

## 34 VANDA LAMM (ED.): EMBERI JOGI ENCIKLOPÉDIA (BOOK REVIEW)

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**Vanda Lamm (ed.), *Emberi Jogi Enciklopédia [Encyclopedia of Human Rights]*, HVG-ORAC, Budapest, 2018, 748 p, ISBN 978-9632583457**

The unique Encyclopedia of Human Rights is the remarkable outcome of a project coordinated by Professor Vanda Lamm, full member of the Hungarian Academy of Sciences and President of the International Law Association Hungarian Branch. The Encyclopedia contains more than 100 studies written by 67 leading Hungarian scholars, all of them experts their respective topics presented in the Encyclopedia. The studies encompass not only the first, second and third generation human rights but also evolution of human rights as such, its historical antecedents, the organizational and institutional framework of the protection of rights, certain treaties and documents of outstanding relevance, as well as legal concepts related to the subject of human rights. Finally, the encyclopedia includes some non-traditional rights and contested fundamental rights as well.

There are some reference works on the international book market, like the epic Encyclopedia of Human Rights.<sup>1</sup> This vast work presents human rights in five separate books. The Hungarian *Emberi Jogi Enciklopédia* is more modest in length, however, it already plays a significant role in the Hungarian legal literature, since this is the very first comprehensive lexicon-like summary of human rights containing almost all aspects of the field. The title may be somewhat misleading. In most cases the word encyclopedia refers to a codex containing definitions and pure facts on broad general topics or a specific area. This book, however, contains scholarly studies on the different issues and institutions of human rights. Yet the structure follows the classical encyclopedia style: the chapters are organized in alphabetical order instead of categorizing them under chapters of the same or similar content.

The preface, written by the editor Vanda Lamm, explains the need for and the volume of the work. She explains that national and international laws and rules concerning human rights expanded to such a scale that it is not easy to navigate them. She emphasizes that since human rights were created following World War II, several domestic and international

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1 David P. Forsythe (ed.), *Encyclopedia of Human Rights*, Oxford University Press, 2009.

protection and monitoring mechanisms and bodies have been set up. It is a huge achievement, says the editor, that human rights issues no longer fall under the exclusive competence of the states.

The chapters cover several fields of law, but strong emphasis is put on international and European law. Although this is almost inevitable due to the international character of human rights and the unique role of human rights within Europe, it may have been adequate to view human rights from a domestic law standpoint since the book is only available in Hungarian. As such, it is primarily a useful tool for Hungarian lawyers and comparative lawyers. Nevertheless, it is an important merit of the book that some of the chapters concern new branches of law and new challenges of human rights which have not yet received much scholarly attention, or at least not in Hungarian legal literature. Due to the length of the encyclopedia it is not possible to provide even a rough analysis of all the chapters. Therefore, this review will only highlight those chapters that are unique or special in some way.

The most surprising chapter in a human rights encyclopedia is definitely the 'Issue of animal rights'<sup>2</sup> written by Balázs Majtényi. At a first glance, animal rights surely fall outside the scope of such a book since the special focus of human rights is *sine dubio* on rights of the person, *i.e.* members of the human race. However, if we consider the topic from a more progressive, development theory perspective, animal rights also fit into this picture. The tendency is that fundamental rights and legal protection cover more and more groups of individuals. First, fundamental rights only entitled white male nationals, eventually and gradually extended to women and all races of the one and undivided human species. And now as environmental consciousness is starting to gain ground, we are becoming more and more aware that we are not the only valuable inhabitants of our globe and that the other inhabitants also deserve legal protection for their very existence. This chapter, however, also presents other theories which deny that animals can have legal capacity, denying herewith also the need for animal rights. This way of thinking is often referred to by animal rights activists as speciesism, resulting in discrimination against animals simply because they are a different species. The conclusion, however, is that this approach is no longer sustainable, a view that is supported by a range of international agreements and norms as well as national laws.

András László Pap's chapter on 'Ethnic profiling'<sup>3</sup> deals with a more traditional field of human rights. Minority protection and the prohibition of discrimination based on nationality or ethnicity have been considered the core of human rights since World War II and it is enforced to an increasing degree in practice nowadays. This paper therefore is not outstanding for raising a new issue, but rather because of the relevance of one dimension

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2 Vanda Lamm (ed.), *Emberi Jogi Enciklopédia*, HVG-ORAC, 2018, pp. 52-56.

3 Id. pp. 232-235.

of ethnic discrimination. Ethnic profiling is a real danger, not only against Afro-Americans in the US, but in Hungary against Roma groups and increasingly against Arab communities within Europe owing to recent terror threats. Ethnic profiling emerges in the context of law enforcement, namely police and investigative work. It describes a procedural treatment in the framework of which criminal profiling is based on ethnicity. It means that possible perpetrators or future criminals are inspected and monitored mainly because they are members of a national or ethnic community within which the criminal rate tends to be higher or the majority presumes it to be higher. Often the reason behind ethnic profiling is prejudice, racism or xenophobia on behalf of proceeding officers. The author admits that there may be some empirical grounds of ethnic profiling since the crime rate is many times indeed higher within these groups and effective law enforcement and crime prevention is an appreciable goal. However, he draws the conclusion that experience, and surveys show that ethnic profiling does not result in more effective prevention, investigation or enforcement and is certainly not more cost-efficient. The essay also emphasizes that collective criminality is unacceptable and only individual circumstances may be considered during criminal proceedings. Another moral argument against ethnic profiling is that it can raise serious tensions between law enforcement bodies and the given ethnic group. A just and efficient justice system, however, can create a strong bond between the state and individuals from all ethnic backgrounds.

The question of sexual orientation and gender identity is an issue receiving growing attention mainly in the political field. Legal systems – even in developed Western societies – are not catching up with the social discourse on the equality of homosexual and bisexual people. Since the legislation cannot provide adequate answers, – and often is unwilling to do so –, it is mainly up to judicial interpretation and scholarly work to help fill the gaps in legislation. This is why Eszter Polgár addresses the topic of ‘Sexual orientation and human rights’.<sup>4</sup> According to the author’s definition, sexual orientation refers to the capacity of a person which determines which gender (man, women or both) one can relate to emotionally and sexually. This definition suggests that sexual orientation is not a question of choice or an illness, but it is irreversible and unchangeable. This approach means that it is unacceptable to criminalize relationships between homosexual or bisexual persons which is still the case in many states today. At the same time, the author states that the LMB community does not seek additional rights, but equal rights and equal treatment. This has two dimensions. Firstly, the decriminalization of same sex relations and secondly, to open the institution of marriage and child adoption. Legal development in this respect varies in from state to state, even in Europe. The chapter provides a detailed collection of case law on the development of equality mainly within the Council of Europe, which according to her can be considered as the pioneer of LMB rights.

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4 Id. pp. 655-662.

While LMB rights concern a minority of people, the right to access water is definitely of interest to every individual and every nation. This is especially true in light of climate change, global warming and the increasing occurrences and vast scale of droughts in Africa. This is why Melinda Szappanyos' chapter on the 'Right to water'<sup>5</sup> is an essential contribution to the topic. She points out that the right to water may not be traced as far back as other aspects of human rights, but it is becoming increasingly relevant to deal with the problem. The right to water has not always been a right of its own and it is still rarely included in international treaties as such. Yet it is considered to be an evident and indispensable part of the right to life and the right to health. The paper also provides a general introduction to the content of the right to water. It should be mentioned that the author presented the two most relevant questions of access to water. Hydro-conflict refers to legal disputes between states regarding water reservoirs, while the privatization of water supply raises questions regarding the role and duty of the state in case a private entity owns and manages the water supply system.

The encyclopedia contains numerous other studies from various fields discussing a wide range of issues concerning human rights. While the present book review cannot give a glimpse into the wealth of human rights issues raised in the volume, it may encourage the reader to get acquainted with this ambitious project. To summarize, this ambitious scholarly work covers almost all aspects of human rights and constitutes a valuable source for both academics and practitioners. Since it is written in a simple, intelligible language, and as such, may also be interesting for individuals who seek legal protection or are simply interested in legal topics.

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5 Id. pp. 735-740.