
THE INTERNATIONAL COURT OF JUSTICE: PROCESS, PRACTICE AND PROCEDURE

Bowett and Others

This book is concerned with the efficiency and working practices of the International Court of Justice which has unique authority and standing as the principal judicial organ of the United Nations.

The last ten years have seen a steady increase in the number of cases referred to the Court. This trend underlines the confidence which States have in the Court as a vital instrument in the peaceful settlement of disputes, but the penalty of this success has been a growing docket of pending cases and the risk of delay.

Drawing on their unique practical experience, the contributors analyse this issue and propose solutions to the difficult problems which it poses. Issues of comparative method, universality and the authority of judgments are all central to ensuring that the development of the Court's practice and procedure contributes to enhancing the standing of the Court and the clarity of its contribution to the determination of public international law.

The book is the product of an extensive dialogue between the specialist practitioners who prepared an initial report, members of the Court including the President and HE Judge Rosalyn Higgins, members of the Public International Law Section of the Institute's Advisory Board, members of the Institute, and other experts.

It has been prepared by the British Institute of International and Comparative Law as a contribution to the United Nations Decade of International Law and as the basis for further discussion and proposals for the development and enhancement of the role and work of the Court.

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HUMAN RIGHTS AS GENERAL NORMS AND A STATE'S RIGHT TO OPT OUT : RESERVATIONS AND OBJECTIONS TO HUMAN RIGHTS CONVENTIONS

Chinkin and Others - Ed. J.P. Gardner

This book analyses one of the most pressing problems of human rights and treaty law: how is the protection of universal individual human rights to be reconciled with the right of States to qualify their treaty obligations by reservations?

The development of treaties protecting fundamental human rights in clear terms is one of the major achievements of public international law in the second half of the twentieth century. They create a network of individual rights recognised and accepted by States and subject to a variety in independent mechanisms of reporting review and adjudication.

These treaties are nevertheless established under a regime of public international law which recognises the sovereignty of States and their concomitant right to limit their obligations by the extent of their consent.

This tension creates conceptual, policy and practical problems which at either extreme of the argument seem to threaten the two vital premises that human rights are a fundamental minimum on the one hand and that States are sovereign to determine the scope of their obligations on the other.

These problems have been brought into sharp relief by the welcome increase in the number of ratifications of human rights treaties which offers the prospect of universal protection for the first time, and the accompanying growth in reservations entered by the new parties.

The contributors to this volume review the interplay of these conflicting principles in the practical operation and interpretation of the eight principal human rights treaties and, with an authoritative introduction by HE Judge Rosalyn Higgins, make a first coherent analysis of this important issue in the protection of human rights and the operation of treaty law.

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TOPICS IN CHOICE OF LAW

by A.J.E. Jaffey

This book draws up articles which the author has published in various journals over the past twenty years and presents a distinctive and coherent theory of choice of law in the conflict of laws. It examines the objectives and criteria underlying choice of law rules, and the principles of justice which are germane to choice of law. The first chapter sets out the approach in general terms, and the remainder of the book applies it in detail to topics in the fields of contract, tort and marriage in the English conflict of laws.

The original articles have been considerably revised, rearranged and developed, not only to ensure that the elements of the theory are clearly expounded, but also to accommodate important changes in the law. Thus, for example, the chapters on tort deal with the new provisions of the recently enacted Private International Law (Miscellaneous Provisions) Act 1995. Similarly, the chapters on contract analyse the changes resulting from the implementation into English law of the Rome Convention of 19 June 1980 on the Law Applicable to Contractual Obligations.

The fact that the book presents a theory does not mean that it lacks practical application. For example, in cases of contract and tort the court often has to select the appropriate governing law on the basis of a flexible choice of law rule, rather than one which indicates a fixed applicable law. In the relevant chapters the book suggests what criteria should be used in applying the formulae laid down in the statutes, and specific guidelines are proposed in relation to the new statutory provisions for tort.

The topics discussed in detail are contract - the governing law, the essential validity of contracts, the formation of contracts, choice of law by arbitrators of international contracts, torts (single and multi-State), and the essential validity of marriage.

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