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International Law and Australian Federlism

Todd Morth

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BOOK NOTES

INTERNATIONAL LAW AND AUSTRALIAN FEDERALISM. Edited by Brian R. Opeskin and Donald R. Rothwell [Melbourne: Melbourne University Press] 1997. Pp. 379.

THE PACIFIC RIM HAS, IN RECENT YEARS, become ascendent in international relations and a source of much international interest. Countries such as Japan and China have been at the forefront of political and academic interest. However, other countries in the region, such as Australia, also have much to offer legal and political scholars. As a significant participant in both regional and world affairs, Australia's international decision-making process ought to concern a wide audience. Australia shares ongoing controversies regarding indigenous rights and immigration with many other countries and any effective analysis of Australia's approaches to these problems requires an understanding of the relationship between Australian and international law.

International Law and Australia Federalism, edited by Brian Opeskin and Donald R. Rothwell, is a compilation of essays that provides a comprehensive examination of the relationship between Australian and international law. As the title indicates, the interaction between international law and a federal legal system is a consistent concern among the book's essays. The American reader will recognize many of the problems described in the book as ones shared by the U.S. system of power allocation. Questions regarding the division of international decision-making power are common to all systems of federal government. The book's essays provide an excellent analysis of Australia's attempts to resolve these issues.

The book also provides an account of how Australia developed as an international sovereign. Australia and the United States differ in this respect because, unlike the United States, Australia cannot trace its birth to a revolutionary break from a colonial power. The essays by I.A. Shearer and Anne Twomey provide an extensive historical discussion of Australia's development. The authors note that although Australia did not begin to exercise diplomatic powers until 1940, Australia had been a party to numerous international treaties and a member of the League of Nations. Australia's indeterminate legal status serves as a counterpoint to the idea that a country must have achieved a version of absolute sovereignty before it can participate in international affairs. The authors do not explore this idea in detail, but the essays and their analysis of the Australian experience serve as a logical starting point for this line of inquiry.

The essays contained in *International Law and Australian Federalism* also describe the impact of international law on Australian domestic law. The editors wisely chose to include a piece regarding Australia's adoption of International Human Rights Laws. This issue is particularly salient given the ongoing concerns of Australia regarding the status of recent immigrants and aboriginal land claims. These disputes certainly implicate concerns of human rights. The American reader will again find a clear difference between the experience of Australia and the United States. Australia has adopted numerous international human rights treaties which have given non-Australians a significant say in Australia's conception of human rights. This voluntary sacrifice of discretion is clearly distinct from the American experience in which the Constitution is the basis and measuring stick for any conceptions of human or civil rights. The author does not argue whether this difference in sources has any implication for the nature or scope of the human rights regimes in the two countries, but the essay does provide an excellent basis for such an analysis.

Those looking for arguments as to why one legal system is superior to another or simply for policy prescriptions for Australian lawmakers, will not find them in this volume. However, *International Law and Australian Federalism* does provide a thorough and measured introduction to the domestic framework governing Australia's international conduct. This collection of essays makes Australian law more accessible to the outside observer and demonstrates Australia's importance in the study of international law.

Todd Morth

RUSSIAN ORGANIZED CRIME. [Washington, D.C.: The Center for Strategic and International Studies] 1997. Pp. 93.

RUSSIAN ORGANIZED CRIME, published by the Global Organized Crime Project of the Center for Strategic and International Studies, is written to address the problem of the organized crime explosion in the former USSR. Chapters One and Two describe Russian organized crime and its impact on the United States. Chapters Three and Four describe the structure of Russian organized crime syndicates and the international relevance of the growth of Russian organized crime. Chapter Five presents solutions to curb or crack down on the Russian mob. An appendix dates and catalogues the occurrence of important crimes.

A "star-studded" committee of distinguished academics, diplomats, and international business figures, such as Robert Gates (former Director of the Central Intelligence Agency), Senator Patrick Leahy, and Senator William Cohen (current Secretary of Defense), contributed to the book. The fact that the book is written "by committee" accounts for the book's major flaw: rather than discuss specific details of solutions to Russia's crime problem, the book has vague directives such as "support business in Russia." A short explanatory paragraph follows, but what this directive precisely means and how it is to be implemented remains unclear. Other proposed solutions, such as strengthening the legal infrastructure within Russia, are even more naive. If the rule of law were so easy to institute and nurture, it would only remain for the Russian federal government to do so. *Russian Organized Crime* does not say what happens when a poorly paid minor functionary in the Russian Department of Justice who has been given orders to strengthen his country's legal infrastructure, is faced with the all-too-common choice of "silver or lead."

Russian Organized Crime is written as an overview, addressing large-scale political concerns of foreign relations between Western countries and Russia. Subsequently, it will not be of much use to the average legal practitioner in their dealings with Russian governmental agencies or business enterprises. However, *Russian Organized Crime* is to be commended on at least one point. Many Russian politicians and most Russians themselves are ambivalent about *glasnost*, *perestroika*, and their associated reforms. The authors of this book generally do not fall into the trap of treating the Russian Republic as an embattled democracy trying to force right-wing communist forces and "mobsters" into battle.

Kevin Mason

