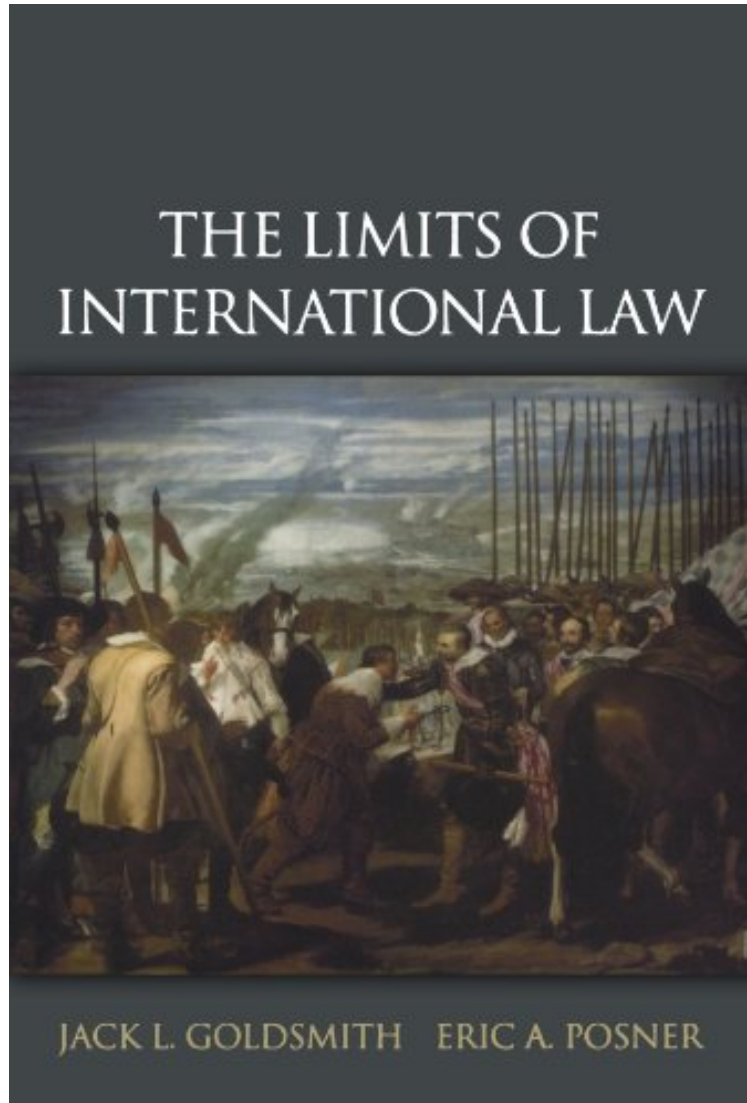


The Limits of International Law

Jack L. Goldsmith, Eric A. Posner

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Jack L. Goldsmith, Eric A. Posner : The Limits of International Law before purchasing it in order to gage whether or not it would be worth my time, and all praised The Limits of International Law:

0 of 0 people found the following review helpful. Five StarsBy Customergood condition1 of 1 people found the following review helpful. Five StarsBy Bob GibsonThanks!1 of 3 people found the following review helpful. An International Relations "Realist" view of International LawBy Peter MonksAs implied by the title, the authors argue that the moral and practical effectiveness of International Law (IL) is often exaggerated and excessively informed by narrow, legalistic views that inadequately consider state interests and power relationships, or the realities of

International Relations (IR). In the first two parts of "The Limits of International Law", the authors largely rely on case studies to illustrate how state adherence or otherwise to Customary International Law (CIL, or, in layman's terms, the commonly accepted practices of relations between states) and treaty law is shaped by state interests. The discussion of CIL is hampered in my view by a reliance on case studies largely from the 19th century - a number of the authors' arguments could be all too easily dismissed as a historic perspective rather than reflecting current IL practice. The discussions of treaty law and the role of non-legal agreements draw on examples of arms control, human rights and international trade (including within the context of GATT and the WTO) and is somewhat more convincing in arguing that ratification and adherence are often two very different things in the absence of a robust enforcement mechanism. The last part of the book discusses the "moral authority" perspective of IL, arguing that IL has no inherent moral authority and that compliance with IL should be a function of national interest and public opinion within a state rather than an appeal to the sanctity of IL itself. The final chapter of this part of the book, entitled "Liberal Democracy and Cosmopolitan Duty" offers a sweeping defence of a premise that the legislature and institutions of a state should be responsive to the formally expressed views of its citizens rather than to more multilateral and cosmopolitan pressures from outside the state, and could have served as a robust alternative to the views expressed in Anne-Marie Slaughter's *A New World Order* if it was longer than 20 or so pages and more rigorously argued - in some respects this final part (chapters 6 to 8) could be considered the skeleton of the book "The Limits of International Law" should have been. Probably a 3 1/2 star book - I am not quite as impressed with it as I was when I first read it in 2007, but it does offer a honest attempt to examine IL using both IL and IR perspectives and certainly offers a provocatively alternative point of view to most IL literature. While it is written in clear and straightforward language, it is probably only of limited interest or accessibility for the reader with no background in either IR or IL, if not both.

International law is much debated and discussed, but poorly understood. Does international law matter, or do states regularly violate it with impunity? If international law is of no importance, then why do states devote so much energy to negotiating treaties and providing legal defenses for their actions? In turn, if international law does matter, why does it reflect the interests of powerful states, why does it change so often, and why are violations of international law usually not punished? In this book, Jack Goldsmith and Eric Posner argue that international law matters but that it is less powerful and less significant than public officials, legal experts, and the media believe. International law, they contend, is simply a product of states pursuing their interests on the international stage. It does not pull states towards compliance contrary to their interests, and the possibilities for what it can achieve are limited. It follows that many global problems are simply unsolvable. The book has important implications for debates about the role of international law in the foreign policy of the United States and other nations. The authors see international law as an instrument for advancing national policy, but one that is precarious and delicate, constantly changing in unpredictable ways based on non-legal changes in international politics. They believe that efforts to replace international politics with international law rest on unjustified optimism about international law's past accomplishments and present capacities.

"Refreshing and timely"--The Weekly Standard "A valuable contribution to international relations and a useful book for lawmakers and laymen alike."--The Weekly Standard "[B]oldly and ambitiously set[s] out to answer a host of traditional questions posed by critics and advocates of international law."--Law and Politics Book "Scholars have long debated why and when states comply with international law; one widely held view is that states do so out of a sense of moral obligation or a desire for legitimacy. This elegantly argued book... offers a simpler and more instrumental explanation: states agree to and follow international law only when it is in their national self-interest."--Foreign Affairs "Jack L. Goldsmith and Eric A. Posner boldly and ambitiously set out to answer a host of traditional questions posed by critics and advocates of international law.... As the central theme, the single most distinctive character of the book is the employment of rational choice theory as it relates to international law.... The creativity displayed here should now whet the appetite of other legal scholars to approach the international law and politics relationship from the perspective of prospect theory, or pursuing policy on the fear of losing an objective."--The Law and Politics Book "How much effect does international law actually have on how nations behave? Goldsmith and Posner ask trenchant questions and offer thought-provoking answers in a pioneering effort to address that question through the prism of rational choice theory. There will be a long and vigorous debate about the utility of their approach. Agree with them or not, their boldness and innovation provide a welcome effort at injecting greater analytic rigor into international law scholarship."--Michael J. Glennon, Fletcher School of Law Diplomacy, Tufts University "At a time of rising interest in the intersection of international law and international relations scholarship, Goldsmith and Posner throw down a gauntlet likely to infuriate many traditional international lawyers. Their insistence that international legal obligations are equal part coincidence and rational state self-interest, nothing more, demands and will certainly get an answer. Equally important is their claim to be the heirs of Kennan and Morgenthau in cautioning against the perils of what they perceive to be a new round of legalism-moralism. They have thus raised the political as much as the methodological stakes in what is likely to be a heated and timely debate."--Anne-Marie Slaughter, Dean, Woodrow Wilson School of Public and International Affairs, Princeton University "Jack Goldsmith and Eric Posner have written a compelling

study which provides an elegant analytic framework for understanding when international law matters and when it does not. Goldsmith and Posner show that some kinds of international law are very consequential while others are not. After this study it will be difficult for any serious observer to treat customary international law as if it were a constraint on rather than an manifestation of changing state power and preferences."--Stephen D. Krasner, Department of Political Science, Stanford University

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About the Author Jack L. Goldsmith is Henry L. Shattuck Professor of Law, Harvard University. He is co-author of *Who Controls the Internet?* and the casebooks *Foreign Relations Law and Conflicts of Laws*. Eric A. Posner is Kirkland Ellis Professor of Law, University of Chicago. He is the co-author of *Terror in the Balance* and the editor of the *Journal of Legal Studies*.