Contents

	Table of Cases	vii
	Foreword	ix
1	Introduction	1
2	The rise of a model: The European Court of Justice	
	as an engine of integration	8
	Neofunctionalism 9	
	Intergovernmentalism 33	
3	The saga of European legal integration:	
	The court and its case law	43
	Forging the European judicial archetype 43	
	Integration and international public law 46	
	The transformation of the preliminary ruling procedure: the case law 47	
4	The politics of judicial design: professionals and legal experts	58
	Brief notes on the transplant approach: aims and limitations 59	
	Three Andean puzzles around the establishment of the Andean Court of Justice 61	
	Epistemic communities and advocacy coalitions: an overview 63	
	The Andean-European network 66	
	Conditions for the action of networks: using windows of opportunity 72	
	Assessing the efficacy of legal networks: a counterfactual inference 76	
	Expanding the Andean network: bringing the judges in 79	
5	The Andean Court of Justice: charting the	
	course for its case law	84
	The origins of the Andean Group 84	
	The Andean institutional setting: an overview 88	
	The Andean Court of Justice 90	
	Common policy on intellectual property: the case of the patents 101	
	Establishing a common market by expansive interpretation 108	



vi Contents

6	What legal engineers do not get: rights politics and	
	the pitfalls of concept stretching	113
	Assessing empirical variations between the courts 114	
	Neofunctionalism and the Andean engine of integration 117	
	Intergovernmentalism and the kite model 118	
	Towards an alternative explanation 119	
	Two competing regulatory models: decentralised vs. centralist 123	
	Explaining expansive jurisprudence in regional integration: rights politics 130	
	South American scholarship and the community of fate 131	
	Concept stretching and theory building 134	
7	Epilogue and excursus: the Andean way	
	towards constitutionalisation	137
	The foundational period (1969–72) 138	
	The period of institutional expansion and stagnation (1972–96) 139	
	Towards constitutionalisation (1996 onwards): an excursus 140	

Bibliography	145
Index	163