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Necessity and National Emergency Clauses

Sovereignty in Modern Treaty Interpretation

Author: Diane A. Desierto

States invoke economic crises and security threats to justify treaty non-compliance. The most dramatic recent examples of this phenomenon include “necessity” defences in international investment law; “emergency” derogations in international human rights treaties; “exceptions” for non-conforming measures in international trade law; and doctrinal misapplications of necessity in jus ad bellum and jus in bello.

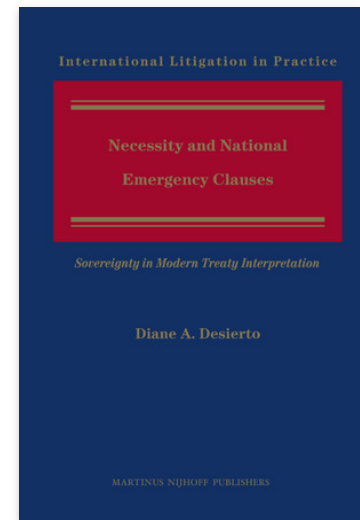
Necessity and National Emergency Clauses is the first to trace the doctrine’s genealogy from medieval Christian and Islamic religious history to post-Westphalian practices, the International Law Commission’s codifications, and modern treaty formulations. Recognizing the doctrine’s thematic linkage with the State’s sovereign right to delimit international obligation, the volume proposes analytical criteria to assess the lawfulness and legitimacy of interpretations of necessity and national emergency clauses within specialized treaty regimes.

This volume is intended for law students, legal scholars, arbitrators, international judges, and other international law practitioners interested in deriving interpretive solutions to treaty controversies on the doctrine of necessity.

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Readership

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