

Table of Contents

<i>List of Tables and Figures</i>	xxi
<i>List of Abbreviations</i>	xxiii
<i>Table of Legal Citations</i>	xxv
<i>Previous Publication Venues</i>	xxix

I. STUDYING THE EUROPEAN COURT OF JUSTICE

1. The European Court's Political Power Across Time and Space (2009)	3
I. The European Court of Justice During the Founding Period of Legal Integration (1952–80)	6
II. The ECJ and its Varied Influence on European Policy and Politics (1980–2005)	16
III. Beyond European Court Politics—The ECJ in a Comparative Perspective	25
IV. Conclusion—Where We Stand in Understanding the ECJ's Political Power	29
2. The European Court and Legal Integration: An Exceptional Story or Harbinger of the Future? (2008)	32
I. Scholarship on the ECJ and European Integration	34
II. The European Court of Justice: The Exception or the Rule?	40

II. THE EUROPEAN COURT OF JUSTICE DURING THE FOUNDING PERIOD OF LEGAL INTEGRATION (1952–1980)

3. The Theory and Reality of the European Coal and Steel Community With David Steinberg (2007)	47
I. The ECSC at its Founding	48
II. Critical Junctures in Coal and Steel Integration	50
III. What Role Did the ECSC Play in Postwar European Politics?	60
4. Jurist Advocacy Movements in Europe: The Role of Euro-Law Associations in European Integration (1953–1975) (2009)	63
I. Founding National Euro-Law Associations and the Fédération Internationale de Droit Européen (FIDE)—1952–1975	65

II.	The Impact of Euro-Law Advocacy Movements on European Legal Integration	72
III.	Imagining Legal Integration without Jurist Associations—The Case of the Andean Tribunal of Justice	82
IV.	Does Transnational Law Need Advocacy Movements and Transnational Legal Fields to Flourish?	89
5.	The European Court's Political Power: The Emergence of an Authoritative International Court in the European Union (1996)	92
I.	Turning National Courts into Enforcers of International Law	94
II.	Eliciting Political Acquiescence and Political Support?	106
III.	The Emergence of a Rule of Law in Europe	106
6.	Who Are the 'Masters of the Treaty'?: European Governments and the European Court of Justice (1998)	109
I.	The ECJ as the Agent of Member States?	111
II.	The Transformation of the Preliminary Ruling Procedure into an Enforcement Mechanism	114
III.	Escaping Member State Control	117
IV.	Transformation of the Preliminary Ruling Procedure	121
V.	Could Member States Regain Control? Why Did Member States Accept Unwanted ECJ Jurisprudence?	123
VI.	Overcoming the Joint-Decision Trap? The Barber Protocol and the 1996–97 IGC and the Treaty of Amsterdam	128
VII.	Conclusion: A New Framework for Understanding ECJ–Member State Interactions	132
<p>III. THE ECJ AND ITS VARIED INFLUENCE ON EUROPEAN POLICY AND POLITICS (1980–2005)</p>		
7.	Judicial Politics in the European Community: European Integration and the Pathbreaking <i>Cassis de Dijon</i> Decision With Sophie Meunier (1994)	139
I.	Legal Significance and Implications of the <i>Cassis de Dijon</i> Case	140
II.	Political Consequences of the <i>Cassis</i> Decision	143
III.	The New Approach to Harmonization—Judge-Made Policy, Focal Point, or Political Compromise?	147
IV.	Conclusion: Judicial Politics in the European Community	156

8. Explaining Variation in the Use of European Litigation Strategies: European Community Law and British Gender Equality Policy With Jeannette Vargas (2000)	159
I. The EOC and the Shifting Domestic Balance of Power in Great Britain	161
II. When will Domestic Actors Embrace EC Law to Shift the Domestic Balance of Power?	173
III. Conclusion: EC Law as a Tool to Shift the Domestic Balance of Power	181
9. The European Union's Legal System and Domestic Policy: Spillover or Backlash? (2000)	184
I. Legalization in the EU and the Role of Private Litigants and National Courts	185
II. How and When Do Private Litigants and National Courts Use the European Legal System to Influence National Policy?	188
III. Interaction Effects of the Four Steps in the Litigation Process	204
IV. A Challenge to Neo-Functionalist Theory: Negative Interactive Effects and the Process of Disintegration	204
V. Generalizing from the European Case	212
10. Banana Splits: Nested and Overlapping Regimes in the Transatlantic Banana Trade Dispute With Sophie Meunier (2006)	215
I. The Nesting and Overlapping of International Commitments	216
II. Nesting/Overlapping at the Root of the Banana Dispute	219
III. Unpeeling the Layers: Nesting/Overlapping and the Banana Dispute	225
IV. Conclusion	231
<p>IV. BEYOND EUROPEAN COURT POLITICS—THE ECJ IN A COMPARATIVE PERSPECTIVE</p>	
11. Agents or Trustees? International Courts in their Political Context (2008)	237
I. Empirical and Ontological Problems Within Principal-Agent Theory	239
II. Delegation to 'Agents' Compared to Delegation to 'Trustees'	241
III. International Judicial Trustees in International Politics	246
IV. Taking the Cases Together	258
V. Conclusion: Moving Beyond P-A Presumptions	261

12. Private Litigants and the New International Courts (2006)	263
I. How Are ICs with Compulsory Jurisdiction and Private-Actor Access Different from ICs without Compulsory Jurisdiction and Private-Actor Access?	264
II. The New ICs	265
III. A Functional Explanation of the Design Trend in Delegation to ICs	270
IV. More European Courts?	280
V. Democracy and Access to Justice in the New ICs	284
13. Law and Politics in Europe and Beyond (2009)	287
I. Lessons from the ECJ Experience	290
II. Going Forward: Research Questions for the Study of Transnational Legal Politics in Europe and Beyond	298
III. Generalizing from the European Case	301
<i>Appendix: Related Essays Not Included in This Volume</i>	304
<i>Bibliography</i>	305
<i>Index</i>	329