

Limitations Of National Sovereignty Through European Integration Ius Gentium Comparative Perspectives On Law And Justice

Addresses central monetary law and policy debates, especially the links between international investment law and trade regulation within the WTO.

• This book offers a multidisciplinary approach to the study of the concept of sovereignty. • This book outlines the origins, context and evolution of the concept of sovereignty as an essential attribute of the modern territorial State since the Peace of Westphalia in 1648. • The book identifies two competing traditions of the concept of sovereignty; the tradition inaugurated by Jean Bodin in 1576 in his work “The Six Books of the Commonwealth” and another that started with Johannes Althusius in 1603, considered the ‘father’ of federal theory, in his less known work “Politica”. • In order to understand the concept of sovereignty, it is necessary to understand the ‘constitutional rules’ of each international system and the fact that the States are the primary polities in the international arena. • The rise of International Organizations and the increasing ‘institutionalization’ of the international system challenges this state-centric world, considering their exercise of sovereign powers. • Following authors such as Daniel Elazar, the book discusses the importance of federalism as political theory, which offers a different understanding of the concept of sovereignty. • The book discusses the European Union as a paradigmatic case of a ‘postmodern confederation’, which challenges the notion of sovereignty as an absolute and exclusive statehood attribute. • Furthermore, the reconceptualization of sovereignty in International Law should consider the rise of regional and functional legal orders, the different understandings of sovereignty offered by the federalist tradition and the processes of ‘deterritorialization’ and disaggregation of authority. • The book concludes with the idea that concept of sovereignty in International Law should be seen as a flexible concept which is not an exclusive attribute of the modern territorial state. This book is required reading for all interested in the history and the evolution of the concept of sovereignty.

This book investigates the multifaceted conflicts of sovereignty in the recent crises in the European Union. Although the notion of sovereignty has been central in the contentious debates triggered by the recent crises in the European Union, it remains strikingly under-researched in political science. This book bridges this gap by providing both theoretical reflections and empirical analyses of today’s conflicts of sovereignty in the EU. More particularly, it investigates conflicts between four types of sovereignty. First, national sovereignty referring to the autonomy of the Westphalian Nation-State to rule on a territory delimited by borders; second, the supranational sovereignty acquired by the EU in a fragmentary fashion in a number of scattered internal and external policy fields; third, parliamentary sovereignty understood as the autonomy of parliaments (at the regional, national and European levels) to take part in the decision making process and control the executive in the name of the principles of election and representation; fourth, popular sovereignty whereby the body politic confers legitimacy to decision makers in a democratic system. Through an analysis of the various crises (rule of law, Brexit, migration, Eurozone crisis), the chapters look at how sovereignty is framed and contested by different types of actors, and how the strengthening or the weakening of certain types of sovereignty contribute to shape preferences regarding policies and governance structures in the multi-level EU. The chapters in this book were originally published as a special issue of the Journal of European Integration.

Limitations of National Sovereignty through European Integration Springer

This open access book can be downloaded from link.springer.com Legal studies and consequently legal history focus on constitutional documents, believing in a nominalist autonomy of constitutional semantics. Reconsidering Constitutional Formation in the late 18th and 19th century, kept historic constitutions from being simply log-books for political experts through a functional approach to the interdependencies between constitution and public discourse. Sovereignty had to be ‘believed’ by the subjects and the political élites. Such a communicative orientation of constitutional processes became palpable in the ‘religious’ affinities of the constitutional preambles. They were held as ‘creeds’ of a new order, not only due to their occasional recourse to divine authority, but rather due to the claim for eternal validity contexts of constitutional guarantees. The communication dependency of constitutions was of less concern in terms of the preamble than the constituents’ big worries about government organisation. Their indecisiveness between monarchical and popular sovereignty was established through the discrediting of the Republic in the Jacobean reign of terror and the ‘renaissance’ of the monarchy in the military resistance against the French revolutionary and later Napoleonic campaigns. The constitutional formation as a legal act of constituting could therefore defend the monarchy from the threat of the people (Albertine Statute 1848), could be a legal decision of a national constituent assembly (Belgian Constitution 1831), could borrow from the old liberties (Polish May Constitution 1791) or try to remain in between by referring to the Nation as sovereign (French September Constitution 1791, Cádiz Constitution 1812). Common to all contexts is the use of national sovereignty as a legal starting point. The consequent differentiation between constituent and constituted power manages to justify the self-commitment of political power in legal terms. National sovereignty is the synonym for the juridification of sovereignty by means of the constitution. The novelty of the constitutions of the late 18th and 19th century is the normativity, the positivity of the constitutional law as one unified law, to be the measure for the legality of all other law. Therefore ReConFort will continue with the precedence of constitution. (www.reconfort.eu)

This work investigates the problem of how constitutionality and the internationally increasingly accepted global principles of human rights can influence state action, which is still considered sovereign. International human rights regulations are of pre-eminence in this context since they are virtually, by definition, based on limitations of national

constitutional law, in order to assert internationally shared constitutional principles. The evolution of international human rights - triggered by the Holocaust trauma - was the first serious challenge pertaining to any kind of domestic action within the sovereignty of states. This new type of global morality that manifests itself in international relations largely owes itself to the emergence of the notion that certain states bear responsibility for the horrors of World War II. The first part will review the resultant limitation of sovereignty in the context of the creation, amendment, and interpretation of national constitutions, seeking to answer the questions of how far the process of internationalization of (national) constitutional law has progressed. The second part will address the constitutionalization of the small segment of international law that manifest itself in the assertion of international human rights standards in the case law of national courts.

Adopting a multi-disciplinary approach, this book opens new ground for research on territorial disputes. Many sovereignty conflicts remain unresolved around the world. Current solutions in law, political science and international relations generally prove problematic to at least one of the agents part of these differences. Arguing that disputes are complex, multi-layered and multi-faceted, this book brings together a global, inter-disciplinary view of territorial disputes. The book reviews the key conceptual elements central to legal and political sciences with regards to territorial disputes: state, sovereignty and self-determination. Looking at some of the current long-standing disputes worldwide, it compares and contrasts the many issues at stake and the potential remedies currently available in order to assess why some territorial disputes remain unresolved. Finally, it offers a set of guidelines for dispute settlement and conflict resolution that current remedies fail to provide. It will appeal to students and scholars working in international relations, legal theory and jurisprudence, public international law and political sciences. State sovereignty is the foundation of international relations. This thought-provoking book explores the gap between seeing sovereignty as either absolute or relative. It argues that state sovereignty is both factual and judicial and that the 'loss' of sovereignty exists only at the margins of the international society. With many interesting real-world examples of ambiguous sovereignty examined, this is an important argument against those who are quick to claim that 'sovereignty' is under assault.

The Improvised State provides a highly developed account of the nature and outcomes of Bosnian state practices since the Dayton Peace Agreement. Jeffrey presents new and significant theories, based on extensive fieldwork in Bosnia, which advance understanding of state building. Provides a major contribution to recent academic debates as to the nature of the state after violent conflict, and offers invaluable insights into state building Introduces the idea of state improvisation, where improvisation refers to a process of both performance and resourcefulness Uses the theoretical framework of Pierre Bourdieu to explore how powerful agencies have attempted to present a coherent vision of Bosnia and Herzegovina following the conflict 1992-5 Advances our understanding of the Bosnian state by focusing on the practices of statecraft fostered in the post-Dayton era Research based on four periods of residential fieldwork in Bosnia, which allowed a detailed analysis of political practices in the country

Essay from the year 2017 in the subject Politics - International Politics - Topic: Public International Law and Human Rights, grade: 1.0, University of Erfurt (Willy Brandt School of Public Policy), course: State Sovereignty and Practice, language: English, abstract: The ability of States to be independent and have autonomy and supreme control over their internal affairs subject to limitations of public international law is known as state sovereignty. All States have exclusive jurisdiction to administer and control matters within their borders. The territory of a State is not only limited to the land but includes, airspace, territorial sea, exclusive economic zones and the continental shelf for coastal States. No state or international organ may interfere in issues that are within the jurisdiction of another state. State sovereignty encompasses a lot of dimensions within a country, one of them being sovereignty over natural resources. Sovereignty over natural resources is a complex and powerful organising principle in world politics which emerged in the post-1945 period and has been affirmed in various international legal instruments. Due to its complexity, the permanent sovereignty principle has not however risen to *jus cogens* status in international law.

This book provides a complete documentary history of the idea of sovereignty from Classical theory to the global age. The historical examination of sovereignty leads the author to conclude that the recent transformation of the principle of sovereignty can be understood in the context of 'new international constitutionalism'.

Bringing together interconnected discussions to make explicit the complexity of the Arctic region, this book offers a legal discussion of the ongoing territorial disputes and challenges in order to frame their impact into the viability of different governance strategies that are available at the national, regional and international level. One of the intrinsic features of the region is the difficulty in the determination of boundaries, responsibilities and interests. Against this background, sovereignty issues are intertwined with environmental and geopolitical issues that ultimately affect global strategic balances and international trade and, at the same time, influence national approaches to basic rights and organizational schemes regarding the protection of indigenous peoples and inhabitants of the region. This perspective lays the ground for further discussion, revolving around the main clusters of governance (focusing on the Arctic Council and the European Union, with the particular roles and interest of Arctic and non-Arctic states, and the impact on indigenous populations), environment (including the relevance of national regulatory schemes, and the intertwinement with concerns related to energy, or migration), strategy (concentrating in geopolitical realities and challenges analysed from different perspectives and focusing on different actors, and covering security and climate change related challenges). This collection provides an avenue for parallel and converging research of complex realities from different disciplines, through the expertise of scholars from different latitudes.

Many theoretical explanations had been offered for the rise of the European Community, but none had used historical analysis to draw out the deeper significance of the events that surrounded Maastricht. However, in this book, first published in 1993, the authors explored the process of European integration, and its future, drawing on extensive empirical research into the national archives of the member states. The authors brought their findings together in this consistently argued book to provide a new and coherent theory of European integration, which threw a fresh light on unexplored aspects of EC policy. The debate over the Treaty of Maastricht shows how ill-understood are the issues involved, and this book is intended to improve that understanding. It is essential reading to students of history, international relations and political science.

The book considers the changes which national sovereignty has undergone through the supranational European integration. In various contributions by renowned academics and high judges demonstrate the serious impacts of supranationality on the EU member states and even on third countries which are connected with the EU by international treaties. It becomes clear that

primacy of EU law, the most significant expression of supra-nationality, collides with national sovereignty as anchored in the national constitutions. The studies clearly show that most member states do not fully deny EU law primacy but are aware of the need to find an adequate balance between the supranational and the national orders. The result from the analyses of the authors from various European countries is that the upcoming constitutional paradigm is “constitutional identity”, a concept established by jurisprudence in Germany, France, Czech Republic (without being named so) and debated also in Poland which, herself, denies supranational impact on the national Constitution entirely. Studies on selected EU member states clarify the specific national approaches towards the limitations of their sovereignty as developed by the constitutional jurisprudence (Poland, Czech Republic, Hungary, Romania, Italy, Germany with comparative references to United Kingdom and France). It is illuminated that traditionally strong sovereignty concepts (UK, France) are considerably relativized and functionally opened towards the integration challenges. Basic issues are furthermore reflected, such as the supranational impact on the State’s power to reform its Constitution, the relation of national and constitutional identity and the national and supranational perspectives of identity. The book also includes Europe beyond the EU by research on the supranational character of association treaties (from a Ukrainian perspective) and on the Europeanization of a third country preparing EU membership (Albania).

This volume brings together a collection of classic and contemporary texts which engage with the core problem of sovereignty from the perspective of various legal and law-related sub-disciplines: legal history and theory, constitutional law, international law and relations and EU law. Many of the highlights from the intense debates about the continuing relevance or otherwise of the internal sovereignty of national legal orders and the external sovereignty of states in a rapidly- globalizing world are reproduced here.c

Sovereignty in Transition brings together a group of leading scholars from law and cognate disciplines to assess contemporary developments in the framework of ideas and the variety of institutional forms associated with the concept of sovereignty. Sovereignty has been described as the main organising concept of the international society of states - one which is traditionally central to the discipline and practice of both constitutional law and of international law. The volume asks to what extent, and with what implications, this centrality is challenged by contemporary developments that shift authority away from the state to new sub-state, supra-state and non-state forms. A particular focus of attention is the European Union, and the relationship between the sovereignty traditions of various member states on the one hand and the new claims to authority made on behalf of the European Union itself on the other are examined. The collection also includes contributions from international law, legal philosophy, legal history, political theory, political science, international relations and theology that seek to examine the state of the sovereignty debate in these disciplines in ways that throw light on the focal constitutional debate in the European Union.

The concept of state sovereignty is increasingly challenged by a proliferation of international economic instruments and major international economic institutions. States from both the south and north are re-examining and debating the extent to which they should cede control over their economic and social policies to achieve global economic efficiency in an interdependent world. International lawyers are seriously rethinking the subject of state sovereignty, in relation to the operation of the main international economic institutions, namely the WTO, the World Bank and the International Monetary Fund (IMF). The contributions in this volume, bringing together leading scholars from the developed and developing worlds, take up the challenge of debating the meaning of sovereignty and the impact of international economic law on state sovereignty. The first part looks at the issues from the perspectives of general international law, international economic law and legal theory. Part two discusses the impact of trade liberalisation on the sovereignty of both industrialised and developing states and Part three concentrates on the challenge to state sovereignty created by the proliferation of investment treaties and the significant recent growth of investment treaty based arbitration cases. Part four focuses on the domestic and international effects of international financial intermediaries and markets. Part five explores the tensions and intersections between the international regulation of trade and investment, international human rights and state sovereignty

This textbook represents the outcome of a cooperative process between an international group of well-known experts in the area of Polar law and related studies. Polar Law Textbook II further draws upon Polar law as an evolving and developing field of studies which is gaining increasing recognition and intersects with many other areas in the social sciences and humanities. It explores a variety of legal issues in the Arctic and Antarctica (i.e., questions of human rights law, environmental law, law of the sea, continental shelf, climate change, energy law, resources, indigenous peoples' rights, etc.) but also covers the relevant aspects of geopolitics, security, governance, search and rescue, biodiversity, devolution, institutions (e.g., the Arctic Council) and political developments.

Previous edition, 1st, published in 2001.

Considering that natural resources or green capital are the drivers of globalisation, this book focuses on the link between investment, trade and natural resource management in the context of the growing economic inequalities between states.

Why, just two decades after international celebrations of the fall of the Berlin Wall, are so many nation-states building elaborate walls at or near their borders? Why walls now, given growing global connectedness and given the general imperviousness of late modern powers — from capital to religion to terror — to physical blockading? How do walls shore up an imago of sovereign statehood and to what extent do they fortify reactionary national imaginaries? What do the new walls perform symbolically, materially, psychically? In *Walled States, Waning Sovereignty*, Wendy Brown reflects on the proliferation of nation-state walls in a time of eroded nation-state sovereignty and intensifying transnational powers unleashed by globalization. A leading theorist of neoliberalism, Brown argues that although the new walls may demarcate existent or aspirational nation-state boundaries, they do not arise as fortresses against invading national armies or even as articulations of sovereign statehood. Rather, in a post-Westphalian context of increasing nonstate transnational actors and powers, the new walls consecrate the very boundary corruption they would contest as well as signify the contemporary limitations of national and global governance by law or political dictate. Even as walls theatrically display nation-state sovereignty, they index with equal force the decline of sovereign state power. In a rare combination of powerful theory and precise historical, political, and economic analysis, *Walled States, Waning Sovereignty* provides a new — indeed the first — account of nation-

state walling as a distinctive contemporary phenomenon. For Brown, the frenzy of wall building today reveals crucial predicaments of political power and desire emerging from the waning of sovereignty, including new political legitimacy deficits, new citizen anxieties, and new fusions of state and non-state violence.

This paper reviews the debate on the longer-term requirements for safeguarding the euro as a currency beyond the state that is anchored through collective governance instead of a central government. The strengthening of EU economic and financial governance in the wake of the euro area crisis goes a long way towards creating the minimum conditions for a more perfect EMU. At the same time, the current principle of nation states coordinating their sovereignty to 'do whatever is required' to stabilise the euro area as a whole rather than sharing their sovereignty in common institutions to achieve this common objective has its limitations. Challenges in this context relate inter alia to the effectiveness of market discipline and reinforced economic policy surveillance, the requirement of a truly single financial system, the demand for eurobonds and a euro area fiscal capacity, and the transnational democracy that should legitimate EMU decision-making based on common values. To safeguard the euro as a currency beyond the state, euro area countries should consider pooling their national sovereignty over a wider range of EMU-related policy areas, as necessary to achieve more effective risk control and more efficient risk sharing.

Many conflicts throughout the world can be characterized as sovereignty conflicts in which two states claim exclusive sovereign rights for different reasons over the same piece of land. It is increasingly clear that the available remedies have been less than successful in many of these cases, and that a peaceful and definitive solution is needed. This book proposes a fair and just way of dealing with certain sovereignty conflicts. Drawing on the work of John Rawls in *A Theory of Justice*, this book considers how distributive justice theories can be in tune with the concept of sovereignty and explores the possibility of a solution for sovereignty conflicts based on Rawlsian methodology. Jorge E. Núñez explores a solution of egalitarian shared sovereignty, evaluating what sorts of institutions and arrangements could, and would, best realize shared sovereignty, and how it might be applied to territory, population, government, and law.

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Is it true that the forces of technology and interdependence have undermined the sovereignty of modern states? This book argues powerfully that the opposite is true: that over the past quarter century the major industrial states - the US, Britain, France, Germany and Japan - have mostly used these forces, often in novel ways, to pursue national purposes. The nation-state framework has, over that period, remained the basis of legitimate political authority and law. There has been a huge increase in the scope, incidence and detail of state regulation to manage, among other things, both the domestic economy and the effects of transnational flows. International management almost invariably depends upon state consent. The power of the state has never, anywhere, been absolute and its methods of management have always been changeable. But there is no evidence that its managerial effectiveness has, overall, been less in 1995 than in 1975 or 1965. This book therefore takes strong issue with much of the literature on interdependence and international organisation which has appeared in recent times. It is especially useful for those trying to understand the larger framework within which business must operate or the sources of authority for anyone's plan to manage problems of financial or population flows, of transnational conservation problems or of trade. The book will also be of particular use in graduate and senior undergraduate courses in international relations or organisation.

A fresh look at the bridges and boundaries between foreign relations law and public international law.

This volume aims to question, challenge, supplement, and revise current understandings of the relationship between aesthetic and political operations. The authors transcend disciplinary boundaries and nurture a wide-ranging sensibility about art and sovereignty, two highly complex and interwoven dimensions of human experience that have rarely been explored by scholars in one conceptual space. Several chapters consider the intertwining of modern philosophical currents and modernist artistic forms, in particular those revealing formal abstraction, stylistic experimentation, self-conscious expression, and resistance to traditional definitions of "Art." Other chapters deal with currents that emerged as facets of art became increasingly commercialized, merging with industrial design and popular entertainment industries. Some contributors address Post-Modernist art and theory, highlighting power relations and providing sceptical, critical commentary on repercussions of colonialism and notions of universal truths rooted in Western ideals. By

interfering with established dichotomies and unsettling stable debates related to art and sovereignty, all contributors frame new perspectives on the co-constitution of artworks and practices of sovereignty.

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