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Noteworthy New Titles

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Noteworthy New Titles

Daniel L. Wade[†]

PUBLIC INTERNATIONAL LAW

From Coexistence to Cooperation: International Law and Organization in the Post-Cold War Era. Edited by Edward McWhinney et al. Boston: Nijhoff Publishers, 1991. Pp. xiv, 299. (Hardbound).

This volume collects essays on a wide range of topics in international legal theory and practice, focusing on the changes effected by the realignment of world political power of the late 1980s. The eleven sections consider issues from disarmament and arms control, to environmental challenges to international security, to human rights and international terrorism.

The authors include several renowned diplomats, government officials, and law professors, many of them Canadian and Russian. Professor Grigory Tunkin of Moscow State University and Chief of the Institute of State and Law of the (now defunct) Soviet Academy of Sciences writes on "International Law and International Politics in the Nuclear Age." John Noble, head of the Canadian delegation to the Open Skies Conference and former Canadian Government official, writes on the "Open Skies Treaty Initiative."

Unfortunately, the fast pace of events in the former Soviet Union has superseded many of the contributions in this collection.

Surrender, Occupation, and Private Property in International Law: An Evaluation of US Practice in Japan. By Nisuke Ando. Oxford: Oxford University Press, 1991. Pp. 208. (Hardbound).

Nisuke Ando, Professor of International Law at Kyoto University and a member of the Human Rights Committee established under the International Covenant on Civil and Political Rights, analyzes the legal regime that governs occupation during and after wars. Paying particular attention to the status of private rights to property that is temporarily used, annexed, or destroyed by the occupiers, Professor Ando addresses the issues of restitution and compensation that may arise after the occupation has ceased.

Using the example of the U.S. occupation of Japan in the ten years after World War II, this treatise makes extensive use of legal documents, both Japanese and U.S., from the occupation period. Professor Ando

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concludes by drawing some parallels between U.S. practice in Japan and European practice during the same period in an attempt to ground rules for occupiers' legal responsibility in a general framework for the disposition of occupied nationals' private property in an international legal order.

INTERNATIONAL REGULATION

Legal Aspects of Implementing International Telecommunications Links: Institutions, Regulations and Instruments. By Jan Smits. Boston: Nijhoff Publishers, 1991. Pp. xvii, 214. (Hardbound).

In a volume of the Utrecht Studies in Air and Space Law, Jan Smits, a Lecturer in International Law at the University of Utrecht, gives the international telecommunications law world a detailed study of the institutions, regulations, and technology of all forms of telecommunication. Smits analyzes the four stages in the construction of an international telecommunications system: the choice of the system, its interconnection with other systems, its operation, and its maintenance.

Smits juggles a host of international agencies and navigates an alphabet soup of acronyms describing the myriad technological intricacies of telecommunications science. His analysis relies on a wealth of schematic diagrams and an exhaustive series of tables that demonstrate the distinct legal concerns surrounding of submarine cable systems as well as spaceborne satellite systems.

INTERNATIONAL TRADE LAW

Constitutional Functions and Constitutional Problems of International Economic Law: International and Domestic Foreign Trade Law and Foreign Trade Policy in the United States, the European Community, and Switzerland. By Ernst-Ulrich Petersmann. Fribourg, Switzerland: University Press, 1991. Pp. li, 463. (Paperbound).

Dr. Petersmann, Professor of International Law at the University of St. Gallen, Switzerland, writes this third volume in the Progress and Undercurrents in Public International Law (PUPIL) series. This wide-ranging work treats the historical evolution and present functioning of the global economic order as a framework for a world economic constitution.

In the first part, Professor Petersmann assesses the comparative legal aspects of various international economic transactions. He then moves on to dissect the influence of diverse national and supranational governments—such as the United States and the European Community—on trade policy

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and restrictions. Finally, the author synthesizes the objectives of democratic constitutional management of global economic affairs in the multinational sphere, through GATT, the Bretton Woods system, and other multilateral institutions.

Jurisdictional Problems in International Commercial Arbitration: A Study of Belgian, Dutch, English, French, Swedish, Swiss, U.S., and West German Law. By Adam Samuel. Zurich: Schulthess, 1989. Pp. 333. (Paperbound).

Volume eleven in a series compiled by the Swiss Institute of Comparative Law, *Jurisdictional Problems* tackles many of the thorniest quandaries in the murky realm of international commercial arbitration. This exhaustive review analyzes issues from the elemental nature of the arbitration process—its mechanisms and participants—to the content of arbitral decisions and their implementation. Professor Samuel concludes with a thoroughgoing investigation of the interaction between the alternative legal processes of arbitration and the official legal and judicial systems of the host and the parties. The work sums up with a close reading of the various international conventions organizing the functioning of the sundry arbitral regimes.

FOREIGN AND COMPARATIVE LAW

Stalin's Prosecutor: The Life of Andrei Vyshinsky. By Arkady Vaksberg (translated from the Russian by Jan Butler). New York: Grove Weidenfeld, 1991. Pp. 374. (Hardbound).

Arkady Vaksberg, a Russian lawyer and journalist for the weekly *Literaturnaya Gazeta*, crafts this monumental biography of the seminal figure in Soviet jurisprudence, Andrei Vyshinsky. Drawing heavily on previously classified documents recently divulged by the now-defunct Soviet Committee on State Security (KGB), Vaksberg creates a groundbreaking historical, legal, and psychological portrait of the man who translated Stalin's murderous reign into the banalities of legal theory. Though Vyshinsky was long known in the West chiefly as the architect of the gruesome Moscow Show Trials of the 1930s, Vaksberg takes great pains to prove how closely the feared prosecutor operated with and supervised the thugs and torturers who softened up his courtroom victims.

The volume includes a stirring foreword from historian Professor Robert Conquest of the Hoover Institute at Stanford University.

HUMAN RIGHTS

International Law and the Rights of Minorities. By Patrick Thornberry. Oxford: Clarendon Press, 1991. Pp. xii, 451. (Hardbound).

Thornberry grapples with the difficult question of how to protect the rights of a particular minority group when most human rights instruments are concerned primarily with the protection of individual rights. He cites a historic trend that elevated concerns over minority rights to the level of high policy after World War I, but this trend then lost momentum. In Thornberry's view, minority rights are enjoying a resurgence in popularity today, particularly in the domain of the rights of indigenous peoples. This resurgence presents an opportunity for change.

Thornberry presents a compelling argument that minorities as holders of rights and duties are almost ignored in international law. Instruments currently in effect contain only minimum forms of protection. Minority rights include the right to existence, or protection against genocide, but the right is not particularly extensive, and international law provides no particular remedy or sanction for abuses. Minorities also have the right to identity, which can also be termed the right to be different, but again no specific remedy is available, and even if it were, the loss of identity is not recompensable. Thornberry concedes that the right to identity must naturally be weighed against the right of the state to political independence and territorial integrity. Recognition and protection of minority rights can threaten a state's existence if the minority is powerful enough. States must learn to see minorities as part of the solution to international disputes, rather than part of the problem.

Thornberry augments his presentation with an appendix containing various international instruments (either currently in effect or in draft form) for the protection of minority rights.