The International Law Association
(Caribbean Branch)

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Special points of interest

- ILA founded 1873
- ILA Caribbean Branch founded April 2014
- 23 Members in the ILA Caribbean Branch
- The ILA Caribbean Branch represents nationals or residents of the Caribbean States and territories regionally and internationally

The International Law Association Background

The International Law Association was founded in Brussels in 1873. Its objectives, under its Constitution, are "the study, clarification and development of international law, both public and private, and the furtherance of international understanding and respect for international law". The ILA has consultative status, as an international non-governmental organisation, with a number of the United Nations specialised agencies.

Membership of the Association, at present around 4200, is spread among Branches throughout the world. The ILA welcomes as members all those interested in its objectives, which are pursued primarily through the work of its International Committees, and the focal point of its activities is the series of Biennial Conferences. The Conferences, of which 80 have so far been held in different locations throughout the world, provide a forum for the comprehensive discussion and endorsement of the work of the Committees.

The ILA's membership ranges from lawyers in private practice, academia, government and the judiciary, to non-lawyer experts from commercial, industrial and financial spheres, and representatives of bodies such as shipping and arbitration organisations and chambers of commerce.

ILA Branches Around the World

Albanian	Chilean	Hellenic	Mauritius	Serbian
American	Chinese(Taiwan)	Hong Kong	Mexican	Singaporean
Argentine	Colombian	Hungarian	Nepal	Slovak
Australian	Croatian	Indian	Netherlands	Slovene
Austrian	Cypriot	Irish	New Zealand	South African
Bangladesh	Czech republic	Israel	Nigerian	Spanish
Belarusian	Danish	Italian	Norwegian	Swedish
Belgian	East African	Japan	Pakistan	Swiss
Brazilian	Egyptian	Jordanian	Polish	Turkish
British	Finnish	Korean	Portuguese	Ugandan
Bulgarian	French	former Yugoslav	Qatari	Ukrainian
Canadian	German	Republic of	Romanian	
Caribbean	Headquarters	Macedonia	Russian	

Inside this issue

A message From the Editor

Dear Branch Members, Colleagues and supporters,

On behalf of the ILA Caribbean Branch, I am pleased to send you our new Newsletter. In this edition, you will find some very topical articles pertaining to area of interest in International Law including two recently books by distinguished scholars in the Caribbean Region which will be of significant interest.

The publication featured is *The Law of the Sea in the Caribbean* by the Hon. Mr. Justice Winston Anderson, JCCJ. Readers will be aware of the significant role played by CARICOM Member States in this vital area for the Caribbean region. The book summary provided by Justice Anderson himself will hopefully encourage you to become acquainted with the latest thinking on this seminal topic and will no doubt be of interest to students and practitioners alike.

We are likewise pleased to feature the sixth edition of the forthcoming publication on *Public International Law* by Professor Alina Kaczorowska-Ireland. In her comments, Professor Kaczorowska-Ireland has helpfully identified some of the key features of this new edition which will assist readers in being brought up to speed with important developments in this field. In particular, the book, which is aimed at both students and practitioners of International Law also combines the features of both a textbook and casebook as well as helpful summaries of the principles discussed in each of the seventeen chapters. We are honoured to feature this important contribution to the field of International Law by one of our regional and international scholars.

One of our young regional scholars and practitioners, Mr. Alexander Gafoor, has contributed a very topical article on block chain technology with specific reference to Non-Fungible Tokens. Such notable developments in the field of International Financial Law have important implications for regional and international trade and which may be considered as being somewhat unchartered territory in the field of International Law. This important article also speaks
Significantly to issues pertaining to the protection of intellectual property and thus will be of interest to those engaged in such fields.

Dr. Timothy Affonso, Acting Dean of the Faculty of Law, the University of the West Indies, St. Augustine Campus, has helpfully provided a summary of the work of the ILA Committee on Complementarity in International Criminal Law. As the Branch Representative on this Committee, which has now completed its work and whose Committee Report was accepted by the ILA. In particular, the work of the Committee, as Dr. Affonso points out, highlights the importance of the principle of

Universal Jurisdiction and the overlap between domestic and international criminal law. The link to the Committee's full Report is also provided at the conclusion of the article.

Dr. Affonso has also highlighted recent developments in the area of diplomatic immunity by his discussion of the recent case of Basfar v Wong (2022). This case note points out the plight that often besets the staff employed by persons enjoying diplomatic immunity and the somewhat vulnerable position in which they may often find themselves.
In particular, it highlights the dilemma faced by employees seeking relief in the domestic civil jurisdiction against someone who would normally enjoy immunity from suit but which the UK Supreme Court in a majority decision
determined fell within the exception to such immunity based on being classified as commercial activity.

Justice Dr. Anthony Gafoor
Editor and Hon. Secretary
ILA Caribbean Branch

TAXATION IN THE GLOBAL ARENA: WHAT ROLE FOR TAX COURTS?

Anthony D.J. Gafoor

The ability of a state to enter into a treaty obligation is an exercise of sovereignty and states are therefore free to enter into bilateral or other treaty arrangements with other countries. The motivation for entering into such legal arrangements is ostensibly to benefit both states but the picture has been painted on a much broader canvas. Rouge (2015) maintains that "treaties are the way states use to limit their own power to facilitate exchanges with other nations. But, far from favoring this way to live together, "*Countries that have introduced regimes constituting harmful tax competition often view the development of their network of tax conventions as an asset that facilitates and encourages the use of these regimes by residents of third countries.*"[1]

Some Caribbean countries have been labelled as tax havens by the OECD[2] which is an issue often associated with money laundering and related criminal activities such as the international drugs trade. However, actual evidence to support such allegations has not always been forthcoming. On the other hand, the harmful effect of singling out developing countries in the Caribbean as engaging in criminal activities through being tax havens is quite deleterious. Since these jurisdictions are small island developing states with struggling economies, categorizing them as such by the wealthier countries of the OECD can be perceived as oppressive and unfair.

The OECD claims that "treaty abuse, and in particular treaty shopping, is one of the most important sources of Base Erosion and Profit Shifting concern" (OECD 2015). Hence, for nearly forty years, one of the most efficient ways to optimize its taxation is the freedom given by states to taxpayers to choose their law. In fact, the OECD has opined that "Taxpayers engaged in treaty shopping and other treaty abuse strategies undermine tax sovereignty by claiming treaty benefits in situations where these benefits were not intended to be granted, thereby depriving countries of tax revenues" (OECD 2015). Still more disturbing is the fact that, in the absence of reciprocity and procedural fairness the fact by a country not to collaborate with another in such a matter is a very important aspect for encouraging tax evasion (OECD 1998, 51)[3]

[1]Jean-François Rougé, "The Globar War: The Eu's Apple Tax Case." ECONOMICS
Vol. 5, No 1, 2017. ISSN 2303-5005. p.25. Accessed 24.6.18. Citing in italics an extract from OECD. Harmful tax competition. A global issue. http://www.keepeek.com/Digital- Asset-Management/oecd/taxation/harmfultax-competition_9789264162945-en#.WLPWkH8kQfI, 1998, p.48.

[2]See generally "The Caribbean, the OECD and the Empty Blacklist." https://medium.com/.../the-caribbean-the-oecd-and-the-empty-blacklist-e2db81cb1db. March 19, 2018. Accessed 5th July, 2018. See also, Vanessa Houlder, "Trinidad and Tobago left as the last blacklisted tax haven." Financial Times. June 28, 2017. https://www.ft.com/content/94d84054-5bf0-11e7-b553-e2df1b0c3220 Accessed 5th July, 2018; Rochelle Toplensky, "EU puts 17 countries on tax haven blacklist." Financial Times. December 5, 2017. https://www.ft.com/content/c4d721dc-d9cf-11e7-a039-c64b1c09b482 Accessed 5th July, 2018.

[3]Ibid.pp.25-26, citing the above 1998 from the OECD as well as the following document: "*OECD. "BEPS 2015 final reports." 2015.*

The global regime in which tax courts operate cannot be ignored nor fail to take cognizance of such global pronouncements. Indeed, Caribbean countries on the whole are capital importing jurisdictions where a stable and transparent judicial system is critical for attracting foreign investment. It may be surmised that global tax courts through the exercise of a specialist jurisdiction may be mindful of the expectations which may be placed on them by both States and the private sector to ensure that all litigants receive a fair hearing especially in the specialist world in which they operate.

The Caribbean region in particular has experienced a proliferation of multinational corporations with an emphasis on extractive industries such as oil; natural gas; bauxite and other minerals. That global environment has been well described as having become substantially more connected or "globalized". Economic decisions made in one country can have significant impact on the economic development at the opposite side of the globe on the very same day. The right of taxation is one of the main signs of a country's sovereignty and it is one of the few cases of widely accepted violations of the basic democratic rights – the right of ownership." Further, that "Globalization and international trade openness has made it significantly more difficult for governments to impose taxes entirely based on their own situation and needs. High personal and corporate income tax (PIT, CIT) can cause a migration on the global scale as people, entire companies and most importantly – capital, can migrate to countries with a lower level of income taxation."[4]

Multinational corporations of developed countries have tended to look to mineral rich developing countries many of which rely heavily on the revenues raised through corporation and withholding tax to support their fragile economies. Many multinational companies in the energy and other extractive sectors are based in Europe as well as other metropolitan countries such as the USA and Canada. They establish a presence in Caribbean jurisdictions through branches and subsidiaries which are registered locally but which transfer significant revenue to the host state.

[4]Vaclav Toman, "Economic Globalization and Tax Systems". Master Thesis. Charles University in Prague. Faculty of Social Sciences. Institute of Economic Studies. 2014.

It may be argued that the draconian pronouncements of the OECD countries against developing countries are very short-sighted. Much of the revenue is repatriated to overseas jurisdictions where such corporations are based. This actually contribute to the overall wealth of those countries. Thus, to seek to clamp down on the more liberal tax incentives offered by developing countries such as those within the Caribbean may be seen as counter-productive. The OECD stresses that "some rules and their underlying policy were built on the assumption that one country would forgo taxation because another country would be imposing tax. In the modern global economy, this assumption is not always correct, as planning opportunities may result in profits ending up untaxed anywhere."

Justice Dr. Anthony D.J. Gafoor is the Chair of the Tax Appeal Court of Trinidad and Tobago (Superior Court of Record), Hon. Secretary to the International Law Association Caribbean Branch as well as a Member of the ILA Committee on Taxpayers' Rights

Professor Dr. Winston Anderson, JCCJ

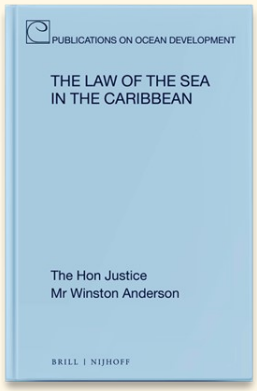
The Law of the Sea in the Caribbean, authored by CCJ Judge, The Honourable Mr. Justice Winston Anderson, is the latest contribution to this important field of International Law in the Caribbean. Using the lens of the *United Nations Convention on the Law of the Sea*, adopted in Kingston, Jamaica, on 10 December 1982, the book examines the possibilities for contribution by the Law of the Sea to economic and social development in the Region. The topics traversed include maritime jurisdiction, fisheries, offshore oil and gas, marine scientific research, peace and security, navigation, pollution, the deep seabed, maritime boundary delimitation, and dispute settlement.

The book is premised on the fact that a generation of legal pioneers imagined a decisive role for the Law of the Sea in the advancement of developing states, and it attempts to give an account, in the fortieth year of the adoption of the Convention, of the reach of the Law of the Sea into Caribbean development.

The Law of the Sea in the Caribbean argues for greater regional cooperation as a means of achieving the promise of truly significant participation by the *United Nations Convention on the Law of the Sea 1982,* in Caribbean development.

The book is published by Brill Academic Publishers, a Dutch international publisher founded in 1683 in Leiden, Netherlands which prides itself on producing, "Over three centuries of scholarly publishing."

The Law of the Sea in the Caribbean is the latest academic text authored by Justice Anderson. The Judge has written several other leading texts including *Caribbean Private International Law* (Second edition, Sweet & Maxwell, London, 2014) and *Principles of Caribbean Environmental Law* (Environmental Law Institute, Washington, 2012).



The Law of the Sea in the Caribbean is available at https//brill.com/view/title/61330, on Amazon, and in law bookstores.

Professor Dr. Winston Anderson, JCCJ

Winston Anderson is of Jamaican nationality and upbringing. He entered the Faculty of Law, UWI in 1980, graduated in 1983 with the LLB Degree and in 1984, matriculated to Cambridge University on Commonwealth & Chevening Scholarships graduating in 1988 with a Doctorate in Philosophy. Also, in 1988, he was called to the Bar of England and Wales, as a Barrister of the Honourable Society of Lincoln's Inn. Since then, he has been called to the Bar in Barbados (1989) and in Jamaica (2006). Dr. Anderson rejoined the UWI Faculty of Law as a lecturer in 1988, achieved indefinite tenure in 1994, Senior Lecturer in 1999, and served as Deputy Dean and Head of the Teaching Department of Law. Whilst on secondment stints from UWI, Dr Anderson was Research Fellow at Sheffield University, Senior Lecturer at the University of Western Australia; and General Counsel of the Caribbean Community, 2003-2006. He was appointed professor of law in 2006, and Executive Director of the Caribbean Law Institute Centre, in 2007, a position he held until 2010. On 15 June 2010, Professor Anderson was elevated to the Bench of the Caribbean Court of Justice on 15 June 2010 and in November 2011, was appointed Founding Chairman of the educational arm of the Court, now the CCJ Academy for Law. Justice Anderson holds several critical internal operational positions in the Court. He also holds several global and regional appointments including being a founding Member of the International Advisory Council of the United Nations Environment Programme (UNEP) in 2012 and has been a judge on the global Court of Arbitration for Sport (CAS) since 2021. In 2022, Justice Anderson was appointed Presiding Judge and Chairman of the apex Court in the Seychelles to adjudicate the case of Eastern European Engineering Ltd v Vijay. Justice Anderson is the author of numerous refereed articles in foremost global and regional law journals. He is editor of the CCJ Academy publications and the author of several leading academic texts, including, most recently: The Law of the Sea in the Caribbean (BRILL Publishers) (2022).

An Exception to Diplomatic Immunity: What Happens Next?
Dr. Timothy Affonso

The recent decision of the United Kingdom (UK) Supreme Court in the case of ***Basfar v Wong [2022] UKSC 20*** shone light on the issue of diplomatic immunity. However, it also interrogated the tangential issues of human trafficking, domestic servitude and modern slavery. While the Supreme Court's decision was an appeal of the decision of the employment tribunal not to strike out the claim, the reasoning of the Court allows for substantial in-roads in the area of diplomatic immunity.

The facts of the case dealt with Ms. Wong, a domestic worker of Filipino nationality, who was employed by Mr. Basfar, a member of the diplomatic staff of the mission of the Kingdom of Saudi Arabia in the UK. Ms. Wong brought a claim against Mr. Basfar alleging that she was brought to the UK by Mr. Basfar in 2015. She was virtually being held incommunicado as she was only allowed to speak with her family twice a year. Her work hours were from 7 a.m. to 11:30 p.m. every day with no days off or rest breaks. She was required to wear a door-bell at all times to that she was at the family's beck and call twenty-four hours a day. Ms. Wong ate the family's left-over food. She was not paid her salary except for a few payments made over the course of her employment.

Ms. Wong brought an action before the employment tribunal claiming wages and breaches of employment rights. The tribunal refused to strike out the claim by Ms. Wong, consequently holding that Mr. Basfar was subject to the civil law jurisdiction in the UK. Mr. Basfar, however, as a member of diplomatic staff, was covered by the Vienna Convention on Diplomatic Relations (1961) which was incorporated into the UK national law by virtue of the Diplomatic Privileges Act (1964). The Act provides that diplomatic agents enjoy complete immunity from the criminal and civil jurisdiction of the receiving State. Of moment in the case was the statutory exception which related to civil claims for any "professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official function." The Court was therefore tasked with deciding the issue of whether Ms. Wong's treatment and employment contract fit within the interpretation of "commercial activity exercised outside [Ms. Basfar's] official function."

conditions of a person's employment can ever be considered a "commercial activity" so as to fall within the statutory exception. In fact, the dissent expressed concerns that the expansion of the commercial exception seriously risked the scope of immunity by creating uncertain boundaries between what is and is not covered by the exception. While the case is far from over, it is important to see whether the fact-finding phase of the case will substantiate the majority's rationale or realise the minority's fears.

Dr. Timothy Affonso is an Attorney-at-Law in Trinidad and Tobago and is the Acting Dean of the Faculty of Law, The University of the West Indies, St. Augustine Campus. His areas of research focus on international law, international human rights law and public international law. He is also the former Hon. Secretary of the ILA Caribbean Branch.

A Brief Demystification of NFTs and Associated Intellectual Property Rights

Alexander Gafoor

What is an NFT

Ask 10 people and you might get 10 different answers. Is it a picture of a lazy chimp, a representation of fractional ownership in a musical work or a ticket to an event? The confusion as to what *exactly* a Non-Fungible Token ('NFT') is can be attributed to the complexity of the underlying technology or the fact that blockchain technology is still very much in its developmental stage. However, for the sake of simplicity, an NFT can be defined as a string of code, representing an underlying work (including artworks, videos, and memorabilia) stored on a blockchain such as Etherium, Solana or Zilliqua etc. The Courts have opted for a more abstract definition as espoused by His Honour Judge Pelling QC[1] who stated that an NFT is a stream of electrons resulting in a credit item to a crypto account.

When I buy an NFT what do I actually get?

Generally speaking, the purchaser of an NFT acquires a non-commercial, own-use only licence to the intellectual property rights in the work that the NFT references[2]. However, the scope of the license and the accompanying rights may vary from project to project and will depend on the commands programmed into the smart contract from which the NFT originates. Legal scholar, Joshua Fairfield stated that, 'a smart contract is not a contract. It is merely an automatically executing program, which may or may not operate in the context of a contractual promise.'[3]

To demonstrate the stark degree to which licenses can vary vis-à-vis intellectual property rights, two popular NFT projects will be contrasted:

1. *The Bored Ape Yacht Club* allows holders limited commercial rights. They may build their own sub-brand but are prohibited from using other Apes or the BAYC logo. This has allowed creative users to develop restaurants, wines, books and more!
2. When purchasing an NFT from the *Cryptoadz* project, one receives a No Copyright Reserved license which allows the holder full copyrights associated with his NFT. This type of license, coupled with a provision in the smart contract stipulating that holders of a Cryptoadz NFT must be airdropped tokens from derivative projects caused NFTs in the collection to increase in value as new projects were minted. This would not be possible with traditional, non-commercial, own-use only licenses!

Ownership of an NFT can also entitle you to off-chain benefits, which are real-world benefits of ownership not defined by the smart contract such as inclusion into exclusive communities, free access into events for holders of the project. It is often on this basis that purchasers are lured into buying NFTs and while the enigmatic nature of these secret clubs can seem alluring, off chain benefits are mutable and may be altered or withdrawn at the discretion of the copyright owner.

[1]Lavina Deborah Osbourne v Persons Unknown and Ozone Networks Inc trading as Opensea

[2]Athanassiou, P. L. (2022). Non-fungible tokens: select legal issues. *Butterworths Journal of International Banking and Financial Law*, 107–108.

[3]'Tokenized: The Law of Non-Fungible Tokens and Unique Digital Property' (6 April 2021) , *Indiana Law Journal,* 49-51.

When purchasing an NFT through marketplaces such as *OpenSea* or *Rarible,* one should be aware of how the legal doctrine of privity affects transactions of this nature. Most notably that because there is no contract between the creator and the downstream buyers, the doctrine may deny the owner any recourse if rights or benefits are altered or taken away entirely. Further, if these rights and benefits aren't set out in a parallel agreement, they a Court may be unwilling to issue an order protecting them. As such, these benefits are no more than mere promises without mindful and guided execution.

In summary, when you purchase an NFT, you acquire whatever bundle of rights is programmed into the smart contracts along with whatever off-chain benefits are promised at the time.

Courts perspective

Despite the ethereal nature of the underlying technology behind NFTs, courts across the globe have rallied to protect the intellectual property rights of creators and purchasers alike.

In the United Kingdom, in the case of *CL-2022-0001100 Lavinia Deborah Osbourne v Persons Unknown and Ozone Networks trading as Opensea* it was held, *inter alia,* that NFTs constitute property, and as such their fraudulent removal may be the subject of a claim. Further, the Court acknowledged that NFTs have a value that extends beyond their 'mere fiat currency value.[4]' By adopting this perspective, the court acknowledges the subjective value of NFTs, making them more akin to art than a security. Most importantly, the Court saw it fit to serve an out-of-jurisdiction Order on *Opensea* commanding them to provide any information relative to the fraudulent removal. The fact that *Opensea* is domiciled in the United States demonstrates the length that the Court was willing to go to protect rights of the holder.

In a matter lead by international law firm *Withers*, the Singaporean High Court delivered a landmark ruling granting an injunction to restrain the sale of a *Bored Ape Yacht Club* NFT as the subject of a commercial dispute. The significance of this case is the acknowledgement of property rights at the High Court level and an expression of willingness by the court to take jurisdiction over assets located in the decentralized blockchain. Further the use of this approach following the judgment in *Osbourne* indicates the preliminary formation of a global approach regarding the protection of NFTs.

In China, in the case of *No.2022 Zhe 0192 Min Chu 1008*, the Hangzhou Internet Court held that *Bigverse*, as an NFT marketplace, was liable for contributory copyright infringement by facilitating the sale of an NFT identical to that of the Claimants. The most notable feature of this case is the regard and protection given to the intellectual property rights of the creator of the NFT. Further, the Court placed a heavy burden on NFT marketplaces stating that even where no complaint of breach of copyright is made, they must generally assess the likelihood that an NFT uploaded to their platform will infringe some existing copyright.

[4](ibid) Paragraph 18

In the United States, in the case of *Hermès International, et al. v Mason Rothschild [2022],* while the court could not make findings on substantive issues at the motion to dismiss stage, Judge Jed Rakoff held that in creating a line of NFTs entitled '*MetaBirkins*', Rothschild infringed the Claimant's trademark rights as the line was not artistically relevant and was explicitly misleading vis-à-vis the source or content of the work[5]. This demonstrates the fact that Courts will apply existing principles of intellectual property law to determine cases

Key Findings

Regardless of what kind of license is bought, the courts ain't monkeying around when it comes to protecting creators and purchasers alike from the insidious attacks of fraudsters and copycats seeking to benefit from the lag between current legislation and the blockchain technology associated with NFTs.

Alexander Gafoor, BA, LLB, LEC, is the Chief Legal Officer at CoinSher Exchange. He is an Attorney-at-Law and seasoned multi-disciplined consultant with over 8 years of experience in legal and business consulting. He has a proven track record of success in providing strategic, practical, and commercial advice to clients in a wide range of industries. Alexander also has a strong background in advising clients on legal matters in areas including regulatory compliance, KYC protocols, blockchain law, contract law, corporate law, advertising law and intellectual property law.

[5]Paragraph 12 of the Judgement (https://casetext.com/case/hermes-intl-v-rothschild-5)

That's a Wrap! Completing the Mandate of the ILA Committee on Complementarity in International Criminal Law

Dr. Timothy Affonso

The International Law Association (ILA) Committee on Complementarity in International Criminal Law was started in 2012 and chaired by Professor Mia Swart. The team was supported by the tremendous work of our Rapporteur, Professor Sarah Nouwen. Since November 2015, I have served as the ILA (Caribbean Branch) representative on this Committee.

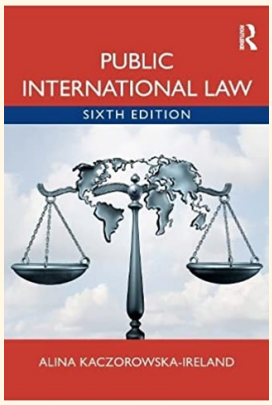
Over the time I have worked on this Committee I have had the benefit to share with an active group of world-leaders in the field of international criminal law, including prosecutors at the International Criminal Court (ICC), academics, practitioners and policy-makers. Led by a very involved Chair who preferred in-person meetings, the Committee built personal and professional ties across the globe. I hold the view that the Committee meeting in Stellenbosch, South Africa proved to be one of the most rewarding experiences for both the advancement of the work of the Committee but also for the forging of bonds among its members. At this meeting country reports were presented, and I was able to present the position of the countries which we (the Caribbean Branch) represent.

The dynamism of the Chair and the efficiency of the Rapporteur pushed the work ahead even during a global pandemic. It was therefore no surprise that on 23 June 2022, at the 80th Biennial Conference of the International Law Association (ILA) in Lisbon Portugal, the final report and recommendations of our Committee were adopted. The consequence of this is that the mandate of the Committee has now come to an end. Even though the Committee's work has been brought to a formal conclusion, the relevance of its report to the field of international criminal law cannot be overstated. In the words of Professor Mia Swart, Chair of the Committee, "I think the importance of complementarity lies in the bridging between the national and the international. Like many, I think the future of international criminal justice depends on domestic systems and not on one court in The Hague, a reality that is steadily borne out by the increase in universal jurisdiction cases."

The final recommendations of the Committee can be found at:
https://www.ila-hq.org/images/ILA/docs/ILA_2022/RESOLUTION_4_complementarity_committee_Eng_Lisbon_2022.pdf?fbclid=IwAR3hFMEG7xt7om-3ChJHpbK-s_soM9Mkn9qyTd0PjLPre5Dyd1PsDxw-T4I

The full report can be found at:
https://www.ila-hq.org/images/ILA/docs/ILA_2022/ILA_report_complementarity_Lisbon_FINAL.pdf?

Alina Kaczorowska-Ireland



Dear Friends and Colleagues,

Dr Anthony Gafoor has given me the opportunity to introduce the 6th edition of my public international law textbook to readers of the International Law Association Caribbean Branch Newsletter. I greatly appreciate his kindness. The sixth edition is in press. It is scheduled to be published in July 2023 by Routledge of London and New York.

The 6th edition continues its tradition of proving readers with a textbook on public international law that is engaging, thought-provoking, easily readable, intriguing, sometimes amusing, and always engaging.

The book covers 17 huge areas of law on each of which even thousands of pages will not be enough to provide complete and comprehensive coverage. For that reason, I have focused on crucial topics within each area of law with a view to conveying appropriate information, whether to students or practitioners, on the basis of which they, first, will acquire sufficient knowledge and understanding of international law to be able to appreciate the value, complexity, and relevance of international law to the continuous transformation of our world, and second, will be able to undertake further study and research.

The book is fully up to date. It examines new important decisions of the International Court of Justice and other international courts and tribunals as well as judgments of national courts, including the UK Supreme Court, the US Supreme Court, and courts of many other countries when they make challenging or novel contributions to international law. It comments on recent works of the International Law Commission on, *inter alia*, the identification of customary international law, peremptory norms of general international law (jus cogens), general principles of public international law, and reservations to treaties as well as works of other international bodies and organisations engaging in the progressive development, clarification, and codification of international law. Additionally, the book takes account of the wealth of new literature and commentaries on public international law.

The 6th edition enhances the unique features of previous editions as it:

- combines a textbook with a casebook. Case summaries are highlighted in color-tinted boxes and contain key facts and critical analysis assessing the legal impact of each case on existing law and its development;
- contains concise outlines, at the beginning of each chapter, describing the key points of the chapter and thus providing a useful revision tool;
- contains diagrammatical aides-mémoire at the end of each chapter that visualize topics covered in that chapter;

- contains end of chapter up-to date and easily accessible recommended reading for readers who want to further research specific issues or topics.
- shows how topics are interrelated by cross-referencing them.

To the above array of pedagogical features, the 6th edition adds a new one, i.e., study boxes which are inserted in color-tinted boxes and attempt to marry international law with the rich fabric of life. Events, situations, relationships, and fascinating novel legal developments are examined in study boxes in the light of international law to illustrate its practical relevance at the background of the all-pervading impact of human rights law. Examples of issues discussed in study boxes are: the ongoing armed conflict between Russia and Ukraine, including whether President V. Putin is right that foreign fighters who have joined the International Legion of Defense of Ukraine are mercenaries and thus not entitled to the status of POWs when captured; the murder of Mr. Jamal Khashoggi by agents of Saudi Arabia in the Saudi Consulate in Turkey; the judicial battle of Mr. Julian Assange against extradition from the UK to the US; the right to self-determination in the colonial context with regard to the peoples of Western Sahara and outside that context with regard to the Catalan and Scottish people; the authorization of the UN Security Council to use force in Yemen without the appropriate safeguards for the protection of human rights of civilians.

The book is addressed to law students and political science students at both undergraduate and postgraduate levels, practitioners, legal advisers, and anyone who is interested in international law, anywhere in the world, as public international law is one of the rare areas of law which knows no frontiers. This is also one of the reasons why this book explores how the US, a world superpower, interacts with international law, thereby making it relevant to the study of international law in US law schools.

It is my great pleasure and privilege to present this edition not only to readers who, over the years, have been reading and consulting my book and whose loyalty I treasure but also to those who are about to discover this book and will, hopefully, find it a source of intellectual excitement and stimulation for further studies of this fascinating area of law.

Alina Kaczorowska-Ireland holds a number of postgraduate legal qualifications and a State Doctorate in International Law with great distinction (Doctorat en Droit avec la mention très honorable) from the University of Nice in France. She has been a Professor of International and European Union Law at the University of the West Indies since September 2005. Prior to that she was a Professor of EU Law at the Southampton Institute in England and was awarded a Jean Monnet Chair in EU Law in June 2004. She has taught at University College Cork in Ireland, at McGill University in Montréal, at the Grand Ecole de Commerce in Rennes, and is qualified as a barrister at the Paris Bar. She is the leading writer on EU Law and Public International Law for Routledge-Cavendish of London and New York. She has published twenty-six books, and many articles in renowned journals including The European Public Law, The European Law Journal, The European Competition Law Review; La Revue de Droit International et de Droit Comparè, Państwo i Prawo, The Turkish Yearbook of Human Rights, The Irish Journal of European Law, La Revue Juridique Thémis, The International Company and Commercial Law Review. Since joining the University of the West Indies, she has been actively involved in Caribbean legal life and considers herself a friend of the Caribbean Court of Justice.

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