CHAPTER 2

ILLUSTRATIONS: A READER'S GUIDE

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This handbook contains a fold-out chart with several illustrations. They were prepared by Francesco Sebregondi of the Forensic Architecture Project at Goldsmiths, University of London, relying on data collected by Karen Alter and Cesare Romano. Our aim is to provide the reader with a quick overview of the rapidly expanding world of international adjudicative bodies.

Data visualization is not new, and in recent years it has benefited greatly from advances in software and computer graphics. Widely employed in science, data visualization allows readers to access and process large amounts of data in ways that would not otherwise be possible. A good visualization tool unlocks access to

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knowledge, and does so quickly, efficiently, and effectively.[1] Yet legal scholarship is still largely devoid of visual representations, despite scholars' increasing reliance on large data sets and analyses of multiple institutions.[2] Given the considerably large and growing number of international adjudicative bodies, we believe these illustrations will help readers grasp with much greater ease some of the key points we try to express in words.

This guide explains what is included in and excluded from the illustrations. Excel documents with the raw data is available upon request.[3] The coding is also summarized in Annexes 1 and 2 at the end of this handbook. The abbreviations used are explained in the Abbreviations section of this handbook.

1 International Judicial Bodies: A Taxonomic Timeline

The timeline provides the reader with the following information, which is explained in greater detail in this guide:

1) Type of international judicial body: a list of the international judicial bodies organized by type.
2) Status: whether the body is functionally operational or inoperative.
3) Year: the year the body became functionally operational. For inactive bodies, we include the year the legal instrument became binding, or, if the instrument never entered into force, the year the instrument was adopted.
4) Number of states subject to the judicial body's compulsory jurisdiction.
5) Average rulings on the merits per year (2006–2011): a gauge of the body's level of activity.
6) Decade: decade during which the various judicial bodies became operational.

[1] See generally, E Tufte, *Envisioning Information* (Cheshire, CT: Graphics Press 1990); M Lima, *Visual Complexity: Mapping Patterns of Information* (New York: Princeton Architectural Press 2011).

[2] For an early attempt to visualize information on international adjudicative bodies, see C Romano, Research Matrix (*Project on International Courts and Tribunals*, 1999) <http://www.pict-pcti.org/matrix/matrixintro.html> accessed May 1, 2013. For a more recent attempt to utilize visual images to map international courts (criminal international courts), see <http://www.leitnercenter.org/files/News/International%20Criminal%20Tribunals.pdf> accessed June 1, 2013.

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1.1 Type of international judicial body

As Chapter 1 explains, every classification requires making choices about what to include and exclude. Chapter 1 identifies two basic modes of international adjudication: through judicial bodies and through arbitration. The typology adopted for these illustrations follows the one used in Part II of this handbook, with the following exceptions:

First, to keep the timeline manageable, we focused on international judicial bodies, excluding arbitral bodies and international claims and compensation bodies. Because of their rather limited functions and jurisdiction, we also excluded international administrative tribunals, even though they are international judicial bodies.

Second, we divided the judicial bodies into four major types:

a) Inter-State Judicial Bodies
b) Human Rights Courts
c) Judicial Bodies of Regional Integration Agreements
d) International Criminal Courts

We further divided them into sub-types, depending on the fundamental institutional and jurisdictional attributes they shared.

Inter-State Judicial Bodies: This group includes judicial bodies that are accessible mostly, if not exclusively, by states. We say mostly because there are exceptions. For instance, the early Central American Court of Justice (Corte de Justicia Centroamericana), also known as the Court of Cartago, has been listed in this group even though it could—and did—hear cases brought by individuals.[4] Also, while theoretically all existing human rights courts can hear disputes brought by states against other states for violations of human rights, in practice that very rarely occurs. For that reason they have not been listed in this group but in a category of their own. Judicial bodies could be further divided into those whose jurisdiction is not limited to any area of the world (*global*), and those whose jurisdiction can only be accepted by states in a particular region (*regional*). Again, for the sake of simplicity, we omitted this from the timeline.

Human Rights Courts: Following Solomon Ebobrah's discussion, under this heading we listed the three regional courts currently in existence: European Court of Human Rights; Inter-American Court of Human Rights; and the African Commission on Human and Peoples' Rights, whose raison d'être is adjudicating cases brought by individuals alleging violation of certain human rights treaties.[5] As we discuss in the next paragraph, the images also reflect the fact that some regional economic courts have delegated jurisdiction over human rights issues.

[4] For more on the Court of Cartago, see, in this handbook, Romano, Ch. 6, at section 2.4.
[5] See, in this handbook, Ebobrah, Ch. 11.

Judicial Bodies of Regional Integration Agreements: This group includes a wide range of different judicial bodies. Their commonality is that they are organs of regional organizations aiming to integrate their member states, either economically and/or politically. Some of these regional courts focus solely on resolving trade disputes and were designed based on the template provided by the World Trade Organization (WTO) dispute settlement system (e.g. the Association of Southeast Asian Nations, or ASEAN, Appellate Body, and the Permanent Review Tribunal of the Mercosur). Others follow the model of the Court of Justice of the European Union (CJEU) (e.g. the Court of Justice of the African Union, the Andean Tribunal of Justice, and the Court of the European Free Trade Association).[6] Some blend functions of international courts with those of national courts (e.g. the Caribbean Court of Justice, or CCJ). Others have very narrow subject matter focus (e.g. the European Nuclear Energy Tribunal and the Judicial Board of the Organization of Arab Petroleum Exporting Countries). Again, for the sake of simplicity, we omitted further subdivision of this group.

It should be noted that, in recent years, a number of Courts of Regional Integration Agreements have been explicitly endowed with jurisdiction over human rights legal instruments (e.g. the CJEU and the Court of Justice of the Economic Community of Western African States, or the ECOWAS Court of Justice). We decided to list these bodies as belonging both to the Courts of Regional Integration Agreements and the Human Rights Courts groups. The Southern Africa Development Community Tribunal (SADC T) has recently been stripped of its jurisdiction to consider cases brought by individuals, including human rights cases.[7] We did not list it twice.

A number of other bodies have assumed, by way of jurisprudential reasoning, jurisdiction over human rights legal instruments (e.g. the East African Court of Justice).[8] Because this is not the result of a direct delegation by states but rather the voluntary, sometimes one-off, assumption of jurisdiction by these bodies, we decided not to double-list those in the Human Rights Courts group.

International Criminal Courts: We broke down these bodies into three sub-types: permanent courts, ad hoc tribunals, and military and hybrid tribunals. Although these categories are well established in literature, as the contribution from William Schabas explains, classifying international criminal courts is somewhat difficult.[9] Our definition follows more traditional categorizations.[10]

[6] See, in this handbook, Alter, Ch. 4.

[7] See, in this handbook, Romano, Ch. 6 and Ginsburg, Ch. 22.

[8] See, in this handbook, Ebobrah, Ch. 11.

[9] See, in this handbook, Schabas, Ch. 10.

[10] See C Romano, "A Taxonomy of International Rule of Law Institutions" (2011) 2 JIDS 241; C Romano, "Mixed Criminal Tribunals," in *Max Planck Encyclopedia of Public International Law* (3rd rev. edn, Oxford University Press 2012) 312–24.

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1.2 Status

The judicial bodies we list are further distinguished by whether they are functionally operational or inoperative at the time this handbook is being finalized. We considered bodies operational when their constituting legal instrument entered into force; judges had been appointed; and the court had received cases (or, in the case of international criminal courts, investigations had been started). Annex 1 to this handbook includes the raw data that we used to divide inoperative bodies into three sub-types.

- "Forsaken" bodies are those whose constitutive legal instruments have not entered into force (e.g. the International Prize Court).
- "Dormant" bodies are those whose constitutive legal instruments have entered into force, but judges have not yet been selected or cases have not yet been filed (e.g. the ASEAN dispute settlement system). It also includes bodies that have been active in the past but have not received a case for the past three years (2009–2012) (e.g. the Judicial Board of the Organization of Arab Petroleum Exporting Countries).
- "Terminated" bodies are those that have ceased operations or have been replaced by other courts (e.g. the Permanent Court of International Justice).

We could have limited our illustration to currently operational bodies, but we felt that including inoperative courts helps to capture the fluidity of the international adjudicative domain over time. These images help to underscore the point made by Cesare Romano that not every effort to establish international adjudicative bodies succeeds.[11]

1.3 Year

It can be very hard to ascertain the year a judicial body is created. Does one use the date states decided to establish a judicial body? The year its founding legal instrument entered into force? The year when its judges were appointed? Or the year the judicial body formally opened its doors to litigants? These different founding benchmarks can be spread out over a decade. Usually, legal scholars date judicial bodies from the year their constituting legal instruments enter into force. However, this practice can be misleading, since it suggests the judicial body has remained idle for a number of years. Since this handbook is interested in practice and activity, we specify the year in which the judicial body became operational, meaning judges were appointed and the court stood ready to receive cases. For inoperative bodies

[11] See, in general, in this handbook, Romano, Ch. 6.

(e.g. dormant courts such as the Court of Justice of the Arab Maghreb Union), we list the year the legal instrument became binding. If the instrument never entered into force, we use the year the constituting legal instrument was adopted (e.g. for forsaken courts such as the International Prize Court). The last column to the right groups into decades the years in which the various judicial bodies became active.

1.4 Number of states consenting to the judicial body's compulsory jurisdiction

Since compulsory jurisdiction makes it hard for states to avoid litigation,[12] we decided to count how many states are subject to any given judicial body's compulsory jurisdiction. In the timeline, the thickness of the line is proportional to the number of states. There are three levels of thickness: less than 5 states, 6 to 30 states, and more than 30 states. The levels are somewhat arbitrary, of course. In Annex 1, we provide detailed data, accurate as of 1 July 2013, on which states are subject to the compulsory jurisdiction of which judicial bodies.[13]

Nowadays, most international judicial bodies enjoy *compulsory jurisdiction*. Their power to adjudicate a case does not derive from a direct, explicit, or an ad hoc act of consent (*consensual jurisdiction*), but derives from an act of consent removed in time from the act of adjudication. In some cases, consent to jurisdiction is required for membership in an international organization. For example, a state cannot be a member of the Council of Europe without accepting jurisdiction of the European Court of Human Rights (ECtHR). Joining the WTO requires accepting its compulsory dispute settlement process. Membership does not mean that the state in question will actually litigate. Some never do. But the member state is exposed to the possibility of litigation should an individual (as in the ECtHR) or another member state (as in the ECtHR and WTO) decide to initiate judicial proceedings.

For the other judicial bodies, a second act of consent is required, often in the form of ratification of an additional protocol or the filing of an optional declaration giving the judicial body compulsory jurisdiction. For example, the Inter-American Court of Human Rights (IACtHR) has compulsory jurisdiction over members of the Organization of American States (OAS) that have both ratified the American Convention of Human Rights (ACHR) and also made an optional declaration accepting the court's jurisdiction.

For judicial bodies with jurisdiction over all members and judicial bodies where a second act of consent is required, counting how many states are subject to any

[12] C Romano, "The Shift from the Consensual to the Compulsory Paradigm in International Adjudication: Elements for a Theory of Consent" (2007) 39 N.Y.U. J. Int'l L. & Pol. 791; K Alter, *The New Terrain of International Law: Courts, Politics, Rights* (Princeton University Press 2014) Chapter 1.

[13] This updates Alter's data from note 12, which ends in 2011 or 2012.

judicial body's jurisdiction is a straightforward task. There are several judicial bodies, however, for which assessing jurisdictional reach is fraught with difficulties. The first example is the Caribbean Court of Justice (CCJ). Like the CJEU, it is an international judicial body. It settles disputes between the state members of the Caribbean Community (currently 12) and/or the community institutions. It is also, however, a sort of national court of appeal, acting as the last instance of jurisdiction for Caribbean states that have accepted its appellate jurisdiction (currently only three). We could therefore count within its jurisdiction 12 states or only three. We decided to count 12 states, even though 80 percent of cases decided to date have been brought under the court's appellate jurisdiction and not its original jurisdiction.

Global courts also present significant challenges. For international criminal bodies, states that ratify the Rome Statute of the International Criminal Court (ICC) accept the court's compulsory jurisdiction. However, states that have not ratified the Rome Statute can still be subject to the ICC jurisdiction via a UN Security Council resolution.[14] Our illustration included only states party to the Rome Statute (a total of 122).

For ad hoc criminal tribunals, the question becomes how one counts the legal obligations of UN members. Only the perpetrators of crimes in the designated geographical space and time fall under the compulsory jurisdiction of ad hoc and hybrid criminal courts. Since Yugoslavia fragmented into a puzzle of states, one might list six, or even seven (counting Kosovo), states that fall under the jurisdiction of the International Criminal Tribunal for Former Yugoslavia (ICTY). Yet one could say that all UN members (currently 193) are subject to the jurisdiction of those two ad hoc criminal tribunals because they were created by the UN Security Council exercising its power under Chapter VII of the UN Charter, meaning all members must comply with the tribunal's orders. The same could be said about the International Criminal Tribunal for Rwanda (ICTR). In the end, we decided to count seven states for the ICTY and one for the ICTR as falling under each court's compulsory jurisdiction. The same challenge exists for some hybrid courts (e.g. those in East Timor or Kosovo) that have been created by fiat of the UN. Other hybrid criminal courts have been created by a treaty between a state and the UN (e.g. those in Cambodia, Sierra Leone, and Lebanon). For courts created by such treaties, one could count one state, or one state and one international organization, or one state and all members of the international organization in question, as being subject to that judicial body. We counted only one state as subject to the jurisdiction of each. The same counting method was used for the two international military tribunals (Nuremberg and Tokyo).

A different sort of challenge is presented by the International Court of Justice (ICJ) and International Tribunal for the Law of the Sea (ITLOS). A state can accept

[14] Sudan and Libya are two examples of states that have been referred to the ICC by resolution of the Security Council, notwithstanding their failure to ratify the court's Statute.

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the compulsory jurisdiction of the ICJ in four distinct ways, making it difficult, if not impossible, to tell with certainty how many states are subject to the ICJ's compulsory jurisdiction at any given time. Cases can be heard by the ICJ if both states have agreed, ad hoc, to refer the matter; if there is a clause in a treaty conferring jurisdiction to the court for that specific treaty; if both states have made a unilateral optional declaration conferring jurisdiction to the court; or if the state decides to accept jurisdiction and appear before the court subsequent to the time the case was filed (*forum prorogatum*).[15] Here we decided to count only the 69 states that currently have on file an optional declaration of acceptance of the court's jurisdiction.[16]

ITLOS is even more complicated. The United Nations Convention on the Law of the Sea specifies four methods of dispute adjudication. States are largely free to choose between ITLOS, the ICJ, or one of two different types of special arbitration (called Annex VII and Annex VIII arbitration). The mechanism that will be used in any given dispute is the one that both parties accept. Should the parties not accept the same mechanism, and the dispute is subject to compulsory adjudication, the default mechanism is not ITLOS but rather ad hoc arbitration under Annex VII of the Convention.

While choice exists for most inter-state disputes, ITLOS has exclusive jurisdiction on a few limited issues, such as orders to promptly release detained vessels. Also, for disputes involving the mining of the deep seabed, the ITLOS Seabed Chamber has mandatory and exclusive jurisdiction. As explained in this handbook, ratification of the Law of the Sea Convention, although necessary, is not sufficient to establish compulsory jurisdiction of its various dispute settlement bodies and procedures.[17] Although the Convention provides in general for compulsory adjudication,[18] there are numerous and significant exceptions.[19] For example, neither disputes concerning overlapping territorial claims of coastal states nor disputes regarding coastal states' sovereign rights with respect to the living resources in their exclusive economic zones, are subject to compulsory adjudication.[20] Moreover, states can opt out of compulsory dispute-settlement procedures in disputes concerning sea boundary delimitations, historic bays or titles, military and law enforcement activities, and issues related to maintaining peace and security that are being dealt with by the UN Security Council.[21] So far, at least 35 states have opted out of compulsory

[15] See, in this handbook, Romano, Ch. 5.

[16] See International Court of Justice, "Jurisdiction" <http://www.icj-cij.org/jurisdiction/index.php?p1=5&p2=1&p3=3> accessed April 1, 2013.

[17] See, in this handbook, Romano, Ch. 5.

[18] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force November 16, 1994) 1833 U.N.T.S. 397, Article 286.

[19] United Nations Convention on the Law of the Sea, note 18, Art. 287.

[20] United Nations Convention on the Law of the Sea, note 18, Arts 297–8.

[21] United Nations Convention on the Law of the Sea, note 18, Art. 298.

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adjudication for one or more of the allowed issues.[22] Thus, while all 165 states (plus the EU) that to date have ratified the Law of the Sea Convention are subject to compulsory jurisdiction of one or more of its adjudicative bodies for certain matters, because of the opt-out provisions and exceptions, adjudication may in fact not be compulsory, or the ITLOS may not have exclusive jurisdiction.

In the end we decided to list 33 states party to the Law of the Sea Convention that have made a declaration indicating ITLOS as a chosen means of dispute settlement—either exclusively or in concurrence with others.[23]

1.5 Average rulings on the merits per year (2006–2011)

To give a sense of the level of activity of international judicial bodies, we decided to provide the reader with the yearly average number of cases decided from 2006 to 2011.We chose a five-year span instead of the total number of cases decided by each judicial body because different courts have had considerably different life spans.[24] Raw data is included in Annex 1 at the end of this handbook.

We adopted some of Karen Alter's conservative counting methods from *The New Terrain of International Law: Courts, Politics, and Rights*.[25] By "cases decided" we mean cases that have been concluded, either because they have been decided on the merits, or because the court declared it lacked jurisdiction. For criminal courts, we counted cases in which the prosecution had begun.[26] But in general we did not take into consideration interim decisions, such as provisional measures, orders, and decisions on motions. Often, these represent the majority of the work of courts, with the final decision being only the tip of a much larger iceberg. We excluded appeals, too, as not all judicial bodies allow for appeals, and we did not want to double count individual cases. Whereas Alter included WTO panel rulings, this handbook classifies panels as ad hoc arbitral bodies so we include only WTO Appellate Body rulings. Alter excluded advisory opinions, which are not binding, but we have chosen to include them. We continue to exclude employee disputes, as only some of

[22] See United Nations Division for Ocean Affairs and the Law of the Sea "Settlement of Dispute Mechanisms"<http://www.un.org/Depts/los/settlement_of_disputes/choice_procedure.htm>accessed February 1, 2013.

[23] <http://www.un.org/Depts/los/settlement_of_disputes/choice_procedure.htm> accessed September 26, 2013.

[24] All data has been collected from international judicial bodies that post reports rulings on the internet, or that responded to Karen Alter's enquiries, counting the number of final and binding rulings in contentious cases issued in any given year.

[25] Alter, note 12.

[26] In certain criminal courts, such as the Special Court for Sierra Leone or the Extraordinary Chambers in the Courts of Cambodia, one case means one trial. Within the same trial, there might be multiple defendants.

the judicial bodies in this chart can adjudicate labor disputes brought by employees of international organizations.

This counting method significantly undercounts the activity of most courts. For example, of more than 80 decisions of the ECOWAS court through 2011—which include rulings on procedural and jurisdictional questions and staff cases—we counted only 51 as binding rulings. More than 150 cases have entered the ICJ's general list since its founding, but Alter counted only 77 binding rulings in contentious cases.[27] The WTO lists 427 cases formally filed in its dispute settlement system between 1994 and 2011.[28] Many of these were settled in the shadow of the law. Only 176 of the cases filed have resulted in binding panel rulings, and we drew from the smaller category of 114 in appellate body rulings.

Alter adopted a conservative counting method because she focused on rulings that bind states and international organizations. However, excluding interim and advisory opinions has warping effects, too. For instance, the ICC might look inactive because it has not concluded a case during the period of study. But during the same period, there have been several ongoing trials and many interim rulings. Thus, we included ICC cases that were initiated in our time period as long as the indicted individual was present in The Hague.

We indicated N/A (not available) where we were unable to find reliable data (e.g. for the Court of Justice of the Central African Monetary Community and the Court of Justice of the Common Market for Eastern and Southern Africa). We marked "—" for those judicial bodies that ceased to operate before our chosen time frame, even though they might have decided dozens of cases. Additionally, our data from the West African Economic and Monetary Union (WAEMU) ended in 2008.

Another caveat is that this data lags in time. Cases were counted in the year the case was concluded, not the year the case began. Especially for the ICTY and ICTR, where years may pass between the initiation of a formal investigation and the issuing of a legal verdict, the lag time and counting method surely understate the influence and activity of the international tribunals at any given moment.

Counting cases is a crude measurement to be sure. We did not control for the number of states falling under the judicial body's jurisdiction for two reasons. First, because, as we said, it can be difficult to determine how many to count. Second, a court might have few member states but many binding legal provisions and subject-matter violations, or many member states but few binding legal rules and

[27] Alter's count excludes ICJ advisory opinions (24), cases that are settled or dropped before the ICJ issues a ruling related to the merits of the case (31), and cases in which a party asked the ICJ to reconsider or clarify aspects of previous rulings. It includes 26 ICJ rulings in which the cases ended with the court declaring the case inadmissible or finding that it lacked jurisdiction to proceed. Alter, note 12, at 78.

[28] See WTO, "Disputes Status" <http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm> accessed February 1, 2013.

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few violations. For criminal courts and human rights, a dearth of litigation might signal a dearth of serious legal violations, or it could represent highly limited access rules. For regional courts, there may be few binding legal texts that are applicable, and thus few rules to violate. For all of these reasons, we do not think that controlling by number of states is especially meaningful.

Finally, we need to stress that we decided to measure levels of activity, but not because we equate litigation with political salience or effectiveness. Levels of activity are largely determined by the scope of the given judicial body's jurisdiction and the extent of legal violations. The ICJ, which can decide only disputes between sovereign states, of which there are nearly 200 at present, cannot be expected to have the same level of activity as the ECtHR, which can, in theory, be accessed by 800 million individuals in 47 states. The jurisdiction of all international criminal courts has been tailored so that only a handful of, or at most a few dozen, indictees will be prosecuted and tried by each body. Still, we believe that levels of activity tell us something. Litigation is a sign of perceived value. Arguably judicial bodies are resorted to when the parties believe the judges will be independent legal interpreters, and that a ruling in one's favor will have a legal and political value.

2 International Judicial Bodies—Compulsory Jurisdiction Across the Globe

This illustration provides more fine-grained information on which states are subject to the compulsory jurisdiction of each international judicial body.

The image at the top maps acceptance of the compulsory jurisdiction of the three international judicial bodies with global reach: ICJ, ITLOS, and the WTO AB. The legend to the left provides the key for interpreting the colors:

- ICJ: Red
- ITLOS: Blue
- WTO AB: Green
- States subject to the jurisdiction of the ICJ and ITLOS but not the WTO: Purple
- States subject to the jurisdiction of the WTO AB and ITLOS but not the ICJ: Light blue
- States subject to the jurisdiction of the ICJ and WTO AB, but not ITLOS: Yellow
- States which have accepted the compulsory jurisdiction of all three courts: White
- States accepting the jurisdiction of none: Black

The second image is dedicated to the ICC. It maps ratification of the Rome Statute of the ICC; the states that have concluded bilateral agreements with the United States agreeing not to surrender US citizens to the ICC (so-called Article 98 agreements); and the states for which the ICC Prosecutor has initiated a formal investigation and/or prosecution.[29]

The third image focuses on judicial bodies of regional agreements of economic or political integration, again tracking which states are subject to the jurisdiction of each body. These Euler diagrams have been borrowed from Alter's book, *The New Terrain of International Law*, with a few modifications.[30] We omitted international criminal bodies. We listed only currently operative judicial bodies, and left out inoperative bodies even if they are just dormant.[31] The only exception is the ASEAN Appellate Body, which, to date, has not entered into operation, but which we believe will be activated soon and therefore was included. The data in these charts is accurate as of July 1, 2013, with a few exceptions.[32]

We list states that are not currently subject to the jurisdiction of a regional integration court or a human rights court. A number of these are subject to the jurisdiction of some judicial body, but those bodies are either inoperative (e.g. the Judicial Body of the Organization of the Arab Petroleum Exporting Countries—OAPEC) or are not strictly speaking judicial bodies. For instance, Canada and the United States are subject to compulsory adjudication under the North American Free Trade Agreement (NAFTA), but under NAFTA disputes are subject to arbitration, not judicial settlement, the focus of these illustrations.

[29] To date, the ICC has opened formal investigations into eight situations: the Democratic Republic of the Congo; Uganda; the Central African Republic; Darfur (Sudan); the Republic of Kenya; the Libyan Arab Jamahiriya; the Republic of Côte d'Ivoire; and Mali. Of these eight, four were referred to the court by the concerned state parties themselves (Uganda, Democratic Republic of the Congo, Central African Republic, and Mali), two were referred by the UN Security Council (Darfur and Libya) and two were begun *proprio motu* by the prosecutor (Kenya and Côte d'Ivoire). In addition to the eight situations where the prosecutor has opened formal investigations, several other situations are currently under "preliminary examination" including Afghanistan, Colombia, Guinea, Georgia, Honduras, Korea, Nigeria, and Palestine. We did not include these in our visual representation, as they might not lead to prosecution. For instance, earlier preliminary examinations regarding Iraq and Venezuela were closed when the prosecutor concluded that no investigation would be initiated because the necessary requirements had not been met. <http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx> accessed June 1, 2013.

[30] Alter, note 12. [31] See section 1.2.

[32] We listed Bolivia as being a member of Mercosur, and thus subject to the jurisdiction of its Permanent Tribunal of Revision, even though Bolivia's accession to Mercosur had not been completed as of July 1, 2013. Also, we listed only four states as being subject to the jurisdiction of the Central American Court of Justice, even though in a recent case the court has said that by virtue of having ratified the Protocol of Tegucigalpa and becoming a member of the Central American Integration System (SICA), Costa Rica is *ipso facto* subject to the jurisdiction of the court, with no need for separate ratification of the court's Statute. Central American Court of Justice, Judgment No. 12-06-12-2011, June 21, 2012 <http://vianica.com/downloads/docs/1.pdf> accessed February 1, 2013. See in this handbook, Romano, Ch. 6, at section 2.4.

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Finally, the last image shows the locations of the seats of the various operational judicial bodies. Most international judicial bodies carry out their functions exclusively at their seat, but a few are able to move their locations temporarily. For instance, since the early 2000s the IACtHR has started holding some of its sessions in various cities across the Americas. The ECOWAS Court of Justice hears one or two cases a year in a different locale. Although the seat of the Special Court for Sierra Leone is in Freetown, Sierra Leone, in recent years the Special Court has held most of its hearings in The Hague.

Suggested Reading

Alter, K, *The New Terrain of International Law: Courts, Politics, Rights* (Princeton University Press 2014).

Lima, M, *Visual Complexity: Mapping Patterns of Information* (New York: Princeton Architectural Press 2011).

Mackenzie, R, Romano, C, Sands, P, Shany, Y (eds), *The Manual on International Courts and Tribunals* (2nd edn, Oxford University Press 2010).

Romano, C, *Research Matrix* (*Project on International Courts and Tribunals*, 1999) <http://www.pict-pcti.org/matrix/matrixintro.html> accessed May 1, 2013.

Romano, C, "A Taxonomy of International Rule of Law Institutions" (2011) 2 JIDS 241.

Tufte, E, *Envisioning Information* (Cheshire, CT: Graphics Press 1990).