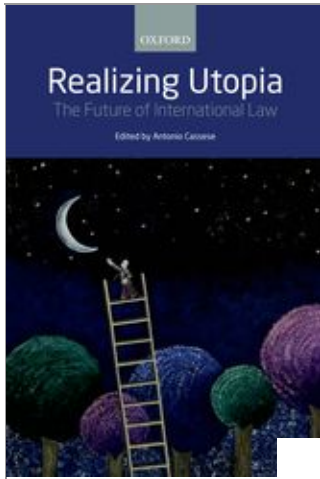


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Realizing Utopia: The Future of International Law

The Late Antonio Cassese

ABSTRACT

This book is a collection by a group of innovative international jurists. Its contributors reflect on some of the major legal problems facing the international community and analyse the inconsistencies or inadequacies of current law. They highlight the elements — even if minor, hidden, or emerging — that are likely to lead to future changes or improvements. Finally, the chapters suggest how these elements can be developed, enhanced, and brought to fruition in the next two or three decades, with a view to achieving an improved architecture of world society or, at a minimum, to reshaping some ma ... [More](#)

Keywords: legal construct, world society, international law, national legal orders, jurists, legal problems, international community

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Contents

Go to page: [Go](#)

Front Matter

PART I CAN THE WORLD BECOME A GLOBAL COMMUNITY?

1 The Subjective Dangers of Projects of World Community

Martti Koskeniemi

2 Is Leviathan Still Holding Sway over International Dealings?

Antonio Cassese, and Luigi Condorelli

3 State Sovereignty is Not Withering Away: A Few Lessons for the Future

José E. Alvarez

4 The United Nations: No Hope for Reform?

Philip Alston

5 The Security Council: Progress is Possible but Unlikely

Bardo Fassbender

6 The Role International Actors Other Than States can Play in the New World Order

Nehal Bhuta

7 The Possible Contribution of International Civil Society to the Protection of Human Rights

Mauro Palma

8 Whether Universal Values can Prevail over Bilateralism and Reciprocity

Andreas Paulus

9 Can Legality Trump Effectiveness in Today's International Law?

Salvatore Zappalà

10 Are we Moving towards Constitutionalization of the World Community?

Anne Peters

11 A Plea for a Global Community Grounded in a Core of Human Rights

Antonio Cassese

PART II WHAT LAWMAKING TOOLS SHOULD BE USED TO BRING ABOUT THE NEEDED CHANGE?

12 Customary International Law: The Yesterday, Today, and Tomorrow of General International Law

Luigi Condorelli

13 For an Enhanced Role of Jus Cogens

Antonio Cassese

14 International Lawmaking: Towards a New Role for the Security Council?

Alan Boyle

PART III CAN INTERNATIONAL LEGAL IMPERATIVES BE MORE EFFECTIVELY BROUGHT INTO EFFECT?

(A) THE INTERPLAY OF INTERNATIONAL AND NATIONAL LAW

15 Towards a Moderate Monism: Could International Rules Eventually Acquire the Force to Invalidate Inconsistent National Laws?

Antonio Cassese

16 Should the Implementation of International Rules by Domestic Courts be Bolstered?

Yuval Shany

(B) MAJOR OBSTACLES TO STATES' COMPLIANCE

17 The Deficiencies of the Law of State Responsibility Relating to Breaches of 'Obligations Owed to the International Community as a Whole': Suggestions for Avoiding the Obsolescence of Aggravated Responsibility*

Pierre-Marie Dupuy

18 Immunity of States and State Officials: A Major Stumbling Block to Judicial Scrutiny?

Paola Gaeta

(C) THE ROLE OF INTERNATIONAL JUDICIAL BODIES

19 The International Court of Justice: It is High Time to Restyle the Respected Old Lady

Antonio Cassese

20 The International Criminal Court: Struggling to Find its Way

William Schabas

21 The Future(s) of Regional Courts on Human Rights

Malcolm D. Evans

22 The Future of International Investment Law and Arbitration

W. Michael Reisman

23 How to Cope with the Proliferation of International Courts and Coordinate Their Action

Mohamed Bennouna

(D) SUPERVISION AND FACT-FINDING AS ALTERNATIVES TO JUDICIAL REVIEW

24 Fostering Increased Conformity with International Standards: Monitoring and Institutional Fact-Finding

Antonio Cassese

25 Ensuring Compliance with Standards on the Peaceful Use of Nuclear Energy

Laura Rockwood

26 Overseeing Human Rights Compliance

Andrew Clapham

27 Managing Abidance by Standards for the Protection of the Environment

Jorge E. Viñuales

PART IV WHAT LAW SHOULD BE CHANGED?

(A) ENHANCING THE LAWFUL USE OF FORCE TO MEET MODERN CHALLENGES

28 Operationalizing the UN Charter Rules on the Use of Force

Philippe Sands

29 Prospects for Humanitarian Uses of Force

Christian J. Tams

(B) OTHER GLOBAL PROBLEMS BADLY IN NEED OF SUBSTANTIVE LEGAL REGULATION

30 The Role That Equal Rights and Self-Determination of Peoples can Play in the Current World Community

Abdulqawi A. Yusuf

31 How to Depart from the Existing Dire Condition of Development

Emmanuelle Jouannet

32 The WTO: Already the Promised Land?

J.H.H. Weiler

33 Fragmentation and Utopia: Towards an Equitable Integration of Finance, Trade, and Sustainable Development

Robert Howse

34 Realism, Utopia, and the Future of International Environmental Law

Francesco Francioni

35 Combating Terrorism: Proposals for Improving the International Legal Framework

Bibi van Ginkel

36 Genetic Manipulation: How to Strike the Right Balance between Technology and Respect for Human Rights

Souheil El-Zein

37 Uses and Abuses of Cyberspace: Coming to Grips with the Present Dangers

Andrew Murray

(C) RESTRAINING ARMED VIOLENCE IN INTERNATIONAL AND INTERNAL ARMED CONFLICT

38 Bolstering the Protection of Civilians in Armed Conflict

Nils Melzer

39 Should Rebels be Treated as Criminals? Some Modest Proposals for Rendering Internal Armed Conflicts Less Inhumane

Antonio Cassese

40 How to Improve upon the Faulty Legal Regime of Internal Armed Conflicts

Sandesh Sivakumaran

41 Belligerent Occupation: A Plea for the Establishment of an International Supervisory Mechanism

Orna Ben-Naftali

42 Modern Means of Warfare: The Need to Rely upon International Humanitarian Law, Disarmament, and Non-Proliferation Law to Achieve a Decent Regulation of Weapons

Natalino Ronzitti

43 Good Time for a Change: Recognizing Individuals' Rights under the Rules of International Humanitarian Law on the Conduct of Hostilities

Giulia Pinzauti

PART V CAN INTERNATIONAL AND DOMESTIC JUSTICE PLAY A MORE INCISIVE ROLE?

44 The Future of International Criminal Justice: A Blueprint for Action

Jérôme de Hemptinne

45 The Need Reasonably to Expand National Criminal Jurisdiction over International Crimes

Paola Gaeta

46 Domestic Courts Should Embrace Sound Interpretative Strategies in the Development of Human Rights-Oriented International Law

Massimo Iovane

47 The Low Road: Promoting Civil Redress for International Wrongs

Jaykumar A. Menon

PART VI CONCLUSION

48 Gathering Up the Main Threads

Antonio Cassese

End Matter

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Chapter

Domestic Courts Should Embrace Sound Interpretative Strategies in the Development of Human Rights-Oriented International Law

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Abstract

There are two significant trends in how domestic courts are applying international law. In the first place, they are exploiting all the unifying and creative potential of customary international law by pioneering the determination of new customary rules, or favouring the evolution of old ones. However, in so doing, they have often affirmed the existence of international customs without sufficient reference to international precedents, or have declared international treaty rules as corresponding ipso facto to general international law. In the second place, they constantly apply the interpretative methods of modern constitutionalism to solve the conflicts between international norms, or to propose an evolutive interpretation of customary and treaty norms on the protection of human rights. In doing so, however, they tend to go too far, violating some well-established norms of customary international law and giving rise to a plethora of interpretations from state to state. This chapter examines these two trends in two dedicated sections, before considering their main shortcomings, with some recommendations for future methodological improvement that may overcome the above-mentioned failings in an otherwise positive and innovative trend.

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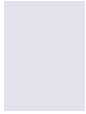
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Are We Moving Towards Constitutionalization of the World Community?

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Anne Peters

In the past 20 years international law has evolved quite dramatically. Many aspects of this evolution can be described and interpreted as constitutionalization in the sense of an evolution from an international order based on some organizing principles such as state sovereignty, consensualism, non-use of force to an international legal order which acknowledges and has creatively appropriated ...

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