

## CORRESPONDENCE

TO THE EDITOR-IN-CHIEF

### *Teaching International Law*

Professor Woodfin L. Butte reported in these pages a few years ago how he had used the *American Journal of International Law* and *International Legal Materials* in place of the usual casebook for teaching law students in the introductory course in international law at the University of Texas School of Law.<sup>1</sup> During the January–March 1973 ten week teaching term at the University of Oregon,<sup>2</sup> I tried a similar experiment in an advanced seminar with mixed results that may be of interest to teachers of international law.

By arrangement with the Society, students registering in January for the course were given the 1972 issues of the *Journal* and the *Proceedings*. Some awkward delays occurred as the *Proceedings* did not reach Oregon until quite late in the term. It was decided not to require the students to get personal copies of ILM since there was ample material in the *Journals* for advanced seminar work; it was suspected that requiring students to have personal copies of ILM might discourage library research. The term paper assignment was left to student discretion, with the suggestion that those students having trouble deciding on a topic should write on legal solutions to international terrorism, the subject of a prize essay competition for 1972–73 sponsored by the A.B.A.

To organize the material in the 1972 *Journals* into ten weeks of class discussion proved surprisingly easy. Bearing in mind that all the students had had some acquaintance with international law on a law school level, we began with a discussion of jurisprudential schools triggered by articles by Oren R. Young and Myres S. McDougal in the January 1972 *Journal*, proceeded to pollution (articles by Paolo Contini and Peter Sand, Robert E. Stein and Frederic L. Kirgis, Jr.), thence to the series of articles on the *Sabbatino* Case, the International Court of Justice, the European Court of Human Rights, etc. It was found that stimulating discussion could be provoked with regard to all but the most pedestrian research pieces. When all else failed, I asked whether the students thought the author of the article in question had been influenced by the jurisprudence of Professor McDougal and his colleagues. There were several fascinating discussions of the degree to which a more or less policy-oriented approach would have helped an author isolate problems or guide a decisionmaker to a fruitful line of thought.

In retrospect I remain qualifiedly enthusiastic about the approach. There is no doubt the students were made aware of jurisprudential disagreements and their meaning to “real” international lawyers. Another major factor in making international law seem real was the appearance of my own name in a few minor places. This glimpse into the “other world” that competes with students for teachers’ time seemed to lend a sense of

<sup>1</sup> Butte, *Teaching International Law*, 65 AJIL 597 (1971).

<sup>2</sup> The University of Oregon School of Law has since decided to change to a semester system and expand the number of hours available for teaching international law.

participation to the students themselves in that other world. I think the experience of participating vicariously in intellectual disagreements added usefully to students' self-confidence and humility, and took some edge off the usual student brashness. Finally, it is undeniable that the breath of "relevance" freshened the course, although not all students were convinced of the relationship of all articles to the real world.

On the other side, the jurisprudential material in the 1972 *Journals* was explicit only in the Young and McDougal exchange, giving a rather distorted view of the actual conceptual ferment now going on. It was necessary to suggest some supplemental readings to make even that limited exchange comprehensible to students who had had no prior direct training in jurisprudence. The articles were of uneven utility, some at one extreme being nothing more than a meticulous traditional analysis of some very fringe technicalities, others being nothing more than a translation into policy terms of questions crying out for more meticulous traditional analysis. Confining the course readings to a single year of a single *Journal* with only minimal supplementation meant that some of the most trenchant analyses of some of the most pressing international legal problems had to be given a subordinate place in additional reading. There is a difficulty in introducing the *Journal* as a leading publication, important enough to be the only assigned reading material, and keeping the students aware that the *Journal's* selection of articles is made from a far smaller pool than the selection in a casebook or the bibliography of a good text.

It may be concluded that the substance of the course could probably have been more efficiently conveyed by a selection of readings not restricted to the *Journal*, but that the sense of immediacy and reality conveyed by using a leading quarterly publication was a balancing factor.

ALFRED P. RUBIN

TO THE EDITOR-IN-CHIEF

*Reply to Professor Marek*

With due respect for the rule that authors should, at least in public, only respond to reviews if these misrepresent the actual content of a book, I should like to comment very briefly on Professor Krystyna Marek's somewhat indignant criticism of my book, *Das Reziprozitätselement in der Entstehung des Völkergewohnheitsrechts*, which appeared in the April issue of the *Journal*.<sup>1</sup>

Although from a formal point of view Dr. Marek is right in observing that "only one short chapter examines the subject," it would have been only fair to add that the other parts of the book clear the ground by analyzing the formation of customary international law as well as reciprocity in general. Furthermore I quite agree with Dr. Marek that a statement to the effect that all rules of general customary international law are applicable reciprocally (p. 48 of the book) would be misleading if made without any further qualification. Precisely that can be found on the same page, however, where I said, e.g., that reciprocal applicability is a feature of all those customary rules that regulate relations which every state has, or can have, with every other state ("Verhältnisse, die jeder Staat zu jedem anderen hat oder haben kann," using an expression of Max Huber.)

<sup>1</sup> 67 AJIL 381-82 (1973).