PRINCIPLES OF SHARED RESPONSIBILITY IN INTERNATIONAL LAW

The Shared Responsibility in International Law series examines the underexplored problem of allocation of responsibilities among multiple states and other actors. The International Law Commission, in its work on state responsibility and the responsibility of international organisations, recognised that attribution of acts to one state or organisation does not exclude possible attribution of the same act to another state or organisation, but has provided limited guidance on allocation or reparation. From the new perspective of shared responsibility, this volume reviews the main principles of the law of international responsibility as laid down in the Articles on State Responsibility and the Articles on Responsibility of International Organizations, such as attribution of conduct, breach, circumstances precluding wrongfulness and reparation. It explores the potential and limitations of current international law in dealing with questions of shared responsibility in areas as military operations and international environmental law.

André Nollkaemper is the director of the research project on Shared Responsibility in International Law (SHARES), for which he obtained an Advanced Investigator Grant of the European Research Council. He is also Professor of Public International Law at the Faculty of Law of the University of Amsterdam, where he established the Amsterdam Center for International Law (ACIL) in 1999.

Ilias Plakokefalos is a post-doctoral researcher in the SHARES Research Project at the University of Amsterdam. He obtained his PhD from the University of Athens and has since specialized in international environmental law and the law of international responsibility.
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IN INTERNATIONAL LAW

This series produces high quality scholarship exploring questions of shared responsibility in international law. It provides new perspectives on the responsibility problems that arise from the increasing number of situations in which states, international institutions, and other actors engage in concerted action in the pursuit of common objectives. While such concerted action generally aims to provide beneficial outcomes, all too often it results in harmful ones. If that is the case, the multiplicity of actors involved in the concerted action may complicate the determination and implementation of international responsibility. Books in this series examine the grounds on which international law does and should allow for shared responsibility between all actors involved, and how it can be developed in a way that better enables the determination and implementation of shared responsibility.

The series includes both works on positive international law and works of a theoretical and interdisciplinary character.

The book series is part of the research project on Shared Responsibility in International Law (SHARES), which has been carried out at the Amsterdam Center for International Law (ACIL) of the University of Amsterdam from 2010 onwards.

General Editor

André Nollkaemper, Professor of Public International Law, University of Amsterdam
PRINCIPLES OF SHARED RESPONSIBILITY IN INTERNATIONAL LAW

An Appraisal of the State of the Art

Edited by
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and
ILIAS PLAKOKEFALOS

Assistant editor
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This is the first volume to appear in the book series *Shared Responsibility in International Law*. It was produced as part of the research project on Shared Responsibility in International Law (SHARES), which has been carried out at the Amsterdam Center for International Law (ACIL) of the University of Amsterdam from 2010 onwards.

This book series provides new perspectives on responsibility problems that arise from the increasing number of situations in which states, international institutions, and other actors engage in concerted action in the pursuit of common objectives. While such concerted action generally aims to provide beneficial outcomes, all too often it has resulted in harmful ones. If that is the case, the multiplicity of actors involved in the concerted action may complicate the determination and implementation of international responsibility. The book series examines the grounds on which international law does and should allow for shared responsibility between all actors involved, and how it can be developed in a way that better enables the determination and implementation of shared responsibility.

This first volume lays the groundwork for the series as a whole by critically reviewing the established principles of international responsibility as developed by the International Law Commission (ILC) – that are widely considered to be the state of the art in the law of international responsibility – from the perspective of shared responsibility. It discusses whether these principles allow for and support the determination and/or implementation of shared responsibility, whether they provide useful guidance for the often complex questions of distribution of international responsibility, or whether they contain obstacles. The volume also identifies any developments that might *de lege ferenda* provide for a better fit between the law of responsibility and shared responsibility.

The second volume of the series will consider, from an extra-legal perspective, how responsibility is to be distributed among multiple wrong-doing actors. Given that international law often provides no clear direction...
for such distribution, it considers possible grounds for distribution. This volume will engage in a fundamental inquiry into the bases and justifications for apportionment of responsibilities that could support an articulation of critique of current international law, and provide a basis for reform.

The third volume of the book series will explore the practice of shared responsibility in international law. Based on the recognition that the applicable rules and procedures for shared responsibility differ between particular issue-areas, it will map relevant practices of shared responsibility in over forty issue-areas. This will enable an assessment of the fit of the prevailing principles of international responsibility, and will provide building blocks for a proposal for critique, development, and eventually a broader theory of shared responsibility.

On the basis of the material in these first three volumes, a separate volume will consolidate the insights on the state of the law, and the grounds for development, into a new theory for shared responsibility in international law.

The present volume thus forms the essential foundation of a much broader project. It comprises eleven substantive chapters, including introductory and concluding chapters. Drafts of the chapters for this first volume were discussed at a meeting of the authors on 7 and 8 February 2013 in Amsterdam, to strengthen coherency throughout the volume.

The research leading to this book has received funding from the European Research Council under the European Union’s Seventh Framework Programme (FP7/2007–2013)/ERC grant agreement n° 249499, as part of the SHARES research project carried out at the ACIL.

We thank the members of the SHARES research team as a whole for their input during various stages of the project leading up to this volume. Our particular thanks go to Jessica Schechinger for her coordinating work in support of this volume and to Laura Chafey and Belinda Macmahon for editorial assistance.

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The manuscript was finalised on 1 March 2014; later developments have not been incorporated.

Andre Nollkaemper and Ilias Plakokefalos
Amsterdam, 1 March 2014
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<td>BYIL</td>
<td>British Yearbook of International Law</td>
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<td>CAT</td>
<td>Convention against Torture</td>
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<td>CEDAM</td>
<td>Casa Editrice Dott Antonio Milani</td>
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<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
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<td>DRC</td>
<td>Democratic Republic of the Congo</td>
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<td>European Case Law Identifier</td>
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<td>ESA</td>
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LIST OF ABBREVIATIONS

EU  European Union
EUR  euro
FARDC  Forces armées de la République démocratique du Congo
FRY  Federal Republic of Yugoslavia
GATT  General Agreement on Tariffs and Trade
GYIL  German Yearbook of International Law
Harv Int LJ  Harvard International Law Journal
HRLR  Human Rights Law Review
ICC  International Criminal Court
ICCPR  International Covenant on Civil and Political Rights
ICESCR  International Covenant on Economic, Social and Cultural Rights
ICJ  International Court of Justice
ICLQ  International and Comparative Law Quarterly
ICSID  International Centre for Settlement of Investment Disputes
ICTY  International Criminal Tribunal for the former Yugoslavia
IECL  International Encyclopedia of Comparative Law
IGC  Intergovernmental Commission
ILC  International Law Commission
ILDC  International Law in Domestic Courts
ILM  International Legal Materials
ILR  International Law Reports
IMF  International Monetary Fund
IO  international organisation
IOLR  International Organizations Law Review
IRRC  International Review of the Red Cross
ITLOS  International Tribunal for the Law of the Sea
J Conflict & Sec L  Journal of Conflict & Security Law
JIDS  Journal of International Dispute Settlement
JIEL  Journal of International Economic Law
J Int Crim Just  Journal of International Criminal Justice
JJIL  Japanese Journal of International Law
J Phil  Journal of Philosophy
JPR  Journal of Peace Research
JSL  Journal of Space Law
L & Pol Int Bus  Law and Policy in International Business
LGDJ  Librairie générale de droit et de jurisprudence
LJIL  Leiden Journal of International Law
MIJIL  Michigan Journal of International Law
MONUC  United Nations Mission in the Democratic Republic of the Congo
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