



# *Transplanting International Courts:*

## *The Law and Politics of the Andean Tribunal of Justice*

**Karen J. Alter**, Professor of Political Science and Law, Northwestern University,  
and **Laurence R. Helfer**, Harry R. Chadwick Sr. Professor of Law, Duke University

The Andean Tribunal of Justice (ATJ), now entering its fourth decade, is the third most active international court and the most successful of eleven transplanted copies of the European Court of Justice (ECJ). This book offers a deep case study of the ATJ's creation, doctrinal development, and contributions to the law and politics of the Andean Community. It also provides new evidence to evaluate issues of wider theoretical and empirical interest, including how supranational legal transplants operate in practice and when and why international courts are likely to be effective.

*Transplanting International Courts* focuses on legal and political issues that arise because the ATJ is a transplanted copy of the ECJ. The European judicial model provided inspiration for Andean policymakers and judges, shaping the Tribunal's institutional design and bequeathing the foundational legal doctrines of supremacy and direct effect. But the ATJ has since charted its own jurisprudential path, one that has helped it to survive even when the larger Andean integration project faltered. The ATJ has been strikingly successful in intellectual property cases, building deep and mutually supportive relationships with domestic administrative agencies. In other areas regulated by Andean law, however, the Tribunal remains less legally and politically influential.

Alter and Helfer explain how Andean political leaders and intergovernmental officials managed to overcome national judicial resistance to referring cases to the ATJ. These preliminary references have not, however, resulted in the expansive judicial lawmaking or mutual judicial empowerment that occurred in Europe. ATJ judges are mostly circumspect interpreters of Andean law, while national judges remain mostly passive intermediaries, in part due to the more limited mobilization of legal entrepreneurs in the Andes as compared to Europe. The book is based on more than a decade of interviews, archival research and case law analysis of the ATJ and the Andean legal system. Throughout, the authors highlight the broader implications of their findings for international adjudication and for international law and politics.

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