

OXFORD

THE REALITY OF INTERNATIONAL LAW

Essays in Honour of Ian Brownlie

Edited by
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Reality Of International Law Essays In Honour Of Ian Brownlie

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Reality Of International Law Essays In Honour Of Ian Brownlie:

The Reality of International Law Guy S. Goodwin-Gill, Stefan Talmon, 1999 Professor Ian Brownlie CBE OC FBA DCL retired from the Chichele Chair of Public International Law at the University of Oxford a post that he has held since 1980 Before that he taught at Oxford Nottingham and the London School of Economics He is widely recognized as one of the leading international lawyers of our time and as well known and appreciated as much for his seminal publications and teaching over the years as for his work as a practitioner To express their gratitude for his supervision and support a number of his present and former students from Oxford and London many now prominent in academic life foreign affairs and practice have written this collection of essays in honour of their former teacher The collection is a very personal one reflecting the close and warm relationship between teacher and students and results in a wide ranging overview of the subjects supervised by Professor Brownlie during more than forty years as an academic teacher The collection takes its title The Reality of International Law from an appreciation of Professor Brownlie s personal contribution to the development of the subject His commitment to international law as a system for the regulation of affairs between states has long been characterized by a strong sense of ideals political and human but also by an awareness duly transmitted to his students and of what law is in practice of what is achievable and of what remains to be done *The International Law on Foreign Investment* M.

Sornarajah, 2010-05-06 This book is a thought provoking and authoritative text on this fast moving field of international law

La nécessité en droit international Sarah Cassella, 2011-05-06 La Commission du droit international apr s avoir longuement h sit a inscrit l tat de n cessit dans sa codification de la responsabilit des tats en tant que circonstance excluant l illic it L objet de cette tude est de d montrer qu il s agit d un m canisme beaucoup plus diffus et fondamental du droit international intimement li ses caract ristiques propres Il a comme fonction la limitation des obligations substantielles des tats lors de la survenance d un fait condition la situation de n cessit afin d viter que l application du droit ne g n re un co t social excessif Sa r alisation requiert toujours une pond ration des int r ts en conflit Seulement lorsqu un co t social excessif ne peut tre vit l tat de n cessit intervient dans le cadre des obligations secondaires de la responsabilit internationale en tant que circonstance att nuante After much hesitation the International Law Commission codified the state of necessity as a circumstance precluding wrongfulness in the field of State responsibility This study aims to demonstrate that it is a much wider mechanism essential to international law and strictly connected to its own characteristics It performs the function of limiting the substantial obligations of States in case of the realization of a fact condition a situation of necessity in order to avert an excessive social cost born out of law implementation It always works through a balance of conflicting interests Only when a social cost cannot be avoided the state of necessity under the features of a mitigating circumstance enters the field of secondary obligations relating to international responsibility International Law on Peacekeeping Hitoshi Nasu, 2009-03-31 It is generally considered that the UN Security Council has been galvanised since the end of the Cold War However the

existence and development of armed conflicts remain the reality in the international scene Is the upsurge in instances of invoking Chapter VII of the UN Charter truly a sign of the invigoration of the Security Council's authority or mere evidence of its failure to prevent the aggravation of armed conflicts To what extent is the Security Council authorised to exercise the peacekeeping power in order to take a more flexible approach to conflict management from an earlier stage of conflict This book explores the potential of the UN peacekeeping power placing Article 40 of the UN Charter at the centre of the legal regime governing peacekeeping measures It traces the origins of peacekeeping measures primarily in the experience of the League of Nations and identifies Article 40 of the Charter as the primary legal basis for and the legal restraints upon the exercise of the peacekeeping power It examines the regulatory framework within which the United Nations particularly the Security Council is authorised and may even be required to direct peacekeeping measures to prevent the aggravation of armed conflicts It suggests that the legal accountability of the Security Council in directing peacekeeping measures will be enhanced by utilising procedural mechanisms for self regulation

The Use of Force in International Law Tom Ruys, Olivier Corten, Alexandra Hofer, 2018-04-26 The international law on the use of force is one of the oldest branches of international law It is an area twinned with the emergence of international law as a concept in itself and which sees law and politics collide The number of armed conflicts is equal only to the number of methodological approaches used to describe them Many violent encounters are well known The Kosovo Crisis in 1999 and the US led invasion of Iraq in 2003 spring easily to the minds of most scholars and academics and gain extensive coverage in this text Other conflicts including the Belgian operation in Stanleyville and the Ethiopian Intervention in Somalia are often overlooked to our peril Ruys and Corten's expert written text compares over sixty different instances of the use of cross border force since the adoption of the UN Charter in 1945 from all out warfare to hostile encounters between individual units targeted killings and hostage rescue operations to ask a complex question How much authority does the power of precedent really have in the law of the use of force

The Statute of the International Court of Justice Andreas Zimmermann, Karin Oellers-Frahm, Christian Tomuschat, Christian J. Tams, 2012-10-11 The International Court of Justice is the principal judicial organ of the United Nations and plays a central role in both the peaceful settlement of international disputes and the development of international law This comprehensive Commentary on the Statute of the International Court of Justice now in its second edition analyses in detail not only the Statute of the Court itself but also the related provisions of the United Nations Charter as well as the relevant provisions of the Court's Rules of Procedure Five years after the first edition was published the second edition of the Commentary embraces current events before the International Court of Justice as well as before other courts and tribunals relevant for the interpretation and application of its Statute The Commentary provides a comprehensive overview and analysis of all legal questions and issues the Court has had to address in the past and will have to address in the future It illuminates the central issues of procedure and substance that the Court and counsel appearing before it face in their day to day work In addition to

commentary covering all of the articles of the Statute of the ICJ plus the relevant articles of the Charter of the United Nations the book includes three scene setting chapters Historical Introduction General Principles of Procedural Law and Discontinuation and Withdrawal The second edition of the Commentary adds two important and instructive chapters on Counter Claims and Evidentiary Issues The combination of expert editors and commentators and their assessment of new developments in the important work of the ICJ make this a landmark publication in the field of international law **Asian Yearbook of International Law, Volume 14 (2008)** B S Chimini, Miyoshi Masahiro, Li-Ann Thio, 2010-10-06 The Asian Yearbook of International Law is produced by the Foundation for the Development of International Law in Asia DILA and is a major refereed publication dedicated to international law issues as seen primarily from an Asian perspective The articles are written by experts from the region and elsewhere Intervention in Civil Wars Chiara Redaelli, 2021-02-25 This book investigates the extent to which traditional international law regulating foreign interventions in internal conflicts has been affected by the human rights paradigm Since the adoption of the Charter of the United Nations foreign armed interventions in internal conflicts have turned into a common practice At first sight it might seem that state practice has developed in a chaotic fashion however on closer examination specific patterns emerge The book charts these patterns by examining the traditional doctrines of intervention and testing them against state practice The book has two aims Firstly it seeks to clarify the current legal framework regulating interventions in internal conflicts Secondly it plots the emergence of new trends and investigates whether they are becoming part of positive international law By taking this dual focus it offers the first truly comprehensive examination of foreign interventions in internal conflicts **International Water Law and the Quest for Common Security** Bjorn-Oliver Magsig, 2015-03-24 The world's freshwater supplies are increasingly threatened by rapidly increasing demand and the impacts of global climate change but current approaches to transboundary water management are unsustainable and may threaten future global stability and international security The absence of law in attempts to address this issue highlights the necessity for further understanding from the legal perspective This book provides a fresh conceptualisation of water security developing an operational methodology for identifying the four core elements of water security which must be addressed by international law availability access adaptability and ambit The analysis of the legal framework of transboundary freshwater management based on this contemporary understanding of water security reveals the challenges and shortcomings of the current legal regime In order to address these shortcomings the present mindset of prevailing rigidity and state centrism is challenged by examining how international legal instruments could be crafted to advance a more flexible and common approach towards transboundary water interaction The concept of considering water security as a matter of regional common concern is introduced to help international law play a more prominent role in addressing the challenges of global water insecurity Ways for implementing such an approach are proposed and analysed by looking at international hydropolitics in Himalayan Asia The book analyses transboundary water interaction as a case study

for advancing public international law in order to fulfil its responsibility of promoting international peace and security

Cyber Operations and the Use of Force in International Law Marco Roscini, Leverhulme Trust, 2014-03 Recent years have seen a significant increase in the scale and sophistication of cyber attacks employed by or against states and non state actors This book investigates the international legal regime that applies to such attacks and investigates how far the traditional rules of international humanitarian law can be used in these situations

The Creation of States in International Law James R. Crawford, 2007-03-15 Statehood in the early 21st century remains as much a central problem as it was in 1979 when the first edition of *The Creation of States in International Law* was published As Rhodesia Namibia the South African Homelands and Taiwan then were subjects of acute concern today governments international organizations and other institutions are seized of such matters as the membership of Cyprus in the European Union application of the Geneva Conventions to Afghanistan a final settlement for Kosovo and still relations between China and Taiwan All of these and many other disputed situations are inseparable from the nature of statehood and its application in practice The remarkable increase in the number of States in the 20th century did not abate in the twenty five years following publication of James Crawford's landmark study which was awarded the American Society of International Law Prize for Creative Scholarship in 1981 The independence of many small territories comprising the residue of the European colonial empires alone accounts for a major increase in States since 1979 while the disintegration of Yugoslavia and the USSR in the early 1990s further augmented the ranks With these developments the practice of States and international organizations has developed by substantial measure in respect of self determination secession succession recognition de colonization and several other fields Addressing such questions as the unification of Germany the status of Israel and Palestine and the continuing pressure from non State groups to attain statehood even in cases like Chechnya or Tibet against the presumptive rights of existing States James Crawford discusses the relation between statehood and recognition the criteria for statehood especially in view of evolving standards of democracy and human rights and the application of such criteria in international organizations and between states Also discussed are the mechanisms by which states have been created including devolution and secession international disposition by major powers or international organizations and the institutions established for Mandated Trust and Non Self Governing Territories Combining a general argument as to the normative significance of statehood with analysis of numerous specific cases this fully revised and expanded second edition gives a comprehensive account of the developments which have led to the birth of so many new states

The Charter of the United Nations Nikolai Wessendorf, 2012-11-22 Since the second edition of this commentary on the Charter of the United Nations was published the text of the Charter may not have changed but the world has The wars in Iraq and Afghanistan have had a lasting impact on international law and the Commentary has been fully updated to take their impact into account The new edition has been completely revised and features a completely new chapter on UN reform analyzing the effect of reforms which have already

been implemented and examining why other proposals for reform have failed It will assess how these proposals could be improved with a particular focus on the Security Council This new edition also includes coverage of the creation of the Human Rights Council and the impact of the Responsibility to Protect doctrine This is the authoritative article by article account of the legislative history interpretation and practical application of each and every Charter provision Written by a team of distinguished scholars and practitioners this book combines academic research with the insights of practice and is an indispensable work of reference for all those interested in the UN The Commentary will be crucial in providing new directions for the development of international law and the United Nations in the twenty first century *The Role of the International Court of Justice as the Principal Judicial Organ of the United Nations* Mohamed Sameh M. Amr, 2021-08-04 The Role of the International Court of Justice as the Principal Judicial Organ of the United Nations is a thought provoking and valuable addition to the existing literature on the ICJ The book's originality lies in that it provides both the student and practitioner of international law and relations with a comprehensive evaluation of important but hitherto neglected aspects of the work of the World Court its contribution to the functioning of the UN system its role in interpreting and developing the institutional law of the UN and in clarifying its purposes and principles particularly in the settlement of international disputes the Court's advisory and contentious competencies and their interrelationship as well as the extent of its supervisory powers over decisions emanating from other UN organs such as the Security Council The book concludes with practical suggestions on how to develop the Court's role into a better organisation of justice to enable it to face new challenges for the future

The Interception of Vessels on the High Seas Efthymios Papastavridis, 2014-08-28 The principal aim of this book is to address the international legal questions arising from the right of visit on the high seas in the twenty first century This right is considered the most significant exception to the fundamental principle of the freedom of the high seas the freedom in peacetime to remain free of interference by ships of another flag It is this freedom that has been challenged by a recent significant increase in interceptions to counter the threats of international terrorism and WMD proliferation or to suppress transnational organised crime at sea particularly the trafficking of narcotics and smuggling of migrants The author questions whether the principle of non interference has been so significantly curtailed as to have lost its relevance in the contemporary legal order of the oceans The book begins with an historical and theoretical examination of the framework underlying interception This historical survey informs the remainder of the work which then looks at the legal framework of the right of visit contemporary challenges to the traditional right interference on the high seas for the maintenance of international peace and security interferences to maintain the bon usage of the oceans navigation and fishing piracy j ure gentium and current counter piracy operations off the coast of Somalia the problems posed by illegal unregulated and unreported fishing interdiction operations to counter drug and people trafficking and recent interception operations in the Mediterranean Sea organised by FRONTEX Humanness as a Protected Legal Interest of Crimes Against Humanity Rustam

Atadjanov,2019-06-13 Central to this book is the concept of humanity in international law It traces the evolution of that concept within international law studies the existing theories of crimes against humanity and lays out its own theory based on an inclusive view of humanity Crimes against humanity are core crimes under international law their modern definition is found in the Rome Statute However their protective scope remains unclear with the exact meaning of humanity left undefined in law The proposed theory argues that humanity should be understood as humanness and crimes against humanity should be criminalised because humanness constitutes these crimes valid protected interest This volume in the International Criminal Justice Series offers an analysis of the German doctrine of *Rechtsgut* to justify the penalization of crimes against humanity at both domestic and international levels This is the first monograph on crimes against humanity written by an author from the Commonwealth of Independent States CIS aimed at an international audience and should constitute a useful tool for academics students and practitioners of international law Rustam Atadjanov LLB LLM Dr jur attained his Ph D at the University of Hamburg in Germany and is a former Legal Adviser to the Regional Delegation of the International Committee of the Red Cross in Central Asia Tashkent Uzbekistan

Disobeying the Security Council

Antonios Tzanakopoulos,2013-02-14 This book examines how the United Nations Security Council in exercising its power to impose binding non forcible measures sanctions under Article 41 of the UN Charter may violate international law The Council may overstep limits on its power imposed by the UN Charter itself and by general international law including human rights guarantees Such acts may engage the international responsibility of the United Nations the organization of which the Security Council is an organ Disobeying the Security Council discusses how and by whom the responsibility of the UN for unlawful Security Council sanctions can be determined in other words how the UN can be held to account for Security Council excesses The central thesis of this work is that states can respond to unlawful sanctions imposed by the Security Council in a decentralized manner by disobeying the Security Council s command In international law this disobedience can be justified as constituting a countermeasure to the Security Council s unlawful act Recent practice of states both in the form of executive acts and court decisions demonstrates an increasing tendency to disobey sanctions that are perceived as unlawful After discussing other possible qualifications of disobedience under international law the book concludes that this practice can and should be qualified as a countermeasure

The International Court of Justice

Hugh Thirlway,2016-10-06 In recent years States have made more and more extensive use of the International Court of Justice for the judicial settlement of disputes Despite being declared by the Court s Statute to have no binding force for States other than the parties to the case its decisions have come to constitute a body of jurisprudence that is frequently invoked in other disputes in international negotiation and in academic writing This jurisprudence covering a wide range of aspects of international law is the subject of considerable ongoing academic examination it needs however to be seen against the background and in the light of the Court s structure jurisdiction and operation and the principles applied in these domains

The purpose of this book is thus to provide an accessible and comprehensive study of this aspect of the Court and in particular of its procedure written by a scholar who has had unique opportunities of close observation of the Court in action This distillation of direct experience and expertise makes it essential reading for all those who study teach or practise international law International Bibliography of Political Science Compiled by the British Library of Political and Economic Science,2000-02 IBSS is the essential tool for librarians university departments research institutions and any public or private institution whose work requires access to up to date and comprehensive knowledge on the social sciences **The International Court of Justice and Judicial Review** Kaiyan Homi Kaikobad,2021-10-18 This monograph provides an extensive analysis of the powers of judicial review exercised by the International Court of Justice with respect to judgments of the Administrative Tribunals of the International Labour Organization and the United Nations The grounds on which these judgments can be challenged include excess jurisdiction procedural errors and errors of law relative to the Charter of the United Nations The system however suffers from a number of difficulties including lack of procedural equality the propriety of employing the Court s advisory jurisdiction in employer employee disputes and the nature of the activities of the Review Committee of the General Assembly These problems are examined with a view to shedding light on the nature scope and extent of the Court s powers of judicial review The main study is preceded by an exhaustive survey of the genesis of the review system established by the Statutes of these Tribunals Included also in this volume is an account of the informal and rudimentary judicial review arrangement the Court enjoys by way of its advisory and contentious jurisdiction with respect to institutional action other than that of UNAT and ILOAT judgments When in 1995 the General Assembly abolished the UNAT review system various considerations were in the forefront a detailed survey of which is provided in the penultimate part of the book Several significant themes are explored in the concluding chapter These include issues dealing with the motivation for establishing the review system the divisions within the Court and possible reform as opposed to abolition of the system

The Contribution of the Rwanda Tribunal to the Development of International Law Larissa van den Herik,2005-07-01 This book offers a thorough analysis of the establishment and the Statute of the International Criminal Tribunal for Rwanda Furthermore it gives insight into how the Rwanda Tribunal has operated in practice during its first ten years and it examines the case law on the three major international crimes genocide crimes against humanity and war crimes The author provides a balanced judgement of the contribution of the Rwanda Tribunal towards the development of international criminal law emphasizing its strong points in particular the case law on genocide but also exposing its weaknesses in terms of legal reasoning The author also demonstrates the inherent limits of the Rwanda Tribunal due to the political and social situation within Rwanda and due to its own Statute

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