

Internal War and the Search for Normative Order

by

ROSCOE R. OGLESBY



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Internal War And The Search For Normative Order

James R. Crawford



Internal War And The Search For Normative Order:

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Recognition of Belligerency and the Law of Armed Conflict
 Robert McLaughlin, 2020-01-31 Employing a legal historical approach this book describes the thematic and schematic fundamentals of the doctrine on recognition of belligerency and analyzes some of the more significant challenges to its application In doing so this book seeks to inform debate as to the doctrine's continuity and utility within the modern scheme of the Law of Armed Conflict heralded by the 1949 Geneva Conventions

The Creation of States in International Law
 James R. Crawford, 2007-03-15 Statehood in the early 21st century remains as much a central problem as it was in 1979 when the first edition of The Creation of States in International Law was published As Rhodesia Namibia the South African Homelands and Taiwan then were subjects of acute concern today governments international organizations and other institutions are seized of such matters as the membership of Cyprus in the European Union application of the Geneva Conventions to Afghanistan a final settlement for Kosovo and still relations between China and Taiwan All of these and many other disputed situations are inseparable from the nature of statehood and its application in practice The remarkable increase in the number of States in the 20th century did not abate in the twenty five years following publication of James Crawford's landmark study which was awarded the American Society of International Law Prize for Creative Scholarship in 1981 The independence of many small territories comprising the residue of the European colonial empires alone accounts for a major increase in States since 1979 while the disintegration of Yugoslavia and the USSR in the early 1990s further augmented the ranks With these developments the practice of States and international organizations has developed by substantial measure in respect of self determination secession succession recognition de colonization and several other fields Addressing such questions as the unification of Germany the status of Israel and Palestine and the continuing pressure from non State groups to attain statehood even in cases like Chechnya or Tibet against the presumptive rights of existing States James Crawford discusses the relation between statehood and recognition the criteria for statehood especially in view of evolving standards of democracy and human rights and the application of such criteria in international organizations and between states Also discussed are the mechanisms by which states have been created including devolution and secession international disposition by major powers or international organizations and the institutions established for Mandated Trust

and Non Self Governing Territories Combining a general argument as to the normative significance of statehood with analysis of numerous specific cases this fully revised and expanded second edition gives a comprehensive account of the developments which have led to the birth of so many new states

The International Legal Personality of the Individual Astrid Kjeldgaard-Pedersen, 2018-08-08 This is the first monograph to scrutinize the relationship between the concept of international legal personality as a theoretical construct and the position of the ultimate subject the individual as a matter of positive international law By testing the four main theoretical conceptions of international legal personality against historical and existing norms of positive international law that regulate the conduct of individuals the book argues that the common narrative in contemporary scholarship about the development of the role of the individual in the international legal system is flawed Contrary to conventional wisdom international law did not apply to states alone until World War II only to transform during the second half of the 20th century so as to include individuals as its subjects Rather the answer to the question of individual rights and obligations under international law is and always was strictly empirical It follows of course that the entities governed by a particular norm tell us nothing about the legal system to which that norm belongs Instead the distinction between international law and national law turns exclusively on whether the source of the norm in question is international or national in kind Against the background of these insights the book shows how present day international lawyers continue to allow an idea which was never more than a scholarly invention of the 19th century to influence the interpretation and application of international law This state of affairs has significant real world ramifications as international legal rights and obligations of individuals and other non state entities are frequently applied more restrictively than interpretation without presumptions regarding personality would merit

International Law and the Classification of Conflicts Elizabeth Wilmshurst, 2012-08-02 International law separates international from non international conflicts This book discusses how this categorisation operates identifying the legal questions raised Case studies show how this impacts on issues like detention in armed conflict and the relationship between human rights and humanitarian law

Non-Combatant Immunity as a Norm of International Humanitarian Law Judith Gail Gardam, 2023-11-27 Despite the advances made by the international community to outlaw the resort to force by the United Nations Charter armed conflicts both international and non international are a fact of every day life The civilian casualties from such conflicts have assumed catastrophic proportions Little attention however has been paid by scholars to the treatment of noncombatants in armed conflict and the place in international law of the principle fundamental to the law of armed conflict noncombatant immunity This work aims to remedy this omission The author analyses in detail the content of the customary and conventional rules that give effect to this principle in both international and non international armed conflict The importance of such a study is highlighted by the recent Gulf conflict where so many of the States were not bound by the most recent treaty rules protecting noncombatants

Israel Yearbook on Human Rights, Volume 50 (2020) Yoram Dinstein, 2020-09-25

The Israel Yearbook on Human Rights an annual published under the auspices of the Faculty of Law of Tel Aviv University since 1971 is devoted to publishing studies by distinguished scholars in Israel and other countries on human rights in peace and war with particular emphasis on problems relevant to the State of Israel and the Jewish people The Yearbook also incorporates documentary materials relating to Israel and the Administered Areas which are not otherwise available in English including summaries of judicial decisions compilations of legislative enactments and military proclamations

Internationalized Armed Conflicts in International Law Kubo Macak, 2018-07-19 This book provides the first comprehensive analysis of factors that transform a prima facie non international armed conflict NIAC into an international armed conflict IAC and the consequences that follow from this process of internationalization It examines in detail the historical development as well as the current state of the relevant rules of international humanitarian law The discussion is grounded in general international law complemented with abundant references to case law and illustrated by examples from twentieth and twenty first century armed conflicts In Part I the book puts forward a thorough catalogue of modalities of conflict internationalization that includes outside intervention State dissolution and recognition of belligerency It then specifically considers the legal qualification of complex situations that feature more than two conflict parties and contrasts the mechanism of internationalization of armed conflicts with the reverse process of de internationalization Part II of the book challenges the conventional wisdom that members of non State armed groups do not normally benefit from combatant status It argues that the majority of fighters belonging to non State armed groups in most types of internationalized armed conflicts are in fact eligible for combatant status Finally Part III turns to belligerent occupation traditionally understood as a leading example of a notion that cannot be transposed to armed conflicts occurring in the territory of a single State By contrast the book argues in favour of the applicability of the law of belligerent occupation to internationalized armed conflicts

International Law and the Principle of Non-Intervention Marco Roscini, 2024-05-22 The principle of non intervention is one of the most venerable principles of international law Although not expressly mentioned in the Charter of the United Nations at least as an inter state prohibition the principle currently appears in a plethora of treaties and UN General Assembly resolutions and has been invoked by states of all geographical and political denominations Despite this the determination of its exact content has remained an enigma International Law and the Principle of Non Intervention History Theory and Interactions with Other Principles solves this enigma by exploring what constitutes an intervention in international law and when interventions are unlawful These questions are approached from three different perspectives which are reflected in the book s structure historical theoretical and systemic Through a comprehensive survey of primary documents and of over 200 cases of intervention from the mid 18th century to the present day as well as an extensive literature search this work provides an in depth analysis of the principle of non intervention which links it to fundamental notions of international law including sovereignty use of force self determination and human rights protection

Classification of Conflicts in International Humanitarian Law Noam Zamir, 2017-02-24 Noam Zamir provides a thorough examination of the theoretical basis of classification of conflicts in international humanitarian law IHL with special focus on the legal impact of armed foreign intervention in civil wars *Classification of Conflicts in International Humanitarian Law* enriches the discourse on IHL by providing an in depth analysis of classification of conflicts and examining recent civil wars with foreign interventions such as the Libyan civil war 2011 Mali civil war 2012 2015 and the ongoing civil war in Yemen

The Structure and Process of International Law Ronald St. John Macdonald, Douglas M. Johnston, 2024-03-11 This wide ranging series provides expert insights into the most fundamental aspects of public international law and has for many years made a major contribution to the international debate on legal issues affecting the world community Responsibility to Protect Julia Hoffmann, André Nollkaemper, Isabelle Swerissen, 2012 De tragische gebeurtenissen in Rwanda Srebrenica en Kosovo hebben geleid tot een herbezinning over de rol en verantwoordelijkheid van de internationale gemeenschap In het beginsel Responsibility to Protect R2P dat in 2005 door de wereldleiders werd omarmd hebben individuele staten nog steeds de primaire verantwoordelijkheid voor de bescherming van hun inwoners Maar als ze die verantwoordelijkheid niet kunnen of willen nemen komt de verantwoordelijkheid bij de internationale gemeenschap te liggen R2P heeft de ambitie om herhaling van Rwanda Srebrenica en Kosovo te voorkomen maar er bestaat nog grote onduidelijkheid over inhoud en potentieel van dit beginsel Deze bundel verkent R2P als moreel politiek en juridisch beginsel en onderzoekt hoe de Verenigde Naties de Europese Unie individuele staten en NGO's R2P kunnen gebruiken om ernstige mensenrechtenschendingen te voorkomen American Neutrality in the 20th Century John N. Petrie, 1995 A chronology of the 20th century that demonstrates that the U S found the requirements of strict neutrality less than useful for fulfilling its policy imperatives Contents the change the Spanish American War the Mexican Revolution avoiding World War I the interwar period the League of Nations Havana Convention on Maritime Neutrality the Kellogg Briand Pact an isolationist U S fruits of isolationism enter the U N postwar peace the Suez crisis the Nixon doctrine the 1971 Indo Pakistani war the bloody Lebanese peace and perspective *Intervention in Civil Wars* Chiara Redaelli, 2021-02-25 This book investigates the extent to which traditional international law regulating foreign interventions in internal conflicts has been affected by the human rights paradigm Since the adoption of the Charter of the United Nations foreign armed interventions in internal conflicts have turned into a common practice At first sight it might seem that state practice has developed in a chaotic fashion however on closer examination specific patterns emerge The book charts these patterns by examining the traditional doctrines of intervention and testing them against state practice The book has two aims Firstly it seeks to clarify the current legal framework regulating interventions in internal conflicts Secondly it plots the emergence of new trends and investigates whether they are becoming part of positive international law By taking this dual focus it offers the first truly comprehensive examination of foreign interventions in internal conflicts **Yearbook of International Humanitarian Law - 2010** M.N. Schmitt, Louise

Arimatsu, Tim McCormack, 2011-08-05 The world's only annual publication devoted to the study of the laws of armed conflict the Yearbook of International Humanitarian Law provides a truly international forum for high quality peer reviewed academic articles focusing on this highly topical branch of international law Ease of use of the Yearbook is guaranteed by the inclusion of a detailed index Distinguished by its topicality and contemporary relevance the Yearbook of International Humanitarian Law bridges the gap between theory and practice and serves as a useful reference tool for scholars practitioners military personnel civil servants diplomats human rights workers and students **The Law of War** Ingrid Detter Delupis, 2000-09-28 Analysis of the changing legal context of modern warfare including developments over the last decade **The Individual in the International Legal System** Kate Parlett, 2011-04-14 Kate Parlett's study of the individual in the international legal system examines the way in which individuals have come to have a certain status in international law from the first treaties conferring rights and capacities on individuals through to the present day The analysis cuts across fields including human rights law international investment law international claims processes humanitarian law and international criminal law in order to draw conclusions about structural change in the international legal system By engaging with much new literature on non state actors in international law she seeks to dispel myths about state centrism and the direction in which the international legal system continues to evolve **Non-International Armed Conflicts in International Law** Yoram Dinstein, 2021-03-25 Analyses the legal implications of non international armed conflicts at a time when their number is constantly growing

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Table of Contents Internal War And The Search For Normative Order

1. Understanding the eBook Internal War And The Search For Normative Order
 - The Rise of Digital Reading Internal War And The Search For Normative Order
 - Advantages of eBooks Over Traditional Books
2. Identifying Internal War And The Search For Normative Order
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Internal War And The Search For Normative Order
 - User-Friendly Interface
4. Exploring eBook Recommendations from Internal War And The Search For Normative Order
 - Personalized Recommendations
 - Internal War And The Search For Normative Order User Reviews and Ratings
 - Internal War And The Search For Normative Order and Bestseller Lists
5. Accessing Internal War And The Search For Normative Order Free and Paid eBooks

- Internal War And The Search For Normative Order Public Domain eBooks
- Internal War And The Search For Normative Order eBook Subscription Services
- Internal War And The Search For Normative Order Budget-Friendly Options
- 6. Navigating Internal War And The Search For Normative Order eBook Formats
 - ePub, PDF, MOBI, and More
 - Internal War And The Search For Normative Order Compatibility with Devices
 - Internal War And The Search For Normative Order Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Internal War And The Search For Normative Order
 - Highlighting and Note-Taking Internal War And The Search For Normative Order
 - Interactive Elements Internal War And The Search For Normative Order
- 8. Staying Engaged with Internal War And The Search For Normative Order
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Internal War And The Search For Normative Order
- 9. Balancing eBooks and Physical Books Internal War And The Search For Normative Order
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Internal War And The Search For Normative Order
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Internal War And The Search For Normative Order
 - Setting Reading Goals Internal War And The Search For Normative Order
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Internal War And The Search For Normative Order
 - Fact-Checking eBook Content of Internal War And The Search For Normative Order
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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