

THE LIMITS OF INTERNATIONAL LAW



JACK L. GOLDSMITH ERIC A. POSNER

Limits Of International Law

Bardo Fassbender, Knut Traisbach



Limits Of International Law:

The Limits of International Law Jack L. Goldsmith, Eric A. Posner, 2005-02-03 International law is much debated and discussed but poorly understood Does international law matter or do states regularly violate it with impunity If international law is of no importance then why do states devote so much energy to negotiating treaties and providing legal defenses for their actions In turn if international law does matter why does it reflect the interests of powerful states why does it change so often and why are violations of international law usually not punished In this book Jack Goldsmith and Eric Posner argue that international law matters but that it is less powerful and less significant than public officials legal experts and the media believe International law they contend is simply a product of states pursuing their interests on the international stage It does not pull states towards compliance contrary to their interests and the possibilities for what it can achieve are limited It follows that many global problems are simply unsolvable The book has important implications for debates about the role of international law in the foreign policy of the United States and other nations The authors see international law as an instrument for advancing national policy but one that is precarious and delicate constantly changing in unpredictable ways based on non legal changes in international politics They believe that efforts to replace international politics with international law rest on unjustified optimism about international law s past accomplishments and present capacities

The Limits of International Law Jack L. Goldsmith, Eric A. Posner, 2005-02-03 International law is much debated and discussed but poorly understood Does international law matter or do states regularly violate it with impunity If international law is of no importance then why do states devote so much energy to negotiating treaties and providing legal defenses for their actions In turn if international law does matter why does it reflect the interests of powerful states why does it change so often and why are violations of international law usually not punished In this book Jack Goldsmith and Eric Posner argue that international law matters but that it is less powerful and less significant than public officials legal experts and the media believe International law they contend is simply a product of states pursuing their interests on the international stage It does not pull states towards compliance contrary to their interests and the possibilities for what it can achieve are limited It follows that many global problems are simply unsolvable The book has important implications for debates about the role of international law in the foreign policy of the United States and other nations The authors see international law as an instrument for advancing national policy but one that is precarious and delicate constantly changing in unpredictable ways based on non legal changes in international politics They believe that efforts to replace international politics with international law rest on unjustified optimism about international law s past accomplishments and present capacities

Sovereignty and the Limits of International Law Todd Berry, 2023-11-29 The inspiration for this book comes from negotiations that are taking place under the auspices of the United Nations by an intergovernmental conference for a new International Legally Binding Instrument ILBI under the United Nations Convention on the Law of the Sea UNCLOS on the conservation and sustainable

use of marine biological diversity of Areas Beyond National Jurisdiction ABNJ The proposed ILBI is attempting to fill existing gaps under international law over marine biodiversity and Marine Genetic Resources MGR in ABNJ One way it is attempting to do this is by having an Access and Benefit Sharing ABS schema over these resources in ABNJ that the United Nations Convention on Biological Diversity CBD and its Nagoya Protocol NP do not currently cover These existing frameworks that regulate genetic resources are grounded in the notion of sovereignty Effectively States have sovereign rights over their biological resources The ILBI however is attempting to regulate marine biodiversity and MGR in ABNJ Thus the notion that negotiators representing nation States under the auspices of the United Nations can regulate ABNJ is paradoxical are these areas beyond nation States jurisdiction or not Implicitly the negotiators are acting as though they have sovereignty over resources located in what has been historically a sovereign free space Thus the purpose of this book is to investigate this paradox Essentially this book critiques the notion that ABNJ can actually be regulated under the auspices of the United Nations by nation State negotiators

The National Interest on International Law and Order R. James Woolsey, This work covers 24 articles on international law and the nature of the global order which were originally published in The National Interest a journal of international affairs It covers the role that international law should play in the formulation of policy

The boundaries of international law Hilary Charlesworth, Christine Chinkin, 2022-04-19 In the first book length treatment of the application of feminist theories of international law Charlesworth and Chinkin argue that the absence of women in the development of international law has produced a narrow and inadequate jurisprudence that has legitimated the unequal position of women worldwide rather than confronting it The boundaries of international law provides a feminist perspective on the structure processes and substance of international law shedding new light on treaty law the concept of statehood and the right of self determination the role of international institutions and the law of human rights Concluding with a consideration of whether the inclusion of women in the jurisdiction of international war crimes tribunals represents a significant shift in the boundaries of international law the book encourages a dramatic rethinking of the discipline of international law With a new introduction that reflects on the profound changes in international law since the book's first publication in 2000 this provocative volume is essential reading for scholars practitioners and students alike

Complicity and its Limits in the Law of International Responsibility Vladyslav Lanovoy, 2016-09-22 This book examines the responsibility of States and international organizations for complicity aid or assistance in an internationally wrongful act Despite the recognition of responsibility for complicity as a rule of customary international law by the International Court of Justice this book argues that the effectiveness and utility of this form of responsibility is fraught with systemic and operational limits These limits include a lack of clarity in its constituent elements its co existence with primary rules prohibiting complicity and the obligations of due diligence its implementation and the underlying causal tests its uncertain relationship to other forms of shared and indirect responsibility and its potential as a form of attribution of conduct This book

submits that the content and elements of this form of responsibility need adjustments to respond more effectively to the phenomenon of complicity in international affairs Awarded The Paul Guggenheim Prize in International Law 2017

Exploring the boundaries of international law The Open University, This 15 hour free course introduced key concepts of international law such as legal personality status of the state sovereignty and jurisdiction **The Limits of Human Rights** Bardo Fassbender, Knut Traisbach, 2019 The continuous expansion of human rights can often appear to be positive yet it provokes criticism This volume argues against the internationalisation of human rights proving the world is moving from bilateralism to community interests stating contentious supervision evaluation and substitution are far more common than genuine cooperation Blurry Boundaries of Public and Private International Law Poomintr Sooksripaisarnkit, Dharmita Prasad, 2022-02-23 This book examines interactions and discusses intersectionality between public international law and private international law With contributions from scholars from USA Canada Australia India and EU this book brings out truly international perspectives on the topic The contributions are arranged in four themes Public international law and private international law historical and theoretical considerations of the boundary Harmonisation of private international law by public international law instruments evaluation of process problems and effectiveness Case studies of intersectionality between public international law and private international law Future trends in the relationship between public international law and private international law The ultimate aim of this book is to analyse whether these two legal disciplines become convergent or they are still divergent as usual With wide coverage spanning across these four themes the book has takeaways for a wide readership For scholars and researchers in the fields of public international law and private international law this book sparks further thoughts and debates in both disciplines and highlight areas for continuing research For practitioners this book offers fresh insights and perspectives on contemporaneous issues of significance This book is also be a great resource for students at both undergraduate and postgraduate levels taking subjects such as public international law or private international law or some related disciplines such as international sale of goods international trade law or international investment law to advance their knowledge and understanding of the disciplines **Irresolvable Norm Conflicts in International Law** Valentin Jeutner, 2017 Many are familiar with the concept of a moral dilemma a situation where a person faces a choice between two mutually exclusive actions This book considers whether situations of this kind could and should exist within the sphere of international law **When International Law Works** Tai-Heng Cheng, 2012-01-02 In *When International Law Works* Professor Tai Heng Cheng transcends current debates about whether international law is really law by focusing on the reasons for complying with or deviating from international laws and other informal norms whether or not they are law Cheng presents a new framework to guide decision makers when they confront an international problem that implicates the often competing policies and interests of their own communities and global order Instead of advocating for or against international law Cheng acknowledges both its benefits and shortcomings in order to

present practical ways to decide whether compliance in a given circumstance is beneficial moral or necessary and to adjust international law to meet the contemporary challenges of global governance In this manner Cheng shows how it is possible for decision makers to take international law and its limitations seriously To test his theory Cheng provides detailed case studies from recent events ranging from the current global economic crisis to jihadist terrorism This wideranging research demonstrates how his proposal for approaching international law would work in a real crisis and sets this book apart from scholarship that focuses only on theory or isolated fields of international law Through a critical combination of theory and practice When International Law Works gives policymakers judges arbitrators scholars and students practical and thought provoking guidance on how to face new global problems In doing so this new book challenges readers to rethink the role of law in an increasingly crisis driven world

The Achievements of International Law Jacques Hartmann, Urfan Khaliq, 2021-07-29 The aim of this collection of essays in Robin Churchill's honour is to discuss some key examples of the achievements of international law with the express aim of exploring both what it has achieved and also its limits This will serve as a response to the two popular but opposite misconceptions about the role of international law One view is that international law is too weak to improve the World in any significant way The other view is that international law is a panacea that can be used to rid the world of many of its ills The book is divided into five distinct parts each reflecting on what international law has achieved within broadly defined substantive areas It opens with a discussion on general international law and international human rights law before exploring the law of the sea and fisheries It then looks at international environmental law before finally examining the use of force and international criminal law The chapters and the collection overall will provide a contrast to the popular misconceptions about international law by offering examples of both the success and also limitations of it as a system

Digest of International Law Green Haywood Hackworth, 1940 **The Catholic Conception of International Law** James Brown Scott, 2008 La 4e de couverture indique This important study of international law theory before Grotius discusses the work of Victoria and Suarez together with the writings of later Catholic jurists of the period such as Mariana Buchanan and Bellarmine Contemporary Protestant jurists are discussed as well Reprint of the sole edition The outstanding merit of the book for which Dr Scott has placed scholars and lawyers in his debt is that it is a needed reminder that the ideas and conceptions on which the internal order of states no less than the good order of the international community depend are not of today nor of yesterday but that they have a long history and that their deepest roots are in the great tradition of Christian thought which through the centuries was elaborated by schoolmen and canonists and jurists with a power of analysis and insight which puts to shame the contributions of much of what passes for contemporary jurisprudence

A Social Theory of International Law Kazuko Hirose, 2003-01-01 There has long been an advocacy for the sociology of international law and yet it has never been constructed so systematically and axiomatically as in this book Based on vital terms such as action and system this book has conducted an investigation into the auspices or the

fundamental international sociological conditions over which international law is built and accordingly into how international law can control global relations The significance of this work lies in its aim of showing by the application of a consistent logic how complex observed phenomena can be explained and understood on the basis of certain shared fundamental perceptions drawn from common experience By asking how a state acts in a complex system that consists of at least two subsystems having different goals and different logics two specific issues are discussed 1 The relationship between domestic and international law namely that between Article 9 of the Constitution of Japan and the UN Charter especially the provisions for a collective security system as mentioned in chapter VII 2 The relationship between international law and international politics namely the relationship between the prohibition of the use of nuclear weapons and the logic of nuclear deterrence

The Oxford Handbook of International Law and Development Ruth Buchanan, 2024-02-15 The Oxford Handbook of International Law and Development is a unique overview of the field of international law and development examining how normative beliefs and assumptions around development are instantiated in law and critically examining disciplinary frameworks competing agendas legal actors and institutions and alternative futures

Private International Law: The Soviet Approach, 2024-12-02 To Do Away with International Law? Some Limits to 'the Limits of International Law' Anne van Aaken, 2010 Different methodological approaches to international law abound Recently the rationalist game theoretical approach in the law and economics tradition has gained much prominence certainly so in the United States Within this tradition the volume by Professors Goldsmith and Posner purports to set a milestone by providing a comprehensive explanatory theory of international law with normative lessons in order to put international law and its scholarship on a more solid foundation In principle the combination of careful doctrinal description and consequentialist social science theory is to be welcomed The way in which the authors pursue that goal is however questionable They sometimes show a biased understanding of rationality use only basic game theory and give ad hoc explanations and examples failing to account for more recent developments in international law Not pursuing international law and economics any further however would amount to throwing out the baby with the bathwater Instead more sophisticated constructive and thoughtful rationalist approaches to international law ought to be further developed Even though the Goldsmith Posner critique of international law scholarship is an opportunity to critically reflect on some of international law's institutional and conceptual limitations The Limits of International Law have not yet been reached

The Oxford Handbook of the Use of Force in International Law Marc Weller, 2015-01-15 The prohibition of the use of force in international law is one of the major achievements of international law in the past century The attempt to outlaw war as a means of national policy and to establish a system of collective security after both World Wars resulted in the creation of the United Nations Charter which remains a principal point of reference for the law on the use of force to this day There have however been considerable challenges to the law on the prohibition of the use of force in international law is one of the major

achievements of international law in the past century The attempt to outlaw war as a means of national policy and to establish a system of collective security after both World Wars resulted in the creation of the United Nations Charter which remains a principal point of reference for the law on the use of force to this day There have however been considerable challenges to the law on the prohibition of the use of force over the past two decades This Oxford Handbook is a comprehensive and authoritative study of the modern law on the use of force Over seventy experts in the field offer a detailed analysis and to an extent a restatement of the law in this area The Handbook reviews the status of the law on the use of force and assesses what changes if any have occurred in consequence to recent developments It offers cutting edge and up to date scholarship on all major aspects of the prohibition of the use of force The work is set in context by an extensive introductory section reviewing the history of the subject recent challenges and addressing major conceptual approaches Its second part addresses collective security in particular the law and practice of the United Nations organs and of regional organizations and arrangements It then considers the substance of the prohibition of the use of force and of the right to self defence and associated doctrines The next section is devoted to armed action undertaken on behalf of peoples and populations This includes self determination conflicts resistance to armed occupation and forcible humanitarian and pro democratic action The possibility of the revival of classical expansive justifications for the use of force is then addressed This is matched by a final section considering new security challenges and the emerging law in relation to them Finally the key arguments developed in the book are tied together in a substantive conclusion The Handbook will be essential reading for scholars and students of international law and the use of force and legal advisers to both government and NGOs

Conference of American Teachers of International Law ,1914

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