

Teil I

Allgemeines Völkerrecht

§ 3 Quellen des Völkerrechts

A. Überblick

Vertiefende Literatur zu A.: *J. d'Aspremont*, Formalism and the Sources of International Law, 2011; *A. Boyle/C. Chinkin*, The Making of International Law, 2007; *J. Brunnée*, International Legislation, MPEPIL (10/2010); *A. Clapham*, Beyond the Triad of Sources, FS Riedel, 2013, 73; *V.-D. Degan*, Sources of International Law, 1997; *R. Jennings*, What is International Law and How Do We Tell It When We See It?, SchweizJIR 37 (1981), 59; *E. Kassoti*, Beyond State Consent? International Legal Scholarship and the Challenge of Informal International Law-Making, NILR 63 (2016), 99; *S. Kratzsch*, Rechtsquellen des Völkerrechts außerhalb von Artikel 38 Abs. 1 IGH-Statut, 2000; *A. Orakhelashvili*, The Interpretation of Acts and Rules in Public International Law, 2008; *M. Ruffert*, Gedanken zu den Perspektiven der völkerrechtlichen Rechtsquellenlehre, FS M. Schröder, 2012, 73; *H. Strebelt*, Quellen des Völkerrechts als Rechtsordnung, ZaöRV 36 (1976), 301; *S. Sur*, La créativité du droit international, RdC 363 (2012), 9; *C. Tietje*, Recht ohne Rechtsquellen?, ZfRSoz 2003, 27; *A. Verdross*, Die Quellen des universellen Völkerrechts, 1973; *W. Weiß*, Die Rechtsquellen des Völkerrechts in der Globalisierung: Zu Notwendigkeit und Legitimation neuer Quellenkategorien, AVR 53 (2015), 220; *E. Wylser*, Quelques réflexions sur la typologie des obligations en droit international, avec référence particulière au droit des traités et au droit de la responsabilité, AFDI 65 (2019), 25.

B. Völkerrechtliche Verträge

Vertiefende Literatur zu B.: zu I. und II., Allgemeines. *A. Bleckmann*, Zur Wandlung der Strukturen der Völkerrechtsverträge, AVR 34 (1996), 218; *G. Blum*, Bilateralism, Multilateralism, and the Architecture of International Law, HarvILJ 49 (2008), 323; *M. Bowman/D. Kritsiotis* (Hg.), Conceptual and Contextual Perspectives on the Modern Law of Treaties, 2018; *E. Cannizzaro* (Hg.), The Law of Treaties Beyond the Vienna Convention, 2011; *M. Fitzmaurice*, Contemporary Issues in the Law of Treaties, 2005; *A. Guzman*, The Design of International Agreements, EJIL 16 (2005), 579; *J. Klabbers*, The Concept of Treaty in International Law, 1996 (Reprint 2006); *ders.*, Treaties, Conclusion and Entry into Force, MPEPIL (9/2006); *J. Klabbers/R. Lefeber* (Hg.), Essays on the Law of Treaties, FS Vierdag, 1998; *B. Koremenos*, The Continent of International Law: Explaining Agreement Design, 2016; *V. de Oliveira Mazzuoli*, The Law of Treaties, 2016; *V. Pergantis*, The Paradigm of State Consent in the Law of Treaties, 2017; *C. Tietje*, The Changing Legal Structure of International Treaties as an Aspect of an Emerging Global Governance Architecture, GYIL 42 (1999), 26; *H. G. Schermers*, International Organisations and the Law of Treaties, GYIL 42 (1999), 56; *M. Stützel*, Innerstaatliche Gewaltenteilung und vorvertragliche Pflichten bei völkerrechtlichen Verträgen: Das Frustrationsverbot und die vorläufige Anwendung im Spannungsverhältnis zur innerstaatlichen Gewaltenteilung, 2022; *C. Tomuschat/H. Neuhold*, Völkerrechtlicher Vertrag und „Drittstaaten“, BDGVR 28 (1988), 9, 51; *M. Villiger*, The 1969 Vienna Convention on the Law of Treaties: 40 Years After, RdC 344 (2009), 9; *R. Wolfrum/V. Röben* (Hg.), Developments of International Law in Treaty Making, 2005; *E. Wyrasz*, The Application of International Conventions and Treaties to Third States, CzYIL 8 (2017), 387.

Zu III. A. Behnsen, Das Vorbehaltsrecht völkerrechtlicher Verträge: Vorschlag einer Reform, 2007; J. Buckler, Fortbestehende Fragen der Vorbehaltsproblematik – Am Beispiel des deutschen Vorbehalts zum Europäischen Fürsorgeabkommen, AVR 59 (2021), 64; T. Giegerich, Vorbehalte zu Menschenrechtsabkommen, ZaöRV 55 (1995), 713; *ders.*, Treaties, Multilateral, Reservations to, MPEPIL (9/2020); W. Heintschel von Heinegg, Vorbehalte zu völkerrechtlichen Verträgen, Jura 1992, 457; P. Hilpold, Das Vorbehaltsregime der Wiener Vertragsrechtskonvention, AVR 34 (1996), 376; L. Lijnzaad, Reservations to UN-Human Rights Treaties: Ratify and Ruin?, 1995; E. Martens, Unzulässige Vorbehalte zu Menschenrechtskonventionen, FS Rauschnig 2001, 351; K. McCall-Smith, Reservations and the Determinative Function of the Human Rights Treaty Bodies, GYIL 54 (2012), 521; *dies.*, Severing Reservations, ICLQ 63 (2014), 599; B. Simma, Reservations to Human Rights Treaties: Some Recent Developments, FS Seidl-Hohenveldern 1998, 659; *ders.*, Legal Consequences of an Impermissible Reservation to a Human Rights Treaty, in: Cannizzaro (Hg.), The Law of Treaties Beyond the Vienna Convention, 2011, 60; Y. Tyagi, The Conflict of Law and Policy on Reservations to Human Rights Treaties, BYIL 71 (2000), 181; A. Winkler, Zulässigkeit und Rechtswirkungen von Vorbehalten nach der Wiener Vertragsrechtskonvention, 2007.

Zu IV. und V. G. Abi-Saab u. a. (Hg.), Evolutionary Interpretation and International Law, 2019; M. Andenaes, Reassertion and Transformation: From Fragmentation to Convergence in International Law, GeorgeJIL 46 (2015), 685; M. Arcari, The Creeping Constitutionalization and Fragmentation of International Law: From ‘Constitutional’ to ‘Consistent’ Interpretation, PolYIL 33 (2013), 9; T. Bernárdez, Interpretation of Treaties by the International Court of Justice following the Adoption of the 1969 Vienna Convention on the Law of Treaties, FS Seidl-Hohenveldern, 1998, 721; K. Berner, Authentic Interpretation in Public International Law, ZaöRV 76 (2016), 845; R. Bernhardt, Evolutive Treaty Interpretation, Especially of the European Convention of Human Rights, GYIL 42 (1999), 11; A. Bianchi/D. Peat/M. Windsor (Hg.), Interpretation in International Law, 2015; E. Bjorge, The Evolutionary Interpretation of Treaties, 2014; K. Böh, Evolutive Auslegung völkerrechtlicher Verträge, 2013; A. Brötel, Die Auslegung völkerrechtlicher Verträge im Lichte der Wiener Vertragsrechtskonvention, Jura 1988, 343; T. Buß, Grenzen der dynamischen Vertragsauslegung im Rahmen der EMRK, DÖV 1998, 323; B. A. Chigara, Treaty-text Loyalists’ Burden with Subsequent State Practice, NILR 68 (2021), 61; O. Corten, Les techniques reproduites aux articles 31 à 33 des conventions de Vienne: approche objectiviste ou approche volontariste de l’interprétation?, RGDIP 115 (2011), 351; M. Dawidowicz, The Effect of the Passage of Time on the Interpretation of Treaties, LJIL 24 (2011), 201; D. Desierto/C. Gillespie, Evolutive Interpretation and Subsequent Practice, ZaöRV 73 (2013), 549; K. De Vriese, How to?: A Methodological Guide to Identify a Treaty’s Object and Purpose, LP ICT 21 (2022), 35; G. Di Stefano, L’interprétation évolutive de la norme internationale, RGDIP 115 (2011), 373; C. Djeffal, Static and Evolutive Treaty Interpretation, 2016; J. Finke, Interpretative Change as Evidence of International Law’s Resilience in Times of Crisis, AVR 57 (2019), 266; M. Fitzmaurice, Dynamic (Evolutive) Interpretation of Treaties, 2 Teile, HYIL 21 (2008), 101 und 22 (2009), 3; *dies./O. Elias/P. Merkouris* (Hg.), Treaty Interpretation and the Vienna Convention on the Law of Treaties: 30 Years on, 2010; *dies./P. Merkouris*, Treaties in Motion: The Evolution of Treaties from Formation to Termination, 2020; M. Forteau, Les techniques interprétatives de la Cour internationale de Justice, RGDIP 115 (2011), 399; D. French, Treaty Interpretation and the Incorporation of Extraneous Legal Rules, ICLQ 55 (2006), 281; R. Gardiner, Treaty Interpretation, 2. Aufl. 2015; M. Herdegen, Interpretation in International Law, MPEPIL (11/2020); M. Hilf, Die Auslegung mehrsprachiger Verträge, 1973; K. Hosseinnejad, Interpretation in Light of Which ‘Object and Purpose’?, GYIL 61 (2018), 377; D. Jonas, The Object and Purpose of a Treaty: Three Interpretive Methods, VJTL 43 (2010), 565; J. Klučka, The Significance of Principles of International Law for Interpretation and Application of International Treaties, CzYIL 8 (2017), 145; U. Linderfalk, On the Interpretation of Treaties, 2007; *ders.*, Is the Hierarchical Structure of Articles 31 and 32 of the Vienna Convention Real or Not? Interpreting the Rules of Interpretation, NILR 54 (2007), 133; *ders.*, Who Are “The Parties”? Article 31, Paragraph 3(c) of the 1969 Vienna Convention and the “Principle of Systemic Integration” Revisited, NILR 55 (2008), 343; *ders.*, The Application of International Legal Norms Over Time: The

Second Branch of Intertemporal Law, NILR 58 (2011), 147; C. J. Mahoney, Treaties as Contracts: Textualism, Contract Theory, and the Interpretation of Treaties, YLJ 116 (2007) 824; C. Maclachlan, The Principle of Systemic Integration and Article 31(3)(c) of the Vienna Convention, ICLQ 54 (2005), 279; Panos Merkouris, (Inter)Temporal Considerations in the Interpretative Process of the VCLT: Do Treaties Endure, Perdure or Exdure?, NYIL 2014, 121; ders., Article 31(3)(c) VCLT and the Principle of Systems Integration, 2015; J. D. Mortenson, The *Travaux de Travaux*: Is the Vienna Convention Hostile to Drafting History?, AJIL 107 (2013), 780; B. Nehls, Die Auslegung mehrsprachiger völkerrechtlicher Verträge, 2019; Z. Nový, Evolutionary Interpretation of International Treaties, CzYIL 8 (2017), 205; R. Pavoni, Mutual Supportiveness as a Principle of Interpretation and Law-Making, EJIL 21 (2010), 649; L. Popa, Patterns of Treaty Interpretation as Anti-Fragmentation Tools, 2018; D. Rosentreter, Article 31(3)(c) of the Vienna Convention on the Law of Treaties and the Principle of Systemic Integration in International Investment Law and Arbitration, 2015; M. Samson, High Hopes, Scant Resources: A Word of Scepticism about the Anti-Fragmentation Function of Article 31(3)(c) of the Vienna Convention on the Law of Treaties, LJIL 24 (2011), 701; S. Touzé, Les techniques interprétatives des organes de protection des droits de l'homme, RGDIP 115 (2011), 517; M. Ubéda-Saillard, Les techniques interprétatives des tribunaux pénaux internationaux, RGDIP 115 (2011), 421; I. Venzke, How Interpretation Makes International Law, 2012; E. Vranes, Der Verhältnismäßigkeitsgrundsatz, AVR 47 (2009), 1; J. Wyatt, Intertemporal Linguistics in International Law: Beyond Contemporaneous and Evolutionary Treaty Interpretation, 2019.

Zu VI. A. Aust, Treaties, Termination, MPEPIL (6/2006); L. Bartels/F. Paddeu (Hg.), Exceptions in International Law, 2020; R. Bernhardt, Völkerrechtliche und verfassungsrechtliche Aspekte konkludenter Vertragsänderungen, FS W. Rudolf, 2001, 15; C. Binder, Die Grenzen der Vertragstreue im Völkerrecht am Beispiel der nachträglichen Änderung der Umstände, 2013; I. Cameron, Treaties, Suspension, MPEPIL (12/2020); W. Heintschel von Heinegg, Probleme der Vertragsbeendigung in der völkerrechtlichen Falllösung, Jura 1992, 289; ders., Treaties, Fundamental Change of Circumstances, MPEPIL (3/2021); J. Klabbers, Treaties, Amendment and Revision, MPEPIL (12/2006); E. Leonhardsen, Pride and Perseverance: Strategic Use of *Rebus Sic Stantibus* in Russian Foreign Policy 1870–1950, GYIL 63 (2020), 581; A. Morelli, Withdrawal from Multilateral Treaties, 2021; C. Rabl Blaser, Die *clausula rebus sic stantibus* im Völkerrecht, 2012; M. Schröder/A. Schwerdtfeger, Treaties, Validity, MPEPIL (1/2022); F. M. Voelcker, Schutzklauseln als Grenzpunkte internationaler Integration, 2020.

C. Das Völkergewohnheitsrecht

Vertiefende Literatur zu C.: **Zu I., III.** M. Akehurst, Custom as a Source of International Law, BYIL 47 (1974/1975), 1; N. Arajärvi, The Changing Nature of Customary International Law, 2014; R. Baker, Customary International Law in the 21st Century, EJIL 21 (2010), 173; ders., Customary International Law: A Reconceptualization, BrooklynJIL 41 (2016), 439; J. A. Barberis, La coutume est-elle une source de droit international?, FS Virally 1994, 43; ders., Réflexions sur la coutume internationale, AFDI 1990, 9; R. Bernhardt, Ungeschriebenes Völkerrecht, ZaöRV 36 (1976), 50; C. Bradley (Hg.), Custom's Future. International Law in a Changing World, 2016; J. Charney, Universal International Law, AJIL 87 (1983), 529; ders., The Persistent Objector Rule and the Development of Customary International Law, BYIL 56 (1985), 1; S. Besson, State Consent and Disagreement in International Law-Making, LJIL 29 (2016), 289; L. Condorelli, Customary International Law, in: Cassese (Hg.), Realizing Utopia, 2012, 147; C. Dahlman, The Function of *Opinio Juris* in Customary International Law, NorJIL 81 (2012), 327; Y. Dinstein, The Interaction between Customary International Law and Treaties, RdC 322 (2006), 243; K. Doehring, Gewohnheitsrecht aus Verträgen, ZaöRV 36 (1976), 77; D. Fidler, Challenging the Classical Concept of Custom: Perspectives on the Future of Customary International Law, GYIL 39 (1996), 198; J. Fry, Formation of Customary International Law Through Consensus in International Organisati-

ons, *ARIEL* 17 (2012), 49; *K. F. Gärditz*, Ungeschriebenes Völkerrecht durch Systembildung, *AVR* 45 (2007), 1; *R. Geiger*, Customary International Law in the Jurisprudence of the International Court of Justice, *FS Simma*, 2011, 673; *A. Guzman*, Saving Customary International Law, *MichJIL* 27 (2005), 115; *L. Helferl. Wuerth*, Customary International Law: An Instrument Choice Perspective, *MichJIL* 37 (2016), 563; *J. Kammerhofer*, Uncertainty in the Formal Sources of International Law: Customary International Law and Some of Its Problems, *EJIL* 15 (2004), 523 *P. Kelly*, The Twilight of Customary International Law, *VJIL* 40 (2000), 449; *R. Kolb*, Selected Problems in the Theory of Customary International Law, *NILR* 50 (2003), 199; *B. Leppard*, Customary International Law: A New Theory with Practical Applications, 2010; *ders.*, Reexamining Customary International Law, 2016; *L. Lijnzaad* (Hg.), *The Judge and International Custom*, 2016; *F. Lusa Bordin*, Reflections on Customary International Law, *ICLQ* 63 (2014), 535; *M. Mendelson*, The Subjective Element in Customary International Law, *BYIL* 66 (1995), 177; *ders.*, The Formation of Customary International Law, *RdC* 272 (1998), 155; *G. Norman/J. Trachtman*, The Customary International Law Game, *AJIL* 99 (2005), 541; *C. Ochoa*, The Individual and Customary International Law Formation, *VJIL* 48 (2007/08), 119; *A. Orakhelashvili*, Natural Law and Customary Law, *ZaöRV* 68 (2008), 69; *A. Paulus*, The Judge and International Custom, *LPICT* 12 (2013), 265; *A. Perreau-Saussine/J.B. Murphy* (Hg.), *The Nature of Customary Law*, 2007; *N. Petersen*, Der Wandel des ungeschriebenen Völkerrechts im Zuge der Konstitutionalisierung, *AVR* 46 (2008), 502; *R. Piotrowicz*, The Time Factor in the Creation of Rules of Customary International Law, *PoIYIL* 21 (1994), 69; *B. Simma*, Das Reziprozitätselement in der Entstehung des Völkergewohnheitsrechts, 1970; *ders.*, Die Erzeugung von ungeschriebenem Völkerrecht, *FS Zemanek* 1994, 95; *P. Staubach*, The Rule of Unwritten International Law: Customary Law, General Principles, and World Order, 2018; *H. Taki*, *Opinio Juris* and the Formation of Customary International Law: A Theoretical Analysis, *GYIL* 51 (2008), 447; *P. Tomka*, Custom and the International Court of Justice, *LPICT* 12 (2013), 195; *C. Tomuschat*, Obligations Arising for States Without or Against Their Will, *RdC* 241 (1993), 195; *J. Vanhamme*, Formation and Enforcement of Customary International Law: The European Union's Contribution, *NYIL* 39 (2008), 127; *M. Villiger*, *Customary International Law and Treaties*, 2. Aufl. 1997; *K. Wolfke*, *Custom in Present International Law*, 2. Aufl. 1993; *M. Wood*, *International Organizations and Customary International Law*, *VJTL* 48 (2015), 609; *K. Zemanek*, What is "State practice" and who makes it?, *FS Bernhardt* 1995, 289.

Zu II. *A. Alvarez-Jiménez*, Methods for the Identification of Customary International Law in the International Court of Justice's Jurisprudence: 2000-2009, *ICLQ* 60 (2011), 681; *A. D'Amato*, Groundwork for International Law, *AJIL* 108 (2014), 650 (mit Kommentaren von *J. d'Aspremont* und *M. García-Salmones Rovira*); *A. Bleckmann*, Zur Feststellung und Auslegung von Völkergewohnheitsrecht, *ZaöRV* 37 (1977), 504; *F. Bravo*, Méthodes de recherche de la coutume internationale dans la pratique des Etats, *RdC* 192 (1985), 233; *P. Dumberry*, The Formation and Identification of Rules of Customary International Law in International Investment Law, 2016; *J. Fry*, Formation of Customary International Law Through Consensus in International Organizations, *ARIEL* 17 (2012), 49; *H.-W. Jung*, Rechtserkenntnis und Rechtsfortbildung im Völkergewohnheitsrecht, 2012; *A. Reinisch/P. Bachmayer*, The Identification of Customary International Law by Austrian Courts, *ARIEL* 17 (2012), 1; *C. Rynjaert/D. Hora Siccama*, Ascertaining Customary International Law: An Inquiry into the Methods Used by Domestic Courts, *NILR* 65 (2018), 1; *S. Talmon*, Determining Customary International Law: The ICJ's Methodology between Induction, Deduction and Assertion, *EJIL* 26 (2015), 417; *C. Tams*, Die Identifikation des Völkergewohnheitsrechts, *BDGVR* 47 (2016), 323; *S. Yee*, Report on the ILC Project on "Identification of Customary International Law", *ChiJIL* 14 (2015), 375. Schwerpunkt in *ChiJIL* 15 (2016), Heft 1 (Beiträge von *S. Jusoh*, *M. Wood*, *S. Mathias*, *S. Yee*, *R. Mohamad*).

D. Allgemeine Rechtsgrundsätze

Vertiefende Literatur zu D.: *M. Andenas* u. a. (Hg.), General Principles and the Coherence of International Law, 2019; *A. v. Arnould*, Harmonisation Through General Principles of Law, in: Ziegler/Neuvonen/Moreno-Lax (Hg.), Research Handbook on General Principles of EU Law, 2022, 40; *D. Bonilla Maldonado*, Legal Barbarians: Identity, Modern Comparative Law and the Global South, 2021; *B. Cheng*, General Principles of Law as Applied by International Courts and Tribunals, 1953 (Reprint 2006); *T. Chionos*, Zur Übertragung innerstaatlicher Begriffe und Rechtsgrundsätze in das Völkerrecht, 2020; *M. Dordeska*, General Principles of Law Recognized by Civilized Nations (1922-2018), 2020; *G. Fitzmaurice*, The General Principles of International Law Considered from the Standpoint of the Rule of Law, RdC 92 (1957), 1; *P. Hulst*, Three sources, no river: a hard look at the sources of public international law with particular emphasis on custom and “general principles of law”, ZÖR 54 (1999), 219; *R. Kolb*, Principles as Sources of International Law (With Special Reference to Good Faith), NILR 53 (2006), 1; *C. Kotuby/L. Sobota*, General Principles of Law and International Due Process, 2017; *U. Linderfalk*, What Are the Functions of the General Principles? Good Faith and International Legal Pragmatics, ZaöRV 78 (2018), 1; *T. Markus*, Rechtsvergleichung im Völkerrecht, 2021; *P.-Y. Marro*, Allgemeine Rechtsgrundsätze des Völkerrechts, 2010; *J. Rauber*, Strukturwandel als Prinzipienwandel, 2018; *I. Saunders*, General Principles as a Source of International Law, 2021; *P. Staubach*, The Rule of Unwritten International Law: Customary Law, General Principles, and World Order, 2018; *E. Voyiakis*, Do General Principles Fill ‘Gaps’ in International Law?, ARIEL 14 (2013), 239; *W. Weiß*, Allgemeine Rechtsgrundsätze des Völkerrechts, AVR 39 (2001), 394.

E. Sonstige Rechtsquellen und Rechtserkenntnisquellen

Vertiefende Literatur zu E.: *J. d’Aspremont*, Softness in International Law: A Self-Serving Quest for New Legal Materials, EJIL 19 (2008), 1075; *ders.*, La doctrine du droit international face à la tentation de la «juridicisation» sans limites, RGDIP 112 (2008), 849; *ders.* u. a. (Hg.), International Law as a Profession, 2018; *M. Barelli*, The Role of Soft Law in the International Legal System, ICLQ 58 (2009), 957; *L. Blutman*, In the Trap of a Legal Metaphor: International Soft Law, ICLQ 59 (2010), 605; *A. v. Bogdandy/I. Venzke* (Hg.), International Judicial Lawmaking, 2012; *E. De Brabandere*, The Use of Precedent and External Case Law by the International Court of Justice and the International Tribunal for the Law of the Sea, LPICT 15 (2016), 24; *I. Breutz*, Der Protest im Völkerrecht, 1997; *O. Dilling/M. Herberg/G. Winter* (Hg.), Transnational Administrative Rule-Making, 2011; *C. Eckart*, Promises of States under International Law, 2012; *C. Eick*, Protest, MPEPIL (7/2006); *M. Frenzel*, Sekundärrechtsetzungsakte internationaler Organisationen: Völkerrechtliche Konzeption und verfassungsrechtliche Voraussetzungen, 2011; *S. Gadinis*, Three Pathways to Global Standards: Private, Regulator, and Ministry Networks, AJIL 109 (2015), 1; *A. Guzman/T. Meyer*, International Common Law: The Soft Law of International Tribunals, ChiJIL 9 (2008/09), 515; *H. Hillgenberg*, Soft Law im Völkerrecht, ZEuS 1998, 81; *B. B. Jia*, International Case Law in the Development of International Law, RdC 382 (2015), 175; *E. Kassoti*, The Juridical Nature of Unilateral Acts in International Law, FinnYIL 23 (2012/13), 411; *ders.*, Unilateral Acts Revisited: Common Law v. Civil Law Approaches and Lessons from the International Law Commission’s (Failed) attempt to Codify Unilateral Acts of State, HYIL 26 (2013), 168; *J. Klabbers*, Reflections on Soft International Law in a Privatized World, FYIL 16 (2005), 313; *S. Kopela*, The Legal Value of Silence as State Conduct in the Jurisprudence of International Tribunals, AYIL 29 (2010), 87; *S. Kratzsch*, Rechtsquellen des Völkerrechts außerhalb von Artikel 38 Abs. 1 IGH-Statut, 2000; *O. Kuc*, The International Court of Justice and Municipal Courts: An Inter-Judicial Dialogue, 2022; *F. Lüth*, Soft Law in International Arbitration: Some Thoughts on Legitimacy, StudZR 2012, 409; *N. S. Marques Antunes*, Acquiescence, MPEPIL (9/2006); *T. Milej*, Entwicklung des Völkerrechts durch internationale Gerichte und Sachverständigengremien, 2014; *K. Parrot-Gibert*, La jurisprudence interne, «source» de droit international conventionnel?, RGDIP 113

(2009), 19; V. Pergantis, Soft Law, Diplomatic Assurances and the Instrumentalisation of Normativity: Wither a Liberal Promise?, NILR 56 (2009), 137; A. Pronto, Understanding the Hard/Soft Distinction in International Law, VJTL 48 (2015), 941; A. Roberts, Comparative International Law? The Role of National Courts in Creating and Enforcing International Law, ICLQ 60 (2011), 57; V. Rodríguez Cedeño/M. Torres Cazorla, Unilateral Acts of States in International Law, MPEPIL (1/2019); P. Saganek, Unilateral Acts of States in Public International Law, 2016; S. Sivakumar, The Influence of Teachings of Publicists on the Development of International Law, ICLQ 66 (2017), 1; E. Suy/N. Angelet, Promise, MPEPIL (12/2007); D. Thürer, Soft Law, MPEPIL (3/2009); S. Torp Helmersen, Scholarly-Judicial Dialogue in International Law, JLPICIT 16 (2017), 464; M. Wood, Teachings of the Most Highly Qualified Publicists (Art. 38 (1) ICJ Statute), MPEPIL (3/2017).

F. Verhältnis zwischen den Rechtsquellen

Vertiefende Literatur zu F.: Zu I. M. Akehurst, The Hierarchy of the Sources of International Law, BYIL 47 (1974/75), 273; C. Chinkin, *Jus Cogens*, Article 103 of the UN Charter and Other Hierarchical Techniques of Conflict Solution, FYIL 17 (2006), 63; R. Crootof, Change Without Consent: How Customary International Law Modifies Treaties, Yale JIL 41 (2016), 237; Y. Dinstein, The Interaction Between Customary International Law and Treaties, RdC 322 (2006), 247; C. I. Fuentes, Normative Plurality in International Law: A Theory of the Determination of Applicable Rules, 2016; A. Ghouri, Determining Hierarchy Between Conflicting Treaties, AsianJIL 2 (2012), 235; R. Kolb, La désuétude en droit international public, RGDIP 111 (2007), 578; G. Le Floch, La désuétude en droit international public, RGDIP 111 (2007), 608; U. Linderfalk, International Legal Hierarchy Revisited: The Status of Obligations *Erga Omnes*, NorJIL 80 (2011), 1; A. Lindroos, Addressing Norm Conflicts in a Fragmented Legal System: The Doctrine of *Lex Specialis*, NorJIL 74 (2005), 27; N. Matz(-Lück), Wege zur Koordinierung völkerrechtlicher Verträge, 2005; *dies.*, Harmonization, Systemic Integration, and “Mutual-Supportiveness” as Conflict-Solution Techniques: Different Modes of Interpretation as a Challenge to Negative Effects of Fragmentation?, FYIL 17 (2006), 39; *dies.*, Treaties, Conflicts between, MPEPIL (10/2010); D. Shelton, Normative Hierarchy in International Law, AJIL 100 (2006), 291; E. Vranes, *Lex Superior, Lex Specialis, Lex Posterior* – Zur Rechtsnatur der „Konfliktlösungsregeln“, ZaöRV 65 (2005), 391; *dies.*, The Definition of ‘Norm Conflict’ in International Law and Legal Theory, EJIL 17 (2006), 395; E. de Wet/J. Vidmar (Hg.), Hierarchy in International Law, 2012; J. Wouters/S. Verhoeven, Desuetudo, MPEPIL (11/2008); M. Zuleeg, Vertragskonkurrenz im Völkerrecht, 2 Teile, GYIL 20 (1977), 246 und 27 (1984), 367.

Zu II. A. Bianchi, Human Rights and the Magic of *Jus Cogens*, EJIL 19 (2008), 491; B.-O. Bryde, Verpflichtungen *Erga Omnes* aus Menschenrechten, BDGVR 33 (1994), 165; E. Cannizzaro, Peremptory Law-Making, in: Liivoja (Hg.), International Law-Making, 2014, 261; *dies.* (Hg.), The Present and Future of *Jus Cogens*, 2015; A. Caro de Beer, Peremptory Norms of General International Law (*Jus Cogens*) and the Prohibition of Terrorism, 2019; A. Cassese, For an Enhanced Role of *Jus Cogens*, in: *dies.* (Hg.), Realizing Utopia, 2012, 158; W. Conklin, The Peremptory Norms of the International Community, EJIL 23 (2012), 837; D. Costelloe, Legal Consequences of Peremptory Norms in International Law, 2018; E. Criddle, A Fiduciary Theory of *jus cogens*, YaleJIL 34 (2009), 331; M. Dawidowicz, Third-Party Countermeasures in International Law, 2017; D. Dubois, The Authority of Peremptory Norms in International Law: State Consent or Natural Law?, NorJIL 78 (2009), 133; H.-M. Empell, Die Staatengemeinschaftsnormen und ihre Durchsetzung, 2003; C. Focarelli, Promotional *Jus Cogens*: A Critical Appraisal of *Jus Cogens*’ Legal Effects, NorJIL 77 (2008), 429; J. A. Frowein, Die Verpflichtung *erga omnes* im Völkerrecht und ihre Durchsetzung, FS Mosler, 1983, 241; *dies.*, Reactions by not Directly Affected States to Breaches of Public International Law, RdC 248 (1994), 353; *dies.*, *Ius cogens*, MPEPIL (3/2013); *dies.*, Obligations *erga omnes*, MPEPIL (12/2008); S. Guan, *Jus Cogens*: To Revise a Narrative, MinnJIL 26 (2017),

461; *K. Hailbronner*, Sanctions and Third Parties and the Concept of Public International Order, AVR 30 (1992), 2; *S. Kadelbach*, Zwingendes Völkerrecht, 1992; *R. Kolb*, Théorie du jus cogens international, 2001; *ders.*, Observation sur l'évolution du concept de jus cogens, RGDIP 113 (2009), 837; *ders.*, Peremptory International Law – *Jus Cogens*: A General Inventory, 2015; *U. Linderfalk*, Understanding Jus Cogens in International Law and International Legal Discourse, 2020; *C. Milk*, Jus Cogens in Contemporary International Law, PolYIL 33 (2013), 27-94; *A. Orakhelashvili*, Peremptory Norms in International Law, 2006; *A. Paulus*, *Jus Cogens* in a Time of Hegemony and Fragmentation: An Attempt at a Re-appraisal, NorJIL 74 (2005), 297; *M. Saul*, Identifying *Jus Cogens* Norms: The Interaction of Scholars and International Judges, AsianJIL 5 (2015), 26; *N. Schwarz*, Jus Cogens als Basis für ein stabiles Völkerrecht, 2013; *C. Tomuschat/J.-M. Thouvenin* (Hg.), The Fundamental Rules of the International Legal Order, 2006; *J. Vidmar*, Rethinking Jus Cogens after Germany v. Italy, NILR 60 (2013), 1; *T. Weatherall*, Jus Cogens: International Law and Social Contract, 2015; *M. Wood*, Formation and Evidence of Customary International Law, LPICT 12 (2013), 273; *M. Worster*, The Inductive And Deductive Methods in Customary International Law Analysis: Traditional and Modern Approaches, GeorgeJIL 45 (2014), 445.

Zu III. und IV. *U. Fastenrath*, Lücken im Völkerrecht: Zu Rechtscharakter, Quellen, Systemzusammenhang, Methodenlehre und Funktionen des Völkerrechts, 1991; *F. Francioni*, Equity in International Law, MPEPIL (11/2020); *M. Koskenniemi*, Methodology of International Law, MPEPIL (11/2007); *J. Rauber*, Strukturwandel als Prinzipienwandel, 2018; *ders.* und *M. Goldmann*, Der „Turn to Principles“ im Völkerrecht: Theoretische und methodische Perspektiven auf die Zukunft von Völkerrecht und Völkerrechtswissenschaft, voelkerrechtsblog.org (Mai 26./28.5.2014); *S. Vöneky*, Analogy in International Law, MPEPIL (2/2008); *W. T. Worster*, The Inductive and Deductive Methods in Customary International Law Analysis: Traditional and Modern Approaches, GeorgeJIL 45 (2014), 445.