

The International Law Character Of The Iranunited States Claims Tribunal

Mohsen Aghahosseini



The International Law Character Of The Iran-United States Claims Tribunal:

The International Law Character of the Iran-United States Claims Tribunal Mohsen Mohebi, 2023-09-20 Determining whether the Iran US Claims Tribunal the Tribunal is a truly public international tribunal is not merely an interesting theoretical exercise The Tribunal's legal character has significant ramifications for example on enforceability at the international level the applicability and scope of res judicata regarding dismissed claims and the evidentiary value of its jurisprudence particularly pursuant to Article 38 1 of the ICJ statute This title explores the legal character of the Tribunal and its status under the law of peaceful settlement of international disputes The public or private nature of the Tribunal is a matter of significant controversy Certain peculiarities of the Tribunal namely its accessibility to private claimants the exclusion of the exhaustion of local remedy rule and the regime provided for the execution of its awards suggests that it is not in fact wholly public Conversely the author analyses the Tribunal under a three part test for public international character 1 international treaty as origin 2 applicable law international in nature 3 controlling parties subject to international law and finds that it meets all three criteria In doing so the author admittedly counters the apparent position of the Tribunal itself that its nature is a hybrid of both public and private elements The International Law Character of the Iran United States Claims Tribunal includes a historical survey on international tribunals an analysis of the adverse arguments and a detailed discussion of the Tribunal's practice on expropriation cases to give a concrete example of its functioning on international law level is considered in detail in Part Three The controversial nature of the author's thesis the thoroughness of the analysis and the importance of the Tribunal itself make this a book of interest and import for academics who keep abreast of international law developments

The International Law Character of the Iran-United States Claims Tribunal Mohsen Mohebi, 1999-10-06 Determining whether the Iran US Claims Tribunal the Tribunal is a truly public international tribunal is not merely an interesting theoretical exercise The Tribunal's legal character has significant ramifications for example on enforceability at the international level the applicability and scope of res judicata regarding dismissed claims and the evidentiary value of its jurisprudence particularly pursuant to Article 38 1 of the ICJ statute This title explores the legal character of the Tribunal and its status under the law of peaceful settlement of international disputes The public or private nature of the Tribunal is a matter of significant controversy Certain peculiarities of the Tribunal namely its accessibility to private claimants the exclusion of the exhaustion of local remedy rule and the regime provided for the execution of its awards suggests that it is not in fact wholly public Conversely the author analyses the Tribunal under a three part test for public international character 1 international treaty as origin 2 applicable law international in nature 3 controlling parties subject to international law and finds that it meets all three criteria In doing so the author admittedly counters the apparent position of the Tribunal itself that its nature is a hybrid of both public and private elements The International Law Character of the Iran United States Claims Tribunal includes a historical survey on international tribunals an analysis of the adverse arguments

and a detailed discussion of the Tribunal's practice on expropriation cases to give a concrete example of its functioning on international law level is considered in detail in Part Three. The controversial nature of the author's thesis, the thoroughness of the analysis and the importance of the Tribunal itself make this a book of interest and import for academics who keep abreast of international law developments. *The International Law of Investment Claims* Zachary Douglas, 2009-06-11. This book is

a codification of the principles and rules relating to the prosecution of investment claims. **The Iran-United States Claims Tribunal** Rahmatullah Khan, 1990. The Iran United States Claims Tribunal is arguably the most significant arbitral institution of the twentieth century. Although the completion of its last few cases could take a long time, the Tribunal's impressive work must be made available now as a guide to the resolution of ongoing disputes and for future tribunals. The Tribunal has by this point disposed of well over 98 percent of its caseload. Little more remains for its participants to learn but the Tribunal shows no signs of fading away. Both of the two States Parties for different reasons see greater advantage in the Tribunal's prolongation than in its elimination. The authors have succeeded in dealing with all of the most deserving Tribunal subjects. Moreover, their intimate involvement in and knowledge of the Tribunal ensure that their book is a fascinating important and indispensable contribution to the literature of International Law. This is a definitive book on a monumental event in the law and in history at the close of a century. The Iran United States Claims Tribunal was awarded the ASIL Certificate of Merit. *The Iran-United States Claims Tribunal* Charles Nelson Brower, Jason D. Brueschke, 1998-02-12. The Iran United States Claims Tribunal is arguably the most significant arbitral institution of the twentieth century. Although the completion of its last few cases could take a long time, the Tribunal's impressive work must be made available now as a guide to the resolution of ongoing disputes and for future tribunals. The Tribunal has by this point disposed of well over 98 percent of its caseload. Little more remains for its participants to learn but the Tribunal shows no signs of fading away. Both of the two States Parties for different reasons see greater advantage in the Tribunal's prolongation than in its elimination. The authors have succeeded in dealing with all of the most deserving Tribunal subjects. Moreover, their intimate involvement in and knowledge of the Tribunal ensure that their book is a fascinating important and indispensable contribution to the literature of International Law. This is a definitive book on a monumental event in the law and in history at the close of a century. The Iran United States Claims Tribunal was awarded the ASIL Certificate of Merit. **The Iran-United States Claims Tribunal**

Charles N. Brower, Jason D. Brueschke, 2023-12-28. The Iran United States Claims Tribunal is arguably the most significant arbitral institution of the twentieth century. Although the completion of its last few cases could take a long time, the Tribunal's impressive work must be made available now as a guide to the resolution of ongoing disputes and for future tribunals. The Tribunal has by this point disposed of well over 98 percent of its caseload. Little more remains for its participants to learn but the Tribunal shows no signs of fading away. Both of the two States Parties for different reasons see greater advantage in the Tribunal's prolongation than in its elimination. The authors have succeeded in dealing with all of the most deserving Tribunal

subjects Moreover their intimate involvement in and knowledge of the Tribunal ensure that their book is a fascinating important and indispensable contribution to the literature of International Law This is a definitive book on a monumental event in the law and in history at the close of a century The Iran United States Claims Tribunal was awarded the ASIL Certificate of Merit Iran-United States Claims Tribunal Reports Iran United States Claims Tribunal,2022 The Iran US Claims Tribunal concerned principally with the claims of US nationals against Iran is the most important international claims tribunal to have sat in over half a century Its jurisprudence is bound to make a uniquely important contribution to international law and in particular the law relating to aliens treaty law and international arbitral procedure The 40th volume of the Iran US Claims Tribunal Reports makes available to the public the Tribunal s most recent work including an important award in a large dispute between Iran and the United States This volume of the Reports is a critical contribution to the field of international arbitration that will inform and guide the practice of international arbitration practitioners from around the world

Evidence in International Litigation Chittharanjan F. Amerasinghe,2005-06-01 This book presents a well defined analysis of the basic principles of evidence deriving them from the general rule of procedure requiring a fair trial which is a fundamental human right The basic principles relating to the burden of proof cooperation in the production of evidence as well as the standard of proof among others are examined by reference to worldwide international jurisprudence and policies Specific practice in special situations of certain tribunals such as the ICJ and the ICTY as well as other issues such as the flexibility shown in dealing with differences in tribunal practice in relation to the applicable principles are discussed in considerable detail in the second section This work will be of interest to practitioners involved in the current practice of these courts and tribunals as well as academics studying comparative and international law Brownlie's Principles of Public International Law James Crawford,Ian Brownlie,2019 Serving as a single volume introduction to the field as a whole this ninth edition of Brownlie s Principles of International Law seeks to present international law as a system that is based on and helps structure relations among states and other entities at the international level

Claims of Dual Nationals and the Development of Customary International Law Mohsen Aghahosseini,2007 The law governing the international claims of dual nationals relates to and is influenced by the wider subject of the individual s standing at the international level But while the latter had as a result of modern trends in human rights hugely improved as from the middle of the last century no occasion to test its impact on such claims had arisen prior to the 1980s when the Iran United States Claims Tribunal justifiably described as the most influential arbitral institution in the history of international adjudication first became involved with the issue The significance of the Tribunal s jurisprudence on the subject is not however limited to the judicial support it gives to the international rights of the individual Having made its basic findings of law on the subject the Tribunal has proceeded to apply them for some twenty years to a host of Cases of widely different characters The result is a wealth of material comprehensively reviewed in this book for the first time which is likely to be of some benefit to those

interested in this area of international law The UNCITRAL Arbitration Rules David D. Caron, Lee M. Caplan, 2013-03-07

Reaching past the secrecy so often met in arbitration the second edition of this commentary explains clearly and fully the workings of the UNCITRAL Rules of Arbitral Procedure recommended for use in 1976 by the United Nations This new edition fully takes account of the revised Rules adopted in 2010 while maintaining coverage of the original Rules where these remain relevant The differences between the old and the new Rules are clearly indicated and explained Pulling together difficult to obtain sources from the Iran United States Claims Tribunal arbitrations under Chapter 11 of the North American Free Trade Agreement and ad hoc arbitrations it illuminates the shape the UNCITRAL Rules take in practice The authors cogently critique that practice in the light of the negotiating history of the rules and solutions adopted by the other major private rules of arbitral procedure To aid the specialist in the field the practice of these various tribunals is extensively extracted and reproduced Rich both in its analysis and sources this text is indispensable for those working in or studying international arbitration The Finnish Yearbook of International Law , 1997-11-19 As of Volume VII 1996 The Finnish Yearbook will be published by Martinus Nijhoff Publishers Kluwer Law International Despite its Finnish initiative and pedigree The Finnish Yearbook of International Law does not restrict itself to purely Finnish topics On the contrary it reflects the many connections in law between the national and the international The Finnish Yearbook of International Law annually publishes in both English and French articles of high quality dealing with all aspects of international law including international law aspects of European law with close attention to developments that affect Finland Its offerings include longer articles of a theoretical nature exploring new avenues and approaches shorter polemics commentaries on current international law developments book reviews and documentation of relevance to Finland's foreign relations not easily available elsewhere The Finnish Yearbook offers a fertile ground for the expression of and reflection on the connections between Finnish law and international law as a whole and insight into the richness of this interaction **International Interplay** Riddhi Dasgupta, 2014-09-26 Are international tribunals heading towards greater sovereignty or towards greater liberalisation of property rights Can we glean specific deductions from prevailing cases outside the expropriation arena How can we justifiably extrapolate principles from international investment arbitration before modifying and applying these lessons to international human rights the World Trade Organization regime and other dispute settlement systems What if any degree of deference attends the assessment of various claims undertaken by international tribunals Does this depend on high commerce force majeure military or paramilitary control urgent nuclear and environmental considerations transboundary harms political instability fraud and deception or other special circumstances Where do textually strict treaty interpretations end and the general principles of international law take over Can autonomous treaty interpretation by international tribunals be reconciled with the host State's prerogative of defining its own protected public interests Where is the tipping point too frequently fraught with the potential to deprive States of the incentive to stay within the applicable international compact

These issues must be comparatively addressed Contemporary international law developments and dislocations are occurring at a break neck pace We pause and contemplate the implications Riddhi Dasgupta analyses the standards of Expropriation Exhaustion of Local Remedies Continuous Nationality Non Discrimination National Treatment Most Favoured Nation and Domestic Discrimination Fair and Equitable Treatment Minimum Standard of Treatment and Compensation across international dispute settlement The foundational and evolving concept of consent is required to justify all public international law from genesis onwards The potency of expropriation based claims will continue to expand and the comparative lessons drawn from various international law regimes will interplay to stirring effect Writing accessibly Dasgupta proposes various legal strategies going forward and makes analytical prognostications about this area of international law Dasgupta presents influential interview and anecdotal results as well as statistics concerning the growing flow of investments in targeted jurisdictions and sectors For the international lawyer s benefit the final chapter condenses the book s tactical scenario planning and advice Institutional dialogues among tribunals as well as tribunal dialogues with politicians investors NGOs and of course citizens the ultimate boson will assume absolutely indispensable significance This will be the true tipping point in the eye of the storm Legitimacy transparency justice efficiency and economy candour party autonomy coherence incentives and the tense clash of interests reappear as the constant motifs in this important but relatively unknown saga Studiedly neutral in its orientation this book strives to promote constructive solutions as well as public awareness

Finnish Yearbook of International Law, Volume 7 (1996) Martti Koskenniemi,Kari Takamaa,2023-09-14 As of Volume VII 1996 The Finnish Yearbook will be published by Martinus Nijhoff Publishers Kluwer Law International Despite its Finnish initiative and pedigrees The Finnish Yearbook of International Law does not restrict itself to purely Finnish topics On the contrary it reflects the many connections in law between the national and the international The Finnish Yearbook of International Law annually publishes in both English and French articles of high quality dealing with all aspects of international law including international law aspects of European law with close attention to developments that affect Finland Its offerings include longer articles of a theoretical nature exploring new avenues and approaches shorter polemics commentaries on current international law developments book reviews and documentation of relevance to Finland s foreign relations not easily available elsewhere The Finnish Yearbook offers a fertile ground for the expression of and reflection on the connections between Finnish law and international law as a whole and insight into the richness of this interaction

The Italian Yearbook of International Law, Volume 14 (2004) Benedetto Conforti,Luigi Ferrari Bravo,2005-11-01 The Italian Yearbook of International Law aims at making accessible to the English speaking public the Italian contribution to the practice and literature of international law Volume XIV 2004 is organised in three main sections The first contains doctrinal contributions including articles on the UN Charter reform corporations as international actors human genetics and reproductive technology and on the ICJ Advisory Opinion on the construction of a wall in the

Occupied Palestinian Territory This section includes also notes on the seminal judgment of the Italian Supreme Court in the Ferrini case setting aside immunity of a foreign State in respect of reparation claims by victims of gross violations of human rights and on the decision of the Special Court of Sierra Leone in the Charles Taylor case as well as surveys on the activity of selected international institutions and tribunals World Trade Organization Law of the Sea Tribunal and European Court of Human Rights The second section covers the Italian practice in the areas of 1 judicial decisions 2 diplomatic and parliamentary practice 3 treaty practice and 4 national legislation The third section contains a systematic bibliographical index of Italian literature in the field of international law and reviews of recent books The volume ends with an analytical index for ready consultation that includes the main judicial cases and legal instruments cited throughout the Yearbook

International Law in the Middle East Jean Allain, 2017-10-24 Examining international law through the lens of the Middle East this insightful study demonstrates the qualitatively different manner in which international law is applied in this region of the world Law is intended to produce a just society but as it is ultimately a social construct that has travelled through a political process it cannot be divorced from its relationship to power The study demonstrates that this understanding shapes the notion strongly held in the Middle East that law is little more than a tool of the powerful used for coercion and oppression The author considers a number of formative events to demonstrate how the Middle East has become an underclass of the international system wherein law is applied and interpreted selectively used coercively and in noticeable situations simply disregarded International Law in the Middle East brings various narratives of history to the fore to create a wider arena in which international law can be considered and critiqued

International Dispute Settlement J. G. Merrills, 2011-03-17 A guide to the techniques and institutions used to solve international disputes how they work and when they are used This textbook looks at diplomatic negotiation mediation inquiry and conciliation and legal methods arbitration judicial settlement It uses many often topical examples of each method in practice to place the theory of how things should work in the context of real life situations and to help the reader understand the strengths and weaknesses of different methods when they are used It also looks at organisations such as the International Court and the United Nations and has been fully updated to include the most recent arbitrations developments in the WTO and the International Tribunal for the Law of the Sea as well as case law from the International Court of Justice

International Responsibility Today Maurizio Ragazzi, 2005-05-01 The law of international responsibility a classic area of investigation in international law has been attracting an ever increasing interest in recent times as reflected also in the work of the International Law Commission on State responsibility and on responsibility of international organizations The exploration of current trends in this important area is therefore an appropriate and timely subject for a book in memory of Oscar Schachter a former United Nations official Columbia Law School professor ASIL President and international lawyer of world wide reputation who died in December 2003 The editor of the book has assembled a team of thirty six prominent international lawyers belonging to twenty different nationalities to

write about different aspects of the law of international responsibility from general issues to specific areas of the law including responsibility before international courts and tribunals with respect to both the law of State responsibility and responsibility of international organizations and other non State actors The result of this effort is a monographic volume enriched by a biography and a list of publications of Oscar Schachter and accompanied by a bibliography of all the works cited in the various contributions and an index for easier consultation which will be of interest not only to the many admirers and friends of Oscar Schachter around the world but also more broadly to international law academics and practitioners

Applicable Law in Investor-State Arbitration Hege Elisabeth Kjos, 2013-03-21 Investment arbitration has become the key forum to settle disputes between investors and the host state It is not clear from the arbitration agreements which body of law the arbitrators should apply national or international This book examines how the legal framework which the arbitral panels operate in influences which body of law they apply

Regulatory Freedom and Indirect Expropriation in Investment Arbitration Aniruddha Rajput, 2018-12-20 Many investment arbitration cases involve a challenge to a regulatory measure of a host state on the basis of indirect expropriation The practice of arbitral tribunals is diverse and unsettled In recent years States have been trying to clarify the relationship between regulatory freedom also known as police powers and indirect expropriation by revising provisions on indirect expropriation in their investment treaties This book provides the first focused analysis of indirect expropriation and regulatory freedom drawing on a broad range of the jurisprudence of investment tribunals The nature of regulatory freedom in international law has been explained on the bases of jurisprudence of international courts and tribunals such as the International Court of Justice ICJ Permanent Court of International Justice PCIJ dispute resolution bodies of the World Trade Organisation WTO European Court of Human Rights While showing how cases involving standoff between regulatory freedom and indirect expropriation can be resolved in practice the book goes on to present a conceptual framework for interpreting the nuances of this relationship The book provides a detailed responses to the following complex questions To what extent do states retain regulatory freedom after entering into investment treaties What is the scope of regulatory freedom in general public international law What are the elements of regulatory freedom and standard of review How to draw a dividing line between regulatory freedom and indirect expropriation Whether the sole effects doctrine or the police powers is the appropriate method for distinguishing between regulatory freedom and indirect expropriation While addressing these questions the author analyses different theoretical approaches that reflect upon the relationship between regulatory freedom and indirect expropriation and how far they assist in understanding these potentially overlapping concepts their relationship with each other and the method for distinguishing between them Given the dense network of around three thousand bilateral investment treaties BITs that impose an obligation to protect foreign investments in a State this book will help practitioners identify through analysis of cases from diverse fields how a situation may be categorized either as regulatory freedom or as indirect expropriation The analysis will also be

of value to government officials and lawyers involved in negotiating and re negotiating investment treaties and to arbitrators who have to decide these issues Scholars will welcome the book s keen insight into the contentious relationship between a customary international law norm and a treaty norm

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