

# AMERICAN JOURNAL OF INTERNATIONAL LAW

Vol. 118

January 2024

No. 1

CONTENTS

PAGE

## Articles

### **An Imperial History of Race-Religion in International Law**

*Rabiat Akande* 1

More than half a century after the UN's adoption of the International Convention on the Prohibition of All Forms of Racial Discrimination, a debate has emerged over whether to extend the Convention's protections to religious discrimination. This article uses history to intervene in the debate. It argues that racial and religious othering were mutually co-constitutive in the colonial encounter and foundational to the making of modern international law. Moreover, the contemporary proposal to address the interplay of racial and religious othering is hardly new; iterations of that demand surfaced in the earlier twentieth century, as well. By illuminating the centrality of race-religion othering to the colonial encounter and chronicling failed attempts by Europe's "others" to secure international legal protections, this article makes a case for crafting an attuned response in the present.

### **Unlocking CEDAW's Transformative Potential: A Gender Lens on Asylum Jurisprudence**

*Madeline Gleeson* 41

One of the most important developments in international law for the protection of displaced women and girls—the implied *non-refoulement* obligation in the Convention on the Elimination of Discrimination Against Women has received little scholarly or jurisprudential attention. This Article presents, for the first time, a doctrinal analysis of the full corpus of asylum complaints decided by the Committee on the Elimination of Discrimination Against Women (Committee). It analyzes the early development of a prohibition on return to real, personal, and foreseeable risks of serious forms of discrimination against women; highlights critical shortcomings in the Committee's asylum practice; identifies key areas for improvement; and reflects on the Committee's as-yet-unrealized potential to contribute to international law in this area.

## Current Developments

### Corporate Accountability by Treaty: The New North American Rapid Response Labor Mechanism

*Kathleen Claussen and Chad Bown* 98

### The International Law Commission's Seventy-Fourth (2023) Session: General Principles of Law and Other Topics

*Charles Chernor Jalloh* 120

## International Decisions

*Edited by Olabisi D. Akinkugbe*

*Certain Iranian Assets (Islamic Republic of Iran v. United States)* (Annamaria Viterbo) 145

This judgment by the International Court of Justice is steeped in the 1955 Treaty of Amity, Economic Relations, and Consular Rights, and concerns measures taken by the United States to seize certain Iranian entities to compensate U.S. victims of terrorist attacks committed abroad with the alleged support of Iran.

*Prosecutor v. Dominic Ongwen, Judgment on the Appeal of Mr. Ongwen Against the Decision of Trial Chamber IX of 4 February 2021 Entitled "Trial Judgment" and Judgment on the Appeal of Mr. Dominic Ongwen Against the Decision of Trial Chamber IX of 6 May 2021 Entitled "Sentence"* (Cóman Kenny) 153

In which the Appeals Chamber of the International Criminal Court affirmed the Trial Judgment against Mr. Ongwen regarding his alleged role as a high-level commander of the Lord's Resistance Army and being complicit in the sexual and gender-based crimes, forced marriage, among others that took place in Northern Uganda between July 1, 2002 and December 31, 2005.

*Bank Melli Iran v. Telekom Deutschland GmbH* (Leonardo Borlini) 160

This preliminary ruling by Court of Justice of the European Union arises from the interpretation of the first paragraph of Article 5 of Council Regulation (EC) No 2271/96 of 22 November 1996 (Blocking Regulation) protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereto.

## Contemporary Practice of the United States Relating to

### International Law

*Edited by Jacob Katz Cogan*

*The United States Signs the High Seas Treaty* 169

*The United States Accepts the WTO's Fisheries Subsidies Agreement* 173

*The Department of Defense Updates the Law of War Manual* 178

*The United States Takes Actions to Combat International Fentanyl Trafficking* 183

*The United States and Bahrain Sign Comprehensive Security Integration and Prosperity Agreement* 190

*The Department of Homeland Security Issues First Guidance on Statelessness* 194

## Recent Books on International Law

*Edited by Jeffrey L. Dunoff*

### Book Reviews

Johns, Fleur. *#Help: Digital Humanitarianism and the Remaking of International Order*  
Reviewed by Wendy Wong 199

Raustiala, Kal. <i>The Absolutely Indispensable Man: Ralph Bunche, the United Nations, and the Fight to End Empire</i>	Reviewed by Blanca Montejó	205
Puig, Sergio. <i>At the Margins of Globalization: Indigenous Peoples and International Economic Law</i>	Reviewed by Michael Fakhri	212
Pauwelyn, Joost, Maggetti, Martino, Büthe, Tim, and Berman, Ayelet (eds.). <i>Rethinking Participation in Global Governance: Voice and Influence After Stakeholder Reforms in Global Finance and Health</i>	Reviewed by Melissa J. Durkee	219
Soave, Tommaso. <i>The Everyday Makers of International Law: From Great Halls to Back Rooms</i>	Reviewed by Tamar Megiddo	224
<b>No Books Received</b>		