

ALTRUISM IN INTERNATIONAL LAW

Much emphasis has been placed on the role that individualism, self-interest and reciprocity have in the formation and function of international legal rules. Rarely has attention been given to the presence of altruism in legal systems, let alone the international legal system. In a study that is the first of its kind in international legal scholarship, *Altruism in International Law* explores and analyses the emergence of altruistic legal relationships between states and people in other countries. The book also argues that the impulse for the emergence of these relationships is a cosmopolitan ideology which co-exists with a persisting statist ideology, among the major actors in international law-making processes. Further still, the book reveals that individualistic legal norms are more often manifested as strict rules, while altruistic legal norms find expression in flexible standards. This suggests that there is a connection between substance and form in international law.

JASON RUDALL is Assistant Professor of Public International Law at the Grotius Centre for International Legal Studies, Leiden University. His other books include *Compensation for Environmental Damage under International Law* (2020) and *The UN Convention on the Law of the Non-Navigational Uses of International Watercourses: A Commentary* (2018). He has worked with international organisations, NGOs, law firms and in litigation.

Cambridge University Press
978-1-108-83525-1 — Altruism in International Law
Jason Rudall
Frontmatter
[More Information](#)

CAMBRIDGE

Cambridge University Press
978-1-108-83525-1 — Altruism in International Law
Jason Rudall
Frontmatter
[More Information](#)

ALTRUISM IN
INTERNATIONAL LAW

JASON RUDALL
Leiden University



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
978-1-108-83525-1 — Altruism in International Law
Jason Rudall
Frontmatter
[More Information](#)

CAMBRIDGE
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
New Delhi – 110025, India
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108835251
DOI: 10.1017/9781108892018

© Jason Rudall 2021

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2021

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Rudall, Jason, author.

Title: Altruism in international law / Jason Rudall.

Description: New York : Cambridge University Press, 2021. | Includes bibliographical references and index.

Identifiers: LCCN 2021009531 (print) | LCCN 2021009532 (ebook) | ISBN 9781108835251 (hardback) | ISBN 9781108892018 (ebook)

Subjects: LCSH: Responsibility to protect (International law) | International cooperation. | Environmental law, International. | Environmental justice – International cooperation. | Altruism. | Helping behavior. | Altruism – Social aspects. | Human rights. | BISAC: LAW / International | LAW / International

Classification: LCC KZ4082 .R83 2021 (print) | LCC KZ4082 (ebook) | DDC 341/.011–dc23

LC record available at <https://lcn.loc.gov/2021009531>

LC ebook record available at <https://lcn.loc.gov/2021009532>

ISBN 978-1-108-83525-1 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Carolyn, Nigel and Amy

CONTENTS

<i>Preface and Acknowledgements</i>	<i>page xi</i>
Introduction	1
The Problématique	1
The Evolution of International Legal Relationships	2
The Dimensions of Altruism in International Law	9
A Roadmap for This Study	13
1 Altruism	17
1.1 Introduction	17
1.2 The Essence of Altruism	17
1.2.1 Alteri Huic	17
1.2.2 Altruism Is Action for the Other at a Cost	20
1.2.3 Self-regarding Pay-offs	21
1.2.4 The Prevalence of Altruism in Human Behaviour	23
1.2.5 The Common Humanity Perspective	26
1.3 Cosmopolitan Altruism: The Expanding Circle	29
1.3.1 Cosmopolitanism	30
1.3.2 The Making of Cosmopolitan Altruism	31
1.3.2.1 The Role of Reason	31
1.3.2.2 The Role of Globalisation	33
1.3.2.3 The Role of Formative Events	35

1.4	Altruism in a Legal System	36
1.4.1	Individualism versus Altruism	36
1.4.2	Acting in the Interests of Others	37
1.4.3	Duties to Render Assistance	39
1.5	Altruistic Themes in International Legal Scholarship	41
1.6	Concluding Remarks	49
2	The Making of Altruism in International Law	52
2.1	Introduction	52
2.2	Values and the Law: Institutions, Processes and Actors	53
2.2.1	The Institutionalisation of Ideology	54
2.2.2	The Role of States	57
2.2.3	The Role of Individuals	60
2.2.4	The Role of International Institutions	65
2.2.5	The Role of International Courts	67
2.3	Concluding Remarks	79
3	The Substance of Altruism in International Law: Cooperation for the Other	80
3.1	Introduction	80
3.2	International Cooperation under the UN Charter	81
3.3	International Cooperation and the International Covenant on Economic, Social and Cultural Rights 1966	86
3.4	International Cooperation and the Convention on the Rights of the Child 1989	97
3.5	International Cooperation in Other Legal Contexts	100
3.6	International Cooperation in Its Infinite Variety	104
3.7	Concluding Remarks	107

CONTENTS

ix

- 4 The Substance of Altruism in International Law: Protection for the Other 108
 - 4.1 Introduction 108
 - 4.2 The Duty to Prevent Genocide in a Third State 108
 - 4.3 The Emerging Duty to Prevent Torture 120
 - 4.4 Inducing Compliance and the Duty to Ensure Respect 125
 - 4.5 The Responsibility to Protect 134
 - 4.6 The Duty to Protect Those Fleeing Their Home State 142
 - 4.7 Concluding Remarks 147
- 5 The Substance of Altruism in International Law: Development for the Other 150
 - 5.1 Introduction 150
 - 5.2 Development Assistance 151
 - 5.3 The International Economic Order and Development 160
 - 5.4 The Role of Solidarity in Development 171
 - 5.5 Food Assistance 177
 - 5.6 Concluding Remarks 180
- 6 The Substance of Altruism in International Law: Environmental Justice for the Other 182
 - 6.1 Introduction 182
 - 6.2 The Other in International Environmental Law 183
 - 6.2.1 The Duty to Prevent Transboundary Harm 183
 - 6.2.2 The Rise of the Individual in International Environmental Law 184
 - 6.2.3 Human Rights, Extraterritoriality and the Environment 192
 - 6.2.4 Intergenerational Equity 202

6.3	Special Commitments to Developing Countries	206
6.3.1	Common but Differentiated Responsibilities	206
6.3.2	Financial and Technical Assistance	209
6.4	Concluding Remarks	215
7	The Form of Altruism in International Law	217
7.1	Introduction	217
7.2	Jurisprudence of Form	217
7.3	The Form of Altruism in International Law	221
7.3.1	Standards for International Cooperation	221
7.3.2	Standards for Protection	223
7.3.3	Standards for Development	228
7.3.4	Standards for Environmental Justice	230
7.4	Concluding Remarks	232
	Conclusion	235
	Overview	235
	A Growing Concern for the Other	236
	The Common Humanity Perspective and Cosmopolitan Altruism	237
	The Making of Altruism in International Law	238
	The Substance of Altruism in International Law	238
	The Form of Altruism in International Law	242
	The Promise of Altruism in International Law	244
	<i>Select Bibliography</i>	248
	<i>Index</i>	269

PREFACE AND ACKNOWLEDGEMENTS

In a project that has spanned eight years, much changed in the world around me, and there were reasons to doubt the existence of altruism in our species. It is often easy to overlook the quiet but constant altruism in our communities when we are confronted every so often with selfish acts that shock our conscience. But that such things shock us says something about our natural predisposition. In this study, relying as it does on empirical research, I have had the opportunity to inquire into the true nature of human behaviour, to consider how this shapes our social structures and whether it is manifested in the law. Writing this book has allowed me to explore other cultures, conduct research in different countries and cross disciplinary boundaries. In doing so, the project has led me to take a long evidence-based view and, ultimately, affirmed my faith in both the international legal system and humanity at large. That is, of course, not to suggest that there exist fundamental deficiencies nor that we should be in any way complacent because, as will be seen, the altruism in international law – as in our society – is fragile and vulnerable to abuse. However, I hope that the readers of this book will take away a similar optimism about the future of international law and, more generally, our world.

This is a book about altruism. While writing it, I have been the beneficiary of many individual acts of altruism, and I am indebted to those who accompanied me on this academic journey. The book's origins lie in my PhD on the topic, and I owe a particular debt of gratitude to my international law teachers who have allowed me to acquire the knowledge, skills and perspectives to write it. I am especially grateful to my PhD supervisor Andrea Bianchi at the Graduate Institute of International and Development Studies, Geneva. He helped me to approach legal study from different perspectives, to question dogmas and gave me the discretion to think creatively about the law. I am also thankful to Andrew Clapham at the Graduate Institute and Tom Ruys at Ghent University, who both served on my PhD jury and offered valuable feedback that has

improved this book immeasurably. I would similarly like to express my gratitude to Laurence Boisson de Chazournes at the University of Geneva, who has been a source of precious guidance for many years.

The wider communities at the International Law Department of the Graduate Institute, the *Département de droit international public et organisation internationale* at the University of Geneva and the Grotius Centre for International Legal Studies at Leiden University have all been incredibly supportive environments out of which I have taken much inspiration and that allowed work on this book to be completed.

The encouragement I received from my close friends and wider family throughout this project has been a powerful motivating force, and they have all helped me to keep perspective while writing the book. I am particularly grateful to my parents and sister for their unconditional love and support. They have taught me the importance of education, hard work, and persistence, which have all been critical in seeing this book to fruition. Most importantly of all, however, they taught me everything I really needed to know about altruism. This book is for them.