

Nadja Reimold

Continuity in Times of Change

Acquired Rights and State Succession



Nomos

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ausländischen öffentlichen Recht und Völkerrecht

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Nadja Reimold

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For Theodor and Helen

Acknowledgments

This book has been a journey, in so many respects. It represents my PhD thesis that was submitted in December 2022 and defended in April 2023 at Ludwig-Maximilians-University Munich.

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Greifswald, January 2024

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List of Abbreviations

<i>ACHR</i>	American Convention on Human Rights
<i>ACtHR</i>	African Court on Human and Peoples' Rights
<i>A.D.I.L.</i>	Annual Digest and Reports of Public International Law Cases
<i>AFDI</i>	Annuaire Français de Droit International
<i>AG</i>	Advocate General
<i>AHRLJ</i>	African Human Rights Law Journal
<i>A.J.I.C.L.</i>	African Journal of International and Comparative Law
<i>AJIL</i>	American Journal of International Law
<i>ALQ</i>	Arab Law Quarterly
<i>AMDI</i>	Anuario Mexicano de Derecho Internacional
<i>Am.J.Comp.L.</i>	American Journal of Comparative Law
<i>Am Rev Intl Arb</i>	American Review of International Arbitration
<i>Am.U.J.Int'l L.& Pol'y</i>	American University Journal of International Law and Policy
<i>Am.U.Int'l L.Rev.</i>	American University International Law Review
<i>Arbitr Int</i>	Arbitration International
<i>ARIEL</i>	Austrian Review of International and European Law
<i>ARSIWA</i>	Articles on Responsibility of States for Internationally Wrongful Acts
<i>Art.</i>	Article
<i>ARV</i>	Archiv des Völkerrechts
<i>ASA</i>	Association Suisse de l'Arbitrage
<i>AsianJIL</i>	Asian Journal of International Law
<i>ASIL</i>	American Society of International Law

List of Abbreviations

<i>ASIL Proceedings</i>	Proceedings of the Annual Meeting of the American Society of International Law
<i>Aust YBIL</i>	Australian Yearbook of International Law
<i>AYbIL</i>	Asian Yearbook of International Law
<i>Badinter Commission</i>	Conference on Yugoslavia Arbitration Commission
<i>Baltic Y.B. Int'l L.</i>	Baltic Yearbook of International Law
<i>BGB</i>	Bürgerliches Gesetzbuch (German Civil Code)
<i>BGBI.</i>	Bundesgesetzblatt (Official Gazette of Germany or Austria)
<i>BIT</i>	Bilateral Investment Treaty
<i>Brexit</i>	British Withdrawal from the EU-Treaties
<i>BVerfG</i>	Bundesverfassungsgericht (German Federal Constitutional Court)
<i>BYbIL</i>	British Yearbook of International Law
<i>Cardozo J.Int'l & Comp.L.</i>	Cardozo Journal of International and Comparative Law
<i>Case W. Res. J. Int'l L.</i>	Case Western Reserve Journal of International Law
<i>CAT</i>	UN Convention Against Torture
<i>CC</i>	Constitutional Charter
<i>CEDAW</i>	UN Convention on the Elimination of all Forms of Discrimination Against Women
<i>Cf.</i>	Confer
<i>CSFR</i>	Czech and Slovak Federal Republic
<i>Chinese JIL</i>	Chinese Journal of International Law
<i>CIS</i>	Commonwealth of Independent States
<i>CJEU</i>	Court of Justice of the European Union
<i>CJICL</i>	Cambridge Journal of International and Comparative Law
<i>C.L.J.</i>	Cambridge Law Journal

<i>C.L.Q.</i>	Cornell Law Quarterly
<i>CML Rev.</i>	Common Market Law Review
<i>Colum.J.Eur.L.</i>	Columbia Journal of European Law
<i>Colum.J.Transnat'l L.</i>	Columbia Journal of Transnational Law
<i>Colum.L.Rev.</i>	Columbia Law Review
<i>Cp.</i>	Compare
<i>CPA</i>	Comprehensive Peace Agreement (Sudan - South Sudan)
<i>CRC</i>	UN Convention on the Rights of the Child
<i>Crim.L.F.</i>	Criminal Law Forum
<i>Croatian Y.B. Eur. L. & Pol'y</i>	Croatian Yearbook of European Law and Policy
<i>CRPC</i>	Commission for Real Property Claims
<i>CUP</i>	Cambridge University Press
<i>DAngVers</i>	Die Angestelltenversicherung (Zeitschrift der Bundesversicherungsanstalt für Angestellte)
<i>DtZ</i>	Deutsch-Deutsche Rechts-Zeitschrift
<i>Duke J.Comp.& Int'l L.</i>	Duke Journal of Comparative and International Law
<i>EAEC</i>	European Atomic Energy Community
<i>EECC</i>	Eritrea-Ethiopia Claims Commission
<i>EC</i>	European Communities
<i>ECHR</i>	European Convention on Human Rights In footnotes: Reports of the European Court of Human Rights
<i>ECR</i>	European Court Reports
<i>ECtHR</i>	European Court of Human Rights
<i>EEZ</i>	Exclusive Economic Zone
<i>E.H.R.L.R.</i>	European Human Rights Law Review
<i>EJIL</i>	European Journal of International Law
<i>E.J.M.L.</i>	European Journal of Migration and Law

List of Abbreviations

<i>ELR</i>	European Law Reporter
<i>Emory Int'l L.Rev.</i>	Emory International Law Review
<i>ETS</i>	European Treaty Series
<i>Et seq(q).</i>	et sequentia
<i>EU</i>	European Union
<i>EuConst</i>	European Constitutional Law Review
<i>EU Rights Charter</i>	EU Charter of Fundamental Rights
<i>EurJLawEcon</i>	European Journal of Law and Economics
<i>EUSS</i>	EU Settlement Scheme (UK)
<i>Termination Agreement</i>	Agreement for the Termination of Bilateral Investment Treaties between the Member States of the European Union
<i>FBH</i>	Federation of Bosnia and Herzegovina
<i>FET</i>	Fair and Equitable Treatment
<i>Fordham Int'l L.J.</i>	Fordham International Law Journal
<i>FRG</i>	Federal Republic of Germany
<i>FRY</i>	Federal Republic of Yugoslavia
<i>FYBIL</i>	Finnish Yearbook of International Law
<i>GC</i>	Grand Chamber
<i>GDR</i>	German Democratic Republic
<i>Geneva Convention</i>	Convention Relating to Upper Silesia between Germany and Poland
<i>Genocide Convention</i>	Convention on the Prevention and Punishment of the Crime of Genocide
<i>GG</i>	Grundgesetz (German Constitution)
<i>GoJIL</i>	Göttingen Journal of International Law
<i>GB</i>	Great Britain
<i>GYIL</i>	German Yearbook of International Law
<i>Harv. Int'l L.J.</i>	Harvard International Law Journal
<i>Hastings L.J.</i>	Hastings Law Journal

<i>HgYbIL</i>	Hague Yearbook of International Law / <i>Annuaire de La Haye de Droit International</i>
<i>HJIL/ZaöRV</i>	Heidelberg Journal of International Law / <i>Zeitschrift für ausländisches öffentliches Recht und Völkerrecht</i>
<i>HKBL</i>	Hong Kong Basic Law
<i>HKLJ</i>	Hong Kong Law Journal
<i>HKLRD</i>	Hong Kong Law Reports and Digest
<i>HKSAR</i>	Hong Kong Special Administrative Region
<i>Human Rights Rev.</i>	Human Rights Review
<i>IA</i>	International Affairs
<i>IACtHR</i>	Inter-American Court of Human Rights
<i>ICCPR</i>	International Covenant on Civil and Political Rights
<i>ICERD</i>	International Convention against Racial Discrimination
<i>ICESCR</i>	International Covenant on Economic, Social and Cultural Rights
<i>ICJ</i>	International Court of Justice
<i>ICJ Rep</i>	Reports of Judgments, Advisory Opinions and Orders of the International Court of Justice
<i>ICJ Statute</i>	Statute of the International Court of Justice
<i>ICLQ</i>	International and Comparative Law Quarterly
<i>ICSID</i>	International Center for Settlement of Investment Disputes
<i>ICSID Convention</i>	Convention on the Settlement of Investment Disputes between States and Nationals of Other States
<i>ICTY</i>	United Nations International Criminal Tribunal for the former Yugoslavia
<i>IDI</i>	Institut de Droit International
<i>ILA</i>	International Law Association

List of Abbreviations

<i>ILC</i>	International Law Commission
<i>ILM</i>	International Legal Materials
<i>ILR</i>	International Law Reports
<i>I.L. & S</i>	Islamic Law and Society
<i>IMA</i>	Independent Monitoring Authority
<i>IMF</i>	International Monetary Fund
<i>Ind.J.Global Legal Studies</i>	Indiana Journal of Global Legal Studies
<i>Int.C.L.R.</i>	International Criminal Law Review
<i>Int.C.L.Rev.</i>	International Community Law Review
<i>I.O.L.R.</i>	International Organizations Law Review
<i>J Afr L</i>	Journal of African Law
<i>JC</i>	Joint Committee
<i>J Const L East & Cen Eur</i>	Journal of Constitutional Law in Eastern and Central Europe
<i>JHistIntLaw</i>	Journal of the History of International Law / Revue d'histoire du droit international
<i>J.I.A.N.L.</i>	Journal of Immigration, Asylum and Nationality Law
<i>JIDS</i>	Journal of International Dispute Settlement
<i>JIEL</i>	Journal of International Economic Law
<i>J.Int'l Arb.</i>	Journal of International Arbitration
<i>J.Int'l Econ.L.</i>	Journal of International Economic Law
<i>JIntRelatDev</i>	Journal of International Relations and Development
<i>J Priv Int L</i>	Journal of Private International Law
<i>JuS</i>	Juristische Schulung
<i>JZ</i>	Juristenzeitung
<i>KFOR</i>	UN Security Force "Kosovo Force"
<i>lit.</i>	litera
<i>LJIL</i>	Leiden Journal of International Law

<i>Loy. L.A. Int'l & Comp. L. Rev.</i>	Loyola of Los Angeles International and Comparative Law Review
<i>MEED</i>	Middle East Economic Digest
<i>MPEPIL</i>	Max Planck Encyclopedia of Public International Law
<i>Max Planck Yb UNL</i>	Max Planck Yearbook of United Nations Law
<i>Mich.J.Int'l L.</i>	Michigan Journal of International Law
<i>MJECL</i>	Maastricht Journal of European and Comparative Law
<i>NAFTA</i>	North American Free Trade Agreement
<i>NC</i>	Constitution of Namibia
<i>N.C.J. Int'l L.</i>	North Carolina Journal of International Law
<i>NIEO</i>	New International Economic Order
<i>NILEPET</i>	Nile Petroleum Corporation
<i>NILR</i>	Netherlands International Law Review
<i>NILQ</i>	Northern Ireland Legal Quarterly
<i>no.</i>	Number
<i>Nord J Int Law</i>	Nordic Journal of International Law
<i>NYLJ.</i>	New York Law Journal
<i>NYUJ.Int'l Law & Pol.</i>	New York University Journal of International Law & Politics
<i>OG</i>	Official Gazette
<i>OP</i>	Optional Protocol
<i>OSCE</i>	Organization for Security and Co-operation in Europe
<i>OUP</i>	Oxford University Press
<i>P-I 1</i>	Art. 1 of the First Protocol to the European Convention on Human Rights (Protection of Property)
<i>(op.) para.</i>	(Operative) Paragraph
<i>PCA</i>	Permanent Court of Arbitration

List of Abbreviations

<i>PCIJ</i>	Permanent Court of International Justice
<i>PDRY</i>	People's Democratic Republic of Yemen
<i>Polish Y.B.Int'l L.</i>	Polish Yearbook of International Law
<i>PRC</i>	People's Republic of China
<i>PUP</i>	Princeton University Press
<i>RBDI</i>	Revue Belge de Droit International
<i>RCEEL</i>	Review of Central and East European Law
<i>RdC</i>	Recueil des Cours/ Collected Courses of the Academy of International Law
<i>R.F.S.P.</i>	Revue Francaise de Science Politique
<i>Rev.Int'l Aff.</i>	Review of International Affairs
<i>RGDIP</i>	Revue Générale de Droit International Public
<i>RIDC</i>	Revue Internationale de Droit Comparé
<i>RoY</i>	Republic of Yemen
<i>SAYbIL</i>	South African Yearbook of International Law
<i>SAJIA</i>	South African Journal of International Affairs
<i>SALJ</i>	South African Law Journal
<i>SCC</i>	Stockholm Chamber of Commerce
<i>SEER</i>	Journal for Labour and Social Affairs in Eastern Europe
<i>SFRY</i>	Socialist Federal Republic of Yugoslavia
<i>SGCA</i>	Singapore Court of Appeal (Unreported Judgments)
<i>SGHC</i>	Singapore High Court (Unreported Judgments)
<i>Sri Lanka J.Int'l L.</i>	Sri Lanka Journal of International Law
<i>Stan.J.Int'l L.</i>	Stanford Journal of International Law
<i>SU</i>	Soviet Union
<i>Succession Agreement</i>	Agreement on Succession Issues Between the Five Successor States of the Former State of Yugoslavia
<i>SUDAPET</i>	Sudan National Petroleum Corporation

<i>SYbIL</i>	Spanish Yearbook of International Law
<i>TDM</i>	Transnational Dispute Management
<i>TEU</i>	Treaty on European Union
<i>Tex. Int'l L. J.</i>	Texas International Law Journal
<i>T.Jefferson L.Rev.</i>	Thomas Jefferson Law Review
<i>TMU</i>	Treaty Establishing a Monetary, Economic and Social Union (Germany)
<i>TV</i>	Treaty of Versailles
<i>UK</i>	United Kingdom of Great Britain and Northern Ireland
<i>UKCLA</i>	UK Constitutional Law Association
<i>UN</i>	United Nations
<i>UNC</i>	Charter of the United Nations
<i>UNCITRAL</i>	United Nations Commission On International Trade Law
<i>UNCTAD</i>	United Nations Conference on Trade and Development
<i>UNGA</i>	United Nations General Assembly
<i>UN-HABITAT</i>	United Nations Human Settlements Programme
<i>UNHCR</i>	United Nations High Commissioner for Refugees
<i>UNMIK</i>	United Nations Interim Administration Mission in Kosovo
<i>UN OHCHR</i>	UN Office of the High Commissioner for Human Rights
<i>UNRIAA</i>	UN Reports of International Arbitral Awards
<i>UNSC</i>	United Nations Security Council
<i>U.Miami L.Rev.</i>	University of Miami Law Review
<i>USA</i>	United States of America
<i>USMCA</i>	United States-Mexico-Canada Agreement

List of Abbreviations

<i>USSR</i>	Union of Soviet Socialist Republics
<i>UT</i>	Unification Treaty (Germany)
<i>UT.L.J.</i>	University of Toronto Law Journal
<i>Va. J. Int'l L</i>	Virginia Journal of International Law
<i>VCLT</i>	Vienna Convention on the Law of Treaties
<i>VCSSPAD</i>	Vienna Convention on Succession of States in Respect of State Property, Archives and Debts
<i>VCSST</i>	Vienna Convention on Succession of States in Respect of Treaties
<i>Venice Commission</i>	European Commission for Democracy Through Law
<i>VermG</i>	Vermögensgesetz (Germany)
<i>Vienna Conventions</i>	Vienna Convention on Succession of States in Respect of Treaties + Vienna Convention on Succession of States in Respect of State Property, Archives and Debts
<i>WA</i>	Withdrawal Agreement (UK - EU)
<i>WB Act</i>	Walvis Bay and Off-Shore Islands Act (Namibia)
<i>WB Transfer Act</i>	Act to Provide for the Transfer to Namibia of the Territory of and Sovereignty Over Walvis Bay and Certain Islands (South Africa)
<i>WIRO</i>	Wirtschaft und Recht in Osteuropa
<i>YAR</i>	Yemen Arab Republic
<i>YbIDI</i>	Yearbook of the Institute de Droit International
<i>YbILC</i>	Yearbook of the International Law Commission
<i>Yrbk Islam Mid East L</i>	Yearbook of Islamic and Middle Eastern Law
<i>YEL</i>	Yearbook of European Law
<i>ZaöRV/HJIL</i>	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht /Heidelberg Journal of International Law

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