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Book Reviews

TAXATION

COMPARATIVE CONFLICT RESOLUTION PROCEDURES IN TAXATION. AN ANALYTIC COMPARATIVE STUDY. By L. Hart Wright, Jean Van Hutte, Pierre Kerlan, Helmut Debatin, James Arthur Johnstone, H. Schuttevaer, Elizabeth Gaspar Brown. Ann Arbor: The University of Michigan Law School, 1968. Pp. xxv, 486.

*Reviewed by William D. Popkin**

Professor Wright and the five tax experts who have collaborated to produce this volume have set out to help tax administrators in economically developing countries find effective procedures to resolve tax disputes. Secondary goals are to fill a void in the comparative literature for students and administrators in developed countries¹ and to give practicing lawyers a feel for the tax administration in countries in which their clients have interests. The authors have not only succeeded in their avowed goals, but have also produced a book which should serve as a model for comparative studies.

Their approach is to combine analysis and description. Part One is Professor Wright's analysis of the goals of a tax administration in resolving conflicts and of the different administrative structures which can be devised to accomplish these goals. In Chapter I, he sets forth the objectives of a tax administration with beguiling simplicity. He then develops the tensions among these objectives in a series of brief discussions of three structural components of a tax system; specifically, (1) a centralized interpretative program; (2) decentralized enforcement; and (3) a centralized administrative hearing. For example, a centralized interpretative program will advance uniformity, but should these interpretations be published to reduce uncertainty among taxpayers and insure impartiality; if so, how can this be done efficiently and in a timely manner?

The remainder of Part One develops a framework for analyzing problems of conflict resolution and building institutions to resolve these problems. A chapter is devoted to each of the three major themes of the book: administrative rule-making (Chapter II), assessment and administrative appeal procedures (Chapter III), and conflict resolution by independent tribunals (Chapter IV). As part of this analysis, Professor Wright includes a descrip-

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¹ Chapter 13 of each of the World Tax Series Volumes published by the Harvard International Tax Program deals with the tax administration of the country which is the subject of the volume. However, the World Tax Series is less detailed in its description of conflict resolution procedures than the Michigan study and does not purport to be analytic.

tion and critique of United States' practices² and a comparison of techniques used in the other five countries whose practices are more fully described in subsequent Parts.

The rest of the book is explicitly descriptive. Each of the remaining Parts is a discussion by experts from Belgium, France, Germany, Great Britain and The Netherlands of those portions of their tax systems which are relevant to conflict resolution. A uniform outline is followed which enables the reader to make cross-country comparisons in any area of particular concern to him.

The country studies in Parts Two through Six also serve as tools for analysis. The major credit for this must go to the skillfully constructed outline. Without it, the description of each country's tax system would have been an array of meaningless data which would have served as supporting footnotes for someone who had already made up his mind. With this outline, the reader is able to discern the relationships and attitudes which underlie a particular country's approach and borrow intelligently from another's experience.

A few examples from the Great Britain study are illustrative. First, administrators in Great Britain are not allowed to compromise tax issues on the basis of hazards of litigation. However, we are also told that there is a highly decentralized and informal appeals system outside of the administration. Perhaps the informality of the appeals procedures is an adequate substitute for the authority to compromise since it provides a simple method by which the taxpayer can resolve his disputes. Second, we are told that Great Britain differs from most countries in not adopting interpretative regulations, but only utilizing legislative regulations to fill statutory gaps at the request of parliament. It also does not provide advance rulings to taxpayers in most cases. Our judgment about these practices is shaped by the discussion, which precedes the treatment of rulemaking procedures, of the amount of detail in the tax statute, the use of legislative pre-enactment aids to interpretation and the standards of construction followed by the judiciary. The full picture which emerges seems to be that of a reluctance to encourage administrative discretion. If this judgment is correct, the British pattern might be inappropriate for export to a country which wishes to give considerable leeway in the formulation and interpretation of tax law to the tax administration.

The country studies are also useful because of their readiness to tell us where practice diverges from the apparent rule. Thus, private advance rulings in The Netherlands are adhered to in practice although there are no published rules to that effect; in Germany, administrators are not allowed to compromise but factual issues allow considerable room for a meeting of the minds; the restriction of appeals to a higher court to questions of "law" does not preclude reversal if there are inadequate facts to support an inference.

While the descriptive country studies are expertly done, the major contribution of this book is the analysis in Part One. Its placement before the country studies is an important feature of the book's plan. This must reflect the belief, which also led to the carefully constructed outline, that information alone is an inadequate tool for institution building in the absence of a

² A by-product is a brilliant historical and critical essay on rulings in the United States.

framework by which to judge the relevance of the experiences in different countries. The value of the analysis is also enhanced by its use of examples from the United States and the subsequent country studies; it is not an abstract juggling of objectives and hypothetical administrative structures.

My only reservation about Part One is that, despite its thoroughness, there remains some neglect of factors which developing countries must consider. For example, a major problem in developing countries is corruption. What effect does this have on conflict resolution techniques? Another common problem is the political relationship between the center and outlying areas. Concern with this issue from a developing country's point of view would give an added perspective on the use of laymen in the appeals structure. Finally, lack of training is of central significance in developing countries. The relationship of training to conflict resolution is recognized but the volume does not focus on the opportunities for combining functions in one individual. Indeed, the process of analysis pushes towards the isolation of different roles which only the more technically advanced nations may be able to afford to give to different individuals.

Perhaps there might have been greater orientation towards developing countries if one or two developing countries, in addition to six western countries, had been chosen for country studies, or if the United States country study had not been integrated with the analysis. On the other hand, these comments might best be considered as an agenda for the future rather than as a criticism of this volume. Studies which focus on the special problems of the developing countries might be the next step, a step which would have been impossible without the insights developed in this volume.

LATIN AMERICA

PANORAMA DE DERECHO MEXICANO: SÍNTESIS DEL DERECHO INTERNACIONAL PRIVADO (Panorama of Mexican Law: Synthesis of Private International Law). By J. L. Siqueiros. Preface by Roberto Molina Pasquel. Mexico: Universidad Nacional Autónoma, Instituto del Derecho Comparado, 1965. Pp. 81.

*Reviewed by Roberto MacLean**

This short work is part of the *Panorama del Derecho Mexicano*, edited in two volumes by the former *Instituto de Derecho Comparado de Mexico*, which is now the *Instituto de Investigaciones Jurídicas*. The *Panorama*, as its title indicates, is meant to give a general view of and serve as an introduction to the Mexican legal system. This work is especially suited for foreign lawyers who in increasing numbers have been showing a growing interest in the laws of Mexico and other Latin American countries.

Each part of the *Panorama* was written by a well-known specialist. Licenciado José Luis Siqueiros has written the part dealing with private international law, which is the subject of this review. He is professor at the National

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