

ADJUDICATING TRADE AND INVESTMENT DISPUTES

Recent trends suggest that international economic treaties and adjudication may be witnessing a renaissance of convergence – both parallel and intersectional. Signs of convergence are of legal, empirical and normative interest but convergence discourse also warrants scepticism. Focusing on dispute settlement, this volume contributes to both the general debate on the fragmentation of international law and the specific discourse concerning the interplay between international trade and investment. Moving beyond broad observations or singular case studies, it provides a wide-reaching assessment of multiple standards, processes, mechanisms and behaviours. Methodologically, a normative stance is largely eschewed in favour of doctrinal, quantitative and qualitative methods. The book finds that there is no bright line or clear yardstick for determining the nature or degree of convergence but that the evidence of it is not especially strong.

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Convergence or Divergence?

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PREFACE AND ACKNOWLEDGEMENTS

The idea of a *unified* international economic law has undergone a renaissance. The rise of investment chapters in multilateral free trade agreements, cross-regime jurisprudential borrowing, and the emergence of trade-like institutions in investment adjudication has given credence to the idea that the once poster child of the fragmentation of international law may be moving towards harmonization.

This book sets out to test this convergence hypothesis in international economic law with a focus on the field of adjudication. Are the regimes moving closely together? Or is it just an epiphenomenon that disguises a deeper divergence? This interdisciplinary book provides the first in-depth study of convergence of adjudication within international economic law, with a focus on dispute settlement design, use of precedent, and interpretive strategy. We hope it provides a valuable resource to scholars and practitioners alike in thinking through the extent of convergence as well as its underlying dynamics and empirical limits, especially given a series of reform efforts to close the gap.

The book draws together scholars and some advocates from a range of disciplines, resulting in a multimethod perspective on convergence and divergence. The methods vary from comparative case design and doctrinal analysis to regression, network and computational text analysis. The origins of the volume lie in a conference organized by the Pluricourts Centre of Excellence, University of Oslo: *Adjudicating International Trade and Investment Disputes: Between Interaction and Isolation*. In the wake of the conference, some papers emerged as chapters while other chapters were solicited. We would like to deeply thank the authors for their willingness to take on the challenge, particularly in uncovering new insights and perspectives, and their patience in dealing with endless questions and queries from the editors.

We would also like to deeply thank Ole Kristian Fauchald, a coordinator at Pluricourts, for supporting the project throughout its duration and Michelle Zang and Geir Ulfstein in helping shape the

original conference. We are grateful to the Pluricourts' directors Andreas Føllesdal and Geir Ulfstein, for including the book within their Cambridge University Press book series *Studies on International Courts and Tribunals* and to Laura Letourneau-Tremblay and Maksim Usynin for help with organizing the original conference.

In the production of the book, we are very grateful to Finola O'Sullivan and Tom Randall at Cambridge University Press for their support for the project from its inception, to Becky Jackaman and Podhumai Anban for shepherding the book through its various phases and to Silvia Glick for the painstaking copy editing of the entire manuscript.

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