

by them on such distribution to be made within three months thereafter; payment may still be made to claimants during a further 12 months, but after two years from the initial receipt payment is returned to the General Fund and any later payment to a subsequently discovered claimant is to be deferred to the requirements of the Commission's administrative budget, its operating reserve, or other scheduled awards. More details relating to priority of payment for the small claims is given on the website.

Decision No.46 requires claims over \$100,000 by individuals (Category D), and claims by corporations (Category E) and governments (Category F) to be supported by documentary or other appropriate evidence "sufficient to demonstrate the circumstances and amount of claimed loss" with "no loss to be compensated solely on the basis of an Explanatory Statement by the claimant". The Statement by the Chinese Delegate (pp.237-9) on how to interpret "direct loss" indicates that the Security Council's limitation of reparation to direct loss and the Council's original guidelines of 2 August 1991, elaborated in decisions Nos.7, 9 and 15, are still causing controversy, in particular the ruling adopted by the Panels that claims relating to debts due for payment by Iraq three months before the invasion of Kuwait on 2 August 1990 are not within the Commission's jurisdiction.

Neither this volume nor the website provide any material on the content of the reports and recommendations of the Panels. These are extensive, already more than two dozen relating to the five categories as well as those relating to the Egyptian Workers' claims and the Well Blow-Out Control Claim. No proper appraisal of the work and its contribution to the law of State responsibility of the Commission can be made without some review of their contents; an excerpted collection of these panel reports would seem now to be required.

HAZEL FOX

*Le droit à l'autodétermination en dehors des situations de décolonisation.* By THÉODORE CHRISTAKIS. [La Documentation française. 1999. 676 pp. ISBN 2-11-004314-8, 262, 38F]

AFTER the process of decolonisation had widely been completed, the law of self-determination has obtained new actuality surrounding the break-up of traditional State entities in Central and Eastern Europe.

Christakis, inspired by the recent events in the former Soviet Union and Yugoslavia but also by the smouldering conflicts in Northern Ireland, the Basque region, Kurdistan, Angola, Ethiopia, Sudan and Quebec, examines self-determination in its external and internal aspects. The result is admirable in that he manages to deliver a comprehensive analysis of the current state of the law of self-determination.

Briefly referring to self-determination within the colonial context, Christakis shows that in this regard people's right to self-determination is firmly established, but without practical relevance.

In recent years self-determination has obtained a new impact as numerous ethnic entities relied on that concept when claiming a right to autonomy or even secession.

Analyzing the legal situation, the author distinguishes between external and internal self-determination and accordingly structures the book. Christakis starts with external self-determination. In situations of external domination and occupation, similar to colonial subjugation, self-determination has obtained the force of *ius cogens*. This conclusion is derived from a careful analysis of international instruments, State practice and reactions of international organisations, e.g. United Nations resolutions condemning the Soviet invasion of Afghanistan and the occupation of Kuwait by Iraq. Apart from that a right to secession might be established in cases of particularly grave violations of human rights.

In general, however, examination of recent practice, especially in relation to the break-up of States in Central and Eastern Europe, confirms that international law supports existing States. External self-determination is not capable of giving rise to a right to unilateral

secession of non-State entities. Consequently foreign assistance for the secessionist movement is not admitted. In that respect Christakis confirms the traditional international doctrine against a right to secession.

Thus international law, applying a presumption against secession to be successful, nevertheless accepts the state of affairs thereby created, once the process of separation has been completed. Those observations, based on the principle of effectiveness and corroborated by a careful analysis of State practice, are central to the author's argument. Christakis concludes that secession is rather a question of facts than of rights. The new existing State enjoys the protection of international law. Only if originating from aggression must the result of secession not be accepted. In those situations the new State has to be denied any kind of protection. The principle *ex iniuria ius non oritur* obtains validity.

In the second part of his analysis Christakis deals with internal self-determination. Under this topic he extensively covers not only the position of minorities and indigenous populations within existing States, but also a potential right of the population as a whole to live within a democratic system.

With regard to special rights of minorities or indigenous populations living within existing States, the author uses practice in order to show that States are more and more inclined to consider autonomy as a means of solving inter-State conflicts. However, at least in relation to minorities, the acting States make it quite clear that they do not intend to incur international obligations of any kind, but solely use it as a political method of internal conflict management. In regard to indigenous populations, States seem less restrictive. However, a general right to autonomy cannot yet be established, neither in favour of minorities nor in favour of indigenous populations. In fact, according to Christakis, those groups are hardly accepted to be supporters of international rights.

Subsequently, Christakis elaborates on democracy as a potential means to realising internal self-determination. Consideration of State practice, expressions by State organs and instruments of international organisations lead him to conclude that at least in Europe and North America the whole population of a State has a right to democratic government. Although coups are condemned in other parts of the world, too, they still occur regularly, thus preventing a legal right to democracy from coming into existence.

Concluding that no right of secession exists outside the colonial context or situations of massive violations of fundamental human rights, Christakis confirms the traditional position of international law. With regard to internal self-determination the author seems to be more progressive. Although denying a right to autonomy in favour of minorities or indigenous populations, he proves a right of the population as a whole to be governed by a democratically elected government, but limited to Europe and North America. Summarising the outcome international law still seems to limit itself to the State as its original subject.

One outstanding feature of the book is the presentation and analysis of an enormous amount of material on self-determination. The comprehensive collection of State practice as well as conventions and organisation practice constitutes a major achievement. However, Christakis does not limit himself only to presenting a comprehensive overview but continues with a sharp and precise analysis of the modern law of self-determination, in its external as well as in its internal aspects. Christakis essentially contributes to clarification of the current state of the law. A comprehensive and at the same time objective analysis of self-determination outside the colonial context seems to be necessary in order to better understand and eventually seek to solve the numerous ethnic conflicts currently existing.

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*Comparative Corporate Governance: The State of the Art and Emerging Research.* By K. J. HOPT, H. KANDA, M. J. ROE, E. WYMEERSCH and S. PRIGGE (Eds). [Oxford, New York, etc., Oxford University Press. 1998. 1238 pp. ISBN 0-19-826888-2. £90]