

# **WHAT IS INTERNATIONAL LEGAL ORDER?**

- **Subjects of law**

Who are the participants in international legal order?

- States, international organizations (sometimes private individuals)

- **Horizontal system of sovereign states**

Where is the law, who makes it?

- No formal machinery => law comes into effect by general consent of states

- **Sanctions**

=> What is the basis of obligation?

- States consider international law binding

# Law And State And International Legal Order

**Olivier de Frouville**



## **Law And State And International Legal Order:**

**State Responsibility in the International Legal Order** Katja Creutz, 2020-09-24 State responsibility in international law is considered one of the cornerstones of the field For a long time it remained the exclusive responsibility system due to the primacy of States as subjects of international law Its unique position has nonetheless been challenged by several developments both within and outside the international legal order such as the rise of alternative responsibility ideas and practices as well as globalization and its consequences This book adopts a critical and holistic approach to the law of State responsibility and analyzes the functionality of the general rules of State responsibility in a changed international landscape characterized by the fragmentation of responsibility It is argued that State responsibility is not equally relevant across the broad spectrum of international obligations and that alternative constructions of responsibility namely international criminal law and international liability have increased in standing

**General Theory of Law and State** Hans Kelsen, 2009 Reprint of the first edition This classic work by the important Austrian jurist is the fullest exposition of his enormously influential pure theory of law which includes a theory of the state It also has an extensive appendix that discusses the pure theory in comparison with the law of nature positivism historical natural law metaphysical dualism and scientific critical philosophy The scope of the work is truly universal It never loses itself in vague generalities or in unconnected fragments of thought On the contrary precision in the formulation of details and rigorous system are characteristic features of the exposition only a mind fully concentrated upon that logical structure can possibly follow Kelsen s penetrating analysis Such a mind will not shrink from the effort necessary for acquainting itself with the pure theory of law in its more general aspects and will then pass over to the theory of the state which ends up with a carefully worked out theory of international law Julius Kraft American Journal of International Law 40 1946 496

**The Emerging Autonomous Legal Order of the Eurasian Economic Union** Maksim Karliuk, 2023-07-06 An original systematic assessment of the legal order of the Eurasian Economic Union examining it as another iteration of post Soviet integration

*Tracing Value Change in the International Legal Order* Heike Krieger, Andrea Liese, 2023-04-28 International law is constantly navigating the tension between preserving the status quo and adapting to new exigencies But when and how do such adaptation processes give way to a more profound transformation if not a crisis of international law To address the question of how attacks on the international legal order are changing the value orientation of international law this book brings together scholars of international law and international relations By combining theoretical and methodological analyses with individual case studies this book offers readers conceptualizations and tools to systematically examine value change and explore the drivers and mechanisms of these processes These case studies scrutinize value change in the foundational norms of the post 1945 order and in norms representing the rise of the international legal order post 1990 They cover diverse issues the prohibition of torture the protection of women s rights the prohibition of the use of force the nonproliferation of nuclear weapons sustainability norms

and accountability for core international crimes The challenges to each norm the reactions by norm defenders and the fate of each norm are also studied Combined the analyses show that while a few norms have remained surprisingly robust several are changing either in substance or in legal or social validity The book concludes by integrating the conceptual and empirical insights from this interdisciplinary exchange to assess and explain the ambiguous nature of value change in international law beyond the extremes of mere progress or decline **Transconstitutionalism** Marcelo Neves,2013-05-01

Transconstitutionalism is a concept used to describe what happens to constitutional law when it is emancipated from the state in which can be found the origins of constitutional law Transconstitutionalism does not exist because a multitude of new constitutions have appeared but because other legal orders are now implicated in resolving basic constitutional problems A transconstitutional problem entails a constitutional issue whose solution may involve national international supranational and transnational courts or arbitral tribunals as well as native local legal institutions Transconstitutionalism does not take any single legal order or type of order as a starting point or ultima ratio It rejects both nation statism and internationalism supranationalism transnationalism and localism as privileged spaces for solving constitutional problems The transconstitutional model avoids the dilemma of monism versus pluralism From the standpoint of transconstitutionalism a plurality of legal orders entails a complementary and conflicting relationship between identity and alterity constitutional identity is rearticulated on the basis of alterity Rather than seeking a Herculean Constitution transconstitutionalism tackles the many headed Hydra of constitutionalism always looking for the blind spot in one legal system and reflecting it back against the many others found in the world s legal orders *New Constitutional Horizons* Cormac Mac Amhlaigh,2022 This book examines the conceptual puzzles that multilevel pluralism poses for our constitutional theories It offers fresh perspectives by addressing the pluralism of norms and authorities from the viewpoint of legality and legitimacy proposing novel solutions for pluralizing constitutional theory in the light of multilevel governance The Law and Politics of International Regime Conflict Dirk Pulkowski,2014-02-13 The international order is constituted by a plurality of international regimes institutionalized arrangements in different issue areas that possess their own norms and procedures The present book examines how conflict among regimes may arise and probes the role that international law can play in managing such conflict Throughout the book the example of trade in cultural products is used to illustrate the evolution of regime conflict and the potential for its management Conflicts between the goals of free trade and cultural diversity have notably surfaced within the World Trade Organization WTO and the United Nations Educational Scientific and Cultural Organization UNESCO As a result there is a potential for conflict among WTO law the UNESCO s Convention on the Protection and Promotion of the Diversity of Cultural Expressions and human rights The book posits that three dimensions are characteristic for regime conflict First regime conflict is a function of conflict among different social goals or values Second such goal conflicts are institutionalized through the interaction of a variety of political actors struggling for influence often in intergovernmental

organizations Third regime conflict may manifest itself in conflicts of legal rules If a state acts in conformity with the rules of one regime its conduct may trigger a violation of the rules of another regime The author argues that while international law cannot be construed as a fully integrated and unified system it does provide a common language for different regimes to engage with each other The shared discourse rules of international law enable a degree of coordination of the policies of different regimes notably through techniques of interpretation and legal priority rules International law contributes to the management of regime conflict by providing commonly accepted reasons for choosing among competing policy goals

*From Cosmopolitanism to Human Rights* Olivier de Frouville, 2022-01-13 This book explores a democratic theory of international law Characterised by a back and forth between theory and practice it explores the question from two perspectives a theoretical level which reflects and criticizes the categories words and concepts through which international law is understood and a more applied level focussing on cosmopolitan building sites or the practical features of the law such as the role of civil society in international organisations or reform of the UN Security Council Though written for an academic audience it will have a more general appeal and be of interest to all those concerned with how international governance is developing

**International Legal Responsibility of International Organizations in the ILC Draft Articles and Beyond** Sarah Bayani, 2022 The phenomenon of proliferation of international organizations has urged focus on the responsibility of international organizations under international law as the effect of their activities is witnessed everywhere in our daily life The main purpose of the present book is to examine and review some specific aspects relevant to the question of international legal responsibility of international organizations mainly with a view to assessing the International Law Commission's work on the codification of the international legal rules applicable on international organizations in this area At the same time the intention is to address the major challenge to the codification of general rules for international organizations namely their wide varying nature and their differences from each other Furthermore the perspective has been enlarged by elaborating on the broader concept of accountability of international organizations

Constitutional Pluralism in the European Union and Beyond Matej Avbelj, Jan Komárek, 2012-02-29 Constitutional pluralism has become immensely popular among scholars who study European integration and issues of global governance Some of them believe that constitutionalism traditionally thought to be bound to a nation state can emerge beyond state borders most importantly in the process of European integration but also beyond that for example in international regulatory regimes such as the WTO or international systems of fundamental rights protection such as the European Convention At the same time the idea of constitutional pluralism has not gone unchallenged Some have questioned its compatibility with the very nature of law and the values which law brings to constitutionalism The critiques have come from both sides from those who believe in the traditional European constitutionalism based on a hierarchically superior authority of the European Union as well as from scholars focusing on constitutions of particular states The book collects contributions taking opposing perspectives on

constitutional pluralism some defending and promoting the concept of constitutional pluralism some criticising and opposing it While some authors can be called the founding fathers of constitutional pluralism others are young academics who have recently entered the field Together they offer fresh perspectives on both theoretical and practical aspects of constitutional pluralism enriching our existing understanding of the concept in current scholarship     *Biographical Dictionary of Twentieth-Century Philosophers* Stuart Brown,Diane Collinson,Robert Wilkinson,2012-09-10 Prestigious board of advisory editors and contributors     *Europe's Constitutional Mosaic* Neil Walker,Josephine Shaw,Stephen Tierney,2011-06-14 This book emerged from an extended seminar series held in Edinburgh Law School which sought to explore the complex constitutional arrangements of the European legal space as an inter connected mosaic There has been much recent debate concerning the constitutional future of Europe focusing almost exclusively upon the EU in the context of the failed Constitutional Treaty of 2003 5 and the subsequent Treaty of Lisbon The premise of the book is that this focus while indispensable offers only a partial vision of the complex constitutional terrain of contemporary Europe In addition it is essential to explore other threads of normative authority within and across states embracing internal challenges to state level constitutional regimes the growing jurisprudential assertiveness of the Council of Europe regime through the ECHR and various democracy building measures as well as Europe s ever thicker relations both with its border regions and with broader international institutions especially those of the United Nations Together these developments create increasingly dense networks of constitutional authority within the European space This fluid and multi dimensional dynamic is difficult to classify and indeed may seem in many ways impenetrable but that makes the explanatory challenge all the more important and pressing Without this fuller picture it becomes impossible to understand the legal context of Europe today or the prospects of ongoing changes The book brings together a range of experts in law legal theory and political science from across Europe in order to address these complex issues and to supply illustrative case studies in the topical areas of the constitutionalisation of European labour law and European criminal law     *The Oxford Handbook of the Theory of International Law* Anne Orford,Florian Hoffmann,Martin Clark,2016-05-26 The Oxford Handbook of International Legal Theory provides an accessible and authoritative guide to the major thinkers concepts approaches and debates that have shaped contemporary international legal theory The Handbook features 48 original essays by leading international scholars from a wide range of traditions nationalities and perspectives reflecting the richness and diversity of this dynamic field The collection explores key questions and debates in international legal theory offers new intellectual histories for the discipline and provides fresh interpretations of significant historical figures texts and theoretical approaches It provides a much needed map of the field of international legal theory and a guide to the main themes and debates that have driven theoretical work in international law The Handbook will be an indispensable reference work for students scholars and practitioners seeking to gain an overview of current theoretical debates about the nature function foundations and future role of international law

**The Philosophy of International Law** Samantha Besson, John Tasioulas, 2010-04 This text contains 29 cutting edge essays by philosophers and lawyers which address the central philosophical questions about international law Its overarching theme is the moral and political values that should guide and shape the assessment and development of international law and institutions

**Jurisprudence** Suri Ratnapala, 2017-08-08 This book offers an overview of legal theory and philosophy It examines the discipline s major ideas and promotes an understanding of the social moral and economic dimensions of the law By locating the major traditions of jurisprudence within the history of ideas the author deepens students understanding of the perennial debates about the nature and function of law and its relation to justice

**Human Rights and Power in Times of Globalisation** Ekaterina Yahyaoui Krivenko, 2017-12-18 How does globalisation affect the ability of human rights to constrain power This is the central question of this volume that tackles the issue from a variety of perspectives It covers such branches of international law and human rights as diplomatic protection powers of the UN Security Council responsibility of international organisations accountability of multinational corporations third generation rights law of armed conflict and state sovereignty The contributions problematize the role of human rights and call for rethinking of the structure and functioning of human rights The contributions adopt a variety of disciplinary perspectives that all elucidate difficulties human rights face in a globalised world and suggest ways forward

*Realism versus Global Arms Control and Disarmament* Carmen Chas, 2025-07-15 This incisive book explores the limits of international law through arms control and disarmament treaties Carmen Chas critically engages with literature on disarmament and classical realist analysis bridging the divide between international law and international relations scholarship

Governing Climate Change Jolene Lin, 2018-06-21 First systematic study of global cities as lawmakers in the world of transnational climate change governance

The European Court of Justice and International Courts Tobias Lock, 2015-10-08 The Court of Justice of the European Union has exclusive jurisdiction over European Union law and holds a broad interpretation of these powers This however may come into conflict with the jurisdiction of other international courts and tribunals especially in the context of so called mixed agreements While the CJEU considers these integral parts of EU law other international courts will also have jurisdiction in such cases This book explores the conundrum of shared jurisdiction analysing the international legal framework for the resolution of such conflicts and provides a critical and comprehensive analysis of the CJEU s far reaching jurisdiction suggesting solutions to this dilemma The book also addresses the special relationship between the CJEU and the European Court of Human Rights The unique interaction between these two bodies raises fundamental substantive concerns about overlaps of jurisdiction and interpretation in the courts Conflicts of interpretation manage largely to be avoided by frequent cross referencing which also allows for much cross fertilization in the development of European human rights law The link between these two courts is the subject of the final section of the book

**International Contracts and National Economic Regulation: Dispute Resolution Through International Commercial Arbitration** Mahmood Bagheri, 2000-12-06 The growth of national

economic regulation and the process of globalisation increasingly expose international transactions to an array of regulations from different jurisdictions. These developments often contribute to widespread international contractual failures when parties claim the incompatibility of their contractual obligations with regulatory laws. The author challenges conventional means of dispute resolution and argues for an interdisciplinary approach whereby disciplines such as international economic law, conflict of laws, contract law, and economic regulations are functionally united to resolve international and multifaceted regulatory disputes. He identifies the normative foundation of contract law as an important determinant in this process, contending that contract law is essentially neutral and underpinned by the concept of corrective justice, while economic regulations are mainly prompted by distributive justice. Applying this corrective/distributive justice dichotomy to international contracts, the author critically assesses major conflict of laws approaches such as proper law, the Rome Convention, and governmental interest analysis, which could disregard either public interest or private rights. Taking these theories into account, the author proposes an alternative two-dimensional interest analysis approach. He tests the viability of this approach with reference to arbitral awards and court decisions in various jurisdictions and concludes that it uniquely fits into the structure of international commercial arbitration. In adopting this approach, arbitrators would take into account both corrective and distributive justice, and to the extent that corrective justice prevails, would be able to avert a total failure of the contract.



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