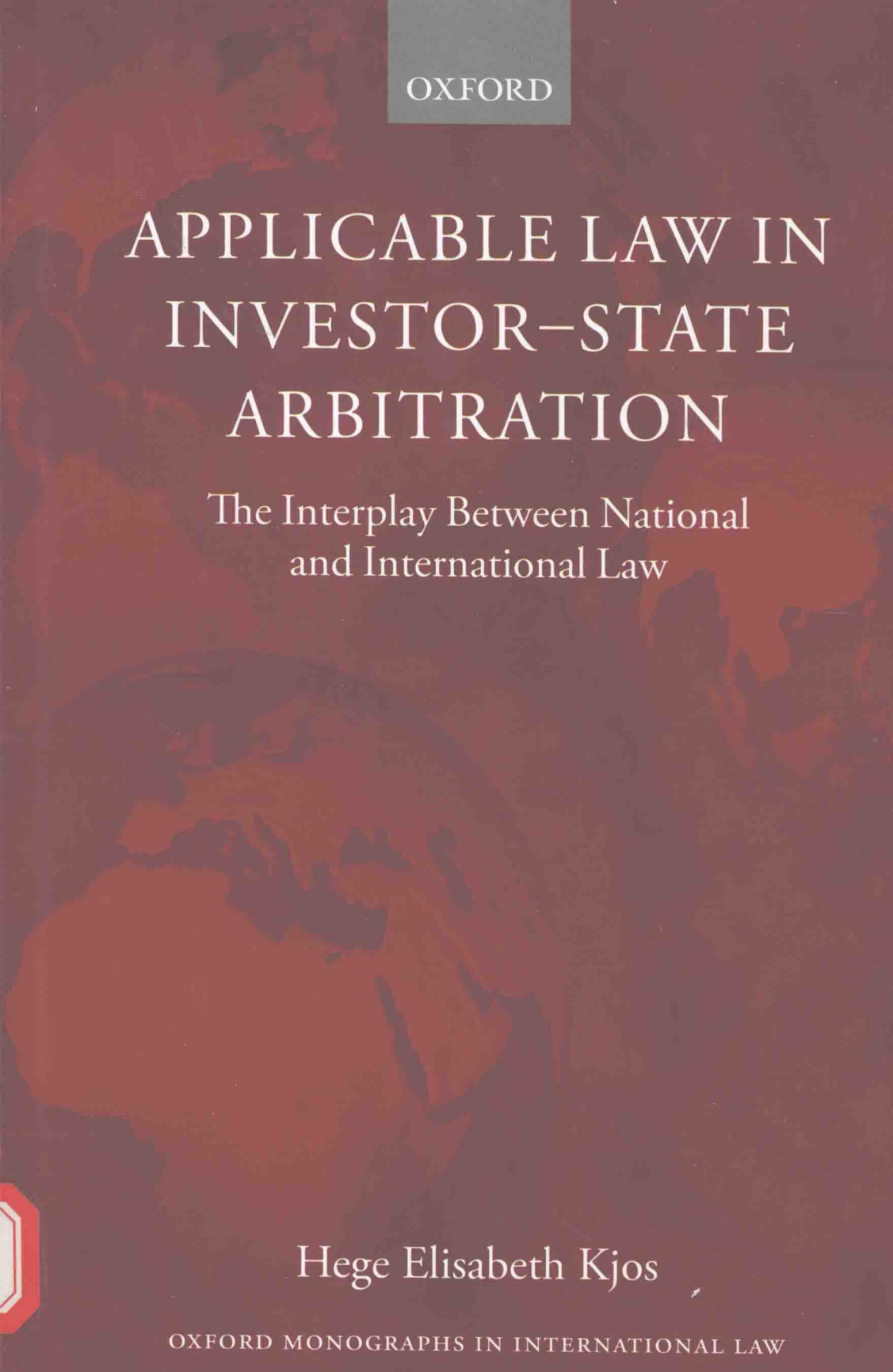




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APPLICABLE LAW IN INVESTOR–STATE ARBITRATION

The Interplay Between National
and International Law



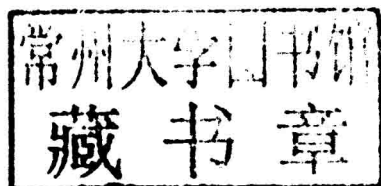
Hege Elisabeth Kjos

OXFORD MONOGRAPHS IN INTERNATIONAL LAW

Applicable Law in Investor–State Arbitration

*The Interplay Between National and
International Law*

HEGE ELISABETH KJOS



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Acknowledgements

'International investment law is one of the fastest-growing areas of international law today. Only a decade ago, the current surge in investor–state arbitrations [...] was beyond imagination.'¹ It was just a bit more than a decade ago that I was fortunate to enter the field of international investment arbitration. The rise in the number of arbitrations and the accompanying growth in scholarship partly explain the time it has taken to present this study. Relatedly, the fact that I have been examining a 'moving target' has made the process more stimulating. I feel privileged to be able to continue to work in this area that brings together so many facets of the law; the 'field trip'² is not over. In this respect, I am especially grateful to be part of the project 'International Law through the National Prism: the Impact of Judicial Dialogue' funded by the European Science Foundation as a European Collaborative Research Project in the Social Sciences, as it has allowed me to explore more deeply the larger theme of this book: the interactions between the national and the international legal orders.

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To other dear friends in various corners of the world: thank you for adding sparkle to my life, each in your own way.

I would like to dedicate this book to my family in Norway and the Netherlands, and then especially to my husband Bertil—I could not have wished for a better partner and

¹ S.W. Schill, Book Review, *Principles of International Investment Law* (2009) 20(2) *Eur. J. Int'l L.* 471 (reviewing R. Dolzer and C. Schreuer, *Principles of International Investment Law* [Oxford, Oxford University Press, 2008]). Cf. A. Diehl, *The Core Standards of International Investment Protection* (2012), 1 ('Little more than a decade ago, investment arbitration was virtually unknown beyond the circles of those who were involved in the negotiation of investment treaties').

² See Chapter 8 (concluding observations).

³ Catharina Brölmann, Filip De Ly, Pieter Jan Kuijper, André Nollkaemper, Christoph Schreuer, Nico Schrijver, Ole Spiermann, and Erika de Wet. The Honorable Charles N. Brower served in the role of independent expert.

a father for our daughters; to my *Mamma* and role model Kari, for everything, always; and to my *Pappa*, Per-Arne, for giving me perspective and love. Last but not least, I dedicate it to Nora Sofie and Kari Helena for making me smile inside and out, each and every day. I love you.

Hege Elisabeth Kjos, Amstelveen, 18 September 2012

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