On Seyersted and his

*Common Law of International Organizations*

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This is a happy occasion: it is not everyday a work of this importance is launched, and most assuredly not when its main author has already passed away. International institutional lawyers owe much to Torfinn Arntsen for having committed himself to delivering Finn Seyersted’s manuscript and seeing to it that it would be published in readable and sensible form. I think we also owe the editor a debt of gratitude for not having interfered too much with the manuscript as he found it. In cases such as these, when a manuscript has been lying around for a number of years (decades, really), the editor basically can do one of two things. He can either take the manuscript and polish it a bit, while leaving it intact, or take the manuscript and work on it to make it into a topical publication valid for today and perhaps tomorrow. Fortunately, Mr Arntsen has resisted the urge to do this; instead, he remained faithful to the original manuscript, and therewith enables the world to have a glance at Seyersted’s rather unique – and brilliant – understanding of the law of international organizations.

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The occasion was the public presentation of Finn Seyersted, *Common Law of International Organizations* (Leiden: Brill, 2008), edited by Torfinn Arntsen, a former pupil of Seyersted’s working at Norway’s Ministry of Foreign Affairs. The occasion took place in Oslo, on 9 June 2008, and was organized by the Norwegian branch of the International Law Association.
This has of course the implication that reading *Common Law of International Organizations* as a current textbook would be mistaken, for a variety of reasons. Most obviously perhaps, much of the material is outdated: typically, Seyersted used cases, examples, readings and correspondence from the 1930s and 1950s. As a result, quite a few later cases that one would expect in a current, up-to-date textbook are simply not there. One would look in vain for a discussion of the *Mazilu* opinion of the ICJ, or its opinion on the plight of Mr. Cumurawamy. The opinion on the World Health Assembly’s request is mentioned but never discussed in detail, and landmark decisions by domestic courts or international awards are, likewise, not overly present: one looks in vain for an in-depth discussion of, say, *Mendaro v. World Bank*, or the *EMBL* arbitration, let alone the recent *Behrami* decision of the European Court of Human Rights.

By the same token, much of the debates Seyersted engaged in (and he engaged in quite a few, and was quite vigorous in doing so) were debates with his contemporaries. There are lengthy passages debating things with Henri Battifol or Ignaz Seidl-Hohenfeldern, and polemic diatribes, enjoyable in their own right, against Fritz Mann. But of authors active in the late 20th and early 21st century, only August Reinisch makes a sustained appearance throughout the footnotes; that is in itself understandable, as one of Reinisch’s themes is the connection between international institutional law and domestic law, a relationship that also fascinated Seyersted and to which a substantial part of *Common Law of International Organizations* is devoted.

In a textbook, up to date or not, one would also expect coverage of topics such as the financing of international organizations, issues of membership, or dissolution and succession. While these are not completely ignored, they are not addressed in a systematic way either, and neither is such a staple as the legal effect of decisions of international organizations. That said, though, the book contains an informed, systematic and fairly up-to-date discussion of the responsibility of international organizations.

And then there are somewhat minor quibbles. Often, Seyersted will claim that some practice has become customary law, but without offering much by way of proof. Most annoyingly, the text is often repetitive: if Seyersted

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2) This concerns August Reinisch, *International Organizations before National Courts* (Cambridge University Press, 2000).