

the Theron Report and its recommendations should not be interpreted as an exercise in options on the part of the South African Government; on the contrary, it demonstrated an inability to adapt. The 'problem' of the 'Coloureds' is certainly the Achilles' heel of the ideology of white supremacy in South Africa and the extent to which it has become a source of discomfort for Pretoria may be an indication of the course of change which the oppressed, *and not the oppressors*, of Southern Africa have begun and whose outcome only they can determine.

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African Law and Custom in Rhodesia By B. Goldin and M. Gelfand. Cape Town, Juta, 1975, xvi, 325pp., Rh\$11.90.

A Bibliography of African Law, with Special Reference to Rhodesia. By T. W. Bennett and S. Phillips. Salisbury, Univ. of Rhodesia, 1975, xxxiv, 291pp., Rh\$5.00.

The authors of the first of these two books essayed a very difficult task. The main difficulty arises from the fact that the African law and custom that has grown up naturally and spontaneously over the years has been engrafted, in a somewhat clumsy way and with severe limitations, into the ordinary statute law of the land. This has meant that there were at least three possible lines of approach: To treat the subject as a purely ethnological study, disregarding the legislation; to produce a practical legal text book for the use of practitioners and others concerned with the administration of the law; or to attempt a combination of the two. The authors have adopted the third approach, which is that most beset with pitfalls. It is greatly to their credit that they have avoided these and achieved so large a measure of success.

There were lesser difficulties in their way. As the authors themselves recognise, the basic material of their study varied from tribe to tribe and even from locality to locality within the tribe. They have dealt with this on broad lines and have, wisely, resisted the temptation to extend their investigations to the divergent customs of such subordinate peoples as the Venda, fascinating to the ethnologist but distracting to those concerned with the practical application of the law.

In the result the book should prove of great value. For the first time, so far as I am aware, the true customary law is considered in juxtaposition with those sections that have been modified by statute or by judicial decisions.

The judicial decisions are considered critically. Apart from comment on individual cases certain tendencies are revealed which, unless they are checked, could lead to unfortunate consequences. For example, if the authors are correct in their belief that there is a tendency for decisions in District Courts to diverge from those in Tribal Courts, then action must be taken to see that this is avoided. It may prove to be nigh impossible, but something on the lines of the circulars of the Justice Department could help. Certainly something should be attempted, for legal history is full of examples of the sad results where different lines are taken in courts of more or less co-ordinate jurisdiction.

Directly or by implication the authors raise a number of other questions of the first importance. Some are inherent in the system itself. For example, how long will Africans in a modern technological state continue to wish that

their affairs be governed by a system designed for a simpler society, however much we may share with them a nostalgia for the older days?

Other problems arise from the manner in which the system has been incorporated into the background law of the land. It has already been hinted that this has been inept. I am thankful that I shall not, as a judicial officer, be called upon to construe the application of customary law laid down by Section 3 of the African Law and Tribal Courts Act. When the time comes when these problems have to be faced, I am sure this book will afford guidance to those compelled to resolve the perplexities involved. Meantime, if the book receives the attention it deserves, it will serve a useful purpose simply by drawing constructive attention to the existence of the difficulties. Apart from its value to the busy practitioner or administrator of the law the theoretical ethnologist will find here much that is not only interesting but authoritative.

Almost simultaneously, the University of Rhodesia has published a cognate work. It sets out to deal with a wider field — Africa at large. The present reviewer does not feel competent to comment except in so far as the book relates to Rhodesia, or at most, Southern Africa; but it is not unreasonable to assume that this gives a fair indication of the general value of the material. Such a bibliography falls to be tested by the answers to the following questions: Is it accurate? Is it comprehensive? Are the references easy to find and to follow? This book appears to satisfy all these requirements in a high degree. In fact, one is left a little awed by the extent of the research that must have been involved in its compilation and the competence with which it has been handled.

Marandellas

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