
CONTENTS

<i>Foreword</i>	vii
<i>List of Contributors</i>	xvii

Introduction: Systemic Dialogue: Identifying Commonalities and Exploring Linkages in Private and Public International Law.....	1
<i>Verónica Ruiz Abou-Nigm, Kasey McCall-Smith and Duncan French</i>	
I. Mutually Strengthening Dialogue.....	1
II. Discerning Synergies and Shared Values in International Law	3
III. Functional Commonalities in International Law.....	4
IV. Exploring Linkages and Boundaries in International Law	7
V. Conclusion	9

Part I: Discerning Synergies and Shared Values in International Law

1. Connecting Public and Private International Law	13
<i>Alex Mills</i>	
I. Introduction.....	13
II. Sources.....	14
III. Connections	16
A. Principle.....	16
B. History.....	18
C. Functional Commonality	21
D. Policy Incorporation	25
E. Shared Objectives.....	26
F. Methodology	28
IV. Conclusions.....	31
2. Windows in International Law.....	33
<i>Jean d'Aspremont and Francesco Giglio</i>	
I. Introduction.....	33
II. Roman Interpretation: Between Strict and Flexible Legal Analysis	34
III. Private and Public International Law as Professionally Distinct Fields	35
IV. New Descriptive Tools for Private and Public International Law	36
A. Descriptive Tool 1: The Windows	36

B.	Descriptive Tool 2: The (De)coders.....	37
C.	Descriptive Tool 3: The Inbound and Outbound Travellers.....	37
V.	Windows, (De)coders and Travellers in Private and Public International Law	37
A.	The Windows in Private International Law	37
B.	The (De)coders in Private International Law	42
C.	The Travellers in Private International Law	43
VI.	Public International Law.....	46
A.	The Windows in Public International Law	46
B.	The (De)coders in Public International Law	49
C.	The Travellers in Public International Law	51
VII.	Concluding Remarks.....	51
3.	'International' Rules in an Internal Setting	53
	<i>Kirsty J Hood, QC</i>	
I.	Introduction	53
II.	Case Study: The United Kingdom.....	56
A.	Sovereignty and the UK	56
B.	The Impact of Internal Divisions of Sovereignty on Public International Law and Private International Law Rules.....	58
C.	The Balance of State Sovereignty and Individual Autonomy where there is an Internal Division of Sovereignty: Role of Private International Law and Public International Law.....	62
III.	Conclusion.....	70
	Part II: Functional Commonalities in International Law	
4.	Jurisdiction: Betwixt Unilateralism and Global Coordination.....	75
	<i>Duncan French and Verónica Ruiz Abou-Nigm</i>	
I.	Introduction	75
II.	Jurisdiction: 'Many, Too Many, Meanings'	77
III.	Trends towards a Global 'System'?.....	78
IV.	Bases of Jurisdiction.....	81
V.	Jurisdiction in Private International Law: Global Connectivity and 'Justice Pluralism'	85
VI.	Public International Law Jurisdiction: Somewhere between Law and Power	89
VII.	Improving Coordination of Jurisdictional Frameworks in Private and Public International Law	92
A.	Development of, and Coordination Between, Rule-based Systems.....	93
B.	Epistemic Internationalisation of General Principles of International Competence.....	96
C.	The Role of International Judicial Oversight.....	98
VIII.	Conclusions	104

5.	On the Dwindling Divide between the Public and Private: The Role of Soft Law Instruments in Global Governance.....	105
	<i>Richard Collins and Maria Mercedes Albornoz</i>	
	I. Introduction: Global Governance and the Confluence of Public and Private International Law	105
	II. 'Softness' in Public International Law: 'Deformalisation' and the Emergence of Global Governance.....	109
	III. Soft Law as Governance Technique: The Case of Private International Law	113
	IV. Responding to Law's Globalisation? Order and Justice within Contemporary Frameworks.....	118
6.	The Role of Global Values in the Evaluation of Public Policy in International Investment and Commercial Arbitration.....	121
	<i>Maria Blanca Noodt Taquela and Ana Maria Daza-Clark</i>	
	I. Introduction	121
	II. Public Policy as an Exception to Compliance with International Obligations	123
	III. Public Policy and the Difficulties in its Definition	124
	IV. Public Policy as a Narrow Exception in Private International Law and a Broad Defence in Public International Law	129
	V. Types of Global Values that Influence International Arbitration	132
	A. Party Autonomy	132
	B. Free Trade	133
	C. Rejection of Corrupt Practices	134
	D. Non-Discrimination	135
	VI. Incidence of Global Values in the Interpretation of Public Policy in International and Commercial and Investment Arbitration.....	136
	A. Public Policy Concerning the Merits of the Dispute and the Arbitral Procedure	139
	VII. Conclusions	143
	Part III: Exploring Linkages and Boundaries in International Law	
7.	Reconciling Human Rights and Supply Chain Management through Corporate Social Responsibility.....	147
	<i>Kasey McCall-Smith and Andreas Rühmkorf</i>	
	I. Introduction	147
	II. CSR and Global Supply Chain Management: The Developing Legal Framework	148
	III. The Barriers in Public International Law.....	151
	A. TNCs and their Limited International Legal Personality.....	151
	B. Extraterritoriality	153
	C. Absence of Hard Law Triggers Soft Law Development	155

IV.	The Barriers in Private International Law.....	159
A.	The Applicable Law.....	159
B.	Rules of Jurisdiction.....	161
C.	The Legal Structure of Global Supply Chains	164
D.	Summary: The Barriers to Promoting CSR Posed by EU Private International Law Rules	165
V.	Case Study of the Mobile Phone Industry	166
VI.	Towards a Hybrid Regulatory Approach: Transcending the Limits of Private and Public International Law.....	168
A.	The Strategic Use of Home State Regulation.....	170
B.	Steps Toward the Hybrid Regulatory Approach	172
VII.	Conclusion.....	173
8.	Realising the Objectives of Public International Environmental Law through Private Contracts: The Need for a Dialogue with Private International Law Scholars.....	175
	<i>Elisa Morgera and Lorna Gillies</i>	
I.	Introduction	175
II.	The Nagoya Protocol and Ad Hoc Private Contracts	178
A.	The Interface between the Nagoya Protocol and Private International Law	182
B.	Choice of Jurisdiction	182
C.	Choice of Applicable Law	185
D.	Access to Justice and Recognition of Foreign Judgments	186
E.	Alternative Dispute Resolution	188
F.	Preliminary Observations.....	190
III.	Standardised Contractual Clauses under the International Treaty	190
A.	The Interface between the International Treaty and Private International Law	191
B.	Comparative Observations.....	194
IV.	Overall Reflection.....	196
9.	International Investment Arbitration and the Arduous Route to Transparency.....	199
	<i>Sharon E Foster</i>	
I.	Introduction	199
II.	History	200
A.	Modern International Commercial Arbitration.....	200
B.	History of Investor-State Arbitration	201
III.	International Commercial Arbitration in Private International Law: Confidentiality and Privacy as the Norm.....	203
IV.	Investor-State Arbitration in Public International Law: Transparency as the Demand.....	204
A.	Public International Law and Transparency	205
B.	Investor-State Arbitration and Transparency	206

V.	Clash of Public Values with Functional Approaches.....	207
VI.	How Private Values and Public Values Meet.....	209
A.	Lack of Harmonisation in International Investment Law	210
B.	Pluralism.....	211
C.	Rule of Law	211
VII.	Dispute Settlement in the Proposed TTIP, TPP and CETA.....	213
VIII.	Conclusions.....	215
10.	Protecting Whistleblowers: The Roles of Public and Private International Law.....	217
	<i>Dimitrios Kagiarios and Amanda Wyper</i>	
I.	Introduction.....	217
II.	Regulatory Approaches to Whistleblowing: Protection and Incentives	219
III.	Domestic UK Whistleblowing Regulation	220
IV.	Private International Law	223
A.	Jurisdiction	223
B.	Applicable Law	225
V.	The Contribution of Public International Law to Whistleblowing.....	230
A.	Whistleblowers and Freedom of Expression.....	231
VI.	Which States are Responsible for Providing Protection in a Cross-border Disclosure?	234
A.	Human Rights Obligations of the State of Disclosure	234
B.	Human Rights and Private International Law in the Context of Cross-border Whistleblowing.....	237
VII.	Conclusions.....	239
	<i>Index</i>	241