

Volume 3 | Issue 1

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1970

## Book Review

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### Recommended Citation

Timothy Reid, *Book Review*, 3 Case W. Res. J. Int'l L. 115 (1970)  
Available at: <http://scholarlycommons.law.case.edu/jil/vol3/iss1/8>

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## BOOK REVIEW

COMMUNISTS AND THEIR LAW. By John N. Hazard. Chicago: The University of Chicago Press (1969). Pp. xiii, 528. \$9.48.

A law is a political instrument;  
it is politics.<sup>1</sup>

To compare the legal systems of any two nations can be a complex undertaking; to discuss thoroughly the systems of the entire bloc of Communist nations would be too much for one volume. Consequently, Mr. Hazard has applied his knowledge of the field on a basis more limited than consideration of the entire spectrum of Communist systems.<sup>2</sup> The events in Czechoslovakia in 1968 set the stage for a search by the author for a common core or "model" of law which Communist states may follow.

Although before 1968 the legal community may have analyzed Communist systems by contrasting them to other systems of law, any such analysis would assume that Lenin's principles of public order had resulted in a legal system as distinct as that of the common law or civil law systems. The use of military force to ensure conformity demonstrates that there exists another, more pertinent basis for comparison: the extent to which Communist states would be permitted to deviate from the Soviet example. The purpose of this work is to aid the student of international law in defining those limits of deviation.

There are several areas of difficulty encountered in this study. Analysis by variation implies a thorough understanding of the Soviet system which serves as the model. This, in itself, is the first difficulty with the author's work. Faced with the proposition that Communism as a functioning system of government requires first the revolution of the working class and then the expansion of the revolutionary representative to include all segments of society, the scholar is confronted with the propensity for change of whatever legal standards existed at the formation of the model. As the revolution grows, and the revolutionary representative, the "soviet," expands to encompass not only the working classes but society as a whole,<sup>3</sup> the resultant effect upon the stability of the law is chaotic.

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<sup>1</sup> Lenin, *Concerning a Caricature of Marxism and Concerning "Imperialist" Economics*, 23 SOCHINENIA 36 (4th ed. 1949).

<sup>2</sup> The Polish, Yugoslav, Czechoslovak, and Chinese systems are primarily relied upon, with lesser data from within the family of Communist states.

<sup>3</sup> By 1961 the Communist Party of the Soviet Union declared the soviet to be representative of the people as a whole. HAZARD at 38.

Since the original goal is expediency, legal policies and procedures are designed for flexibility rather than stability. The use of the "model" or "core" concept can be utterly deceptive when applied to any specific nation to determine the limits of deviation from the norm, since the norm itself is in a constant state of flux.

Even attempting to determine the probable effects of trends within the system of Communist states is an illusory exercise. The most recent requisites established by the USSR for fostering a benevolent posture are so general as to imply acceptance of variation from the Soviet example.<sup>4</sup> When contrasted with other fundamental Communist views and the events of 1968, these impliedly liberal policy statements would not appear to be the final word. For example, another view of variation from the Marxist-Leninist viewpoint is:

Liberalism is extremely harmful in a revolutionary collective. It is a corrosive which eats away unity, undermines cohesion, causes apathy and creates dissension. It robs the revolutionary ranks of compact organization and strict discipline, prevents policies from being carried through and alienates the party organizations from the masses which the Party leads. It is an extremely bad tendency.<sup>5</sup>

Perhaps the most valid conclusion drawn by the author is that of the true meaning of the 1968 intervention in Czechoslovakia: that there is no place within the Communist state for any leadership save that of the Communist Party.<sup>6</sup> Yet, the history of the Communist Party indicates that the exigencies in specific states have necessitated a more liberal view, depending upon the extent to which the social revolution had encompassed various elements of that society. Beyond this present opinion as to the element of leadership in Czechoslovakia, the reader will have to draw his own conclusions as to where specifically the limits of deviation rest in other areas of ideology.

Obviously there are certain areas of general agreement on the administration of the system within individual states — these specific areas being those fundamentals basic to the formation of the

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<sup>4</sup> The requisites are:

- 1) That politics be the establishment of the authority of the working masses under the USSR experience.
- 2) That economic policy foster the liquidation of private capitalist property and the end of employment by private employers.
- 3) That ideology be focused on acceptance of the Marxist-Leninist view of world development and the working out of a cultural revolution. HAZARD at 143.

<sup>5</sup> MAO TSE-TUNG, 2 SELECTED WORKS OF MAO TSE-TUNG 32 (2d ed. 1965).

<sup>6</sup> HAZARD at 33.

Communist state. Four chapters are given over to a discussion of property and land ownership; but even here, where there is agreement on goals, there is often no specific example upon which the separate nations might pattern the administration of their law, and the individual states are often confronted with the application of an out-dated model.

The concept of "public ownership" must be implemented for industry as well as for land by all members of the family of Marxist socialist systems under the 1957 declaration of the communist parties in power, but there is no compulsory model to be used in implementation. As with land, Lenin's early experience has been a guide, but there has been much variation, especially since Stalin evicted Tito from the Communist Information Bureau in 1948.<sup>7</sup>

The dearth of absolute guidelines on an overall scale relegates the use of authority to the stated views of the individual soviets within each state. Throughout the work there is detailed examination of the trends in the Soviet Union and the assumed impact upon other states within the Soviet family. This method places a necessary emphasis upon the economic, social, and political elements of the states considered, since the unique distinctions of the systems themselves lend no other means of comprehensive analysis.

Those who enjoy the intricacies of applying the logic of flexible rules will find this an interesting exercise. One general conclusion may be reached therein — that it is impossible to precisely define the current policy of the Soviet Union and then apply this policy to a series of states, each at a different level of economic and social development, and each reaching for somewhat different goals than that expressed by Lenin early in the Twentieth Century.

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<sup>7</sup> *Id.* at 171.