

Studies of the Max Planck Institute Luxembourg for
International, European and Regulatory Procedural Law

20

Ruiz Fabri | Nunes Chaib | Venzke | von Bogdandy (eds.)

International Judicial Legitimacy

New Voices and Approaches



Nomos



Max Planck Institute
LUXEMBOURG
for Procedural Law

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Volume 20

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Preface

This book is the outcome of two workshops, mostly between members of the Max Planck Institutes from Heidelberg and Luxembourg (April 2015 and September 2015), in which they reacted to the publication “*In Whose Name? A Public Law Theory of International Adjudication*” by two of the editors. Following the workshops, the outcomes of our inter-institutional discussions were taken further in writing. Generally speaking, the topic of our discussions was not all-together new, to be sure. The legitimacy of international institutions, more specifically international courts, to conduct their business has been scrutinized for quite a while. However, our volume is particularly interesting because it showcases a variety of new approaches, mostly from younger scholars, on how to tackle the issue.

Initially, our discussions and texts on the legitimacy of international courts were framed as a direct reaction to arguments put forward in the book “*In Whose Name?*”. The subjects ranged from a comparison between international organizations and international courts and how they can contribute to democratize international law to assessing the democratic legitimacy of international human rights courts.

As our debate progressed, a variety of different approaches to international judicial legitimacy emerged. Certain issues became central points treated across all chapters in this volume. At first, the present volume may seem like just another attempt to raise questions about the legitimacy and authority of international courts, but in fact it goes beyond that. Not only are we looking at the theoretical foundations of authority as a concept informing political action, but also as an analytical category, and how it has been employed in different ways by authors and scholars in the various social sciences. We are also looking at how such a concept allows one to properly gauge the very elements that justify the legitimacy of international courts. Considering the difference between the texts, a decision was made to extend the scope of the edited volume and include contributions that do not necessarily respond directly to *In Whose Name?*, but that rather discuss its general topic of the legitimacy of international courts. This allowed for the identification of a few lacunae in the treatment of such courts and a number of younger authors were invited to contribute to the volume.

The focus of the project also changed over time. Instead of remaining a simple reaction to *In Whose Name?*, it became an opportunity to debate and elaborate on the potential justifications for the legitimacy of specific international courts; and also to investigate how, given the importance of issues being dealt with by international courts, particular elements of legitimacy ought to be brought into discussion. The result was an astonishing collection dealing with both theoretical and practical questions regarding the legitimacy of international courts and how such problems relate to fundamental problems of our times.

*Armin von Bogdandy, Heidelberg,
André Nunes Chaib, Maastricht,
Hélène Ruiz Fabri, Luxemburg,
Ingo Venzke, Amsterdam*

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