be a certain divergence in legal rules on personal, family and property matters. Even in those areas where uniform law has made the most progress, in trade and commerce, the need for unification and the reality of unification are still two distinct and different animals and this is not about to change. Thus, the question whether private international law can be sent into retirement soon is clearly answered in the negative. Hence the editors invite the submission of manuscripts on theoretical and practical aspects of private international law in its widest sense, including traditional conflict of law questions, international civil procedure, as well as international cooperation between States and international organizations.

The first issue includes articles by Maarit Jänterä-Jareborg on 'Marriage Dissolution in an Integrated Europe – The 1998 European Union Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters', Petar Sarcevic on 'Private International Law Aspects of Legally Regulated Forms of Non-Marital Cohabitation and Registered Partnerships', Hans-Ulrich Jessurun d'Oliveira on 'The Artifact of Sham Marriages', and Paul Volken on 'How Common are the General Principles of Private International Law? America and Europe Compared'. Furthermore, there are five 'National Reports' on recent