Volume 112 ■ Issue 4 ■ October 2018
ISSN 0002-9300

AJIL

American Journal of International Law

INSIDE THIS ISSUE

■ Human Rights in War: On the Entangled Foundations of the 1949 Geneva Conventions
Boyd van Dijk

■ A Rule Book on the Shelf? Tallinn Manual 2.0 on Cyberoperations and Subsequent State Practice
Dan Efrony and Yuval Shany

■ Domestic Investment Statutes in International Law
Jarrod Hepburn

American Society of International Law

CAMBRIDGE UNIVERSITY PRESS

AMERICAN JOURNAL OF INTERNATIONAL LAW

Vol. 112 October 2018 No. 4

CONTENTS PAGE

Human Rights in War: On the Entangled Foundations of the 1949 Geneva Conventions *Boyd van Dijk* 553

The relationship between human rights and humanitarian law is one of the most contentious topics in the history of international law. Most scholars studying their foundations argue that these two fields of law developed separately until the 1960s. This article, by contrast, reveals a much earlier cross-fertilization between these disciplines. It shows how "human rights thinking" played a critical generative role in transforming humanitarian law, thereby creating important legacies for today's understandings of international law in armed conflict.

A Rule Book on the Shelf? Tallinn Manual 2.0 on Cyberoperations and Subsequent State Practice *Dan Efrony and Yuval Shany* 583

This article evaluates acceptance of the Tallinn Rules by states on the basis of eleven case studies involving cyberoperations, all occurring after the first Tallinn Manual was published in 2013. Our principal findings are that (1) it is unclear whether states are ready to accept the Tallinn Rules; (2) states show uneven interest in promoting legal certainty in cyberspace; and (3) a growing need for coordinated response to cyberattacks may induce states to consider more favorably the Tallinn Rules.

Domestic Investment Statutes in International Law *Jarrod Hepburn* 658

Alongside now-controversial investment treaties, many states also maintain domestic investment statutes. Although these laws offer protections similar to investment treaties and are increasingly applied in investor-state arbitration, they have—unlike the treaties—attracted limited scholarly scrutiny. This article argues that investment statutes can plausibly be characterized either as unilateral acts in international law or as domestic law. The article examines the significant consequences that follow from these characterizations, providing the first comprehensive analysis of these hybrid statutes.

International Decisions *Edited by Harlan Cohen*

Francis Karioko Muruatetu v. Republic (Jacquelene Mwangi) 707

Supreme Court of Kenya on the constitutionality of the mandatory death penalty

Ingabire Victoire Umuhoza v. The Republic of Rwanda (Harrison Mbori) 713
African Court of Human and Peoples' Rights on the rights to a fair trial and to freedom of expression

Jesner v. Arab Bank (Rebecca J. Hamilton) 720
Supreme Court of United States on corporate liability under the Alien Tort Statute

Google Inc. v. Equustek Solutions Inc. (Jennifer Daskal) 727
Supreme Court of Canada on the appropriateness and scope of a global website takedown order

Contemporary Practice of the United States Relating to International Law
Edited by Jean Galbraith
Trump Administration Imposes Sanctions on Russia for Chemical Weapons Use, While More Generally Sending Mixed Signals Regarding NATO and Russia 735
U.S. Supreme Court Upholds Presidential Proclamation Restricting Entry of Individuals from Covered Countries 741
United States Withdraws from the UN Human Rights Council, Shortly After Receiving Criticism About Its Border Policy 745
Tariff-Based Disputes Continue to Characterize Trump Administration Trade Policies 751
D.C. Circuit Upholds Injunction Barring the Involuntary Transfer to an Unidentified Third Country of a U.S. Citizen Alleged to be an Enemy Combatant 759
Historic Meeting in Singapore Marks a Change in Relations between the United States and North Korea and Generates a North Korean Commitment to Work Toward Denuclearization 763

Recent Books on International Law

Review Essay
The International Law of Property (José E. Alvarez) 771
Bonnitcha, Jonathan, Lauge N. Skovgaard Poulsen and Michael Waibel. *The Political Economy of the Investment Treaty Regime*
Upham, Frank K. *The Great Property Fallacy: Theory, Reality, and Growth in Developing Countries*

Book Reviews
Sloss, David L. *The Death of Treaty Supremacy: An Invisible Constitutional Change* (David P. Stewart) 779
Spiro, Peter J. *At Home in Two Countries: The Past and Future of Dual Citizenship* (Liav Orgad) 789
Roberts, Anthea. *Is International Law International?* (Katerina Linos) 795
Cao, Lan. *Culture in Law and Development: Nurturing Positive Change* (Jane Stromseth) 798

Books Received 804

International Legal Materials, Contents, Vol. 57, No. 4 808