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THE UNCERTAIN PROMISE OF LAW: LESSONS FROM BHOPAL. By Jamie Cassels. Toronto: University of Toronto Press, 1993, 364 pp.

On December 3, 1984, a massive explosion and discharge of lethal gas from within tank number 610 of the Union Carbide factory in Bhopal, India, killed more than 2,500 people and injured thousands of others. Throughout the world, the horrifying images and accounts of the victims' death and suffering were rapidly juxtaposed with the appearance of hundreds of attorneys from the United States scrambling to retain Indian victims and media anticipation of the "world's biggest lawsuit." A resolution to the world's worst single-incident industrial disaster, with the possible exception of the Chernobyl nuclear accident, rested entirely on the assumption that the solution would be a legal one. The Bhopal litigation would place a severe test on the limits and expectations of the traditional legal system's ability to compensate the victims for their injuries and to act as an adequate deterrent to prevent future industrial catastrophes.

In *The Uncertain Promise of Law: Lessons from Bhopal*, Jamie Cassels conducts a thorough examination of the Bhopal litigation and attempts to assess the effectiveness of the traditional legal system's response to the victims of modern mass disasters. Throughout the book, the author reiterates a fundamental point: while it is important to view the tragedy of Bhopal in its global, political, and economic context, it is also critical to recognize that Bhopal is not an isolated or unique incident. The release of toxic hazardous materials in industrial accidents and neglected landfills is increasingly a regular occurrence in modern society. (Indeed, eight months after the Bhopal disaster, 100 people were injured when a recently refurbished Union Carbide plant in West Virginia suffered a gas leak uncannily similar to the incident in Bhopal.) Therefore, the author contends, the experience and ultimate failure of the legal system to serve the victims of the Bhopal disaster pose serious questions and provide invaluable lessons for the citizens of the developed and developing world alike.

Cassels assesses the Bhopal litigation on three distinct levels. He begins with an analysis of the conditions present at the Union Carbide Bhopal facility at the time of the accident and the larger political, eco-

nomic, and legal context of hazardous industrial production in the least developed countries (LDCs). This is followed by an overview of the general response of the tort system to victims of disaster. Finally, the author examines the lessons of the Bhopal tragedy in the context of the specific history of the Bhopal litigation in the United States and India and potential solutions to improve the legal system's effectiveness in the future.

The immediate cause of the chemical reaction that produced the lethal gas leak is widely acknowledged as the introduction of water into the methyl isocynate storage tank. However, Cassels argues that the event was also the result of concrete systemic errors exacerbated by the failure of safety and containment systems. In addition, these systemic flaws were compounded by the absence of community information and emergency planning throughout the predominantly poor area surrounding the plant.

Cassels maintains that the Bhopal incident must be seen in the larger context of the ongoing dilemma the introduction of modern hazardous technology presents to India and other LDCs in their tenuous relationship with the multinational corporations (MNCs) of the developed world. In an effort to escape overwhelming poverty and improve the fundamental quality of life for its people, the LDC is faced with the introduction of a potentially hazardous technology as a viable option. At the time of the gas leak, the Bhopal facility was being used to manufacture a pesticide that had originally been used in India's "green revolution" of the 1970's to attain agricultural self-sufficiency, but had recently become uneconomical because of its high market price.

In addition to the political and economic context of MNC development in India, Cassels undertakes a broad-brushed analysis of the law's general response to the victims of disaster. These chapters are essentially a critique of the modern mass tort system and its inability to accomplish its traditional goals of victims' compensation and adequate deterrence. In language accessible to the layperson, the author is particularly critical of the obstacles established by the victim's burden of proving mechanical causation in a modern, technologically complex disaster. The frequent economic disparities of the parties inherent in the adversarial system, and the tort system's reliance on the market to determine the economic "price" of injury only serve to place additional stress on the already severe burden of the plaintiffs. In the author's view, the efficacy of the traditional tort analysis of the collision of two isolated actors has been overtaken by the pace of development of modern technology and complex corporate organization. Cassels notes that many of the Bhopal victims' groups often repeated the refrain, "We are fighting to make [the MNCs] understand that the life of an Indian is

no less precious than that of an American." Yet, as Cassels laments, "these groups placed their hopes in a system of law that . . . reproduces the very patterns of inequality under which they suffer."

The public's opinion of the legal system was certainly not enhanced by the rush of U.S. attorneys headed by Melvin Belli, F. Lee Bailey, and others, to enlist Indian victim clients shortly after the disaster. One U.S. lawyer later claimed to have signed up 30,000 clients in the months following the tragedy. In response to criticism of the lawyers' attempts to profit from a disaster caused by a MNC, Belli was quoted as saying that capitalist lawyers were "needed in a capitalist society" and that "I am a good capitalist."

In partial response to the efforts of U.S. attorneys and in an attempt to speed up the settlement of the victims' claims, the Government of India (GOI) in March 1985, passed the controversial Bhopal Gas Leak Disaster Act. The Bhopal Act effectively consolidated all of the victims' claims and made the GOI the exclusive representative of the victims within and outside India. In addition to the legal challenges the GOI faced as to its authority to implement such a statute, the GOI found itself constantly responding to accusations of conflict of interest regarding its role as regulator and indirect shareholder of the Bhopal plant. Critics were also suspicious of the external pressure the Government was under to maintain India's "secure investment climate" for foreign MNCs. The U.S. litigation was dominated by the profound irony of the GOI, as the representative of the victims, arguing strenuously for the suit to be heard in the United States because it considered the Indian legal system ill-prepared to handle the complexities of the case.

Cassels believes an important opportunity to establish a precedent, whereby U.S.-based multinational corporations might be held responsible under the principles of U.S. law for their activities abroad, was missed when the Southern District Court of New York dismissed the action from the United States on the basis of *forum non conveniens*. The author calls upon the courts of the industrialized world to reform the *forum non conveniens* principle to create a rebuttable presumption that the parent company will take responsibility for the actions of its subsidiaries abroad and apply similar or equivalent safety standards in all its operations.

The Indian phase of the litigation was dominated by the realities of delay, despite the best efforts of all courts involved, that are inherent in a judicial system that attempts to serve a massive population with 10.5 judges per million people. (In contrast, the United States has 107 judges per million people.) Union Carbide Corporation (UCC) consistently tried to distance itself from the operations of its Indian subsidiary

despite its 50.9% ownership, control of the board of directors, and technology transfer of the equipment used at the facility. UCC also repeated its attacks against the Indian courts for violations of due process after they had praised the openness and flexibility of the Indian judicial system in the United States. Indeed, some of the most striking aspects of the Bhopal story are the profound examples of the innovative attempts by the Indian court system and the activism of the Indian judges striving to secure relief for the victims of the tragedy in the face of interminable litigation. The Indian courts introduced at various stages of the process innovative versions of the concepts of absolute liability, corporate enterprise liability, and interim compensation. These actions were necessary, in the words of the Indian Supreme Court at the time of its announcement of a final settlement of US$470 million because, "[t]he tremendous suffering of thousands of persons compelled us to move into the direction of immediate relief which, we thought, should not be subordinated to the uncertain promises of law."

In drawing upon the lessons of Bhopal, Cassels calls for a serious assessment of absolute and enterprise liability as the means through which to minimize the victims' requirement of proving how the accident occurred, isolating the negligent acts, and demonstrating potential preventive measures. At the very least, he insists, the burden of proof should be relaxed in the case of harm caused by complex and hazardous technologies. The author also calls for a more sensible approach to the traditional lump-sum damage payment in which immediate and substantive interim compensation for victims can be secured. Cassels has high praise for a New Zealand-type universal no-fault compensation system which abolishes tort actions for personal injury and death. Unfortunately, he fails to elaborate on how such a system might contend with a disaster of Bhopal proportions. The author's treatment of international legal regimes and alternatives is also relatively cursory. One wonders, for instance, how the Bhopal litigation may have fared in an alternative international arbitration forum.

A disaster of Bhopal's magnitude, the author admits, is destined to emphasize the weaknesses of a legal system, often stretched to its breaking point, in glaring detail. Nevertheless, the general lessons of the Bhopal litigation: length and cost of litigation; economic disparities in the resources of the parties; problems of proving causation and fault in a systems accident; finding a defendant in a complex corporate organization; difficulty in identifying short and long-term victims of toxic harm; and the need for interim compensation, all illustrate the potential and necessity for improvement.

Although many victims of Bhopal remain uncompensated for their injuries, the lessons of the catastrophe have not gone completely un-

heeded. In 1986, the United States Congress passed the Emergency Planning and Community Right-to-Know Act (EPCRTKA) in response to citizen concern raised by the Bhopal tragedy. EPCRTKA requires the establishment of state emergency plans, the reporting of toxic chemical releases, and the authorization of citizen suits against the owners and operators of facilities that fail to comply with the Act. However, in a strong, persuasive style, Cassels has presented the case that much more needs to be done.

In a very readable format and resisting the temptation to polemicize his work, Cassels calls for further domestic legal reform and for greater recognition of the global context in which the Bhopal disaster arose. Ultimately, the lessons of the Bhopal litigation represent a challenge to the legal system's ability to remain flexible and effective in order to ensure that appropriate safeguards accompany the use of hazardous technology throughout the world. As Cassels makes clear, "If the developed world continues to export *hazards* to the Third World, it should also export *safety*, not only in the form of law, but also in concrete assistance."

WHEN BUSINESSES CROSS INTERNATIONAL BORDERS: STRATEGIC ALLIANCES AND THEIR ALTERNATIVES. By Harvey S. James, Jr. and Murray Weidenbaum. Westport: The Washington Papers, 1993, 109 pp.

"Half of Xerox's 110,000 employees now work on foreign soil. Only half of Sony's employees are Japanese . . . . More than half of Digital Equipment's revenues come from overseas operations. One-third of General Electric's profits are derived from its international activities." In this age of market globalization, it is imperative that domestic businesspeople become aware of strategies for accessing foreign markets. *When Businesses Cross International Borders* is a concise, informative "road map" that reminds businesses that there are a number of lucrative ways to penetrate the global economy, each tailored to reflect the needs, resources and goals of particular domestic organizations.

In his forward, John Yochelson, Vice President of the International Business and Economics Program at the Center for Strategic and International Studies, stresses that "the global distribution of economic power is more evenly balanced [now] than at any time in the past half-century." This necessitates the forming of a glossary of business schemes developed for application in the global realm. Harvey S. James, Jr. and Murray Weidenbaum, both distinguished scholars in economics and business, have successfully developed such a handbook capsulizing the spectrum of possibilities in foreign markets.

Chapter 1 of *Businesses* sets forth the factors which necessitate competing in a "global marketplace." The authors explain that there are two trends which have direct impacts on business activities overseas: Regionalization and globalization. The regionalization of world economies into three principal "trading blocs," the European Community, the North American region, and the East Asian region has necessitated tailoring of products and marketing to the distinctive needs of each "bloc" in order to establish an overseas presence. Globalization theorists, on the other side of the spectrum, maintain that the trend toward homogenization of foreign economies has "denationalized" domestic companies, forcing fierce competition to maintain appeal and originality in the world economy. Furthermore, globalization forces businesses to enter into foreign markets to compete with foreign ventures in the domestic arena. The authors enumerate various methods of penetrating international markets: direct exporting, licensing, franchising overseas, producing abroad, acquiring foreign firms, joint ventures and cooperative relationships.

Chapter 2 details the strategies listed in the first chapter. In dis-

cussing direct marketing abroad, the authors list the advantages and disadvantages of exporting and turnkey operations. The authors suggest that exporting is a good strategy for small or mid-size companies which lack the financial resources to compete with international businesses in full-scale global operations. They cite the example of the Southern Gold Honey Company, a small Texas firm which, after losing its market share in the United States, found importers in the Middle East and quadrupled its sales. The authors point out, however, that while exporting expands potential markets, businesses may encounter inhibiting foreign barriers to trade, such as tariffs and quotas. Nonetheless, in other cases, businesses may be able to tap into the growing trend toward globalization through finding an overseas "market niche" where domestic products would be well received.

The authors briefly note that turnkey operations allow businesses to open foreign markets and thereby secure the overseas "market niche." Turnkey operations, wherein a company designs, constructs, and installs capital equipment with the intention of turning over control and operation to foreign purchasers, are most effective for businesses in the electrical industries, food processing plants, water conservation and pollution control systems, transportation, and telecommunication systems.

The authors discuss cooperative contract arrangements in Chapter 3. They delineate the advantages and disadvantages of licensing, franchising and subcontracting arrangements. These methods obviate the need for the large investments often required to investigate and secure exporting links with foreign importers or foreign subsidiaries of turnkey operations. Instead, firms contract their resources, technology, trade names and business designs to foreign operations. Successful domestic businesses which have utilized these strategies include McDonald's, Domino's Pizza, Wendy's, Jiffy Lube, and Hertz.

However, the authors warn against the use of technology and trade rights by foreign contractors in violation of the duration of the license and/or franchise agreements. They cite the unfair competition that would arise therefrom, suggesting that larger businesses with knowledge of foreign legal preventative measures are best suited to cooperative contract arrangements. Furthermore, with regard to franchising in particular, the authors note that the decision to franchise may not always be appropriate to the business involved. They cite the initial difficulties of Kentucky Fried Chicken in Japan and the forced alteration of their chicken batter recipe to cater to Japanese tastes. The authors also recommend subcontracting agreements with foreign manufacturers as a way to decrease labor and production costs.

Continuing this appealing line of reasoning, Chapter 4 explores the

advantages of building and buying overseas operations, direct foreign investment, and mergers and acquisitions. Here, the authors issue a caveat against foreign countries which impose regulations requiring a certain percentage of ownership and management of the business operation by native companies. Again, the authors suggest that large firms with the time, capital, and plenty of business savvy are best suited to these strategies. Unlike licensing and franchising, owning or acquiring interests in foreign firms gives domestic businesses control over a significant share of operations and production, while overcoming import restrictions in the foreign realm. However, the authors again cite as a disadvantage to this strategy the risks connected with large investment of capital and resources.

As a way to overcome these risks, the authors propose strategic alliances without equity investment in Chapter 5. Such alliances include collaborative alliances, research and developmental cooperatives, technology swaps, joint production and marketing agreements, and other, more informal alliances. The authors define these alliances as "cooperative, flexible arrangements, born out of the mutual needs of firms to share the risks of an often uncertain marketplace by jointly pursuing a common objective." According to the authors, all strategic alliances fall into one of two categories: "complementary" agreements, in which firms cooperate in complementary production activities, or "joint" agreements, in which firms pool their expertise and resources toward the attainment of a common goal, thereby reducing the risk to each firm. Again, the authors' constructive use of examples underscores their suggestions: The collaborative alliances noted by the authors include the teaming of IBM with Apple, Texas Instruments with Hitachi and Sony, and General Motors with Toyota. Strategic alliances without equity investment also facilitate the creation of new products, projects and services that revolutionize their respective industries.

If the sharing of ideas produces revolutionary advances, the sharing of ideas and equity further cements the development of technologically efficient cooperation between businesses worldwide. In Chapter 6, the authors discuss at length various forms of strategic alliances with equity investment. These alliances base the partnership on "ownership rather than mere[] cooperation." In defining collaborative alliances with equity investment, the authors use the automotive industry to illustrate the origin of automotive technology in the involvement by each firm of an "equity stake in the partnership." However, the authors purposefully indicate that "the web of interrelationships between firms within specific industries can be viewed as an impediment to innovation and long-term economic efficiency" because large firms with a group of alliances may not have an incentive to specialize or innovate internally.

The authors conclude this chapter by noting the difficulty of establishing such alliances, especially for small and medium-sized businesses.

In the final chapter of *When Businesses Cross International Borders,* the authors summarize their views of the new pressures of the growing global economy. They stress that businesses considering a foray into the international marketplace must consider both the advantages and the disadvantages of potential business strategies as well as their own capabilities, goals and willingness to shoulder the burdens of uncertainty and risks connected with accessing the global economy. Some of the internal factors that businesses are advised to consider are the alteration of the composition of the work force, foreign business regulations, and tax incentives to invest in particular regions. The authors' conclusion remains, however, that "globally oriented firms will be more effective than enterprises limited to a single geographic market in overcoming the challenges of and successfully competing in a world marketplace."

James' and Weidenbaum's use of anecdotal illustrations greatly enhances the clarity of their guide to international business strategies. Their distinct delineation of strategies by headings and subheadings accurately describes the advantages and disadvantages of each strategy. Also helpful are their thoughtful analyses of reasons for and against engaging in each strategy. Their keen assessments of the effectiveness of such strategies establish *Businesses* as the definitive beginner's guide to business strategies in the expanding international marketplace.

GLOBAL PERSPECTIVES ON ADVERTISING SELF-REGULATION: PRINCIPLES AND PRACTICES IN THIRTY-EIGHT COUNTRIES. By Jean J. Boddewyn. Westport, Connecticut: Quorum Books, 1992, 234 pp.

As Norman Vale, Director-General of the International Advertising Association, points out, advertising and a free and vibrant media are essential to any real democracy. After all, democracy acknowledges and respects the importance of consumer choice, where individuals are able to take in information and to make well-informed decisions. In *Global Perspectives on Advertising Self-Regulation: Principles and Practices in Thirty-eight Countries*, Jean J. Boddewyn, Professor of Marketing and International Business and Coordinator of the International Business Program at Baruch College of the City University of New York, discusses the importance of advertising and the need to regulate the small percentage of advertisements which are misleading, untruthful or otherwise unacceptable. Boddewyn describes how advertising self-regulation maintains a high standard for advertisements and compares it to other regulatory schemes, including statutory regulation and a laissez-faire, market-driven regulatory system. Finally, the author reports on the findings of the International Advertising Association's surveys of advertising self-regulatory bodies existing in thirty-eight countries throughout the world.

Professor Boddewyn begins by discussing the relatively recent recognition of the important role of advertising in a free market system. Until the 1970's, most economists and other social scientists felt that advertising had a negative effect, if any, on the free-enterprise economy. This notion was based on the view that advertising made competition unfair because some companies could allocate more resources to advertisements than others. Furthermore, it was believed that the consumer had complete access to information about new products without the need for advertising.

A 1987 Oglivy and Mather survey of 2,000 consumers in six countries, including the United States, West Germany and the United Kingdom, however, yielded results that clearly indicated a strong consumer demand for advertising to learn about new products. Because of the importance placed on advertising by the public, it is therefore important to ensure that the commercial communications reflect accurate portrayals of information.

There is general agreement that advertising ought to be truthful, not misleading, fair, in good taste, and socially responsible. To obtain these goals, Boddewyn lists a number of basic requirements, which include: 1) developing standards, 2) making them widely known and ac-

cepted, 3) advising advertisers before ads are released, 4) pre- and/or post-monitoring of compliance with the standards, 5) handling complaints from consumers, competitors, and other interested parties, and 6) penalizing bad behavior in violation of the standards, including publicizing wrongdoings and wrongdoers. Advertising self-regulation, according to the author, is one of several forms of societal controls which will meet this complex task.

Professor Boddewyn briefly introduces other systems, including laissez-faire and statutory regulation, which also seek to eliminate misleading or otherwise untrue advertisements. Under a laissez-faire system, advertising behavior is ultimately controlled by consumers who refuse to buy from bad advertisers as well as the personal moral principles, ethical business behavior and self-interest of the advertiser. Boddewyn does not dismiss the laissez-faire approach completely, but notes that the inevitable abuses to the system are not always redressed through the working of the market or a company's code of conduct.

Under statutory regulation, advertising is restricted by the government, which mandates rules and enforces them with legal penalties. This approach is based on the notion that public interest is best served through these government rules, because the business community cannot be trusted to regulate itself. Although the statutory regulation system offers the force of legal penalties for violators, Boddewyn notes that it is often criticized for being oppressive, ineffectual, costly and weakly enforced.

The self-regulation scheme, which Boddewyn propounds, involves the voluntary control of business conduct and performance by business itself. Under a pure self-regulating system, industry would be fully accountable for ensuring the six primary goals of advertising discussed above, by establishing controls to be exercised by an advertiser's fellow industry members. Although Professor Boddewyn does not view self-regulation as a complete "panacea" in itself, he stresses that it is an essential complementary means of achieving necessary advertising controls.

Skeptics of self-regulation refuse to accept that private interests can effectively promote public interests. One major concern involves the "free-rider," or industry member who refuses to adhere to established standards. Boddewyn recognizes this inherent problem, but disputes that such non-conformists are particular only to the self-regulatory system. After all, he argues, there will always be deviants under any control system, whether mandatory or voluntary. Self-regulation, which exists in some form in virtually all of the thirty-eight countries discussed, has proven to be effective in minimizing this problem in the advertising industry, because advertising is inherently visible as well as

recognizable. Furthermore, since virtually all advertisements rely on the print or broadcast media or on the postal services, additional screening mechanisms exist between the advertiser and the public.

The involvement of outside influences, such as consumer complaints, government prodding and the criticisms from the media, has an important effect on advertising self-regulation. Professor Boddewyn concludes, however, that retention of a strong "inside" or "behind the scenes" core, illustrated by the voluntary and self-imposed nature of the standards, provides the greatest benefit to the system.

The author also discusses how statutory regulation and self-regulation can be complementary, rather than exclusive methods to achieve advertising control. Although governments may seek to have advertisers conform to socially responsible practices, the limits of government resources often require acceptance of at least some forms of self-regulation. In many instances, government statutory regulations and advertising self-regulation co-exist and are even intertwined. Ultimately, Boddewyn concludes that self-regulation is not an absolute or independent cure to the problems of advertising. Nonetheless, it effectively helps to improve the quality of advertisements and promotes higher standards of practice among advertisers.

Internationally, advertising self-regulation has proven to work effectively with different types of economic systems, ranging from the planned economies of China, Hungary, and Yugoslavia to the developing economies of Brazil, India and the Philippines. Several organizations, such as the International Chamber of Commerce and more recently, the European Advertising Standards Alliance, have played important roles in promoting self-regulation and in providing references of proper conduct to legal systems.

Following the descriptive comparisons of different advertising regulatory systems, the majority of Boddewyn's book highlights the findings from written questionnaires and requested country profiles. This information was accumulated from numerous surveys conducted by the International Advertising Association, an organization deeply committed to the development and encouragement of advertising self-regulation. The profiles contain sections discussing organizing for industry regulation, the consumer movement, the functioning of self-regulation, the scope of government involvement, and the advertising-related trends for each of the thirty-eight countries surveyed. Furthermore, several essays expressing the importance of advertising self-regulation and a sampling of the advertising codes of different countries are included in the appendices.

Global Perspectives on Advertising Self-Regulation provides an interesting argument about the benefits of a self-regulating advertise-

ment system and an informative and well-organized report of findings from numerous surveys. Unfortunately, the views expressed in the book seem merely to recapitulate the opinions of the International Advertising Association and further the organization's goal of "spreading the gospel of self-regulation [around the world] through further studies such as this one." While Boddewyn's views are certainly informative, they must nonetheless be recognized as fulfilling the missionary purpose of the International Advertising Association and not as an unbiased analysis.

UNDER THE SHADOW OF WEIMAR: DEMOCRACY, LAW, AND RACIAL INCITEMENT IN SIX COUNTRIES. Edited by Louis Greenspan and Cyril Levitt. Westport, Connecticut: Praeger Publishers, 1993, 231 pp.

In this era of escalating racial tensions worldwide, a comparison of the approaches taken by the world's leading democracies to curb racial violence has timely appeal. In *Under the Shadow of Weimar: Democracy, Law and Racial Incitement*, editors Louis Greenspan and Cyril Levitt have compiled a series of illuminating essays that provide glimpses into states' efforts to legislate and adjudicate against hate crimes while still preserving freedom of expression. The book, although ultimately unable to discern a superior approach to legislating against race crimes, nevertheless succeeds in familiarizing the reader with the vast complexity of the racial legislation problem through stimulating and diverse accounts.

The essays, which cover race laws in Canada, Israel, the United Kingdom, France, Germany, and the United States, are set against the backdrop of the failures of the German Weimar Republic whose collapse preceded the rise of Hitler. While anti-semitic themes figure prominently throughout the essays, other race-based, xenophobic tensions are also explored.

The failure of the Weimar Republic to curb the growth of Nazism is explored in Cyril Levitt's essay "Under the Rights and Shadow of Weimar: What Are the Lessons for Modern Democracy?" Levitt explores a sampling of cases in which Weimar courts refused to condemn blatant racial slurs despite laws which outlawed incitement to class hatred, religious insult, and defamation. Levitt also discusses the pivotal roles played by the social and political will in determining whether laws limiting racial incitement will be enforced fairly. He posits that the ultimate success of such laws is dependent on the social, political and legal will of the people. The absence of such concerted will within the Weimar Republic led to tolerance of racial hatred and, ultimately, to the rise of Nazism.

In "French Law and Racial Incitement: On the Necessity and Limits of the Legal Responses," Roger Errera discusses modern France's attempt to legislate against racial hatred. He briefly explores the social, economic, religious, and largely xenophobic motivations behind growing racial tensions in France. Errera believes that the French government, over the past twenty years, has tried to curb the resurgence of xenophobia, anti-semitism, and racial incitement by strengthening current law, though the reforms have been piecemeal. He cites the growing number of prosecutions, both private and public, under the

racial laws, and notes that sentencing has become more severe. Errera describes the ongoing debates in France today as focusing on two fundamental questions: whether there should be laws against racial incitement and group libel and how to address revisionist literature. He concludes that law is the key to combatting the rise of racial tensions in France.

Avram Scherr's essay, "Incitement to Racial Hatred in England," examines the history, content, and administration of English anti-racial incitement laws since the 1930s. Scherr notes the fundamentally different effect of anti-racial hatred laws in a country without a written Constitution, such as England, and posits that the chilling effect on free speech could be even greater absent a constitutional right to free speech. He also highlights the continuing controversy in England over this type of legislation, particularly the ambivalence felt by many people and the animosity of others who view the laws as further eroding liberal procedural protections. He concludes that the laws are in widespread disrepute.

In "The Judicial Treatment of Incitement against Ethnic Groups and of the Denial of National Socialist Mass Murder in the Federal Republic of Germany," Juliane Wetzel examines the Federal Republic of Germany's (FRG) approach to outlawing a resurgence of Nazism and Revisionism. Wetzel explores the constitutional limits on freedom of speech and expression in the FRG and provides examples of the enforcement of race hate laws. He concludes, however, that the passing of new laws may not be the most effective way to curb growing racial violence in Germany. Wetzel believes that the depths of Germany's problems must be faced by the German people and their elected legislators to ensure that such racial hatred is abated; the mere existence of laws will not succeed.

Donald Down's essay, "Racial Incitement Law and Policy in the United States: Drawing the Line Between Free Speech and Protection against Racism," provides a comprehensive look at the approach of the U.S. Constitution and its preeminent importance to the Supreme Court. Down points out the unique reverence the United States affords the right to free speech and predicts that much of existing state legislation banning hate crimes is likely to face increasing challenges in court as an infringement on this right. Down does not appear concerned that the United States is allowing racial incitement to grow unabated. He believes that the government's unique enforcement of existing constitutional laws against discrimination and hate speech enables a balancing of the right to free speech with prohibitions on racial incitement. He ultimately concludes that the United States has succeeded, through careful scrutiny of hate legislation and vigorous protection of constitu-

tional freedoms of expression, to strike an acceptable balance between competing rights.

"The Prevention of Racial Incitement in Israel," by Gerald Comer, is an interesting discourse on the extremist factions of Israeli politics, most notably the political following of the late Rabbi Meir Kahane. Comer points out that while Israeli law deems racial incitement unacceptable, no one has ever been charged or found guilty of the offense, ironically resulting in the legislation having the reverse effect of sanctioning current racial speech.

"*Her Majesty The Queen v. James Keegstra*: The Control of Racism in Canada, A Case Study," by Bruce P. Elman, addresses the outrageous case of a high school teacher who taught that all human history was tied to a Jewish conspiracy to take over the world. Elman examines the problems usually facing those enforcing hate crimes law. Elman believes that hate crimes usually have no easily identifiable subjects and witnesses are often unavailable. Based on his research, Elman believes that support for the criminalization of hate propaganda is tenuous both politically and legally in Canada due to the split among Supreme Court Justices and the deeply held belief in free expression.

The final essay in the book, "The Law of Six Countries: An Analytic Comparison," by Stephen J. Roth, provides a good unifying comparison of the laws of the six countries. However, as even Roth concedes, "a much more detailed analysis of the components of the various laws [is required] in order to make a definite assessment" of which laws are better at curbing racial incitement without chilling freedom of expression.

While *Under the Shadow of Weimar* is a fascinating mix of case studies, anecdotes, and legal theory, it is not a comprehensive analysis of the success and failures of anti-race incitement legislation. Its interest to many readers may lie precisely in the fact that it is not a composition of dry analyses. Rather, each essay provides an enlightening and vastly different approach to expressing the experiences of a country making and enforcing race-hate crime laws.

This book enables the reader to grasp the differing attempts of democracies in this century to curb hate crimes while protecting freedom of expression. In the final analysis, however, the complexity of the race problems in each country and their unique cultural, economic, and social underpinnings, render any broad conclusions on the efficacy of such legislation elusive to the authors, editors, and, ultimately, the readers.