Comprehending as competently as accord even more than additional will present each success. next to, the message as without difficulty as perception of this international judicial lawmaking armin von bogdandy pdf can be taken as skillfully as picked to act.


The Judicialization of International Law Andreas Folkersdal 2018-03-30 The influence of international courts is ubiquitous, covering areas from the law of the sea to international criminal law. This judicialization of international law is often lauded for bringing effective global governance, upholding the rule of law, and protecting the right of individuals. Yet at what point does the omnipresence of the international judiciary shackled national sovereign freedom? And can the lack of political accountability be justified? Folkersdal and Ulfstein bring together the crème de la crème of the legal academic world to ask the big questions for the international judiciary: whether they are there for mere dispute settlement or to set precedent, and how far they can enforce international obligations without impacting on democratic self-determination.

Community Interests Across International Law Eyal Benvenisti 2018-05-17 This book explores the extent to which contemporary international law expects states to take into account the interests of others - namely third states or their citizens - when they form and implement their policies, negotiate agreements, and generally conduct their relations with other states. It systematically considers the various manifestations of what has been described as 'community interests' in many areas regulated by international law and observes how the law has evolved from a legal system based on more or less specific consent and aimed at protecting common interests and values. Through essays by experts in the field, this book explores topics such as the sources of international law and the institutional aspects of developing the law and covers a range of areas within the international legal system. The Oxford Handbook of International Adjudication charts the transformations in international adjudication that took place astride the twentieth and twenty-first century, bringing together the insight of 47 prominent legal, philosophical, ethical, political, and social science scholars. Overall, the 40 contributions in this Handbook provide an original and comprehensive understanding of the various contemporary forms of international adjudication. The Handbook is divided into six parts. Part I provides an overview of the origins and evolution of international adjudicatory bodies, from the nineteenth century to the present, highlighting the dynamics driving the multiplication of international adjudicative bodies and their uneven expansion. Part II analyses the main families of international adjudicative bodies, providing a detailed study of state-to-state, criminal, human rights, regional economic, and administrative courts and tribunals, as well as arbitral tribunals and international compensation bodies. Part III lays out the theoretical approaches to international adjudication, including those of law, political science, sociology, and philosophy. Part IV examines some contemporary issues in international adjudication, including the behavior, role, and effectiveness of international judges and the political constraints that restrict their function, as well as the making of international law by international courts and tribunals, the relationship between international and domestic adjudicators, the election and selection of judges, the development of judicial ethical standards, and the financing of international courts. Part V examines key actors in international adjudication, including international judges, legal counsel, international prosecutors, and registrars. Finally, Part VI overviews select legal and procedural issues facing international adjudication, such as evidence, fact-finding and experts, jurisdiction and admissibility, the role of third parties, inherent powers, and remedies. The Handbook is an invaluable and thought-provoking resource for scholars and students of international law and political science, as well as for legal practitioners at international courts and tribunals.

Trump and Iran Nader Entessar 2019-11-20 With the advent of the Trump Administration, relations between Iran and the United States have become increasingly conflictual to the point that a future war between the two countries is a realistic possibility. President Trump has unilaterally withdrawn the US from the historic Iran nuclear accord and has re-imposed the nuclear-related sanctions, which had been removed as a result of that accord. Reflecting a new determined US effort to curb Iran's hegemonic behavior throughout the Middle
East, Trump's Iran policy has all the markings of a sharp discontinuity in the Iran containment strategy of the previous six US administrations. The regime change policy, spearheaded by a hawkish cabinet with a long history of antipathy toward the Iranian government, has become the most salient feature of US policy toward Iran under President Trump. This turn in US foreign policy has important consequences not just for Iran but also for Iran's neighbors and prospects of long-term stability in the Persian Gulf and beyond. This book looks to examine the fluid dynamic of US-Iran relations in the Trump era by providing a social scientific understanding of the pattern of hostility and antagonism between Washington and Tehran and the resulting spiraling conflict that may lead to a disastrous war in the region.

The Political Economy of International Law Alberti Fabbricotti 2016-06-24 Set in the context of growing interdisciplinarity in legal research, The Political Economy of International Law: A European Perspective provides a much-needed systematic and coherent review of the interactions between Political Economy and International Law. The book reflects the need felt by international lawyers to open their traditional frontiers to insights from other disciplines - and political economy in particular. The methodological approach of the book is to take the traditional list of topics for a general treatise of international law, and to systematically incorporate insights from political economy to each.

Treaty Shopping in International Investment Law Jorun Baumgartner 2016-12-01 Treaty shopping, also known under the terms of nationality planning, corporate (re-)structuring or corporate maneuvering, implies a strategic choice of national or strategic invocation of another nationality with the aim of accessing another (usually more favourable) investment treaty for purposes of investment arbitration. When deciding whether an investment claim based on treaty shopping should be upheld or dismissed, investment arbitral tribunals have been increasingly faced with significant questions, such as: What is treaty shopping and how may legitimate nationality planning be distinguished from treaty abuse in international investment law? Should a claimant that is controlled by a host-State national be considered a protected investor, or should tribunals pierce its corporate facade to ascertain on an investor's sovereign character, własność, and does it have the right to claim protection for? Where does a corporate structure construct an abuse of process, and which is the role of the notion of dispute in respect? How efficient are denial of benefits clauses to counter treaty shopping? Treaty Shopping in International Investment Law examines in a systematic manner the practice of treaty shopping in international investment law and arbitral decisions that have undertaken to draw this line. While some legal approaches taken by arbitral tribunals have started to consolidate, others remain unsettled, painting a picture of an overall inconsistent jurisprudence. This is hardly surprising, given the thousands of international investment agreements that provide for the investor's right to sue the host State on grounds of alleged breaches of investment obligations. This book analyses and discusses the different ways by which arbitral tribunals have dealt with the value judgment at the core of the distinction between objectionable and unobjectionable treaty shopping, and makes proposals de lege ferenda on how States could reform their international investment agreements (in particular with respect to treaty drafting) in order to make them less susceptible to the practice of treaty shopping.

The World Bank Legal Review, Volume 7 Financing and Implementing the Post-2015 Development Agenda Frank Fariello 2016-09-06 The newly adopted post-2015 development agenda is centered on 17 sustainable development goals to be reached by 2030. This volume of the World Bank Legal Review looks at how law and justice systems can support the financing and implementation of these goals, including the role of the rule of law and economic and social rights. The contributors, including legal scholars, development practitioners, and financial experts, analyze the goals, explore ways in which they can be achieved, and examine ways that recent relevant law and justice programs have worked. A wide array of topics are covered, from the legal aspects of collecting and mopics as vital data, to improving legal identity programs, to creating innovative health care regulation, to legal and judicial reform, to providing private sector financing of public education projects to the provision of global public goods. Additionally, a special section on Europe looks at financial crisis management, enforcement of court decisions and the workings of the European Court of Justice. The opportunities and challenges of the 2030 agenda are many. This volume looks at both from multiple perspectives, demonstrating how sustainable development can go forward in a way in which every benefit.

Framing a Convention Community Cedric Marti 2021-06-23 The European Convention on Human Rights (ECHR) has evolved from an international agreement into a highly integrated legal community with an ever more pervasive effect on domestic law and individuals. The supranational authority of the European Court of Human Rights bypasses the nation state in a growing number of other areas. Understanding the evolution of the ECHR and its Court may help in explaining and contextualising growing resistance against the Court, and in developing possible responses. Examining the Convention system through the prism of supranationality, Cedric Marti offers a fresh, comprehensive and interdisciplinary perspective on the expanding adjudicatory powers of the Court, including law-making. Marti addresses the growing literature of institutional studies on human rights enforcement to ascertain the particularities of the ECHR and its relationship to domestic legal systems. This study will be of great value to both scholars of international law and human rights practitioners.

Dialogues on Italian Constitutional Justice Vittoria Barsotti 2021-04-27 This collection adopts a distinctive method and structure to introduce the work of Italian constitutional law scholars into the Anglophone discipline of comparative constitutional law. The authors contribute to the literature of constitutional justice by providing a granulare study and write about constitutional justice in a global context. The work presents six distinct areas of particular interest from a comparative constitutional perspective: first, the role of legal scholarship in the work of constitutional courts; second, structures and processes that contribute to more “open” or “closed” styles of constitutional adjudication; third, pros and cons of collegiality in the work of constitutional courts; fourth, forms of access by individuals to constitutional justice; fifth, methods of constitutional interpretation; and sixth, the relationship between national constitutional adjudication and the transnational context. In each of these areas, the volume sets up a new and genuine constitutional dialogue between an Italian scholar presenting a discussion and critical assessment of the specific topic, and a non-Italian scholar who responds elaborating the issue as seen from constitutional law beyond the Italian system. The resulting six such dialogues thus provide a dyad approach to constitutional, national and transnational, and allow the examination of these areas as the "Italian style" of constitutional adjudication as a distinctive contribution to comparative constitutional law and beyond. Fostering a deeper knowledge of the Italian Constitutional Court within the comparative global space and advancing a creative and fruitful methodological approach, the book will be fascinating reading for academics and researchers in comparative constitutional law.


Definition and Development of Human Rights and Popular Sovereignty in Europe European Commission for Democracy through Law 2011-01-01 What role do the people play in defining and developing human rights? This volume explores the very topical issue of the lack of democratic legitimisation of national and international courts and the question of whether rendering the original process of defining human rights a democratic process would lead to a more inclusive and meaningful exercise of human rights. The authors venture to raise the crucial question: Can a democratic society be considered to be mature enough so as to be trusted to provide its own definition of human rights obligations? International Judicial Lawmaking Armin Von Bogdandy 2012-04-24 Over the past two decades new international courts have entered the scene of international law and existing institutions have started to play a more significant role. Their growing legal, political and social power has led to a growing number of scholars, practitioners, states and individuals to raise the question whether the current system of international courts can be regarded as being a truly independent and impartial body. The authors argue that the European Court of Human Rights (ECHR) has evolved from an international agreement into a highly integrated legal community with an ever more pervasive effect on domestic law and individuals. The supranational authority of the European Court of Human Rights bypasses the nation state in a growing number of other areas. Understanding the evolution of the ECHR and its Court may help in explaining and contextualising growing resistance against the Court, and in developing possible responses. Examining the Convention system through the prism of supranationality, Cedric Marti offers a fresh, comprehensive and interdisciplinary perspective on the expanding adjudicatory powers of the Court, including law-making. Marti addresses the growing literature of institutional studies on human rights enforcement to ascertain the particularities of the ECHR and its relationship to domestic legal systems. This study will be of great value to both scholars of international law and human rights practitioners.
volume set out to capture this phenomenon in principle, in particular detail, and with regard to a number of individual institutions. Specifically, the volume asks how international judicial lawmaking scores when it comes to democratic legitimation. It formulates this question as part of the broader quest for legitimate global governance and places it within the context of the research project on the exercise of international public authority at the Max Planck Institute for Comparative Public Law and International Law.


Iran Nuclear Accord and the Remaking of the Middle East Nader Entessar 2017-12-20 This book essentially builds upon Entessar & Afsarabadi’s Iran Nuclear Negotiations (Rowman & Littlefeld, October 2015), focusing on this time the final nuclear agreement, the ensuing debates around it, and its global and regional ramifications especially in the Middle East.

The International Rule of Law Heike Krieger 2019-08 This edited volume examines the role of international law in a changing global order. Can we, under the current significantly changing conditions, still observe the condition of the rule of law on a universal understanding of values? Or are we, to the contrary, facing a tendency towards an informalization or a reformalization of international law, or even an erosion of international legal norms? Would it be appropriate to revisit classical elements of international law in order to react to structural changes, which may give rise to a more polycentric or non-polar world order? Or are we simply observing a slump in the development towards an international rule of law based on a universal understanding of values? In eleven chapters, distinguished scholars reflect on how to approach these questions from historical, system-oriented and actor-centered perspectives. The contributions engage with the rise of European international law since the 17th century, the decay of the international rule of law, compliance as an indicator for the state of international law, international law and informal law-making in times of populism, the rule of environmental law and complex problems, human rights in Europe in a hostile environment, the influence of the BRICS states on international law, the impact of non-state actors on international law, contributions to global justice, the contestation of value-based norms and the international rule of law in light of legitimacy claims.

The Exercise of Public Authority by International Institutions Armin Bogdandy 2010-02-11 The concept of global governance, which first emerged in the social s-ences, has triggered different responses in the discipline of law. This volume contains our proposal. It approaches global governance from a public law perspective which is centered around the concept of inter-tional public authority and relies on international institutional law for the legal conceptualization of global governance phenomena. This proposal results from a larger project which started in 2007. The project is a collaborative effort of the directors of the Max Planck Institute for Comparative Public Law and International Law, research fellows and friends of the Institute, as well as members of the Max Planck Institute for the History of Private Law and International Law’s contributions to public law, the exercise of public authority by international institutions. The editors in chief, Professors Russell Miller (Washington and Lee University School of Law) and Peer Zumbansen (Oslo School of Law, University of Oslo, and the University of Bergen), are very pleased to present this volume set out to capture this phenomenon in principle, in particular detail, and with regard to a number of individual institutions. Specifically, the volume asks how international judicial lawmaking scores when it comes to democratic legitimation. It formulates this question as part of the broader quest for legitimate global governance and places it within the context of the research project on the exercise of international public authority at the Max Planck Institute for Comparative Public Law and International Law.

The Constitutionalization of International Law Jan Klambors 2011-04-07 The book examines one of the most debated issues in current international law: to what extent the international legal system has constitutional features comparable to what we find in national law. This question has become increasingly relevant in a time of globalization, where new international institutions and courts are established to address international issues. Constitutionalization beyond the nation state has for many years been discussed in relation to the European Union. This book asks whether we now see constitutionalization taking place also at the global level. The book investigates what should be characterized as constitutional features of the current international order, in what way the challenges differ from those at the national level and what could be a proper interaction between different international arrangements as well as between the international and national constitutional level. Finally, it sketches the outlines of what a constitutionalized world order could and should imply. The book is a critical appraisal of constitutionalist ideas and of their critique. It argues that the reconstruction of the current evolution of international law as a process of constitutionalization -against a background of, and partly in competition with, the verticalization of substantive law and the deformation and fragmentation of international law- has some explanatory power, permits new insights and allows for new arguments. The book thus identifies constitutional trends and challenges in establishing international organisational structures, and designs procedures for standard-setting, implementation and judicial functions. This paperback edition features the authors’ discussion of this book on the EJIL Talks blog.

International Dispute Settlement: Room for Innovations? Rüdiger Wolfrum 2012-12-20 This publication succeeds previously published seminars of the Max Planck Institute for Comparative Public Law and International Relations (Munich, the law-making function of international courts. The aim of this publication is to contribute to the cross- fertilization between these mechanisms and to offer creative impulses for the promotion of international dispute settlement.

The Case for an International Court of Civil Justice Maya Steiniz 2019 An International Court of Civil Justice would give victims of multinationals a day in court while offering corporate defendants a cheaper, fairer litigation process. The enforcement of international law is a complex and difficult task. This book explores the possibilities of an international court of civil justice as a means to address human rights violations, environmental damage, and other violations of international law. It argues that an international court of civil justice would provide a valuable supplement to existing mechanisms for the enforcement of international law, and that it would allow victims of transnational wrongs to have their day in court. The book concludes with a proposal for the establishment of an international court of civil justice, and a discussion of the practical steps that need to be taken to make this idea a reality.

Deference in International Courts and Tribunals Łukasz Gruszczynski 2014-10-09 International courts and tribunals are often asked to review decisions originally made by domestic decision-makers. This can often be a source of tension, as the international courts and tribunals need to judge how far to defer to the original decisions of the national bodies. As international courts and tribunals have proliferated, different courts have applied differing levels of deference to those original decisions, which can lead to a fragmentation in international law. International courts in such positions rely on two key doctrines: the standard of review and the margin of appreciation. The standard of review establishes the extent to which national decisions relating to factual, legal, or political issues arising in the case are re-examined in the international court. The margin of appreciation is the extent to which national legislative, executive, and judicial decision-makers are allowed to reflect diversity in their interpretation of human rights obligations. The book begins by providing an overview of the margin of appreciation and standard of review, recognising that while the margin of appreciation explicitly acknowledges the existence of such deference, the standard of review does not: it is rather a procedural mechanism. It looks in-depth at how the public policy exception has been assessed by the European Court of Justice and the WTO dispute settlement bodies. It examines how the European Court of Human Rights has taken an evidence-based approach towards the margin of appreciation, as well as how it has addressed issues of hate speech. The Inter-American system is also investigated, and it is established how far deference is possible within that legal organisation. Finally, the book studies how a range of other international courts, such as the International Criminal Court, and the Law of the Sea Tribunal, have approached these two doctrines.

The Protection of General Interests in Contemporary International Law Massimo Ivone 2020 This book explores the notions of global public goods, global commons, and fundamental values as conceptual tools for the protection of the general interests of the international community. It explores how states and other actors have used international law to protect general interests, and outlines significant challenges still to be addressed.

Judicial Law-Making in European Constitutional Courts Monika Florczak-Wątor 2020-05-07 This book analyses the specificity of the law-making activity of European constitutional courts. The main hypothesis is...
various instruments. It combines the analysis of the European level, be it the EU or the Council of Europe, with that of the national level, in particular in Hungary and Poland. The LM judgment of the European Court of Justice is made subject to detailed scrutiny. The Impact of International Organizations on International Law José E. Alvarez 2016-12-01 The Impact of International Organizations on International Law by José Alvarez addresses how international organizations, particularly those within the UN system, have changed the forms, contents, and effects of international law.

Global Civil Society in International Lawmaking and Global Governance Barbara Woodward 2010-05-17 Drawing upon ‘global governance,’ ‘global civil society’ (GCS) and ‘international lawmaking’ scholarship and presenting accounts of GCS practices in international lawmaking processes, including treaty-making, conferences, international organisations and adjudicatory mechanisms, this book comprehensively re-evaluates GCS’s role in public international lawmaking.

Beyond Consent Reijia Radovčić 2021-06-29 In Beyond Consent: Revisiting Jurisdiction in Investment Treaty Arbitration, Reijia Radovčić investigates the development of jurisdictional rules by arbitral tribunals, against the conventional wisdom that the jurisdiction of arbitral tribunals is governed by party consent. In Whose Name? Armin von Bogdandy 2014-07-24 The vast majority of all international judicial decisions have been issued since 1990. This increasing activity of international courts over the past two decades is one of the most significant developments within the international law. It has repercussions on all levels of governance and has challenged received understandings of the nature and legitimacy of international courts. In Beyond Consent: Revisiting Jurisdiction in Investment Treaty Arbitration, Reijia Radovčić investigates the development of jurisdictional rules by arbitral tribunals, against the conventional wisdom that the jurisdiction of arbitral tribunals is governed by party consent.
timely book examines the field of European and global standardisation, showing how standards give rise to a multitude of different legal questions. It explores diverse topics in regulation such as food safety, accounting, telecommunications and medical devices. Each chapter offers in-depth analysis of a number of key policy areas. These multi-disciplinary contributions go beyond the field of law, and provide cross-disciplinary comparisons. The Oxford Handbook of the Sources of International Law Jean d'Aspremont 2017-10-19 The question of the sources of international law inevitably raises some well-known scholarly controversies: where do the rules of international law come from? And more precisely: through which processes are they made, how are they ascertained, and where does the international legal order begin and end? This is the static question of the pedigree of international legal rules and the boundaries of the international legal order. Second, what are the processes through which these rules are made? This is the dynamic question of the making of these rules and of the exercise of public authority in international law. The Oxford Handbook of the Sources of International Law is the very first comprehensive work of its kind devoted to the question of the sources of international law. It provides an accessible and systematic overview of the key issues and debates around the sources of international law. It also offers an authoritative theoretical guide for anyone studying or working within but also outside international law wishing to understand one of its most foundational questions. This Handbook features original essays by leading international law scholars and theorists from a range of traditions, nationalities and perspectives, reflecting the richness and diversity of scholarship in this area. From Bilateralism to Community Interest Ulrich Fastenrath 2011 Bruno Simma, the dedicatee of the book, was born in Querschied (Saar) in 1941. After a distinguished career in international law and diplomacy, serving, among others, in the UN Committee on Economic, Social, and Cultural Rights as well as the International Law Committee, he was elected judge of the International Court of Justice, or World Court, in 2001. Democracy in International Law-Making Salar Abbasi 2021-12-21 This book provides a critique of current international law-making and draws on a set of principles from Persian philosophers to present an alternative to influence the development of international law-making procedure. The work conceptualizes a substantive notion of democracy in order to regulate international law-making mechanisms under a set of principles developed between the twelfth and seventeenth centuries in Persia. What the author here names 'democratic egalitarian multilateralism' is founded on: the idea of 'egalitarian law' by Suhrawardi, the account of 'substantial motion' by Mulla Sadra, and the ideal of 'intercultural dialectical democracy' developed by Rūmī. Following a discussion of the conceptual flaws of the chartered and customary sources of international law, it is argued that 'democratic egalitarian multilateralism' could be a source for a set of principles to regulate the procedures through which international treaties are made as well as a criterion for customary international law-ascertainment. Presenting an alternative, drawn from a less dominant culture, to the established ideas of international law-making the book will be essential reading for researchers and academics working in public international law, history of law, legal theory, comparative legal theory, Islamic law, and history.