Edmund Husserl, the founder of phenomenological philosophy. The sec conception, espoused, for example, by Hans Kelsen, is the most popular among jurists and moralists. The third conception, represented, for exam by Emil Durkheim, a French classic in sociology, is characteristic of empi scientists and has among its noted exponents the biologist Pierre Teilhard Chardin.

After a detailed analysis of the above three conceptions, the author f that they are not incompatible with each other. They are each tenable f the viewpoints of language and of the theory of science. Hence the dis about the nature of normative science may seem to be pointless. However, dispute is nevertheless significant because of various important issues invo These include the following: Is it possible to know by means of norms, if so, how? Is it possible to obtain normative knowledge? Is it possibl provide a rational foundation to norms? Is the distinction between facts norms justified? If these questions relate to the real gist of the dispute a normative science, there is no way to appease the dispute. Rather we sh accept it as an instance of the perennial restlessness and inconclusiv of philosophic thought.

I subscribe to the author's main conclusions and agree with his argu on special matters (having, of course, occasional preferences for prese them in a somewhat different way). I would like to raise here only a s point, which is particularly important for understanding the nature special status of jurisprudence. If we accept Kalinowski's view of the plementarity of the above three (possibly more) conceptions of norm science, does this mean only that at least three normative sciences are s possible? Or does this mean that it is also possible to have a unitary co legal science which incorporates all the above conceptions?

Kelsen would answer the second question in the negative by invokin principle of "methodological syncretism" and condemning what may from its violation. Without proposing to go here into detailed justifi of my view, I submit that it is feasible to answer this question i affirmative. I believe that it is possible to take a "synoptic" view products of various rational approaches to the object of a study an it is possible to conceive a method which organises different methods i impeccable unity of intellectual procedure. This integrative approach m be required with respect to particular disciplines of legal thought; ho it is necessary for a fundamental or embracing discipline of legal th which in the Anglo-Saxon legal civilization is called "jurisprudence".

ILMAR TAMM

U.N. Protection of Civil and Political Rights, by J. Carey, Volume 8 cedural Aspects of International Law Series, Syracuse University Press, xii + 205 pp. (U.S. $7.50).

John Carey's book is an important and distinctive contribution literature on human rights. Monographic and periodical literature subject has not kept pace with the massive proliferation of instrume institutions on human rights, and studies focusing on their spe implemention are indeed regrettably meagre. The book under review this slender material on the subject.

Carey's study attempts an evaluation of the United Nations' a

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in the protection of human rights in the context of the 1968 celebration of the International Year of Human Rights and the Silver and Golden Jubilees respectively of the U.N. and I.L.O. His book must be prescribed reading for all protogonists of the elimination of racial discrimination in this year's global campaign against discriminatory policies and practices.

The book, although not so organized, easily divides itself into two major segments. The first part (pp. 5-83) examines afresh in the light of the United Nations' attempts to secure human rights the well known inadequate methods of doing so. The second (and for this reviewer the more worthwhile) part (pp 84-176) concentrates on the United Nations investigations concerning violations of human rights in Southern Africa, giving rise to a scholarly indictment of the United Nations' "double standard" in processing complaints for the violation of human rights.

The staple "measures and methods" of protection of human rights are: standard-setting through conventions and declarations, adjudication, negotiation and education. Each modality of protection has its distinctive problems and limitations. Nevertheless, exploitation of most or all of these methods is by no means negligible. Of this wide range of measures, perhaps, education in the field of human rights is, potentially and in the long run, the single most crucial measure for protection of human rights. Unhappily, the miniscule work of the United Nations in this area is reflected poignantly in Carey's five page account (pp. 17-21).

No doubt, the 1966-1969 period witnessed a number of U.N. Seminars on human rights in various parts of the world and the notable U.N. program of fellowships in the field of human rights will, as it continues to grow, hopefully orientate a larger number of scholars, officials and diplomats to the field. And the 1968 General Assembly Resolution noted by Carey (p. 21) recommending teacher training in human rights and progressive instruction in the subject at primary and secondary school levels also marks another major step towards promoting educational measures as a means of long-term protection of human rights.

It is of course too early to speculate about the long-term impact or even the career of these educational measures. The present tasks rather lie in the direction of consolidation and expansion of such educational measures as have proved acceptable to member-states and in promotion of further consensus about other intensive educational programmes. All this naturally requires even greater dedication of resources and talent by the appropriate United Nations agencies; but non-governmental organizations and institutions of tertiary education in every State have corresponding duties. There is a need for specialized teaching and research in the law and evolution of human rights, as also for para-academic interdisciplinary associations concerned with human rights in each nation. The typically minimal involvement with human rights in law and political science faculties in most universities in the world needs to be thus redressed. Australia indeed may be regarded as having unique leadership opportunities for promoting educational measures for human rights in the West Pacific and South East Asian region. Perhaps, a beginning could be made by an earnest consideration of the establishment of chairs or centres of human rights in some Australian Universities.

Indeed, attempts in this direction in Australia and other States will not automatically ensure a global protection of human rights in this decade or even by the turn of the present century. But continuing educational measures of this nature will steadily contribute to the creation of a climate indispensable to any proper safeguarding of fundamental freedoms in this part of the world, if not for the world as a whole. In an area so beset with imponder-

ables, and so vitally affecting human lives, such modest gains are well worth dedication, aspiration, and cost.

And the need for national efforts of this type becomes paradoxically pressing as the appropriate U.N. agencies increasingly fail to provide models of activism worthy of emulation. One would expect that having more or less satisfactorily solved the problems of marshalling consensus about basic human rights, values and standards, such processes of investigation and indirect implementation as are available to the U.N. would be effectively utilized. Thus, for example, it would seem reasonable to expect that violations of human rights entailed in the apartheid system could be established with relative ease and cogency, leaving the State practising such policies the task of justification most formidable. The experience of the U.N. inevstigations of alleged South African violations of human rights shows how prejudgment and inefficient management of resources for investigation can render U.N. exercises in protection of human rights tragically ineffective.

A major and most distinctive part of Carey's study is the analysis of the investigations made by the *Ad Hoc* Group of Experts formed in 1967 by the Commission on Human Rights.[1] Initially commissioned to investigate charges of torture and ill-treatment of prisoners or detainees in South Africa the activities of the *Ad Hoc* Group widened by successive ECOSOC (Economic and Social Council) mandates for enquiry in the trade union rights in South Africa, in Southern Rhodesia and Southwest Africa and the treatment of prisoners in most of Southern Africa.

The Group had "wide authority" to receive communications, examine witnesses and recommend appropriate action in concrete cases. The Group under the 1967 Commission Resolution was to be composed of "eminent jurists and prison officials".[2]

Carey's detailed narration of the Group's activities so far deserves very close study. To this reviewer, the Group's activities, as described by Carey provide an object lesson in how *not* to investigate human rights violations. Even with the fullest benefit of the overall context, the following points concerning the Group's activities constitute sufficient basis for indictment. First, the Commission's Resolution appointing the Group deemed the charges of "cruel and inhuman treatment" of the detainees and prisoners as proven. Second, the composition of the Group did not follow the formula of including "prison officials besides 'eminent jurists' ". Third, the Group "adopted no formal rules and seldom reached explicit procedural decisions".[4] Fourth, the proceedings were not characterised by probing into the credibility of witnesses. Fifth, in regard to its first enquiry into maltreatment of detainees and prisoners in South Africa, the Group omitted to consider the 1964 Hoffman Report sponsored by the International Committee of the Red Cross (I.C.R.C.) which, though not published, was available to the Group. The Hoffman report contained "considerable derogatory material" and would have thus furnished hard evidence which the Group certainly needed. Perhaps, as Carey suggests (p. 104), the explanation for the Group's surprising attitude towards I.C.R.C. lay in the fact that the I.C.R.C. sent another representative to investigate prison conditions in 1967 in the full awareness of the fact that the Group was established by the Commission on Human Rights.

All these features cumulatively weaken the integrity, credibility and effectiveness of the investigatory process into violations of human rights.

[1] At 95-126.
[2] At 99.
[3] *Ibid.*
[4] At 96-7.

South African apartheid practices are deemed by definition to violate human rights (as this reviewer believes), little purpose is served by purported investigations and findings concerning such violations. The Commission's expertise and dedication must be applied to other situations calling for its attention—and these, on any count, remain unfortunately too numerous and widespread. If, on the other hand, rigorous examination of several facets of the apartheid policy is deemed necessary for effective international action, the Commission needs at the very least more efficient procedures for the management of the anti-apartheid biases of its expert inquiry groups. Certainly, as Carey rightly points out, to be "effective in giving pause to an oppressive regime like that of South Africa, a U.N. investigative body would need to conduct its enquiries with the utmost circumspection".[5] The accusing body or persons should be "strictly separated" from the investigatory tribunal.[6] "Conclusions should not be announced in advance."[7] "Testimony should be probed" if necessary by *advocatus diaboli* procedures.[8] To these rather restrained suggestions for moderation and improvement, the reviewer would add that the U.N. provides already too many cathartic outlets for outraged individual and national consciences. Members of the Commission on Human Rights must not render the Commission impotent by turning it into yet another cathartic agency. Too much human well-being is at stake for exercises in wise statesmanship to be reduced to personal emotional gratifications.[9]

The final aspect of Carey's book we wish to note here briefly concerns what is called the "double standard" of the U.N. in the field of protection of human rights.[10] Carey refers to at least three aspects of this "double standard". First, as was pointed out as early as 1948, while persons under Trusteeship arrangements had the right to petition to the Trusteeship Council, the "citizens of the administering countries did not possess that right".[11] The 1961 extensions of the "petition-and-hearing process" to non-self-governing territories further aggravated this duality of treatment.[12] Second, whereas persons alleging the violation of human rights in South Africa "receive a hearing" and "have both their oral and written testimony mimeographed and circulated to 127 Member States and nearly 200 libraries in various countries", all other persons "complaining of human rights violations by their governments are told that the United Nations cannot help them."[13] Third, this "double standard" is continued in Article 15 of the Racial Discrimination Convention which empowers the eighteen-expert Committee to receive and act upon petitions (related to the Convention matters) from "inhabitants of the Trust and Non-Self Governing Territories and all other territories to which General Assembly Resolution 1514 (XV) applies . . ."[14]

Carey's account of the "double standard" is both exhaustive and accurate. Unfortunately, he fails to distinguish between descriptive and evaluative aspects of this "double standard". It is obvious that the author dislikes the "double standard", but the reasons for this dislike are not readily apparent.

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[5] At 109.
[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*
[9] The need for such exhortations is even further accentuated by the recent "inv[illegible]gations" into Israel's "violations" of the Fourth General Convention by the S[illegible] Working Group of Experts appointed by the Commission on Human Rights. [illegible] analysis in J. Stone, "Behind the Cease-Fire Lines: Israel's administration and the West Bank" in *Of Law and Man* (S. Shoham, ed.; 1971) 79 at [illegible]
[10] At 143-53.
[11] U.N. Doc. A/C. 3 S.R. 158 at 2 (1948), cited by Carey at 144.
[12] At 147.
[13] At 144.
[14] At 152.

Perhaps, the description "double standard" betrays one's thought into regarding the practices so described as necessarily bad. At any rate it does not alert us to the need to evaluate rationales for such practices, as the description "differential treatment" might do.

A book review can scarcely offer the space required for explication and evaluation of rationales underlying differential treatment by the U.N. in the protection of human rights. But clearly the first and the third aspects of the so-called "double standard" do not present problems of justification as difficult as the second aspect. Once a right to self-determination is postulated (at least conceptually) for those *selves* who are hitherto subjugated *by the historic process of colonialism occurring since the 16th century onwards*, then inhabitants of the Trust and non-self-governing territories may be regarded as forming a special class, meriting special consideration and attempts at international protection. The question of placing the apartheid-prone South African nationals in a more privileged position than those of say, Greece, Haiti, or East Pakistan is and remains a difficult moral question, upon whose satisfactory resolution future progress in securing human rights uneasily depends. But by the same token, States which admittedly and systematically engage through their legal and other social control systems in the denial of human rights to groups of nationals under their jurisdiction seem not morally entitled to impeach the United Nations' differential treatment of them.

UPENDRA BAXI*

LETTER TO THE EDITOR

Dear Sir,

My comment "Just Law for Primitive Society" (1917) 6 *Syd. L. Re* 371, was written in 1969, some time before I actually came to Papua-Ne Guinea. The broad theme of the paper, which is essentially theoretical, h been supported by my actual observations since coming to the Territory. Ho ever, I would appreciate the opportunity to make some additional commen in the light of that experience.

1. There are probably about 4½ million people in New Guinea—includi West Irian. Nearly 3 million live under Australian control. There are 6 *language* groups but many language groups contain several tribes, each wi some different customs.

2. Some Niuginians did receive primary education before 1950, but ve few progressed any further.

3. My experience in Papua New Guinea, especially my investigations some aspects of the law of personal property lead me to suspect that in ma cases, there is no concept of a person having an individual property in la or chattels. More common is the concept of clan or family ownership. So of Pospisil's 'case' studies may therefore be limited in their application.

4. I am grateful for discussions with my colleague, Mr. T. E. Barn who has made considerable studies of customary marriage and sexual custo as reflected in customary law in Papua New Guinea. He has informed

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