

THE INTERNATIONAL COURT OF JUSTICE AND THE DEVELOPMENT OF INTERNATIONAL LAW

R. P. ANAND*

ONE of the most important and difficult duties of the courts, as well as a necessary condition of their successful functioning, is to find out the law that must be applied by them in the settlement of disputes brought before them. Although the nature of this function is similar in national and international fields, the authority and conditions in this respect of the international courts are entirely different in kind from those of the national courts. The municipal courts, which are endowed with compulsory jurisdiction, generally function in a relatively homogeneous society, apply a comparatively systematic and well-defined body of law, and are backed by the well-organized force of the State. Furthermore, the national courts, though independent, function under the shadow of sovereign legislative bodies which can modify and change rigid, unjust and obsolete legal rules, as and when the need arises, without undue delay and before they become "shackles" on the hands of the courts. None of these factors is to be found in the international field and this is what makes the task of international courts extremely difficult and complicated.

PARTIES' RIGHT TO PRESCRIBE LAW

Because of the voluntary nature of international adjudication, states claim to prescribe the law that must be applied by an international court, voluntarily established and exercising limited powers voluntarily conferred on it.¹ It is also an established principle, so well known and so widely

* Dr Anand is Reader Designate in International Law at the School and author of *Compulsory Jurisdiction of the International Court of Justice* (Bombay, 1961).

¹ See for instance the American-British Treaty of 8 May 1871, laying down the so-called three rules of neutrality to be applied by the Geneva Tribunal in deciding the famous *Alabama Claims* case, J. B. Moore, *International Arbitration* (Washington, D. C., 1898), vol. 1, 49; see generally Hersch Lauterpacht, *Private Law Sources and Analogies of International Law* (London, 1927) 63.

The Development Of International Law By The International Court Of Justice

Stephen M. Schwebel

The Development Of International Law By The International Court Of Justice:

The Development of International Law by the International Court Hersch Lauterpacht,1982 The book appraises the international judicial process and will be of value to anyone interested in this subject *The Development of International Law by the International Court of Justice* Christian J. Tams,James Sloan,2013-09-12 This book traces the impact that the International Court of Justice ICJ the principal judicial organ of the United Nations has had on various areas of international law A number of prominent international experts examine whether and to what extent international law has been shaped by the Court s jurisprudence The informal development of international law through the Court s judgments contrasts with the development of international law through more deliberate means such as treaty making Assessing key areas of international law over which the ICJ has exercised its jurisdiction such as international environmental law international human rights the law of the sea and the law of immunities this book comprehensively details the impact of international jurisprudence on contemporary international law Continuing the work started by Sir Hersch Lauterpacht s influential book The Development of International Law by the Permanent Court of International Justice this book provides key new insights into the role of the Court in wider international law It makes required reading for anyone studying the ways in which international courts have in shaped the evolution of international law The Development of International Law by the International Court of Justice Christian J. Tams,James Sloan,2013-09-12 This book traces the impact that the International Court of Justice ICJ the principal judicial organ of the United Nations has had on various areas of international law A number of prominent international experts examine whether and to what extent international law has been shaped by the Court s jurisprudence The informal development of international law through the Court s judgments contrasts with the development of international law through more deliberate means such as treaty making Assessing key areas of international law over which the ICJ has exercised its jurisdiction such as international environmental law international human rights the law of the sea and the law of immunities this book comprehensively details the impact of international jurisprudence on contemporary international law Continuing the work started by Sir Hersch Lauterpacht s influential book The Development of International Law by the Permanent Court of International Justice this book provides key new insights into the role of the Court in wider international law It makes required reading for anyone studying the ways in which international courts have in shaped the evolution of international law Latin America and the International Court of Justice Paula Wojcikiewicz Almeida,Jean-Marc Sorel,2016-11-25 This book aims to evaluate the contribution of Latin America to the development of international law at the International Court of Justice ICJ This contemporary approach to international adjudication includes the historical contribution of the region to the development of international law through the emergence of international jurisdictions as well as the procedural and material contribution of the cases submitted by or against Latin American states to the ICJ to the development of international law The project then conceives international jurisdictions from a multifunctional perspective

which encompasses the Court as both an instrument of the parties and an organ of a value based international community This shows how Latin American states have become increasingly committed to the peaceful settlement of disputes and to the promotion of international law through adjudication It culminates with an expansion of the traditional understanding of the function of the ICJ by Latin American states including an analysis of existing challenges in the region The book will be of interest to all those interested in international dispute resolution including academic libraries the judiciary practitioners in international law government institutions academics and students alike *The Statute of the International Court of Justice* Andreas Zimmermann,Christian Tomuschat,Karin Oellers-Frahm,Christian J. Tams,2012-10-11 The International Court of Justice is the principal judicial organ of the United Nations and plays a central role in the settlement of disputes and the development of international law This commentary analyses the Statute of the Court and the related provisions of the UN charter and the Court's Rules of Procedure *The Application of Teachings by the International Court of Justice* Sondre Torp Helmersen,2021-03-04 How do the judges of the International Court of Justice the most authoritative court in international law use teachings when deciding cases This book is the first book length examination of how teachings are used in an important international institution It uses three different methodologies a traditional legal analysis an empirical analysis where citations of teachings are counted and interviews with judges and staff Three main patterns are identified teachings have generally low weight but this weight varies between different works and between different judges The book suggests explanations for the patterns it identifies in order to contribute to understanding not only when and how teachings are used but also why and compares the Court's practice with that of other international courts and tribunals This study fills a gap in the international legal literature and will be essential reading for scholars and practicing international lawyers

The International Court of Justice and Municipal Courts Oktawian Kuc,2022-04-28 Recent decades have brought international and municipal courts much closer together and induced meaningful cooperation This holds true also for the International Court of Justice and domestic judicial institutions as they engage actively in an inter judicial dialogue particularly on the normative level Due to the impact of globalisation and internationalisation the World Court has expanded its jurisprudence to also accommodate references and analysis of external judicial organs and their pronouncements Likewise ICJ decisions are referred to and consulted by municipal courts as authoritative statements of international norms or assistance in fact determination This monograph examines this inter judicial dialogue in a comprehensive manner by identifying and analysing all its aspects as evidenced in respective jurisprudence Surprisingly the mutual conversation in judicial decisions between the World Court and national judicial institutions has drawn little attention from international legal scholarship and the book is designed to fill this lacuna The Open Access version of this book available at <http://www.taylorfrancis.com> has been made available under a Creative Commons Attribution Non Commercial No Derivatives CC BY NC ND 4 0 license *International Courts and the Development of International Law* Nerina Boschiero,Tullio Scovazzi,Cesare

Pitea,Chiara Ragni,2013-03-15 This book contains a collection of essays by leading experts linked to the outstanding characteristics of the scholar in honour of whom it is published Tullio Treves who combines his academic background with his practical experiences of a negotiator of international treaties and a judge of an international tribunal It covers international public and private law related to international courts and the development of international law Under Article 38 of its Statute the International Court of Justice can apply judicial decisions only as a subsidiary means for the determination of rules of law However there are many reasons to believe that international courts and tribunals do play quite an important role in the progressive development of international law There are a number of decisions which are inevitably recalled as the first step or a decisive step in the process of the formation of a new rule of customary international law In these cases can the judge be considered as a subsidiary of others Are these cases compatible with the common belief that a judge cannot create law Is this a peculiarity of international law which is characterized by the existence of several courts but the lack of a legislator Do decisions by different courts lead to the consequence of a fragmented international law This volume provides the reader with an elaboration of various questions linked to the legislative role of courts In their choices of subjects some contributors have taken into account the general aspects of the development of international rules through court decisions or specific sectors of international law such as human rights international crimes international economic law environmental law and the law of the sea Others have chosen the subject of the rules on jurisdiction and procedure of international courts The question of the courts role in the development of areas of law different from public international law namely private international law and European Union law has also been considered The information and views contained in this book will be of great value to academics students judges practitioners and all others interested in the public and private international law aspects of the link between international courts and the development of international law

The International Court of Justice Oliver James Lissitzyn,2006 A successor to the League of Nation s Permanent Court of International Justice the International Court of Justice was established in 1946 by the United Nations Written during its early years this incisive study outlines how the court functioned as an instrument for the maintenance of international peace and security and how it may function in the future Though skeptical that the court would be a powerful institution Lissitzyn believed its rulings would have a modest but notable effect on the development of international law Long out of print this essay was originally published in the Carnegie series United Nations Studies

Development of 'International Law' by International Court of Justice Muhammad Ans Shahzad Cheema,2023 The assignment will be focusing on International court of justice acts that helped in development of international law directly or indirectly International law itself is weak law because of heterogenic nature of state s laws Few of them overlap each other few of them don t International law is a system of treaties and agreements between nations which regulate how nations communicate with other nations other nations citizens and other nations businesses So here different international bodies came up together in working for international law in which they

guide related to Trade IP and criminal activity legality among states. No strong nations remained on the sidelines in World War I to give effective support to international law and the concept of third party arbitration was again threatened many of the international law's standing provisions were violated. New ways of warfare presented new problems in the laws of war but attempts to disarm and ban certain types of weapons after the war failed as shown by the outbreak and course of World War II. The end of hostilities in 1945 saw the world again facing major international issues including border rectification, refugee treatment and administration of the territory of the defeated enemy. After World War II a notable advance in international law was the definition and punishment of war crimes. Attempts at a general codification of international law however proceeded slowly under the International Law Commission established in 1947 by the United Nations. ICJ played its vital role which will be discussed throughout and its current position and influence would also be taken in consideration. International law is a law that is always in the developing process because there is so much new input and progress made by the world which has to be inculcated so that it caters to everyone around the globe.

Case-Law and the Development of International Law

Patrícia Galvão Teles, Manuel Almeida Ribeiro, 2021-10-18. This book explores recent contributions of the case law of international courts and tribunals to the development of international law. It begins by looking at how such case law has contributed to the development of the methodology of international law and to the development of procedural rules. It further examines recent contributions from three major players in the international judicial arena the International Court of Justice, the International Tribunal for the Law of the Sea and the mechanisms for Investor State Dispute Settlement. The contributors are well established academics and practitioners as well as emerging voices in international law coming from a rich and diverse regional background.

The Development of Human Rights Law by the Judges of the International Court of Justice Shiv R. S. Bedi, 2007. The jurisprudence of the International Court of Justice generally demonstrates that no rule of international law can be interpreted and applied without regard to its innate values and the basic principles of human rights.

Through its case law the ICJ has made immense contributions to the development of human rights law and in so doing continues to provide solutions to mounting international problems such as terrorism and unilateral use of force. Part I of the book argues that the legislative spirit of contemporary international law lies in the doctrine of human rights and that the spirit of human rights doctrine lies in the principle of human dignity. Furthermore it argues that the processes of international legislation and international adjudication are inseparable and that there is no norm of international law which does not intertwine the fundamental principle of human dignity with human rights doctrine. Hence human rights law is more a school of law than merely a normative branch of international law and the ICJ's willingness to engage in the development of human rights law depends upon which judicial ideology its judges subscribe to. In order to evaluate how this human rights spirit is manifested or occasionally not manifested through the vast jurisprudence of the ICJ Parts II and III critically examine the Court's principal contentious and advisory cases in which it has treated human rights questions. The legal reasoning of

the Court and the opinions appended to its decisions by its individual judges are analysed in light of the principle of human dignity and the doctrine of human rights Bloomsbury Publishing *Encyclopedia of Human Rights* David P Forsythe, 2009-08-27 Winner of the 2010 Dartmouth Medal this major five volume encyclopedia offers comprehensive coverage of all aspects of human rights theory practice law and history The set will provide situation profiles and full coverage of the development of the movement historical cases of abuse the key figures major organizations and a range of other issues in economics government religion and journalism that touch on human rights theory and practice In addition to providing original analytical articles covering standard subjects such as the right to health and health care Amnesty International the Balkan wars and former President of Ireland Mary Robinson it offers innovative coverage of such subjects as the Internet intellectual property rights the American civil rights movement globalization and Brazil in historical context Focusing primarily on developments since 1945 it offers an unrivaled reference source for students and researchers even human rights experts are likely to find much original material and keen insights in many of the entries

KEY SUBJECT AREAS INCLUDE ORGANIZATIONS AND INSTITUTIONS American Civil Liberties Union World Health Organization UNICEF Carter Center **LEADING FIGURES** Adolf Hitler Steve Biko Elie Wiesel Simone de Beauvoir Joseph Stalin Eleanor Roosevelt Pol Pot Shirin Ebadi Kim Jong Il **HUMAN RIGHTS EVENTS AND CRISES** Darfur Irish Famine Soviet Gulag Central America in the 1980s Colonialism Belgian Congo AIDS HUMAN RIGHTS NORMS Ethnic Cleansing Women's Rights Religious Freedom Torture International Law Disability Rights

Nicaragua Before the International Court of Justice Edgardo Sobenes Obregon, Benjamin Samson, 2017-11-21 This book analyses Nicaragua's role in the development of international law through its participation in cases that have come before the International Court of Justice Nicaragua has appeared before the ICJ in fourteen cases either as an applicant respondent or intervening State thus setting an important example of commitment to the peaceful judicial settlement of disputes The Nicaraguan cases have enabled the ICJ to take positions on and clarify a whole range of important procedural jurisdictional and substantive legal issues which have inspired the jurisprudence of international and regional courts and tribunals and influenced the development of international law The book focuses on reviewing Nicaragua's cases before the ICJ using a thematic approach to identify their impact on international law Each chapter includes a discussion of the relevant cases on a particular theme and their impact over time on general as well as specific branches of international law notably through their use as precedent by other international and regional courts and tribunals

"The" Development of International Law by the International Court Hersch Lauterpacht, 1958 *The ICJ and the Evolution of International Law* Karine Bannelier, Théodore Christakis, Sarah Heathcote, 2012-03-12 In 1949 the International Court of Justice ICJ handed down its first judgment in the Corfu Channel Case In diffusing an early Cold War dispute the Court articulated a set of legal principles which continue to shape our appreciation of the international legal order Many of the issues dealt with by the Court in 1949 remain central questions of international law including due

diligence forcible intervention and self help maritime operations navigation in international straits and the concept of elementary considerations of humanity The Court's decision has been cited on numerous occasions in subsequent international litigation Indeed the relevance of this judgment goes far beyond the subject matter dealt with by the Court in 1949 extending to pressing problems such as trans boundary pollution terrorism and piracy In short it was and remains a thoroughly modern decision a landmark for international law and one which today warrants reconsideration Taking a critical approach this book examines the decision's influence on international law generally and on some fields of international law like the law of the sea and the law of international responsibility specifically The book collects the commentary of a distinguished set of international law scholars including four well known international judges The contributors consider not only the history of the Corfu Channel Judgment and its contribution to the development of international law but also its resonance in many contemporary issues in the field of international law This book will be of particular interest to academics and students of International Law International Relations and Legal History

A Concise Encyclopedia of the United Nations Helmut Volger,2021-12-28 This English edition of the German Lexikon der Vereinten Nationen provides concise and comprehensive information not only about the structure of the UN system its goals and functions but about recent developments and reform efforts in the face of global opportunities and challenges The contributing authors are academic scholars of international law economics and political sciences active and former diplomats and UN officials journalists and members of non governmental organizations NGOs and offer a variety of interesting perspectives The entries are provided with Internet addresses for further information and are supplemented in the annex with a trilingual list English French German of the most important institutions and items of the official terminology and a list of information facilities concerning the UN Readership scholars and students of international law international economics and political sciences teachers journalists diplomats and politicians in the parliaments of the UN member states This new encyclopedia on the United Nations is a welcome addition to the works of academic research and political analysis covering the organization its complex goals in the post cold war era and its ever broader role in the new millennium While taking stock of more than half a century's achievements and setbacks the encyclopedia also reflects the many ways in which the United Nations touches the lives of people everywhere from the Preface by UN Secretary General Kofi Annan

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Justice in International Law Stephen M. Schwebel,1994-06-09 Articles and commentaries examining the

performance and capacity of the International Court of Justice aspects of international arbitration and the unlawful use of force amongst other salient issues

The Calcutta review ,1926

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