

## THEORIES OF INTERNATIONAL RESPONSIBILITY LAW

There is no issue more central to a legal order than responsibility. To that extent, the dearth of contemporary theorizing on international responsibility law is worrying for the state of international law. The volume brings philosophers of the law of responsibility into dialogue with international responsibility law specialists. Its tripartite structure corresponds to three main theoretical challenges in the contemporary practice of international responsibility law: the public and private nature of the international responsibility of public institutions; its collective and individual dimensions; and the place of fault therein. In each part, two international lawyers and two philosophers of responsibility law address the most pressing questions in the theory of international responsibility law. The volume closes with a comparative ‘world tour’ of the responsibility of public institutions in four different legal cultures and regions, identifying stepping-stones and stumbling blocks on the path towards a common law of international responsibility.

SAMANTHA BESSON holds the Chair Droit international des institutions at the Collège de France and is Professor of Public International Law and European Law at the University of Fribourg, Switzerland. She is an associate member of the Institute of International Law and co-chair of the International Law Association Study Group on the International Law of Regional Organizations.

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# Theories of International Responsibility Law

*Edited by*

**SAMANTHA BESSON**

Collège de France & University of Fribourg

*With the assistance of*

**Mathilde Montaubin**



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## Contributors

**Pierre d'Argent** is Professor of International Law at the University of Louvain, Belgium.

**Jean d'Aspremont** is Professor of International Law at Sciences Po Paris, France and at the University of Manchester, United Kingdom.

**Samantha Besson** is Professor of Public International Law and European Law at the Collège de France, where she holds the Chair of International Law of Institutions, and at the University of Fribourg, Switzerland.

**Frédéric Constant** is Professor of Chinese Law and Legal History at the University of Nice Côte d'Azur, France.

**Mireille Delmas-Marty** was Emeritus Professor of Law at the Collège de France, where she held the Chair of Comparative Legal Studies and Internationalisation of Law (2003–2011).

**R. A. Duff** is Emeritus Professor of Philosophy at the University of Stirling, Scotland.

**Pierre-Marie Dupuy** is Emeritus Professor of International Law at the University Paris II Panthéon-Assas, France, and former Professor at the European University Institute in Florence, Italy, and at the Graduate Institute for International and Development Studies of Geneva, Switzerland.

**Sean Fleming** is Junior Research Fellow at Christ College, Cambridge, United Kingdom.

**Alon Harel** is Professor of Law at the Hebrew University of Jerusalem, Israel, where he holds the Phillip P. Mizock & Estelle Mizock Chair in Administrative and Criminal Law.

**Jan Klabbers** is Professor of International Law at the University of Helsinki, Finland.

**Julian Kulaga** is Research and Teaching Assistant at the Chair for Public Law and Public International Law of the Humboldt University of Berlin, Germany.

**Chibli Mallat** is Emeritus Presidential Professor of law at the University of Utah's S. J. Quinney College of Law, United States, and the Principal of Mallat Law Offices, Lebanon.

**Dario Mantovani** is Professor at the Collège de France, where he holds the Chair of Law, Culture and Society in Ancient Rome.

**Mathilde Montaubin** is Research Assistant to the Chair of International Law of Institutions, Collège de France.

**Liam Murphy** is Herbert Peterfreund Professor of Law and Professor of Philosophy at New York University, United States.

**André Nollkaemper** is Professor of Public International Law at the Faculty of Law of the University of Amsterdam, Netherlands.

**Paolo Palchetti** is Professor of Public International Law at the École de Droit of the University Paris 1 Panthéon-Sorbonne, France, and at the University of Macerata, Italy.

**Ousmane Oumarou Sidibé** is Professor of Law at the University of Bamako, Mali, and President of the Truth, Justice and Reconciliation Commission in Mali.

**Sandy Steel** is Professor of Law and Philosophy of Law at Oxford University, United Kingdom and Lee Shau Kee's Sir Man Kam Lo Fellow in Law at Wadham College, Oxford.

**Krzysztof Wojtyczek** is Professor of Law at the Jagiellonian University of Krakow, Poland, and judge at the European Court of Human Rights.

## Preface

There is no issue more central to a legal order and the Law than responsibility. To that extent, the dearth of theorizing on international responsibility law should worry us about the state of international law and its institutions. Ten years after the seminal exchange on the question between James Crawford, Jeremy Watkins and Liam Murphy in *The Philosophy of International Law*, which I co-edited, the present volume is a new attempt at bringing philosophers of the law of responsibility in dialogue with international responsibility law specialists. In doing so, the hope is to lay the groundwork for a new field of research in the philosophy of international law.

As with all first forays into a given field of legal enquiry, not all aspects of the theory of international responsibility law could be addressed. As explained in the Introduction, the book is organized around three of the theoretical challenges identified in international responsibility law: (1) International Responsibility of Public Institutions – Public and/or Private? (2) International Responsibility of Public Institutions – Collective and/or Individual? (3) International Responsibility of Public Institutions – Fault-Based or Not? In each of the three parts of the book, two international lawyers and two philosophers of responsibility law address what they take to be the most pressing questions in the theory of international responsibility law.

The discussion in these three parts is supplemented by a ‘World Tour’ of the legal concept of public responsibility, that is, of public institutions (be they States or sub-national, international or supranational public institutions such as cities, regions, etc.), in different legal cultures and/or regions. The aim of the closing part of this volume is to launch a discussion of the different conceptions of public responsibility (including in the absence of a public/private distinction in a given legal culture and/or region) and make a comparison between them. In turn, the idea is to develop a better and less parochial interpretation of the concept of responsibility of public institutions

under international responsibility law on a comparative basis: one that is more receptive to the variations between different cultural and/or regional conceptions, and one that could be considered more universal as a result.

This volume could not have come into existence without the support of a great number of people and institutions. First, and foremost, I would like to express my gratitude to Ms Mathilde Montaubin, research assistant at the Collège de France, for her tremendous and unfailing assistance throughout the editorial process. Many thanks also to Ms Manon Fabre and Mr Leo Tiberghien, research assistants at the University of Fribourg, for proofreading the manuscript. Special thanks are also due to my administrative assistant at the Collège de France, Ms Sylvie Sportouch, who helped organize the June 2020 conference. The conference, initially meant to be held in Paris, first had to be postponed and eventually, like so many others around that time, was turned into an online webinar in June 2021. Many thanks also to Ms Saskia Brown, a professional translator, for translating three of this volume's contributions from French and to Dr Camila Perruso, a postdoctoral researcher at the Collège de France, for assisting us with the organization of the June 2021 conference.

I am grateful to Tom Randall at Cambridge University Press for his support and kind forbearance during the long, and sometimes challenging, process of putting this book together, and to Professor Tim Sellars for his willingness to include our volume in the ASIL International Legal Theory series. I would also like to thank the two anonymous reviewers for their feedback on the book proposal and for making me reflect further about the project. I hope they will be able to find traces of some of their constructive remarks in the volume.

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Last but not least, special thanks are owed to all of the contributors and commentators for making this ambitious project a stimulating, formative and worthwhile experience and for their lively and engaging discussions in the memorable June 2021 webinar. Let us hope this is only the beginning of a fruitful dialogue and a mutual learning process between international responsibility lawyers and philosophers of responsibility law in the years to come!