

THE JOURNAL OF THE ASIAN SOCIETY OF INTERNATIONAL LAW

VOLUME 5 ISSUE 2

JULY 2015

ISSN 2044-2513



Asian Journal of
International Law

Asian Journal of International Law

The *Asian Journal of International Law* is the journal of the Asian Society of International Law. It publishes peer-reviewed scholarly articles and book reviews on public and private international law. The regional focus of the journal is broadly conceived. Some articles may focus specifically on Asian issues; others will bring one of the many Asian perspectives to bear on issues of global concern. Still others will be of more general interest to scholars, practitioners, and policy-makers located in or working on Asia.

The journal is published in English as a matter of practical convenience rather than political endorsement. English language reviews of books in other languages are particularly welcomed. The journal is produced for the Asian Society of International Law by the National University of Singapore Faculty of Law and succeeds the *Singapore Year Book of International Law*.

For further information, forthcoming pieces, and guidelines on how to submit articles or book reviews, please visit www.AsianJIL.org.

INSTRUCTIONS FOR CONTRIBUTORS

The *Asian Journal of International Law* welcomes unsolicited articles and proposals for book reviews. For details, visit www.AsianJIL.org.

© Asian Journal of International Law

ISSN 2044-2513

E-ISSN 2044-2521

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

Printed in the UK by Henry Ling Limited, at the Dorset Press, Dorchester, DT1 1HD

Asian Journal of International Law

ADVISORY BOARD

Chair

OWADA Hisashi

Georges ABI-SAAB
Awn Shawkat AL-KHASAWNEH
Edith BROWN-WEISS
Richard FALK
Florentino FELICIANO
KO Swan Sik

Abdul KOROMA
Christopher PINTO
SHI Jiuyong
Bruno SIMMA
Christopher WEERAMANTRY

EDITORIAL BOARD

Chair

B.S. CHIMNI

Antony ANGHIE
Hilary CHARLESWORTH
Hikmahanto JUWANA
Ratna KAPUR
Borhan Uddin KHAN
Tommy KOH
LU Song
V.S. MANI
Djamchid MOMTAZ

NGUYEN Hong Thao
ONUMA Yasuaki
Raul PANGALANGAN
Harry ROQUE
Shirley SCOTT
SHIN Hae Bong
Jaturon THIRAWAT
XUE Hanqin

Ex officio

Surakiart SATHIRATHAI

President of the Asian Society of International Law

Editors

Simon CHESTERMAN

Surya P. SUBEDI

Simon S.C. TAY

Deputy Editor

TAN Hsien-Li

Book Review Editor

Shirley SCOTT

Associate Book Review Editor

Lucia ORIANA

Assistant Editors

ANG Wen Pin Lance
HONG Yongsen Ryan Nicholas

LEONG Kit Yu
SHENG Hongbin

Asian Society of International Law

EXECUTIVE COUNCIL

President

Surakiart SATHIRATHAI

Vice-Presidents

AGO Shin-ichi
Jayavadh BUNNAG

Mary GEORGE
Borhan Uddin KHAN

Secretary-General

Simon CHESTERMAN

Treasurers

KUNIYA Shiro
R.K.P. SHANKARDASS

Members

Upendra ACHARYA
Robert BECKMAN
Amal Kumar GANGULI
Venkatachala Gajanana HEGDE
Francis JARDELEZA
LEE Keun-Gwan
LU Song
MA Xinmin
Sarah McCOSKER
NGUYEN DANG Thang
NOOR FARIDA Ariffin
Arif Havas OEGROSENO
ONUMA Yasuaki

PAIK Jin-Hyun
Raul PANGALANGAN
PARK Ki-Gab
Rohan PERERA
Javaid REHMAN
Mavluda SATTOROVA
Shirley SCOTT
Hassan SOLEIMANI
TAN Hsien-Li
Jaturon THIRAWAT
Walter WOON
ZHU Wenqi

Ex officio

V.S. MANI

ADVISORY COUNCIL

Antony ANGHIE
Dalveer BHANDARI
B S CHIMNI
Florentino FELICIANO
Djamchid MOMTAZ
OWADA Hisashi

Pemmaraju Sreenivasa RAO
SHI Jiuyong
Surya P. SUBEDI
Christopher Gregory WEERAMANTRY
XUE Hanqin

RESEARCH & PLANNING COMMITTEE (RPC)

MOGAMI Toshiki (Co-chair)

Raul PANGALANGAN (Co-chair)

Jaturon THIRAWAT (Co-chair)

RPC MEMBERS

ARAKI Ichiro
Borhan Uddin KHAN

MA Xinmin
Seung Jin OH

Luther RANGREJI
Shirley SCOTT

RPC ADVISORS

Antony ANGHIE

ONUMA Yasuaki

XUE Hanqin

Contents

INVITED ARTICLES

- 219–245 The Transnational Protection of Private Rights: Issues, Challenges, and Possible Solutions
Sundaresh MENON
- 246–278 Problems of Interaction Between the International and Domestic Legal Orders
OWADA Hisashi

ARTICLES

- 279–309 Public Health and the Trans-Pacific Partnership Agreement
Andrew D. MITCHELL, Tania VOON, and Devon WHITTLE
- 310–355 Decolonizing the International Court of Justice: The Experience of Judge Sir Muhammad Zafrulla Khan in the *South West Africa* Cases
Victor KATTAN
- 356–386 The Implications of the Acquisition of a New Nationality for the Right of Return of Palestinian Refugees
Mazen MASRI
- 387–409 Heritage Listing as a Tool for Advocacy: The Possibilities for Dissent, Contestation, and Emancipation in International Law Through International Cultural Heritage Law
Lucas LIXINSKI

BOOK REVIEWS

International Economic Law

- 410–411 Investment Law Within International Law – Integrationist Perspectives (Cambridge: Cambridge University Press, 2013)
edited by Freya BAETENS (Reviewed by Jean HO)
- 411–412 Regionalism in International Investment Law (Oxford/New York: Oxford University Press, 2013)
edited by Leon E. TRAKMAN and Nicola W. RANIERI (Reviewed by Prabhash RANJAN)
- 412–413 Indirect Expropriation in International Law (Cheltenham: Edward Elgar Publishing Limited, 2014)
Sebastian López ESCARCENA (Reviewed by Aniruddha RAJPUT)

International Criminal Law

- 413–414 Hybrid Justice: The Extraordinary Chambers in the Courts of Cambodia (Ann Arbor: University of Michigan Press, 2014)
John D. CIORCIARI and Anne HEINDEL (Reviewed by Mikael BAAZ)
- 414–415 “Crimes Against Peace” and International Law (Cambridge/New York: Cambridge University Press, 2013)
Kirsten SELLARS (Reviewed by Ian D. MARDER)

International Organizations

- 415-416 The United Nations Human Rights Council: A Critique and Early Assessment (London: Routledge, 2013)
Rosa FREEDMAN (Reviewed by Louisa RICHES)

Other Areas of International Law

- 416-417 Foreign Relations Law (Cambridge: Cambridge University Press, 2014)
Campbell McLACHLAN (Reviewed by Paul David MORA)