

READ ASSESSING THE EFFECTIVENESS OF INTERNATIONAL COURTS INTERNATIONAL COURTS AND TRIBUNALS SERIES FREE

Assessing the Effectiveness of International Courts

Are international courts effective tools for international governance? Do they fulfill the expectations that led to their creation and empowerment? Why do some courts appear to be more effective than others, and do so such appearances reflect reality? Could their results have been produced by other mechanisms? This book evaluates the effectiveness of international courts and tribunals by comparing their stated goals to the actual outcomes they achieve. Using a theoretical model borrowed from social science, the book assesses their effectiveness by analysing key empirical data. Its first part is dedicated to theory and methodology, laying out the effectiveness model, explaining its different components, its promise and limits, and discussing the measurement challenges it faces. The second part analyses the role that indicators such as jurisdiction, judicial independence, legitimacy, and compliance play in achieving effectiveness. Part three applies the effectiveness model to the International Court of Justice, the WTO dispute settlement mechanisms (panels and Appellate Body), the International Criminal Court, the European Court of Human Rights, and the European Court of Justice, reflecting the diversity of the field of international adjudication. Given the recent proliferation of international courts and tribunals, this book makes an important contribution towards understanding and measuring the value that these institutions provide.

Assessing the Effectiveness of International Courts

During the last 20 years the world has experienced a sharp rise in the number of international courts and tribunals, and a correlative expansion of their jurisdictions. This book draws on social sciences to provide a clear, goal-orientated assessment of their effectiveness, and a critical evaluation of the quality of their performance.

The Performance of International Courts and Tribunals

International courts and tribunals now operate globally and in several world regions, playing significant roles in international law and global governance. However, these courts vary significantly in terms of their practices, procedures, and the outcomes they produce. Why do some international courts perform better than others? Which factors affect the outcome of these courts and tribunals? *The Performance of International Courts and Tribunals* is an interdisciplinary study featuring approaches, methods and authorship from law and political science, which proposes the concept of performance to describe the processes and outcomes of international courts. It develops a framework for evaluating and explaining performance by offering a broad comparative analysis of international courts, covering several world regions and the areas of trade, investment, the environment, human rights and criminal law, and offers interdisciplinary accounts to explain how and why international court performance varies.

Legitimacy and International Courts

One of the most noted developments in international law over the past twenty years is the proliferation of international courts and tribunals. They decide who has the right to exploit natural resources, define the scope

of human rights, delimit international boundaries and determine when the use of force is prohibited. As the number and influence of international courts grow, so too do challenges to their legitimacy. This volume provides new interdisciplinary insights into international courts' legitimacy: what drives and undermines the legitimacy of these bodies? How do drivers change depending on the court concerned? What is the link between legitimacy, democracy, effectiveness and justice? Top international experts analyse legitimacy for specific international courts, as well as the links between legitimacy and cross-cutting themes. Failure to understand and respond to legitimacy concerns can endanger both the courts and the law they interpret and apply.

Deference in International Courts and Tribunals

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 core doctrines.

Provisional Measures Issued by International Courts and Tribunals

This book makes a significant contribution to the comprehension of the law and practice of provisional measures issued by international courts and tribunals, including international commercial arbitration. After having analyzed the common features of provisional measures, it provides an overview of the peculiarities of these orders within the context of different international proceedings (e.g. the ICJ, the ITLOS, the CJEU, the ICC, human rights courts and investment arbitration). In this regard, the book is valuable in offering a broad and rigorous comparative analysis between the various forms of provisional measures. Owing to its original cross-cutting and case-driven approach, the book will be an essential tool for both scholars and practitioners dealing with the law of provisional measures in international adjudication. Indeed, this book will be an important novelty in international law libraries due to the broad range of regimes scrutinized and to a detailed analysis of the general trends within the contemporary law of provisional measures. Fulvio Maria Palombino is Professor of International Law in the Department of Law at the University of Naples Federico II, Naples, Italy. Roberto Virzo is Associate Professor of International Law in the Department of Law, Economics, Management and Quantitative Methods (DEMM) at the University of Sannio, Benevento, Italy. Giovanni Zarra is Adjunct Professor of International Law in the Department of Law at the University of Naples Federico II, Naples, Italy.

Legitimacy and International Courts

An interdisciplinary volume exploring the concept of legitimacy in relation to international courts and what can drive and weaken it.

Research Handbook on International Courts and Tribunals

This collection takes a thematic and interpretive, system-wide and inter-jurisdictional comparative approach to the debates and controversies related to the growth of international courts and tribunals. By providing a synthetic overview and critical analysis of these developments from a variety of perspectives, it both contextualizes and stimulates future research and practice in this rapidly developing field.

Judging Justice

Some injustices are so massive, so heinous, and so extraordinary that ordinary courts are no longer adequate. The creation of international courts and tribunals to confront major violations of human rights sought to bring justice to affected communities as well as to the entire world. Yet if justice is a righting of the imbalance between what has happened and what is reflected in the law, no amount of punishment and no judgment could compensate for that suffering and loss. In order to understand the meaning of justice, James David Meernik and Kimi Lynn King studied the perspective of witnesses who have testified before the International Criminal Tribunal for the Former Yugoslavia (ICTY). Using a unique survey, Meernik and King look at the identity of the victims and their perception of the fairness of ICTY. Because of the need to justify the practical and emotional difficulties involved in testifying before an international tribunal, witnesses look not just to the institution to judge its effectiveness, but also to their own contribution, by testifying effectively. The central elements of the theory Meernik and King develop—identity, fairness, and experience—transcend specific conflicts and specific countries and are of importance to people everywhere.

The Future of International Courts

The end of World War II marked the beginning of a new golden era in international law. Treaties and international organisations proliferated at an unprecedented rate, and many courts and tribunals were established with a view to ensuring the smooth operation of this new universe of international relations. The network of courts and tribunals that exists today is an important feature of our global society. It serves as an alternative to other, sometimes more violent, forms of dispute settlement. The process of international adjudication is constantly evolving, sometimes in unexpected ways. Through contributions from world-renowned experts and emerging voices, this book considers the future of international courts from a diverse range of perspectives. It examines some of the regional, institutional and procedural challenges that international courts face: the rising influence of powerful states, the turn to populism, the interplay between courts, the involvement of non-state actors and third parties in international proceedings, and more. The book offers a timely discussion of these challenges, with the future of several international courts hanging in the balance and the legitimacy of international adjudication being called constantly into question. It should also serve as a reminder of the importance of international courts for the functioning of a rules-based international order. 'The Future of International Courts' is essential reading for academics, practitioners and students who are interested in international law, including those who are interested in the role international courts play in international relations.

International Court Authority

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.

Procedural Fairness in International Courts and Tribunals

Procedural fairness is a topic of contemporary importance that touches upon the jurisdictional powers, the effectiveness, and the normative/institutional framework of international courts and tribunals. Increasingly prominent in practice, it features in a wide spectrum of arbitral and judicial settlement processes, from the handling of expert evidence before the International Court of Justice, as well as the burden and standard of proof in investor-State arbitration, to the role of victims and the right to a prompt and speedy trial at the International Criminal Court. The fairness of these proceedings is a topic of fundamental importance, not only to practitioners of international law (judges, counsels, registrars, NGO lawyers, legal advisers, and other civil servants), but also to scholars of international law due to its implications for the key topic of international dispute settlement. This book frames the study of procedural fairness as the identification of fundamental principles inherent to international judicial and arbitral processes. It draws together a number of pertinent issues on specific aspects of fairness (e.g. the equality of arms principle) before international courts and tribunals within a comprehensive narrative. It brings academics and practitioners together to initiate ground-breaking research into this novel topic. The book employs a comparative approach whereby the contributors analyze the procedures and practices of various international courts and tribunals. It identifies patterns of commonality and divergence in the core standards of procedural fairness of international courts, and it develops a holistic understanding of the nature of procedural fairness and the challenges to its realization in the international judicial system. The book concludes that, while there is no universal model of procedural fairness, nascent principles of fairness are emerging in the jurisprudence of international courts in order to resolve procedural and practical issues. [Subject: International Law, Comparative Law]

The Competing Jurisdictions of International Courts and Tribunals

Recent years have witnessed a sharp increase in the number of international courts and tribunals (e.g., WTO, NAFTA, ITLOS, ICC, etc.) and greater willingness on the part of states and other international actors to subject themselves to the compulsory jurisdiction of international adjudicative mechanisms. However, because of the uncoordinated nature of these developments, overlaps between the jurisdictional ambits of the different judicial bodies might occur - i.e., the same dispute could fall under the jurisdiction of more than one forum. This raises both theoretical and practical issues of coordinating between the various jurisdictions. The purpose of this book is to explore the implications of jurisdictional competition and to identify standards that may alleviate problems associated with the phenomenon, which arguably threatens the unity of international law. The first part of the book examines the jurisdictional ambits of the principal international courts and tribunals and delineates areas of overlap between their respective jurisdictions. This is followed by a discussion of some of the potential systematic and practical problems that arise out of jurisdictional competition (e.g.,

forum shopping and multiple proceedings) and considers the expediency of mitigating them. It concludes by identifying existing rules of international law, which govern inter-jurisdictional competition, and considering the desirability of introducing additional norms and arrangements.

The International Court of Justice and the Effectiveness of International Law

The International Court of Justice and the Effectiveness of International Law, by Philippe Couvreur, Registrar of the ICJ, offers an account of the history and main achievements of the principal judicial organ of the United Nations, the only court with universal and general jurisdiction.

Provisional Measures before International Courts and Tribunals

2 Dispute Settlement Under UNCLOS

The Performance of Africa's International Courts

The performance of international courts has traditionally been judged against criteria of compliance and effectiveness. Whilst these are clearly desirable objectives for litigants before Africa's international courts, this book shows that we must look beyond these criteria to fully appreciate the impact of these courts. This book shows how litigants use their participation in international litigation to achieve other objectives: to amplify political disputes with their governments, to build their movement, to educate the public about their cause, and to challenge the status quo. Chapters in this collection show how these courts act as coordination points for opposition political parties to name and shame dominant parties for violation of their organizational rights. Others demonstrate how Africa's international courts serve as transitional justice mechanisms in which truth telling about ongoing conflict and authoritarian governance receives significant attention. This attention serves as a platform to galvanize resistance against continued authoritarian rule, especially from outside the conflict countries. Ultimately, the book shows that these courts must be judged against new and broader criteria, and understood as increasingly important venues for waging political, social, environmental, and legal struggles.

Questions of Jurisdiction and Admissibility before International Courts

Offers a new understanding of traditional rules on jurisdiction and admissibility of cases before international courts and tribunals.

Comparative Reasoning in International Courts and Tribunals

This book examines an unexplored method of interpretation: the use of domestic law in the interpretation of international law.

The Manual on International Courts and Tribunals

This text provides an overview of the jurisdiction and procedures of all the principal general and specialised international dispute settlement bodies. The areas included are human rights, international criminal law and the law of the sea.

International Conflict Resolution

Increased international interdependence - globalization - has also greatly increased the potential for international conflict in various areas such as trade, competition, the environment, and human rights. Observers have counted up to 40 international courts that serve to settle such conflicts. What are adequate

criteria to measure the effectiveness of international courts? What factors explain the differences in their success? What factors explain the differences of nation-state governments in delegating competence to international courts in the first place? Should there be any additional courts? This volume assembles ten papers and comments that contain first steps in answering these questions. Their authors are legal scholars and economists, but also political scientists and philosophers. With this volume the *Jahrbuch für Neue Politische Ökonomie* has changed its title to *Conferences on New Political Economy*.

The Elgar Companion to the International Court of Justice

The first in a series of Companions that offer broad coverage of a range of international courts and tribunals, *The Elgar Companion to the International Court of Justice* is a one-stop reference for those wishing to understand this highly significant an

The International Judge

An interdisciplinary introduction to international judges and their work

Jurisdiction of International Tribunals

This work analyzes the jurisdictional powers of international tribunals in certain areas of fundamental significance and importance. It clarifies how tribunals and consensual arrangements have approached problems and which general principles may have emerged. Special aspects of jurisdiction of some particular tribunals have been studied in greater detail. These are: the Permanent Court of International Justice and the International Court of Justice, the ICSID arbitration tribunals, the administrative tribunals covering disputes between international organizations and their employees, the European Court of Human Rights and the European Court of Justice. The choice of these tribunals has been based on the distinctive character of each one of them in the context of modern international legal relations. This work will be of interest to practitioners involved in the current practice of these courts and tribunals as well as academics studying the more general principles.

International Courts and Tribunals

Beginning about a century ago, but with a dramatic acceleration of the process in the final decades of the 1900s, international courts and tribunals have taken a prominent place in the enforcement of international law, the maintenance of international peace and security and the protection and promotion of human rights. This book addresses the great diversity of these institutions, their structures and legal frameworks and their contribution to the international rule of law.

Selecting International Judges

International courts are called upon to decide upon an increasingly wide range of issues of global importance, yet public knowledge of international judges and the process by which they are appointed remains very limited. Drawing on extensive empirical research, this book explains how the judges who sit on international courts are selected.

Public Interest Litigation in International Law

"In a world of growing public interest over global matters, and criticisms over multilateralism to adequately address them, the role of international courts and tribunals in the resolution of disputes is shifting. A central aspect of this shift is whether and how international courts and tribunals can be used to resolve such disputes in the public interest. This practice, referred to as public interest litigation, is the object of this collection,

which identifies some recent developments, trends and prospects in this growing practice. Its aim is to assess the degree to which the bilateral design of international courts and tribunals can adapt to the shift towards a public approach to international litigation. Engaging with various fields where public interest litigation exists - such as human rights, climate change, global health and criminal law - it identifies recent developments, trends and prospects in this practice. The selected pieces provide a flavour of the types of issues that have arisen before international judicial bodies - for instance the International Court of Justice, the International Tribunal for the Law of the Sea, international arbitral tribunals, regional human rights bodies or criminal courts - and explores issues that may arise in the future\''--

Human Rights Norms in 'Other' International Courts

Examines the role and impact of human rights norms in international courts other than human rights courts

Regulating Jurisdictional Relations Between National and International Courts

The book investigates the problems of increased interaction between national and international courts: What is the proper order of the proceedings? Should national and international proceedings take place concurrently? In particular, it advocates the use of judicial comity as a method for mitigating jurisdictional tensions between the courts.

Transplanting International Courts

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.

The European Court of Justice and International Courts

The Court of Justice of the European Union has exclusive jurisdiction over European Union law and holds a broad interpretation of these powers. This, however, may come into conflict with the jurisdiction of other international courts and tribunals, especially in the context of so-called mixed agreements. While the CJEU considers these 'integral parts' of EU law, other international courts will also have jurisdiction in such cases. This book explores the conundrum of shared jurisdiction, analysing the international legal framework for the resolution of such conflicts, and provides a critical and comprehensive analysis of the CJEU's far-reaching jurisdiction, suggesting solutions to this dilemma. The book also addresses the special relationship between the CJEU and the European Court of Human Rights. The unique interaction between these two bodies raises

fundamental substantive concerns about overlaps of jurisdiction and interpretation in the courts. Conflicts of interpretation manage largely to be avoided by frequent cross-referencing, which also allows for much cross-fertilization in the development of European human rights law. The link between these two courts is the subject of the final section of the book.

The Cambridge Companion to the International Court of Justice

As international law has become more present in global policy-making, the International Court of Justice (ICJ) has come to occupy an essential and increasingly visible role in international relations. This collection explores substantive developments within the ICJ and offers critical perspectives on its historical and contemporary role. It also examines the growing role of the ICJ in the settlement of international disputes and assesses the impact of the ICJ's jurisprudence on the major areas of international law, from the territorial delimitation to human rights. With contributions from a diverse range of scholars and practitioners, the collection's contents combine a legal perspective with institutional and sociological insights on the functions of the ICJ. By considering the ICJ's character, jurisdiction and effectiveness, this collection offers a varied and holistic account of the International Court of Justice, an institution whose significance and influence only increase by the day.

Court Performance Around the World

World Bank Technical Paper no. 430. QUOTE Many countries are undertaking legal and judicial reforms as part of their overall development programs; there is increasing recognition that economic and social progress requires consolidation of democracy as well as respect for the rule of law and human rights; without these development is not sustainable. QUOTE Many developing countries find that their judiciaries are inconsistent in conflict resolution and carry a large backlog of cases, thus stifling private-sector growth, eroding individual and property rights, and perhaps even violating human rights. Delays affect both the fairness and the efficiency of the system. They impede the public's access to the courts, which, in effect, weakens democracies, the rule of law and the ability to enforce human rights. This paper aims to describe and explain the performance of court systems in a sample of developing and developed countries in order to provide data to those designing or evaluating reforms. The study also seeks to show areas in which international comparison of judicial performance can be fruitful, suggesting indicators that can be used in such comparisons. Finally, it endeavors to provide comparisons of performance within individual countries over time.

International Judicial Review

This book is motivated by a question: when should international courts intervene in domestic affairs? To answer this question thoroughly, the book is broken down into a series of separate inquiries: when is intervention legitimate? When can international courts identify good legal solutions? When will intervention initiate useful processes? When will it lead to good outcomes? These inquiries are answered based on reviewing judgments of international courts, strategic analysis, and empirical findings. The book outlines under which conditions intervention by international courts is recommended and evaluates the implications that international courts have on society.

International Court Authority

International Court Authority challenges fundamental preconceptions about when, why, and how international courts become important and authoritative actors in national, regional and international politics. Examining global and regional bodies, this volume investigates how political and social contexts shape the authority of international courts.

Case-Law and the Development of International Law

"This book explores recent contributions of the case-law of international courts and tribunals to the development of international law. It begins by looking at how such case-law has contributed to the development of the methodology of international law and to the development of procedural rules. It further examines recent contributions from three major players in the international judicial arena: the International Court of Justice, the International Tribunal for the Law of the Sea and the mechanisms for Investor-State Dispute Settlement"--

Manual on International Courts and Tribunals

The dramatic rise in the number of international courts and tribunals and the expansion of their legal powers has been one of the most significant developments in international law of the late 20th century. The emergence of an international judiciary provided international law with a stronger than ever law enforcement apparatus, and facilitated the transformation of many aspects of international relations from being power-based to being law-based. The first edition of the Manual on International Courts and Tribunals, published in 1999, was the first book to survey systematically this new institutional landscape, by describing in an accessible and uniformly structured manner the legal powers and operating procedures of all major international judicial and quasi-judicial bodies. In doing so, it laid the groundwork for comparative study and research of the law and practice of international courts and tribunals - an emerging field of international legal research, which has already spurred a series of publications, conferences and academic courses. This second edition updates the first edition by describing the many legal changes that have taken place in the last decade, including important reforms in the laws and procedures of many international courts and tribunals, relevant developments in their increasingly rich jurisprudence and the creation of new judicial fora. Moreover, it assesses the overall record of these judicial bodies. The data and legal analysis offered in the book provide both practitioners and academics with an important basis of knowledge that will help them better understand the details of international adjudication and its context.

The Rules, Practice, and Jurisprudence of International Courts and Tribunals

This book examines existing international disputes resolution institutions of both general and specific subject-matter jurisdiction. Uniquely, it assesses both procedural rules and essential case-law, making it relevant for both academics and practitioners in international law.

International Judicial Practice on the Environment

Evaluates the fundamental legitimacy of judicial practice in the growing number of environmental cases heard before international courts.

Selecting International Judges

International courts are called upon to decide upon a wide range of issues of global importance, yet public knowledge of international judges and the process by which they are appointed remains very limited. Drawing on empirical research, this book explains how the judges who sit on international courts are selected.

International Courts and Tribunals

Beginning about a century ago, but with a dramatic acceleration of the process in the final decades of the 1900s, international courts and tribunals have taken a prominent place in the enforcement of international law, the maintenance of international peace and security and the protection and promotion of human rights. This research review addresses the great diversity of these institutions, their structures and legal frameworks

and their contribution to the international rule of law.--Résumé de l'éditeur.

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