

AMERICAN JOURNAL OF INTERNATIONAL LAW

Vol. 117

April 2023

No. 2

CONTENTS

PAGE

Articles

Worldmaking at the End of History: The Gulf Crisis of 1990–91 and International Law

Samuel L. Aber 201

This Article argues that the Gulf Crisis of 1990–91, the first major international crisis of the post-Cold War era, was a constitutive moment for international law. The Article examines the contests in the United Nations over the meaning of the Crisis and shows that these contests were also over the meaning of cooperation under international law in the “new world order.” The Article casts the Gulf Crisis itself as a moment of “worldmaking,” in which the United States refashioned foundational concepts like interdependence, sovereignty, and humanity in warfare and deployed them to suit a state-centered vision of international cooperation under hierarchy.

Constitution-Making as a Technique of International Law: Reconsidering the Post-war Inheritance

Anna Saunders 251

Over the last three decades, international lawyers and institutions have come to understand constitution-making as an accepted technique of international law and a means of delivering peace and security. In defending this technique from its critics, scholars have drawn on a particular tradition of constitution-making that understands constitutionalism as a lawful form of international action, realizable through a set of formal practices, and juridically distinct from material concerns. This Article explores the building of this tradition through the work of legal scholars within the United States in conversation with German and Jewish émigré scholars and argues that reimagining constitutionalism for the coming decades requires rethinking this separation between the juridical and the material, as well as asking what constitutionalism demands of the laws governing the global economy.

International Decisions

Edited by Julian Arato
Karla Christina Azeredo Venâncio da Costa and Others v. Federal Republic of Germany
(Eduardo Cavalcanti de Mello Filho)

309

Brazilian Supreme Court decision on sovereign immunity for violations of human rights in international law and Brazilian constitutional law.

<i>Stergiopoulos v. Iran</i> (Daniele Amoroso and Riccardo Pavoni)	315
Italian Supreme Court of Cassation decision on human rights limitations on sovereign immunity in international law and Italian constitutional law.	
<i>Turkey—Pharmaceutical Products</i> (Weihuan Zhou)	322
WTO appellate arbitral panel decision on pharmaceutical localization requirements in public health insurance, and the balance between liberalization and regulatory autonomy regarding health.	
Contemporary Practice of the United States Relating to International Law	
	<i>Edited by Jacob Katz Cogan</i>
<i>The United States Agrees to Loss and Damage Fund at COP27</i>	331
<i>The Treasury Department Implements Security Council Resolution Establishing a Humanitarian Carveout for UN Sanctions</i>	335
<i>President Biden Issues Executive Order on Ensuring Robust Consideration of Evolving National Security Risks by the Committee on Foreign Investment in the United States</i>	340
<i>The United States and the European Union Begin Implementation of the European Union-U.S. Data Privacy Framework</i>	346
<i>The Department of Defense Issues Civilian Harm Mitigation and Response Action Plan</i>	352
<i>The Justice for Victims of War Crimes Act</i>	358
Recent Books on International Law	
	<i>Edited by Jeffrey L. Dunoff</i>
Book Reviews	
Tzouvala, Ntina. <i>Capitalism as Civilisation A History of International Law</i>	
	<i>Reviewed by José E. Alvarez</i>
	364
Siegelberg, Mira L. <i>Statelessness: A Modern History</i>	
	<i>Reviewed by Melissa Stewart</i>
	371
Koskenniemi, Martti. <i>To the Uttermost Parts of the Earth: Legal Imagination and International Power, 1300–1870</i>	
	<i>Reviewed by Randall Lesaffer</i>
	378
Peters, Anne. <i>Animals in International Law</i>	
	<i>Reviewed by Werner Scholtz</i>
	386
Wood, Michael, and Eran Sthoeger. <i>The UN Security Council and International Law</i>	
	<i>Reviewed by Vaughan Lowe</i>
	392
Books Received	395