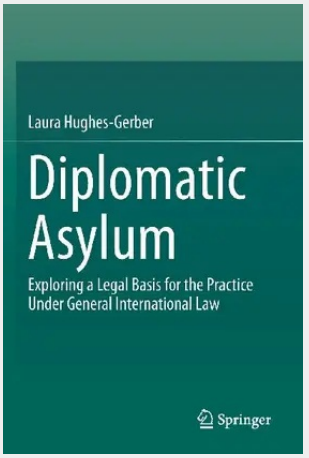
Hughes-Gerber

Diplomatic Asylum

Exploring a Legal Basis for the Practice Under General International Law



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Following the vexed codification attempts of the International Law Commission and the relevant jurisprudence of the International Court of Justice, this book addresses the permissibility of the practice of diplomatic asylum under general international law.

In the light of a wealth of recent practice, most prominently the case of Julian Assange, the main objective of this book is to ascertain whether or not the practice of granting asylum within the premises of the diplomatic mission finds foundation under general international law. In doing so, it explores the legal framework of the Vienna Convention on Diplomatic Relations 1961, the regional treaty framework of Latin America, customary international law, and a possible legal basis for the practice on the basis of humanitarian considerations.

In cases where the practice takes place without a legal basis, this book aims to contribute to bridging the legal lacuna created by the rigid nature of international diplomaticlaw with the absolute nature of the inviolability of the mission premises facilitating the continuation of the practice of diplomatic asylum even where it is without legal foundation. It does so by proposing solutions to the problem of diplomatic asylum.

This book also aims to establish the extent to which international law relating to diplomatic asylum may presently find itself within a period of transformation indicative of both a change in the nature of the practice as well as exploring whether recent notions of humanity are superseding the traditional fundaments of the international legal system in this regard.

Table of ContentsIntroduction.- What is Diplomatic Asylum?.- History of the Practice in the Context of Diplomatic Law.- International Treaty Law.- Customary International Law.- Diplomatic Asylum on the Basis of Humanitarian Considerations.- Conclusion.- Annex.

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