

# POLITICAL QUESTIONS

*Does the Rule of Law Apply to Foreign Affairs?*

# JUDICIAL ANSWERS

THOMAS M. FRANCK

# Political Questions Judicial Answers

**Great Britain. Parliament**



## **Political Questions Judicial Answers:**

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**Die Act of State-Doktrin als Zukunftsmodell für Deutschland?** Maria Berentelg, 2010 English summary Civil courts are increasingly being confronted with the problem of how to deal with foreign acts of state which interfere with private legal positions. Maria Berentelg does a comparative study of the solutions in the

USA and in Germany The American act of state doctrine does not provide for an investigation of foreign acts of state due to judicial self restraint in regard to foreign affairs The author outlines the legal framework for a model of this kind in Germany She focuses on the standards in fundamental rights and the extent to which foreign affairs and the idea of judicial self restraint can determine how to deal with foreign acts of state in Germany as well The author rejects adopting the American model does however advocate taking foreign affairs into consideration within the framework of the *ordre public* German description Zivilgerichte werden immer häufiger mit dem Problem konfrontiert wie sie mit Hoheitsakten ausländischer Staaten zu verfahren haben die in private Rechtspositionen eingreifen Maria Berentelg untersucht vergleichend die Lösungen in den USA und in Deutschland In den USA kommt es nach der Act of State Doktrin aus richterlicher Selbstbeschränkung in aussenpolitischen Angelegenheiten nicht zu einer Überprüfung fremder Hoheitsakte Die Autorin steckt den rechtlichen Rahmen für ein entsprechendes Modell in Deutschland ab Im Zentrum stehen die grundrechtlichen Vorgaben und die Frage inwieweit aussenpolitische Erwägungen und der Gedanke richterlicher Selbstbeschränkung auch in Deutschland die Behandlung fremder Hoheitsakte bestimmen können Eine vollständige Übernahme des US amerikanischen Modells lehnt die Autorin ab pladiert aber für eine Berücksichtigung aussenpolitischer Belange im Rahmen des *ordre public*

**Political Questions in the Courts** Yaacov S. Zemach,1976      **Encyclopedia of the Supreme Court, Second Edition**

David Schultz,2021-09-01 Praise for the previous edition concise well written entries Schultz s accessible work will be of use to both undergraduates and the general public recommended for all academic and public libraries Library Journal achieves the goal of presenting a serious overview of the Supreme Court Booklist At its reasonable price this title should be found in every American library public as well as academic It should also be purchased by every high school library no matter how small the school body may be American Reference Books Annual From the structure of the Supreme Court to its proceedings this comprehensive encyclopedia presents the cornerstone of the American justice system Featuring more than 600 A to Z entries written by leading academics and lawyers Encyclopedia of the Supreme Court Second Edition offers a thorough review of critical cases issues biographies and topics important to understanding the Supreme Court Entries include Abortion Capital punishment Citizens United v Federal Election Commission Double jeopardy employment discrimination Federalism Masterpiece Cakeshop v Colorado Civil Rights Commission Obergefell v Hodges police use of force public health and the U S Constitution Thurgood Marshall Title IX and schools United States v Nixon Earl Warren Wiretapping      International Law Decisions in National Courts Thomas Franck,Gregory Fox,2023-09-20 In this ground breaking study taken on the initiative of U S Supreme Court Justice Sandra Day O Connor Thomas M Franck and Gregory H Fox explore the use of international law decisions by national courts providing in depth materials for answers to such critical and practical questions as To what extent do national judges treat the decisions of their international colleagues as binding or persuasive Do national judges regard the outcomes of international decisions as *res judicata* As evidence of law or fact Published under the Transnational

Publishers imprint     The Role of National Courts in Applying International Humanitarian Law Sharon Weill, 2014-03-06

International law is increasingly applied in domestic courts This can result in situations where the courts are being asked to rule on politically sensitive issues especially issues which involve actions during armed conflicts Domestic courts do not show a uniformity of approach in addressing cases concerning international humanitarian law and can often be seen to differ markedly in their response The book argues that different national courts demonstrate different functional roles in different countries These can be situated on a scale from apology to utopia which can be set out as follows 1 the apologist role of courts in which they serve as a legitimating agency of the state s actions 2 the avoiding role of courts in which they for policy considerations avoid exercising jurisdiction over a case 3 The deferral role of courts in which courts defer back to the other branches of the government the responsibility of finding an appropriate remedy 4 the normative application role of courts in which they apply international humanitarian law as required by the rule of law and 5 the utopian role of courts in which they introduce moral judgments in favour of the protection of the individual beyond the requirements of the law The book investigates the rulings of five key domestic courts those of the UK the USA Canada Italy and Israel to understand how their approaches differ and where their practice can be placed on the methodological scale This analysis has been assisted by the author s extensive field work notably in Israel and in the Occupied Palestinian Territories Providing a detailed understanding each court s function the book offers a critical analysis of the courts rulings in which both the legal arguments and the political context of cases they have ruled on are examined The book shows that the functional role of the national courts is a combination of contradictions and mixed attitudes and that national courts are in the process of defining their own role as enforcing organs of international humanitarian law     **International Law** Malcolm N. Shaw, 2003-09-25 This fifth edition of Malcolm Shaw s bestselling textbook on international law provides a clear authoritative and comprehensive introduction to the subject fully revised and updated to Spring 2003 Basically preserving the structure which made the previous edition so successful a new chapter on Inter state Courts and Tribunals considers the role of the International Court of Justice and the International Tribunal on the Law of the Sea and there is a new chapter on international humanitarian law Also examined are arbitration tribunals and the role of international institutions such as the WTO in resolving conflicts The prosecution of individuals for violations of international law is examined Additional coverage of events in Kosovo and Iraq analyses the questions of humanitarian intervention and the role of the UN Written in a clear and accessible style setting the subject firmly in the context of world politics and the economic and cultural influences affecting it this book remains a highly readable and invaluable resource for students and practitioners alike The scope of the text makes this essential reading for students of international law international relations and the political sciences The book is also valuable to professionals and governmental and international civil servants     Questions and Answers on Government and Politics of West Africa Timothy Iwuala Ibezim, 1985     **The Saturday Review of Politics, Literature, Science and Art** , 1876     **Report of the Joint**

**Select Committee Appointed to Inquire in to the Condition of Affairs in the Late Insurrectionary States** United States. Congress. Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States,1872     House documents ,1884     **Hansard's Parliamentary Debates** Great Britain. Parliament,1882     **American Politics (non-partisan) from the Beginning to Date** Thomas Valentine Cooper,Hector Tyndale Fenton,1892     **History of Woman Suffrage: 1861-1876** Elizabeth Cady Stanton,Susan Brownell Anthony,Matilda Joslyn Gage,Ida Husted Harper,1882     **History of Woman Wuffrage** Elizabeth Cady Stanton,1882     *Proceedings of the ... Annual Session of the Association* Ohio State Bar Association,1886     *Reports of Committess* ,1872     **Debates of the Convention to Amend the Constitution of Pennsylvania** Pennsylvania. Constitutional Convention,1873     **The Study of Government** George Helm Yeaman,1871

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