

# INTERNATIONAL LEGAL MATERIALS

#### **FEATURING:**

839

U.S. Court of Appeals for the Second Circuit: *In Re* Terrorist Attacks *Introductory Note by David Stewart* 

858

European Court of Justice: Metock and Others Introductory Note by Peter Starup and Matthew James Elsmore

875

ICTR: Tharcisse Muvunyi v. Prosecutor Introductory Note by Susana SáCouto and Katherine Cleary

923

European Court of Justice: Kadi and Al Barakaat v. Council of the European
Union and Commission of the European Communities
Introductory Note by August Reinisch

968

International Criminal Court: Prosecutor v. Thomas Lubanga Dyilo
(Decision on Victim Participation)

Introductory Note by Djurdja Lazić

994

United Nations Food and Agriculture Organization: International Guidelines on Deep Sea Fisheries

Introductory Note by Rod Moore and Julie Roberts Furgerson

1010

International Court of Justice: Georgia v. Russia (Order on Provisional Measures) Introductory Note by Cindy Galway Buys

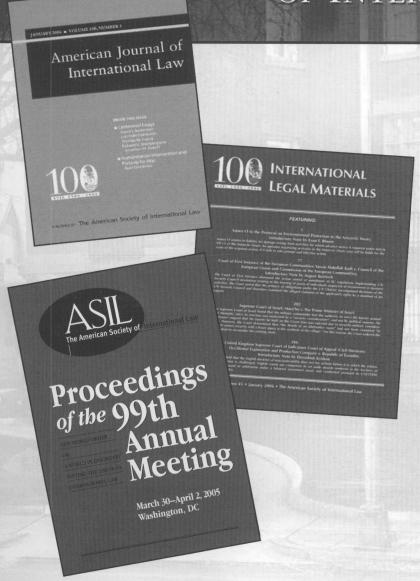
1042

Poland and U.S. Agreement on the Deployment of Missile Defense System Introductory Note by David Fidler



## Your Resource For The Latest And Best In International Law

## THE AMERICAN SOCIETY OF INTERNATIONAL LAW



SINCE 1906, THE ASIL HAS KEPT INDIVIDUALS AND INSTITUTIONS AROUND THE WORLD UP-TO-DATE WITH THE BEST INFORMATION ON INTERNATIONAL LAW. THROUGH ITS MEMBERSHIP PROGRAM. FLAGSHIP PUBLICATIONS, ELECTRONIC **INFORMATION** BULLETINS, AND RENOWNED MEETINGS AND NETWORKING OPPORTUNITIES, THE ASIL LEADS THE FIELD.

To LEARN MORE, VISIT www.asil.org.

#### Wolters Kluwer Law & Business

### Aspen Publishers' International Law Titles

#### **NOW AVAILABLE**

International Intellectual Property in an Integrated World Economy

Frederick M. Abbott, Thomas Cottier, and Francis Gurry

International Civil Litigation in United States Courts, 4E

Gary B. Born and Peter B. Rutledge

Foreign Relations Law Cases and Materials, 2E

Curtis A. Bradley and Jack L. Goldsmith

International Environmental Law and Policy, 2E

Edith Brown Weiss, Stephen C. McCaffrey, Daniel Barstow Magraw, and A. Dan Tarlock

International Law, 5E

Barry E. Carter, Phillip R. Trimble, and Allen S. Weiner

International Business Transactions Problems, Cases, and Materials

Daniel C. K. Chow and Thomas J. Schoenbaum

International Law Norms, Actors, Process A Problem-Oriented Approach, 2E

Jeffrey L. Dunoff, Steven R. Ratner, and David Wippman

Counterterrorism Law

Stephen Dycus, William C. Banks, and Peter Raven-Hansen

National Security Law, 4E

Stephen Dycus, Arthur L. Berney, William C. Banks, and Peter Raven-Hansen

**Global Perspectives on Counterterrorism** Amos N. Guiora

United States and International Sales, Lease, and Licensing Law Cases and Problems Bryan D. Hull International Human Rights
Problems of Law, Policy, and Practice, 4E

Richard B. Lillich, Hurst Hannum, S. James Anaya, and Dinah L. Shelton

Introduction to United States International Taxation, 5E\*

Paul R. McDaniel, Hugh J. Ault, and James R. Repetti

#### **AVAILABLE IN 2008**

International Trade Law Problems, Cases, and Materials

Daniel C. K. Chow and Thomas J. Schoenbaum

**Terrorism Primer** 

Amos N. Guiora

International Law, 5E\*\*

Mark W. Janis

The International Lawyer's Guide to Legal Analysis and Communication in the United States

Deborah B. McGregor and Cynthia M. Adams

International Sales Law and Arbitration Problems, Cases and Commentary

Joseph F. Morrissey and Jack M. Graves

Legal Reasoning, Research, and Writing for International Graduate Students, 2E\*\*

Nadia E. Nedzel

Transnational and International Criminal Law\*

David Stewart, David Luban, and Julie O'Sullivan

International Criminal Law The Essentials

Elizabeth Van Schaack and Ronald C. Slye

#### **AVAILABLE IN 2009**

International Human Rights and Indigenous Peoples

S. James Anaya

### KLUWER LAW INTERNATIONAL TITLES

Fundamental International Business Transactions

Ronald A. Brand

Uniform Application of the International Sales Law Understanding Uniformity, the Global Jurisconsultorium and Examination and Notification Provisions

Camilla Baasch Andersen

Theory and Practice of International and Internationalized Criminal Proceedings

Geert-Jan Knoops

Private Dispute Resolution in International Business Negotiation, Mediation, Arbitration

Klaus P. Berger

Foreign Investment Disputes Cases, Materials, and Commentary

Raymond Doak Bishop, James Crawford, and Michael Reisman

Comparative International Commercial Arbitration

Dr. Julian D. M. Lew, Loukas A. Mistelis, and Dr. Stefan Kröll

The Rule of Law in Japan A Comparative Analysis

Carl F. Goodman

Scott on Outsourcing Law and Practice

Michael D. Scott

\*New Edition available in 2009 \*\*Previous Edition is currently available

#### **ASPEN PUBLISHERS PROUDLY PRESENTS...**

#### LAW ACROSS BORDERS

Law Across Borders, a new series by Aspen Publishers, is being offered to professors who want to introduce an international perspective into their courses easily and confidently.

These brief paperbacks, 150-250 pages in length, will center around a single high-interest problem of international significance as it pertains to a specific course area. The problem orientation will offer a framework for asking fundamental questions and teaching students how to think about international law issues. Each title in the series will be accompanied by Professor's Notes that explain how the author uses his or her materials in their class.

**Climate Change and Property** 

New Titles Available in 2009:

Plea Bargaining Across Borders Civil Procedure Jenia I. Turner

Rights
Hari Osofsky and Wil Burns

Constitutional Law Regulation of Abortion Colin B. Picker

For more information:

Call: 800.950.5259 | Fax: 800.915.3450 | Email: legaledu@wolterskluwer.com

## **OXFORD UNIVERSITY PRESS**



#### THE POWER AND **PURPOSE OF** INTERNATIONAL LAW

Insights from the Theory and Power of **Enforcement** Mary Ellen O'Connell, Robert and Marion Short Chair in Law at

the University of Notre Dame Law School

"A brave, and sadly necessary, affirmation that the Rule of Law is an essential precondition for civilized life, even in nations whose leaders may think that they have no immediate need for it."-Vaughn Lowe, Chichele Professor of Public International Law, All Souls College, Oxford University 2008 408 pages 978-0-19-536894-9 cloth \$45.00



#### INTERNATIONAL INVESTMENT **ARBITRATION** Substantive **Principles** Campbell McLachlan, Professor, Victoria

University of Wellington and Barrister, Essex Court Chambers.

Laurence Shore, Solicitor, Partner, Gibson, Dunn & Crutcher LLP, and Matthew Weiniger, Solicitor, Partner, Herbert Smith

"This is an excellent work which will be indispensable to anyone - arbitrator, counsel or academic concerned with international law on foreign investment."

—Christopher Greenwood Q.C. CMG, Essex Court Chambers

(Oxford International Arbitration Series) 528 pages

978-0-19-955751-6 paper \$95.00



#### WILLIAM BLACKSTONE Law and Letters in the Eighteenth Century Wilfrid Prest, Professor Emeritus, University of

Lawyer, politician, poet, teacher and architect,

William Blackstone was a major figure in eighteenth century public life. Despite the breadth and influence of his work, Blackstone the man remains little known. This volume, Blackstone's first scholarly biography, sheds considerable light on the life, work and society of this important legal figure.

Adelaide

284 pages 978-0-19-955029-6 cloth \$60.00

#### **HUMAN RIGHTS AND THE WTO**

The Case of Patents and Access to Medicines

Holger Hestermeyer, Max Planck Institute for Comparative Public

Law and International Law

(International Economic Law Series)

416 pages

978-0-19-955217-7 paper \$50.00

#### **HUMAN RIGHTS, INTERVENTION, AND THE USE** OF FORCE

Edited by Philip Alston, New York University, and Euan Macdonald, New York University

(Collected Courses of the Academy of European Law Series)

286 pages

978-0-19-955272-6 paper \$50.00

978-0-19-955271-9 cloth \$100.00

#### INTERNATIONAL NORMS AND CYCLES OF CHANGE

Wayne Sandholtz, University of California, Irvine and Kendall Stiles,

Brigham Young University

432 pages 978-0-19-538008-8 cloth

#### ON THE LAW OF PEACE

Peace Agreements and the Lex Pacificatoria

Christine Bell, University of Ulster

200 pages

978-0-19-922683-2 cloth 978-0-19-922684-9 paper \$50.00

#### OPPENHEIM'S INTERNATIONAL LAW

Volume 1: Peace

Edited by Robert Jennings, Former president of the International Court of Justice, and Arthur Watts KCMG QC, Former legal adviser Foreign and Commonwealth Office and barrister and international arbitrator 2887 pages

978-0-58-230245-7 paper

\$275.00

#### DIGEST OF UNITED STATES PRACTICE IN **INTERNATIONAL LAW, 2007**

Sally J. Cummins, Office of the Legal Adviser, United States Department of State

1250 pages

978-0-19-537997-6 cloth

\$165.00

#### CONFRONTING GLOBAL TERRORISM AND AMERICAN NEO-CONSERVATIVISM

The Framework of a Liberal Grand Strategy

Tom Farer, University of Denver

(Collected Courses of the Academy of European Law Series)

300 pages

978-0-19-953473-9 paper \$29.95

#### THE LAW OF STATE IMMUNITY

Second Edition

Hazel Fox QC, Barrister, Grays Inn

(The Oxford International Law Library Series)

600 pages

978-0-19-921110-4 cloth \$250.00

978-0-19-921111-1 paper \$100.00

#### THE DEVELOPMENT AGENDA

Global Intellectual Property and Developing Countries

Edited by Neil Weinstock Netanel, University of

California at Los Angeles Law School

536 pages

978-0-19-534210-9 cloth \$75.00

THE OXFORD HANDBOOK OF INTERNATIONAL

#### **INVESTMENT LAW**

Edited by Peter Muchlinski, School of Oriental and African Studies, Federico Ortino, King's College London and Christoph Schreuer,

University of Vienna 1008 pages

978-0-19-923138-6 cloth

\$240.00

### presents the Best New Scholarship in International Law

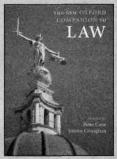


#### THE OXFORD HANDBOOK OF INTERNATIONAL TRADE LAW

Edited by Daniel Bethlehem, Legal Advisor, UK Foreign and Commonwealth Office, Donald McRae, Hyman Soloway Professor,

University of Ottawa, Canada, Rodney Neufeld, Legal Officer, Canadian Department of Foreign Affairs and International Trade, and Isabelle Van Damme, Fellow, College Lecturer in Law, Clare College Cambridge Cambridge University

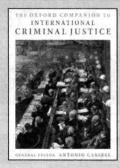
The Oxford Handbook of International Trade Law explores the economic and institutional context of the world trading system, the substantive law of the WTO, the WTO dispute settlement system, and the interaction between trade and other disciplines and fields of international law. 2009 800 pages 978-0-19-923192-8 cloth \$175.00



#### THE NEW OXFORD COMPANION TO LAW

Edited by Peter Cane, Professor of Law. Australian National University, and Joanne Conaghan, Professor of Law, Kent Law School For any reader needing a

concise explanation of a subject in law the New Oxford Companion to Law is the ideal reference work. Providing greater depth than legal dictionaries but always accessible to the non-expert, entries in the Companion cover all areas of law and legal systems and are extensively cross-referenced for ease of navigation. 1,200 pages 978-0-19-929054-3 cloth \$80.00



#### THE OXFORD COMPANION TO INTERNATIONAL CRIMINAL JUSTICE

Edited by Antonio Cassese, Professor of International Law, University of Florence

This is the first major ref-

erence work to provide a complete overview of this emerging field. With analysis and commentary on every aspect of international criminal justice, it is designed to be the first port of call for scholars and practitioners interested in current developments in international justice. 1,200 pages

978-0-19-923832-3 paper \$90.00 978-0-19-923831-6 cloth \$260.00

Winner of The American Society of International Law Manley O. Hudson Medal in 2007

**NEW EDITION!** 

#### INTERNATIONAL ECONOMIC LAW

Second Edition

Andreas F. Lowenfeld, New York University

(International Economic Law Series)

900 pages

978-0-19-922694-8 paper

\$75.00

#### UNITED STATES INTERNATIONAL INSOLVENCY LAW. 2008/2009

The Honorable Samuel L. Bufford, Central District of California

400 pages

978-0-19-534078-5 cloth

\$250.00

#### **NEW TECHNOLOGIES AND HUMAN RIGHTS**

Edited by Thérèse Murphy, University of Nottingham

(Collected Courses of the Academy of European Law Series)

2009 304 pages

978-0-19-956257-2 cloth

#### SALT WATER NEIGHBORS

International Ocean Law Relations Between the United States and Canada

Ted L. McDorman, University of Victoria, British Columbia

416 pages 2009

978-0-19-538360-7 cloth

\$95.00

#### DAMAGES UNDER THE CONVENTION OF CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

Second Edition

Dr. Bruno Zeller, Victoria University School of Law in Australia 352 pages

978-0-19-537186-4 cloth \$150.00

#### THE USA PATRIOT ACT

The Decline of Legitimacy in the Age of Terrorism

Timothy Casey, Case Western School of Law

(Terrorism: Documents of International and Local Control, Second Series) 2009

978-0-19-537039-3 cloth \$135.00

#### CONTRACTS FOR THE SALE OF GOODS

A Comparison of Domestic and International Law, Second Edition

Second Edition

Henry Deeb Gabriel, Loyola University School of Law

400 pages

978-0-19-533349-7 cloth \$175.00

#### TRADE IN GOODS

Petros Mavroidis, Columbia Law School, Neuchâtel, Switzerland

544 pages

978-0-19-955213-9 paper \$65.00



DID YOU KNOW: The American Society of International Law and Oxford University Press have partnered to provide ASIL members with a 20% discount on the best new international law books. ASIL members can access the discount code at www.asil.org/login.

## New Online Services from

#### **OXFORD REPORTS ON INTERNATIONAL LAW**

The full scope of international case law - available in one place for the first time

Oxford Reports on International Law (ORIL) is a new online service integrating important decisions on public international law from international courts and tribunals, domestic courts and ad hoc tribunals. For the first time, the full scope of international case law is available in one place, accompanied by expert analysis and powerful navigation.

Offering a wider range of international case law than ever before, *ORIL* provides users with a greater understanding of the output and workings of foreign legal systems and courts. Expert translations of key decisions in other languages are provided, bringing to life a new world of relevant case law. Written and edited by a team of distinguished experts, each case report is enhanced with high-quality commentary and analysis.



This service consists of five content modules defined by subject focus, available as standalone or multi-module subscriptions.

Oxford Reports on International Law in Domestic Courts (re-launched fall 2008)

Oxford Reports on International Criminal Law

Oxford Reports on International Human Rights Law

Oxford Reports on International Investment Claims

Oxford Reports on International Courts of General Jurisdiction\*

\*Free Access to this module is included with a subscription to any ORIL service.

#### Case Reports Include:

Headnotes

Summary of case facts and judicial holdings

 $_{-}$  Full text of the opinion of the court

Analytical commentary from scholarly experts

Accurate translations of non-English judgments

List of cases and instruments cited

#### www.oxfordlawreports.com



#### Introducing The Oxford Law Citator

The Oxford Law Citator is a powerful research tool creating the foundation for all new Oxford online legal services. The Citator functionality links users seamlessly to important decisions, instruments, and secondary literature that reference their initial search.

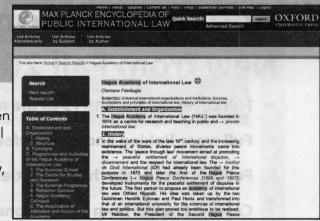
## **OXFORD UNIVERSITY PRESS**

LAW DIVISION

## THE MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW

History and Breadth...Definitive and Authoritative

This monumental reference work, published in partnership with the Max Planck Institute for Comparative Public Law and International Law, has been fully revised and updated to cover the latest developments in international law. Each article has gone through rigorous evaluation by the Advisory Board, consisting of renowned experts in various fields of international law, and internal advisors, who are Senior Research Fellows at the Max Planck Institute, to ensure the highest level of quality and excellence.



#### **Key Features:**

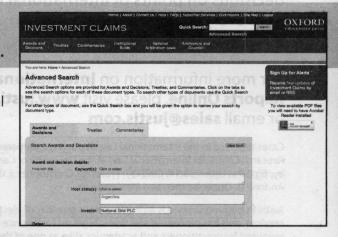
- Fully revised version of the print edition initially published under the auspices of Rudolf Bernhardt now edited by a team at the Max Planck Institute for Comparative Public Law and International Law under the guidance of Rüdiger Wolfrum
- The 1,700 articles include more than 700 new topics not covered in the print edition
- Reflects modern developments with increased coverage of international criminal law, international dispute settlement, trade law and environmental law
- Articles written by over 650 scholars and practitioners drawn from all over the world
- Each article is peer reviewed by members of the expert Advisory Board
- (visit www.mpepil.com/about for more information)
- A comprehensive print edition is scheduled to publish in 2010

www.mpepil.com

#### INVESTMENT CLAIMS

Setting the bar for authoritative content and expert analysis...

Investment Claims is an exciting new online service integrating primary materials and high-quality commentary and analysis relating to international investment law and arbitration. Maintaining a commitment to editorial strength, Oxford University Press has assembled an extensive network of experts working in the field to provide the highest quality of reports and analysis. Updated regularly, this service is enhanced with sophisticated search functionality, as well as advanced browsing options designed to help legal practitioners find up-to-date information quickly.



#### Investment Arbitration Materials at Your Fingertips:

- Full-text investment awards with official documents and authoritative commentary
- Treaty sector overviews
- Relevant international treaties and domestic legislation from jurisdictions including the US and UK
- Expert commentary on key jurisdictions includes a collection of bilateral investment treaties
- Searchable online versions of key Oxford arbitration books and journal articles

www.investmentclaims.com

## Justis

### **The International Law Reports Online**

New from Fall 2008

Full coverage from 1919 to the most current rulings

Full cross-linking and cross-referencing

Full advanced search capabilities

Cases in English from international and national courts worldwide

From Fall 2008 for the **first time ever** the full archive of the International Law Reports will be available in a fully searchable form online via the award-winning Justis platform.

The International Law Reports Online is a must for all practitioners and academics specialising in international law and is the only database in the world devoted to the regular and systematic reporting of decisions on points of international law from every relevant jurisdiction – international and national.

For more information on **International Law Reports Online**, please visit **www.justis.com/ilr**or email **sales@justis.com** 

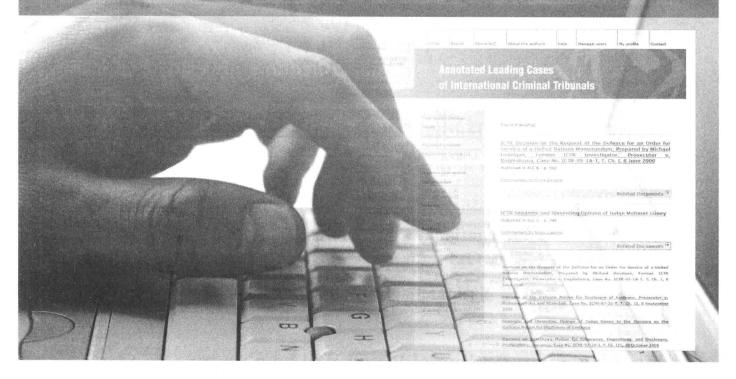
Cases reported in the International Law Reports are prepared at the Lauterpacht Research Centre for International Law at the University of Cambridge and are edited by: Sir Elihu Lauterpacht, CBE, QC; Professor Christopher J. Greenwood, QC, CMG; Dr Andrew G. Oppenheimer; and Ms Karen Lee.

Justis Publishing Limited is an independent provider of electronic legal research tools and services, and has pioneered electronic legal research since 1986. The Justis interface is widely regarded by practitioners and academics alike as one of the most intuitive search tools available.

CAMBRIDGE UNIVERSITY PRESS

JUSTIS

## **Annotated Leading Cases** of International Criminal Tribunals



Annotated Leading Cases of International Criminal Tribunals provides you with the full text of the most important decisions, including concurring, separate and dissenting opinions of the ICTY, ICTR, The Special Court for Sierra Leone, The Special Panels for Serious Crimes of Timor-Leste and the ICC.

- » Browse and consult all judgments of the international criminal tribunals and courts online
- » Easy search options:
  - court or tribunal
  - case number
  - accused
  - , keyword
  - date or period
  - > annotation author
  - full-text
- » Easy refining of your search criteria
- » Commented by distinguished experts in the field of international criminal law
- » Decisions and commentaries downloadable in pdf-format

If you wish to subscribe please visit www.annotatedleadingcases.com
If you would like a one-month trial access, please send your request to annotatedleadingcases@intersentia.be

www.annotatedleadingcases.com



Groenstraat 31 BE-2640 Mortsel Belgium

T +32 3 680 15 50 F +32 3 658 71 21 www.intersentia.com mail@intersentia.be The United Nations and HEINONLINE have joined forces to bring you the...

## **United Nations Law Collection**

Exact digital replicas of the original collection, never before offered!

#### First Release contains more than 15 titles, including:

The Complete Collection of the United Nations Treaty Series, 1946-Current Monthly Statement of Treaties and International Agreements, 1983-Current

United Nations International Court of Justice, Reports of Judgements, Advisory Opinions and Orders, 1947-Current

**United Nations Legislative Series, 1951-1985** 

#### Using convenient finding aids you will be able to:

- Quickly locate the full text of the treaty by entering the UNTS citation into the citation tool
- View International Agreements by Popular Name
- Search for a United Nations Treaty by treaty/registration number, country, signing date and much more!
- Find and link directly to law review articles that cite a specific UN Treaty

\*Special pricing available to those who subscribe prior to January 1, 2009











Call 1.800.828.7571 or e-mail marketing@wshein.com to subscribe today!

William S. Hein & Co., Inc. • HeinOnline • wshein.com • heinonline.org 1.800.828.7571 • marketing@wshein.com



## The greatest international law projects have been brought to life in HEINONLINE!

#### FOREIGN AND INTERNATIONAL LAW RESOURCES DATABASE

With HeinOnline's FILRD, researchers can easily search or browse online through the treasures of some of the world's best international law publications, from the in-depth coverage of publications of the American Society of International Law and prominent Yearbooks from around the world to the Hague Permanent Court of International Justice series and the publications of dozens of other highly-respected publishers. Containing nearly 70 titles and more than 750,000 pages, this is the world's most unique online collection for the international law researcher!

#### KLUWER LAW INTERNATIONAL JOURNAL LIBRARY

Wolters Kluwer is a leading global information services and publishing company that provides professionals in many sectors, including law, with products and services around the world.

#### Journals include:

- Business Law Review
- Common Market Law Review
- European Business Law Review
- European Foreign Affairs Review
- European Public Law
- European Review of Private Law

- Journal of World Trade
- International Journal of Comparative Labour Law & Industrial Relations
- Journal of International Arbitration
- Legal Issues of Economic Integration
- World Competition

#### HARVARD RESEARCH IN INTERNATIONAL LAW

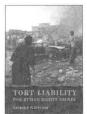
This collection includes access to the reprint of the Harvard Research in International Law as well as Contemporary Analysis and Appraisal. The Harvard Research in International Law was originally published in the American Journal of International Law between 1929 and 1939. This library includes <u>hundreds of links</u> to journal articles and treaties, as well as <u>hundreds of footnotes</u> to connect you to many related documents inside HeinOnline.

Call 1.800.828.7571 or e-mail marketing@wshein.com to subscribe today!



William S. Hein & Co., Inc. • HeinOnline • wshein.com • heinonline.org
1.800.828.7571 • marketing@wshein.com

### International Law from Hart Publishing



#### Tort Liability for Human Rights Abuses

George P Fletcher

Advancing a bold theory of the relevance of tort law in the fight against human rights abuses, celebrated US law professor George Fletcher here challenges the community of international lawyers to think again about how they can use the Alien Tort Statute.

Beginning with an historical analysis Fletcher shows how tort and criminal law originally evolved to deal with similar problems, how tort came to be seen as primarily concerned with negligence and how the Alien Tort Statute has helped establish the importance of tort law in international cases.

George P Fletcher is the Cardozo Professor of Jurisprudence at Columbia University in New York.

Oct 08 222pp Pbk 9781841137940 US\$35

#### The Responsibility to Assist

EU Policy and Practice in Crisis Management Operations under European Security and Defence Policy Edited by Tom Hadden

This report, written as part of a wider review of human rights in EU foreign policy, describes and assesses the current decision-making structures and procedures for EU military, police and civilian crisis management missions throughout the world. EU interventions or missions in non-member countries are a relatively recent development, and have largely been undertaken to ensure more effective co-ordination of humanitarian, peace-keeping, and peace building efforts by Member States in response to international conflicts and crises - and perhaps also to project the role of the EU as a major actor on the global stage. The main aim of the report is not to provide a detailed analysis of the success or failure of particular missions, but is to describe the often complex and confusing structures developed over the past decade and to assess the past, present and future of the EU's responsibility to intervene in international crises.

Tom Hadden is a former Professor of Law at the Queen's University Belfast and a member of its Human Rights Centre.

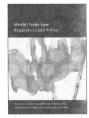
Jan 09 138pp Pbk 9781841139340 US\$63

## The Criminal Responsibility of Senior Political and Military Leaders as Principals to International Crimes

Héctor Olásolo, with a Foreword by Judge Sir Adrian Fulford, and an Introduction by Judge Ekaterina Trendafilova

As shown by the recent trials of Slobodan Milosevic, Charles Taylor and Saddam Hussein, the large-scale and systematic commission of international crimes is usually planned and set in motion by senior political and military leaders. Nevertheless, the application of traditional forms of criminal liability leads to the conclusion that they are mere accessories to such crimes. This does not reflect their central role and often results in a punishment which is inappropriately low in view of the impact of their actions and omissions. For these reasons, international criminal law has placed special emphasis on the development the concepts of joint criminal enterprise (also known as the common purpose doctrine) and control of the crime, which aim at reflecting better the central role played by senior political and military leaders in campaigns of large scale and systematic commission of international crimes. The Rome Statute of the International Criminal Court and the case law of the ICTY and the ICTR have, in recent years, played a unique role in the achievement of this goal.

Héctor Olásolo is a Legal Officer in Chambers at the ICC.
Feb 09 456pp Hbk 9781841136950 US\$105



## World Trade Law new textbook Text, Materials and Commentary Simon Lester & Bryan Mercurio with Arwel Davies & Kara Leitner

This new textbook on world trade law offers a unique perspective on this important subject in a number of ways. It is the first book to combine the best aspects of both the casebook and legal analysis approaches,

providing both detailed explanations and analysis of the law to help understand the issues as well as case extracts to offer a flavour of the judicial reasoning of trade adjudicators. Moreover, the book is truly global in outlook, being equally useful for students of international trade law in the UK, Europe, the US, Asia and elsewhere in the world. For instance, where domestic regulatory issues come into play, the book examines a variety of country practices, to illustrate how the rules apply around the world. The book is written with students in mind and provides an ideal learning tool to appeal to students across the globe.

Bryan Mercurio is Professor of Law at The Chinese University of Hong Kong. Simon Lester is President of WorldTradeLaw.net, LLC. Arwel Davies is a Senior Lecturer in law at Swansea University. Kara Leitner is a trade lawyer and partner in WorldTradeLaw.net, LLC.

Mar 08 892pp 9781841136608 Pbk US\$74

#### International Investment Law

Reconciling Policy and Principle Surya P Subedi

new textbook

This book presents an up to date and scholarly overview of the law of foreign investment, as well as a comprehensive and succinct analysis of the main principles and the standards of treatment available to foreign investors in international law. A major feature of this book is that it deals with the emerging tension between the law of foreign investment and other competing principles of international law. It proposes a number of ways and means of achieving a balance between these principles and the desire and need to protect the legitimate rights and expectations of foreign investors on the one hand, and the need not to unduly restrict the right of host governments to implement their public policy, including the protection of the environment and human rights, and the promotion of social and economic justice within the host country, on the other.

Surya P Subedi, OBE, DPhil, FRSA, is Professor of International Law, University of Leeds, and a Barrister at Tanfield Chambers in London.

Sept 08 244pp Pbk 9781841138794 US\$60

### **Property Rights and Natural Resources** *Richard Barnes*

The use of private property rights to regulate common pool natural resources is a controversial topic, which must address two critical issues: the allocation of wealth in society and proper conservation and management of limited resources. Given the privatisation of many natural resources within the confines of States, the most significant common pool natural resources are those located in international areas, such as the high seas and the atmosphere. This book explores the extension of private property rights and market mechanisms to the regulation of resources in these areas. Looking at developments in off-shore fisheries and mineral exploitation the book considers the legal ramifications of current moves towards the privatisation of common pool natural resources. The author also assesses

of common pool natural resources. I he author also assesses the impact of international law on the use of property rights.

Richard Barnes is the Sir QW Lee and Dr Peter Thompson Lecturer in Maritime Law at the University of Hull.

Apr 09 372pp Hbk 9781841135892 US\$100



Published by Hart Publishing Oxford, UK Distributors in the US: ISBS, 920 NE 58th Ave, Suite 300, Portland, OR, 97213-3786, USA

Tel +1 503 287 3093 Fax +1 503 280 8832 E-mail orders@isbs.com Order Online www.hartpublishingusa.com

Website for customers outside US: www.hartpubl.co.uk

Hart Publishing Ltd. is registered in England No. 3307205

#### Foreword

From its beginning, the Society established as one of its primary functions the regular collection, publication, and dissemination of important international legal materials. These materials were first published as a section of the *American Journal of International Law*, and since the 1960s as the current stand-alone *International Legal Materials* publication. The publication met a critical need in that earlier era—when access to primary source legal materials was limited. Today, access to information is no longer a problem. Indeed, our challenge is too much information. And therein we find a continuing mission for *International Legal Materials*.

The dramatic growth in the international legal field makes it nearly impossible for scholars and practitioners—let alone the general public—to keep abreast of the most important international legal developments. Fortunately they can rely on our staff and Editorial Advisory Committee to sift through the vast array of documents, identify those that are truly significant, and highlight them in *International Legal Materials* and our bi-weekly electronic bulletin, *International Law in Brief.* The Society's periodic *ASIL Insights* provide additional analysis of particularly high-profile developments.

Beginning in 2007, we have been supplementing all documents published in *International Legal Materials* with an introductory note from one of the many experts ASIL counts among its members. These notes provide summaries of the documents and key insights into their significance. In this volume we feature notes by David Stewart, Peter Starup, Matthew James Elsmore, Susana SáCouto, Katherine Cleary, August Reinisch, Djurdja Lazić, Rod Moore, Julie Roberts Furgerson, Cindy Galway Buys and David Fidler. We are extremely grateful to these authors, and we are confident that you will value their contributions as well.

Please send us your comments and suggestions as we continue our efforts to meet the evolving needs of the international legal community.

Sincerely,

Elizabeth Andersen Chair Editorial Advisory Committee International Legal Materials

#### International Legal Materials®

#### Statement of Editorial Policy

International Legal Materials is a core publication of The American Society of International Law that reproduces texts of documents reflecting the broad scope and evolution of international law. The range of covered subjects has expanded from traditional topics such as international organizations, jurisdiction, and international trade to include developments in fields such as intellectual property, environmental law, nuclear non-proliferation, human rights, and international criminal law.

International Legal Materials serves as both a bi-monthly information service and a widely recognized archive of international law documents for a diverse, global community of legal scholars, government officials, private practitioners and institutions sharing a common interest in international law. To meet the varied demands of such a readership, documents are selected from world-wide sources on the basis of their present and future legal significance.

International Legal Materials is prepared for publication in Washington, D.C. with both the advice of the Editorial Advisory Committee and the assistance of Corresponding Editors around the world. In order to reproduce the texts of selected documents under tight production schedules, the best available source is used, whether electronic or printed.

Readers are invited to send comments to:

Djurdja Lazić Managing Editor, *International Legal Materials* The American Society of International Law 2223 Massachusetts Avenue, NW Washington, DC 20008-2864

#### **Subscription Information**

International Legal Materials (ISSN 0020-7829) is published bi-monthly (in January, March, May, July, September and November) by The American Society of International Law, 2223 Massachusetts Avenue, NW, Washington, DC 20008-2864.

For 2008 subscriptions, the rate for Society members in the U.S. is \$150; outside the U.S., \$215 (airmail delivery). The rate for non-members of the Society is \$255; outside the U.S., \$315 (airmail delivery). Subscriptions are on an anniversary basis of twelve months starting from start of subscription.

#### **Back Issues and Indices**

ILM Volumes 1-42 (1962-2003) are available from William S. Hein & Co., 1285 Main Street, Buffalo, NY 14209-1987, toll-free (800) 828-7571, http://www.wshein.com. Hein's prices for back issues vary according to the ILM volume.

Both an annual table of contents and an annual index are carried in the November issue of each volume. Decennial Indices for *International Legal Materials* are available from Hein for the following periods: 1962-1969, 1970-1979, and 1980-1989.

ILM is also indexed by ABC POL SCI, IBZ-International Bibliography of Periodical Literature, Marine Affairs Bibliography, and Public Affairs Information Service.

#### Online Access and Microfiche

International Legal Materials is available online through:

LEXIS/NEXIS — http://www.lexis-nexis.com Westlaw — http://www.westlaw.com

Complete and odd volumes of *International Legal Materials* are available on microfiche from William S. Hein & Company, 1285 Main Street, Buffalo, NY 14209-1987, toll-free (800) 828-7571, http://www.wshein.com

#### ILM Tables of Contents — Online

Recent ILM Tables of Contents are stored at The American Society of International Law website, http//:www.asil.org. The Society's search engine can also be used to find the ILM citation of recently reproduced documents.

© The American Society of International Law 2008

#### Change of Address, Claims and Correspondence

Please inform the ASIL Service Center of a change of address in writing at least 60 days prior to moving in order to assure uninterrupted receipt of ILM. Your post office will not automatically forward your subscription. Claims for undelivered issues must be made in writing within three months of the publication date, which is available online at <a href="http://www.asil.org/claims.htm">http://www.asil.org/claims.htm</a>.

All correspondence regarding subscriptions and claims should be addressed to:

ASIL Service Center Association Headquarters Telephone: (856) 380-6810 FAX (202) 986-4234

http://www.asil.org, or e-mail: services@asil.org

#### Advertising

Inquiries about advertising rates and specifications should be directed to the Marketing Manager at the above address, phone or fax (but not e-mail address).

#### **Authorization to Photocopy**

Authorization to photocopy items for internal or personal use (beyond that permitted by Sections 107 and 108 of the U.S. Copyright Law), or for the internal or personal use of specific clients, is granted by The American Society of International Law for users registered with the Copyright Clearance Center (CCC) Transactional Reporting Service, provided that the base fee of \$10 per copy, plus 25¢ per page, is paid directly to CCC, 222 Rosewood Drive, Danvers, MA 01923-4510, http://www.copyright.com

For those organizations that have been granted a photocopy license by CCC, a separate system of payment has been arranged. The fee code for users of the Transactional Reporting Service is: 0020-7829/98 \$10.00 + .25.

For academic course reprints, please contact the ILM Office at 2223 Mass. Ave., NW, Washington, DC 20008-2864.

Periodicals postage paid at Washington, DC and additional mailing offices. POSTMASTER: Send address changes and returns to ILM, 2223 Massachusetts Avenue, NW, Washington, DC 20008-2864. Return postage guaranteed.

#### **Guidelines for Submission of Documents**

The ILM Office welcomes any effort to bring suitable documents to the Office's attention. Electronic files or web links are required for publication, although printed texts can be used for initial deliberations regarding republication.

The authenticity (i.e. official version status) of submitted documents must be easily verifiable. This is facilitated by submitting files or print versions which are clearly attributable to the original source, or by providing links to documents on the original source's official website.

If the official version of a document is not available in English, an unofficial translation is acceptable. The original text must accompany such a translation.

#### **Introductory Notes**

Introductory Notes are brief articles from one to three pages in length which are intended to provide background information for a document reproduced in ILM.

For example, an Introductory Note for a treaty might include a short history of the negotiations, the dates of signature and entry into force. An Introductory Note for legislation would give its history and international significance, while one for judicial proceedings would provide the background of the case.

The views of authors in Introductory Notes are their own and do not necessarily reflect those of either the American Society of International Law or the Managing Editor.

#### **Acceptance of Materials and Corrections**

Print submissions cannot be returned. Translators and others submitting material will be notified of the acceptance of their document for publication.

Once a translation or Introductory Note has been accepted for reproduction, The American Society of International Law will send a publication agreement to the author.

Translators and Introductory Note Authors shall be acknowledged in *International Legal Materials*.

In some cases minor editorial or typographical alterations may be made without contacting the author or translator. Major corrections will be sent to the author or translator for approval. Corrected Introductory Notes or translations must be returned within the time specified.

#### **Contributions and Correspondence**

Please address all correspondence to:

Djurdja Lazić Managing Editor, *International Legal Materials* 2223 Massachusetts Avenue, NW Washington, DC 20008-2864

Telephone: (202) 939-6000 FAX: (202) 797-7133 e-mail: dlazic@asil.org

#### International Law In Brief

The Attorney-Editors of *International Legal Materials* also publish the e-mail newsletter *International Law In Brief*, which contains objective abstracts of recently released documents pertinent to international law.

Documents abstracted in *International Law In Brief* are later considered for reproduction in *International Legal Materials*.

A complete International Law In Brief archive is located at The American Society of International Law website (http://www.asil.org). A search engine provides an easy way to find abstracts of specific documents.

The *International Law In Brief* publication is free, but has an independent subscription.

To subscribe, go to the registration website at: http://www.asil.org/subscribeelectronic.cfm

For further information, please contact:

Djurdja Lazić at dlazic@asil.org

#### **Managing Editor**

Djurdja Lazić

#### **Editorial Advisory Committee**

Elizabeth Andersen, Chair
Evan T. Bloom
Christina M. Cerna
John R. Crook
Jane Dalton
Anne Joyce
Nancy L. Perkins

Rafael Porrata-Doria David Stewart Charles Owen Verrill Jeffrey Walker Bruce Zagaris Nassib G. Ziadé

Members Emeriti
John Lawrence Hargrove

#### **ILM Corresponding Editors**

Judge Leslie Alden (Int'l Ass'n Women Judges) Evelina Teubal Alhadeff (Mercosur, Argentina)

Don Anton (Int'l Env., LOS) David J. Attard (Malta)

Paolo Bargiacchi (Int'l Hegemonic Law)

Welber Barral (Brazil, Int'l Trade) Delroy Beckford (Trade Remedies)

Jean-François Bellis (European Communities)

Charles H. Brower, II (Pub. Int'l, Arbitration)

Gian Luca Burci (Int'l Health) William E. Butler (CIS)

David JA Cairns (Investment Arbitration)

James H. Carter (U.S. Second Circuit)

Elizabeth Chien Hale (IP) Sudhir Chopra (India)

Carl Q. Christol (Communications, Outer Space)

Nivoi Christopoulou (European Union) John P. Cogan, Jr. (U.S. Fifth Circuit) Alice De Jonge (Multinational Corp. Resp.) Melaku Geboye Desta (AU, Agriculture, WTO)

Christian De Vos (Human Rights) Janelle Diller (Int'l Labor Law) John R. Dugard (Southern Africa) Mete Erdem (Int'l Env., Turkey) Stephanie Farrior (Int'l Hum. Rights)

Gustavo Ferreira Ribeiro (Brazil, Int'l Economic Law)

Richard I. Fine (U.S. Ninth Circuit) Kimberly Gahan (Nat'l Security) Hannah R. Garry (Int'l Human Rights)

Giacomo Gattinara (E.U)
Dencho G. Georgiev (Bulgaria)
Chiara Giorgetti (Int'l Env.)

Maria Gavouneli (Greece, Cyprus, LOS) Kevin R. Gray (Int'l Trade and Environment)

Dermot Groome (Int'l Humanitarian) Moritaka Hayashi (LOS, Int'l Fisheries Law)

Eckhard Hellbeck (Int'l Dis. Res.)

Jean-Marie Henckaerts (Int'l Humanitarian Law) Cecil Hunt (Anti-Bribery Laws and Regulations)

Larry D. Johnson (Int'l Atomic Energy Agency)

Sami Kallel (Maghreb)

Mark Kantor (Int'l Bus., Int'l Arbitration) Susan L. Karamanian (Investment, Arbitration) Nicholas Karambelas (Commercial Treaties, LOS)

Kenneth Klein (Int'l Taxation)

Christina Knahr (Int'l Investment Arbitration)

Artur Kowalski (Poland, Pub. Int'l)

Jeffrey D. Kovar (Pub. and Private Int'l Law)

Karin Landgren (Children)

Arnold H. Leibowitz (Immigration)

Frankie F.L. Leung (Hong Kong)
John Linarelli (Int'l Public Procurement)
Keith N. Loken (Int'l Econ, Law)

Jim Lynch (Int'l Tax)

Pedro J. Martinez-Fraga (Int'l Litigation)

Andrew Mitchell (WTO)

Saira Mohamed (Int'l Human Rights) Jason Morgan-Foster (ICJ, ILC) Daryl A. Mundis (ICC, ICTR, ICTY)

Boldizsár Nagy (Hungary)

Michael O'Boyle (European Court of Human Rights)

Jason Palmer (Pub. Int'l) Eric Pelofsky (Int'l Orgs.) Fabrizio Pagani (OECD)

John R. Pate (Andean Community of Nations)

T. Michael Peay (Pub. Int'l)

Hernan Perez-Loose (Int'l Investment)

Ryan Phair (Pub. Int'l) Shawn Pompian (Int'l Trade) Charles H. Poncet (Switzerland) Amelia B. Porges (WTO)

Amena B. Porges (W1O) Norman Printer (Int'l Humanitarian) Vikram Raghavan (World Bank)

Heiko Recktenwald (German, WIPO) August Reinisch (European Law)

Kenneth M. Rosen (Reg. Int'l Bus.)

Timothy Rudy (OAS)

Ewa Sakiewicz-Munnerlyn (Poland)

Gerald S. Schatz (Bio-Medical Ethics/Health) Richard F. Scott (International Energy Agency)

Jeremy Sharpe (Int'l Dis. Res.) William Slomanson (Pub. Int'l) Henri Smets (Int'l Env. Law, OECD)

Stefaan Smis (Belgium) Brigitte Stern (France)

Sompong Sucharitkul (Southeast Asia and the Pacific)

Jiri Toman (Law of War)

Antônio Augusto Cançado Trindade (Brazil, IACHR)

Alexander Umole (Nigeria, IBT) Kim Van der Borght (Belgium) Jorge A. Vargas (Mexico)

Manuel E. Ventura-Robles (IACHR)

Thomas W. Wälde (Energy Law, Int'l Investment)

Rebecca M.M. Wallace (United Kingdom) John Wilson (Private Int'l Law)

John Wilson (Private Int'l Law Rick Wilson (Human Rights)

Anthony Winer (Caspian Sea, Corruption)

Yozo Yokota (Japan)

Simon Young (Money Laundering)

Alberto Zuppi (Int'l Crim.)

#### INTERNATIONAL LEGAL MATERIALS

#### Volume 47 — No. 6 — 2008

— Contents —

U	.S. Court of Appeals for the Second Circuit: In Re Terrorist Attacks Introductory Note by David Stewart	839
Eı	uropean Court of Justice: Metock and Others	
	Introductory Note by Matthew James Elsmore and Peter Starup	858
In	ternational Criminal Tribunal for Rwanda: Tharcisse Muvunyi v. Prosecutor	
	Introductory Note by Susana SáCouto and Katherine Cleary	875
	uropean Court of Justice: Kadi and Al Barakaat v. Council of the European Union and Commission of the European Communities	
	Introductory Note by August Reinisch	923
In	nternational Criminal Court: Prosecutor v. Thomas Lubanga Dyilo Introductory Note by Djurdja Lazić	968
U	nited Nations Food and Agriculture Organization: International Guidelines on Deep Sea Fisheries Introductory Note by Rod Moore and Julie Roberts Furgerson	994
In	Introductory Note by Cindy Galway Buys	1010
Po	oland and U.S. Agreement on the Deployment of Missile Defense System Introductory Note by David Fidler	1042
BRIE	FLY NOTED	1054
INDE	X	1059

**VOLUME 47 — NUMBER 6**