

3. General Principles of Law

- The general principles of law are those principles which have got *recognition from all the states and by all the legal systems of the world.*
- The general principles of law are *based on justice and equity.*
- They include basic principles of law which are *indisputable.*
- They provide a mechanism to address international issues not already subject either to treaty provisions or to binding customary rules.

The Law Of Recognition In International Law Basic Principles

Astrid Iversen



The Law Of Recognition In International Law Basic Principles:

The Law of Recognition in International Law P. K. Menon, 1994-01-01 **Akehurst's Modern Introduction to International Law** Peter Malanczuk, 2002-04-12 First published in 2002 Routledge is an imprint of Taylor Francis an informa company **Regulating the Use of Force in Wars of National Liberation: The Need for a New Regime** Noelle Higgins, 2009-12-14 This work reconsiders and critically evaluates the complex international legal framework which seeks to regulate wars of national liberation in the light of two fascinating case studies It tests the effectiveness of both the jus ad bellum and jus in bello aspects of the current legal framework by applying it to self determination wars waged in the South Moluccas and Aceh by armed groups against Indonesia The book highlights the various difficulties inherent in the current legal framework as well as the ad hoc and unpredictable practice of States in relation to its application The work concludes with recommendations on how the current framework should be updated and enhanced so that it can adequately deal with modern self determination conflicts *General Principles as a Source of International Law* Imogen Saunders, 2021-02-25 This book provides a comprehensive analysis of an often neglected misunderstood and maligned source of international law Article 38 1 c of the Statute of the International Court of Justice sets out that the Court will apply the general principles of law recognized by civilized nations This source is variously lauded and criticised held up as a panacea to all international law woes or denied even normative validity The contrasting views and treatments of General Principles stem from a lack of a model of the source itself This book provides that model offering a new and rigorous understanding of Article 38 1 c that will be of immense value to scholars and practitioners of international law alike At the heart of the book is a new tetrahedral framework of analysis looking to function type methodology and jurisprudential legitimacy Adopting an historical approach the book traces the development of the source from 1875 to 2019 encompassing jurisprudence of the Permanent Court of International Justice and the International Court of Justice as well as cases from international criminal tribunals the International Criminal Court and the World Trade Organisation The book argues for precision in identifying cases that actually apply General Principles and builds upon these proper use cases to advance a comprehensive model of General Principles advocating for a global approach to the methodology of the source **Legal Implications of Territorial Secession in Spain** Carlos Fernández de Casadevante Romani, 2022-09-30 The book deals with the secession separation of territorial entities and the legal consequences that derive from it both for the parent state and for the seceded separated entity or the entity that intends to secede separate This subject is approached from the triple perspective of international law comparative law and Spanish law International law because it is this legal system which contains the general legal framework within which this issue must be dealt with Thus for example the legal basis of the right to self determination the constituent elements of the state the recognition of states and governments succession in the matter of treaties succession in membership of International Organisations etc Moreover international law is also the reference invoked by secessionist

independentist political projects within states in an attempt to provide a legal basis for the legality of their claim

Comparative law in order to find out not only how most state constitutions deal with secession or independence of their territories but also the jurisprudence handed down by national courts on the matter USA Canada Italy France Spain among others And finally Spanish Law because the perspective chosen to address the object of study is from the perspective of Spain

The Legacy of Ronald Dworkin Wilfrid J. Waluchow, Stefan Sciaraffa, 2016 This book comprises sixteen papers selected from the 2014 McMaster University Philosophy of Law Conference lawconf mcmaster ca on the legacy of Ronald Dworkin lawconf mcmaster ca These pieces touch upon many aspects of Ronald Dworkin's wide ranging contributions to philosophy and jurisprudence including his theory of value political philosophy moral philosophy philosophy of international law and legal philosophy The book's organizing principle and theme reflects Dworkin's self conception as a builder of a unified theory of value Part I addresses the most abstract and general aspect of Dworkin's work the unity of value thesis Part II comprises works that address themes from Dworkin's political philosophy including his discussions of authority civil disobedience the legitimacy of states and the international legal system distributive justice collective responsibility and Dworkin's master value of dignity and the associated values of equality and respect Part III addresses various aspects of Dworkin's general theory of law Part IV comprises pieces that offer accounts of the structure and defining values of discrete areas of law including constitutional law the law of contract and procedural law

Resolving Claims to Self-Determination Andrew Coleman, 2014-01-03 Since the end of World War Two and the formation of the UN the nature of warfare has undergone changes with many wars being intra state wars or wars of secession Whilst wars of secession do not involve the same number or type of combatants as in the last two World Wars their potential for destruction and their danger for the international community cannot be underestimated There are currently many peoples seeking independence from what they perceive as foreign and alien rulers including the Chechens West Papuans Achenese Tibetans and the Kurds The break up of Yugoslavia and the former USSR together with recent conflicts in South Ossetia reveal that the potential for future wars of secession remains high This book explores the relationship between recognition statehood and self determination and shows how self determination continues to be relevant beyond European decolonisation The book considers how and why unresolved questions of self determination have the potential to become violent The book goes on to investigate whether the International Court of Justice as the primary judicial organ of the United Nations could successfully resolve questions of self determination through the application of legal analysis and principles of international law By evaluating the strengths weaknesses and effectiveness of the Court's advisory jurisdiction Andrew Coleman asks whether the ICJ is a suitable forum for these questions and asks what changes would be necessary to provide an effective means for the peaceful birth of States

General Principles of Law Recognized by Civilized Nations (1922-2018) Marija Đorđeska, 2020-01-20 In *General Principles of Law Recognized by Civilized Nations 1922-2018* Marija Đorđeska offers an account of the origins theory and

practical application of the general principles in the jurisprudence of the Permanent Court of International Justice and International Court of Justice between 1922 and 2018 Are general principles rules of international law What is their relationship to custom and treaties What are the types of general principles and where do international courts find them This monograph answers these and other questions and offers a detailed overview of over 150 general principles identified in the jurisprudence of the Permanent Court of International Justice and the International Court of Justice

A Guide to General Principles of Law in International Investment Arbitration Patrick Dumberry, 2020-04-20 In recent years there has been a noticeable increase in references by investor State arbitral tribunals to general principles of law as a source of law however these references have rarely been accompanied by detailed explanation This book aims to provide the actors involved in investor State arbitration with a set of comprehensive guidelines to better understand the nature meaning and function of general principles of law in the field of international investment law Applying these principles to practice the book assesses seventeen concepts and notions in the field of investment arbitration to provide counsel and arbitrators with clear guidance on what should and should not be considered a general principle of law

General Principles of European Private International Law Stefan Leible, 2016-02-22 European private international law as it stands in the Rome I II and III Regulations and the recent Succession Regulation presents manifold risks of diverging judgments despite seemingly harmonised conflict of law rules There is now a real danger in light of the rapid increase in the number of legal instruments of the European Union on conflict of laws that European private international law will become incoherent This collection of essays by twenty noted scholars in the field sheds clear light on the pivotal issues of whether a set of overarching rules a general part is required whether an EU regulation is the adequate legal instrument for such a purpose which general questions such an instrument should address and what solutions such an instrument should provide In analysing the possible emergence of general principles in European private international law over the past years the contributors discuss such issues and factors as the following the relationship between conflict of laws and recognition the room for party autonomy the concept of habitual residence adaptation when interplay between different laws leads to deadlock public policy exceptions the desirability of a general escape clause the classic topics of characterisation incidental question and renvoi and right to appeal in case of errors in the application of foreign law Practitioners dealing with these notoriously difficult cases will welcome this in depth treatment of the issues as will interested policymakers throughout the EU Member States and at the EU level itself Scholars will discover an incomparable comparative analysis leading to expert recommendations in European private international law opening the way to an effective European framework in this area

Preparing for War Boyd van Dijk, 2022 This engrossing documentary gives us an in depth look at the culture and values of America in the years immediately preceding our entry into World War II

Secession and Statehood Ana Gemma López Martín, José Antonio Perea Unceta, 2021-09-08 This book analyses the complex phenomenon of secession as a form of creation of States from the

perspective of international law As opposed to other approaches based on the analysis of the political foundation of the secessionist processes or on the construction of a legal basis that justifies the existing practice the aim is to provide an explanation of secession as a practice covered neither by the legal regime of the United Nations for the self determination of colonial peoples nor by the regulations and guidelines relating to the human rights of minorities and indigenous populations both in the UN and in regional organisations Organization of American States Council of Europe or African Union It is stated that secession is a practice that does not comply with international peremptory norms such as those that prohibit going against the territorial integrity of the States the use of force or intervention in the internal affairs of other States Even being aware of the inevitable consequences of the effective creation of States and other de facto entities on trade relations communications and the rights of individuals among other matters secession is a practice that should lead to an obligation of nonrecognition by States and by international organisations As an example of this practice the secessionist process in Catalonia since 2014 is explained and studied

Imperativeness in Private International Law Giovanni Zarra, 2022-01-27 This book centres on the ways in which the concept of imperativeness has found expression in private international law PIL and discusses imperative norms and imperativeness as their intrinsic quality examining the rules or principles that protect fundamental interests and or the values of a state so as to require their application at any cost and without exceptions Discussing imperative norms in PIL means referring to international public policy and overriding mandatory rules in this book the origins content scope and effects of both these forms of imperativeness are analyzed in depth This is a subject deserving further study considering that very divergent opinions are still emerging within academia and case law regarding the differences between international public policy and overriding mandatory rules as well as with regard to their way of functioning By using an approach mainly based on an analysis of the case law of the CJEU and of the courts of the various European countries the book delves into the origin of imperativeness since Roman law explains how imperative norms have evolved in the different conceptions of private international law and clarifies the foundation of the differences between international public policy and overriding mandatory rules and how these concepts are used in EU Regulations on PIL and in the practice related to these sources of law Finally the work discusses the influence of EU and public international law sources on the concept of imperativeness within the legal systems of European countries and whether a minimum content of imperativeness mainly aimed at ensuring the protection of fundamental human rights in transnational relationships between these countries has emerged The book will prove an essential tool for academics with an interest in the analysis of these general concepts and practitioners having to deal with the functioning of imperative norms in litigation cases and in the drafting of international contracts Giovanni Zarra is Assistant professor of international law and private international law and transnational litigation in the Department of Law of the Federico II University of Naples

International Law David Patariaia, 2021-11-29 *International Law Text Cases and Materials* provides not only an essential

introduction to the core concepts and foundational principles of international law but also a detailed overview of each established area in which international law operates Featuring cases materials and illustrative figures throughout to enhance the level of context and detail provided the book covers everything a student of international law requires Topics include the law of treaties international organisations the international protection of human rights responsibility in international law jurisdiction diplomatic and consular law territory in international law the law of the sea international air and space law international economic law international environmental law and international humanitarian law This comprehensive textbook will be essential reading not only for any course on international law but also as a starting point for those wishing to grasp the context of a particular area of international law before exploring further

Private International Law Franco Ferrari, Diego P. Fernández Arroyo, 2019-12-27 Is Private International Law PIL still fit to serve its function in today's global environment In light of some calls for radical changes to its very foundations this timely book investigates the ability of PIL to handle contemporary and international problems and inspires genuine debate on the future of the field *Law Entrance Exam 2024 - Solved 91 Topic-wise Tests For Various National and State Universities/Institutes - CLAT, LSAT, DU LLB, MHCET Law, AMU Law* EduGorilla Prep Experts, Best Selling Book for Law Entrance Exam Topic wise with objective type questions as per the latest syllabus Law Entrance Exam Preparation Kit comes with 91 Topic wise Solved Tests with the best quality content Increase your chances of selection by 16X Law Entrance Exam Prep Kit comes with well structured and 100% detailed solutions for all the questions Clear exam with good grades using thoroughly Researched Content by experts

Intercreditor Equity in Sovereign Debt Restructuring Astrid Iversen, 2023-02-15 The question of intercreditor equity is one of the most contentious issues in debt restructuring both historically and today Intercreditor Equity in Sovereign Debt Restructuring maps and establishes the content of these intercreditor equity rules and analyses how they influence the restructuring process Through this analysis Astrid Iversen outlines how creditors can predict their legal rights in the unfortunate event of a debt restructuring and strives to improve our understanding of the boundaries within which a debt restructuring offer must be designed Iversen also seeks to shed light on the functioning of the legal framework governing sovereign debt more broadly In this book she examines whether intercreditor equity rules and the legal framework of sovereign debt are compatible with a debtor state's responsibility to ensure monetary and financial stability and to establish sustainable debt burdens Iversen also explores how certain intercreditor equity rules constitute an obstacle to sustainable debt restructurings and highlights how the number of different intercreditor equity rules that a sovereign debtor state typically is bound by as well as the scope of these rules risk tightening the policy space of debtor states to the extent that it is difficult to design and implement a sustainable debt restructuring Suitable as an introductory text for readers new to the topic of sovereign debt restructurings and as an instructive guide for debt management offices creditors and their lawyers this publication provides a comprehensive legal study of intercreditor equity rules in sovereign debt restructuring The

American Journal of International Law ,1926

Euphony, harmony and dissonance in the international legal order = Eufonia, harmonia i dysonans w międzynarodowym porządku prawnym = Euphonie, harmonie et dissonance dans l'ordre juridique international : Liber amicorum Władysław Czapliński Krystyna Kowalik-Bańczyk, Karolina

Wierczyńska, Andrzej Jakubowski, 2024-12-21 This book is a collection of essays dedicated to Professor Władysław Czapliński on the occasion of his 70th birthday. For over 30 years Professor Władysław Czapliński has been professionally associated with the Institute of Law Studies of the Polish Academy of Sciences where he served as Director from 2004 to 2016 and where his most important works were written. It aims to capture the breadth of his interests and the depth of his scholarship. The essays within, written in English, French and Polish, are contributions from his colleagues, friends and former students. Many authors raise general, classic questions of international law: the foundations of the contemporary international legal order (Stephan Hobe and María Isabel Torres Cazorla), *jus cogens* (Maurizio Arcari) and Beatrice Bonafant customary international law (Chun Chen), the general principles of law (Artur Kozowski and Monica Lugato), the fragmentation of international law (Ewelina Cała), Wacinkiewicz, neutrality (Michał Kowalski), force and its use in international law (Dino Kritsiotis), formal sources of the protection of international human rights (Roman Kwieciec), the art of interpreting treaties (Anna Wyrozumska), recognition (Brad R. Roth), non-contractual liability of the State (Maja Serić) and compensation schemes in international law (Pavel Turma). Other authors, in turn, raise the issue of international justice. Wojciech Sadowski refers to a general problem of separate opinions whilst other texts deal with the functioning and case law of the International Court of Justice (ICJ), the European Court of Human Rights (ECtHR) and the International Criminal Court (ICC): *locus standi* before the ICJ (Patrycja Grzebyk), interim measures implemented by the ICJ (Peter Hilpold), obligations of States in the context of the crime of genocide in the case law of the ICJ (Karolina Wierczyńska) and Szymon Zarba, the international responsibility of States under the European Convention on Human Rights (Michał Balcerzak), the right to cultural heritage in the case law of the ECtHR (Andrzej Jakubowski), the possibility of denouncing the ECHR (Ireneusz Kamiński), interim measures adopted by the ECtHR (Bernard Uka) and the application of international law by the ICC (Peter Kovács). A range of essays address specific issues of international law that align with the Jubilate's research interests: the status of the International Labour Organization (Shotaro Hamamoto), the UN Security Council and climate change (Bartomiej Krzan), the protection of personal data in international law (Nikolay Marin), disharmony in the international protection of the human rights of older LGBT people (Barbara Mikołajczyk), the right to migrate (Roman Wieruszewski) and the veto power in the United Nations (Salvatore Zappalà). Some authors discuss issues related to maintaining peace or reactions to the use of force in international relations: collective security (Louis Balmond), the Uniting for Peace resolution (Agata Kleczkowska), international trade (Jerzy Menkes and Marcin Menkes), unilateral measures (Cezary Mik), the regionalization of disarmament initiatives (Anne Millet Devalle) and the use of nuclear weapons (Vilenas Vadapalas). A separate theme illustrating Władysław's interests is Polish-German relations (Dagmar Richter, Jan Barcz and Stefan Oeter) as well as issues of EU law that

intersect with traditional international law the EU's contribution to the development of international humanitarian law in the context of Russia's full scale aggression against Ukraine Dagmara Kornobis Romanowska the EU's smart sanctions against Russia Krystyna Kowalik Ba czyk the concepts of supremacy primacy and the rule of law in EU law Jerzy Kranz EU criminal law Monika Szwarc and the preliminary ruling procedure of the Court of Justice Krzysztof Wj towicz

General Principles of Law in the Decisions of International Criminal Courts and Tribunals Fabián Raimondo, 2008 International lawyers usually disregard the vital functions that general principles of law may play in the decisions of international courts and tribunals As far as international criminal law is concerned general principles of law may be crucial to the outcome of an international trial inter alia because the conviction of an accused in respect of a particular charge may depend on the existence of a given defence under this source This volume examines the role that general principles of law have played in the decisions of international criminal courts and tribunals In particular it analyses their alleged a subsidiaria TM nature their process of determination and their transposition from national legal systems into international law It concludes that general principles of law have played a significant role in the decisions of international criminal courts and tribunals not only by filling legal gaps but also by being a fundamental means for the interpretation of legal rules and the enhancement of legal reasoning

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