



KAJ HOBÉR

EXTINCTIVE PRESCRIPTION AND  
APPLICABLE LAW  
IN INTERSTATE ARBITRATION

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# Extinctive Prescription And Applicable Law In Interstate Arbitration

**Anna-Karin Lindblom**



## **Extinctive Prescription And Applicable Law In Interstate Arbitration:**

*Extinctive Prescription and Applicable Law in Interstate Arbitration* Kaj Hobér, 2001      **Law and Practice of Investment Treaties** Andrew Paul Newcombe, Lluís Paradell, 2009-01-01 The book focuses on the substantive protections accorded to investors and investments and on the variations among jurisdictions Among the many specific issues and topics that arise in the course of the discussion are the following problems of transparency and conflict of interest the recent growth in IIAs between and among developing nations the effect of new model bilateral investment treaties BITs the ability of non disputing parties to participate in investor state arbitration theories of the interaction of foreign direct investment FDI and BITs investor state arbitration as an evasion of public regulatory authority the role of investment funds in international investment fork in the road provisions and institutional versus ad hoc arbitration International business and other investors will greatly appreciate the in depth information and insightful guidance in this solidly useful book It will also be welcomed by jurists and students as a significant milestone in the development of principles in a quickly growing field of practice that is still plagued with inconsistencies      *Arbitration Law of Sweden* Lars Heuman, 2003-02-01 This book is a practical and scholarly work on the new Swedish Arbitration Act of 1999 It deals with international arbitration and enforcement of foreign arbitral awards in Sweden Arbitration Law of Sweden is based on a comprehensive analysis of earlier Swedish court practice that is still relevant Issues are investigated from both the arbitrator s and the counsel s perspectives and important tactical issues are discussed The book is indispensable for arbitrators and party representatives who are engaged in Swedish arbitrations      **State-to-state Arbitration based on International Investment Agreements** Angshuman Hazarika, 2020-09-14 This book discusses the use of the compromissory clause in international investment agreements IIAs for interstate dispute resolution It puts forward the possibility of using state to state arbitration based on the compromissory clause in IIAs as an alternative means of resolving investment disputes in light of the global debate on the shortcomings of investor state arbitration The book s main conclusion is that state to state arbitration may be used as an alternative to currently popular investor state arbitration by resolving procedural hurdles which impede its acceptance It becomes more important with the removal of investor state arbitration as an option in certain recent IIAs which then elevates state to state arbitration as the sole option for binding third party dispute resolution in the treaty Even then it is unlikely to replace investor state arbitration completely due to its inherent shortcomings such as the risk of re politicising disputes and a lack of direct control over the process for the affected investors Nevertheless the availability of an alternative forum will benefit all parties involved as they will no longer be wholly dependent on investor state arbitration which can be affected by events such as denunciation from the ICSID Convention or the refusal of a host state to enforce an arbitration award      The Peaceful Settlement of Inter-State Cyber Disputes Nicholas Tsagourias, Russell Buchan, Daniel Franchini, 2024-11-14 With cyberspace becoming a domain of inter state conflict and confrontation this book is one of the first studies of the ways in which

international law can facilitate the peaceful settlement of inter state cyber disputes By employing theoretical and practical inquiries and analysis the book examines the legal parameters of cyber dispute settlement explores critical questions about the role of dispute settlement institutions and methods and identifies and addresses related challenges The book begins by considering the legal definition of a cyber dispute and the scope of the good faith obligation of states in settling their cyber disputes peacefully It then examines the role of certain institutions International Court of Justice national courts the EU the Security Council and methods judicial diplomatic countermeasures arbitration conciliation fact finding in the settlement of cyber disputes It also discusses how data disputes can be settled and whether new and specialised mechanisms are needed The book provides scholars practitioners and law students with immediate knowledge and understanding of the role of international law in the peaceful settlement of cyber disputes as well as how international dispute settlement as a discipline and practice can apply to this new field

The Law of International Responsibility James Crawford,Alain Pellet,Simon Olleson,Dr Kate Parlett,2010-05-20 The law of international responsibility is one of international law s core foundational topics Written by international experts this book provides an overview of the modern law of international responsibility both as it applies to states and to international organizations with a focus on the ILC s work

**The Swedish Arbitration Act of 1999 Five Years on** Lars Heuman,Sigvard Jarvin,2006-04-01 In 2004 Sweden s Arbitration Act of 1999 was five years old Inspired by UNCITRAL s Model Law while perpetuating features of the 1929 Act it introduced many new concepts such as establishing rules to determine the law applicable to the agreement to arbitrate authorizing the arbitrators to decide the existence of facts and to fill gaps in contracts making competition law issues arbitrable affording the respondent the right to have the dispute resolved if the claimant withdraws its claim authorizing truncated tribunals where an arbitrator obstructs the work of the tribunal The new Act further gives arbitrators power to decide interim measures of protection and accepts that foreign parties waive in advance the possibility to set aside the arbitral award In order to learn about the experience of Swedish and foreign practitioners arbitrators and judges during the five years since the Act was adopted the Stockholm Arbitration Report and the Institute of Arbitration Law at the University of Stockholm organized a symposium on 7 and 8 October 2004 The symposium was arranged in co operation with the Arbitration Institute of the Stockholm Chamber of Commerce SCC the China International Economic and Trade Arbitration Commission CIETAC the Hong Kong International Arbitration Centre HKIAC the ICC International Court of Arbitration the International Centre for Dispute Resolution ICDR the International Commercial Arbitration Court at the CCI of the Russian Federation JAMS the London Court of International Arbitration LCIA Revue de larbitrage the Swedish Bar Association and UNCITRAL This book contains the papers presented to the six working sessions and the full discussions that took place

**Brownlie's Principles of Public International Law**

James Crawford,Ian Brownlie,2019 Serving as a single volume introduction to the field as a whole this ninth edition of Brownlie s Principles of International Law seeks to present international law as a system that is based on and helps structure

relations among states and other entities at the international level      **International Arbitration in the Energy Sector**

Maxi Scherer, 2018-02-22 Disputes in the energy and natural resources sector are at the heart of international arbitration. With more arbitrations arising in the international energy sector than in any other sector, it is not surprising that the highest valued awards in the history of arbitration come from energy related arbitrations. Energy disputes often involve complex and controversial issues relating to security, sovereignty and public welfare. International Arbitration in the Energy Sector puts international energy disputes into a global context, providing broad coverage of different forms and systems of dispute resolution across both renewable and non-renewable sectors. With contributions from leading arbitrators, academics and industry experts from across the globe, the twenty chapters in the book enable readers to compare the approaches to and learnings from energy arbitrations across various legal systems and geographic regions. After outlining the international energy arbitration legal framework in Part I, the text delves into a detailed analysis of the problems which regularly arise in practice. These include, among other things, commercial disputes in Part II e.g. over the upstream oil sector and long term gas supply contracts; investor state disputes in Part III e.g. under the Energy Charter Treaty; and public international law disputes in Part IV e.g. concerning international boundaries and the distribution of natural resources. Alongside recent developments in the international energy sector, attention is given to climate and sustainable development disputes which raise important questions about enforcing sustainability objectives on individuals, corporations and states. Backed by analyses of arbitral awards, national court and international tribunal decisions, treaties and other international legal instruments, as well as current events and news in the energy industry, this text offers a unique contribution to international energy literature and provides insightful commentary on the prevalent issues in the field. It is essential reading for any practitioner or researcher in the energy and natural resources sector.      **The Case for Repatriating China's Cultural Objects** Zuo Zhen Liu, 2016-02-25

This book investigates China's demands for the repatriation of Chinese cultural relics lost during the country's modern history. It addresses two main research questions: Can the original owners or their rightful successors of cultural objects looted, stolen or illicitly exported before the adoption of the 1954 Hague Convention and the 1970 UNESCO Convention reclaim their cultural objects pursuant to remedies provided by international or national law? And what are the philosophical, ethical and cultural considerations of identity underlying the international conventions protecting cultural objects and claims made for repatriating them? The first part of the book explores current positive legal regimes, while the second part focuses on the philosophical, ethical and cultural considerations regarding repatriation of cultural objects. Consisting of seven chapters and an introduction, it outlines the loss of Chinese cultural relics in modern history and the normative framework for the protection of cultural heritage. It presents case studies designed to assess the possibility of seeking legal remedies for restitution under contemporary legal regimes and examines the cultural and ethical issues underpinning the international conventions protecting cultural heritage and claims for the repatriation of cultural heritage. It also discusses issues of cultural

identity the right to cultural identity and heritage multiculturalism the politics of recognition cosmopolitanism the right to cultural heritage and other related issues The concluding chapter answers the two research questions and offers suggestions for future research

**Good Faith in International Law** Robert Kolb, 2017-07-13 There is a great degree of controversy on the proper complexion and role of general principles of law in the international legal order Opinions range from total rejection of some types of principles to the most enthusiastic endorsement of principles as the necessary oil for the many complex wheels of the legal order In this book one of the leading public lawyers of his generation explores the concept of good faith and its role in international law Rather than offer a detailed comprehensive examination Kolb aims to map the true points of gravity of the principle of good faith in the international legal order In so doing he illustrates how the various legal institutions who operate in the sphere of public international law allow the principle of good faith to unfold

**Non-Governmental Organisations in International Law** Anna-Karin Lindblom, 2005 Even when governments have no democratic basis they are regarded as the sole representatives of their populations on the international plane and take important decisions on their behalf It is therefore important that other voices can be heard in international fora alongside governments NGOs have an increasingly important legal and political role and use several different avenues for their work such as lodging cases before international courts and other bodies and participating in international meetings and conferences This book explores these possibilities for the participation of NGOs in international law

The Parthenon Marbles and International Law Catharine Titi, 2023-05-24 The Parthenon marbles case is the most famous international cultural heritage dispute concerning repatriation of looted antiquities the Parthenon marbles in the British Museum's Elgin Collection The case has polarised observers ever since Elgin had the marbles hacked out of the ancient temple at the turn of the 19th century in Ottoman occupied Athens In 1816 a debt stricken Elgin sold the marbles to the British government which subsequently entrusted them to the British Museum where they have remained since then Much ink has been spilled on the Parthenon marbles The ethical and cultural merits of their repatriation have been fiercely debated for years But what has generally not been considered are the legal merits of their return in light of contemporary international law This book is the first in legal scholarship to provide an international law perspective of the cause célèbre of international cultural heritage disputes and in doing so to clarify the new customary international law on the return of cultural property unlawfully removed from its original context The book which includes a foreword by Andrew Wallace Hadrill is a unique reference work on the legal case for the return of the Parthenon marbles and the new normative framework for the protection of cultural heritage

Transnational Terrorism and State Accountability Vincent-Joël Proulx, 2012-11-05 Every State has an obligation to prevent terrorist attacks emanating from its territory This proposition stems from various multilateral agreements and UN Security Council resolutions This study exhaustively addresses the scope of this obligation of prevention and the legal consequences flowing from its violation so as to provide greater clarity on governments counterterrorism duties and to

enhance State accountability for preventable wrongs It defines the contents and contours of the obligation while placing critical emphasis on the mechanics of State responsibility Whether obscured by new technologies like the Internet the sophisticated cellular structure of some terrorist organisations or convoluted political realities the level of governmental involvement in terrorist activities is no longer readily discernible in every instance Furthermore the prospect of governments waging surrogate warfare through proxies also poses intractable challenges to the mechanism of attribution in the context of State responsibility This monograph sets out the shortcomings of the extant scheme of State responsibility while identifying a paradigm shift towards more indirect modes of accountability under international law a trend corroborated by recent State and institutional practice Drawing on varied legal and theoretical influences the study devises and prescriptively argues for the implementation of a strict liability inspired model grounded in the logic of indirect responsibility with a view to enhancing State compliance with counterterrorism obligations This shifts the policy focus squarely to prevention while promoting multilateralism and transnational cooperation Ultimately the legal and policy sensibilities underlying the book converge into a new theory of prevention in counterterrorism contexts From the Foreword by Judge Bruno Simma International Court of Justice Even if one might disagree with the bases on which the author constructs his argument the execution of the argument is solid and thorough The coverage of the major policy arguments and the available legal source materials is equally impressive Moreover the author's positions are genuinely progressive and present a fairly innovative solution in the form of a strict liability mechanism It behoves all scholars and practitioners of international law with an interest in combating international terrorism to consider the proposals outlined in this book

Transnational Terrorism and State Accountability by Vincent Jol Proulx has been awarded the 2014 Myres McDougal Prize for best book in Law Science and Policy from the Society of Policy Scientists *Nordic Journal of International Law*, 2002

**Pleadings, Minutes of Public Sitzings and Documents / Mémoires, procès-verbaux des audiences publiques et documents, Volume 25 (2016)** Intl. Tribunal for the Law of the Sea, 2018-08-27 This volume of Pleadings Minutes of Public Sitzings and Documents contains the texts of written pleadings minutes of public sittings and other documents from the proceedings in The M V Norstar Case Panama v Italy Preliminary Objections The documents are reproduced in their original language The Tribunal delivered its Judgment on 4 November 2016 It is published in the ITLOS Reports 2016 Le présent volume de Mémoires procès-verbaux des audiences publiques et documents reproduit les pièces de la procédure les procès-verbaux des audiences publiques et d'autres documents relatifs la procédure concernant l'Affaire du navire Norstar Panama c Italie exceptions préliminaires Les documents sont publiés dans la langue originale utilisée Le Tribunal a rendu son arrêt le 4 novembre 2016 L'arrêt est publié dans le TIDM Recueil 2016

Protecting Civilians in Refugee Camps Maja Janmyr, 2013-11-28 Rather than serving as civilian and humanitarian safe havens refugee camps are notorious for their insecurity Due to the host state's inability or unwillingness to provide protection camps are often administered by the United Nations High Commissioner for Refugees

UNHCR and its implementing partners When a violation occurs in these situations to which actors shall responsibility be allocated Through an analysis of the International Law Commission's work on international responsibility Maja Janmyr argues that the primary responsibility of states does not exclude the responsibilities of other actors Using the example of Uganda Janmyr questions the general assumption that unable and unwilling is the same as unable or unwilling and argues for the necessity of distinguishing between these two scenarios Doing so leads to different conclusions in terms of responsibility for the state and therefore for UNHCR and its implementing partners

*Contemporary Issues in International Arbitration and Mediation: The Fordham Papers 2015* Arthur W. Rovine, 2016-12-08 The 2015 volume of Contemporary Issues in International Arbitration and Mediation The Fordham Papers is a collection of important works in the field written by the speakers at the 2015 Fordham Law School Conference on International Arbitration and Mediation The papers are organized into the following parts Keynote Presentation by Hon Stephen M Schwebel PART 1 Innovations in International Arbitration by Barru Leon Sophie Lamn Hon William G Bassler William W Park and Josefa Sicard Mirabal PART 2 Investor state Arbitration by Edward G Kehoe Klaus Reichert Catherine Amirfar Nicholas Fletcher QC and Susan D Franck PART 3 The Confluence of EU Law and International Arbitration Both Commercial and Investor State by John Gaffney Fidelma Macken SC and Kaj Hober PART 4 Corporate Issues by Wolfgang Peter Thomas H Lee and Vera Korzun

**Michigan Journal of International Law**, 2013 *Unabhängigkeit und Unparteilichkeit von Schiedsrichtern in zwischenstaatlichen und gemischten Verfahren* Saskia Klatte, 2015-01-06 Die Schiedsgerichtsbarkeit ist in den letzten Jahren zu einem beliebten Streitbeilegungsmechanismus in internationalen Streitigkeiten geworden Dies gilt insbesondere für den Bereich der Investitionsschutzschiedsgerichtsbarkeit Zugleich ist die Schiedsgerichtsbarkeit in neuerer Zeit zunehmend in die Kritik geraten Ein Punkt der dabei immer wieder angebracht wird ist die Frage der Unabhängigkeit und Unparteilichkeit der dort agierenden Schiedsrichter Dies zeigt sich etwa darin dass zuletzt die Zahl der Befangenheitsanträge gegen Schiedsrichter in diesen Streitigkeiten rasant gestiegen ist Das Spannungsfeld das dieses Thema ausmacht ist auf der einen Seite das Bedürfnis der Parteien auf das Schiedsverfahren und insbesondere die Wahl der Schiedsrichter Einfluss zu nehmen und auf der anderen Seite ihr Wunsch nach Wahrung von Unabhängigkeit und Unparteilichkeit Das vorliegende Werk beleuchtet dieses Spannungsfeld unter besonderer Berücksichtigung der schiedsgerichtlichen Praxis

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