

An important forum from  
*The Journal of Asian Studies*

## State, Sovereignty, and the People:

A Comparison of the "Rule of Law" in China and India

By *Jonathan K. Ocko* and *David Gilmartin*

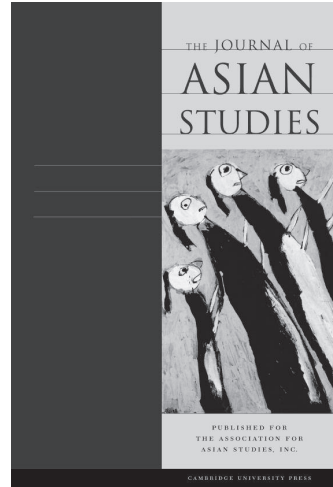
This groundbreaking article uses a focus on the rule of law to raise comparative questions about the construction of sovereignty and rights in China and India, within the larger global processes that shaped the 19th and 20th centuries. These questions include:

- How did the rule of law help to define the principles on which the Indian and Chinese states rested?
- How did this concept define these states' relationships to the societies they ruled?
- How can the rule of law help us to understand the ways that these states legitimized their authority?
- What are the political implications of China's and India's differences (and similarities) in the role of the law in their societies in the 19th century, and how can these help us to understand their different patterns of historical evolution in the 20th century?

This fascinating research is followed by five commentaries by leading legal historians, then a rejoinder by the article's authors. The commentaries are:

- Sovereignty, Rule of Law, and Ideologies of the Nation,  
*by Vivienne Shue*
- Justice or Legitimacy: A Response to Ocko and Gilmartin,  
*by Paul W. Kahn*
- Rule of Law in China and India: A Historical-Cultural Approach,  
*by Randall Peerenboom*
- Not Just a Concept: Institutions and the "Rule of Law",  
*by Lauren Benton*
- The Limits of Legal Sovereignty: China and India in Recent History,  
*by Prasenjit Duara*

**The lead article in this forum is available for all to read at <http://journals.cambridge.org/jas>**



*The Journal of Asian Studies (JAS)* publishes the very best empirical and multidisciplinary work on Asia, spanning the arts, history, literature, the social sciences, and cultural studies. With coverage reaching from South and Southeast Asia to China, Inner Asia, and Northeast Asia, *JAS* welcomes broad comparative and transnational studies as well as essays emanating from fine-grained historical, cultural, political, or literary research and interpretation. The journal also publishes clusters of papers representing new and vibrant discussions.

For more information about *The Journal of Asian Studies*, including subscription details and information for contributors, please visit <http://journals.cambridge.org/jas>





T · M · C · A S S E R P R E S S

## **The Legitimacy of Highest Courts' Rulings** *Judicial Deliberations and Beyond*

*Edited by*

Nick Huls, Maurice Adams and Jacco Bomhoff

In his *Judicial Deliberations: A Comparative Analysis of Judicial Transparency and Legitimacy* (Oxford 2004), the American-French scholar Mitchel Lasser has, among other things, tried to re-establish the strengths of the French cassation system. Using Lasser's approach and ideas as a starting point, in this book judges from the French, Belgian and Dutch Cassation Courts reflect on the challenges that their Courts are facing. The book also contains a series of contributions from scholars analyzing the wide range of factors that determine the legitimacy of these courts' decisions. Specific attention is given to the Strasbourg Court of Human Rights that has been so important for the moral legitimacy of the European legal order, and to courts in post-communist systems, which face many similar challenges and are even under greater pressure to modernize.

The book is a multidisciplinary contribution to the international debate about the legitimacy of the highest courts' rulings as well as the concept of judicial leadership and offers a new perspective in the USA versus Europe debate. It is recommended reading for academics, judges, policymakers, political scientists and students.

Nick HULS is a Professor of socio-legal studies at the Faculty of Law of the Erasmus University Rotterdam and Leiden University's Faculty of Law, The Netherlands.

Maurice ADAMS is a Professor of law at Tilburg University, The Netherlands, and part-time Professor of comparative law at Antwerp University in Belgium. Jacco BOMHOFF is a Lecturer in law at the Law Department of the London School of Economics.

[www.asserpress.nl/cata/hulsadams/fra.htm](http://www.asserpress.nl/cata/hulsadams/fra.htm)

2009, ISBN 9789067042895

478 pages, hardcover

GBP 75.00

Distributed for T.M.C. ASSER PRESS by Cambridge University Press  
[www.cambridge.org](http://www.cambridge.org)



CAMBRIDGE

## Cutting Edge Scholarship with the Highest Standards

### Darfur and the Crime of Genocide

John Hagan and Wenona Raymond-Richmond

*Cambridge Studies in Law and Society*

\$85.00; Hb: 978-0-521-51567-2; 296 pp.

\$24.99; Pb: 978-0-521-73135-5



*Now in Paperback!*

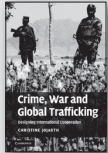
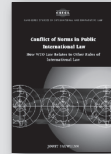
### Conflict of Norms in Public International Law

How WTO Law Relates to other Rules of International Law

Joost Pauwelyn

*Cambridge Studies in International and Comparative Law*

\$60.00; Pb: 978-0-521-10047-2; 556 pp.



### Crime, War and Global Trafficking

Designing International Cooperation

Christine Jojarth

\$99.00; Hb: 978-0-521-88611-6; 376 pp.

\$34.99; Pb: 978-0-521-71376-4



### The Role of International Law in Rebuilding Societies after Conflict

Great Expectations

Brett Bowden, Hilary Charlesworth and Jeremy Farrall

\$125.00; Hb: 978-0-521-50994-7; 352 pp.

*Now in Paperback!*

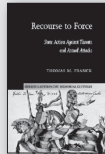
### Recourse to Force

State Action against Threats and Armed Attacks

Thomas M. Franck

*Hersch Lauterpacht Memorial Lectures*

\$29.99; Pb: 978-0-521-10420-3; 218 pp.



### International Law

Being The Collected Papers of Hersch Lauterpacht

Volume 2: The Law of Peace

Part 1: International Law in General

E. Lauterpacht

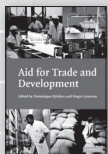
\$70.00; Pb: 978-0-521-10741-9; 612 pp.

### Refugees, Asylum Seekers and the Rule of Law

Comparative Perspectives

Susan Kneebone

\$110.00; Hb: 978-0-521-88935-3; 352 pp.



*Now in Paperback!*

### Aid for Trade and Development

Dominique Njinkeu and Hugo Cameron

\$39.00; Pb: 978-0-521-75725-6; 448 pp.

### Regional Rules in the Global Trading System

Antoni Esteveadoral, Kati Suominen and Robert Teh

*WTO Internal Only*

\$115.00; Hb: 978-0-521-76084-3; 352 pp.

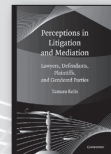
\$45.00; Pb: 978-0-521-75934-2

### Perceptions in Litigation and Mediation

Lawyers, Defendants, Plaintiffs, and Gendered Parties

Tamara Relis

\$85.00; Pb: 978-0-521-51731-7; 304 pp.



### The American Influences on International Commercial Arbitration

Doctrinal Developments and Discovery Methods

Pedro J. Martinez-Fraga

\$135.00; Hb: 978-0-521-76588-6; 400 pp.

### The European Arrest Warrant in Practice

N. Keijzer and Elies Van Sliedregt

\$125.00; Hb: 978-9-067-04293-2; 400 pp.

Prices subject to change.

[www.cambridge.org/us/law](http://www.cambridge.org/us/law)



CAMBRIDGE  
UNIVERSITY PRESS



T · M · C · A S S E R P R E S S

## The European Arrest Warrant in Practice

*Edited by*

Nico Keijzer & Elies van Sliedregt

Under the European Arrest Warrant (EAW) system, Member States of the European Union are under the obligation to arrest and surrender individuals on request of judicial authorities of other Member States. In doing this, it is important that human rights are respected and that there is room for national peculiarities. Awareness of what unites the Member States as well as respect for what makes them different, are prerequisites for a fruitful cooperation.

This book will be a useful tool for those involved as practitioners in cooperating under the EAW scheme, e.g. judicial authorities, judges, and counsel representing and advising those who are subject to surrender. Moreover, it will evoke academic interest for its information on EAW practice.

The reader will find comments on the various stages of the surrender procedure in a chronological order, starting with the content of the European Arrest Warrant, continuing with the refusal grounds, and ending with the consequences of surrender. The scope of the book goes beyond the frontiers of the European Union. Two chapters deal with other (regional) extradition systems: the one of the Nordic countries and the one of the United States.

NICO KEIJZER is a former justice in the Supreme Court of the Netherlands, and emiritus Professor of international criminal law at Tilburg University, the Netherlands. ELIES VAN SLIEDREGT is Professor of criminal law at VU University in Amsterdam, the Netherlands.

[www.asserpress.nl/cata/9789067042932/fra.htm](http://www.asserpress.nl/cata/9789067042932/fra.htm)

2009, ISBN 9789067042932

464 pages, hardcover

GBP 70.00

Distributed for T.M.C. ASSER PRESS by Cambridge University Press  
[www.cambridge.org](http://www.cambridge.org)



CAMBRIDGE  
UNIVERSITY PRESS

NETHERLANDS INTERNATIONAL LAW REVIEW  
VOL. LVI 2009/1

CONTENTS

**Articles**

MD. R. ISLAM; S. ALAM, Preferential Trade Agreements and the Scope of  
GATT Article XXIV, GATS Article V and the Enabling Clause: An Appraisal  
of GATT/WTO Jurisprudence 1

F. MESSINEO, The House of Lords in *Al-Jedda* and Public International Law:  
Attribution of Conduct to UN-Authorized Forces and the Power of the  
Security Council To Displace Human Rights 35

**Book Reviews**

A. Boyle; C. Chinkin, *The Making of International Law* (P. de Waart) 63

**Hague Case Law – Latest Developments** (E.V. KOPPE) 69

**Documents**

Advisor Committee on Issues of Public International Law,  
*Advisory Report on the Application of Protocol No. 14 to the European  
Convention on Human Rights and Fundamental Freedoms*, The Hague,  
November 2008 71

**Books Received and Available for Review** 93

Distributed by

**CAMBRIDGE**  
UNIVERSITY PRESS

**Cambridge Journals Online**  
[journals.cambridge.org](http://journals.cambridge.org)



0165-070X(2009)56:1;1-9