

# Table of Contents

<i>Table of International Cases</i>	xi
<i>Table of Domestic Cases</i>	xix
<i>Table of Domestic Legislation</i>	xxxi
<i>Table of Treaties</i>	xxxiv
<i>Table of International Instruments</i>	xxxix
<i>List of Abbreviations</i>	xli

<b>1 Introduction</b>	1
1. The Quest for the International Rule of Law	1
2. Filling the Missing Link—The Role of National Courts	6
3. Functions	9
4. The Complementary Nature of Legal Systems	10
5. The Problem: The Double Bind	13
6. Approach and Method	15

## I CONDITIONS

<b>2 Jurisdiction</b>	21
1. The Indirect Nature of Jurisdiction-Regulating Rules	22
2. The Primary Role of National Courts	25
3. Concurrent Jurisdiction	27
4. International Sources of Judicial Power	35
5. The Complementary Role of National Law	44
<b>3 Independence</b>	47
1. The Problem	49
2. The Power of Independence	53
3. Obligations	59
4. Incentives	63
5. The Complementary Role of National Law	66
<b>4 Applicable Law</b>	68
1. The Neutrality of International Law	68
2. The Complementary Role of National Law	73
3. Considerations of Legal Policy	81
4. Procedural Law	85

<b>5 Standing</b>	91
1. The Concept of Standing	92
2. Interstate Claims	95
3. Private Claims	97
4. The Complementary Role of National Law	109

## II THE APPLICATION OF INTERNATIONAL LAW

<b>6 Direct Effect</b>	117
1. The Concept	117
2. The Power of Direct Effect	122
3. International Legal Nature of the Concept	124
4. Conditions	130
<b>7 Consistent Interpretation</b>	139
1. The Concept	139
2. The Power of Consistent Interpretation	143
3. Basis of Consistent Interpretation	147
4. Principles of Administrative Review	158
5. Limits	161
<b>8 Reparation</b>	166
1. Situations in which the Question of Reparation May Arise	168
2. Foundation of the Domestic Effect of International Principles of Reparation	178
3. Domestication of Principles of Reparation	187
4. Translation	191
5. Forms of Reparation	197

## III EXTERNAL EFFECTS

<b>9 Fragmentation</b>	217
1. Causes	218
2. The International Quality of Domesticated International Law	224
3. The Unifying Role of Decisions of Courts	235
<b>10 Authority</b>	244
1. Situations in which the Question of Authority May Arise	246
2. Beyond Facts	252
3. Bases of Authority	256
4. Determination and Development of International Law	264

11	Supremacy Restrained	280
1.	Domestic Resistance to the Supremacy of International Law	282
2.	The Formality of the Principle of Supremacy	286
3.	An Integrative Perspective	288
4.	An International Solution?	292
5.	Supremacy Restrained	294

#### IV CONCLUSION

12	Concluding Remarks: Bringing Together the International and the National Rule of Law	299
	<i>Bibliography</i>	305
	<i>Index</i>	331