

VOLUME 30 | NUMBER 2 | JUNE 2017 | 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 30 (2017), which includes print and electronic access, is £301.00 (US\$488.00 in USA, Canada and Mexico) for institutions; £33.00 (US\$48.00 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 £26.00 (US\$40.00 in USA, Canada and Mexico). The electronic-only price available to institutions is £257.00 (US\$412.00). Single parts are £85.00 (US\$137.00 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, 1 Liberty Plaza, Floor 20, New York, NY 10006, 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/Social Sciences Edition.

Leiden Journal of International Law is included in the Cambridge Journals Online journals service which can be found at <http://cambridge.org/ljil>. 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 2017
ISSN 0922-1565

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

Contents

EDITORIAL

- 295–304 Indicators, Rankings and the Political Economy of Academic Production in International Law
Geoff Gordon

INTERNATIONAL LEGAL THEORY

- 305–326 Intertwinement of Legal Spaces in the Transnational Legal Sphere
Dana Burchardt
- 327–349 Can Quantitative Methods Complement Doctrinal Legal Studies? Using Citation Network and Corpus Linguistic Analysis to Understand International Courts
Urška Šabl and Henrik Palmer Olsen

INTERNATIONAL LAW AND PRACTICE

- 351–382 Democracy and International Investment Law
Lorenzo Cotula
- 383–404 Are Bondholders Investors? Sovereign Debt and Investment Arbitration after *Poštová*
Pietro Ortolani
- 405–434 The 'Judicialization' of International Commercial Arbitration: Pitfall or Virtue?
Leon Trakman and Hugh Montgomery
- 435–456 Non-State Armed Groups, Detention Authority in Non-International Armed Conflict, and the Coherence of International Law: Searching for a Way Forward
Daragh Murray

HAGUE INTERNATIONAL TRIBUNALS

International Court of Justice

- 457–474 Managing Uncertainty: The International Court of Justice, 'Objective Reasonableness' and the Judicial Function
Asier Garrido-Muñoz

INTERNATIONAL CRIMINAL COURTS AND TRIBUNALS

- 475–499 Symbolism as a Constraint on International Criminal Law
Marina Aksenova
- 501–521 Crafting and Promoting International Crimes: A Controversy among Professionals of Core-Crimes and Anti-Corruption
Mikkel Jarle Christensen
- 523–548 Tracking Hate Speech Acts as Incitement to Genocide in International Criminal Law
Shannon Fyfe

BIBLIOGRAPHY

- 549–552 Books and Articles in the Field of the Prevention and Peaceful Settlement of Disputes
Raymond Ridderhof

BOOK REVIEWS

- 553–558 S. Freeland, *Addressing the Intentional Destruction of the Environment during Warfare under the Rome Statute of the International Criminal Court*
Philipp Ambach

- 558–566 Frederik Dhondt, *Balance of Power and Norm Hierarchy. Franco-British Diplomacy after the Peace of Utrecht*
Raymond Kubben
- 566–569 Patrick Dumberry, *The Formation and Identification of Rules of Customary International Law in International Investment Law*
Rumiana Yotova

Leiden Journal of International Law

EDITORS

Eric De Brabandere (Editor-in-Chief)
Ingo Venzke (Editor-in-Chief)
Sara Kendall (International Legal Theory)
Yannick Radi (International Legal Theory)
Geoffrey Gordon (International Legal Theory)
Surabhi Ranganathan (International Legal Theory)
Cecily Rose (International Law and Practice)
Vaios Koutroulis (International Law and Practice)
Elies van Sliedregt (ICTY)
Sergey Vasiliev (ICC)
Dov Jacobs (ICC)
Philippa Webb (ICJ)
Jason Morgan-Foster (ICJ)
Giulia Pinzauti (ICJ)
Freya Baetens (Book Reviews)
Vid Prislán (Book Reviews)
Raymond Ridderhof (Bibliography)
Tanja Aalberts (General Editor)
Jean d'Aspremont (General Editor)
Théodore Christakis (General Editor)
Tarcisio Gazzini (General Editor)
Larissa van den Herik (General Editor)
Thomas Skouteris (General Editor)
Carsten Stahn (General Editor)

EDITORIAL OFFICE

Teodora Jugrin (Chair, Managing Editor)
Jude Chillman (Copy Editor)

Student Editors:

Erin Cronjé
Elif Durmuş
Stephen Anthony Greatley
Raihana Haidary
María Elvira Lisson Ramírez
Yildiz Y. Miller
James Edward Ransdell IV
Leonie Rodger
Kritika Sharma

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)

Makau Wa Mutua (Buffalo)