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# THE REALITY OF INTERNATIONAL LAW

*Essays in Honour of Ian Brownlie*

*Edited by*  
GUY S. GOODWIN-GILL AND  
STEFAN TALMON

# Reality Of International Law Essays In Honour Of Ian Brownlie

**Tom Ruys, Olivier Corten, Alexandra Hofer**



## **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 *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

**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 **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, Christian Tomuschat, Karin Oellers-Frahm, 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 the settlement of disputes and the development of international law This commentary analyses the Statute of the Court and the related provisions of the UN charter and the Court's Rules of Procedure

**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, decolonization 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.

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## **Table of Contents Reality Of International Law Essays In Honour Of Ian Brownlie**

1. Understanding the eBook Reality Of International Law Essays In Honour Of Ian Brownlie
  - The Rise of Digital Reading Reality Of International Law Essays In Honour Of Ian Brownlie
  - Advantages of eBooks Over Traditional Books
2. Identifying Reality Of International Law Essays In Honour Of Ian Brownlie
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Reality Of International Law Essays In Honour Of Ian Brownlie
  - User-Friendly Interface
4. Exploring eBook Recommendations from Reality Of International Law Essays In Honour Of Ian Brownlie
  - Personalized Recommendations
  - Reality Of International Law Essays In Honour Of Ian Brownlie User Reviews and Ratings

- Reality Of International Law Essays In Honour Of Ian Brownlie and Bestseller Lists
- 5. Accessing Reality Of International Law Essays In Honour Of Ian Brownlie Free and Paid eBooks
  - Reality Of International Law Essays In Honour Of Ian Brownlie Public Domain eBooks
  - Reality Of International Law Essays In Honour Of Ian Brownlie eBook Subscription Services
  - Reality Of International Law Essays In Honour Of Ian Brownlie Budget-Friendly Options
- 6. Navigating Reality Of International Law Essays In Honour Of Ian Brownlie eBook Formats
  - ePub, PDF, MOBI, and More
  - Reality Of International Law Essays In Honour Of Ian Brownlie Compatibility with Devices
  - Reality Of International Law Essays In Honour Of Ian Brownlie Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Reality Of International Law Essays In Honour Of Ian Brownlie
  - Highlighting and Note-Taking Reality Of International Law Essays In Honour Of Ian Brownlie
  - Interactive Elements Reality Of International Law Essays In Honour Of Ian Brownlie
- 8. Staying Engaged with Reality Of International Law Essays In Honour Of Ian Brownlie
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Reality Of International Law Essays In Honour Of Ian Brownlie
- 9. Balancing eBooks and Physical Books Reality Of International Law Essays In Honour Of Ian Brownlie
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Reality Of International Law Essays In Honour Of Ian Brownlie
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Reality Of International Law Essays In Honour Of Ian Brownlie
  - Setting Reading Goals Reality Of International Law Essays In Honour Of Ian Brownlie
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Reality Of International Law Essays In Honour Of Ian Brownlie
  - Fact-Checking eBook Content of Reality Of International Law Essays In Honour Of Ian Brownlie
  - Distinguishing Credible Sources

13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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