INTERNATIONAL LEGAL THEORY

Over the past decades international affairs have been increasingly legalized. International law has dramatically expanded into new fields and taken on new challenges. Despite this development, there has been little in-depth scholarship on what impact these changes have had on the field of international legal theory, how it is taught, and where it is going. This volume investigates the major developments in the field and explores the core assumptions and concepts, analytical tools, and key challenges associated with different approaches. An outstanding team of legal academics provides an accessible overview of competing theoretical movements, and a more in-depth understanding of the strengths, preoccupations, insights, and limits of those schools of thought. The contributions provide an authoritative account of current thinking about the theoretical foundations of contemporary international law and will serve as an indispensable resource for students, scholars, and practitioners.

Jeffrey L. Dunoff is Laura H. Carnell Professor of Law at Temple University’s Beasley School of Law.

Mark A. Pollack is Professor of Political Science and Law and Jean Monnet Chair at Temple University.
‘This is an inspired collection, both in terms of the scholars and the subjects that it brings together. It will be a gift to undergraduate and advanced students in international law, enabling them to go beyond the doctrinal to explore diverse approaches including critical and inter-disciplinary perspectives. The volume is destined to become a classic in its field.’

– Joanne Scott, Professor of Law and Head of Department, European University Institute

‘Once again, the scientific partnership of Jeff Dunoff and Mark Pollack works wonders. The charm of the book is that it shows how the representative collection of theories it proposes complement each other as much as they contradict each other. Their contradictions make sense of their plurality, but their complementarity makes sense of international law. The introduction and the (dialogical) conclusion, which show this so well, are real gems.’

– Hélène Ruiz Fabri, Director, Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law

‘Nothing is more practical than a good theory! A wonderful choice of important approaches to international law, written by eminent scholars of our time. The chapters, each authoritative on its own account, are embedded in a highly informed and informing introduction by the editors and a dialogical epilogue by the authors with Joseph Weiler. The reflections on theory, method, and the “big picture” of international law are highly welcome in the current period of challenge and change.’

– Anne Peters, Director, Max Planck Institute for Comparative Public Law and International Law
International Legal Theory

FOUNDATIONS AND FRONTIERS

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International Legal Theory
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Acknowledgments

This is the second volume we have been fortunate to edit together with Cambridge University Press. In 2013, we worked with John Berger and with a remarkable group of colleagues to publish *Interdisciplinary Perspectives on International Law and International Relations*. We were happy to compile a volume that would provide both an introduction to students and a state of the art for established scholars at the intersection of two disciplines.

No sooner had we completed that volume, however, than we realized the need to turn back to the discipline of international law, and take stock of the ever-growing number of theories of international law flowering within the international legal academy. Just a few decades ago, scholars could write credibly that the field of international legal theory had perhaps three or four streams, typically starting with naturalism and positivism and perhaps extending to legal realist and critical approaches. Today, alongside the classical theories and their Cold-War challengers, we find a growing number of theoretical frameworks, each offering a unique combination of descriptive, causal, normative, and critical accounts of the nature and working of the international legal order. In this volume, we have brought together many of the leading scholars in international law to assess both the foundations and the frontiers of international legal theory, surveying more than a dozen discrete theoretical approaches, reflecting on their strengths and weaknesses, and asking hard questions about the relation of international legal theory and practice.

Our first debt is our contributors, who answered our challenge to unearth the foundations, find the frontiers, and confront the weaknesses as well as the strengths of each of the theories reviewed in this book. In addition to the authors of these core chapters, we were fortunate that Laurence Boisson de Chazournes and Georges Abi-Saab were willing to share their insights into the relationship between theory and practice. Joseph H. H. Weiler, whom we invited to write a conclusion to the volume, responded with a remarkable proposal to engage in a “dialogic conclusion” with the authors of all the theory chapters, resulting in one of the sharpest and most
substantive exchanges of ideas we have ever read, much less edited, in the field of international law.

We are both fortunate to teach and work at Temple University, in the Beasley College of Law and the College of Liberal Arts, which provided us with significant support throughout this project. Jeff Dunoff is thankful for research support from the Carnell Chair and the Law School, and to Dean Greg Mandel for his support and encouragement. As befits a volume on international legal theory, research on this project was undertaken at several international research institutions, and he is also grateful to Georg Nolte, Heike Krieger, Andreas Zimmermann, and other members of the Berlin Potsdam Research Group International Rule of Law – Rise or Decline?, and to Deirdre Curtin, Joanne Scott, and other colleagues at the European University Institute, for warm hospitality, rich interactions, and the opportunity to work at their institutions. Mark Pollack is grateful to the College of Liberal Arts and its Dean, Richard Deeg, to the Department of Political Science, and to the Center for the Humanities at Temple for research support. Our thanks also to our colleague and friend Duncan Hollis for invaluable advice, an ongoing conversation about international law, and careful readings of draft chapters.

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Finally, and most importantly, we thank our families – Theresa, Elizabeth, and Joel, and Rita, Cameron, and Fiona – for their unstinting support. This book, like our last, is dedicated to them.