

BOOK REVIEW: *PUBLIC INTERNATIONAL LAW: AN AUSTRALIAN PERSPECTIVE*

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Sam Blay, Ryszard Piotrowicz and Martin Tsamenyi (eds) Public International Law: An Australian Perspective, (2 ed, Oxford University Press, Melbourne, 2005) (424 + xl pages) NZ\$95.

A few weeks into my undergraduate law degree at the University of Sydney, I found myself at the Women's College (my hall of residence) Law Faculty dinner, seated next to James Crawford, then Dean of the Law School and Professor of International Law and opposite Dame Elizabeth Evatt, former Chief Judge of the Family Court of Australia, member of the United Nations Human Rights Committee and niece of H V Evatt, Australia's representative at the San Francisco conferences that agreed the United Nations Charter. It was with similar trepidation that I approached reviewing this book, featuring as it does a chapter by Crawford, and chapters by, among others, several lecturers from my undergraduate years, including Brian Opeskin, Ivan Shearer and Don Rothwell. I was therefore pleased, and not a little relieved, to find this text an accessible, engaging and stimulating read that explains and illuminates the complexities of international law in the contemporary world.

The structure and layout of the book is clear and logical. There are 16 chapters, each written by an expert in the field and dealing with an aspect of international law. The initial chapters deal with what might be called traditional international law topics such as the structure of the international legal system, sources of international law and the law of treaties. Later chapters deal with increasingly prominent areas of international law such as environmental law, law of the sea, human rights and refugees. Each chapter consists of an introduction followed by an exposition of the subject under clear headings – that are helpfully separately referenced in the table of contents – and a brief conclusion. The editors consciously eschew footnotes, opting instead for a case list with full references in the introductory pages, and the use in the text of short or common case names. This means the reader is not distracted from the flow of the argument by lengthy references. At the end of each chapter, a series of questions highlights unresolved tensions in the law, and provides a guide

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for students trying to formulate research topics. A limited list of further reading is not overwhelming for those approaching these topics for the first time, and a list of useful websites acknowledges the reality of research today.

The writing style obviously differs for each contributor, but overall it is engaging and lively. McCormack refers to an argument as "ludicrous"¹ and Greig suggests terminology such as "non-legal soft law" is "inelegant, to say the least".² As this is a textbook rather than a book of cases and materials, conventions, decisions and judgments are extracted only to the extent necessary to illustrate a point. Reading this book will not be a substitute for finding and reading the primary sources. As Shearer explained for example, his chapter was designed to "indicate broad contours and perspectives" in the subject of jurisdiction.³ Explicitly aimed at "undergraduate students of international law with little or no prior knowledge of the subject",⁴ this book provides a starting point, rather than the definitive last word on each subject.

Refreshingly for a legal textbook, the authors do not take themselves, or their subject, too seriously. The authors acknowledge the geopolitical context in which conventions were agreed and in which contemporary decisions are made by governments. The chapter on refugees for example, explains how the Convention Relating to the Status of Refugees was a response to the essentially European problem of the refugee flows before, during and after World War II.⁵ In dealing with politically sensitive issues, such as the justification of the use of force in Iraq and the definition of 'refugee', the writers present their arguments robustly and independently, but without descending into polemic.

The writers do, however, acknowledge the increasing revitalised interest in international law, and the current roles for international lawyers. In his chapter on sources of international law for example, Greig writes that citation of legal writers, "is a necessary part of the work of the advocate to an international tribunal or of the official in preparing legal advice for his or her government". For students dreading clerking at corporate law firms, it should be firstly encouraging to be able to infer from such comments that there are jobs for international lawyers, and secondly, inspiring to read the brief biographical notes for the authors that further illustrate the roles for international lawyers in both academia and practice.

1 Timothy McCormack "The Use of Force" in Sam Blay, Ryszard Piotrowicz and Martin Tsamenyi (eds) *Public International Law: An Australian Perspective* (2 ed, Oxford University Press, Melbourne, 2005) 229.

2 Donald W Greig "Sources of International Law" in Blay, Ryszard and Piotrowicz, above n 1, 76.

3 Ivan Shearer "Jurisdiction" in Blay, Ryszard and Piotrowicz, above n 1, 180.

4 Blay, Ryszard and Piotrowicz, above n 1, xxxii.

5 Peter Nygh and Sam Blay "Refugees" in Blay, Ryszard and Piotrowicz, above n 1, 287.

Subtitled "An Australian Perspective", this text does focus on the Australian experience, drawing on Australian implementation of international obligations, and the interpretation by Australian courts of the principles of international law. In their chapter on refugees, Peter Nygh and Sam Blay closely analyse various judgments of the High Court of Australia.⁶ Nevertheless, if the media coverage in New Zealand of Australia's interpretation and practice of international law is anything to go by, there is a general interest here in Australia's approach. Aside from its comparative value, the book would still be a helpful starting point for New Zealand students of international law. The writers tease out the major principles of international law – referring where appropriate to important cases involving New Zealand, such as the Rainbow Warrior Arbitration. The emphasis on the Australian context varies according to subject. The chapter on state responsibility for example, focuses on the Articles of state responsibility codified by the International Law Commission, of equal importance to New Zealand as Australia.

Given the broad interest in international law and actions taken in its name – and given the misreporting and indeed misuse of legal arguments in modern political discourse and public commentary – I would recommend this textbook not only to law students, but also to students of international relations, politics, aid and development, and human rights and to journalists, commentators and perhaps even the odd politician. Now, if only the next edition could include more references to the New Zealand experience and become an Australasian Perspective on International Law.

6 Peter Nygh and Sam Blay "Refugees" in Blay, Ryszard and Piotrowicz, above n 1, 295.