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Book Note

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Book Note

PUBLIC INTERNATIONAL LAW IN A NUTSHELL. By Thomas Buergenthal† and Harold G. Maier.†† St. Paul: West Publishing Company, 1985. Pp. xxxix, 262. \$8.95.

Reviewed by Covey T. Oliver*

Students of international law in the United States have long desired a textbook to accompany the use of one or another of the "case-materials-problems" study books used in their courses. They do not yet have such a text,¹ but now they can find substantial degrees of security, guidance, and intellectual encouragement in a veritable gem of a *Nutshell*.

Professors Buergenthal and Maier have written a remarkably accurate and insightful book on international law,² almost as if they had engraved it on a small gold tablet. It is, as a work, outstanding in the West Publishing Company *Nutshell* series.

This *Nutshell* cannot, of course, give the detailed, analytical evaluations of a wide range of issues that a well-planned 45 to 60 hour course on International Law should provide. Thus, it cannot substitute reliably for the preparation, note-taking, summary making, and cohesive thought that a serious student should undertake for such a course. But, even for the dedicated student, the *Nutshell* on public international law can be a real aid, at least in instances where the assigned materials, instructional leadership, or academic misfortune create fears and uncertainties as to fundamentals.

This *Nutshell* is also a book that can be read, used, and cited on its merits as a scholarly work — a remarkable demonstration of the wide knowledge, acute judgement, and admirable restraint of its authors.

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1. As I write in July, 1986, I have not heard of any recent publication of this nature, although one or more is expected.

2. T. BUERGENTHAL & H. MAIER, PUBLIC INTERNATIONAL LAW IN A NUTSHELL (1985).

They are balanced. They are fair to contending principles. They bring the coverages they have chosen right up to the state of "the law" at publication.³

The authors have had to leave some subject matter out;⁴ and in their coverage selections they reflect an "American" outlook as to international law. Their analysis parallels the current casebooks and the Restatements, the 1965 original and the 1986 Revision. Their coverage selections result in attention to jurisdiction, act of state, state immunity, human rights, and the law of treaties, both from an international perspective and under the United States constitutional system. These are topics that a "stripped down" (for example, 30 hour) course on international law would most likely deal with as a minimum.

My only substantive concern is as to the authors' encouragement, early on,⁵ of those who threaten the fundamental principle of universality by their bland disregard in domestic application of customary international law to issues of standing and remedy mandated for an international application of customary international law.⁶

3. See, e.g., *id.* at 202-05 (the report on customary international law human rights deprivation cases in domestic courts in the United States).

4. See *id.* at xvii-xviii (explaining the exclusion of law of the sea, international economic law, international environmental law, and the law as to use of force). Air and space law is also omitted. On the other hand, a very useful Chapter 10 on international legal research sources is included. See *id.* at 235-50.

5. *Id.* at ch. 1, §§ 1-7, 1-8, at 4-5. As to remedies for nationalization, see, *inter alia*, J. SWEENEY, C. OLIVER, & N. LEECH, *CASES AND MATERIALS ON THE INTERNATIONAL LEGAL SYSTEM* 1174-80 (1981).

6. As to "rights" and standing of individuals suing under customary international law in domestic courts, see T. BUERGENTHAL & H. MAIER, *supra* note 2, at 205, for the authors' own presentation, of the fundamental conflict between *Filtartiga v. Penarala*, 630 F.2d 876 (2d Cir. 1980), case and the per curiam outcome in *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774 (D.C. Cir.1984) (particularly Bork, C.J., concurring). See also RESTATEMENT (SECOND) FOREIGN RELATIONS LAW OF THE UNITED STATES § 103 (1965).