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Non-Legality in International Law

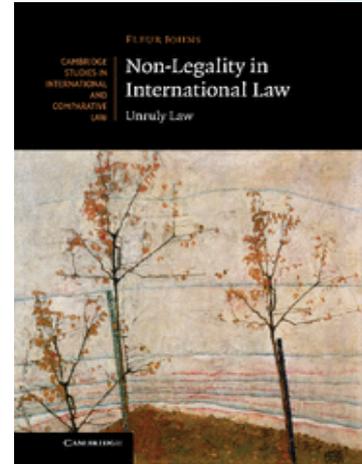
Unruly Law

Fleur Johns

University of New South Wales, Sydney

International lawyers typically start with the legal. What is a legal as opposed to a political question? How should international law adapt to the unforeseen? These are the routes by which international lawyers typically reason. This book begins, instead, with the non-legal. In a series of case studies, Fleur Johns examines what international lawyers cast outside or against law - as extra-legal, illegal, pre-legal or otherwise non-legal - and how this comes to shape political possibility. Non-legality is not merely the remainder of regulatory action. It is a key structuring device of contemporary global order. Constructions of non-legality are pivotal to debate in areas ranging from torture to foreign investment and from climate change to natural disaster relief. Understandings of non-legality inform what international lawyers today do and what they refrain from doing. Tracing and potentially reimagining the non-legal in international legal work is, accordingly, both vital and pressing.

1. Making non-legalities in international law; 2. Illegality and the torture memos; 3. Black holes and the outside within: extra-legality at Guantánamo; 4. Doing deals: pre- and post-legal choice in transnational financing; 5. Receiving climate change: law, science and supra-legality; 6. Death, disaster and infra-legality in international law; Conclusion.



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'A fantastic book - at once a serious contribution to legal theory and a fascinating read. 'The exception makes the rule' we say - Johns turns that around. How does law make, un-make and manage the exception? It has become routine to find war in the filigrees of peace. Johns finds the managerial work of law in all that seems beyond its reach - the illegal, the political, the economic and the barbaric. Johns proposes a powerful new agenda for research and a caution about the common wish that all might be well were law finally 'brought to bear.' Law she tells us, is already there.'

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Manley O. Hudson Professor of Law and Director of the Institute for Global Law and Policy, Harvard Law School



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