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Mohsen Mohebi : The International Law Character of the Iran-United States Claims Tribunal (Developments in International Law) before purchasing it in order to gauge whether or not it would be worth my time, and all praised The International Law Character of the Iran-United States Claims Tribunal (Developments in International Law):

1 of 1 people found the following review helpful. Truly International Tribunals By A Customer The true nature and legal status of some of the international tribunals, in a public international law framework, is a disputed matter among international lawyers. This might be considered one of the gray areas in international law. The author of this book examines one of the international arbitral bodies against this background. The Iran-United States Claims Tribunal, an international arbitral body, was created in 1981 to adjudicate hundreds of commercial disputes between Iran and the United States and their nationals. The constituent instrument is an agreement between the two States in form of declarations issued by a third State. The question as to the legal nature of this institution arise from the fact that not only the two States bring their claims before the Tribunal, their respective nationals, too, have the right to bring claim against the other State and pursue the claim personally. Yet, the structure of the agreement does not envisage a "diplomatic protection" framework. Nor, the applicable law, according to the relevant agreement, is limited to international law rules. These and some other elements put question marks on the true legal nature of the Tribunal.

Some authors on the subject has called the Tribunal and similar institutions a mixed international body (See, S. Toope, "Mixed International Arbitration", Grotius, Cambridge, 1990). The author tries to resolve these questions. He approaches the issue from above, seeing the institution as an international one, and explaining the contradictory elements away. Is he successful? well, partly he is. He gives three criteria for a judicial body to be reagrded as international. There is nothign wrong with the criteria. The problem is that not all aspects of the Tribunal fit all of the three critera. In particular the manner of presentation of claims, the law applied by the Tribunal to the so called private claims and the manner of execution of the awards against U.S. nationals and a few other issues, are difficult to explain away and to satisfy the critics. I would recommend reading this book to people interested in the subject. The arguments are well developed and mature. I would also add that the Tribunal has judged itself as an international Tribunal, adding credit to the proponents of the view shared by the author.

Determining whether the Iran-US Claims Tribunal (the Tribunal) is a truly public international tribunal is not merely an interesting theoretical exercise. The Tribunal's legal character has significant ramifications, for example on enforceability at the international level, the applicability and scope of res judicata regarding dismissed claims, and the evidentiary value of its jurisprudence, particularly pursuant to Article 38(1) of the ICJ statute. This title explores the legal character of the Tribunal and its status under the law of peaceful settlement of international disputes. The public or private nature of the Tribunal is a matter of significant controversy. Certain peculiarities of the Tribunal, namely its accessibility to private claimants, the exclusion of the exhaustion of local remedy rule, and the regime provided for the execution of its awards suggests that it is not, in fact, wholly public. Conversely, the author analyses the Tribunal under a three-part test for public international character - (1) international treaty as origin, (2) applicable law international in nature, (3) controlling parties subject to international law - and finds that it meets all three criteria. In doing so, the author admittedly counters the apparent position of the Tribunal itself that its nature is a hybrid of both public and private elements. The International Law Character of the Iran-United States Claims Tribunal includes: - a historical survey on international tribunals; an analysis of the adverse arguments; and - a detailed discussion of the Tribunal's practice on expropriation cases to give a concrete example of its functioning on international law level, is considered in detail in Part Three. The controversial nature of the author's thesis, the thoroughness of the analysis, and the importance of the Tribunal itself make this a book of interest and import for academics who keep abreast of international law developments.

"Mohebi's work provides a distinct addition to the growing literature on the Tribunal." "The Americal Journal of International Law," 94:4, (2000). 'Mohebi's work provides a distinct addition to the growing literature on the Tribunal.' The Americal Journal of International Law, 94:4, (2000).