

European leaders despite his increasing nationalist authoritarianism.⁶ Short-termist thinking of the worst sort pervades EU policy to this day – the powers that be are hoping that Vučić will soon solve the Kosovo issue for them, remain cooperative on any refugee questions and are fearful that if they push him too hard he might fall into the embrace of the Kremlin. That the health of Serbia's democracy – one that should at least nominally be moving towards EU membership – is eclipsed by such considerations should not be surprising. After all, the EU allowed democratic deconsolidation to run rampant even within its own borders, as in Hungary and Poland. The ICTY's relative marginalization in such a climate should also surprise no one, nor are there many reasons to hope for a more positive trend in the near to medium term.

As noted above, it is hard to fault *Some Kind of Justice* for some of its caution. What Orentlicher has chosen to do, she has done impressively well. The book makes an interesting and original contribution to the literature, and I am sure that it will be read for many years to come.

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Jean d'Aspremont. ***International Law as a Belief System***. Cambridge: Cambridge University Press, 2017. Pp. 176. £85.00. ISBN: 9781108421874

The 'fundamental doctrines' of international law are unjustifiably perceived as an unjudged and unproved truth. This is the claim that Jean d'Aspremont makes in his 2018 book *International Law as a Belief System*. Suggesting a different perspective on international legal reasoning, the book is a thought-provoking reflection on certain international legal doctrines and international law in general. It sheds a critical light on what appear to be accepted assumptions in international legal discourse, sharpening the reader's mind on the multi-layered influences that have contributed to their development.

The aim of the book is twofold: first, it intends to 'expos[e] the international belief system at work behind the fundamental doctrines of international law' (at 103) and, second, it invites international lawyers to 'temporarily suspend the belief system' (at 103). The analytical claim ('exposing the belief system') dominates the major part of the book (Chapters 2–4), which might be summarized as follows. First, international legal discourse is based on certain 'fundamental doctrines'. As examples of such doctrines, the book discusses – without drawing up an exhaustive list – the doctrine of sources, the doctrine of interpretation, the doctrine of responsibility, the doctrine of statehood, the doctrine of *jus cogens* and the doctrine of customary international law. Second, these fundamental doctrines have three features: they constitute rules ('ruleness'), they are derived from international instruments as a result of a fictive history ('imaginary genealogy') and their formation and functioning is explained by fundamental doctrines themselves

⁶ Perhaps the most shameful example is that of the European Union commissioner for enlargement, Johannes Hahn, who on one infamous occasion actually asked the Serbian press to prove to him that they are not free. See 'Hahn Demands Proof of Serbia Media Censorship', *Balkan Insight*, 17 February 2015, available at www.balkaninsight.com/en/article/hahn-calls-for-evidence-on-media-censorship-in-serbia.

(‘self-referentiality’). Third, because of these three features, the fundamental doctrines constitute elements of a belief system – that is, ‘a set of mutually reinforcing beliefs prevalent in a community or society’ (at 4). This belief system is called international law.

In order to make this analytical claim, Chapter 2 sets out the details of the belief system on an abstract level. It defines the key terms and presents the three features of fundamental doctrines (ruleness, imaginary genealogy and self-referentiality) in detail. It highlights the ‘experienced sense of constraint’ (at 47) generated by fundamental doctrines, an expression referring to the observation that international lawyers feel committed to fundamental doctrines. Chapter 3 takes up the feature of ‘self-referentiality’. It shows how the fundamental doctrines of sources and of interpretation are used to construct other fundamental doctrines, creating cross-references between the fundamental doctrines. They thereby exclude alternative points of reference that would be external to the belief system: if doctrines explain their own formation and functioning, they avoid any ‘interference from justificatory demands from outside the belief system’ (at 55). Chapter 4 analyses further fundamental doctrines, including the doctrines of responsibility, statehood, customary law and *jus cogens*. The chapter particularly focuses on the two remaining features of fundamental doctrines: ‘ruleness’ and ‘imaginary genealogy’. It shows that the process of doctrine making can be ‘well engineered’ as ‘fundamental doctrines do not emerge accidentally or naturally but are often the product of a very carefully orchestrated design process’ (at 73). Further, the chapter highlights the alleged link between a doctrine and, what the author calls, a ‘formal repository’, in which the fundamental doctrine is ‘formally nested’ (at 39). The author claims that ‘formal repositories’ such as international legal instruments or landmark cases can be both imaginary and retrospectively added to the already created doctrine. Although the ‘formal repository’ is thus a fiction, the repository can ‘provide a comfort zone where international lawyers can afford to debate the content of the fundamental doctrine without having to inquire about its foundations’ (at 94).

Based on the analysis undertaken in Chapters 2 to 4, the book concludes in Chapter 5 with a normative suggestion; it invites international lawyers to temporarily suspend the belief system – that is, to unlearn one’s understanding of the formation and functioning of the fundamental doctrines of international law that international lawyers ‘have been trained to continuously reproduce and respond to’ (at 103). The suggested unlearning aims at re-imagining international law through a different lens, going beyond a positivist(ic) understanding. It requires ‘a rupture of the self-referentiality on which the international belief system is built’ (at 103). The author asserts that international lawyers do not interpret international instruments when they apply fundamental doctrines but, rather, ‘exercise their interpretive craft in relation to the fundamental doctrine itself’ (at 115). Going beyond the belief system helps, it is further maintained, to ‘re-imagine fundamental doctrines as designed and shaped by a series of interventions by a great number of actors and based on processes that are not captured by the fundamental doctrines themselves’ (at 104). It is on these ‘interventions’ that the emphasis should be put in order to understand how fundamental doctrines as modes of legal reasoning are designed. The making of fundamental doctrines should ‘no longer be seen as a question of lawmaking but rather as a process of inventing tradition’ (at 106).

This brief summary identifies the key claims of *International Law as a Belief System* and illustrates that it is, indeed, thought provoking. At the same time, the argument presented in the book triggers certain questions. In order to open up the discussion, the remainder of this contribution takes a closer look at two of the key ideas suggested in the book: first, the role of fundamental doctrines for the ‘belief’ system and, second, the ‘fundamental’ nature of these doctrines.

1 Fundamental Doctrines as a Basis for a Belief System?

The starting point of the book is the claim that international law is a belief system. Such a system is defined at the outset as a ‘set of mutually reinforcing beliefs prevalent in a community

or society that is not necessarily formalized. ... In a belief system, truth or meaning is required neither by reason (rationalism) nor by experience (empiricism) but by the deployment of certain transcendental validators that are unjudged and unproved rationally or empirically' (at 4–5). Regarding the actors concerned by this belief system, the book takes a broad approach. The international belief system 'is not a state's belief system. It is the belief system of a community of professionals who constantly turn to some key unjudged fundamental doctrines to construct their legal discourse' (at 6).

As the author points out in his introduction, it is 'not new' to present law, in general, and international law, in particular, as a belief system (at 5). However, he contends that his 'claim that international law constitutes a belief system ... is more specific and has never been fully articulated in international legal thought' (at 6). His key assertion is that international law is a belief system because it works with fundamental doctrines – they are the backbone of the belief system that is international law. For the author, the fundamental doctrines of international law function as 'transcendental validators' (at 6). This term, although crucial to the argument of the book, is not spelled out in much detail. Yet it is mentioned that transcendental validators at the very least have two characteristics: they are 'unjudged and unproved rationally and empirically' (at 5).

It is these characteristics that the book builds on when assessing the three suggested features of fundamental doctrines (ruleness, imaginary genealogy and self-referentiality). Of these three features, 'imaginary genealogy' is key for evaluating how fundamental doctrines contribute to the belief character of international law. This term relates to the foundation of the fundamental doctrines identified. The book asserts that this foundation is imaginary 'because the derivation of the fundamental doctrines from an international instrument is a product of the collective consciousness of international lawyers' (at 40–41).

This approach leads to my first observation. When fundamental doctrines are presented as crucial elements of a belief system, readers might wonder to what extent these fundamental doctrines actually contain an element of 'belief'. To what extent are fundamental doctrines really 'transcendental validators' that support the author's claim that international law is a 'belief system'? Is it the fundamental doctrines as a whole or only aspects of them (if at all)? It would have been beneficial if the author had differentiated more clearly between two aspects of the fundamental doctrines: their content and their foundation. When the book claims that 'international lawyers come to think of fundamental doctrines as truth' (at 47), it seems to be argued that both the content and the foundation are 'transcendental'. The author argues that because international lawyers believe in the legal instruments from which the doctrines are derived, they come to believe in the doctrines themselves, taking them as truth enunciated by the instruments. They feel that 'these instruments dictate to them the way in which they must articulate their legal discourse' (at 47). As the argumentation progresses, it becomes apparent, however, that the object of the 'belief' in the international belief system is only the foundation of the respective doctrine, not its content. The book itself acknowledges that the content of several fundamental doctrines (in particular, the doctrine of statehood) is contested. In contrast, the foundations of the fundamental doctrines are not, so international lawyers can 'debate the content of their fundamental doctrines without having to inquire about their foundations' (at 92). This aspect has the following consequence for the claim of a 'belief system': only the foundation of the fundamental doctrines and not the fundamental doctrines as a whole can constitute an element of belief because only the foundation might be 'unjudged and unproved'. It is thus doubtful whether the fundamental doctrines as a whole can be convincingly construed as 'transcendental validators' as claimed by the author. If they cannot, the argument of the book loses some weight.

This aspect is connected to a second question. Readers of the book might wonder to what extent the argumentation actually demonstrates that the fundamental doctrines are the

reflection of a belief system, based on an idea of 'truth'. Do fundamental doctrines really constitute an unjudged and unproved 'truth' or, rather, are they not intersubjective intellectual constructions and perceived as such? Different from a belief system, intersubjective intellectual constructions are not unjudged and unproved and not taken for a fact. Rather, they are based on choices and susceptible to change; they require arguments, not proof. At times, the book actually seems to suggest that fundamental doctrines are seen as intersubjective intellectual constructions – for instance, when the author speaks of the 'product of the collective consciousness of international lawyers' (at 41). However, it is difficult to attribute to the actors involved a belief in an unproved truth if one accepts that law and legal concepts are such intersubjective constructions. If law is a construction and legal actors are aware of it, is it not likely that they are also aware of the same for legal doctrines? From this perspective, it might be possible to understand fundamental doctrines not as aspects of belief but, primarily, as an element of the functionality of legal discourse. For legal discourse to work, some fundamental doctrines are necessary. This aspect of functionality is briefly hinted at in the book – for example, the author acknowledges that the described belief system might be 'inherent in legal argumentation' (at 2); he also mentions the 'merit' of the belief system, which creates the 'possibility of communication' (at 121). One could thus ask whether the relevant actors are aware of the function that fundamental doctrines fulfil and, therefore, accept them as intersubjective constructions. Or are international lawyers really not conscious of this constructed nature and do actually 'believe' in these doctrines as 'truth'? The argument presented in the book would have benefited from an active argumentative engagement with these alternative perspectives.

This question of awareness or belief might be exemplified with regard to the 'imaginary genealogy' feature of fundamental doctrines. In this respect, the book asserts that fundamental doctrines (in particular, the doctrine of responsibility) are the outcome of 'a well-engineered process'. It states that the 'architects of the doctrine [are] very much aware of their doctrine-making responsibilities' and that 'doctrine-making is a matter of scholarly choice' (at 73). Although this relates to the actors who have contributed to the creation of the doctrine, one might ask whether the same is not also true for contemporary international lawyers. Current perceptions about doctrine making might not be that far from former ones. The book only partially addresses this question. It focuses mainly on demonstrating that the foundation of the doctrine is engineered. It does not establish, however, that contemporary international lawyers are not also aware of this fact; it does not establish that they actually perceive the doctrine as transcendental fact and not as the result of an engineered process.

As a general point, the book appears to spend more argumentative energy on 'deconstructing' the belief system than on actually demonstrating its existence. Exposing the various 'interventions' by multiple actors that have led to the creation of certain fundamental doctrines only amounts to exposing a belief system if the relevant actors actually consider these doctrines and their foundations as 'truth'. In order to demonstrate that international law is a belief system, the argument proceeds as follows. Fundamental doctrines refer, as their historic and substantive origin, to 'formal repositories' such as Article 38 of the Statute of the International Court of Justice (ICJ Statute), Articles 31 and 32 of the Vienna Convention on the Law of Treaties, the Montevideo Convention, the International Law Commission's Articles on Responsibility of States and so on.¹ According to the argumentation, this link between doctrine and formal repository is a fiction, a mere 'imaginary genealogy', because this link is engineered. However, international lawyers are said to believe that these doctrines directly stem from the formal repositories.

¹ Statute of the International Court of Justice 1945, 59 Stat. 1031; Vienna Convention on the Law of Treaties 1969, 1155 UNTS 331; Montevideo Convention on the Rights and Duties of States 1933, 165 LNTS 19; International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), UN Doc. A/56/83, 3 August 2001.

The transcendental nature of the fundamental doctrines results from this belief. In this argumentation, it is thus the crucial element that international lawyers consider the link between doctrine and formal repository as genealogical. In other words, the crucial argument is that, for international lawyers, doctrines are historically and rationally derived from ‘formal repositories’. And, yet, although this is important, the author does not demonstrate that, for international lawyers, the link between doctrine and repository is really genealogical in this sense. He does not establish that (some, most or all) international lawyers actually consider fundamental doctrines to be derived from ‘formal repositories’. In particular, he does not engage with alternative understandings.

A possible alternative understanding would be that these doctrines are only argumentatively linked back to the repositories in order to strengthen the persuasiveness of the doctrine. For instance, the link between Article 38 of the ICJ Statute and the doctrine of sources could be perceived as follows: one could claim that the doctrine of sources rationally follows from Article 38 or alternatively maintain that Article 38 is merely an argument that supports the doctrine of sources in their current form. What is more, one could even understand Article 38 as nothing but a different form of language into which the substance of the pre-existing doctrine has been translated. The fact that the book considers not only legal instruments but also ‘seminal pieces of scholarship’ (at 43–44) to be a potential ‘formal repository’ might support an alternative understanding; scholarship *per se* emanates from certain actors – the scholars. If scholarship can be the foundation of a doctrine, this draws attention to one particular group of actors. It thus seems less likely that international lawyers really do not take into account that doctrines are the result of normative ‘interventions’ by certain actors and, instead, think that they directly stem from a formal repository. Here again, it would have been beneficial for the book to have engaged more closely with alternative understandings and to have shown expressly that (and which) actors actually perceive the link between the ‘repository’ and the doctrine as a genealogy, rather than as an argumentative, tool or else.

In sum, as the book focuses on ‘deconstructing’ the belief system rather than on demonstrating its existence in the first place, it skips a crucial step. The reader might have the impression that the author is tilting at windmills. Since a belief system exists because of its ‘believers’, the book should have given more space to analysing the actors in international law and their perceptions, before dissecting the object of the ‘belief’ – that is, the fundamental doctrines.

2 An Analysis of Fundamental Doctrines?

A second set of observations concerns the fundamental doctrines that are said to make up international law as a belief system. More particularly, it needs to be asked whether the notion of doctrine and particularly of ‘fundamental’ doctrine employed in the book is convincing. The book defines fundamental doctrines as ‘organised clusters of modes of legal reasoning that are constantly deployed by international lawyers when they formulate international legal claims about the existence and the extent of the rights and duties of actors subjected to international law and the consequences of breaches thereof’ (at 8); they ‘seem to fulfil international lawyers’ need for both knowledge and ordering’ (at 25).

This definition, and the way in which the term is used throughout the book, raises the question of the ‘fundamental’ nature of the doctrines discussed. What makes a doctrine a fundamental doctrine? The book does not provide an explicit answer. Rather, the argumentation seems to suggest that the attribute ‘fundamental’ is not decisive to the claim of a belief system, with an emphasis on the doctrinal rather than on the fundamental character of the relevant concepts. One thus might ask whether the analysis undertaken in the book does not in actuality refer to doctrines *tout court* rather than fundamental doctrines.

If the argumentation in its core is in fact about doctrines *tout court* and not fundamental doctrines of international law, this would have various consequences. If the observations made by the author do not only relate to fundamental doctrines but also to all doctrines, the 'features' mentioned to support the claim of a belief system would be general phenomena of law. The observations would include all and (not only certain) doctrines of international law and of law in general. If this were the case, one could wonder whether such widespread phenomena are not already well known in legal scholarship and already addressed and conceptualized in various ways. Moreover, if they were established knowledge from a theoretical perspective, it may be further questioned what consequences this knowledge has for legal practice. Ultimately, if the argument of the book is really about doctrines *tout court*, the claim of a belief system and the suggestion to suspend it becomes more vulnerable. I address these points in the following paragraphs.

The impression that the observations in the book relate to doctrines *tout court* is supported when one compares the definition of 'fundamental doctrines' mentioned above with other notions such as the following: legal reasoning in a systematized and standardizing way that, in the German-speaking legal tradition, would be called *Dogmatik*. This is generally understood as representation of the law in a systematizing and standardizing manner with the aim of facilitating its application. The creation of standards and the interlinkage of these standards in a systematizing way directly relate to the features of 'ruleness' and 'self-referentiality' mentioned in the book. It also has been noted that the understanding of legal reasoning reflected by the term *Dogmatik* leads to an amalgamation of legal method and legal source, an aspect that is at the core of the claims related to the feature of imaginary genealogy.² Taking this into account, a reader familiar with the concept might wonder whether he or she is not actually reading a book about such *Dogmatik*. The 'fundamental' character of doctrines would have no relevance in this case. What is more, readers familiar with the concept of *Dogmatik* might not be overly surprised to find legal doctrine to be presented in the book as a construction and to read about features such as 'ruleness', 'self-referentiality' and 'imaginary genealogy'.

Going beyond this example, I would in fact argue that there are a number of members of the international law community for whom the idea that doctrines are constructed is not so much of a revelation. This might include, as the example of *Dogmatik* shows, lawyers who follow a traditional approach to law as well as representatives of different theoretical strands such as critical or feminist legal studies, law and literature or third-world approaches to international law. Although some actors might indeed perceive international law as the belief system that the book invites them to suspend, the 'community of professionals of international law' is arguably more diverse in their understanding of doctrines than the book suggests. An example can be drawn from one of the key findings that the book exposes in Chapter 5: '[T]he design of modes of legal reasoning can no longer be construed as a top-down process by which some modes of legal reasoning are derived from an international instrument. ... Instead, the formation of fundamental doctrines must be construed as a bottom-up process by which modes of legal reasoning are organised into axiomatic packages that are genealogically linked with an international instrument' (at 106). Here, one might justifiably ask whether the formation of doctrines is not already perceived by many others as such a bottom-up process, without the concept of a belief system being a necessary prerequisite.

To the extent that the phenomena mentioned in the book are at their core established knowledge because they concern doctrines *tout court*, one can ask about the ramification that this knowledge has for legal practice. Doctrines can be approached from two different angles: they can be analysed from a theoretical perspective, highlighting their mode of formation and the

² Jestaedt, 'Phänomen Bundesverfassungsgericht', in Jestaedt et al. (eds), *Das entgrenzte Gericht* (2011) 77, at 135.

'interventions' of the actors involved in this formative process, and they can also be seen from a practical perspective. Since doctrines fulfil a particular function for legal discourse, they are practical tools. Legal actors can be very well aware of these two perspectives and adjust their understanding accordingly. In particular, legal actors can be aware that a doctrine is the outcome of multiple 'interventions' of those involved in the process of doctrine formation and that the doctrine thus reflects certain normative choices. At the same time, an actor can agree to use the doctrine – *faute de mieux* – as a tool for legal discourse, without questioning in the particular situation of application how convincing, normative or legitimate the basis for this doctrine is. For the argumentation put forward in the book, this means that if actors use a doctrine in an apparently 'unjudged' manner, they may do so only for practical purposes, while at the same time being aware that this doctrine faces significant theoretical challenges. Their use of these doctrines thus cannot be taken *per se* as evidence for the claim that international law is a belief system. Inversely, the ambition of the book 'to make international lawyers sensitive to an image of what they are potentially thinking when they deploy the modes of legal reasoning prescribed by the fundamental doctrines' (at 117) might amount to preaching to the converted for such actors.

These aspects concerning the notion of (fundamental) doctrines and their quality as a basis for a belief system have an important consequence with regard to the normative suggestion of the book. For those lawyers who do not 'believe' – that is, who are sensible of the idea that legal doctrines are constructed to serve as tools in legal discourse – it is unclear how they can benefit from following the invitation of the book to 'suspend the belief system'. When the book claims that it 'has aimed primarily at providing new reflexive tools to professionals of international law' (at 117), this is limited to making 'believing' international lawyers sensitive to their belief. Beyond that, the book does not suggest new reflexive tools in order to replace the described fundamental doctrines as practical tools – it does not claim to do so. Yet it also explicitly states that it does not attempt 'to reconstruct international law in a certain way after the belief system has been suspended' (at 117–118). Developing a theoretical 'tool' therefore is not the intention of the book either. In fact, it only calls for the 'suspension' of the belief system, not its abandonment, which is considered 'neither possible nor desirable' (at 20).

What the book offers is the lens of 'interventions' by various actors in the context of doctrine formation – a lens that can provide interesting insights for the specific examples highlighted in the book. Here, the general contribution of the book, however, would have become more tangible if the author had outlined in more detail how 'interventions' as a lens can serve as a novel theoretical 'tool'. In particular, it would have been beneficial to explicate how this lens differs from other already established actor-related accounts of, and critical approaches to, international law. In the end, it is the rationality and neutrality claim of positivism that is criticized in the book. The author states that the 'formation of fundamental doctrines is 'de-personified' and reduced to the adoption of the international instrument from which those doctrines are supposedly derived' (at 104). Such critique of de-personification through law and legal thinking, however, has already been expressed in international legal discourse in various forms. Readers might thus wonder to what extent the author offers novel insights on this aspect.

My final observation relates to the explicit choice of the book to leave open the following question: are the characteristics of fundamental doctrines such as the ones highlighted by the book particular to international law? Engaging with this aspect could have contributed to the argument in two ways: first, considering 'whether a similar belief system is inherent in legal argumentation as a whole' (at 2) would have allowed one to assess the suggestion to suspend the belief system. If the highlighted argumentative structures in legal doctrine are actually 'inherent' in legal discourse, it might be part of the functioning of law. A claim for suspension would then require further normative arguments, suggesting why this functionality should be suspended. Second, the claim that international law forms a belief system might create at first glance the impression that international law is special in this regard, particularly because the discussion about its ideological/political/conceptual influences and underlying structures is

more prominent in international law than in many other legal contexts. The reader's expectation towards the book might be that it offers insights as to whether international law might be 'more' or 'less' of a belief system than other areas of law. This question remains open.

In sum, although the insights gained might vary depending on whether the reader is a 'believer' or not, the book offers a stimulating account of how fundamental doctrines of international law have been created, established and interlinked. It provides a wide-ranging analysis including many of the main concepts that shape international law (sources, interpretation, responsibility, statehood, customary law, *jus cogens*). In this regard, it has the potential to interest a broad variety of international lawyers. A key merit of the book is to highlight how, due to the multiple actors involved, these doctrines reflect normative choices and are often linked to a thin basis in positive law. This might lead to one of the book's potential 'effects': an 'empowerment of reformers' (at 118). It points a finger at the fact that doctrines of international law are not carved in stone but, rather, can, or even should, be normatively questioned in their current form. What is more, to view fundamental doctrines to have been 'engineered' by certain actors might encourage other actors to 're-engineer' them. As the author puts it, 'what has been unlearned needs to be reinvented' (at 119). From this perspective, the critique raised by the book with regard to the fundamental doctrines might thus be read as a broader plea against the static existence of normative doctrines. Such a plea can certainly be a fruitful contribution for legal thinking in general.

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Katharina Diel-Gligor. ***Towards Consistency in International Investment Jurisprudence: A Preliminary Ruling System for ICSID Arbitration.*** Leiden: Brill Nijhoff, 2017. Pp. 590. £185.00. ISBN: 9789004337909

Towards Consistency in International Investment Jurisprudence lands squarely in the middle of a rather crowded scholarly field. From James Crawford's talk of crazy quilts and Persian rugs¹ to Gabrielle Kaufmann-Kohler's 'myth-busting' ruminations,² there has certainly been no shortage of consideration of the issue of consistency in international investment jurisprudence in recent times. In fact, concerns over the apparently contradictory awards of different investment tribunals have occupied the minds of investment law scholars and practitioners for some time now.³ That having been said, it is clear from the first page that *Towards Consistency* is no

¹ Crawford, 'Treaty and Contract in Investment Arbitration', 24 *Arbitration International* (2008) 351, at 353.

² Kaufmann-Kohler, 'Is Consistency a Myth?', in E. Gaillard and Y. Banifatemi (eds), *Precedent in International Arbitration* (2008) 137.

³ The examples most often cited are the SGS arbitrations concerning umbrella clauses (ICSID, *SGS Société Générale de Surveillance S.A. v. Islamic Republic of Pakistan – Decision on Objections to Jurisdiction*, 6 August 2003, ICSID Case no. ARB/01/13; ICSID, *SGS Société Générale de Surveillance S.A. v. Republic of the Philippines – Decision on Jurisdiction*, 29 January 2004, ICSID Case no. ARB/02/6); the *CMS/LG&E v. Argentina* arbitrations regarding necessity (ICSID, *CMS Gas Transmission Company v. Argentine Republic – Award*, 12 May 2005, ICSID Case no. ARB/01/8; ICSID, *LG&E International v. Argentine Republic – Decision on Liability*, 3 October 2006, ICSID Case no. ARB/02/1); *CME/Lauder v. Czech Republic* arbitrations (UNCITRAL, *CME Czech Republic BV v. Czech Republic – Partial Award*, 13 September 2001; UNCITRAL, *CME Czech Republic BV v. Czech Republic – Final Award*, 14 March 2003; UNCITRAL, *Lauder v. Czech Republic – Award*, 3 September 2001).