Transnational Tort Litigation Jurisdictional Principles

Intellectual Property and Private International Law

Marketing and Advertising Law in a Process of Harmonisation

Jurisdiction in International Law

International Conflict of Laws for the Third Millennium: Essays in Honor of Friedrich K. Juenger

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Dispute Resolution Through International Commercial Arbitration

The Anatomy of Torture

Environmental Law Dimensions of Human Rights

Environmental Damage in International and Comparative Law

Recueil Des Cours, 1996 Torture as Tort
associated statutory bases for such criminal prosecutions are firm, the same cannot be said of the enterprise of imposing civil liability for the same human-rights-violating conduct that gives rise to criminal responsibility. In this work leading scholars from around the world address the host of complex issues raised by transnational human rights litigation. There has been, to date, little treatment, let alone a comprehensive assessment, of the merits and demerits of US-style transnational human rights litigation by non-American legal scholars and practitioners. The book seeks not so much to fill this gap as to start the process of doing so, with a view to stimulating debate amongst scholars and policy-makers. The book’s doctrinal coverage and analytical inquiries will also be extremely relevant to the world of transnational legal practice beyond the specific question of human rights litigation. Cited in Nevsun Resources Ltd. v. Araya, 2020 SCC 5.

Principles of International Law

The Brussels I Regulation is by far the most prominent cornerstone of the European law of international civil procedure. Every practitioner in the international field has to work with it - and its importance is still growing. The first edition of this full scale article-by-article commentary found a very warm reception. This new edition brings the book up to date, incorporating a host of developments in the four years since ist first appearance, combines in-depth analysis with a genuine and truly European perspective, authored by top experts from all over Europe, covers the jurisprudence of the ECJ and of the Member States, and integrates thorough discussion of the pending proposal for a Brussels Ibis Regulation. This truly European commentary offers invaluable guidance for lawyers, judges and academics throughout Europe.

Ecological Sensitivity and Global Legal Pluralism

This is the story of one of the most significant examples of human rights litigation in the U.S., presented as a documentary history. The pleadings and documents appear with minimal editing and are supplemented through commentary.

The Global Community Yearbook of International Law and Jurisprudence 2015

Since the mid-1980s, beginning with the unsuccessful Union Carbide litigation in the USA, litigants have been exploring ways of holding multinational corporations [MNCs] liable for offshore human rights abuses in the courts of the companies' home States. The highest profile cases have been the human rights claims brought against MNCs (such as Unocal, Shell, Rio Tinto, Coca Cola, and Talisman) under the Alien Tort Claims Act in the United States. Such claims also raise issues under customary international law (which may be directly applicable in US federal law) and the Racketeer Influenced and Corrupt Organizations [RICO] statute. Another legal mechanism is referred to in the USA, England and Australia, where courts have become more willing to exercise jurisdiction over transnational common law tort claims against home corporations. Furthermore, a corporation's human rights practices were indirectly targeted under trade practices law in groundbreaking litigation in California against sportsgoods manufacturer Nike. This new study examines these developments and the procedural arguments (eg regarding personal jurisdiction and especially forum non conveniens) which have been used to block litigation, as well as the principles which can be gleaned from cases which have settled. The analysis is important for human rights victims in order to know the boundaries of possible available legal redress. It is also important for MNCs, which must now take human rights into account in managing the legal risks (as well as moral and reputation risks) associated with offshore projects.

Corporations and Transnational Human Rights Litigation

Transport and communications technologies have made international disputes common, and a frequent practical issue is which country or countries have jurisdiction to resolve the dispute. Existing literature on private international law tends to emphasize choice of law rather than jurisdiction. Cases tend to show that the practical significance of Jurisdiction has yet to be appreciated. This groundbreaking book fills in these gaps and offers a critical analysis of the principles and the theoretical foundations applied to resolve private international jurisdictional disputes and the manner in which those principles are applied in practice by Describing the context in which international jurisdiction disputes are determined Explaining and critically analysing the principles of jurisdiction Explaining and critically analysing the manner in which the principles are applied Identifying the interests which motivate principles and the courts' application of the principles Recommending reforms to the principles by demonstrating that the existing principles of jurisdiction are flawed, and ought to be reformed by taking into account the law's objectives, defined by relevance to state and private interests.

Transnational Tort Litigation

A collection of essays on topical contract issues, covering subjects including: Paradine v Jayne; foreign currency judgements; agency problems in insurance law; increased expense and frustration; failure of consideration; restitutionary consequences of illegality; and proprietary estoppel

Jurisdiction and Judgments in Relation to EU Competition Law Claims

The Global Community Yearbook is a one-stop resource for all researchers studying international law generally or international tribunals specifically. The Yearbook has established itself as an authoritative source of reference on global legal issues and international jurisprudence. It includes analysis of the most significant global trends in a way that allows readers to monitor the development of the global legal order from several perspectives. The Global Community Yearbook publishes annually in a volume of carefully chosen primary source material and corresponding expert commentary. The general editor, Professor Giuliana Ziccardi
Capaldo, employs her vast expertise in international law to select excerpts from important court opinions and to choose experts from around the world to contribute essay-guides, which illuminate those cases. Although the main focus is recent case law from the major international tribunals and regional courts, the first four parts of each year’s edition features expert articles by renowned scholars who address broader themes in current and future developments in international law and global policy, themes that appear throughout the case law of the many courts covered by the series as a whole. The Global Community Yearbook has thus become not just an indispensable window to recent jurisprudence: the series now also serves to prepare researchers for the issues facing emerging global law. The 2015 edition of The Global Community Yearbook both updates readers on the important work of long-standing international tribunals and introduces readers to more novel topics in international law. The Yearbook has established itself as an authoritative resource for research and guidance on the jurisprudence of both U.N.-based tribunals and regional courts. The 2015 edition continues to provide expert coverage of the Court of Justice of the European Union, and diverse tribunals from the criminal tribunals for the Former Yugoslavia and Rwanda, to economically based tribunals such as ICSID and the WTO Dispute Resolution panel. This edition includes expert introductory essays by prominent scholars in the realm of international law, on topics as diverse and current as the fusion of eastern and western civil disobedience to the concept of jus cogens. Included in the 2015 edition, researchers will find detailed guidance on a rich diversity of legal topics, from the concept of universal jurisdiction over international crimes and the increased push for transparency in resolution of international economic disputes to the issue of religion and multiculturalism in Europe through a focus on Islam. This edition also provides students, scholars, and practitioners alike a valuable combination of expert discussion and direct quotes from the court opinions to which that discussion relates. This publication can also be purchased on a standing order basis.

2001

This book explores the source and extent of the right of parties to an international contract to make appropriate arrangements for the determination of their legal relationship, primarily by selecting the applicable law, but also by selecting the judicial or arbitral forum. The book focuses on the legal systems of the United States, the Commonwealth jurisdictions and the civil law countries of western and central Europe. This fascinating analysis will be welcomed by practitioners and scholars alike.

Lis Pendens in International Litigation

What legal principles apply when courts in different jurisdictions are simultaneously seised with the same dispute? This question — of international lis pendens — has long been controversial. But it has taken on new and urgent importance in our age. Globalization has driven an unprecedented rise in forum shopping between national courts and a proliferation of new international tribunals. Problems of litispendence have spawned some of the most dramatic litigation of modern times — from anti-suit injunction battles in commercial disputes, to the appeals of prisoners on death row to international human rights tribunals. The way we respond to this challenge has profound theoretical implications for the interaction of legal systems in today’s pluralistic world. In this wide-ranging survey, McLachlan analyses the problems of parallel litigation — in private and public international law and international arbitration. He argues that we need to develop a more sophisticated set of rules of conflict of litigation, guided by a cosmopolitan conception of the rule of law.

Forum Non Conveniens in the Modern Age: A Comparative and Methodological Analysis of Anglo-American Law

The scope and application of the rules of civil jurisdiction is of immense practical importance in the conduct of transnational tort cases. Frequently such rules can dictate whether the plaintiff has an effective remedy or not and the shape of the ensuing litigation. The incidence of transborder harms is on the increase. One need only think of transboundary pollution (for example, fall-out from Chernobyl, the determination of proper forum for litigation of the Bhopal dispute); the rise in complex international fraud (Guinness, Ferranti, BCCI); the increase in scope for product liability and intellectual property litigation in international commerce; and transnational personal injury cases arising from the increased flow of persons across national borders. These practical problems give rise to difficult legal issues, which existing domestic rules of jurisdiction may be ill-equipped to resolve. In this timely collection of original articles a leading team of contributors assess existing legal provisions and examine the prospects for reform.

Restitution in Private International Law

This important new book provides a comprehensive overview of the international legal principles governing transboundary pollution. In doing so, the experts writing in this book examine the practical applications of the State responsibility doctrine in

Recueil Des Cour/Collected Courses

This book sets out the way that, through enhanced private antitrust enforcement reform, private international law has a pivotal role in EU competition law disputes with an international element. The author offers a thorough analysis of the post-2003 policy of the EU favouring private law enforcement of EU competition law and its implementation under the existing provisions for jurisdiction and recognition and enforcement of foreign judgments under the Brussels I regime. The book also considers how the jurisdiction, recognition and enforcement of judgments issues are dealt with in England under the common law rules applicable when Brussels I does not apply. The complex private international law problems in respect of cross-border class actions that have arisen in several countries, as well as judgments in relation to antitrust infringements, are also discussed. The author further examines the choice of law issues that may arise before the English courts
under Rome I and Rome II. The potential problems regarding jurisdiction of arbitral tribunals and choice of law in arbitral proceedings in relation to EU competition law claims, and the jurisdiction of English courts in proceedings ancillary to arbitration claims, are dealt with accordingly.

**Autonomy in International Contracts**

political science and international relations." --Book Jacket.

**Abuse of Procedural Rights: Comparative Standards of Procedural**

The Academy is an institution for the study and teaching of public and private international law and related subjects. Its purpose is to encourage a thorough and impartial examination of the problems arising from international relations in the field of law. The courses deal with the theoretical and practical aspects of the subject, including legislation and case law. All courses at the Academy are, in principle, published in the language in which they were delivered in the “Collected Courses of the” “Hague Academy of International Law.” This volume contains: - International Business Transactions in United States Courts by H.H. KOH, Professor at Yale University, New Haven; - Citoyennete de l’Union europeenne, nationalite et condition des etrangers, par E. PEREZ VERA, professeur a l’Universidad Nacional de Educacion a Distancia, Madrid. To access the abstract texts for this volume please click here

**Virginia journal of international law**

This study analyzes to what extent the European rules on jurisdiction (the Brussels Convention and its successors) and the choice of law rules create an adequate framework for consolidation of cross-border disputes in one single action.

**Courts’ Inquiry into Arbitral Jurisdiction at the Pre-Award Stage**

This book is concerned with the pleading and proof of foreign law in English courts. Fentiman argues that the law is both more complex and more defensible than had previously been supposed. By providing a practical guide to the subject, he presents the conflict of laws in a way which is both novel and illuminating.

**Multilevel Governance of Global Environmental Change**

This volume provides a comprehensive and up-to-date survey of public international law, with useful references throughout to classic and contemporary cases and scholarship. It is designed as a stand-alone text or as a complement to any of the major casebooks on the topic. The first section of the book addresses the fundamental history and structure of international law; the second section focuses on the interface of international law and national law; and the final section presents the treaties and rules that comprise the major fields of international law: human rights, law of the sea, international environmental law, and more. Features & Benefits

**Cross-border Enforcement of Patent Rights**

In an epoch of transnational armed conflict, global environmental harm, and rising inequality, the extraterritorial application of human rights law has become a pressing and controversial legal issue. Human rights are invoked to address a number of global-scale problems, such as trans-border environmental harm, social and economic development, global inequality, the repression of piracy in ungoverned spaces, and military occupation and armed conflict in the territory of a third state. The chapters collected in this volume grapple with the promise and the dilemmas of the extraterritorial application of human rights law through an analysis of the legal, theoretical, and practical questions raised by extending states' human rights obligations beyond their national territories.

**The Law of Cross-border Securities Transactions**

A consensus has emerged that corporations have societal and environmental responsibilities when operating transnationally. However, how exactly corporations can be held legally accountable for their transgressions, if at all, is less clear. This volume inquires how regulatory tools stemming from international law, public law, and private law may or may not be used for transnational corporate accountability purposes. Attention is devoted to applicable standards of liability, institutional and jurisdictional issues, and practical challenges, with a focus on ways to improve the existing legal status quo. In addition, there is consideration of the extent to which non-legal regulatory instruments may complement or provide more viable alternatives to these legal mechanisms. The book combines legaldoctrinal approaches with comparative, interdisciplinary, and policy insights with the dual aim of furthering the legal scholarly debate on these issues and enabling higher quality decision-making by policymakers seeking to implement regulatory measures that enhance corporate accountability in this context. Through its study of contemporary developments in legislation and case law, it provides a timely and important contribution to the scholarly and sociopolitical debate in the fast-evolving field of international corporate social responsibility and accountability.

**Foreign Law in English Courts**
How can we guarantee a right to life or a right to health without also guaranteeing a decent environment in which to exercise these rights? It is becoming increasingly obvious that a high quality environment is key to the fundamental human rights of life and health, and associated rights such as the right to clean water, adequate housing, and food. This book canvases a range of law and policy issues concerning human rights and the environment. Each chapter examines an aspect of the links between environmental law and human rights in substantive and/or procedural terms, loosely falling into four themes: human rights and the environment in the context of the private sector; analysis of decisions of the European and Inter-American courts in respect of substantive and procedural aspects; human rights and the environment in the Asian region, including the issue of human displacement; and the future direction of human rights and environment law.

Brussels I Regulation

This study considers the problems of defining and valuing environmental damage from the perspective of international and comparative law. The need for a broad and systematic evaluation of this issue is illustrated by the number of topics presently on the international law-making agenda to which it is relevant, including the UN Compensation Commission's decisions on compensation for environmental losses suffered by Kuwait in the Gulf War, nuclear and oil pollution liability regimes, the development of an environmental liability protocol to the Antarctic Treaty and other agreements on bio-safety and genetically modified organisms. It is thus an important element in contemporary efforts to strengthen legal remedies for environmental harm which does not necessarily come within traditional categories of legally protected personal or property rights.

Jurisdiction in International Law

In Universal Civil Jurisdiction ~ Which Way Forward? leading experts of public and private international law discuss the challenges that victims of international crimes face when they seek reparation in countries other than the country where the crime was committed.

Jurisdiction in International Litigation

The tension between trade liberalisation and environmental protection has received remarkable attention since the establishment of the WTO. It has been the subject of a wide-ranging debate, and is one of the central themes of the anti-globalisation movement. This book explores that debate. It argues that by focusing on the WTO, the debate has failed to recognise the institutional and discursive complexity in which the trade-environment conflict is embedded. A legal investigation of this nexus requires a framework of inquiry, in which this complexity can be elucidated - a model of global legal pluralism. The first theoretical part of the book (Chapters One and Two) responds to this challenge by developing a pluralistic model, which recognises the trade and environment conflict as the product of multiple dilemmas, constituted and negotiated by a myriad of institutional and discursive networks. As such, this conflict cannot be understood or addressed through one-dimensional models. Viewing the trade-environment conflict through a pluralistic perspective yields important practical insights. It means that this conflict cannot be resolved by uniform economic or legal formulae. Dealing with this conflict requires, rather, polycentric and contextual strategy. The empirical part of the book (Chapters Three to Seven) explicates this thesis by examining several global legal domains, ranging from the WTO to 'private' transnational regimes such as transnational litigation, international construction law and international financial law. This part demonstrates how the different discursive and institutional structures of these domains have influenced the contours of the trade-environment conflict, and considers the policy implications of this diversity from a pro-environmental perspective.

Jurisdiction in International Law

The law on marketing and advertising has undergone profound changes based on the EU directives on unfair commercial practices and misleading and comparative advertising. The legislation partially requires full harmonisation and contains a comprehensive blacklist of prohibited practices. However, in other areas, only minimum harmonisation is required. A comprehensive case law from the CJEU has emerged, but still many issues remain open, unclear and debated. The EU Commission has an active interest in the field and has published numerous reports on the question. In addition it has developed revised, comprehensive guidelines on marketing business to business (B2B), which are fully discussed here. Further Commission initiatives in the area on business to business (B2B) marketing are also in the making, underlining the importance of this new collection.

Transboundary Pollution

This book analyses the major regulatory areas relating to multinational enterprises. It covers the main economic law issues relating to jurisdiction, entry and establishment controls and liberalisation, tax, company law, competition and technology transfer. It also deals with the increasingly prominent demands for corporate social responsibility covering labour, rights, human rights and the environment, and the recent developments in arbitral decisions that give increased importance to the protection standards contained in

International Antitrust Litigation

In a very meaningful way, the health of a judicial system may be judged by the care with which its procedural rights are observed. Now, in a book that takes stock of this important element as it is currently used or abused in a number of the world's legal systems, eighteen outstanding scholars approach the subject through an analysis of the following factors: the theoretical and moral implications of procedural abuses the subjects who
commit them the typologies of abusive practices the consequences of abusive practices Several authors report on practices in their own countries, revealing distinct evidence of a significant degree of lowered procedural standards in the United States, several European countries, Australia, Japan, and Latin America. General and final reports provide a comparative framework for an analytical study that will repay the study of anyone concerned with the fairness of our legal institutions.

Environmental Law and Justice in Context

This fully updated second edition of Jurisdiction in International Law examines the international law of jurisdiction, focusing on the areas of law where jurisdiction is most contentious: criminal, antitrust, securities, discovery, and international humanitarian and human rights law. Since F.A. Mann's work in the 1980s, no analytical overview has been attempted of this crucial topic in international law: prescribing the admissible geographical reach of a State's laws. This new edition includes new material on personal jurisdiction in the U.S., extraterritorial applications of human rights treaties, discussions on cyberspace, the Morrison case. Jurisdiction in International Law has been updated covering developments in sanction and tax laws, and includes further exploration on transnational tort litigation and universal civil jurisdiction. The need for such an overview has grown more pressing in recent years as the traditional framework of the law of jurisdiction, grounded in the principles of sovereignty and territoriality, has been undermined by piecemeal developments. Antitrust jurisdiction is heading in new directions, influenced by law and economics approaches; new EC rules are reshaping jurisdiction in securities law; the U.S. is arguably overreaching in the field of corporate governance law; and the universality principle has gained ground in European criminal law and U.S. tort law. Such developments have given rise to conflicts over competency that struggle to be resolved within traditional jurisdiction theory. This study proposes an innovative approach that departs from the classical solutions and advocates a general principle of universal civil jurisdiction. Under this new proposed rule, States would be entitled, and at times even obliged, to exercise subsidiary jurisdiction over internationally relevant situations in the interest of the international community if the State having primary jurisdiction fails to assume its responsibility.

Universal Civil Jurisdiction

Originally published in 2006, this collection is the outcome of an interdisciplinary research project involving scholars in the fields of international and comparative environmental law, the sociology and politics of global governance, and the scientific study of global climate change. Earth system analysis as developed by the natural sciences is transferred to the analysis of institutions of global environmental change. Rather than one overarching supranational organisation, a system of 'multilevel' institutions is advocated. The book examines the proper role of industrial self-regulation, of horizontal transfer of national policies, of regional integration, and of improved coordination between international environmental organisations, as well as basic principles for sustainable use of resources. Addressing both academics and politicians, this book will stimulate the debate about the means of improving global governance.

Multinational Enterprises and the Law

International arbitration has become the favored method of resolving disputes between business partners in almost every aspect of international trade, commerce, and investment. The resolution of a dispute by means of international arbitration provides the parties with an opportunity to resolve their disputes in a private, confidential, cost and time efficient manner before a neutral tribunal of their choice. However, challenges to arbitral jurisdiction have become a common practice in the field. Resolution of such challenges may significantly delay the resolution of the parties' primary substantive dispute, increase overall dispute resolution costs and even whittle down the benefits of the parties' bargain to arbitrate. Accordingly, adopting a proper approach to the resolution of such disputes becomes crucial to the efficacy of international arbitration as a system of dispute resolution. The present book provides a comparative analysis of the practice of three carefully selected legal orders: the English, German and Swiss and outlines possible ways forward. As the work strikes a balance between theory and practice, it will appeal to practitioners, researchers, but also students looking to develop their understanding of the international arbitration field.

Accountability, International Business Operations and the Law

The decentralisation of competition law enforcement and the stimulation of private damages actions in the European Union go hand in hand with the increasingly international character of antitrust proceedings. As a consequence, there is an ever-growing need for clear and workable rules to co-ordinate cross-border actions, whether they are of a judicial or administrative nature: rules on jurisdiction, applicable law and recognition as well as rules on sharing of evidence, the protection of business secrets and the interplay between administrative and judicial procedures. This book offers an in-depth analysis of these long neglected yet practically most important topics. It is the fruit of a research project funded by the European Commission, which brought together experts from academia, private practice and policy-making from across Europe and the United States. The 16 chapters cover the relevant provisions of the Brussels I and Rome I and II Regulations, the co-operation mechanisms provided for by Regulation 1/2003 and selected issues of US procedural law (such as discovery) that are highly relevant for transatlantic damages actions. Each contribution critically analyses the existing legislative framework and formulates specific proposals to consolidate and enhance cross-border antitrust litigation in Europe and beyond.

International Contracts and National Economic Regulation: Dispute Resolution Through International Commercial Arbitration
The Anatomy of Torture

With articles by Harry Duinijer Tebbens, David Goddard, Christoph Bernasconi, Bertrand Ancel and Frank Gerhard, Private International Law Issues in World War II Era Litigation, national reports from Germany and news from The Hague as well as texts, materials and recent developments.

Environmental Law Dimensions of Human Rights

Environmental Damage in International and Comparative Law

The growth of national economic regulation and the process of globalisation increasingly expose international transactions to an array of regulations from different jurisdictions. These developments often contribute to widespread international contractual failures when parties claim the incompatibility of their contractual obligations with regulatory laws. The author challenges conventional means of dispute resolution and argues for an interdisciplinary approach whereby disciplines such as international economic law, conflict of laws, contract law and economic regulations are functionally united to resolve international and multifaceted regulatory disputes. He identifies the normative foundation of contract law as an important determinant in this process, contending that contract law is essentially neutral and underpinned by the concept of corrective justice, while economic regulations are mainly prompted by distributive justice. Applying this corrective/distributive justice dichotomy to international contracts, the author critically assesses major conflict of laws approaches such as ‘proper law’, ‘the Rome Convention’ and ‘governmental interest analysis’, which could disregard either public interest or private rights. The author, taking these theories into account, proposes an alternative two-dimensional interest analysis approach. He tests the viability of this approach with reference to arbitral awards and court decisions in various jurisdictions and concludes that it uniquely fits into the structure of international commercial arbitration. In adopting this approach arbitrators would take into account both corrective and distributive justice, and to the extent that corrective justice prevails, would be able to avert a total failure of the contract.

Recueil Des Cours, 1996

This important new book fills a large gap in legal literature by examining restitution in private international law, including both the jurisdiction and choice of law questions facing restitutionary claims with international elements. The book begins with a brief summary of the English domestic law of restitution and highlights some of the issues which may arise. It goes on to examine classification, or characterisation of restitutionary claims. Restitution has a theoretical unity which enables the author to treat it essentially as a single issue for characterisation purposes. However, restitutionary claims arise in the context of contracts and wrongs; they may be at law or in equity; they may give rise to personal or proprietary remedies, whilst they may be contingent on tracing. Each of these contexts is analysed separately for the purposes of characterisation. The central part of the book examines the choice of law rule for restitutionary issues, and reviews the different approaches adopted in the US and UK and in other parts of the common law world. After weighing the merits of the different approaches the author adopts a choice of law rule for restitutionary issues which is the proper law of the unjust factor. Depending on whether the unjust factor is event-based or law-based, the choice of law rule will focus on either the law of the place, or alternatively, the legal system with which the unjust factor has its closest and most real connection. Jurisdiction is an area of increasing importance in private international law and the book provides a thorough analysis of the topic of jurisdiction for restitutionary claims, both under the Brussels Convention as well as the traditional common law rules contained in the Civil Procedure Rules. This is an important and timely new work for all lawyers interested in restitution, private international law and international commercial litigation.

Torture as Tort

Analyzes a wide variety of effects that cross-border activities have on the operation of private law.

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