

Winter 1956

# Cases and Materials on International Law, by Lester B. Orfield and Edward D. Re

Kenneth S. Carlston  
*University of Illinois*

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>

 Part of the [International Law Commons](#), [Legal Education Commons](#), and the [Legal Writing and Research Commons](#)

## Recommended Citation

Carlston, Kenneth S. (1956) "Cases and Materials on International Law, by Lester B. Orfield and Edward D. Re," *Indiana Law Journal*: Vol. 31: Iss. 2, Article 10.

Available at: <http://www.repository.law.indiana.edu/ilj/vol31/iss2/10>

This Book Review is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Law Journal* by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact [wattn@indiana.edu](mailto:wattn@indiana.edu).



**JEROME HALL LAW LIBRARY**

INDIANA UNIVERSITY  
Maurer School of Law  
Bloomington

# BOOK REVIEWS

CASES AND MATERIALS ON INTERNATIONAL LAW. By Lester B. Orfield and Edward D. Re. Indianapolis: The Bobbs-Merrill Company, Inc., 1955. Pp. xxi, 781. \$12.00.

This is a book which conscientiously achieves its stated objective: To "provide a flexible teaching tool for an introductory course in international law in law schools." The materials presented are at their irreducible minimum. Indeed, the teacher will have to plan to use a considerable amount of class time to flesh out their bare bones and give them life and solidity. But it would be unfortunate indeed if the materials in a course in international law should be so complete as to inhibit their use as a springboard for discussion and the exploration of ideas. Moreover, the authors have provided extensive bibliographical assistance. Each chapter has its own bibliography, notes of references bearing on particular topics are included, and Appendix 4 contains a selected general bibliography. Pathways are thus provided which the inquiring mind may pursue.

The approach to the course is that of the classical positivist. It is affirmed that states are the subjects of international law and custom, based on common consent, the source of its rules. The nature and function of international law, its sources, sanctions, codification, and relation to municipal law, are disposed of in twenty pages. Yet one wonders whether an important value in the course may not lie in bringing the student to a realization that we have in international law a different kind of law from that which he had previously studied. This would involve an exploration of the sociological as well as the juridical bases of international law, its strength and its limitations, and its possibilities for growth.

Considerable questioning exists today whether the hitherto accepted juridical framework of international law does not need to be recast. Professor McDougal's brilliant lectures at the Hague in 1953 provide a model by which international law may be integrated with the social sciences.<sup>1</sup> The question of the place of the individual in international law,<sup>2</sup> which

---

1. McDougal, *International Law, Power and Policy: A Contemporary Conception*, 82 ACADEMIE DE DROIT INTERNATIONAL, RECUEIL DES COURS 137 (1953).

2. See JESSUP, *A MODERN LAW OF NATIONS* 8-10, 15-42 (1948); Aufricht, *Personality in International Law*, 37 AM. POL. SCI. REV. 217 (1943); Idelson, *The Law of Nations and the Individual*, 30 TRANSACTIONS OF THE GROTIUS SOCIETY 50 (1944); Lauterpacht, *The Subject of the Law of Nations*, 63 L.Q. REV. 438 (1947), 64 L.Q. REV. 97 (1948); Manner, *The Object Theory of the Individual in International Law*, 46 AM. J. INT'L L. 428 (1952).

is so central to reexamination of the theory of international law now taking place, cannot be adequately dealt with merely by the inclusion of the Universal Declaration of Human Rights and references to some of the literature bearing on the human rights and genocide movements, as is done in five pages of the text. Faced with the realities of the classroom, the necessity of providing materials which would permit a coverage of the traditional subject matter of the course within the designated class hours, the authors have, however, apparently concluded that it is not possible to enter upon such speculations.

A reviewer may raise issues as to the validity of the fundamental assumptions of an author, as we have above. Evaluation of his work would not otherwise be complete. But a reviewer must primarily concern himself with the question: What was the author's objective and how well did he succeed in reaching that objective? In pursuit of their stated objective, the authors have provided a text which with admirable conciseness covers not only the traditional subject matter of a course in international law but also includes at least two topics not usually found, namely, a rounded exploration of the topic of the international administration of justice and an examination of the procedural aspects of international claims. Attention is also given to the important developments in recent years in the law of jurisdiction over air space. Throughout the text, preference in the selection of materials has been given to recent developments. Freshness and vitality are thereby imparted to a course which can be sterile unless it is related to the realities of international life.<sup>3</sup>

In short, this is a text prepared by experienced teachers, containing a thoughtful and professional selection of materials, and carefully designed for classroom instruction purposes.<sup>4</sup> Certainly the student who has gone through this casebook, under the guidance of a teacher who imparts meaning and depth to the materials selected, can rest assured that he has been given as thorough an exposure to the subject matter of international law as is possible within the time allotted in the law school curriculum.

KENNETH S. CARLSTON†

---

3. "Without it [the background of international society], international law must appear to the student as a lifeless and quaint phenomenon." Schwarzenberger, *On Teaching International Law*, 4 INT'L L.Q. 299, 300 (1951). "International law . . . cannot be considered in isolation. Unless continually related to international politics it becomes unreal." Wright, *The Teaching of International Law in the Post War World*, PROCEEDINGS OF THE EIGHTH CONFERENCE OF TEACHERS OF INTERNATIONAL LAW AND RELATED SUBJECTS 27 (1946).

4. The teacher of international law is provided in Appendix 3 with a selected bibliography on the teaching of international law.

† Professor of Law, University of Illinois.