



General Principles of Law and International Due Process: Principles and Norms Applicable in Transnational Disputes (Cile Studies)

By Charles T. Kotuby Jr., Luke A. Sobota, Center for International Legal Education (CILE) University of Pittsburgh School of Law

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Article 38 of the Statute of the International Court of Justice defines "international law" to include not only "custom" and "convention" between States but also "the general principles of law recognized by civilized nations" within their municipal legal systems. In 1953, Bin Cheng wrote his seminal book on general principles, identifying core legal principles common to various domestic legal systems across the globe. This monograph summarizes and analyzes the general principles of law and norms of international due process, with a particular focus on developments since Cheng's writing. The aim is to collect and distill these principles and norms in a single volume as a practical resource for international law jurists, advocates, and scholars. The information contained in this book holds considerable importance given the growth of inter-state intercourse resulting in the increased use of general principles over the past 60 years.

General principles can serve as rules of decision, whether in interpreting a treaty or contract, determining causation, or ascertaining unjust enrichment. They also include a core set of procedural requirements that should be followed in any adjudicative system, such as the right to impartiality and the prohibition on fraud. Although the general principles are, by definition, basic and even rudimentary, they hold vital importance for the rule of law in international relations. They are meant not to define a rule of law, but rather the rule of law.

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Editorial Review

Review

This book explores how general principles of law are being applied, providing a timely update to Bin Chengs classic work. It focuses on the application of the principles to private conduct an astute response to the evolution of international process over the past half-century. The result is a work that will benefit both scholars and practitioners.

-James Crawford, Judge, International Court of Justice

As said once by Kurt Lewin in another context, 'there is nothing more practical than a good theory'. At a time when the number of international courts and tribunals is increasing, international judges and arbitrators aim to establish their respective decisions on the most universal of grounds; they are more than ever conduced to refer to the fundamental values that bring together positive rules and normative visions. In that respect, Charles Kotuby and Luke Sobota offer a brilliant, comprehensive, and most useful study on the place and role of general principles of law in contemporary international arbitration in relation to the due process of law as fertilized by comparative and international law.

-Pierre-Marie Dupuy, International Arbitrator

About the Author

Charles T. Kotuby, Jr. is a partner at Jones Day in Washington D.C. His practice concentrates on litigation concerning foreign sovereigns and commercial and investment arbitration. He is a Fellow of the Chartered Institute of Arbitrators, and has for the past several years been teaching law school courses on international arbitration and dispute resolution. He is also a member of the Advisory Board of the Center for International Legal Education at the University of Pittsburgh School of Law, and clerked for Judge Joseph F. Weis of the United States Court of Appeals for the Third Circuit.

Luke A. Sobota is a founding partner of the law firm of Three Crowns LLP, which is dedicated to international arbitration and adjudication involving both private and sovereign parties. For the past several years, Luke has taught law school courses on international arbitration and dispute resolution. He previously worked in the Office of Legal Counsel at the U.S. Department of Justice, where he advised and prepared legal opinions for executive branch officials in the areas of constitutional, international, and administrative law. He also clerked for William H. Rehnquist, the late Chief Justice of the U.S. Supreme Court.

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