

# Table of Contents

<i>Table of Cases</i>	xiii
<b>Introduction</b>	1
Empirical Scholarship on International Courts	1
Existing Definitions of Effectiveness	4
Effectiveness as Attainment of the Mandate Providers' Goals	6
The Book's Contents	8
<b>I. THE GOAL-BASED APPROACH</b>	
<b>1. A Goal-Based Approach to Effectiveness Analysis</b>	13
1.1 The Goal-Based Approach	13
1.2 Goal Categories	17
1.3 The Problem of Goal Ambiguity	20
1.4 The Time-Frame Element	23
1.5 Goals v Motives	25
1.6 An Organization's Shared Goals	26
1.7 Broadening the Research Framework: Efficiency and Cost-Effectiveness	27
1.8 Conclusions	29
<b>2. The Goals of International Courts</b>	31
2.1 Identifying a Key Constituency: The Mandate Providers	31
2.2 The Generic Goals of International Courts	37
2.3 Conclusions	48
<b>3. Measuring Goal Attainment</b>	49
3.1 Introduction	49
3.2 The Use of Operational Categories	50
3.3 Possible Performance Indicators	52
3.4 Conclusions	61

## II. APPLICATION OF THE GOAL-BASED APPROACH TO JUDICIAL FUNCTIONS AND FEATURES

Introduction: The Analytical Promise of the Effectiveness Model	63
<b>4. Jurisdictional Powers and Issues of Admissibility</b>	67
4.1 The Concept of Jurisdiction	67
4.2 Goal Attainment and the Scope of Jurisdictional Powers	75
4.3 Issues of Admissibility	83
4.4 Policy Considerations in Decisions on Jurisdiction and Admissibility	87
4.5 Conclusion	94
<b>5. Judicial Independence and Impartiality</b>	97
5.1 Introduction	97
5.2 The Operative Role of Judicial Independence and Impartiality	99
5.3 The Relationship between Judicial Independence and Effectiveness	105
5.4 Constrained Independence in Action: <i>ICTY v NATO</i> , <i>ICTR v Rwanda</i>	111
5.5 Conclusion	115
<b>6. Judgment-Compliance</b>	117
6.1 Introduction	117
6.2 Judgments, Remedies, and Judicial Outcomes	119
6.3 Judgment-Compliance and the Goals of International Courts	123
6.4 Assessing ECtHR Judgment-Compliance	125
6.5 Compliance with ICJ Remedial Orders in the <i>Bosnian Genocide</i> and <i>Avena</i> cases	130
6.6 Conclusions	135
<b>7. Legitimacy</b>	137
7.1 Introduction	137
7.2 Different Understandings of Legitimacy	138
7.3 Operative Categories and the Legitimacy Capital	145
7.4 Links between Legitimacy and Other Key Functions and Features of Adjudication	150
7.5 Conclusions	157

## III. APPLICATION OF THE GOAL-BASED APPROACH TO SPECIFIC COURTS

<b>8. The International Court of Justice (with Rotem Giladi)</b>	161
8.1 Introduction	161
8.2 The Goals of the ICJ	164

8.3 Factors Controlling Judicial Outcomes	169
8.4 Outcomes	180
8.5 Conclusions	187
<b>9. The WTO Dispute Settlement System (with Sivan Shlomo-Agon)</b>	<b>189</b>
9.1 Introduction	189
9.2 The Goals of the WTO Dispute Settlement System	191
9.3 Factors Controlling Judicial Outcomes	197
9.4 Judicial Outcomes	214
9.5 Conclusions	221
<b>10. The International Criminal Court (with Sigall Horovitz and Gilad Noam)</b>	<b>223</b>
10.1 Introduction	223
10.2 The Goals of the ICC	226
10.3 Factors Controlling Judicial Outcomes	237
10.4 Outcomes	248
10.5 Conclusions	252
<b>11. The European Court of Human Rights (with Henry Lovat)</b>	<b>253</b>
11.1 Introduction	253
11.2 The Goals of the ECtHR	256
11.3 Factors Controlling Judicial Outcomes	261
11.4 Outcomes	271
11.5 Conclusions	276
<b>12. The Court of Justice of the European Union (with Thorbjörn Björnsson)</b>	<b>277</b>
12.1 Introduction	277
12.2 The Goals of the CJEU	279
12.3 Factors Controlling Judicial Outcomes	288
12.4 Outcomes	302
12.5 Conclusions	305
<b>Conclusions</b>	<b>307</b>
<i>Index</i>	313