

Transnational Legal Problems by Henry J. Steiner and Detlev F. Vagts

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Transnational Legal Problems: Materials and Text. By Henry J. Steiner and Detlev F. Vagts. New York: The Foundation Press, Inc., 1976. Pp. li, 1429. Documentary Supplement. \$23.00.

With this exceptional casebook, Professors Steiner and Vagts have made a significant contribution to the library of international and transnational law works. Creative in design and thorough in erudition, this textbook substantially improves upon the first edition.¹ It is worth noting that *Transnational Legal Problems: Materials and Text* is not in the customary mold of an international law text. It also stands in contrast to works regarding international business and transactions.

The book's design is quite innovative. While drawing on such familiar topics as international law and institutions, conflict of laws, comparative law, jurisprudence and international business transactions, the text does not excessively dwell on these. Nor does the text eclectically draw on them. Rather Steiner and Vagts proffer a studied extraction of principles, policies and procedures from these topics that have consequences upon "relationships among nations or among their business entities and citizens." (P. xvi.) *Transnational Legal Problems* adopts the view of Judge Philip C. Jessup² that it can be extremely beneficial to train lawyers to perceive law from a more novel perspective. In accord with the authors' outlook, this book exemplifies a significant innovation in legal education.

As in the earlier edition, the first five chapters identify the character and scope of transnational legal problems. The remaining eight chapters as expressed by the authors "illustrate in various settings the general themes . . . and their interrelationships." (P. 635.) While deleting one section from the earlier edition, Steiner and Vagts have added two new sections, which is indicative of a material reorganization.

More particularly, Part One is concerned with transnational problems within domestic legal systems. The later edition expands this section over the first edition primarily by increasing the attention given to the allocation of power to handle problems of transnational significance within the U.S. federal government.

1. H. Steiner and D. Vagts, *Transnational Legal Problems: Materials and Text* (1st ed. 1968).

2. Judge Jessup's Storrs Lectures, *Transnational Law* (1956) is referred to on page xv.

Accompanying Chapter II of Part One is a discussion of executive war powers focusing on the Vietnam controversy. It is arguable that this section could have been omitted. The discussion falls short of a comprehensive review of this proverbial power struggle between Congress and the President. Moreover, the authors point out that this may be "one transnational problem that arises on an intergovernmental plane, the vital problem of contemporary international law: peacekeeping and the control of violence." (P. xvii.) The book acknowledges that it does not explore this area.

Part Two, entitled "International Law and Its Relationship to National Legal Systems," contains several valuable additions. Chapter III's treatment of alternative theories of law is extended. The reader may find this particularly important, as transnational problems by definition generally concern more than one municipal legal system. Philosophical assumptions of legal orders undoubtedly vary as do values upon which legal norms are predicated. Thus, the second edition facilitates the student's understanding of, and perhaps more importantly, sensitivity to different values and legal philosophies.

In Chapter IV, a "Note on Conceptions of Property and Bases for its Protection" keenly reflects the jurisprudential flavor of the recent edition. The reader will find in the succeeding chapter an expanded discussion of the constitutional status of treaties and international agreements and accords. A new section concerns U.S. Congressional and Executive conflicts over international agreements. Treatment of the additional problem of disputes between individual citizens and foreign governments engaging in activities in the United States involving citizens' constitutional rights could have been trimmed from the text. Accordingly the discussion of human rights in Part B of Chapter IV might have been judiciously pared.

Part Three on "The Role of National Judiciaries in Building a Transnational Legal System" is slightly condensed in the later edition yet is unquestionably well done. A new chapter, "The Transnational Reach of Criminal Legislation" introduces Part Four concerning "The Transnational Reach of National Legal Systems." By comparison, intellectual and industrial property legislation is relegated to a brief discussion. It occurs to this author that criminal law should have received less attention and greater prominence given to intellectual and industrial property legislation.

The most substantial revision in the second edition is the elimination of Part Five entitled "The Developing Processes of

International Organization." Through reconstruction and incorporation of new materials regarding multinational corporations, Professors Steiner and Vagts have produced new Parts Five and Six. Significant changes are to be found in these new segments of the book. The materials on the General Agreement on Tariffs and Trade (GATT) and the International Monetary Fund have been greatly condensed. While this may facilitate a concentrated coverage of the law, case materials have been regrettably omitted. The experience of this author suggests that instruction on these topics is thus likely to be more tedious and law students tend to be less comfortable with strictly textual matter.

Perhaps the most exceptional addition to the second edition of *Transnational Legal Problems* is Chapter XII entitled "The Multinational Enterprise and International Business Transactions." The increasingly important role of these business organizations in world economic affairs and the transnational relations of states is exemplified here. The chapter superbly examines such diverse topics as the international role of legal counsel, distributorship and licensing agreements and general characteristics and organization of the multinational enterprise.

Within the context of the typical course, it would be difficult to profit fully from the over-inclusive materials assembled on the European Economic Community in Part Six. While such coverage may serve as a prototype for the emerging international organization, a cross-sectional study of an organization would have been a better choice. The structure of the EEC varies substantially from that of developing organizations in such areas as Latin America and Africa, which would be the prime beneficiaries of such a study. Likewise, the problems surrounding most-favored-nation treaties might have been taken up in a wider discussion of the emerging trade issues with developing countries.

Transnational Legal Problems: Materials and Text is a classic textbook. It is thoughtfully composed, and indeed, brilliant at times. This author has found student comment quite favorable. Those teachers who have used this scholarly casebook in its original form will take pleasure in this second edition for their task has been lightened. In this work, Professors Steiner and Vagts have maintained the superior tradition of Harvard research in international and transnational law.

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