

An anderer Stelle (S. 104) wird, um Informationslücken der Legislative aufzuspüren, eine empirische Untersuchung von Antworten der Bundesregierung auf alle »kleinen Anfragen« im Bundestag des Jahres 1974 ausgewertet. Die Ergebnisse erhellen einiges über die Informationsquellen der Regierungsantworten, nichts aber über die Informationsqualität. Mit einer rein quantitativen Analyse von Information, wie man sie bei Kevenhörster fast durchgängig findet, ist dem konstatierten Defizit parlamentarischer Kontrolle nicht nachzuspüren und beizukommen.

Die auf die Neuen Medien bezogene Aussage, sie ermöglichten »mehr Mitwirkung und Selbstentfaltung in der politischen Kommunikation – durch individuellen Informationszugriff, Dialogformen und aktive Beteiligungen an der Programmgestaltung« (S. 384) erscheint problematisch und hätte eine eingehendere Behandlung verdient.

Die Auseinandersetzung mit den internationalen Aspekten der Technologiepolitik vermag nicht recht zu überzeugen. Zu unkritisch wird »der erfolgreiche japanische Technologiestaat« als Vorbild empfohlen, dessen Säulen Kevenhörster im Ergebnis positiv so schildert: technikfreundliches, fortschrittsoptimistisches öffentliches Meinungsklima und pragmatisch orientierte Gewerkschaften, die den Technologieeinsatz am Arbeitsplatz fördern und nicht hemmen (S. 318).

Obwohl der Autor auch die negativen Auswirkungen des dominierenden »free flow of Information«-Prinzips und des IuK-Technologieexports für die Wirtschaft und den Arbeitsmarkt in der Dritten Welt kennt und benennt, empfiehlt er den Schwellenländern im Ergebnis doch nur, »eine konsequente Technologie- und Industriepolitik zu betreiben«.

Die Untersuchung des Verfassers über die Implikationen des Technologieeinsatzes in unterschiedlichen Politikfeldern geben manchen Anlaß zum Nachdenken. Auf die brennenden Fragen nach den gesellschaftlich wünschenswerten Technologieentwicklungen antwortet Kevenhörster im Ergebnis zumeist mit einem Plädoyer für den marktorientierten Ausbau der Informationssysteme und Telekommunikationsnetze.

Jürgen Taeger

Philip Alston and Katarina Tomaševski (eds.)

The Right to Food

co-production Stichting Studie- en Informatiecentrum Mensenrechten – SIM, Martinus Nijhoff Publishers, The Hague 1984, 228 pp.; Dfl. 98.00/\$ 24.95

This inter-disciplinary attempt to approach the problem of the »realization« of the right to food, as the most fundamental of social and economic rights, deserves attention not only by lawyers, but as well by other development experts dealing with the problem of world hunger from a human rights perspective. To assert that everyone has the right to food seems easy. Many international documents contain authoritative statements to this effect, in particular article 11 of the International Covenant on Economic, Social, and

Cultural Rights (ICESCR). During the past decade, however, the rate of people who have starved to death and the number of malnourished people has increased permanently in spite of the courageous work of many activists from all sorts of different professions who have committed themselves to eradicate hunger and malnutrition in the world. Year by year literally millions of children have starved to death, ten of millions have gone to bed hungry and malnutrition continues to afflict millions of people in all parts of the world. These statistics make hunger by far the most flagrant and widespread of all infringements of human rights.

On November 16, 1984 the Universal Declaration on the Eradication of Hunger and Malnutrition became one decade old. The present work, published in the same year, and attaching deliberately to this date is an attempt, for the first time, to make hunger a prominent issue on the international human rights agenda. The book contains the outcome resulting from an international conference on »The Right to Food from Soft to Hard Law« held at Utrecht from 6 to 9 June 1984. The keynote speaker at that conference was Philip Alston who, together with Katarina Tomaševski (University of Zagreb) undertook to edit the present book. The conference was organized by the Netherlands Institute of Human Rights (SIM) in the context of the right to food project which the Institute launched in November 1983. A number of papers presented to this conference were brought together in this book. The editors confined themselves not only to the editorial collection of materials, but contributed themselves substantively to the contents of the present volume.

The most notable contribution to the book is the broad overview of »International law and the Human Right to Food« composed by Philip Alston. The lawyer and Lecturer on Law at the Harvard Law School, highly experienced in the human rights field, has gained a name for himself through numerous well-informed works dealing with international human rights law and economic and social development. The present article is a remarkable combination of scholarship, penetrating vision, and a well-measured dose of the necessary idealism which is an indispensable component for causing dynamic changes. Alston makes a strong plea for creating international law with regard to the right to food and covers several current neglects in respect of this right in international practice. Thus, the author opposes as readily to a »terminological confusion« through vague formulations used by some scholars, as he denounces current policies and approaches which create an artificial dichotomy between legal, political, and technical issues (»artificial compartmentalization« – p. 15). Additionally, Alston criticizes the resistance to even limited inter-disciplinarity among narrow-minded economists, nutritionists, development planners, and others who have on the one hand devoted themselves to the solution of the world hunger problems, but insist on the other hand that moral or ethical considerations are well outside their professional brief.

Primarily in his work, however, Alston gives a brilliant and almost complete account of and insight into the existing legal instruments vesting in one way or other the human right to food, either on the international or regional level. In this survey, Alston's detailed analysis of article 11 of the ICESCR is particularly useful, because it reveals

and illustrates the ambivalency of article 11 and other relevant articles: the provisions made there are, in one respect by far not sufficiently detailed and too confusing to justify any attempts to extract from them a »comprehensive, ordered, operational approach« towards the implementation of the right to food. Besides this dark side of the picture, however, the importance of the provisions in the covenant should not – despite of their relative generality and temporal indeterminacy – be underestimated. More and adequate attention should rather be paid to meaning, normative content, and legal implications of the ICESCR.

In his concluding remarks, Alston expresses his opinion that approaching the problem of world hunger from a human rights perspective is more than a futile academic exercise, for this human rights approach – among other reasons – shifts the burden of proof from those claiming assistance to those in the position to provide it, and helps to lower the barriers of state sovereignty and domestic jurisdiction. Furthermore, the adoption of a human rights framework emphasizes the accountability of governments and international organisations in terms of the impact of their politics and programmes on enjoyment of the right to food and facilitates the transfer of food issues from the purely technical and academic arenas to the serious political agenda. »The myth of political neutrality of any given food policy strategy is thereby exposed.«

Other contributors to the collection substantiate the views set out by Philip Alston in various ways. The researcher in political philosophy at the University of Maryland, Henry Shue, for example helpfully distinguishes between duties to avoid and protect from deprivation and to aid the deprived. The article written by the Dutch lawyer Godfried van Hoof aims at rebutting the not infrequently brought up argument that civil and political rights are of primary importance to that category of so-called economic, social, and cultural rights, such as the right to food. Because traditional schemes of analysis have become obsolete due to frequent societal changes, van Hoof intercedes for an innovative »model of various ›layers‹ of state obligations« containing obligations to respect, to protect, to ensure, and to promote. This model – despite its need for elaboration – leads to a more integrated approach to the issue of human rights, for it stresses the unity between civil and political rights and economic, social, and cultural rights. According to the author an additional advantage of the layer-model lies in its effectiveness: it opens the possibility to »tailor« the system of implementation to the various types of obligations. Thus, in van Hoof's eyes, this model offers possibilities to develop a more fruitful attitude towards the international law of human rights.

This reviewer was particularly attracted by the close analysis, presented by Gerd Westerveen. The legal researcher at the SIM does not only in a perspicacious and perspicuous manner shed light on the shortcomings of the present system of supervision of the ICESCR, he also consistently suggests possible improvements. The author deals with the supervisory procedures, especially the reporting system laid down in section IV of the covenant. He shows that the Economic and Social Council (ECOSOC) entrusted with the supervision by the ICESCR has so far never used its powers laid down in

articles 19 to 22 of the covenant. Furthermore, the weaknesses concerning the ECOSOC's working group and the corresponding changes that have been made are described in detail. But however strong his structural criticism is, the author does not plead for the establishment of new supervisory bodies because, in his opinion, it seems superfluous to give birth to such institutions in the light of the existence of already quite a number of them. Instead, on the basis of his status quo analysis, Westerveen makes some noteworthy and interesting suggestions for decisive improvements of supervisory boards in general and the ECOSOC in particular. Besides several compository changes he outlines, the variety of powers, Westerveen wants supervisory boards to be vested with, ranges from the capability to verify and supplement the data contained in governmental reports and to obtain information from other sources than governments to his suggestion that supervisory bodies should be in the position to supply particularly willing states with the necessary assistance in form of financial or technical support. Westerveen suggests all this because of and being perfectly aware of the fact that international supervision is at variance with national sovereignty and that states in human rights supervisory matters readily tend to hide behind the »paper façade« of their sovereignty.

Above all this detailed research work, Westerveen never loses sight of the entirety. In his conclusion, facing his introductory point that no authoritative interpretation of article 11 ICESCR has been given so far, the author stresses the important fact that procedural improvements alone could never do the trick. Unless the urgently needed consensus is reached on the normative content of the right to food, no supervisory procedure could function effectively, regardless of the amount of powers conferred upon the supervisory body. The lack of this consensus will have a prohibitive effect on supervision in so far, as no standards could be set up to measure states' conduct.

One of the decisive issues in connection with elaborating policies and strategies for the enforcement of economic and social rights in general and the right to food in particular, and for measuring the compliance with accepted standards, is the development of valid quantitative and qualitative human rights indicators. Katarina Tomaševski gives an interesting account of the work she has done in this respect with special regard to the right to food. Her contribution illustrates that a great deal more has to be done in the development research and the collection of further experience.

The book's fourth and final part deals with the implementation of the right to food. The essay, highly enriched with all sorts of quotations, contributed by the French agronomist, sociologist and member of the French National Institute of Agricultural Research, Pierre Spitz, fascinates by his well-founded description of the historical background of the right to food. Spitz enters as readily into the progressive ideas of ancient Chinese thinkers, as he mentions solutions to problems of starvation practiced in ancient Greece and Rome, or in modern English and French history. Together with an analysis of the process of deprivation in the 1980's this historical perspective forms an interesting basis for the policy implications, Spitz eventually makes. His conclusion

culminates in a sharp criticism of the International Monetary Fund's recent policies, intending to bring pressure to bear on governments of African, Asian and Latin American countries to reduce food subsidies in the name of economic realism.

By analysing the history of the Latin American agrarian system rooted in the Spanish colonial legacy and the recent measurements of agrarian reform, Roger Plant sheds light on the close conceptual and pragmatic relationship between the right to food on the one hand and land rights on the other hand.

Finally, Clarence Dias and James Paul elaborate a »participatory approach« towards the implementation of the right to food. They think that the attempts to develop this right should enclose the concerns and strategies of the affected groups, the rural poor, daily confronted with hunger and malnutrition. The two lawyers stress the important role the NGOs may play as tools and catalysts in generating, sharing, and using new knowledge to protect the right to food in front of legal and political bodies at the national and international level.

This book has to be given special prominence because of its advantage to present, for the first time, a broad inter-disciplinary approach to the problems connected with the right to food and its implementation. This inter-disciplinarity is the true key to the worldwide eradication of hunger and malnutrition in the more or less distant future. How long it will take to solve the world hunger problem satisfactorily does, last but not least, depend on such highly profitable books as the one reviewed here and on conferences like the one underlying this present volume.

Philipp Landers

Rupert Klaus Neuhaus

Das Rechtsmißbrauchsverbot im heutigen Völkerrecht

Duncker & Humblot, Berlin, 1984, Schriften zum Völkerrecht, Bd. 80, 218 S., DM 88,—

Seitdem der Begriff des Rechtsmißbrauchs während der Beratungen über die im Statut des Ständigen Internationalen Gerichtshofs zu nennenden Völkerrechtsquellen – hier der allgemeinen Rechtsgrundsätze – erstmals 1920 in der völkerrechtlichen Diskussion aufgetaucht und 1925 von Politis in seiner grundlegenden Vorlesung vor der Akademie für internationales Recht in Den Haag theoretisch untermauert worden war, ist er von einem erheblichen Teil der Völkerrechtslehre als Bestandteil des geltenden Völkerrechts anerkannt worden. Das Unbehagen darüber, daß einerseits dieser Auffassung von einem Teil der Lehre auch heute noch vehement widersprochen wird und daß andererseits unter ihren Befürwortern keine Einigkeit über Rechtscharakter, Inhalt und Rechtsfolgen dieses Instituts festzustellen ist, hat Neuhaus zu seiner hier zu besprechenden Studie veranlaßt.