

Professor Thomas Schultz

PUBLICATIONS - MAY 2018

Authored Books

In progress

1. *International Arbitration Law and Theory*, with Stavros Brekoulakis. Under contract with Hart Publishing / Bloomsbury. (Completion exp. Fall 2019.)
2. *Investment Arbitration as a Political System*, with Cédric Dupont and Jason Yackee. Under contract with Oxford University Press. (Completion exp. end 2019.)
3. *Arbitration: A Very Short Introduction*, with Tom Grant. Under contract with Oxford University Press. (My half completed. Completion of full manuscript exp. end 2018.)
4. *The Principle of Comity in Private and Public International Law*, with Jason Mitchenson and Niccolò Ridi. Under contract with Cambridge University Press. (Completion exp. October 2018.)

Published

5. *Transnational Legality: Stateless Law and International Arbitration*, Oxford University Press, 2014.
6. *Information Technology & Arbitration*, Kluwer Law International, 2006.
7. *Réguler le commerce électronique par la résolution des litiges en ligne : Une approche critique*, Bruylant, 2005.
8. *Online Dispute Resolution: Challenges for Contemporary Justice*, with Gabrielle Kaufmann-Kohler, Kluwer Law International, 2004.

Edited Books

In progress

9. *Oxford Handbook of International Arbitration*, co-edited with Federico Ortino. Under contract with Oxford University Press. (Completion exp. December 2018.)

Edited Special Issues of Scholarly Journals

10. Shakespeare and International Dispute Settlement, co-edited with François Ost. Special issue of *Journal of International Dispute Settlement*, 9(1), 2018.
11. Empirical Studies on Investment Disputes, co-edited with Cédric Dupont. Special issue of *Journal of International Dispute Settlement*, 7(1), 2016.

Journal Articles and Book Chapters

In progress

12. Arbitrator Decision-Making and Justification, in T. Schultz and F. Ortino (eds), *Oxford Handbook of International Arbitration*, Oxford University Press, 2018.
13. On International Arbitration and Academia, in T. Schultz and F. Ortino (eds), *Oxford Handbook of International Arbitration*, Oxford University Press, 2018.

Forthcoming

1. Legitimacy Pragmatism in International Arbitration: A Framework for Analysis, in J. Kalicki and M. Abdel Raouf (eds), *Evolution and Adaptation: The Future of International Arbitration*, ICCA Congress Series No. 20, Kluwer 2019.
2. Rediscovering the Principle of Comity in English Private International Law, with Jason Mitchenson, 26 *European Review of Private Law* (2018).
3. Investment Arbitration and Political Systems Theory, with Cédric Dupont and Jason Yackee, in T. Schultz and F. Ortino (eds), *Oxford Handbook of International Arbitration*, Oxford University Press, 2018.
4. Comity in US Courts, with Niccolò Ridi, *10 Northeastern University Law Review* (2018).
5. Double Jeopardy? The Use of Investment Arbitration in Times of Crisis, with Cédric Dupont and Merih Angin, in D. Behn, O.K. Fauchald, and M. Langford (eds), *The Legitimacy of Investment Arbitration: Empirical Perspectives*, Cambridge University Press, 2018.
6. How Comity Makes Transnationalism Work, with Niccolò Ridi, in P. Zumbansen (ed.), *Jessup's Bold Proposal: Engagements with Transnational Law after Sixty Years*, Cambridge University Press, 2018.
7. Non-Analytical Obstacles to Stateless Law, (43) *North Carolina Journal of International Law* (2018).

8. Life Cycles of International Law as a Noetic Unity: The Various Times of Law-Thinking, in L. Pasquet, K. Polackova Van der Ploeg, and L. Castellanos Jankiewicz (eds), *International Law and Time: Narratives and Techniques*, Springer, 2018.

Published

9. Shakespearean Legal Thought in International Dispute Settlement, with François Ost, *9 Journal of International Dispute Settlement 1* (2018).
10. Comity and International Courts and Tribunals, with Niccolò Ridi, *50 Cornell International Law Journal 577* (2017).
11. Comity: The American Development of a Transnational Concept, with Niccolò Ridi, *18 Yearbook of Private International Law 211* (2017).
12. Navigating Sovereignty and Transnational Commercial Law: The Use of Comity by Australian Courts, with Jason Mitchenson, *12 Journal of Private International Law 344* (2016).
13. International Arbitration Scholarship: Forms, Determinants, Evolution, in S. Brekoulakis, J. Lew, and L. Mistelis (eds), *The Evolution and Future of International Arbitration*, Kluwer, 2016, 435-451.
14. The Law is What the Arbitrator Had For Breakfast: On the Determinants of Arbitrator Behavior, with Robert Kovacs, in J.C. Betancourt (ed), *Defining Issues in International Arbitration: Celebrating 100 Years of the Chartered Institute of Arbitrators*, Oxford University Press, 2016, 238-256.
15. Political Risk and Investment Arbitration: An Empirical Study, with Cédric Dupont and Merih Angin, *7 Journal of International Dispute Settlement 136* (2016).
16. Towards a New Heuristic Model: Investment Arbitration as a Political System, with Cédric Dupont, *7 Journal of International Dispute Settlement 3* (2016).
17. Diritto transnazionale senza Stato: quali le cause della resistenza?, *2015(2) Ars Interpretandi – Rivista di ermeneutica giuridica 35* (2015).
18. Arbitral Decision-Making: Legal Realism and Law & Economics, *6 Journal of International Dispute Settlement 231* (2015).
19. Types of Political Risk Leading to Investment Arbitrations in the Oil & Gas Sector, with Cédric Dupont, Melanie Wahl, and Merih Angin, *8 Journal of World Energy Law & Business 337* (2015).
20. Investment Arbitration: Promoting the Rule of Law or Over-Empowering Investors? A Quantitative Empirical Study, with Cédric Dupont, *25 European Journal of International Law 1147* (2014).
21. How Conceptions of Justice Associated with the Nation-State Obstruct Our View on Possibilities of Transnational Commercial Law, *25 King's Law Journal 377* (2014).
22. Against Consistency in Investment Arbitration, in J. Pauwelyn, J. Vinuales and Z. Douglas (eds), *The Conceptual Foundations of International Investment Law*, Oxford University Press 2014, 297-316.
23. Postulats de justice en droit transnational et raisonnements de droit international privé: Premier balisage d'un champ d'étude, in M.G. Kohen and D. Bentolilla (eds), *Mélanges en l'honneur de Jean-Michel Jacquet*, LexisNexis 2013, 417-431.
24. Do Hard Economic Times Lead to International Legal Disputes? The Case of Investment Arbitration, with Cédric Dupont, *19 Swiss Political Science Review 564* (2013).
25. La comity dans l'histoire du droit international privé, with David Holloway, *139 Journal du droit international 571* (2012).
26. The Rise of a Third Generation of Arbitrators? Fifteen Years After Dezalay & Garth, with Robert Kovacs, *28 Arbitration International 163* (2012).
27. Secondary Rules of Recognition and Relative Legality in Transnational Regimes, *56 American Journal of Jurisprudence 59* (2011).
28. Les origines de la comity au carrefour du droit international privé et du droit international public, with David Holloway, *138 Journal du droit international 863* (2011).
29. Internet Disputes, Fairness in Arbitration and Transnationalism: A Reply to Julia Hörnle, *19 International Journal of Law and Information Technology 153* (2011).
30. The Concept of Law in Transnational Arbitral Legal Orders and Some of Its Consequences, *2 Journal of International Dispute Settlement 59* (2011).
31. The Three Pursuits of Dispute Settlement, *1 Czech & Central European Yearbook of Arbitration 227* (2011).
32. The Roles of Dispute Settlement and ODR, in A. Ingen-Housz (ed.), *ADR in Business*, vol. 2 *Issues and Practice Across Countries and Cultures*, Kluwer Law International 2011, 135-155.
33. The State, a Perpetual Respondent in Investment Arbitration? Some Unorthodox Considerations, with Mehmet Toral, in M. Waibel et al. (ed.), *The Backlash Against Investment Arbitration*, Kluwer Law International 2010, 577-602.
34. Le critère de la moralité interne du droit comme réponse aux enjeux éthico-politiques du règlement des

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 37. Carving Up the Internet: Jurisdiction, Legal Orders and the Private/Public International Law Interface, *19 European Journal of International Law* 799 (2008).
 38. Private Legal Systems: What Cyberspace Might Teach Legal Theorists, *10 Yale Journal of Law & Technology* 151 (2007).
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 42. Taking the Fourth Party Further? Considering a Shared Virtual Workspace for Arbitration, with Dimitris Protopsaltou and Nadia Magnenat-Thalmann, *15 Information & Communications Technology Law* 157 (2006).
 43. Human Rights: A Speed Bump for Arbitral Procedures?, *9 International Arbitration Law Review* 8 (2006).
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 45. The Use of Information Technology in Arbitration, with Gabrielle Kaufmann-Kohler, *JusLetter dedicated edition*, 5 December 2005, 127pp.
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Reports

56. Online Dispute Resolution: An Overview and Selected Issues, *Report for the United Nations Economic Commission for Europe 2002*, 25pp.
57. Online Dispute Resolution: The State of the Art and the Issues, with Gabrielle Kaufmann-Kohler, Dirk Langer & Vincent Bonnet, *University of Geneva 2001*, 102pp.

Editorials, Short Pieces, Book Reviews & Newspaper Articles

58. A Note on Originality, Editorial Courage, and Our Latest Prize-Winner, *8 Journal of International Dispute Settlement* 217 (2017).
59. Celebrating 20 Years of 'Dealing in Virtue', *7 Journal of International Dispute Settlement* 531-533 (2016).
60. The Structuring Forces of What We Think to Be Law: Initial Musings, *5 Journal of Civil & Legal Sciences* (2016).
61. Cour permanente ou tribunaux arbitraux: quelle juridiction pour le traité transatlantique?, with Florian Grisel, *Le Monde*, 18 September 2015.
62. From ad hoc arbitral tribunals to permanent courts: three examples, with Florian Grisel, *Oxford University Press Blog*, 14 September 2015.

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64. The Evolution of International Arbitration as an Academic Field, 6 *Journal of International Dispute Settlement* 229 (2015).
65. Quand le droit national est supplanté par le «droit de eBay», *Le Temps*, 18 March 2015.
66. Of Correct Views on Law Without The State, 6 *Journal of International Dispute Settlement* 1 (2015).
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70. The James Crawford Prize, 3 *Journal of International Dispute Settlement* 243 (2012).
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72. Arbitration as an iPhone, or why conduct academic research in arbitration?, 2 *Journal of International Dispute Settlement* 279 (2011).
73. Editorial, 1 *Journal of International Dispute Settlement* 266 (2010).
74. Editorial, 1 *Journal of International Dispute Settlement* 1 (2010).
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82. CyberTribunal Relaunched, *ODR News – Forum of the US National Center for Technology and Dispute Resolution*, 14 April 2004, 1p.
83. The Architecture of ODR Systems as Their Best Promoter, 2 *World of Arbitration* 2002.

Translations

84. François Ost, "Arbitration and Literature", in T. Schultz and F. Ortino (eds), *Oxford Handbook of International Arbitration*, Oxford University Press, 2018. (In progress.)
85. François Ost, "The Twelfth Camel, or the Economics of Justice", with Shalini Soopramanien, 2 *Journal of International Dispute Settlement* 333 (2011).