Comparative Law Of Security And Guarantees Law Practice Of International Finance

The book offers insights on whether international law can shape the politics of the Security Council and conversely, the extent to which the latter contribute to the development of international law. By providing a systematic analysis of the quantity and quality of international legal instruments referred to in the text of resolutions, the book reconstructs patterns of the Security Council's behavioural regularities and assesses them against the provisions of the United Nations Charter, which establishes its mandate. The analysis is divided into three periods – the origins and Cold War period, post-Cold War period and the twenty-first century – and assesses the resolutions passed in each period by thematic category. The book argues that while international law plays an important role in shaping the politics of the Security Council, the Council's resolutions do not contribute significantly to the development of international law.

The concept of 'human security' has influenced discourse and practice and has been the subject of vigorous debate. Despite its relevance to central questions of international law, human security has until recently received little attention from international lawyers. This book has two related goals: to evaluate human security as a concept that could be used in the analysis of international law, and to determine what insights about a human security approach might be gained by considering it from the perspective of international law. The first part of the book examines the evolution and meanings of the concept and its links with existing theories and principles of international law. The second part explores the ways in which human security has been and could be used in relation to the diverse topics of humanitarian intervention, internally displaced persons, small arms control, and global public health. The analysis sheds new light on debates about the concept's potential and limitations.

This book presents an international and comparative exploration of how the COVID-19 global pandemic has affected and impacted on issues of human rights, security and law. Throughout the world the COVID-19 global pandemic has fundamentally impacted and altered our way of life. As this book sets out, all states have had to contend with similar challenges as well as competing interests and obligations affecting human rights and security. These challenges present very few simple choices but nonetheless carry enormous consequences. Organised into two thematic and distinct, yet interrelated parts, first on theoretical and practical challenges for human rights and second on threats to personal, collective and global security, the book examines how the ability of states to safeguard our fundamental rights and security, broadly defined, has been challenged and that questions about the legality and legal impact of recent responses to COVID-19 will persist for some time. It is often said that global problems require coordinated global solutions, but the various responses to the pandemic by states suggest a notable lack of a consensus amongst the

international community. The book will be of interest to academics and researchers working in the areas of human rights law and security law. It will also appeal to constitutional lawyers, given the nature of law-making and the challenge of ensuring adequate scrutiny in emergency situations as well as the impact of COVID-19 upon the legal framework more generally. It will provide a valuable resource for policymakers, practitioners, and public servants.

This book describes and assesses an emerging threat to states' territorial control and sovereignty: the hostile control of companies that carry out privatized aspects of sovereign authority. The threat arises from the massive worldwide shift of state activities to the private sector since the late 1970s in conjunction with two other modern trends – the globalization of business and the liberalization of international capital flows. The work introduces three new concepts: firstly, the rise of companies that handle privatized activities, and the associated advent of "post-government companies" that make such activities their core business. Control of them may reside with individual investors, other companies or investment funds, or it may reside with other states through state-owned enterprises or sovereign wealth funds. Secondly, "imperfect privatizations:" when a state privatizes an activity to another state's public sector. The book identifies cases where this is happening. It also elaborates on how ownership and influence of companies that perform privatized functions may not be transparent, and can pass to inherently hostile actors, including criminal or terrorist organizations. Thirdly, "belligerent companies," whose conduct is hostile to those of states where they are active. The book concludes by assessing the adequacy of existing legal and regulatory regimes and how relevant norms may evolve.

"Necessity and proportionality occupy a firm place in the international law governing the use of force by states. Perhaps most importantly for practical purposes, the exercise of the right of self-defense, as recognized in Article 51 of the United Nations Charter, is subject to the requirements of necessity and proportionality, as the International Court of Justice determined in the Nicaragua case. Necessity and proportionality are also firmly anchored in the international law governing armed conflicts. In its Nuclear Weapons Advisory Opinion, the International Court of Justice even referred to one articulation of the idea of necessity, that directed against the causing of unnecessary suffering, as one of two "cardinal principles" of this body of law. However, beyond statement in such general terms, the realms of uncertainty and controversy soon begin. It is far from clear, for example, how to distinguish with precision between necessity and proportionality in the international law on self-defense and, in immediate connection herewith, what it means precisely to say that forcible action taken in the exercise of self-defense must be proportionate. It is all the less clear what legal significance, if any, necessity and proportionality possess in other contexts of the international law governing the use of force"--

The practise of outlining principles for the conduct of US security policy in so-called doctrines is a characteristic feature of US foreign policy. From an

international lawyer's point of view two aspects of these doctrines are of particular interest. First, to what degree are the criteria for the use of force, as laid down in these doctrines, consistent with the limitations for the use of force in international law? Second, which law-creating effects do these doctrines have? Furthermore, the legal nature of these doctrines remains uncertain. These matters are examined, beginning with the Monroe Doctrine of 1823 and taking into account the Stimson Doctrine of 1932, the doctrines of the Cold-War period and the Bush Doctrine of 2002. The Bush Doctrine in particular has generated controversies concerning its compatibility with Article 51 of the UN Charter, due to its principle of preventive self-defence.

Shirley Scott explains how the USA has benefited from continuity in its strategic engagement with international law.

This volume brings together experts and political actors from the United States and the USSR to assess the status of international law in the post-Cold War era with the intention of contributing ideas, judgements, and proposals tempered by experience. The topics covered range from terrorism to peaceful conflict resolution; from the renunciation of aggression to the right of self-defence; from chemical, biological, and nuclear weapons limitations to problems of verification; and from the military use of space to the right of political self-determination. Each chapter features contributions by both US and Soviet experts who have themselves participated in high-level policy making and international negotiations in the area (including, for example, the ABM, SALTI, SALTII, CFE, and START talks).

In 2000, the UN Security Council adopted the ground-breaking Resolution 1325 on Women, Peace and Security (WPS) placing women at the centre of the agenda, thanks to years of campaigning. The Resolution recognises the differential impact of armed conflict on women and men, draws attention to the 'inextricable links between gender equality and international peace and security' and stresses the 'important role of women in the prevention and resolution of conflicts and in peace-building'. But what exactly is the WPS agenda and what is its content? What are its implications for peace and for security? And what does it mean for international lawyers? Through the narratives of women's activism and of international law this book seeks to make the WPS agenda better known to international lawyers and to ask whether it is, or could become, an international legal regime that conforms and responds to the realities of women's lives. Published under the auspices of the School of International Studies, Jawaharlal Nehru University, New Delhi.

Human security provides one of the most important protections; a person-centred axis of freedom from fear, from want and to live with dignity. It is surprising given its centrality to the human experience, that its connection with human rights has not yet been explored in a truly systematic way. This important new book addresses that gap in the literature by analysing whether human security might provide the tools for an expansive and integrated interpretation of international human rights. The examination takes a two-part approach. Firstly, it evaluates convergences between human security and all human rights – civil, political, economic, social and cultural – and constructs an

investigative framework focused on the human security-human rights synergy. It then goes on to explore its practical application in the thematic cores of violence against women and undocumented migrants in the law and case-law of UN, European, Inter-American and African human rights bodies. It takes both a legal and interdisciplinary approach, recognising that human security and its relationship with human rights cuts across disciplinary boundaries. Innovative and rigorous, this is an important contribution to human rights scholarship.

D Types of war.

The world's freshwater supplies are increasingly threatened by rapidly increasing demand and the impacts of global climate change, but current approaches to transboundary water management are unsustainable and may threaten future global stability and international security. The absence of law in attempts to address this issue highlights the necessity for further understanding from the legal perspective. This book provides a fresh conceptualisation of water security, developing an operational methodology for identifying the four core elements of water security which must be addressed by international law: availability; access; adaptability; and ambit. The analysis of the legal framework of transboundary freshwater management based on this contemporary understanding of water security reveals the challenges and shortcomings of the current legal regime. In order to address these shortcomings, the present mindset of prevailing rigidity and state-centrism is challenged by examining how international legal instruments could be crafted to advance a more flexible and common approach towards transboundary water interaction. The concept of considering water security as a matter of 'regional common concern' is introduced to help international law play a more prominent role in addressing the challenges of global water insecurity. Ways for implementing such an approach are proposed and analysed by looking at international hydropolitics in Himalayan Asia. The book analyses transboundary water interaction as a 'case study' for advancing public international law in order to fulfil its responsibility of promoting international peace and security.

This book's primary concern is the application of International Humanitarian Law and International Human Rights Law in addressing the business conduct of Private Military and Security Companies (PMSCs) during armed conflicts, as well as state responsibility for human rights violations and current attempts at international regulation. The book discusses four interconnected themes. First, it differentiates private contractors from mercenaries, presenting an historical overview of private violence. Second, it situates PMSCs' employees under the legal status of civilian or combatant in accordance with the Third and Fourth Geneva Conventions of 1949. It then investigates the existing law on state responsibility and what sort of responsibility companies and their employees can face. Finally, the book explores current developments on regulation within the industry, on national, regional and international levels. These themes are connected by the argument that, in order to find gaps in the existing laws, it is necessary to establish what they are, what law is applicable and what further developments are needed.

Provides a comprehensive description of the system of Roman law, discussing slavery, property, contracts, delicts and succession. Also examines the ways in which Roman law influenced later legal systems such as the structure of European legal systems, tort law in the French civil code, differences between contract law in France and Germany, parameters of judicial reasoning, feudal law, and the interests of governments in

making and communicating law.

The spectre and fear of another terrorist attack looms large for most of the world's citizenry and for the domestic law agencies charged with protecting these citizens and countries. This book explores how various countries have dealt with or are dealing with homeland security in the aftermath of terrorist attacks such as 9/11, the underground tube attacks in London in 2005, the Madrid train bombing in Spain, and compares global approaches and lessons to the US and the world. This unique study looks at homeland security law and policy utilizing a comparative analysis methodology ideal for those interested in law and security.

Comparative Law of Security Interests and Title FinanceSecurity and International LawBloomsbury Publishing

Hilaire McCoubrey wrote extensively in the area of armed conflict law, and on the issues of collective security law and the law relating to arms control. Although he died at the early age of 46 in 2000 he had contributed significantly to the separate study of these areas, but also to the idea of studying the issues as a whole subject. The collection covers difficult and controversial issues in the area of conflict and security law. The contributors, drawn both from academe and practice, provide expert analysis of many aspects of the law governing armed conflict and collective security. As well as providing a fitting tribute to the main aspects of Hilaire's contribution to knowledge, the volume provides a coherent reconsideration and development of key aspects of conflict and security law at a time when that law is being applied, breached, debated or reformed on almost a daily basis.

Of the many challenges that society faces today, possibly none is more acute than the security of ordinary citizens when faced with a variety of natural or man-made disasters arising from climate and geological catastrophes, including the depletion of natural resources, environmental degradation, food shortages, terrorism, breaches of personal security and human security, or even the global economic crisis. States continue to be faced with a range of security issues arising from contested territorial spaces, military and maritime security and security threats relating to energy, infrastructure and the delivery of essential services. The theme of the book encompasses issues of human, political, military, socio-economic, environmental and energy security and raises two main questions. To what extent can international law address the types of natural and man-made security risks and challenges that threaten our livelihood, or very existence, in the twenty-first century? Where does international law fall short in meeting the problems that arise in different situations of insecurity and how should such shortcomings be addressed?

This text examines U.S. national security policy making through the lens of international law. The chapters consist of selected excerpts of primary readings to address the question of whether Congress and the President should conform their laws, policies, and actions to the dictates of international law regardless of the nature of the threat.

Excessive government secrecy in the name of counterterrorism has had a corrosive effect on democracy and the rule of law. In the United States, when controversial national security programs were run by the Bush and Obama administrations - including in areas of targeted killings, torture, extraordinary rendition, and surveillance - excessive secrecy often prevented discovery of those actions. Both administrations insisted they acted legally, but often refused to explain how they interpreted the governing law to justify their actions. They also fought to keep Congress from exercising oversight, to keep courts from questioning the legality of these programs, and to keep the public in the dark. Similar patterns have arisen in other democracies around the world. In National Security Secrecy, Sudha Setty takes a critical and comparative look at these problems and demonstrates how government transparency, privacy, and accountability should provide the basis for reform.

In recent years, China, the US, and the EU and its Member States have either promulgated new national laws and regulations or drastically revised existing ones to exert more rigorous government control over inward foreign direct investment (FDI). Such government control pertains to the establishment of an ex-ante review regime of FDI in the host state in sectors that are considered as ‘sensitive’ or ‘strategic’, with an aim to mitigate the security-related implications. This book conducts a systematic and up-to-date comparative study of the national security review regimes of China, the US, and the EU, using Germany as an exampling Member State. It answers a central research question of how domestic law should be formulated to adequately protect national security of the host state whilst posing minimum negative impacts to the free flow of cross-border investment. In addition to analyzing the latest development of the national security review regimes in aforementioned jurisdictions and identifying their commonalities and disparities, this book establishes a normative framework regarding the design of a national security review regime in general and proposes specific legislative recommendations to further clarify the law. This book will be of interest to scholars in the field of international and comparative investment law, investors who seek better compliance programs in the host state, and policymakers who aim for high-quality regulation on foreign investment.

This book discusses the main legal and economic challenges to the creation and enforcement of security rights in intellectual property and explores possible avenues of reform, such as more specific rules for security in IP rights and better coordination between intellectual property law and secured transactions law. In the context of business financing, intellectual property rights are still only reluctantly used as collateral, and on a small scale. If they are used at all, it is mostly done in the form of a floating charge or some other “all-asset” security right. The only sector in which security rights in intellectual property play a major role, at least in some jurisdictions, is the financing of movies. On the other hand, it is virtually undisputed that security rights in intellectual property could be economically valuable, or even crucial, for small and medium-sized enterprises – especially for start-ups, which are often very innovative and creative, but have limited access to corporate financing and must rely on capital markets (securitization, capital market). Therefore, they need to secure bank loans, yet lack their own traditional collateral, such as land.

These collected essays deal with the evolutions and immutabilities of international society and international law during the last 25 years, a period during which these fields of study have undergone many changes. The starting point is that far from operating at different levels or being in conflict, international law and politics are closely intertwined. The book addresses the many different aspects of international law: the role and concept of the State, and the position of States in the international system; the bases, principles and evolution of public international law; questions of international security that still govern international relations; classic and current systems of peace and security maintenance; the standing, role and actions of the UN Security Council; arms control and limitation of armaments; unilateral uses of armed force and the legality of war; and humanitarian law and international criminal justice. The perspective of these essays is not a theoretical or dogmatic vision of international law and politics; rather they are based upon the practices of States in the international arena, and the ways in which the guiding legal rules are elaborated and implemented. These texts have been selected from Professor Sur's various books and numerous articles on international law and relations.

This book analyses the exercise of authority by the UN Security Council and its subsidiary organs over individuals. The UN Security Council was created in 1945 as an outcome of World War II under the predominant assumption that it exercises its authority against states. Under this assumption, the UN Security Council and those individuals were ‘distanced’ by the presence of member

states that intermediate between the Security Council's international commands and those individuals that are subject to member states' domestic law. However, in practice, the UN Security Council's exercise of authority has incrementally removed the presence of state intermediaries and reduced the Security Council's distance to individuals. This book demonstrates that this phenomenon has increased the relevance of domestic law in developing the international normative frameworks governing the UN Security Council and its subsidiary organs in safeguarding the rights, obligations, and interests of those affected individuals. This book presents how the UN Security Council's exercise of authority has been received at the domestic level, and what would be the international implications of the Security Council's extensive encounter with the actors who primarily reside in a domestic legal order.

Counterterrorism and Investigative Detention explores the practice of investigative detention of terrorist suspects in the legal systems of the United States, the United Kingdom, and France. In addition to illuminating the characteristics, capabilities, and limitations of various investigative detention regimes, this book examines ways in which international law and national security imperatives have served as vectors for change and convergence in these otherwise divergent legal systems.

ÔThis is an important collection of scholarly essays that will illuminate positive legal developments and normative constitutionalist concerns in the expanding arena of secret government decisions. This book is indispensable reading for those concerned with constitutionalism, the rule of law and democracy as they bear on the tensions between secrecy and disclosure in government responses to terrorism.Õ Ð Vicki C. Jackson, Harvard University Law School, US ÔThis book contains the broadest and deepest analysis of the legal and policy issues that relate to secrecy and national security on one hand, and the imperatives of a functioning democracy on the other. The broadest because it brings to bear materials from many countries, the deepest because it brilliantly explores a core problem of constitutional government.Õ Ð Norman Dorsen, New York University, US and President, American Civil Liberties Union, 1976Ð1991 Virtually every nation has had to confront tensions between the rule-of-law demands for transparency and accountability and the need for confidentiality with respect to terrorism and national security. This book provides a global and comparative overview of the implications of governmental secrecy in a variety of contexts. Expert contributors from around the world discuss the dilemmas posed by the necessity for Ð and evils of Ð secrecy, and assess constitutional mechanisms for checking the abuse of secrecy by national and international institutions in the field of counter-terrorism. In recent years, nations have relied on secret evidence to detain suspected terrorists and freeze their assets, have barred lawsuits alleging human rights violations by invoking Ôstate secretsÕ, and have implemented secret surveillance and targeted killing programs. The book begins by addressing the issue of secrecy at the institutional level, examining the role of

courts and legislatures in regulating the use of secrecy claims by the executive branch of government. From there, the focus shifts to the three most vital areas of anti-terrorism law: preventive detention, criminal trials and administrative measures (notably, targeted economic sanctions). The contributors explore how assertions of secrecy and national security in each of these areas affect the functioning of the legal system and the application of procedural justice and fairness. Students, professors and researchers interested in constitutional law, international law, comparative law and issues of terrorism and security will find this an invaluable addition to the literature. Judges, lawyers and policymakers will also find much of use in this critical volume.

This book examines the different ways in which the laws governing the use of force and the conduct of warfare have become subject to intense scrutiny and contestation since the initiation of the war on terror. Since the end of the Cold War, the nature of security challenges has changed radically and this change has been recognised by the UN, governments and academics around the world. The 911 attacks and the subsequent launch of the 'war on terror' added a new dimension to this debate on the nature and utility of international law due to the demands from some quarters for a change in the laws governing self-defence and humanitarian intervention. This book analyses the nature of these debates and focuses on key issues that have led to the unprecedented contemporary questioning of both the utility and composition of international law on the use of force as well as the practicability of using force, including handling of ‘prisoners’ and ‘security risks’. It also identifies the sources of division and addresses the capacities of security policy and international law to adapt to the changed international environment. This book will of much interest to students of international law, war and conflict studies, and IR and Security Studies in general.

In International Law and Changing Perceptions of Security the contributors debate how changing concepts and conceptions of security have affected fields such as the use of force, law of the sea, human rights, international environmental law and international humanitarian law.

This volume covers the essentials of security interests and title finance with a very practical slant, providing the reader with a comparative overview of law and practice in the key jurisdictions of the world. Reviews security interests in nearly all jurisdictions worldwide.

This book explores the scope and limits of what is appropriate for regional action in the maintenance of peace and security. It offers a comparative study of legal regulation of the use of force in the maintenance of peace and security of different security regions in the context of the UN system and general international law. The book examines the post-Cold War legal documents and practice of the regional organizations of six security regions of the world (Africa, Asia, the Americas, the Middle East, the Russian sphere of influence and the Euro-Atlantic region), and in doing so offers a unique international and

comparative perspective towards regional characteristics that may influence the possibility for coherent action in a UN context. Dace Winther explores the controversial topics of regional humanitarian intervention and robust regional peacekeeping without a UN mandate, what is regarded as appropriate for regional action in different security regions of the world, and if the approaches of the regions differ, what factors could have an influence. The book is highly relevant in a global climate where regional mechanisms take an ever more active part in the maintenance of international peace and security, including the use of force. The book will be of great interest to students and academics of International Law, International Relations and Security Studies.

A comprehensive analysis of the international law applicable to cyber operations, including a systematic study of attribution, lawfulness and remedies.

An analysis of the role of the interplay between formality and informality in shaping the current state of international law.

This book is a study of the future of international law as well as the future of the United Nations. It is the first study ever bringing together the laws, policies and practices of the UN for the protection of the earth, the oceans, outer space, human rights, victims of armed conflicts and of humanitarian emergencies, the poor, the vulnerable and the disadvantaged world-wide. It reviews unprecedented dangers and challenges facing humanity such as climate change and weapons of mass destruction, and argues that the international law of the future must become an international law of security and of protection. It submits that the concept of international security in the UN Charter can no longer be restricted to situations of armed conflict but must be given its natural meaning: whatever threatens the security of humanity. It calls for the Security Council to perform its role as the guardian of the security of humankind and sees a leadership role for the UN Secretary-General in analysing and presenting challenges of international security and protection to the Security Council for its attention.

Based on author's thesis (doctoral - Erasmus Universiteit Rotterdam, 2018) issued under title: National security review regimes of foreign investment: a comparative study in China, the US and the EU.

The book shows that self-help in commercial law is a fast, inexpensive and efficient alternative to court enforcement. Self-help remedies and private debt collection are largely but not exclusively features of common law jurisdictions, since remnants of private enforcement can still be found in contract law in civilian systems. The book argues that – despite their usefulness – self-help and private debt collection entail significant risks, especially for consumer debtors. This means that private enforcement needs to be accompanied by the introduction of tailor-made consumer-debtor protection regulation. Specific attention is given to factoring, which functions in many instances as a form of pseudo-private debt collection and which has been exploited to bypass sector-specific consumer protection regulations.

On a global scale, the central tool for responding to complex security challenges is public international law. This handbook provides a comprehensive and systematic overview of the relationship between international law and global security.

The spread of violent extremism, 9/11, the rise of ISIL and movement of 'foreign terrorist fighters' are dramatically expanding the powers of the UN Security Council to

govern risky cross-border flows and threats by non-state actors. New security measures and data infrastructures are being built that threaten to erode human rights and transform the world order in far-reaching ways. The Law of the List is an interdisciplinary study of global security law in motion. It follows the ISIL and Al-Qaida sanctions list, created by the UN Security Council to counter global terrorism, to different sites around the world mapping its effects as an assemblage. Drawing on interviews with Council officials, diplomats, security experts, judges, secret diplomatic cables and the author's experiences as a lawyer representing listed people, The Law of the List shows how governing through the list is reconfiguring global security, international law and the powers of international organisations.