



# iCourts *insights*

## When Should International Courts Intervene?

International courts regularly intervene in politically sensitive issues such as the right of foreigners not to be deported. Is this intervention justified? To answer this broad question, it must be broken to a series of concrete inquiries: **When** is it legitimate for international courts to intervene? **Are** they likely to make better decisions than national bodies? **How** does intervention avoid counter-productive reactions by states such as deciding not to prosecute war criminals?

### What we knew before

International courts have a growing impact on the policies of states. Both scholars and stakeholders have been critical of this development because international courts are not elected or representative bodies.

### What we know now

Much of the criticism of intervention by international courts is not merited or is valid only within a limited scope. There are concrete situations in which international courts can intervene legitimately, make good decisions, and lead to good outcomes like deterring international crimes. Nevertheless, the areas in

which intervention is justified should be circumscribed based on theoretical arguments that take into account strategic behavior of states as well as the best available empirical evidence about the impact of international courts.

### Implications of new knowledge

The book contributes new evidence and arguments that can support international courts in making decisions about when and how to intervene. The analysis also recommends targeted changes to the practices of international courts focusing on how they can strengthen their legitimacy.

### Research source

INTERNATIONAL JUDICIAL REVIEW: WHEN SHOULD INTERNATIONAL COURTS INTERVENE? Cambridge University Press (2020). [Link to publication](#)

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