
Legitimacy And Legality In International Law An Interactional Account Cambridge Studies In International And Comparative Law

A Landscape of Contemporary Theories of International Law
 Legitimacy and International Courts
 Law Beyond the State
 Hans Kelsen's Pure Theory of Law
 Interdisciplinary Perspectives on International Law and International Relations
 Unlawful Territorial Situations
 Dynamic Coordination, State Consent, and Binding International Law
 The State of the Art
 The Legitimacy of International Law
 Legality and Legitimacy
 International Law and Transitional Governance
 Law-Making and Legitimacy in International Humanitarian Law
 How to Do Things with International Law
 Economic Sanctions under International Law
 The Oxford Handbook of International Organizations
 Governmental Illegitimacy in International Law
 The International Rule of Law
 Rise Or Decline?
 An interdisciplinary study of legitimacy
 The Legitimacy of Use of Force in Public and Islamic International Law
 Legitimacy in International Society
 Reconciling Effectiveness, Legality and Legitimacy in International Law
 An Interactional Account
 Human Rights, Intervention, and the Use of Force
 A Constitutionalist Framework of Analysis
 Legitimacy in International Law
 Legislation, Discourse and Legitimacy in Singapore
 Investigating the Legality, Morality and Efficacy of UCAVs
 Legitimacy and Drones
 The Legitimacy of International Law
 Legality and Legitimacy in Global Affairs
 Legitimacy & Legality in Intl Law
 The Democratic Legitimacy of International Law
 Non-binding Norms in International Humanitarian Law
 Efficacy, Legitimacy, and Legality
 Legality and Legitimacy in International Order
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A Landscape of Contemporary Theories of International Law Springer Science & Business Media

This book investigates the legitimacy deficits of two potentially conflicting legal systems, namely Public and Islamic international law. It discusses the challenges that Public international law is being presented within the context of its relationship with Islamic international law. It explores how best to overcome these challenges through a comparative examination of state practices on the use of force. It highlights the legal-political legacies that evolved surrounding the claims of the legitimacy of use of force by armed non-state actors, states, and regional organizations. This book offers a critical analysis of these legacies in line with

the Islamic Shari'a law, United Nations Charter, state practices, and customs. It concludes that the legitimacy question has reached a vantage point where it cannot be answered either by Islamic or Public international law as a mutually exclusive legal system. Instead, Public international law must take a coherent approach within the existing legal framework.

Legitimacy and International Courts Edward Elgar Publishing

The objective of this work is to restate the requirements of democratic legitimacy in terms of the deliberative ideal developed by Jürgen Habermas, and apply the understanding to the systems of global governance. The idea of democracy requires that the people decide, through democratic procedures, all policy issues that are politically decidable. But the state is not a voluntary association of free and equal citizens; it is a construct of international law, and subject to international law norms. Political self-determination takes places within a framework established by domestic and international public law. A

compensatory form of democratic legitimacy for inter-state norms can be established through deliberative forms of diplomacy and a requirement of consent to international law norms, but the decline of the Westphalian political settlement means that the two-track model of democratic self-determination is no longer sufficient to explain the legitimacy and authority of law. The emergence of non-state sites for the production of global norms that regulate social, economic and political life within the state requires an evaluation of the concept of (international) law and the (legitimate) authority of non-state actors. Given that states retain a monopoly on the coercive enforcement of law and the primary responsibility for the guarantee of the public and private autonomy of citizens, the legitimacy and authority of the laws that regulate the conditions of social life should be evaluated by each democratic state. The construction of a multiverse of democratic visions of global governance by democratic states will have the practical consequence of democratising the international law order, providing democratic legitimacy for international law.

Law Beyond the State Duke University Press

International Humanitarian Law (IHL) is in a state of some turbulence, as a result of, among other things, non-international armed conflicts, terrorist threats and the rise of new technologies. This incisive book observes that while states appear to be reluctant to act as agents of change, informal methods of law-making are flourishing. Illustrating that not only courts, but various non-state actors, push for legal developments, this timely work offers an insight into the causes of this somewhat ambivalent state of IHL by focusing attention on both the legitimacy of law-making processes and the actors involved. Investigating what law-making processes reveal about the overall state of this legal regime, this thought-provoking book shows that current developments display a far-reaching disagreement about the direction into which IHL should evolve. It explores the most relevant trends in the development of IHL including the absence of formal law-making by states, informal law-making through manual processes and the increasing role of sub and non-state actors. *Law-Making and Legitimacy in International Humanitarian Law* will be of benefit to scholars and students of international law and relations, as well as practitioners working in the field of IHL, particularly in government ministries, international organizations and NGOs.

Hans Kelsen's Pure Theory of Law Springer Nature

There has been intense debate in recent times over the legitimacy or otherwise of international law. This book contains fresh perspectives on these questions, offered at an international and interdisciplinary conference hosted by the Max Planck Institute for Comparative Law and International Law. At issue are questions including, for example, whether international law lacks legitimacy in general and whether international law or a part of it has yielded to the facts of power.

Interdisciplinary Perspectives on International Law and International Relations Princeton University Press

This intellectually rigorous introduction to international law encourages readers to engage with multiple aspects of the topic: as 'law' directing and shaping its subjects; as a technique for governing the world of states and beyond statehood; and as a framework within which several critical and constructivist projects are articulated. The articles situate international law in its historical and ideological context and examine core concepts such as sovereignty, jurisdiction and the state. Attention is also given to its operation within international institutions and in dispute settlement, and a separate section is devoted to international law's 'projects': protecting human rights, eradicating poverty, the conservation of resources, the regulation of

international trade and investment and the establishment of international order. The diverse group of contributors draws from disciplinary orientations ranging from positivism to postmodernism to ensure that this book is informed theoretically and politically, as well as grounded in practice.

Unlawful Territorial Situations Cambridge University Press
Legitimacy and Legality in International Law An Interactional Account Cambridge University Press

Dynamic Coordination, State Consent, and Binding International Law Legitimacy and Legality in International Law An Interactional Account

Sovereignty and the sovereign state are often seen as anachronisms; Globalization and Sovereignty challenges this view. Jean L. Cohen analyzes the new sovereignty regime emergent since the 1990s evidenced by the discourses and practice of human rights, humanitarian intervention, transformative occupation, and the UN targeted sanctions regime that blacklists alleged terrorists. Presenting a systematic theory of sovereignty and its transformation in international law and politics, Cohen argues for the continued importance of sovereign equality. She offers a theory of a dualistic world order comprised of an international society of states, and a global political community in which human rights and global governance institutions affect the law, policies, and political culture of sovereign states. She advocates the constitutionalization of these institutions, within the framework of constitutional pluralism. This book will appeal to students of international political theory and law, political scientists, sociologists, legal historians, and theorists of constitutionalism.

The State of the Art Routledge

This work deals with the question of unlawful territorial situations, i.e. territorial regimes that are established and maintained in defiance of international law. The book represents a welcome contribution to an issue of the utmost importance in international affairs at present times. It brings together elaborate theoretical discussion and thorough empirical research. Students of international law, practitioners, and anyone interested in deepening the understanding of the role and relevance of international law to territorial occupation will greatly benefit from this study.

The Legitimacy of International Law Springer

It has never been more important to understand how international law enables and constrains international politics. By drawing together the legal theory of Lon Fuller and the insights of constructivist international relations scholars, this book articulates a pragmatic view of how international obligation is created and maintained. First, legal norms can only arise in the context of social norms based on shared understandings. Second, internal features of law, or 'criteria of legality', are crucial to law's ability to promote adherence, to inspire 'fidelity'. Third, legal norms are built, maintained or destroyed through a continuing practice of legality. Through case studies of the climate change regime, the anti-torture norm, and the prohibition on the use of force, it is shown that these three elements produce a distinctive legal legitimacy and a sense of commitment among those to whom law is addressed.

Legality and Legitimacy Oxford University Press

This collection presents an analysis of the imperatives of sovereignty, human rights and national security in the post 9/11 era, and examines their relationship to procedural and substantive legitimacy in liberal democratic states
Oxford University Press, USA

This monograph examines and analyses the phenomenon of non-binding instruments (also known as 'soft law') in the law of armed conflict, or international humanitarian law. In the past 30 years,

there have been several non-binding instruments created, designed as either 'best practice' guidelines, or (re)statements of applicable law. These instruments are not treaties, but they nevertheless put themselves forward as authoritative statements of what the law is and, in some instances, what the law should be. Soft law instruments can be dynamic, prompt, and responsive measures to address pressing issues in armed conflicts. By drawing on the skill of a small group of experts, these instruments can be debated and drafted in a timelier manner than if these issues were to be left to the international community of 194 States to resolve. Furthermore, because these instruments do not have to be sent for debate to an international conference of States, it means that the provisions are not subject to the usual revisions, reservations, and dilutions that come with attempting to reach consensus. However, there are potential and actual problems with these instruments and the processes that bring them to fruition, and how they are received in practice by States and other stakeholders. This volume looks at the benefits and drawbacks for States and non-State actors with regards to soft law, whether they are effective additions to the law of armed conflict, analysing the development through the lens of theories of legitimacy and legality in international law.

International Law and Transitional Governance Oxford University Press

In *Regulating International Sport: Power, Authority and Legitimacy* Lloyd Freeburn provides a ground-breaking account of the legal basis of regulatory power in international sport and outlines the reforms necessary to give the regime legality and legitimacy.

Law-Making and Legitimacy in International Humanitarian Law Cambridge University Press

This interdisciplinary book explores how terrorism is meant to target a government's legitimacy, and advocates for sounder defensive measures when countering international attacks. The dramatic increase in global cooperation throughout the twentieth century—between international organisations and their state missions of diplomats, foreign officers, international civil servants, intelligence officers, military personnel, police investigators, judges, legislators, and financial regulators—has had a bearing on the shape and content of the domestic political order. The rules that govern all of these interactions, and the diplomats engaged to monitor and advocate for compliance, have undergone a mushrooming development following the conclusion of each world war. This dramatic growth is arguably the most significant change the international structure has experienced since the inception of the state-based system ushered in with the Peace of Westphalia in 1648. *International Law, New Diplomacy and Counterterrorism* explores the impact of this growth on domestic legitimacy through the integration of two disciplines: international law and political philosophy. Focusing particularly on the cross-border counterterrorism actions launched by the United States, the author investigates how civil societies have often turned to the standards of international law to understand and judge the legitimacy of their government's counterterrorism policies reaching across international borders. The book concludes that those who craft counterterrorism policies must be attentive to defending the target of legitimacy by being wholly mindful of the realms of legality, morality and efficacy when exercising force. This book will be of much interest to students of international law, diplomacy, counterterrorism, political philosophy, security studies and IR.

How to Do Things with International Law Routledge

"Legality and legitimacy in global affairs edited by Richard Falk, Mark Juergensmeyer, and Vesselin Popovski, brings together analyses of controversial events in international politics from top

experts in field ; combines approaches to involvement between nations from across the social science disciplines ; approaches contemporary international relations from a philosophical, ethical, and legal standpoint" --

Economic Sanctions under International Law Oxford University Press

Since the Second World War, States have increasingly relied upon economic sanctions programs, in lieu of military action, to exert pressure and generally to fill the awkward gap between verbal denunciation and action. Whether or not sanctions are effective remains a point of contention among policymakers. Frequently asked questions include whether any legal order constrains the use of sanctions, and, if so, what the limits on the use of sanctions are. This volume gathers contributions from leading experts in various relevant fields providing a seminal study on the limits of economic sanctions under international law, including accountability mechanisms when sanctioning States go too far. Where there are gaps in the law, the authors provide novel and important contributions as to how existing legal structures can be used to ensure that economic sanctions remain within an accepted legal order. This book is a most valuable contribution to the literature in the fields of international economic law, public international law and international dispute resolution. Ali Z. Marossi is an advisory board member of The Hague Center for Law and Arbitration. Marisa R. Bassett is Associate Legal Officer in the Office of the Prosecutor for the ICTY and former Associate at White & Case LLP.

The Oxford Handbook of International Organizations Cambridge University Press

When is a de facto authority not entitled to be considered a 'government' for the purposes of International Law? International reaction to the 1991-4 Haitian crisis is only the most prominent in a series of events that suggest a norm of governmental illegitimacy is emerging to challenge more traditional notions of state sovereignty. This challenge has dramatic implications for two fundamental legal strictures: that against the use or threat of force against a state's political independence, and that against interference in matters 'essentially' within a state's domestic jurisdiction. Yet although human rights advocates have begun to speak of state sovereignty as an 'anachronism', with some expansively proclaiming the emergence of an international 'right to democratic governance,' international law literature lacks systematic treatment of governmental illegitimacy. This work seeks to specify the international law of collective non-recognition of governments, so as to enable legal evaluation of cases in which competing factions assert governmental authority. It subjects the recognition controversies of the United Nations era to a systematic examination, informed by theoretical and comparative perspectives on governmental legitimacy. The inquiry establishes that the category of 'illegitimate government' now occupies a place in international law, with significant consequences for the legality of intervention in certain instances. The principle of popular sovereignty, hitherto vague and ambiguous, has acquired sufficient determinacy to serve, in some circumstances, as a basis for denial of legal recognition to putative governments. This development does not imply, however, the emergence in international law of a meaningful norm of 'democratic governance,' nor would such a norm serve the purposes of the scheme of sovereign equality of states embodied in the United Nations Charter.

Governmental Illegitimacy in International Law Oxford University Press, USA

This monograph examines and analyses the phenomenon of non-binding instruments (also known as 'soft law') in the law of armed conflict, or international humanitarian law. It covers the benefits

and drawbacks for States and non-States actors as well as their effectiveness and development in the context of armed conflict. [The International Rule of Law](#) Cambridge University Press

Scholars have generally assumed that authoritarianism and rule of law are mutually incompatible. Convinced that free markets and rule of law must tip authoritarian societies in a liberal direction, nearly all studies of law and contemporary politics have neglected that improbable coupling: authoritarian rule of law. Through a focus on Singapore, this book presents an analysis of authoritarian legalism. It shows how prosperity, public discourse, and a rigorous observance of legal procedure have enabled a reconfigured rule of law such that liberal form encases illiberal content. Institutions and process at the bedrock of rule of law and liberal democracy become tools to constrain dissent while augmenting discretionary political power - even as the national and international legitimacy of the state is secured. This book offers a valuable and original contribution to understanding the complexities of law, language and legitimacy in our time.

Rise Or Decline? Oxford University Press

There has been intense debate in recent times over the legitimacy or otherwise of international law. This book contains fresh perspectives on these questions, offered at an international and interdisciplinary conference hosted by the Max Planck Institute for Comparative Law and International Law. At issue are questions including, for example, whether international law lacks legitimacy in general and whether international law or a part of it has yielded to the facts of power.

An interdisciplinary study of legitimacy Martinus Nijhoff Publishers

Does international law suffer from a legitimacy crisis? International law today is no longer adequately described or assessed as the law of a narrowly circumscribed domain of foreign affairs. Its obligations are no longer firmly grounded in the specific consent of states and its interpretation and enforcement is no longer primarily left to states. Contemporary international law has expanded its scope, loosened its link to state consent and strengthened compulsory adjudication and enforcement mechanisms. This partial emancipation from state control means that domestic accountability mechanisms are becoming ineffective as a means to legitimate international law. Correspondingly, the legitimacy of international law is increasingly challenged in domestic settings in the name of democracy and constitutional selfgovernment. This article addresses this challenge. It develops a constitutionalist model for assessing the legitimacy of international law that takes seriously the commitments underlying constitutional democracy. At the heart of this model are four distinct concerns, each captured by a distinct principle. These principles are the as well as the . Such a framework provides a middle ground between national and international constitutionalists. Whereas the former sometimes suggest that any law not sufficiently connected to domestic legal actors is suspect legitimacy-wise, the latter tend to underplay what is lost democracy-wise as decision-making is ratcheted up from the national to the international level. Formal principle of international legality, the jurisdictional principle of subsidiarity, the procedural principle of adequate participation and accountability substantive principle of achieving outcomes that are not violative of fundamental rights and are reasonable.

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