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O. Elias

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O. Elias : The Paradox of Consensualism in International Law (Utrecht Studies in Air and Space Law) before purchasing it in order to gauge whether or not it would be worth my time, and all praised The Paradox of Consensualism in International Law (Utrecht Studies in Air and Space Law):

0 of 0 people found the following review helpful. Extremely Helpful By A Customer Happened upon this book by chance, and was overjoyed to find it. Its views are not conventional, and it assumes a certain level of familiarity with international law from the reader, so a prior grasp of the basics is helpful. I won't attempt to explain its contents as the introduction does it well enough, but I especially appreciated its exploration of the dichotomy between creating law and interpreting it- consensualism and objectification. Though I didn't agree with parts of the book, it certainly made me think. 1 of 3 people found the following review helpful. This book is well-thought out, deeply-researched, and lucid. By A Customer Drs. Elias and Lim show that international law and issues of practical policy will foreseeably continue to depend on the ramifications of statehood. If a contrast with global discourse might be permitted, it is clear that a distinction subsists between global law outwith the state, on the one hand, and law that is of global consequence on the other.

If international law is derived from the consent of States, who should be in a better position to say what has been consented to than the disputing States themselves? It seems that if the doctrine of consent is taken seriously, there

would be no room for an 'objective' legal answer to the question 'What is law?'. Furthermore, States do not necessarily employ the same criteria for determining the applicable law when engaged in dispute. And the doctrine of sovereignty is of very limited utility, since not all of substantive international law can be explained in terms of the atomic concept of sovereignty. This leaves consent as the mediating concept between the substantive doctrine of international law on the one hand and the actual practice of States (and others whose practice and participation in the global legal order help shape the body of international laws) on the other. Nevertheless, this is not to say that there is nothing higher than the actual legal claims forwarded by international actors. International law is no mere superstition, since none argue that there is no (one) legal solution. In that sense, the unity of the international legal order is preserved. The problem is that the solutions actually forwarded in dispute are too numerous and international law too abstract to serve as arbiters between the competing claims. Thus, at the level of substantive doctrine there is a fragmentation of that earlier-mentioned picture of unity. But even here, only consent can mediate between unity and fragmentation, stability and change, order and justice, legislation and revolution. The strength of international law lies in its adaptability to political, strategic and diplomatic necessities. To suggest otherwise is to depart from a picture of international law that presumes the empirical verifiability of international laws. This book has as its principal concern certain orthodoxies of 'source thinking' in international law, and is aimed at working out the implications of these. It aims to show how certain theoretical conceptions have shaped the law in action, for good or ill. It will appeal to political theorists, diplomats, global decision-makers, and international lawyers who are interested in the question 'What can we do with the international law that we have?', as distinct from the question 'What should we do with international law?'.

"An exceptionally impressive array of doctrinal and philosophical arguments ... a certain coming home' of international law which should not fail to receive our applause." Professor Martti Koskenniemi. 'An exceptionally impressive array of doctrinal and philosophical arguments ... a certain coming home' of international law which should not fail to receive our applause.' Professor Martti Koskenniemi.