

international criminal tribunals. Given the challenges of compliance with international human rights standards described in these illuminating contributions, it may be time to transform the legal structures at international criminal tribunals into models based more effectively on the civil law inquisitorial legal system. These procedures and structures, in particular when directed by professional judges, may serve the interests of accused and the international community more fully and efficiently than the present cumbersome and slow processes.

Without fair, effective and transparent procedures, no judicial system – domestic or international – can establish and maintain its credibility. Professor Carter, Judge Pocar and the individual authors of ICP have made an important contribution to international justice by blending many of the challenges of crafting the right international criminal procedures into a single, useful volume.

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Colonial Copyright – Intellectual Property in Mandate Palestine. By MICHAEL D. BIRNHACK [Oxford: University Press, 2012. xv, 288, (Bibliography) 17 and (Index) 6 pp. Hardback £60. ISBN 978-0-19-966113-8.]

THIS intriguing book includes both consideration of some major themes in law and society, and very detailed discussion of specific processes and events in legal history. Birnhack elucidates the theoretical underpinnings of the study before getting to the more novel substance of the legal history that is the core of the book – copyright in Mandate Palestine. The gist of the book is that the British Mandate transplanted British copyright law into Palestine in support both of ‘progress’ and of British interests. Though the law was largely ignored in Palestine for a few years, it soon became a fully functioning law, and in due course became the law of the State of Israel.

Birnhack expressly states his preference for a ‘law and society’ approach, and throughout the book he reveals not only the history of the law, but also very specific details of the people and organizations behind the pertinent legislation and case law. For example, Yitzhak Olshan and Shimon Agranat both feature in the book in their capacities as lawyers in early copyright cases in Mandate Palestine, and both would be presidents of the Supreme Court of Israel in due course; famed poet H.N. Bialik, S.Y. Agnon – later a Nobel laureate – and his patron Salman Schocken, and Professor Meir Benayahu, whom this reviewer was privileged to know personally, are all part of the story of copyright in Palestine. Likewise, the Arab-Jewish conflict in Palestine makes repeated appearances.

The author develops his theme methodically and carefully. Chapter 1 is about legal transplants – where a law from one jurisdiction is dropped into another. The author discusses the ‘transplant’ metaphor with thought-provoking reference to donors, rejection and other extensions of the metaphor. Chapter 2 discusses legal colonialism, and in particular late 19th Century – early 20th Century British legal colonialism, focusing on copyright. The author discusses the jurisprudence of copyright in 19th Century Britain, specifically as a tool to promote ‘progress’. Likewise, copyright was highly Eurocentric, protecting works of the kind produced in Europe such as single author-owner

works set in tangible form. By contrast, indigenous populations of many British colonies were accustomed to communally-produced works such as stories, music and performing arts. Perhaps not in Canada, for example, but in some parts of the Empire there was a considerable gap between British culture, needs and values, and the local ones, and this was neatly reflected in the mismatch between British copyright and local reality. Ideas of 'progress' notwithstanding, copyright was transplanted into the colonies first and foremost to serve the interests of British authors; it served the donor more than the recipient.

Leaning on Bently and Seville, in Chapter 3 the author describes the development of British, Imperial and international copyright law in the 19th and early 20th Centuries. This includes background on the Copyright Acts 1814, 1842, the Fine Art Copyright Act of 1862, the Berne Convention and International Copyright Act both of 1886, and finally the Imperial Copyright Act of 1911. British copyright law was gradually but deliberately spread throughout the Empire, for the most part with little regard for the existing law and needs in the colonies.

The book starts to zero-in on its core subject matter in Chapter 4 where Birnhack dives into the detail of copyright in pre-Mandate Palestine, specifically the 1910 Author's Rights Act, an Ottoman statute that applied throughout the Ottoman Empire, and did not conform to the Berne Convention. The chapter examines subsequent Mandate legislation, in particular the 1920 Copyright Ordinance. This British legislation modified the Ottoman Act of 1910, largely in line with the 1911 Imperial Copyright Act. For example: the 1920 Ordinance extended the earlier Ottoman Act to cover photography and perforated rolls, protected by the 1911 Act, and amended the Ottoman Act so that ownership of copyright was determined by ownership of the relevant tangible object – such as negatives; and the Ordinance prolonged the period of copyright to fifty years following the author's death. These changes all reflected the then current Imperial Copyright Act. However, the author builds a good case for questioning the sagacity of this legislation. Its form was strange – a Mandate Ordinance amending an Ottoman Act. More significantly there was relatively little copyrightable activity in early Mandate Palestine, and though there was little or no need for copyright legislation, much less for new and amended copyright legislation, copyright was one of the first areas in which the Mandate government legislated. In his search for the motive behind the legislation of a law clearly mismatched with reality, the author deftly builds a case for Norman Bentwich, the Attorney General of Palestine, as the source and catalyst for the legislation. Bentwich was a Jewish Zionist, son of a copyright lawyer, and brother of Thelma Yellin – who founded the Jerusalem Music Society which Bentwich later chaired. The author thus concludes that it was Bentwich who led to the 1920 Ordinance. In 1924, however, the 1911 Imperial Copyright Act was extended to Palestine by act of Privy Council, repealing the Ottoman Act. Interestingly, though the 1911 Act was ostensibly in force in Palestine from 1924 it was not translated into Hebrew or Arabic until 1936, further emphasizing the disconnect between the law and its subjects.

Chapter 5 analyzes the Jewish community in pre- and early-Mandate Palestine with a view to ascertaining what role copyright law could and would play within that community. The late 1910s–1920s saw major cultural issues settled in the Jewish community. For example, Yiddish, German and Hebrew were all contenders for the lead language of local Jewish culture; ultimately Hebrew dominated. Likewise, the pronunciation of everyday Hebrew was in

flux, between Ashkenazi and Sephardic alternatives; the latter became the standard. More importantly, prevalent socialist and nationalist ideals of the Zionist movement led most authors, cinematographers, playwrights and musicians to view their role as part of a national, collective mission to realize the Zionist dream, and their individualism was subjected to those higher values. The highly individualistic, capitalistic British copyright legislation was a misfit for the emerging cultural leadership of the Jewish community in Palestine. This gap closed somewhat with the Fourth Aliya, or wave of immigration to Palestine, in the late 1920s, whose constituents were more bourgeois and less collectivist than prior immigrant waves.

Chapter 6 continues to show that copyright law had little meaning in Palestine in the 1920s. Here the author continues to provide a plethora of details that together are compelling in support of his case. For example: the community established its own non-state, non-colonial, judicial systems, and obviously these did not apply colonial copyright law. Publishers, cinematographers and authors largely resorted to public shaming to address what were basically copyright infringements. Likewise, there were very few lawyers and no copyright experts as such, and the two small law schools did not even hold the copyright books of the time, all indicating that copyright was simply not in the public awareness, and the colonial legislation was mostly irrelevant.

Going into Chapter 7 one feels that copyright is finally going to burst onto the scene. Sure enough throughout the 1930s copyright emerged as a meaningful tool in law and commerce in Mandate Palestine as live music became popular in cafes, silent movies were replaced by 'talkies', and theatres gained popularity. Supporting the author's colonial read on British copyright, it was the British Performing Rights Society, the PRS, which through its agent in Palestine, one Meir Kovalsky, began asserting its copyright in cinema and live music venues. The details are fascinating, and surviving correspondence between the PRS and Kovalsky and his lawyers make for great sources and a riveting read. For example, Kovalsky asked the PRS to leave a letter undated, basically so he could deceive the court as to the date of the letter. The PRS, disgusted, refused. Kovalsky later asked the PRS to write a judge praising his clever judgment and, though shocked by the request, the PRS actually acceded to it. Other details are likewise telling and reflective of the lack of appreciation for copyright in Mandate Palestine. For example, Kovalsky's lawyer apparently had no copyright textbooks, though *Copinger on Copyright* was in its sixth edition.

Chapter 8 concerns radio and the genesis of the Palestine Broadcasting Service (PBS), raising fascinating inter-cultural questions, as Jews, Arabs, and the British all struggled for control of the new medium. The British actually installed public radio sets in about 85, mostly Arab, villages. The BBC provided much of the music content for the PBS, and all agreements between the BBC, the Mandate offices in Palestine that controlled the PBS, and the PRS – that represented the ultimate owners of the music copyright – conducted all their interactions based on British copyright law. The BBC also considered all the local, non-European, content as basically unworthy of copyright protection.

Chapter 9 treats the role of copyright in news telegrams in Mandate Palestine. The Palestinian Telegraphic Agency (PTA) was a Jewish news agency that reached an agreement with Reuters for exclusive rights to distribute Reuters' news telegrams to Palestinian newspapers. PTA also owned a local newspaper, the Palestine Bulletin, which published articles based on

PTA/Reuters' news telegrams. In 1932 PTA and the Bulletin sued Jaber, the owner of an Arab newspaper that was copying news. The courts ultimately opined that news per se was not copyrightable (as the USSC had done in 1918 case of *INS v AP*).

In Chapter 10 the author demonstrates that the Arab community was markedly slower than the Jewish one in taking to copyright. Of particular note, the Arab community was much less productive in copyrightable works than the Jewish community. In Chapter 11 the author discusses several high-profile copyright disputes toward the end of the Mandate, including one involving rights to Theodore Herzl's writings.

One of the particularly pleasing aspects of this book is its clear and logical structure. Each chapter flows into the next, and the book moves from generalities and abstract discussion of transplants and colonialism in the opening chapters, to discussion of Imperial legislation, Mandate Palestine, and the specifics of new media in the later ones. The author emphasizes that Mandate copyright law was initially ignored, though ultimately very effective. One wonders if rather than being a misfit with the 'recipient', Mandate copyright law was rather a little ahead of its time; residents of Mandate Palestine were busy fighting to create communities and a state – a state which the Mandate power had committed itself to bringing into existence. Perhaps Bentwich was a visionary to whom it was obvious that copyright law would sooner or later be necessary, though at the time there was basically no copyrightable creativity in the jurisdiction. The book's only real weakness is its language. The editing could certainly have been more exacting. The book includes easily missed mistakes such as: 'Statue of Anne' (p. 67) – there may have been a statue of Anne, but the author no doubt meant to refer to the Statute, though other errors jump out of the page.

In conclusion, the author has produced a fascinating book, which – despite the weaknesses in the language – makes a major contribution to the study of Palestine Mandate law specifically, and Imperial copyright law generally. This book should be enjoyed by anyone with an interest in either the history of intellectual property or the legal history of the State of Israel. Finally, anyone exploring the law as a tool of colonialism and other instances of legal transplants will also find this book well worth the read.

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Economics for Competition Lawyers. By GUNNAR NIELS, HELEN JENKINS and JAMES KAVANAGH [Oxford University Press, 2011. 640 pp. Paperback £59.95. ISBN: 978-0-19-958851-0.]

UNSUSPECTING readers may be forgiven for implying from the title of the book under review that it is an introductory text digestible by all in the spectrum of legal intelligentsia. It is not, and the implication must be dispelled. As noted by Justice Roth in the Forward, the book is not "always easy for the non-economist: the authors do not adopt a simplistic approach, and their sophisticated analysis and exposition inevitably make certain sections a demanding read." This sophistication is a part-reflection of the exemplary credentials of the authors. Niels and Jenkins hold doctorates in economics and