

# Supranationalism

- ▶ When a country agrees to abide by the decisions of an international organization



# Supranationalism And International Adjudication

**Forest L. Gieves**



## **Supranationalism And International Adjudication:**

**Supranationalism and International Adjudication** Forest L. Griebes, 1969      **The Contribution of International and Supranational Courts to the Rule of Law** Geert De Baere, Jan Wouters, 2015-11-27 International and supranational courts are increasingly central to the development of a transnational rule of law Except for insiders the functioning and impact of these courts remain largely unknown Addressing this gap this innovative book examines the manner in which and the extent to which international courts and tribunals contribute to the rule of law at the national regional and international levels With unique insights from members of the international judiciary this authoritative book deals with the fundamental procedural and substantive legal principles sources tools of interpretation and enforcement used by the respective judicial bodies The rule of law focused approach offers a unique opportunity for a thorough cross case analysis of the differences and commonalities in the essential contributions of the respective courts and tribunals to international justice The book also includes an in depth theoretical framework and allows for the identification of fundamental principles and commonalities as well as differences and contrasts between the different judicial bodies In addition to students researchers and scholars in international law this timely and comprehensive study of international courts and their contributions will be an enlightening resource for legal practitioners and those involved with international justice      Reconceptualizing Sovereignty in the Post-National State: Statehood Attributes in the International Order Flavio G. I. Inocencio, 2014-08-18 This book offers a multidisciplinary approach to the study of the concept of sovereignty This book outlines the origins context and evolution of the concept of sovereignty as an essential attribute of the modern territorial State since the Peace of Westphalia in 1648 The book identifies two competing traditions of the concept of sovereignty the tradition inaugurated by Jean Bodin in 1576 in his work The Six Books of the Commonwealth and another that started with Johannes Althusius in 1603 considered the father of federal theory in his less known work Politica In order to understand the concept of sovereignty it is necessary to understand the constitutional rules of each international system and the fact that the States are the primary polities in the international arena The rise of International Organizations and the increasing institutionalization of the international system challenges this state centric world considering their exercise of sovereign powers Following authors such as Daniel Elazar the book discusses the importance of federalism as political theory which offers a different understanding of the concept of sovereignty The book discusses the European Union as a paradigmatic case of a postmodern confederation which challenges the notion of sovereignty as an absolute and exclusive statehood attribute Furthermore the reconceptualization of sovereignty in International Law should consider the rise of regional and functional legal orders the different understandings of sovereignty offered by the federalist tradition and the processes of deterritorialization and disaggregation of authority The book concludes with the idea that concept of sovereignty in International Law should be seen as a flexible concept which is not an exclusive attribute of the modern territorial state This book is required reading for all interested in the history and the

evolution of the concept of sovereignty      *International Environmental Laws Controlling Transboundary Atmospheric Pollution in Southeast Asia - Rajawali Pers* Dr. Sukanda Husin, S.H., LL.M., 2023-07-07 The issue of global warming and global climate change as mainly caused by transboundary air pollutants has emerged since the middle of the 1970 s To some extent the impacts of global warming and global climate change are still considered uncertain by a great many nations However several environmental catastrophes have been proved highly related to the release of certain noxious emissions creating global warming and global climate change Global warming is presently one of the most threatening environmental issues facing the world Although the uncertainty of the issue is still high the United Nations Organization based on precautionary principle concluded the 1985 Vienna Convention for the Protection of the Ozone Layer hereinafter cited as the Ozone Convention the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer and the United Nations Framework Convention on Climate Change in 1992 ASEAN has not done much to implement the Ozone Convention and the Climate Change Convention in the region ASEAN tended to pass soft laws rather than hard laws to deal with transboundary atmospheric pollution especially resulting from land and forest fires The book is therefore necessary to examine a specific regional environmental policies and laws dealing with global warming and climate change in Southeast Asia ASEAN the Association of Southeast Asian Nations as a fairly big regional cooperation with a great many environmental problems is chosen as examples on how a region implements international treaties coping with the issues of global warming and climate change and on what prospects a region might have in tackling the issues      *International Law of Human Rights* Michael K. Addo, 2017-07-05 International law is a social construct crafted by human endeavour to achieve or at least contribute to the achievement of goals perceived to be valuable or necessary to effective social relations In effect international law is no more than a facilitative process and so cannot have answers and conclusions of its own other than what lies within the ambitions of those who define the limits of the process The essays collected together here reveal how international law facilitates the achievement of the long standing ambition of turning human rights ideals and rhetoric into reality      Framing a Convention Community Cedric Marti, 2021-11-18 An innovative and interdisciplinary perspective on the authority and far reaching impact of the European Convention on Human Rights      Limits of Supranational Justice Dilek Kurban, 2020-11-12 With its contextualized analysis of the European Court of Human Rights ECtHR engagement in Turkey s Kurdish conflict since the early 1990s Limits of Supranational Justice makes a much needed contribution to scholarships on supranational courts and legal mobilization Based on a socio legal account of the efforts of Kurdish lawyers in mobilizing the ECtHR on behalf of abducted executed tortured and displaced civilians under emergency rule and a doctrinal legal analysis of the ECtHR s jurisprudence in these cases this book powerfully demonstrates the Strasbourg court s failure to end gross violations in the Kurdish region It brings together legal political sociological and historical narratives and highlights the factors enabling the perpetuation of state violence and political repression against the Kurds The effectiveness of supranational courts can best

be assessed in hard cases such as Turkey and this book demonstrates the need for a reappraisal of current academic and jurisprudential approaches to authoritarian regimes

**Transplanting International Courts** Karen J. Alter, Laurence R. Helfer, 2017-04-06 Transplanting International Courts provides a deep systematic investigation of the most active and successful transplant of the European Court of Justice The Andean Tribunal is effective by any plausible definition of the term but only in the domain of intellectual property law Alter and Helfer explain how the Andean Tribunal established its legal authority within and beyond this intellectual property island and how Andean judges have navigated moments of both transnational political consensus and political contestation over the goals and objectives of regional economic integration By letting member states set the pace and scope of Andean integration by condemning unequivocal violations of Andean rules and by allowing for the coexistence of national legislation and supranational authority the Tribunal has retained its fidelity to Andean law while building relationships with nationally based administrative agencies lawyers and judges Yet the Tribunal's circumspect and formalist approach means that unlike in Europe Community law is not an engine of integration The Tribunal's strategy has also limited its influence within the Andean legal system Transplanting International Courts also revisits the authors path breaking scholarship on the effectiveness of international adjudication Alter and Helfer argue that the European Court of Justice benefitted in underappreciated ways from the support of jurist advocacy movements that are absent or poorly organized in the Andes and elsewhere in the world The Andean Tribunal's longevity despite these and other challenges offers guidance for international courts in other developing country contexts Moreover given that the Andean Community has weathered member state withdrawals and threats of exit major economic and political crises and the retrenchment of core policies such as the common external tariff the Andean experience offers timely and important lessons for Europe's international courts

**A New Approach to Compliance with International Environmental Law** John H. Knox, 2001

**Supranational Criminal Law** Roelof Haveman, Olga Kavran, Julian Nicholls (LL. M.), 2003 What exactly is the context in which all aspects of this new field of criminal law have to be interpreted What does the principle of legality mean in the context of supranational criminal law Which tradition lies at the basis of this new law system Is supranational criminal law as it grows the result of a deliberate policy tending towards a coherent system Or is it merely the result of crisis management Those are some of the questions that are highlighted in this first Volume of the Supranational Criminal Law series Answers are formulated with respect for the various law families and traditions taking into account the differences between e.g. inquisitorial and adversarial penal systems and between criminal law and international humanitarian law In doing so in this book full credit is given to the sui generis character of supranational criminal law The contributions have been written by a group of scholars and practitioners in the field of supranational criminal law This volume will therefore be very useful to lawyers judges prosecutors and academics who are confronted with the various aspects of this new and exciting penal system

**Mining Law and Governance in Africa** Victoria R. Nalule, 2023-06-09 This book explores the

various issues that characterise the African mining sector drawing examples from different African countries and regional organisations Although there is a massive literature on the subject some issues have been neglected including the crucial role of digitalisation and technological advancement in resolving the environmental and social challenges faced in Artisanal and Small Scale Mining ASM deep sea mining mining contract negotiations and modernising mining laws to reflect the increasing role of critical minerals to mention but a few Therefore the book unpacks the critical issues associated with the mining sector explicitly reflecting on the practical solutions needed to address the challenges in the African mining sector This book uniquely analyses and adds flavour to international mining s fundamental concepts by describing a simulated annealing based approach appropriate for complex mining projects in Africa Book contributors comprise of academics from different universities including professors practitioners government policymakers NGO executives and a variety of different experts This multidisciplinary book will be of interest to African policymakers governments academics industry professionals energy and mining institutions international organisations universities across the globe and companies

*Corporate Business Responsibility* Justin O'Brien, 2017-03-02 The 2008 9 crisis in global commercial debt markets exposed glaring deficiencies in corporate and regulatory operational and strategic risk management systems This collection provides an overview of how narrow conceptions of responsibility in corporate law organizational practice and regulatory dynamics facilitated the crisis The first section revisits the debates about the role of the corporation prompted by the publication of *The Modern Corporation and Private Property* 1932 The second section explores why the conception of enlightened shareholder interest gained and retained potency despite demonstrable failure The third section explores how the interaction between the foundational assumptions of corporate law and the questionable efficacy of shareholder control framed regulatory responses to the growth of financial capitalism The fourth section examines ways in which excess can be restrained by the interaction between hard law softer governance arrangements such as principles and crucially norms

*European Yearbook of Minority Issues* European Centre for Minority Issues Staf, 2003-01-01 2001 May 2002 Sally Holt

**A Current Bibliography of International Law** J. G. Merrills, 1978

Good Judgment Urška Šadl, 2024-08-22 Courts are context conscious They solve legal disputes with societal impact in mind using interpretive tools and procedural means This book develops concepts and methods for a systematic and legally informative analysis of this complex process The evidence delivered prompts a conversation about the authority courts have to change the law The analysis focuses on the European Court of Justice and its free movement case law The framework and theory however are relevant to courts and case law everywhere This is a compelling and intriguing examination of the ECJ and its shaping of a key tenet of EU law

**Supranational Criminal Prosecution of Sexual Violence** Anne-Marie de Brouwer, Anne-Marie L. M. de Brouwer, 2005 The 1996 report of the United Nations Special Rapporteur on Rwanda stated that during the 1994 genocide in Rwanda rape was the rule and its absence the exception Indeed rape and other forms of sexual violence as constituting genocide crimes

against humanity or war crimes directed in particular against women have taken place on a massive scale since time immemorial and are still rampant

**Interpretation of Law in the Global World: From Particularism to a Universal Approach** Joanna Jemielniak, Przemysław Miklaszewicz, 2010-04-08 Capturing the Change Universalising Tendencies in Legal Interpretation Joanna Jemielniak and Przemysław Miklaszewicz International and supranational integration on the European continent as well as the harmonisation of the rules of international trade and the accompanying development and global popularity of the resolution of commercial disputes through arbitration constantly exerts a considerable influence on modern legal systems The sources of each of these phenomena are different and their action is dissimilar Each can be described as reaching either from the top to the bottom through the direct involvement of interested States and consequently affecting their internal legal systems international and supranational integration harmonisation of trade regulations through public international law instruments or bottom up as a result of activity by private parties leading to the achievement of uniform practices and standards arbitration *lex mercatoria* Nonetheless they both enrich national legal cultures and contribute to transgressing the limits of national local particularisms in creating interpreting and applying the law The aim of this book is to demonstrate how these processes have influenced the interpretation of law how they have shaped the methods and techniques of the interpretation and with what consequences for the outcomes of the interpretative procedures In assessing the extent of this influence due regard must be paid to the fact that the interpretation of law is not in principle directly determined by the provisions of law itself

**The European Court of Human Rights** Helmut P. Aust, Esra Demir-Gürsel, 2021-04-30 This insightful book considers how the European Court of Human Rights ECHR is faced with numerous challenges which emanate from authoritarian and populist tendencies arising across its member states It argues that it is now time to reassess how the ECHR responds to such challenges to the protection of human rights in the light of its historical origins

**International Court Authority** Mikael Rask Madsen, 2018-06-28 An innovative interdisciplinary and far reaching examination of the actual reality of international courts International Court Authority challenges fundamental preconceptions about when why and how international courts become important and authoritative actors in national regional and international politics A stellar group of scholars investigate the challenges that international courts face in transforming the formal legal authority conferred by states into an actual authority in fact that is respected by potential litigants national actors legal communities and publics Alter Helfer and Madsen provide a novel framework for conceptualizing international court authority that focuses on the reactions and practices of these key audiences Eighteen scholars from the disciplines of law political science and sociology apply this framework to study thirteen international courts operating in Africa Latin America and Europe as well as on a global level Together the contributors document and explore important and interesting variations in whether the audiences that interact with international courts around the world embrace or reject the rulings of these judicial institutions Alter Helfer and Madsen's authority framework recognizes that international judges can and often

do everything they should do to ensure that their rulings possess the gravitas and stature that national courts enjoy Yet even when imbued with these characteristics the parties to the dispute potential future litigants and the broader set of actors that monitor and respond to the court s activities may fail to acknowledge the rulings as binding or take meaningful steps to modify their behaviour in response to them For both specific judicial institutions and more generally the book documents and explains why most international courts possess de facto authority that is partial variable and highly dependent on a range of different audiences and contexts and thus is highly fragile An introduction situates the book s unique approach to conceptualizing international court authority within theoretical debates about the authority of global institutions International Court Authority also includes critical reflections on the authority framework from legal theorists international relations scholars a philosopher and an anthropologist The book s conclusion questions a number of widely shared assumptions about how social and political contexts facilitate or undermine international courts in developing de facto authority and political power

**State Liability in Investment Treaty Arbitration** Santiago Montt, 2009-11-30 Today there are more than 2 500 bilateral investment treaties BITs around the world Most of these investment protection treaties offer foreign investors a direct cause of action to claim damages against host states before international arbitral tribunals This procedure together with the requirement of compensation in indirect expropriations and the fair and equitable treatment standard have transformed the way we think about state liability in international law We live in the BIT generation a world where BITs define the scope and conditions according to which states are economically accountable for the consequences of regulatory change and administrative action Investment arbitration in the BIT generation carries new functions which pose unprecedented normative challenges such as the arbitral bodies established to resolve investor state disputes defining the relationship between property rights and the public interest They also review state action for arbitrariness and define the proper tests under which that review should proceed State Liability in Investment Treaty Arbitration is an interdisciplinary work aimed at academics and practitioners which focuses on five key dimensions of BIT arbitration First it analyses the past practice of state responsibility for injuries to aliens placing the BIT generation in historical perspective Second it develops a descriptive law and economics model that explains the proliferation of BITs and why they are all worded so similarly Third it addresses the legitimacy deficits of this new form of dispute settlement weighing its potential advantages and democratic shortfalls Fourth it gives a comparative overview of the universal tension between property rights and the public interest and the problems and challenges associated with liability grounded in illegal and arbitrary state action Finally it presents a detailed legal study of the current state of BIT jurisprudence regarding indirect expropriations and the fair and equitable treatment clause This title is included in Bloomsbury Professional s International Arbitration online service



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