

VOLUME 22 | NUMBER 4 | DECEMBER 2009 | 0922-1565

Leiden journal *of* international law

Leiden journal
of international law

VOLUME 22 | NUMBER 4 | DECEMBER 2009

CAMBRIDGE

*in association with the Grotius Centre for International Legal
Studies, Leiden University and University Campus The Hague*

CAMBRIDGE
UNIVERSITY PRESS

<https://doi.org/10.1017/S0922156509990148> Published online by Cambridge University Press

Leiden Journal of International Law

Leiden Journal of International Law is published by Cambridge University Press for the Foundation of the Leiden Journal of International Law.

Firmly established as one of Europe's leading journals in the field, *Leiden Journal of International Law (LJIL)* provides a forum for two vital areas, namely international legal theory and international dispute settlement. It is unique in providing the most comprehensive coverage of the world's most important international tribunals in The Hague and elsewhere (such as the ICJ, ICTY, ICC and others), as well as examining new trends in international legal thinking. *LJIL* is essential reading for academics and practitioners who need to stay abreast of recent developments in these areas.

SUBSCRIPTIONS

Leiden Journal of International Law (ISSN 0922-1565) is published quarterly in March, June, September and December. Four parts form a volume. The subscription price which includes delivery by air where appropriate (but excluding VAT) of volume 22 (2009), which includes print and electronic access, is £184.00 (US\$299.00 in USA, Canada and Mexico) for institutions; £31.00 (US\$46.00 in USA, Canada and Mexico) for individuals, which includes print only. Students ordering direct from the publishers and certifying that the journal is for their personal use can subscribe to the print version at £25.00 (US\$38.00 in USA, Canada and Mexico). The electronic-only price available to institutions is £164.00 (US\$264.00). Single parts are £48.00 (US\$74.00 in USA, Canada and Mexico) plus postage. EU subscribers (outside the UK) who are not registered for VAT should add VAT at their country's rate. VAT registered members should provide their VAT registration number. Japanese prices for institutions (including ASP delivery) are available from Kinokuniya Company Ltd, PO Box 55, Chitose, Tokyo 156, Japan.

Orders, which must be accompanied by payment, may be sent to a bookseller, subscription agent or direct to the publisher: Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge CB2 8RU; or in the USA, Canada and Mexico: Cambridge University Press, Journals Fulfillment Department, 100 Brook Hill Drive, West Nyack, New York 10994-2133, USA. Periodicals postage paid at New York, NY and at additional mailing offices.

Leiden Journal of International Law is included in the Cambridge Journals Online journals service which can be found at <http://journals.cambridge.org>. For further information on other Press journals access <http://cambridge.org/journals>.

COPYING

This journal is registered with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923, USA (www.copyright.com). Organizations in the USA which are also registered with the CCC may, therefore, copy material (beyond the limits permitted by sections 107 and 108 of US Copyright law) subject to payment to the CCC. This consent does not extend to multiple copying for promotional or commercial purposes. Code 0922-1565/08. ISI Tear Sheet Service, 3501 Market Street, Philadelphia, PA 19104, USA, is authorized to supply single copies of separate articles for private use only. Organizations authorized by the Copyright Licensing Agency may also copy material, subject to the usual conditions. For all other use, permission should be sought from Cambridge or from the US branch of Cambridge University Press.

This journal issue has been printed on FSC-certified paper and cover board. FSC is an independent, non-governmental, not-for-profit organization established to promote the responsible management of the world's forests. Please see www.fsc.org for information.

© Foundation of the Leiden Journal of International Law 2009
ISSN 0922-1565

Printed in the United Kingdom by the University Press, Cambridge

Contents

ARTICLES

651–676 The International Regulation of the Use of Force: The Politics of Interpretive Method
Andrea Bianchi

677–702 *Populus Interruptus*: Self-Determination, the Independence of Kosovo, and the
Vocabulary of Peoplehood
Zoran Oklopčič

HAGUE INTERNATIONAL TRIBUNALS

International Court of Justice

703–713 Rosalyn Higgins: Judge and President of the International Court of Justice (1995–2009)
Thomas Buergenthal

International Criminal Court and Tribunals

715–726 Critical Issues in the *Bemba* Confirmation Decision
Kai Ambos

727–752 Defining Victims of Crimes against Humanity: *Martić* and the International Criminal
Court
Joakim Dungal

Special Court for Sierra Leone

753–759 The Application of Human Rights Treaties in the Development of Domestic and
International Law: A Personal Perspective
Teresa A. Doherty

761–777 Preserving the Legacy of the Special Court for Sierra Leone: Challenges and Lessons
Learned in Prosecuting Grave Crimes in Sierra Leone
Joseph F. Kamara

CURRENT LEGAL DEVELOPMENTS

779–799 Common Article 1: A Minimum Yardstick for Regulating Private Military and
Security Companies
Hannah Tonkin

801–821 Moving Ahead in Protecting Freshwater Resources: The International Law
Commission's Draft Articles on Transboundary Aquifers
Kerstin Mechlem

823–851 Displacement of Civilians during Armed Conflict in the Light of the Case Law of the
Eritrea-Ethiopia Claims Commission
Allehone Mulugeta Abebe

BIBLIOGRAPHY

853–856 Books and Articles in the Field of the Prevention and Peaceful Settlement of
International Disputes (Summer 2009)
Ingrid Kost

REVIEW ESSAY

857–865 Russell A. Miller and Rebecca M. Bratspies (eds.), *Progress in International Law*
Thomas Skouteris

BOOK REVIEW

867–873 Nils Melzer, *Targeted Killing in International Law*
Tamás Hoffmann

Leiden Journal of International Law

EDITORS

Larissa van den Herik (Editor-in-Chief)
Wouter Werner, Fleur Johns, and Tanja Aalberts (Articles)
Santiago Villalpando (ICJ)
Elies van Sliedregt (ICTY)
Carsten Stahn (ICC)
Jean d'Aspremont, Annemarieke Vermeer-Künzli,
and Eric De Brabandere (CLD)
Robert Heinsch (Book Reviews)
Ingrid Kost (Bibliography)
Gideon Boas (General Editor)
Marcel Brus (General Editor)
Thomas Skouteris (General Editor)

James Bischoff
Lennert Breuker
Cristina Hoss
Volker Nerlich
Vid Prislán
Sandesh Sivakumaran
B. Don Taylor III

EDITORIAL OFFICE

Christine Tremblay (Managing Editor)
Philippa Youngman (Copy Editor)
Kerem Gülay, John Heintz, Moritz Moelle, Johan Nilsson,
Rahel Weingärtner, and Rumiana Yotova (Assistant Editors)

ADVISORY EDITORS

Nathaniel Berman (New York)
Laurence Boisson de Chazournes (Geneva)
Hilary Charlesworth (Canberra)
Christine Chinkin (London)
James Crawford (Cambridge)
John Dugard (Leiden)
Horst Fischer (Bochum and Leiden)
Rick Lawson (Leiden)
Philippe Sands (London)
Michael P. Scharf (Ohio)
Christoph Schreuer (Vienna)
Bruno Simma (The Hague)
Otto Triffterer (Salzburg)
Makau Wa Mutua (Buffalo)