

Paola Gaeta, Are Victims of Serious Violations of International Humanitarian Law Entitled to Compensation?;

Christine Bell, Post-conflict Accountability and the Reshaping of Human Rights and Humanitarian Law.

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Tomer Broude and Yuval Shany (eds). **Multi-Sourced Equivalent Norms in International Law**. Oxford: Hart Publishing, 2011. Pp. 344. \$120. ISBN: 9781849461450.

Many scholars have struggled to try to figure out ways to preserve a unitary perspective on international law in light of, and more frequently going beyond, the conservative guidelines formulated by Martti Koskenniemi and his ILC Working Group, collected in the 2006 Report on Fragmentation.¹

The proliferation of normative regimes arguably poses a threat to international law's very structure, in the absence of stabilizing elements such as a central legislature, judicial bodies with compulsory and general jurisdiction, and governance legitimized by democratic procedures rather than episodic state consent. It comes as no surprise, therefore, that academics have so far focused on the clash between international law sub-systems, in which norms belonging to different regimes 'point at different directions' and leave states with the unenviable choice of complying with one of them while at the same time incurring state responsibility for breach of the others.

The editors of the book under review adopt a new approach: Tomer Broude and Yuval Shany focus on equivalent norms, i.e., norms featuring a certain degree of similarity in their content. The working definition of this novel doctrinal category of Multi-Sourced Equivalent Norms (MSEs), set out in the opening chapter, is as follows:

Two or more norms which are (1) binding upon the same international legal subjects; (2) similar or identical in their normative content; and (3) have been established through different international instruments or 'legislative' procedures or are applicable in different substantive areas of the law [at 5].

Could these norms be the ideal lens for the study of international regimes' interplay? MSEs provide states and individuals with the possibility or at least the temptation to indulge in regime-shifting;² given the substantial equivalence of two norms, actors will choose to rely on the one belonging to the 'friendlier' regime (in terms of judicial and enforcement mechanisms, of the likelihood that the competent tribunal will rule in favour of the applicant, and of any other discernible 'structural bias'³) (at 10). Judges, on the other hand, must treat equivalent norms

¹ 'Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law', Report of the Study Group of the International Law Commission, UN Doc. A/CN.4/L.682, 13 Apr. 2006

² Helfer, 'Regime Shifting: the TRIPS Agreement and New Dynamics of International Intellectual Property Lawmaking', 29 *Yale J Int'l L* (2004) 1.

³ M. Koskenniemi, *From Apology to Utopia. The Structure of International Legal Argument* (2005), in particular at 600–615.

with care, striking the right balance between the autonomy of the legal regime they operate in (often dictated by the limits of their jurisdiction) and the attention to context.

Eleven chapters follow the introduction, exploring the theory and the practice of MSENs from different angles. At the outset, it must be noted that the authors are not always consistent in referring to the definition of MSENs in the opening chapter, and at times deviate from it, obliterating some of its features (e.g., the binding nature of the norms, or the identity of the subjects to which they apply) – leaving the reader wondering which of them are essential – or simply discussing topical issues of fragmentation without an immediate link to MSENs.

This review follows the book's three main themes: the role of MSENs in the fragmentation of international law, in international and national judicial practice, and, finally, in specific regimes.

1 MSENs and the Fragmentation of International Law

Joost Pauwelyn and Ralf Michaels make a general point: The classic approach to conflicting norms operates within a single system, but cannot deal efficiently with the various issues of inter-legality that arise *across* specialized systems.⁴ The compound set-up of international law (a system made of systems) rather requires a mixed set of conflict rules. *Conflict of norms* principles (speciality, superiority, posterity) apply *within* subsystems and *vertically* (between the general system and each specialized regime). *Conflict of laws* principles are preferable to guide the choice of the regime applicable to matters amenable to more than one sub-system.⁵ In short, the authors try to enlarge the focus on conflicts of norms to include a choice of laws approach, borrowing the tools of private international law. Ideally, adjudicators should be able to identify the real core of any dispute, its genuine centre,⁶ and turn to the normative regime that most directly is designed to regulate it, through a test of functionality.⁷

André Nollkaemper's chapter explores the application of secondary rules of international law by national courts. The idea is simple: domesticated (primary) international norms should not be applied domestically in disregard of the secondary rules that affect their validity, interpretation, and enforcement at the international level. The price of such disconnection would be the frustration of their normative content: '[i]f a court gives effect to an international obligation disconnected from its secondary context, it does not give effect to that obligation, but to another norm' (at 59). Although international secondary rules are rarely binding on national authorities, they are so closely interrelated with the primary rules that they operate in a *normative penumbra* and are often interpreted and implemented at the national level. For instance, the Italian Corte di Cassazione argued that admitting Germany's immunity for World War II crimes in Italian courts would entail a breach of Article 41 of the ILC Articles of State Responsibility (prohibiting the recognition of situations created by a breach of peremptory

⁴ The authors seem to start their research right where the ILC stopped: see para. 488 of the Fragmentation Report.

⁵ See *ibid.*, para. 493: '[c]onflicts between rules within a regime appear differently and should probably be treated differently from conflicts across regimes'.

⁶ This genuine link rhetoric recalls the *Nottebohm* test (*Nottebohm*, 2nd phase (*Liechtenstein v. Guatemala*) [1955] ICJ Rep 23) or the reasoning of the *Southern Bluefin Tuna* award as to the real centre of the dispute (Arbitral Tribunal *Southern Bluefin Tuna Case* (*Australia and New Zealand v. Japan*) (Award on Jurisdiction and Admissibility), 4 Aug. 2000, 39 ILM (2000) 1359, at paras 54 and 65).

⁷ In this sense, this chapter seems to deviate, in part, from the central claim of J. Pauwelyn, *Conflict of Norms in Public International Law: How WTO Law Relates to Other Rules of International Law* (2003) (all rules of international law are in principle applicable, unless otherwise agreed, regardless of the jurisdictional boundaries of the judicial forum).

norms).⁸ Likewise, the German Bundesverfassungsgericht declared that German authorities, under Article 16 of the ILC Articles, are prevented from executing an order of extradition if, in so doing, they would aid and abet another state's international wrongful act (e.g., an illegal abduction).⁹

MSEs not only interact when states violate them, but also at the phase of performance of the respective obligations, as shown by Erik Denters and Tarcisio Gazzini. Governments must choose how to navigate between MSEs, mindful that violation of *any* of them will engage their responsibility. States need to act consistently, and some presumptions apply when it comes to interpreting states' obligations and responsibility in court: states assume similar commitments when they subscribe to similarly worded obligations, and if they intend to diverge from previous practice on equivalent matters they will bear the burden of making this intention clear. These presumptions discourage states from behaving strategically and cherry-picking in the performance of equivalent obligations: uneven conduct is more difficult to justify, requires careful planning, and might expose a state to an uphill battle in court, in terms of burden of proof. In essence, it is argued that when the same conduct is relevant under many norms, states generally tend to abide by, or disregard, all of them at once, rather than running a detailed cost-benefit test.

2 MSEs in Judicial Practice

Benedikt Pirker studies how international courts compare international (equivalent) case law in reaching their decisions.¹⁰ The particularity of borrowing other courts' solutions (which turn round norms not directly applicable in the case at hand) so as to transplant/adapt them by virtue of their convincing nature, is that there is no obligation to do so. The chapter includes two examples: the EFTA Court's use of an ECJ doctrine¹¹ and the MERCOSUR Permanent Review Court's adoption of the proportionality tests used by the ECJ (now CJEU) and the WTO Appellate Body.¹² Pirker underlines that borrowing solutions devised by 'the others', based on a willingness to improve the quality of the legal reasoning, tends to ensure the uniformity of judicial practice and law across regimes. However, when borrowing is not justified either by an obligation to conform with the 'external' solution¹³ or because the imported solution is particularly fitting, it comes across as a sign of weakness and subordination (as in the case of the EFTA Court, which had little reason – and no strict obligation – to follow the ECJ's position and repudiate its own case law on the same matter). Recently, the ICJ interpreted Article 11 of the Interim Accord between FYROM and Greece mentioning the ECJ's case law on Article 307 TEC (now 351 TFUE)¹⁴; this unprecedented move seems to point in the direction of an increased circulation of judicial solutions.

⁸ Cassazione, n. 5044/04, 11 Mar. 2004, at para. 9.

⁹ *Al-M, BverfG*, 2 BvR 1506/03, Order of 5 Nov. 2003.

¹⁰ This focus apparently derogates from the 'binding on the same subject' requirement of the definition of MSEs in Ch. 1.

¹¹ Namely, the view that the EC Trade Mark Dir. imposes international exhaustion of trade mark rights: see Case C-355/96 *Silhouette* [1998] ECR I-4799 (ECJ) and Joined Cases E-9/07 and E-10/07 *L'Oréal Norge* [2008] EFTA Ct. Rep. 258 (EFTA Court).

¹² *Laudo N° 1/2005 del Tribunal Permanente de Revisión contra el Laudo arbitral del Tribunal Arbitral ad hoc en la controversia 'prohibición de importación de neumáticos remoldeados procedentes del Uruguay'*, 20 Dec. 2005.

¹³ For instance, the interpretation of the European Charter of Fundamental Rights *must* follow that of the equivalent rights in the ECHR, under Art. 52(3) of the former.

¹⁴ *Application of the Interim Accord of 13 September 1995* (the former Yugoslav Republic of Macedonia v. Greece), 6 Dec. 2011, at para. 109.

Lorand Bartels' chapter only vaguely relates to MSENs. It scrutinizes the relationship between jurisdictional and applicable law clauses governing the judicial powers of international courts and tribunals. Bartels' starting point is that these clauses are equivalent in terms of function (they seek to identify the rules relevant to the resolution of a dispute), but that jurisdictional norms prevail over applicable law norms pursuant to the principle of *lex specialis*. They specifically circumscribe the normative material available to judges in order to make primary determinations (on the legal claim), even at the risk of a *non liquet*. Sources listed in the applicable law clauses, instead, can be applied also to make incidental determinations (those useful or necessary to make the primary ones¹⁵). They cannot form the legal basis of a claim unless included also in the jurisdictional clause.¹⁶ Applicable law clauses operate as default repositories of sources for primary determinations only when there is no jurisdictional clause.

The distinction between primary and incidental determinations is very promising, and mirrors that between primary and incidental jurisdiction used, for example, by Pauwelyn and Salles,¹⁷ but leaves some matters unresolved, especially on the crucial issue of the possibility that the parties found their objections on the merits of the case on sources outside one court's jurisdiction. This aspect is more fully expounded, we assume, in Bartels' forthcoming *opus* on applicable law.¹⁸

Nikolaos Lavranos lucidly analyses the *MOX Plant* hydra-like dispute, a perfect case-study on the judicial treatment of MSENs. The dispute revolved round the obligations to grant access to environmental information under various instruments (the OSPAR¹⁹ and Aarhus²⁰ Conventions, EC Directives and Regulations). The majority of an OSPAR arbitral tribunal noted that rules from other regimes were irrelevant to the case.²¹ The author, who sympathizes with Judge Griffith's Dissenting Opinion, believes that external sources, short of expanding the Tribunal's jurisdiction, could nevertheless be used to inform the meaning of the relevant legal facts (like the definition

¹⁵ For instance, determinations on the interpretation and validity of the norms on which the claim is based.

¹⁶ See for instance the 2007 Genocide case (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment [2007] ICJ Rep 43): in spite of the list in Art. 38(1) of the ICJ Statute, the Court could not determine the respondent's responsibility under sources not referred to in the jurisdictional clause (the Genocide Convention), be they of an *erga omnes* or even *ius cogens* nature. Similarly, see the *Georgia v. Russia* case (*Case Concerning Application of the International Convention on the Elimination of All Forms of Racial Discrimination*, Preliminary Objections, 1 Apr. 2011), where the claimant – who accused Russia of an armed attack, conduct prohibited by all means under general international law – had to hook its claim to the rules of the Convention on the Eradication of every form of Racial Discrimination, due to the limited reach of the jurisdictional clause that allowed *seising* of the Court. The issue already arose in the *Oil Platforms* case (Iran v. United States of America) (Merits) [2003] ICJ Rep 161, in which allegations of the use of force could only be considered via an interpretation of Art. XX(1)(d) of the Treaty of Amity (see para. 41).

¹⁷ J. Pauwelyn and E. Salles, 'Forum Shopping Before International Tribunals: (Real) Concerns, (Im)possible Solutions', 42 *Cornell Int'l LJ* (2009) 77.

¹⁸ See L. Bartels, *Applicable Law before International Courts and Tribunals* (forthcoming, 2013). In the chapter reviewed, however, it is worth noting that Bartels' hypothesizes that Arts 3(2) and 19(2) DSU prevent WTO judicial bodies from taking into account any non-WTO norm that would make WTO norms non-applicable (see at 138–139). This view was severely criticized in the ILC's 2006 Report, at para. 447, which contends that it would result in promoting the same 'clinical isolation' that the AB had expressly refused.

¹⁹ Convention for the Protection of the Marine Environment of the North-East Atlantic, 22 Sept. 1992, 2 ILM (1992) 1069.

²⁰ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 25 Jun. 1998, 38 ILM (1999) 517.

²¹ See OSPAR, Final Award (Ireland v. the United Kingdom) (2 July 2003) Permanent Court of Arbitration, 42 ILM (2003) 1118 (*MOX Plant*), at para. 85: '[otherwise] there would be no limit *ratione materiae* to the jurisdiction of a tribunal established under the OSPAR Convention'.

of 'environmental information'). To reduce negative effects of MSENs such as fragmentation or race to the bottom,²² Lavranos advocates the systematic use of comity, either between jurisdictions (tribunals finding themselves to be *fora non convenientia* should leave the case to their better-positioned colleagues) or between regulatory regimes (a holistic approach, supported by an expansive use of Article 31(3)(c) of the Vienna Convention on the Law of Treaties (VCLT), could promote the consistent interpretation of parallel obligations).

This development, however, is still hypothetical, as the exercise of comity depends on judges' willingness and courtesy, and cannot heal major inconsistencies between regimes. The *Kadi I* saga before the EU Courts, which Guy Harpaz takes on from the MSEN vantage point, is a fine example of non-cooperation. A dense combination of MSENs was at stake: the UN Security Council's sanctions and their replica in the form of EU Regulations, which are in turn part of EU Members' national law; on the other hand, the rules granting fundamental rights (to property and due process) enshrined in the EU system and case law, in the ECHR framework, and in national constitutions. In Harpaz's view, the ECJ's decision²³ hinged upon a balancing of values (civil rights and security) that exceeded the MSEN discourse and confronted the ECJ with a binary (constitutional) dilemma. It is noteworthy that the General Court half-heartedly applied the ECJ's *Kadi I* guidelines in September 2010,²⁴ and it remains to be seen how the CJEU will resolve *Kadi II* in late 2012.²⁵

3 Specific Experiences

Moishe Hirsch's chapter shows that the interplay between epistemic systems of international law (the laws of human rights and investment protection) can be read as an instance of social interaction between discrete communities. Notoriously, investment tribunals are reluctant to use human rights norms and arguments in their decisions, and this impermeability allegedly reflects the socio-cultural distance between the two systems of law. Practitioners and adjudicators of the two branches differ in background, education, career paths, propensity for neutrality, legal vocabulary, and foundational texts. The normative *corpus* they deal with is respectively inspired by contractual law (investment protection) and public law (HR), and this has a bearing on the role of adjudicators, acting – respectively – as arbitrators or judges proper. The gulf between the two communities might be abridged over time, through increased transparency in investment arbitration, which would make it more difficult for tribunals to ignore HR aspects of the dispute when acting under the scrutiny of public opinion.²⁶ It remains unclear how this chapter, which has much to teach about fragmentation, relates to the subject of MSENs, although some specific MSENs can certainly be identified in both regimes (protection of property rights, non-discrimination, etc).

Jürgen Kurtz assesses the relationship between the state of necessity exception (Article 25 ILC Articles on State Responsibility) and Article XI of the Argentina–US BIT, justifying 'measures necessary for the maintenance of public order'. Argentina's defensive strategy in a legion of investment disputes often revolved round these two MSENs, providing the ideal starting point

²² Arguably, the clinical isolation approach of the OSPAR tribunal, leading to a narrow understanding of 'environmental information', could in the future be invoked also with respect to other MSENs, just as the authentic interpretation of Art. 1105 NAFTA could affect the future application of FET clauses in BITs (see Denters and Grazzini, above), two classic examples of how cross-fertilization could turn into cross-intoxication.

²³ Case C-402/05 P *Kadi* [2008] ECR I-6351.

²⁴ Case T-85/09 *Yassin Abdullah Kadi v. Commission*, 30 Sept. 2010, not yet reported.

²⁵ Joined Cases C-584/10 P, C-593/10 P, and C-595/10 P.

²⁶ For an early formulation of the 'sunlight disinfection' see J. Brandeis, 'What Publicity Can Do', *Harper's Weekly*, 20 Dec. 1913.

to explain the connection between customary and (equivalent) treaty norms. Some tribunals (*CMS, Enron, Sempra*²⁷) opted for conflating the two provisions, disregarding their differences. Others correctly treated the treaty provision as *lex specialis*: whereas the *LG&E* tribunal was not clear on the residual role of custom,²⁸ the *Continental* one clearly set it aside,²⁹ based on the distinction between primary and secondary norms, and used a least trade-restrictive means (LTRM) test, taking cues from the WTO case law on necessity in Article XX GATT. The author praises the *Continental* award for not yielding to the temptation of using custom as a shortcut, and for choosing a modest and yet reasonable approach to the necessity test, using the LTRM model. Kurtz's arguments are learned, although it is fair to note that other authoritative scholars³⁰ advocate a very different view and see *Continental's* reasoning as a mistake. Although this topic has already been extensively studied in the literature, it perfectly fits this book's research question, and Kurtz provides an instructive portrayal of the MSEN implications of this well-known saga.

Martins Paparinskis investigates the possibility that a suspension of WTO commitments authorized by the WTO's Dispute Settlement Body entails a breach of an equivalent obligation, e.g., one deriving from an investment protection treaty. An example might be the suspension of TRIPS commitments that violates an obligation based on a BIT. Here, a conflict takes place between secondary norms-based entitlements to breach primary norms (of the WTO) and primary equivalent norms (of regime X). In the author's view, an investor might successfully argue that a BIT norm is violated and such violation is not justified by WTO law, because the investor is neither the target of the suspension nor responsible for the breach of WTO law that gave rise to the suspension.³¹ The opposite scenario is also examined: whether counter-measures taken in reaction to NAFTA breaches and entailing a breach of WTO obligations could be justified before WTO panels. This was the case in *Mexico – Soft Drinks*,³² where the Panel and AB rejected Mexico's half-hearted argument that its measures were legitimate counter-measures under NAFTA. At a closer look, however, the DSU regime seemingly contracts out from the system of counter-measures only in reaction to WTO breaches, thus leaving it open whether extra-systemic (NAFTA or other) counter-measures are also barred, or their non-wrongfulness could be instead relied upon in WTO proceedings. In essence, Paparinskis brilliantly underscores how the fragmentation of secondary rules regimes relating to MSE primary norms is likely to cause operational problems, a phenomenon that further demonstrates how a trans-systemic rule of law is far from being achieved.

²⁷ *CMS Transmission Co. v. Argentina*, ICSID Case No. ARB/01/8, Award (12 May 2005); *Enron Corp., Ponderosa Assets, L.P. v. Argentina*, ICSID Case No. ARB/01/3, Award (2 May 2007); *Sempra Energy Int'l v. Argentina*, ICSID Case No. ARB/02/16, Award (28 Sept. 2007).

²⁸ *LG&E Energy Corp. v. Argentina*, ICSID Case No. ARB/02/1, Decision on Liability (3 Oct. 2006).

²⁹ *Continental Casualty v. Argentina*, ICSID Case no. ARB/03/9, Award (5 Sept. 2008).

³⁰ J.E. Alvarez and T. Brink, 'Revisiting the Necessity Defense' *Yrbk Int'l Investment L & Policy* (2010–2011) 315.

³¹ In the author's words, the host state trying to invoke the legality of WTO-authorized countermeasures in investment arbitration would have a series of burdens to discharge: 'showing a conflict, persuading the Tribunal of its competence to consider it, resolving it in favour of WTO rules, and either having no breach of primary rules or treating the investor only as an agent of its home State'. However, he also notes that in the *FIAMM* and *Fedon* ECJ cases, in fact, private claimants were unable to obtain a remedy from the EU for the damages incurred due to WTO-authorized retaliations: thus bearing the consequences of sanctions targeting their states, i.e., the EC: Joined Cases C–120/06 P and C–121/06 P, [2008] ECR I–6513). Besides, from the result, however, the legal reasoning of the ECJ is not easily applicable to the WTO-investment MSEN couple.

³² DS-308 *Mexico – Tax. Measures on Soft Drinks and Other Beverages*, Appellate Body Report WT/DS308/AB/R (6 Mar. 2006).

The research question addressed in Claire Charters' chapter is whether the multiplication of sources for indigenous peoples' rights (IPR) enhances or threatens their 'legitimacy', defined as their capacity to serve as acceptable behavioural models requiring incorporation and enforcement. Normative proliferation fosters recognition of IPR, but it also comes at the cost of clarity and coherence, therefore the legitimacy balance is ambiguous. Charters posits that to minimize the downside of proliferation the main concern should be that of increasing justice, for instance by establishing bodies like the Expert Mechanism on the Rights of Indigenous Peoples within the UN Human Rights Council that, far from constituting an instance of institutional duplication, was designed precisely to ensure (increased) justice in the treatment of IPR, and which have entered into a fruitful dialogue with other bodies tasked with the supervision of IPR. In this way, competition is contained and surfaces only when it is for the best for IPR implementation, as is the case in the inter-judicial dialogue between the Inter-American Court and Commission, the African Court of Human Rights, and various UN monitoring committees, aimed at the consistent application of MSENs across legal systems.

In his brief concluding note, Robert Howse reviews the chapters of this book discursively, hinting at his preference for a holistic understanding of international obligations fuelled by basic attention to considerations of humanity,³³ and praising Judge Simma's criticism in the *Oil Platforms* and *Armed Activities (Congo)*³⁴ cases of the Court's formalism as missed opportunities to de-fragment the system.

To conclude, MSENs are indeed better suited to grasping the current status of the international law process than norms entailing conflicting obligations. States usually have a wider range of behaviours to choose from when bound by multiple obligations. The study of these options and of states' choices is key to assessing the overall effectiveness of international legal regimes. In addition, a norm has an influence on its 'equivalent' counter-parts that is arguably deeper than on conflicting ones. The study of MSENs thus is the optimal vantage point for analysing the operation of international norms 'in context'.

The volume under review establishes the concept of MSENs as a discrete subject of study. The definition of MSENs, however, is still tentative and it is not easy to trace it throughout the chapters – some of which were seemingly connected to the MSENs at a late stage of writing. Arguably, the definition should also include a reference to the *beneficiaries* of the similar norms (should they be the same or not?). A negative answer would allow one to consider as MSENs the various equivalent provisions of the BITs concluded by one state, which would then be amenable (together with EU, ECHR, and other property-related international commitments) to a massive case-study and theorization of MSEN interaction.

Another case-study that would fare exceptionally in terms of density of judicial and normative practice is the relationship between the European Charter of Fundamental Rights of the European Union and the European Convention on Human Rights, reflected in the case law of the Luxembourg and Strasbourg Courts, and expressly regulated in Article 6 of the new TEU and, more importantly, in Article 52(3) of the Charter. 'Homonymous' rights in the two Charters are the archetypical MSENs, and the intense dialogue between the two judiciaries would provide plenty of insights on the diffused interpretation and application of equivalent norms.

Shany and Broude assembled this commendable volume round a powerful intuition. The lack of homogeneity of the chapters and the authors' reluctance to prescribe universal solutions are due to the difficulties relating to the novelty of the terminology and are nevertheless outmatched by the virtues of this book. It is a path-breaking study and certainly will be amply referred to in the future: MSENs provide a fresh focus for fragmentation studies, as they divert scholars'

³³ R.G. Teitel, *Humanity's Law* (2011).

³⁴ *Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Uganda), Judgment [2005] ICJ Rep.

attention from the few examples of egregious friction between systems to the much more feasible study of the systemic day-to-day adjustments occurring round ‘similar’ obligations. It seems obvious now, but it was not the case before this book was published.

Individual Contributions

Tomer Broude and Yuval Shany, The International Law and Policy of Multi-Sourced Equivalent Norms;

Ralf Michaels and Joost Pauwelyn, Conflict of Norms or Conflict of Laws? Different Techniques in the Fragmentation of International Law;

André Nollkaemper, The Power of Secondary Rules to Connect the International and National Legal Orders;

Erik Denters and Tarcisio Gazzini, Multi-Sourced Equivalent Norms from the Standpoint of Governments;

Benedikt Pirker, Interpreting Multi-Sourced Equivalent Norms: Judicial Borrowing in International Courts;

Lorand Bartels, Jurisdictions and Applicable Law Clauses: Where Does a Tribunal Find the Principal Norms Applicable to the Case before it?;

Nikolaos Lavranos, The OSPAR Convention, the Aarhus Convention and EC Law: Normative and Institutional Fragmentation on the Right of Access to Environmental Information;

Guy Harpaz, EU Review of UN Anti-Terror Sanctions: Judicial Juggling in a Four-Layer, Multi-Sourced, Equivalent-Norms Scenario;

Moshe Hirsch, The Interaction between International Investment Law and Human Rights Treaties: A Sociological Perspective;

Jurgen Kurtz, Delineating Primary and Secondary Rules on Necessity at International Law;

Martins Paparinskis, Equivalent Primary Rules and Differential Secondary Rules: Countermeasures in WTO and Investment Protection Law;

Claire Charters, Multi-Sourced Equivalent Norms and the Legitimacy of Indigenous Peoples’ Rights under International Law;

Robert Howse, Multi-Sourced Equivalent Norms: Concluding Thoughts

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