

MERCHANTS OF LEGALISM

As the doctrine of international law that regulates international rights and wrongs, state responsibility represents the potency of international law. When it set out to codify state responsibility in 1948, the United Nations hoped the doctrine would establish once and for all that states could settle their disputes by binding each other to an international rule of law. Since the Draft Articles on the Responsibility of States for Internationally Wrongful Acts were finalized in 2001, most of the attention has been on the codification history of the topic. Alan Nissel widens the historic lens to include the pre-United Nations origins, offering the first extensive study on the American contribution to the modern law of state responsibility. The book examines the recurring narrative of lawyers using international law to suit the particular needs of their clients in three key contexts: the US turn to international arbitration practice in the New World, the German theorization of public law in the setting of its national unification, and the multilateral effort to codify international law within world bodies. This expanded historical framework not only traces the pre-institutional origins of the code but also highlights the duality of state responsibility doctrines and the political environments from which they emerged.

ALAN TZVIKA NISSEL is an assistant professor at the Pepperdine Caruso School of Law where he teaches international and property law-related courses. He is also CEO of Wilshire Skyline, a Los Angeles-based investment firm. Nissel received his LLD in international law from Helsinki University under the supervision of Martti Koskenniemi.

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MERCHANTS OF LEGALISM

A History of State Responsibility (1870–1960)

ALAN TZVIKA NISSEL

Pepperdine Caruso School of Law



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Steven T. Katz

with gratitude for being my first academic rebbe, for teaching
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remain loyal to the law while questioning the arguments
lawyers make.

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for indulging me in the process.

[T]he lawyer's job is selling legitimacy: reassurance to the client and its potential regulators, investors, or business partners that what it wants to do is basically all right.

Robert W. Gordon, *'The Ideal and the Actual in the Law': Fantasies and Practice of New York City Lawyers, 1870–1910*.



The study of international commercial arbitration allows us to see how competition among key actors and groups serves to construct legal legitimacy and at the same time promote law in the service of merchants.

Yves Dezalay and Bryant Garth, "Merchants of Law as Moral Entrepreneurs: Constructing International Justice from the Competition for Transnational Business Disputes," *Law & Society Review* (1995).

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¹ Bob Dylan, “Sarah,” by Bob Dylan, *Desire*, Ram's Horn Music, 1975.