

VOLUME 28 | NUMBER 1 | MARCH 2015 | 0922-1565

Leiden Journal *of* international law

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

**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 28 (2015), which includes print and electronic access, is £273.00 (US\$443.00 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 £233.00 (US\$373.00). Single parts are £74.00 (US\$118.00 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, Journals Fulfillment Department, University Printing House, Shaftesbury Road, Cambridge CB2 8BS; 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 indexed and abstracted in the following Thomson Reuters products services: Current Contents®/Social and Behavioural Sciences; Social Sciences Citation Index®/Social Scisearch®; Journal Citation Reports/

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 2015
ISSN 0922-1565

Printed in the UK by Bell & Bain Ltd., Glasgow.

Contents

EDITORIAL

- 1–11 Sitting on the Wall, Looking in: Some Reflections on the Critique of International Criminal Law
Dov Jacobs

INTERNATIONAL LAW AND PRACTICE

- 13–30 State Succession to Bilateral Treaties: A Few Observations on the Incoherent and Unjustifiable Solution Adopted for Secession and Dissolution of States under the 1978 Vienna Convention
Patrick Dumberry
- 31–47 When Does a Court Systematically Deviate from its Own Principles? The Adjudication by the Israel Supreme Court of House Demolitions in the Occupied Palestinian Territories
Guy Harpaz
- 49–71 The Security Council's 1267/1989 Targeted Sanctions Regime and the Use of Confidential Information: A Proposal for Decentralization of Review
Stephan Hollenberg

HAGUE INTERNATIONAL TRIBUNALS

International Court of Justice

- 73–89 Article 60 ICJ Statute, Interpretation Proceedings, and the Competing Concepts of *Res Judicata*
Andreas Kulick

International Criminal Courts and Tribunals

- 91–112 A Human Rights Appraisal of the Limits to Judicial Independence for International Criminal Justice
Jessica Almqvist
- 113–131 What Defines an International Criminal Court?: A Critical Assessment of 'the Involvement of the International Community' as a Deciding Factor
Astrid Kjeldgaard-Pedersen
- 133–155 Burden and Standard of Proof in Defence Challenges to the Jurisdiction of the International Criminal Court
Michail Vagias and Janos Ferencz

BIBLIOGRAPHY

- 157–165 Books and Articles in the Field of the Prevention and Peaceful Settlement of Disputes (Autumn 2014)
Ingrid Kost

BOOK REVIEWS

- 167–171 Andrea Bianchi and Anne Peters (eds.), *Transparency in International Law*
Emma Dunlop
- 171–175 Rosa Freedman, *Failing to Protect: The UN and the Politicisation of Human Rights*
Ruth Houghton

- 175–181 Maurizio Ragazzi (ed.), *Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie*
Odette Murray
- 182–184 Cristina Verones and Sébastien Rosselet, *The Public International Law Study Guide for Students: Exercises and Answers*
Andrea Varga

Leiden Journal of International Law

EDITORS

Carsten Stahn (Editor-in-Chief)
Eric De Brabandere (Editor-in-Chief)
Tanja Aalberts (International Legal Theory)
Yannick Radi (International Legal Theory)
Ingo Venzke (International Legal Theory)
Tarcisio Gazzini (International Law and Practice)
Theodore Christakis (International Law and Practice)
Cecily Rose (International Law and Practice)
Jason Morgan-Foster (ICJ)
Philippa Webb (ICJ)
Florence Zaoui (ICJ)
Elies van Sliedregt (ICTY)
Mark J. Osiel (ICTY)
Volker Nerlich (ICC)
Sara Kendal (ICC)
Sergey Vasiliev (ICC)
Dov Jacobs (ICC and Legal Blogging)
Freya Baetens (Book Reviews)
Vid Prislán (Book Reviews)
Ingrid Kost (Bibliography)
Larissa van den Herik (General Editor)
Jean d'Aspremont (General Editor)
Thomas Skouteris (General Editor)

EDITORIAL OFFICE

Teodora Jugrin (Chair, Managing Editor)
Roxanne Selby (Copy Editor)

Student Editors:

Maryam Ansari
Jacob Chylinski
María Isabel Cubides Sánchez
Geneviève Girard
Yunjoo K. Goze
Katherine Pitcher
Raffaella Pizzamiglio
Gabriel Webber Ziero

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 & 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)