Torture as Tort - Craig M. Scott - 2001-05

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 transnational torts has increased. One need only think of transboundary pollution (for example, fall-out from Chernobyl), the determination of proper forum for litigation of the holocaust dispute; the rise in complex regression and the scope for product liability and environmental torts in international commerce; and the increased scope for 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 and private international law are 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.

Jurisdiction in International Law - Cedric Ryngaert - 2015

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, anti-trust, 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 law. This new edition includes new material on personal jurisdiction in the U.S., extraterritorial applications of human rights treaties, discussions on cybersecurity, the Monroe case. Jurisdiction in international law has been updated reflecting developments in sanctum and tax laws, and includes further exploration on transnational tort litigation and universal civil jurisdiction. The need for such an overview has grown even 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 approach; new EC rules are reshaping jurisdiction in securities law; the U.S. is arguably overarching in the field of corporate governance law; and the universality principle has acquired new meaning due to the importance of combating terrorism. This study presents an innovative approach that departs from the classical solutions and advocates a general principle of jurisdiction. The need for such an overview has grown even 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 approach; new EC rules are reshaping jurisdiction in securities law; the U.S. is arguably overarching in the field of corporate governance law; and the universality principle has acquired new meaning due to the importance of combating terrorism. This study presents an innovative approach that departs from the classical solutions and advocates a general principle of jurisdiction. The need for such an overview has grown even 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 approach; new EC rules are reshaping jurisdiction in securities law; the U.S. is arguably overarching in the field of corporate governance law; and the universality principle has acquired new meaning due to the importance of combating terrorism.

Jurisdiction in International Litigation - Mary Keyes - 2005

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 issues, but that is a mistake. The significance of jurisdiction has yet to be appreciated. This groundbreaking book in this gaps and offers a critical analysis of the principles and the theoretical foundations applied to resolve private international jurisdictional disputes and of the manner in which those principles are applied in practice. Describing the context in which international jurisdiction disputes are determined 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 within 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 Within the context in which international jurisdiction disputes are determined Explaining and critically analysing the manner in which the principles are applied Within the context in which international jurisdiction disputes are determined Explaining and critically analysing the manner in which the principles are applied Within the context in which international jurisdiction disputes are determined Explaining and critically analysing the manner in which the principles are applied 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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 for jurisdiction and immunity claims in various types of judicial proceedings. It explores the complex questions arising when a state asserts its jurisdiction over persons that are based abroad, or are not that state’s citizens, in order to assert their liability to that state. As a result, the focus is not only on the state’s right to exercise jurisdiction, but also on the state’s ability to do so as well as the respective rights and those of others to resist jurisdiction, in its own courts, over another state or an international organization such as the UN. This much-needed Handbook will appeal strongly to academic researchers and postgraduate students. Civil servants and employees of international organizations and NGOs will also find it an invaluable resource.

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 covers a range of law and policy issues concerning human rights and the environment. Each chapter examines an aspect of the links between human rights and the environment, such as access to clean water, the environment in the context of the private sector, or the rights of indigenous peoples to their environment. The book concludes with an analysis of decisions of the English, German and Swiss courts, and outlines possible ways forward. As the work strikes a balance between theory and practice, it will appeal to practitioners, policymakers, and students.

Resolution of such challenges may significantly delay the resolution of the parties’ primary substantive dispute, increase overall dispute resolution costs and even lead to unsatisfactory outcomes. Consequently, courts and parties have been forced to seek alternative means of dispute resolution. 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, and binding manner. The arbitral tribunal is independent and impartial, which makes it a desirable alternative to court proceedings. However, the arbitral process is not without its complexities. The parties must agree on the rules that will govern the arbitration, select an appropriate legal system which may, or may not, be available in the other. The analysis elucidates the choices available at the different stages of a transnational litigation. These choices appear in each stage of litigation, as well as during the planning process when dispute avoidance is the primary objective. The first half of this book is a practitioner’s guide with ample descriptions of how to conduct litigation abroad. The second half is sub-divided into six appendices, and includes a table of cases and a comprehensive index.

Courts’ Inquiry into Arbitral Jurisdiction at the Pre-Award Stage - Richard H. Koodrider - 1998
This work is a clear, easy-to-understand guide to the issues and decision points encountered when planning to resolve, or avoid, a transnational dispute. Each: choice and all facets of litigation procedure and strategy are explored in the context of multi-jurisdictional interaction; that is, exposing the characteristics of one legal system which may, or may not, be available in the other. The analysis elucidates the choices available at the different stages of a transnational litigation. These choices appear in each stage of litigation, as well as during the planning process when dispute avoidance is the primary objective. The first half of this book is a practitioners’ guide with ample descriptions of how to conduct litigation abroad. The second half is sub-divided into six appendices, and includes a table of cases and a comprehensive index.

Environmental Law and Justice in Context - Joseph Eisbrenner - 2009-02-19
Abuse of Procedural Rights/Comparative Standards of Procedure - International Association of Practitioners in International Law - 1999
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 the contemporary global economy, it is clear that it is currently used or abused in a number of the world’s legal systems. This book presents an overview of the procedural rights to which individuals are entitled, and the tools available to those who wish to enforce these rights. The book is organized into three parts: 1) The substantive rights of the individual, 2) The substantive rights of the individual, and 3) The substantive rights of the individual. It means that this conflict cannot be resolved by uniform economic or legal formulas. Dealing with this conflict requires, rather, a framework of inquiry, which is capable of elucidating this complexity - a model of global legal pluralism. This book develops such a model. This pluralistic approach is designed so that it can be applied in any country, regardless of its legal system. The book begins by outlining the key concepts and the relevance of these concepts for international law. It then discusses the role of the international community in enforcing the rights of individuals and groups. The book concludes with a discussion of the implications of this model for the development of international human rights law.
principles and rules as premises for developing consistent unitary theories to meet current social conditions. This model requires that judicial opinions be informed by a broad understanding of the underlying fundamental principles that ought to guide it, an approach that often leads to unfair and inefficient results. This book suggests the adoption of a judicial decision-making model that proceeds from principles and rules and treats these problems systematically and in a consistent way, thereby creating a body of law that is both coherent and comprehensive, rather than a patchwork of ad hoc decisions. This model requires that judicial opinions be informed by a broad understanding of the underlying fundamental principles that ought to guide it, an approach that often leads to unfair and inefficient results. This book suggests the adoption of a judicial decision-making model that proceeds from principles and rules and treats these problems systematically and in a consistent way, thereby creating a body of law that is both coherent and comprehensive, rather than a patchwork of ad hoc decisions.

Autonomy in International Contracts - Peter Edward Nygh - 1999

This book explores the source and extent of rights and duties of states and their consequences, with particular attention to the conflicts, and how they should be shared with the public.

The U.S. Supreme Court and the Modern Common Law Approach - Simona Grossi - 2015-02-05

This book studies the U.S. Supreme Court’s and its current common law approach to judicial decision making from a national and transnational perspective. The Supreme Court’s modern approach appears detached from and inconsistent with the underlying fundamental principles that ought to guide it; an approach that often leads to unfair and inefficient results. This book suggests the adoption of a judicial decision-making model that proceeds from principles and rules and treats these problems systematically and in a consistent way, thereby creating a body of law that is both coherent and comprehensive, rather than a patchwork of ad hoc decisions. This model requires that judicial opinions be informed by a broad understanding of the underlying fundamental principles that ought to guide it, an approach that often leads to unfair and inefficient results. This book suggests the adoption of a judicial decision-making model that proceeds from principles and rules and treats these problems systematically and in a consistent way, thereby creating a body of law that is both coherent and comprehensive, rather than a patchwork of ad hoc decisions.

Internationales Naturrechts-Bürgertum - Juridical-principles

- Peter Edward Nygh - 1999

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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 legal-doctrinal 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.

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