

SANCTIONS, ACCOUNTABILITY AND GOVERNANCE IN A GLOBALISED WORLD

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.

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

Series editors

KIM RUBENSTEIN is Professor and Director of the Centre for International and Public Law (CIPL) in the ANU College of Law, The Australian National University. Her current research projects are at the cutting edge of the intersection between public and international law. Her public law work spans constitutional and administrative law, and also includes her expertise in citizenship law.

THOMAS POGGE is Professor of Political Science at Yale University, Professorial Fellow at the ANU Centre for Applied Philosophy and Public Ethics (CAPPE) and Research Director at the Oslo University Centre for the Study of Mind in Nature (CSMN). He writes and teaches on moral and political philosophy and Kant.

SANCTIONS,
ACCOUNTABILITY AND
GOVERNANCE IN A
GLOBALISED WORLD

Edited by
JEREMY FARRALL
and
KIM RUBENSTEIN



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CONTRIBUTORS

Editors

DR JEREMY FARRALL is a Research Fellow at the Centre for International Governance and Justice, in the Regulatory Institutions Network at The Australian National University. He has worked extensively for the United Nations, serving as a political officer in the UN Security Council in New York, with the UN Mission in Liberia and on the UN Secretary-General's Mission of Good Offices in Cyprus. He is the author of *United Nations Sanctions and the Rule of Law* (2007) and co-editor of *The Role of International Law in Rebuilding Societies after Conflict* (2009).

PROFESSOR KIM RUBENSTEIN is Professor and Director of the Centre for International and Public Law (CIPL) in the ANU College of Law, The Australian National University. A graduate of the University of Melbourne and Harvard University, Kim's current research projects are at the cutting edge of the intersection between public and international law. Her public law work spans constitutional and administrative law, and also includes her expertise in citizenship law. Her international law work focuses on the status of nationality. Her book, *Australian Citizenship Law in Context* (2002) represents the foundation of her continued scholarly work, looking at the disjuncture between the exclusive legal notion and the more inclusive normative understanding of citizenship.

Other Contributors

KEVIN BOREHAM has taught at the ANU College of Law since 2002. Kevin's area of academic interest is international law, particularly the international law of human rights. Kevin practised as a solicitor in private practice in Canberra from 1999 to 2001. Kevin's first career was as an officer of the Australian Department of Foreign Affairs and Trade.

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He served in Australia's diplomatic missions in Colombo, Hanoi, Manila, Tehran and New York, where he was Australian Deputy Permanent Representative to the United Nations from 1987 to 1989. Kevin's work in Canberra specialised in multilateral and regional issues. Among other appointments, Kevin was Assistant Secretary, International Organisations Branch from 1992 to 1994.

DR LINDA BOTTERILL joined the Research School of Social Sciences at The Australian National University as a fellow in 2006. Linda's research interest is in public policy development with a focus on the role of values and expertise in the policy process. Her main research areas are rural and regional policy, particularly in the areas of drought policy and the grains industry. Before commencing her academic career, Linda had extensive experience in public policy development in the Australian Public Service, as a ministerial adviser and as a policy officer in two industry associations. She is co-editor of and contributor to two interdisciplinary books on drought in Australia: *Beyond Drought: People, Policy and Perspectives* (2003) and *From Disaster Response to Risk Management: Australia's National Drought Policy* (2005).

PROFESSOR SIMON CHESTERMAN is Global Professor and Director of the New York University School of Law Singapore Programme, and an Associate Professor of Law at the National University of Singapore Faculty of Law. From 2004 to 2006 he was Executive Director of NYU's Institute for International Law and Justice, where he remains a senior fellow. Educated in Melbourne, Beijing, Amsterdam and Oxford, Chesterman has written widely on international institutions, international criminal law, human rights, the use of force and post-conflict reconstruction. Prior to joining NYU, he was a Senior Associate at the International Peace Academy and Director of UN Relations at the International Crisis Group in New York. He previously worked for the Office for the Coordination of Humanitarian Affairs in Belgrade and interned at the International Criminal Tribunal for Rwanda in Arusha. His teaching experience includes periods at the Universities of Melbourne, Oxford, Southampton and Columbia. Chesterman's books include *Shared Secrets: Intelligence and Collective Security* (2006); *You, The People: The United Nations, Transitional Administration, and State-Building* (2004); and *Just War or Just Peace? Humanitarian Intervention and International Law* (2001), which was awarded the American Society of International Law Certificate of Merit.

DR PETER G. DANCHIN is an Assistant Professor of Law at the University of Maryland School of Law where he directs the school's program in international and comparative law. He has BA LLB (Hons) degrees from the University of Melbourne, and LLM and JSD degrees from Columbia Law School where he was a Bretzfelder International Law Fellow. From 2000 to 2006, Peter was Director of the human rights program at Columbia University's School of International and Public Affairs where he lectured on public international human rights law and co-taught colloquia on 'Rethinking Human Rights' and 'Ethical Globalization and Human Rights'. In 1999, Peter served as a law clerk to Justice Arthur Chaskalson, President of the Constitutional Court and Chief Justice of South Africa. He has written a number of articles on international law and human rights and is the co-editor of *Protecting the Human Rights of Religious Minorities in Eastern Europe* (2002). His book, *United Nations Reform and the New Collective Security* is forthcoming.

PROFESSOR ERIKA DE WET is Professor of International Constitutional Law at the Amsterdam Center for International Law. She currently holds the position of Extraordinary Professor at the Faculty of Law, North West University, Potchefstroom and at the Faculty of Law, University of Pretoria (both in South Africa). She also regularly teaches international law at the Faculty of Law, University of Zurich, Switzerland. Since April 2007 she has served as a member of the Advisory Committee on Issues of Public International Law of the Netherlands (CAVV). She completed her basic legal training (BLur, LLB) as well as her doctoral thesis (LLD) at the University of the Free State (South Africa). She also holds an LL.M. from Harvard University and completed her Habilitationsschrift at the University of Zurich (Switzerland) in December 2002. It was published in 2004 under the title *The Chapter VII Powers of the United Nations Security Council*.

ANGUS FRANCIS is Senior Lecturer in the Queensland University of Technology's Faculty of Law, where he lectures in public international law and refugee law. Angus leads the Faculty's Human Rights and Governance Research Program and is co-coordinator of the Faculty's International Perspectives Project. His main research interests are in the area of international refugee law. He was a visiting fellow at the Refugee Studies Centre, Oxford University, in 1996–1997 and 2003. Angus has consulted to Australian parliamentarians on a number of asylum-related bills and has been cited in various Senate committee reports. He recently

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submitted his doctoral thesis at The Australian National University on the topic ‘The role of legislative, executive and judicial mechanisms in ensuring a fair and effective asylum process’. His latest publications in the refugee law area appear elsewhere in the *International Journal of Refugee Law* (selected for reprint in the *Immigration Nationality Law Review*), *Melbourne University Law Review*, and the *Australian International Law Journal*. Angus has been active in the pro bono legal representation of asylum seekers in Australia since 1990, undertaking work on behalf of the Refugee Council of Australia, WA Legal Aid, the Refugee Advice and Casework Service, and the Refugee and Immigration Legal Service.

VIVIEN HOLMES is a senior lecturer in Legal Ethics at the ANU College of Law’s Legal Workshop program. She has worked as a litigation solicitor in private and government practice, a government legal policy officer, the Registrar of the NT Supreme Court, the NT Registrar of Probates, the NT Deputy Coroner and a Judicial Registrar of the NT Magistrates’ Court. She has also worked as a member of the Social Security Appeals Tribunal.

DEVIKA HOVELL is a DPhil candidate at the University of Oxford, writing a doctorate on ‘UN Sanctions, Security Council Decision-making and Procedural Fairness’. From 2003 to 2006, she was a Lecturer and Director of the International Law Project at the Faculty of Law, University of New South Wales. In this capacity, she co-authored a book *No Country is an Island: Australia and International Law* (2006) and was a co-editor of *The Fluid State: International Law and National Legal Systems* (2005). Previously, she was an associate to judges on the International Court of Justice (2001–2002), and the High Court of Australia (1999–2000). She has a Master of Laws from New York University.

ANNE MCNAUGHTON is a lecturer at the ANU College of Law, The Australian National University. She holds degrees from the University of Newcastle and the University of New South Wales and Masters of Laws degrees from Eberhard-Karls-Universität, Tübingen and the University of Technology, Sydney. Anne lectures in contract and commercial law, European law and international business transactions. Her research interests include investigating the intersection of international and domestic law, focusing particularly on aspects of commercial law.

RICHARD MULGAN is Emeritus Professor, and former Director of the Policy and Governance Program in the Crawford School of Economics

and Government, at The Australian National University. His research interests include accountability, public sector management, New Zealand politics and Greek political theory. His most recent book, *Holding Power to Account: Accountability in Modern Democracies*, builds on a series of articles on the subject of accountability published over the last eight years (2003). The book provides a general analysis of accountability mechanisms drawing on examples from five countries: Australia, Canada, New Zealand, the United Kingdom and the United States. Particular topics covered include the contrast between accountability in the public and private sectors, the effect of public sector reform on accountability, the comparison between single and multiple points of accountability, and the limits of accountability.

DR HITOSHI NASU is a lecturer at the ANU College of Law, at The Australian National University, where he teaches international law, international security law, international humanitarian law and migration law. Prior to his appointment to The Australian National University, he was teaching international law in the Faculty of Law, The University of Sydney, where he also completed a PhD in 2006. The revised version of his doctoral thesis is being published as a book, *International Law on Peacekeeping: A Study of Article 40 of the UN Charter* in 2009.

JUSTINE NOLAN is a senior lecturer in the Faculty of Law, University of New South Wales (UNSW) and the Deputy Director of the Australian Human Rights Centre at UNSW. Prior to joining UNSW, Justine worked as the Director of the Business and Human Rights program at the Lawyers Committee for Human Rights, now named Human Rights First, in the USA. Her current research focuses on the accountability of corporations for human rights abuses. She has advised companies and non-governmental organisations on effective strategies to protect human rights in the corporate sphere and has worked with the United Nations on a number of business and human rights initiatives.

PROFESSOR THOMAS POGGE is Leitner Professor of Philosophy and International Affairs at Yale, Professorial Fellow at the ANU Centre for Applied Philosophy and Public Ethics (CAPPE), and Research Director at the Oslo University Centre for the Study of Mind in Nature (CSMN). Focused on Kant and moral and political philosophy, his publications include *World Poverty and Human Rights*, second edition, 2008; *John Rawls: His Life and Theory of Justice*, 2007; *Freedom from Poverty as a*

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Human Right, edited, 2007; and *Global Justice / Global Ethics*, co-edited, 2008. Pogge is editor for social and political philosophy for the *Stanford Encyclopedia of Philosophy* and a member of the Norwegian Academy of Science. With support from the Australian Research Council, the BUPA Foundation and the European Commission, he currently heads a team effort towards developing a complement to the pharmaceutical patent regime that would improve access to advanced medicines for the poor worldwide www.yale.edu/macmillan/igh/.

SIMON RICE OAM is Associate Professor of Law and Director of Law Reform and Social Justice at the ANU College of Law, The Australian National University. He is a part-time judicial member of the NSW Administrative Decisions Tribunal in the Equal Opportunity Division, and Chair of the Law Reform Advisory Council in the Australian Capital Territory. He is a past President of Australian Lawyers for Human Rights and was formerly Director of the NSW Law Foundation after working extensively in community legal centres. In 2002 he was awarded a Medal in the Order of Australia for legal services to the socially and economically disadvantaged.

PROFESSOR CHARLES SAMPFORD graduated at the top of his class in each of politics, philosophy and law, gaining a 'double first' in Arts and the Supreme Court Prize in Law at the University of Melbourne. He then won a Commonwealth Scholarship to Oxford to pursue all three disciplines in his doctoral studies. He was awarded a DPhil in 1984 which was published as *The Disorder of Law*. He returned to Melbourne University to teach law before being seconded to the Philosophy Department in 1990 to help establish the Centre for Philosophy and Public Issues where he was promoted to Principal Research Fellow (the research equivalent of Associate Professor).

In 1991 he was invited to Queensland as Foundation Dean of Law at Griffith University. In 1999, he was appointed Foundation Director of the Key Centre for Ethics, Law, Justice and Governance. In September 2004, he became the Director of the Institute for Ethics, Governance and Law (a joint initiative of the United Nations University and Griffith and one of 19 UNU centres around the world). At the same time he took on the role of Convenor of the Australian Research Council funded Governance Research Network. Foreign fellowships include the Visiting Senior Research Fellow at St John's College, Oxford (1997) and a Fulbright Senior Award to Harvard University (2000).

DANIEL STEWART has been a lecturer at the ANU College of Law since 1999 and Senior Lecturer since 2005. He was a National Undergraduate Scholar and received first class honours degrees in both economics and law from the Australian National University. He also has a Masters in Law from the University of Virginia, where he was a John M. Olin Fellow in Law and Economics. He has practised as a solicitor, been employed with the Corporate Law Economic Reform Program in the Commonwealth Attorney General's Department and was associate to Justice A. M. North of the Federal Court.

DR STEPHEN TULLY studied at the University of New South Wales, King's College London and the London School of Economics and Political Science. His research interests include human rights, international environmental law, international organisational law and corporate legal responsibility. Dr Tully is currently a legal officer with the Migration Review Tribunal and Refugee Review Tribunal.

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

EDITORS' PREFACE

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.

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