

INTERNATIONAL LAW - Westlake

Preface

"Again, international law is not a highly technical subject, and it would be a mistake to aim at giving it more technicality by the mode of treating it. The law of a country is bound by written enactments and recorded judicial deliverances, and the procedure for applying it is as fixed as the law and by similar means. Hence arise struggles between the letter and the spirit, and the spirit receives no effect unless means can be found of bringing it within the letter. But there is little of the letter, little of express convention or authoritative formula, to enter into the problem of determining the duty of a state towards its neighbours. If any one says that the technical duty of a state is to take or abstain from taking a certain course, but that in the given circumstances it may justifiably act otherwise, we may be pretty sure that he had no sufficient reason for laying down the technical duty in the terms which he has chosen."

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"When a claim is urged but is not held to be enforceable, it is commonly called a moral claim as distinguished from a legal one. In order to become a legal claim it must be accompanied by the sentiment that it would be justifiable to enforce it, and that sentiment must be shared by the general mass of some society which is concerned with the matter."