

law be informed by international and comparative human rights jurisprudence.

The jurisprudence of the United Nations Human Rights Committee is likely to be particularly influential. Each of the existing and proposed domestic human rights Acts enshrines civil and political rights that are primarily sourced from the *International Covenant on Civil and Political Rights* (ICCPR). It is an accepted principle of domestic law that it is legitimate to have regard to the opinions and decisions of bodies established to receive reports or determine claims under the treaty over which it has jurisdiction (see, eg, *Commonwealth v Bradley* (1999) 95 FCR 218 at 237 [39] per Black CJ (with whom Tamberlin J agreed); *Commonwealth v Hamilton* (2000) 108 FCR 378 at 387 [36], 388 [39]). It is also well established that it is desirable, as far as possible, that expressions used in international agreements be construed in a uniform and consistent manner by both municipal courts and international courts and panels (see, eg, *Rocklea Spinning Mills Pty Ltd v Anti Dumping Authority* (1995) 56 FCR 406 at 421 E; *Povey v Qantas Airways Ltd* (2005) 216 ALR 427 at 433 [25] per Gleeson CJ, Gummow, Hayne and Heydon JJ). These principles of interpretation are codified in the Victorian *Charter* and the ACT *HRA*, which, at s 32(1) and s 31(1) respectively, direct practitioners and courts to consider 'International law and the judgments of domestic, foreign and international courts and tribunals relevant to a human right' in the interpretation of human rights and statutory provisions.

The Human Rights Committee is, of course, the human rights treaty body established under the ICCPR to monitor its implementation, interpret and develop its normative content, and receive and determine individual complaints under its *First Optional Protocol*. The judicial authority of the Committee has been recognised by both domestic courts (see, eg, *Tavita v Minister of Immigration* [1994] 2 NZLR 257; *Cornwell v The Queen* [2007] HCA 12 at [175]–[176] per Kirby J) and parliaments (see, eg, Explanatory Memorandum to the Victorian *Charter*).

There is no doubt that the jurisprudence of the Committee is complex and, at

times, difficult to access. It is developed incrementally through Concluding Observations on states' reports (of which there are over 350), General Comments on treaty provisions (of which there are now 32) and, of course, the Views of the Committee on individual communications (of which there have been more than 1500).

For these reasons, the 2nd revised edition of Manfred Nowak's *CCPR Commentary*, published by N P Engel, will be absolutely invaluable to domestic human rights practitioners. Manfred Nowak is the United Nations Special Rapporteur on Torture, Director of the Ludwig Boltzman Institute of Human Rights at the University of Vienna and a member of the International Commission of Jurists.

At 1277 pages, *CCPR Commentary* is a substantial tome and the authoritative text on the ICCPR and the work of the Committee.

Parts I, II and III of the text deal with the substantive human rights provisions of the ICCPR. Each provision is discussed and analysed in considerable detail by reference not only to the jurisprudence of the Committee itself, but also the *travaux préparatoires* and the jurisprudence of persuasive international, regional and comparative human rights bodies, such as the European Court of Human Rights and the Inter-American Human Rights Court and Commission. Part IV of the text discusses international enforcement provisions, with particular reference to the practice and procedure of the Committee, while Parts V and VI discuss provisions relevant to the interpretation, application and mechanics of the ICCPR.

In addition to considering the ICCPR article-by-article, *CCPR Commentary* also examines the *First Optional Protocol* in detail. With the Committee having rendered decisions on over 1500 cases under this *Protocol*, of which over half have been deemed admissible and decided on the merits, this is a very useful discussion.

*CCPR Commentary* also includes a number of very useful appendices and tables. Appendices include the full texts of the ICCPR, the *First Optional Protocol*, the *Second Optional Protocol*, the Committee's *Rules of*

*Procedure* and General Comments, while the tables include a subject-matter index and a case index (with the most important cases indicated in italics).

Internationally, it is well recognised that the work of the Human Rights Committee is increasingly rigorous, professional, critical, dynamic and therefore persuasive. Particularly during the early years of the Victorian *Charter* and the ACT *HRA*, a time when 'the development of an Australian jurisprudence drawing on international human rights law is in its early stages' (*Royal Women's Hospital v Medical Practitioners Board of Victoria* [2006] VSCA 85 at [71] per Maxwell P), it is critical that domestic courts and practitioners have close regard to the ICCPR and the Committee's jurisprudence. If this is to be the case, *CCPR Commentary* by Manfred Nowak is an absolute 'must have'.

For further information or to order *CCPR Commentary*, contact N.P.Engel@EuGRZ.info

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**COMRADE ROBERTS:**  
*Recollections of a Trotskyite*  
Kenneth Gee QC; Desert Pea Press, 2006; 250 pp, \$29.95

**A LIFE IN CRIME:**  
*Stories from the Streets*  
Michael Kuzilny; New Holland, Sydney, 2007; 272 pp, \$24.95

*Comrade Roberts* is a collection of 'recollections' by Kenneth Gee, QC, a former 'middle class boy from the wealthy suburb of Strathfield' and now a NSW District Court judge.

Gee came from a home of 'Yorkshire pudding and the stiff upper lip', a family 'quite devoid of feeling or emotion'. His father was a solicitor of British origin. He characterises his mother as a suitable consort for 'empire-builders devoid of passion', a British female of the same cast as Boadicea, who did not weep 'even when the victorious Romans set her alight'.

This background would seem almost to suggest an answer to the central question

Gee poses to himself: how was it that this nice boy became 'an active Marxist, a Trotskyite revolutionary, for years of my young life'?

As the book progresses, it becomes clear that Gee threw himself into the 'class war', 1940s-style, much more deeply than most people of his background do. Soon after being admitted as a solicitor, he joined the Communist Party, became a Trotskyite revolutionary, and by way of proving his loyalty and working-class credentials, became a boilermaker's labourer on the Sydney waterfront.

Through the Party he came to know such luminaries as Comrade Jim McClelland and Comrade Laurie Short. In addition, he lived through some genuinely difficult times in the lives of the 'waterfront toilers', who, to his initial dismay, showed 'no sign of swelling class consciousness' or of 'having grasped their role in the march of human history'. The book tracks his progressive disillusionment, both with the Party's utopian promises, and also to a lesser extent with himself.

Comrade Roberts seems at first blush a member of an unenviable genre: the judge's or politician's memoir, a work of raffish, old-boy nostalgia, easier to talk about than to read. However, this would be an injustice. Gee writes entertainingly, and sometimes with insight about people (such as Diamond Jim) who are now well-known. He tells a good story. More importantly, he has a good story to tell.

The book has its flaws. It contains, within the first few pages, a potted history of Marxism familiar to first year undergraduates — although, admittedly, most readers' memories would need refreshing on the vicious split that once existed between the Third and Fourth Internationals, the Trotskyites and Stalinists. At times it also tends to use capitals to inflate the narrative (like the 'Terminal Crisis of Capitalism').

Perhaps more importantly, there is a certain reluctance to engage with the central question of why and how Marxism, a question he says is 'really what these recollections are all about.' In the next paragraph, though, he states that 'I do not

want to give too much time to resolving the conundrum I have raised'.

There is more than a hint that the 'mysteries of contract law, torts, crime, equity and the rest' did not satisfy the passion of a young mind: but then, he admits he had no burning belief in communist ideals, whose 'Hegelian dialectic' he claims never to have understood. In the end he explains, perhaps a little disappointingly, that 'I was essentially a political adventurer, hankering in a misguided way after power.'

Still, such questions are probably unanswerable. The book is compelling for several reasons. It's an insider's view into the rough-and-tumble of politics in 1940s Australia. More importantly, and particularly for a younger reader in less clearly idealistic times, it illustrates the fascinating power communism once had as an alternative world view, and of the lengths 'ordinary middle-class' men and women once went in its pursuit.

In contrast, Michael Kuzilny's *A Life in Crime: Stories from the Streets* promises far more than it delivers. Kuzilny began his working life as a police officer, in a force 'stretched to the limit', despite most of its officers being 'good, caring and honest men and women, (who) risk their lives daily in the line of duty'.

After ten years of 'good and bad', 'amaz(ing) and sometimes shock(ing)' experiences, he decided to leave the 'police brotherhood' and become a defence lawyer. He assures us that he will answer the question of 'how criminal lawyers can defend people whom they must surely know are guilty'. The answer, it seems, is that 'many good people make mistakes'.

Consistency is not this author's strong point. He is adamant that 'crime does not pay', but goes to drug parties on ocean cruisers 'right out of Miami Vice'. He says that he always tried to be ethical on the force, but also that 'I had no wish to become a wanker or a dobber. Turning a blind eye made a lot of things easier.' On police bashings in custody, he says 'police officers should never take the law into their own hand and become judge and jury. Sometimes cops feel justified in banging people around, but if they get caught, their

careers are over'. He talks of his hatred for the 'smiling assassin' defence lawyers, tricking juries into letting criminals free: and yet seamlessly, without evidence of conflict or awareness, he became one of them.

The book is hastily written and poorly edited, with spelling and other errors that should surely have been picked up. Why, to take one egregious example, does the sentence 'These days, I talk to people at length to find out what motivates them to get involved in illegal and criminal law' appear twice at p.193? Was it to illustrate, as he points out in the next sentence, that 'as they say, mistakes make us stronger, but only an idiot would make the same mistake twice'?

There is no doubt the book has interesting stories to tell. However, they scarcely illustrate Kuzilny's contention that 'the world is a beautiful place, occupied largely by beautiful and decent people'. Kuzilny's world is populated by corrupt police, a debased and self-serving police culture, and the torture of suspects. Its high points are gang bangs among cops or with crims and their girls on high society yachts. All these things could have been interesting — important, even, to some future anti-corruption agency — had he been prepared to name names, or even to be more specific about details, so that his book would have value as documentary instead of bowdlerised bar-room yarn.

The author's writing style suggests a certain gladsome carelessness a propos of the truth, a style evident in some of the crims as well as the corrupt coppers he writes about. On the evidence of this book, Kuzilny is an aspiring Chopper Read without the humour, a *Daily Mail* columnist and moraliser without an editor to pare back his fulminating. The book deteriorates particularly towards the end. The stories of his time as a defence lawyer lack a semblance of interest either as fiction or documentary.

This is a pity, for the book could have been more than interesting with more care in its execution, as well as more attention to the question of whether its genre is documentary or fiction. As it is, it is an unpleasant and depressing read.

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