

THE CAMBRIDGE HANDBOOK OF FOREIGN JUDGES ON DOMESTIC COURTS

Foreign judges sit on domestic courts in over 50 jurisdictions worldwide. They serve on ordinary courts, including apex and constitutional courts, as well as specialist courts, such as international commercial courts and hybrid criminal tribunals. This Handbook presents the first global comparative study of this long-standing, diverse and evolving practice, from colonial precedents to new forms of foreign judging in contemporary conditions of globalisation. Chapters by scholars of law, politics and history, and reflections by judges themselves, provide detailed information and critical analysis of foreign judging across Africa, Asia, the Caribbean, Europe, the Middle East and the Pacific. The chapters examine the notion and relevance of foreignness, rationales for foreign judges, and the implications for judicial identity, adjudication, independence and accountability. Focusing on an underexplored issue that features mainly in small states and jurisdictions of the Global South, this Handbook challenges assumptions and expands our knowledge about courts and judges.

ANNA DZIEDZIC is an early-career scholar who has completed post-doctoral fellowships at Melbourne Law School and The University of Hong Kong. She researches comparative constitutional law and judicial studies, with a focus on the Pacific region. Her first book, *Foreign Judges in the Pacific*, was published in 2021.

SIMON N. M. YOUNG is Ian Davies Professor in Ethics and Associate Dean (Research) in the Faculty of Law, The University of Hong Kong, and a practising barrister with Parkside Chambers. He has written on many aspects of Hong Kong's post-1997 constitutional order in relation to national security, criminal justice, human rights, the judiciary and elections.

The Cambridge Handbook of Foreign Judges on Domestic Courts

Edited by

ANNA DZIEDZIC

University of Melbourne

SIMON N. M. YOUNG

The University of Hong Kong



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Anna Dziedzic, Simon N. M. Young

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Contributors

Mabel M. Agyemang is Chief Justice of the Turks and Caicos Islands, and formerly served as Chief Justice and Justice of Appeal in The Gambia, Judge of the High Court of Eswatini and Justice of Appeal in Ghana.

Sir David Baragwanath KC is Secretary General of the charity P.R.I.M.E. Finance. He was formerly an appellate judge of the United Nations Special Tribunal for Lebanon, Judge of the High Court and Court of Appeal of New Zealand, Member of Permanent Court of Arbitration in The Hague and Judge of the Court of Appeal of Samoa.

Ann Black is Professor of Law at the TC Beirne School of Law, and Director, Comparative Law for the Centre of Public, International and Comparative Law at the University of Queensland.

Karen Brewer is Secretary General of the Commonwealth Magistrates' and Judges' Association.

Laurence Burgorgue-Larsen is Professor of Law at the Sorbonne Law School (University Paris 1) and was formerly Member and President of the Constitutional Court of Andorra.

Peter Bußjäger is Professor of Public Law at the University of Innsbruck, Austria and Member of the State Court of the Principality of Liechtenstein.

Sir Dennis Byron is former Chief Justice of the Eastern Caribbean Supreme Court and former President of the Caribbean Court of Justice.

Paulo Cardinal is a visiting lecturer at the Faculty of Law, The University of Hong Kong, part-time teacher at the Faculty of Law, University of Macau and Visiting Academic at the University of Saint Joseph, Macau.

Anna Dziedzic is a senior fellow in the Laureate Program in Comparative Constitutional Law at Melbourne Law School.

Rachel Ellett is Manager of Research and Analytics at the American Bar Association. She was formerly Professor of Political Science at Beloit College.

Michel Erpelding is a research scientist at the University of Luxembourg Department of Law, where he leads the research project 'Forgotten Memories of Supranational Adjudication' supported by the Luxembourg National Research Fund.

Joseph Fok is a permanent judge of the Court of Final Appeal of the Hong Kong Special Administrative Region.

Constance Grewe is Emeritus Professor at the University of Strasbourg and formerly Judge and Vice President of the Constitutional Court of Bosnia-Herzegovina.

Harry Hobbs is Associate Professor at the Faculty of Law, University of Technology Sydney.

Bal Kama is an adjunct assistant professor at the School of Law, University of Canberra, a visiting fellow at the Department of Pacific Affairs, Australian National University and a senior solicitor at the Environmental Defenders Office, Australia.

Siraj Khan is Head of Projects at the Max Planck Foundation for International Peace and the Rule of Law in Heidelberg and a member of the English Bar.

Satang Nabaneh is Research Professor of Law at the University of Dayton School of Law and the Director of Programs for the Human Rights Center.

Gonzaga Puas is Founder of the Micronesia Institute for Research and Development and a Pacific Research Fellow at the Coral Bell School of Asia Pacific Affairs, Australian National University.

Sapna Reheem Shaila is a Max Weber Postdoctoral Fellow at the European University Institute, Florence. She completed her doctorate in law at King's College London

Anselmo Reyes is an international judge of the Singapore International Commercial Court and a member of the Expert Committee of the China International Commercial Court.

Tracy Robinson is Professor at the Faculty of Law, The University of the West Indies, Mona, Jamaica.

Paul Swanepoel is a senior lecturer at the School of Law, University of KwaZulu-Natal in Durban, South Africa.

Mathilda Twomey is a Justice of the Court of Appeal of Seychelles and Adjunct Professor at the National University of Ireland, and formerly Chief Justice of Seychelles.

Carlos Arturo Villagrán Sandoval is Associate Researcher and Lecturer at the Vice-Rectorcy for Research and Outreach at University Rafael Landívar, Guatemala.

Simon N. M. Young is Ian Davies Professor in Ethics and Associate Dean at the Faculty of Law, The University of Hong Kong and a practising member of the Hong Kong Bar.

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This Handbook was motivated by comparative curiosity. We had each separately researched foreign judges: Anna Dziedzic in Pacific island states, and Simon Young in Hong Kong and Brunei Darussalam. We knew that there were other instances of foreign judging, but no single work that studied the phenomenon across the globe. Once we started looking, we were ourselves surprised at the number of jurisdictions which appoint foreign judges to domestic courts and the variety in the kinds of service foreign judges provide.

The 25 authors contributing to this Handbook are all experts in their respective jurisdictions. Many have direct involvement with the phenomenon of foreign judges, as judges themselves, officials involved in supporting judiciaries, and academics who study courts and judges. All authors made a generous commitment to share their time and expertise. They not only provided informative expert analysis of their subjects, but also challenged our own assumptions about foreign judging and shaped the comparative project.

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Following the workshop, each author developed their chapters to reflect shared comparative learning. As editors, we did not provide a template, preferring to leave space for the authors to develop their own theoretical and conceptual approaches to the topic, in addition to contextual description. To enable comparison and frame discussion, we did invite the authors to reflect on a common set of questions, covering the reasons for the appointment of foreign judges; the context and the practice of foreign judging, including its reception by the wider community; the benefits, challenges and sustainability of foreign judging; and the implications for the work of courts and judges. All draft chapters were submitted for comment and revision by the editors, and we thank all authors for their willingness to cooperate and engage in what was – for us, and we hope for them – an enjoyable and productive collaboration.

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Abbreviations

ADGMC	Abu Dhabi Global Market Court
AIFCC	Astana International Financial Centre Court
BOTs	British Overseas Territories
CAA	Constitutional Appointments Authority
CARICOM	Caribbean Community
CCJ	Caribbean Court of Justice
CICIG	<i>Comisión Internacional Contra la Impunidad en Guatemala</i> (International Commission against Impunity in Guatemala)
DFID/CS scheme	United Kingdom Department for International Development/ Commonwealth Secretariat scheme
DIFCC	Dubai International Financial Centre Courts
ECC	English Commercial Court
ECCC	Extraordinary Chambers in the Courts of Cambodia
ECOWAS	Economic Community of West African States
ECSC	Eastern Caribbean Supreme Court
EUMIC	European Union Multilateral Investment Court
FSM	Federated States of Micronesia
HKCFA	Hong Kong Court of Final Appeal
HKSAR	Hong Kong Special Administrative Region
ICC	International Criminal Court
ICO	International Civilian Representative for Kosovo
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
JSC	Judicial Service Commission
MACCIH	<i>Misión de Apoyo contra la Corrupción y la Impunidad en Honduras</i> (Mission to support the Fight against Corruption and Impunity in Honduras)
MENA	Middle East and North Africa region
NCC	Netherlands Commercial Court
OAS	Organization of American States
OECS	Organisation of Eastern Caribbean States
OHR	Office of the High Representative for Bosnia-Herzegovina
QICDRC	Qatar International Court and Dispute Resolution Centre

RILCH	Institutional Strengthening for the Fight against Corruption in Haiti
SADC	Southern African Development Community
SCSL	Special Court for Sierra Leone
SICC	Singapore International Commercial Court
UN	United Nations
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo
UNMISET	United Nations Mission of Support to East Timor
UNTAET	United Nations Transitional Administration in East Timor