This book is the first in a series examining how public law and international law intersect in five thematic areas of global significance: sanctions, global health, environment, movement of people and security. Until recently, international and public law have mainly overlapped in discussions on how international law is implemented domestically. This series explores the complex interactions that occur when legal regimes intersect, merge or collide.

Sanctions, Accountability and Governance in a Globalised World discusses legal principles which cross the international law / domestic public law divide. What tensions emerge from efforts to apply and enforce law across diverse jurisdictions? Can we ultimately only fill in or fall between the cracks or is there some greater potential for law in the engagement? This book provides insights into international, constitutional and administrative law, indicating the way these intersect, creating a valuable resource for students, academics and practitioners in the field.
This five volume series flows from workshops bringing public and international lawyers and public and international policy makers together for interdisciplinary discussion on selected topics and themes.

The aim of the series is to promote a deeper understanding of how public law and international law intersect, both in theory and in practice. Until now, international and public law have mainly overlapped in discussions on how international law is implemented domestically.

This series is unique in consciously bringing together public and international lawyers to consider and engage in each other’s scholarship.

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SANCTIONS, ACCOUNTABILITY AND GOVERNANCE IN A GLOBALISED WORLD

Edited by

JEREMY FARRALL

and

KIM RUBENSTEIN
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SERIES EDITORS’ PREFACE

The idea for this series began in June 2005, when Kim Rubenstein applied for the position of Professor and Director of the Centre for International and Public law at the ANU College of Law. The Centre is recognised as the leading Australian academic centre bringing together public lawyers (constitutional and administrative law broadly, but also specific areas of government regulation) and international lawyers from around the world. Established in 1990 with its inaugural director Professor Philip Alston, the impact of the Centre and its work can be seen further at www.law.anu.edu.au/cipl/.

In discussing with the law faculty ideas for the Centre’s direction, Kim raised the concept which underpins this series. Each volume flows from workshops bringing public and international lawyers and public and international policy makers together for interdisciplinary discussion on selected topics and themes. The workshops attract both established scholars and outstanding early scholars. At each of the workshops participants address specific questions and issues, developing each other’s understandings and knowledge about public and international law and policy and the links between the disciplines as they intersect with the chosen subject. These papers are discussed and reviewed at the workshop collaboratively, then after the workshop the papers are peer-reviewed and revised for the final editing phase of the overall manuscript.

The series seeks to promote a deeper understanding of how public and international law intersect, both in theory and in practice. Until now, international and public law have mainly overlapped in discussions on how international law is implemented domestically. While there is scholarship developing in the area of global administrative law, and some scholars have touched upon the principles relevant to both disciplines, the publications to date contain only a subset of the concept underpinning this series. This series is unique in consciously bringing together public and international lawyers to consider and engage in each other’s scholarship.
Beyond the first topic of sanctions, the other four topics in the series (including the second on health), draw from the research themes underpinning the International Alliance of Research Universities which is made up of ANU, Berkeley, Cambridge, University of Copenhagen, ETH Zurich, National University of Singapore, Oxford, Peking University, The University of Tokyo and Yale. The remaining three topics and volumes will be in the fields of the environment, movement of people and security.

The Alliance has also supported the funding of participants from the IARU in some instances so that they can attend in person at ANU. This does not preclude non-IARU academics from participating as will be seen in the rich array of participants in the first two volumes.

After the first successful workshop was complete, Professor Rubenstein contacted Professor Thomas Pogge to co-host the second workshop and in addition to doing that, he has enthusiastically joined with Professor Rubenstein as a joint series editor. His contributions to each volume are an expression of his cosmopolitan outlook, which is a theme engaged with throughout the series.

Scholars interested in involvement in the forthcoming themes of the environment, movement of people and security are encouraged to contact the series editors.

Kim Rubenstein and Thomas Pogge
December 2008
As explained in the Series Editors’ Preface, this series is a result of workshops bringing together public and international lawyers. At the time of determining the first topic, significant attention was being paid to the question of sanctions in the UN framework and how they were being played out in the domestic context.

This first workshop’s working title was: ‘Untangling the National from the International and the Public from the Private: The Complexities of Accountability and Governance in a Globalised World’. In particular, coinciding with the release of the final report of the Inquiry into certain Australian companies in relation to the UN Oil-For-Food Programme, the workshop explored governance and accountability issues through the specific example of the Iraqi sanctions regime and the subsequent findings of illicit ‘kickback’ payments. The report, both in what it said and did not say, provided a valuable reference point for engaging with these issues.

This workshop was held on 2–4 July 2007 at The Australian National University. The sixteen paper presenters and a further four participants, who had read all the papers, enjoyed vigorous discussion, engaging fully with each other and the material. We thank Professor Simon Bronitt, Director of ANU’s National Europe Centre, for providing us with a dynamic venue. We thank those further participants, Ernst Willheim, Gabriele Porretto, Peter Scott and Trevor Moses, for their valuable contributions to the workshop and for providing feedback on the papers. Trevor was working as a CIPL intern at that time and continued to work as our research assistant on the book. He provided outstanding support, particularly in the final stages of bringing the entire volume together. We thank him immensely! We also thank Jennifer Braid from the ANU College of Law for her assistance in bringing the whole collection together, as well as the staff at Cambridge University Press, in particular Finola O’Sullivan for her enthusiasm in getting this volume and series off the ground.
The call for abstracts was sent out to the Law Deans of the International Association of Research Universities (IARU) and we thank the respective Universities for their support to their participants, and to the ANU, IARU secretariat for its support. This was in addition to other financial support from the ANU and the Centre for International and Public Law for several contributors’ participation.

Finally, we would like to thank our colleagues in the ANU College of Law and the Regulatory Institutions Network and our respective families for their support and inspiration in all that we do. Jeremy thanks Lyn and Jemma and Kim thanks Garry, Cohava and Eliezer.

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