



Transplanting International Courts

The Law and Politics of the Andean Tribunal of Justice

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Transplanting International Courts: The Law and Politics of the Andean Tribunal of Justice provides a deep, systematic investigation of the most active and successful transplant of the European Court of Justice. The Andean Tribunal is effective by any plausible definition of the term, but only in the domain of intellectual property law. Alter and Helfer explain how the Andean Tribunal established its legal authority within and beyond this intellectual property island, and how Andean judges have navigated moments of both transnational political consensus and political contestation over the goals and objectives of regional economic integration. By letting member states set the pace and scope of Andean integration, by condemning unequivocal violations of Andean rules, and by allowing for the coexistence of national legislation and supranational authority, the Tribunal has retained its fidelity to Andean law while building relationships with nationally-based administrative agencies, lawyers, and judges. Yet the Tribunal's circumspect and formalist approach means that, unlike in Europe, community law is not an engine of integration. The Tribunal's strategy has also limited its influence within the Andean legal system.

The authors also revisit their own path-breaking scholarship on the effectiveness of international adjudication. Alter and Helfer argue that the European Court of Justice benefitted in underappreciated ways from the support of transnational jurist advocacy movements that are absent or poorly organized in the Andes and elsewhere in the world. The Andean Tribunal's longevity despite these and other challenges offers guidance for international courts in other developing country contexts. Moreover, given that the Andean Community has weathered member state withdrawals and threats of exit, major economic and political crises, and the retrenchment of core policies such as the common external tariff, the Andean experience offers timely and important lessons for Europe's international courts.

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