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Frontmatter

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 Frontmatter
[More information](#)

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Frontmatter
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*Research Centre for International Law
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INTERNATIONAL LAW REPORTS

VOLUME
95

Edited by

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*Honorary Professor of International Law, University of Cambridge
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Edited by E. Lauterpacht and C. J. Greenwood
Frontmatter
[More information](#)

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E. LAUTERPACHT

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CONTENTS

	<i>Page</i>
PREFACE	vii
EDITORIAL NOTE	ix
TABLE OF CASES (alphabetical)	xiii
TABLE OF CASES (according to courts and countries)	xv
DIGEST (main headings)	xvii
DIGEST OF CASES REPORTED IN VOLUME 95	xix
TABLE OF TREATIES	xxxv
REPORTS OF CASES	1
INDEX	727
CONSOLIDATED TABLES OF CASES (Volumes 91-95)	773

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

PREFACE

This volume, the second to appear in 1994, contains decisions from a variety of national and international tribunals. The two 1993 decisions of the International Court of Justice on the requests for interim measures in the *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide* brought by Bosnia and Herzegovina against Yugoslavia (Serbia and Montenegro) are published in full. We have accelerated publication of these two decisions because of their special current importance. Other international decisions included in this volume are the arbitration awards in the *St Pierre and Miquelon* maritime boundary case and *Biloune and Marine Drive Complex Ltd v. Ghana Investments Centre and the Government of Ghana*, together with decisions of the Inter-American Court of Human Rights, the European Commission and Court of Human Rights and the United Nations Human Rights Committee. The decisions of courts in Canada, the United States, the United Kingdom and South Africa on the legal consequences of the abduction of a defendant from the territory of another State are reported together at pages 355-467. The volume also includes a number of other decisions from the United States courts and a case from the Supreme Court of Ireland.

In order to facilitate research in the *International Law Reports*, this volume includes Consolidated Tables of Cases for volumes 91 to 95, which are printed on the yellow pages at the back of the volume. This partial consolidation should be used in conjunction with the Consolidated Tables of Cases for volumes 81 to 90, which can be found at the back of volume 90, and the Tables of Cases for volumes 1 to 80, which appeared in the separate consolidation volume published in 1991.

Mr Mark Jewett QC kindly provided the text of *Jaffe v. Miller*. The award in *Biloune* was contributed and summarized by Mr Mark Davis, registrar of the arbitration tribunal, formerly of Steptoe and Johnson and now a partner in Davis and Leiman, Washington D.C. Ms Rosemary Rayfuse, LL.M., Lecturer in Law at the University of New South Wales, wrote the summaries of the *St Pierre and Miquelon* award, the human rights decisions and the decisions of the United States, United Kingdom and South African courts on abduction. Mr Anthony Morgan, LL.M., prepared the summaries of the United States cases. Ms Karen L. Lee, MA, contributed the summaries of the Irish and Canadian cases, and prepared the Digest, Tables of Cases and Treaties and the Consolidated Tables of Cases. The map accompanying the *St Pierre and Miquelon* award was prepared by Mr

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

viii

PREFACE

Reginald Piggott. Mr Theunis Roux of Gonville and Caius College, Cambridge, translated the decision of the South African court in *State v. Ebrahim*. The Index was compiled by Miss Maureen MacGlashan. Mrs Marie Pepper shouldered the burden of checking the copy and proofs. Secretarial assistance was provided by Mrs Glen Howard and Miss Rebecca Webb.

The following kindly permitted us to use photographic reproductions of decisions from the reports which they publish: the Registrar of the International Court of Justice (*International Court of Justice Reports*), the West Publishing Company (*Federal Reporter* and *Federal Supplement*), the Lawyers' Co-operative Publishing Company (*Lawyers' Edition of the United States Supreme Court Reports*), the Incorporated Council of Law Reporting for England and Wales (*Weekly Law Reports*), the Incorporated Council of Law Reporting for Ireland (*Irish Reports*) and the Law Society of Upper Canada (*Ontario Reports*).

The volume has been published by the Cambridge University Press and has been printed, with their customary care, by the Gomer Press. To all the above, we extend our warmest thanks.

E. LAUTERPACHT

C. J. GREENWOOD

RESEARCH CENTRE FOR INTERNATIONAL LAW
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Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

EDITORIAL NOTE

The *International Law Reports* endeavour to provide within a single series of volumes comprehensive access in English to judicial materials bearing on public international law. On certain topics it is not always easy to draw a clear line between cases which are essentially ones of public international law interest and those which are primarily applications of special domestic rules. For example, in relation to extradition, the *Reports* will include cases which bear on the exception of “political offences” or the rule of double criminality, but will restrict the number of cases dealing with purely procedural aspects of extradition. Similarly, while the general rules relating to the admission and exclusion of aliens, especially of refugees, are of international legal interest, cases on the procedure of admission usually are not. In such borderline areas, and sometimes also where there is a series of domestic decisions all dealing with a single point in essentially the same manner, only one illustrative decision will be printed and references to the remainder will be given in an accompanying note.

DECISIONS OF INTERNATIONAL TRIBUNALS

The *Reports* seek to include so far as possible the available decisions of every international tribunal, e.g. the International Court of Justice, or *ad hoc* arbitrations between States. There are, however, some jurisdictions to which full coverage cannot be given, either because of the large number of decisions (e.g. the Administrative Tribunal of the United Nations) or because not all the decisions bear on questions of public international law (e.g. the Court of the European Communities). In these instances, those decisions are selected which appear to have the greatest long-term value.

Human rights cases. The number of decisions on questions of international protection of human rights has increased considerably in recent years and it is now impossible for the *Reports* to cover them all. As far as decisions of international jurisdictions are concerned, the *Reports* will continue to publish decisions of the European Court of Human Rights and of the Inter-American Court of Human Rights, as well as “views” of the United Nations Committee on Human Rights. Selected decisions of the European Commission of Human Rights will be printed, chosen by reference to the importance of the points at issue and their interest to public international lawyers generally. (All reports of decisions of the European Commission of Human Rights are published in an official series, the *Official Collection of Decisions of the European Commission of Human Rights*, as well as in the *European Human Rights Reports*). Decisions of national courts on the

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978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

x

EDITORIAL NOTE

application of conventions on human rights will not be published unless they deal with a major point of substantive human rights law or a matter of wider interest to public international lawyers such as the relationship of international law and national law, the extent of the right of derogation or the principles of the interpretation of treaties.

International arbitrations. The *Reports* of course include arbitral awards rendered in cases between States which involve an application of public international law. Beyond this, however, the selection of arbitral decisions is more open to debate. As these *Reports* are principally concerned with matters of public international law, they will not include purely private law commercial arbitrations even if they are international in the sense that they arise between parties of different nationality and even if one of them is a State. (For reports of a number of such awards, see *Yearbook Commercial Arbitration* (ed. Pieter Sanders, under the auspices of the International Council for Commercial Arbitration)). But where there is a sufficient point of contact with public international law then the relevant parts of the award will be reported. Examples of such points of contact are cases in which the character of a State as a party has some relevance (e.g. State immunity, stabilization clauses, *force majeure*) or where there is a choice of law problem involving discussion of international law or general principles of law as possible applicable laws. The same criteria will determine the selection of decisions of national courts regarding the enforcement of arbitral awards.

DECISIONS OF NATIONAL TRIBUNALS

A systematic effort is made to collect from all national jurisdictions those judicial decisions which have some bearing on international law.

EDITORIAL TREATMENT OF MATERIALS

The basic policy of the Editor is, so far as possible, to present the material in its original form. It is not part of the editorial function to impose on the decisions printed in these volumes a uniformity of approach or style which they do not possess. Editorial intervention is limited to the introduction of the summary and of the bold-letter rubric at the head of each case. This is followed by the full text of the original decision or of its translation. Normally, the only passages which will be omitted are those which contain either statements of fact having no bearing on the points of international law involved in the case or discussion of matters of domestic law unrelated to the points of international legal interest. The omission of material is usually indicated either by a series of dots or by the insertion of a sentence in square brackets noting the passages which have been left out.

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

EDITORIAL NOTE

xi

PRESENTATION OF MATERIALS

The material in this volume is of two kinds, material reproduced photographically and material which has been freshly set for this volume.

Material photographically reproduced. This consists exclusively of reports originally printed in the English language. The material can usually be recognized by the differences between its type-style and the Baskerville type otherwise used in these *Reports*. The source of the material is identified by the reference to "Report" in square brackets at the end of the case. Where more than one citation is given, the report used is the one first listed. The bold type figures in square brackets in the inner margin of each page refer to the pagination of the original report. The smaller figures in square brackets in the margins of these cases are the indicators of footnotes which have been editorially introduced.

Other material. The remaining material in the volume has been typeset for this volume. This includes all material specially translated into English for these *Reports* as well as some material in English which in its original form was not suitable for photo-reproduction. The source of all such material is indicated by the reference to the "Report" in square brackets at the end of the case. The language of the original decision is also mentioned there. The bold figures in square brackets in the body of the text indicate the pagination of the original report. Small figures in square brackets within the text are indicators of footnotes which have been editorially introduced.

NOTES

Footnotes. Footnotes enclosed in square brackets are editorial insertions. All other footnotes are part of the original report.

Other notes. References to cases deemed not to be sufficiently substantial to warrant reporting will occasionally be found in editorial notes either at the end of a report of a case on a similar point or under an independent heading.

DIGEST OF CASES

With effect from Volume 75 the decisions contained in the *Reports* are no longer arranged according to the traditional classification scheme. Instead a Digest of Cases is published at the beginning of each volume. The main headings of the Digest are arranged alphabetically. Under each heading brief details are given of those cases reported in that volume which contain points covered by that

Cambridge University Press

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Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

xii

EDITORIAL NOTE

heading. Each entry in the Digest gives the name of the case concerned and the page reference, the name of the tribunal which gave the decision and an indication of the main points raised in the case which relate to that particular heading of the Digest. Where a case raises points which concern several different areas of international law, entries relating to that case will appear under each of the relevant headings in the Digest. A list of the main headings used in the Digest is set out at page xvii.

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

TABLE OF CASES REPORTED

ALPHABETICAL

(Cases which are reported only in a note are distinguished from cases which are reported in full by the insertion of the word "note" in parentheses after the page number of the report.)

- Alonzo *v.* Immigration and Naturalization Service, 557
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia (Serbia and Montenegro)) (Request and Further Requests for the Indication of Provisional Measures), 1
- Bennett, *ex parte*: see Regina *v.* Horseferry Road Magistrates' Court, *ex parte* Bennett
- Biloune and Marine Drive Complex Ltd *v.* Ghana Investments Centre and the Government of Ghana, 183
- Bosnia and Herzegovina *v.* Yugoslavia (Serbia and Montenegro): see Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia (Serbia and Montenegro)) (Request and Further Requests for the Indication of Provisional Measures)
- Canada *v.* The Employment Appeals Tribunal and Burke: see Government of Canada *v.* The Employment Appeals Tribunal and Burke
- Canada and the French Republic, Delimitation of Maritime Areas between: see Delimitation of Maritime Areas between Canada and the French Republic (St Pierre and Miquelon)
- Canas-Segovia and Another *v.* Immigration and Naturalization Service, 544
- Cañón García *v.* Ecuador (Communication No 319/1988), 327 (note)
- Delimitation of Maritime Areas between Canada and the French Republic (St Pierre and Miquelon), 645
- Desir *v.* Ilchert, 535
- Diggs *v.* Richardson, 611
- Echeverria-Hernandez *v.* Immigration and Naturalization Service, 561
- Fairén Garbi and Solís Corrales Case, 320 (note)
- Fedorenko *v.* United States, 504
- Forti and Another *v.* Suarez-Mason, 624
- Genocide, Application of the Convention on the Prevention and Punishment of the Crime of: see Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia (Serbia and Montenegro)) (Request and Further Requests for the Indication of Provisional Measures)
- Giry *v.* Dominican Republic (Communication No 193/1985), 321
- Godínez Cruz Case, 320 (note)
- Gomez *v.* Immigration and Naturalization Service, 569
- Government of Canada *v.* The Employment Appeals Tribunal and Burke, 467
- Huynh Thi Anh and Another *v.* Levi and Others, 494
- Jaffe *v.* Miller and Others (No 2), 446
- Langenegger and Others *v.* United States, 615
- Nguyen Da Yen and Others *v.* Kissinger and Others, 433
- Regina *v.* Horseferry Road Magistrates' Court, *ex parte* Bennett, 380
- Sale and Others *v.* Haitian Centers Council Inc and Others, 575
- St Pierre and Miquelon: see Delimitation of Maritime Areas between Canada and the French Republic (St Pierre and Miquelon)

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

xiv

TABLE OF CASES

State v. Ebrahim, 417

Stocké v. Federal Republic of Germany,
327

United States v. Alvarez-Machain, 355

Velásquez Rodríguez Case, 232

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

TABLE OF CASES REPORTED

ARRANGED ACCORDING TO COURTS AND TRIBUNALS (INTERNATIONAL CASES) AND COUNTRIES (MUNICIPAL CASES)

(Cases which are reported only in a note are distinguished from cases which are reported in full by the insertion of the word "note" in parentheses after the page number of the report.)

I. DECISIONS OF INTERNATIONAL TRIBUNALS

<p style="text-align: center;"><i>Arbitration Tribunal</i></p> <p style="text-align: center;">1989</p> <p>Biloune and Marine Drive Complex Ltd <i>v.</i> Ghana Investments Centre and the Government of Ghana (Jurisdiction and Liability), 183, 187</p> <p style="text-align: center;">1990</p> <p>Biloune and Marine Drive Complex Ltd <i>v.</i> Ghana Investments Centre and the Government of Ghana (Damages and Costs), 183, 211</p> <p style="text-align: center;"><i>Court of Arbitration established by Agreement of 30 March 1989</i></p> <p style="text-align: center;">1992</p> <p>Case Concerning Delimitation of Maritime Areas between Canada and the French Republic (St Pierre and Miquelon), 645</p> <p style="text-align: center;"><i>European Commission of Human Rights</i></p> <p style="text-align: center;">1989</p> <p>Stocké <i>v.</i> Federal Republic of Germany, 327, 329</p> <p style="text-align: center;"><i>European Court of Human Rights</i></p> <p style="text-align: center;">1991</p> <p>Stocké <i>v.</i> Federal Republic of Germany, 327, 340</p> <p style="text-align: center;"><i>Inter-American Court of Human Rights</i></p> <p style="text-align: center;">1987</p> <p>Fairén Garbi and Solís Corrales Case (Preliminary Objections), 320 (note)</p>	<p>Godínez Cruz Case (Preliminary Objections), 320 (note)</p> <p>Velásquez Rodríguez Case (Preliminary Objections), 232, 237</p> <p style="text-align: center;">1988</p> <p>Fairén Garbi and Solís Corrales Case (Merits), 320 (note)</p> <p>Godínez Cruz Case (Merits), 320 (note)</p> <p>Velásquez Rodríguez Case (Merits), 232, 259</p> <p style="text-align: center;">..</p> <p style="text-align: center;">1989</p> <p>Godínez Cruz Case (Compensation), 320 (note)</p> <p>Velásquez Rodríguez Case (Compensation), 232, 306</p> <p style="text-align: center;"><i>International Court of Justice</i></p> <p style="text-align: center;">1993</p> <p>Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina <i>v.</i> Yugoslavia (Serbia and Montenegro)) (Request and Further Requests for the Indication of Provisional Measures), 1</p> <p style="text-align: center;"><i>United Nations Human Rights Committee</i></p> <p style="text-align: center;">1990</p> <p>Giry <i>v.</i> Dominican Republic (Communica- tion No 193/1985), 321</p> <p style="text-align: center;">1991</p> <p>Cañón García <i>v.</i> Ecuador (Communica- tion No 319/1988), 327 (note)</p>
--	--

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

xvi

TABLE OF CASES

II. DECISIONS OF MUNICIPAL COURTS

	1978
<i>Canada</i>	Huynh Thi Anh and Another <i>v.</i> Levi and Others, 494
1993	
Jaffe <i>v.</i> Miller and Others, 446	
	1981
	Fedorenko <i>v.</i> United States, 504
	1985
	Langenegger and Others <i>v.</i> United States, 615
	1987
	Forti and Another <i>v.</i> Suarez-Mason, 624
	1988
	Desir <i>v.</i> Ilchert, 535
	1990
	Alonzo <i>v.</i> Immigration and Naturalization Service, 557
	Canas-Segovia and Another <i>v.</i> Immigration and Naturalization Service, 544
	Echeverria-Hernandez <i>v.</i> Immigration and Naturalization Service, 561
	1991
	Echeverria-Hernandez <i>v.</i> Immigration and Naturalization Service, 561
	Gomez <i>v.</i> Immigration and Naturalization Service, 569
	United States <i>v.</i> Alvarez-Machain, 355
	1992
	United States <i>v.</i> Alvarez-Machain, 355
	1993
	Sale and Others <i>v.</i> Haitian Centers Council Inc and Others, 575
	1975
	Nguyen Da Yen and Others <i>v.</i> Kissinger and Others, 483
	1976
	Diggs <i>v.</i> Richardson, 611

DIGEST OF CASES

List of Main Headings

(Those headings for which there are entries in the present volume are printed in italics. For a guide to the Digest, see the Editorial Note at p. ix.)

Air	<i>Jurisdiction</i>
<i>Aliens</i>	Lakes and Landlocked Seas
<i>Arbitration</i>	Nationality
Canals	Recognition
Claims	<i>Relationship of International Law and Municipal Law</i>
Comity	Reprisals and Countermeasures
Conciliation	Rivers
Consular Relations	<i>Sea</i>
<i>Damages</i>	<i>Sources of International Law</i>
Diplomatic Relations	Space
Economics, Trade and Finance	<i>State Immunity</i>
Environment	<i>State Responsibility</i>
<i>Expropriation</i>	<i>State Succession</i>
<i>Extradition</i>	<i>States</i>
<i>Governments</i>	<i>Territory</i>
<i>Human Rights</i>	<i>Treaties</i>
<i>International Court of Justice</i>	<i>War and Armed Conflict</i>
<i>International Organizations</i>	
<i>International Tribunals</i>	

DIGEST OF CASES REPORTED IN VOLUME 95

	<i>Page</i>
Aliens	
Admission — Discretionary power of Attorney-General to admit aliens pending determination of immigration status — Scope of power — South Vietnamese children admitted into the United States for adoption by United States families — Allegation that some children ineligible for adoption being illegally detained in the United States in violation of their constitutional rights — Application to obtain records containing details of children's background — Whether justiciable action — United States Court of Appeals (Ninth Circuit)	
<i>Nguyen Da Yen and Others v. Kissinger and Others</i>	483
Admission — Discretionary power of Attorney-General to admit aliens pending determination of immigration status — Scope of power — South Vietnamese children admitted into the United States for adoption by United States families — Application by grandmother of children to enjoin adoption proceedings on ground that children had not been released for adoption — Whether parole provisions requiring Attorney-General to release children into custody of grandmother — United States Court of Appeals (Sixth Circuit)	
<i>Huynh Thi Anh and Another v. Levi and Others</i>	494
Refugees — Admission — Displaced persons — Criteria governing granting of entry visas to displaced persons — Persons assisting "the enemy in persecuting civilian populations" ineligible for grant of entry visa — Failure of displaced person to disclose prior involuntary service as concentration camp guard — Whether invalidating entry visa and thereby rendering him subject to denaturalization - Displaced Persons Act 1948 — Immigration and Nationality Act 1952 — United States Supreme Court	
<i>Fedorenko v. United States</i>	504
Refugees — Asylum — Duty of non-refoulement — Geneva Convention Relating to the Status of Refugees, 1951, Article 33, and Protocol, 1967 — Whether benefit of non-refoulement provisions extending to refugees situated outside the territory of a contracting State — Haitian refugees intercepted on the high seas by United States authorities — Whether forcible repatriation of refugees to Haiti violating duty of non-refoulement — Immigration and Nationality Act 1952 — Refugee Act 1980 — United States Supreme Court	
<i>Sale and Others v. Haitian Centers Council Inc and Others</i>	575

Aliens (cont.)

Refugees — Refugee status — Criteria for determination of — Geneva Convention Relating to the Status of Refugees, 1951, and Protocol, 1967 — Test of well-founded fear of persecution in country of nationality — Political persecution — Whether necessary for refugee to hold political opinion — Whether well-founded fear resulting from an imputed political opinion sufficient — United States Immigration and Nationality Act 1952 — Refugee Act 1980 — United States Court of Appeals (Ninth Circuit)

Desir v. Ilchert

535

Refugees — Refugee status — Geneva Convention Relating to the Status of Refugees, 1951, and Protocol, 1967 — Claim for asylum and prohibition of deportation based upon membership of a “particular social group” — Whether youth and gender sufficient to constitute cognizable “social group” — “Clear probability” of persecution and “well-founded fear” of persecution — Immigration and Nationality Act 1952 — Refugee Act 1980 — United States Court of Appeals (Second Circuit)

Gomez v. Immigration and Naturalization Service

569

Refugees — Refugee status — Geneva Convention Relating to the Status of Refugees, 1951, and Protocol, 1967 — Illegal immigrant — Deportation proceedings — Request for asylum — Applicant fearing persecution following murder of family members — Requirement that murders be politically motivated — Whether politically motivated murder of relative ground for fear of persecution — Requirements of “clear probability” of persecution and “well-founded fear of persecution” — Immigration and Nationality Act 1952 — Refugee Act 1980 — United States Court of Appeals (Ninth Circuit)

Echeverria-Hernandez v. Immigration and Naturalization Service

561

Refugees — Refugee status — Geneva Convention Relating to the Status of Refugees, 1951, and Protocol, 1967 — Illegal immigrant — Deportation proceedings — Request for asylum — Refusal to perform military service on account of religious and political beliefs — Whether punishment constituting religious and political persecution — Decision turning on whether military authorities aware of applicant’s beliefs — Persecution on account of an imputed political opinion — Whether forced conscription into government armed forces constituting persecution on account of imputed political opinion — United States Immigration and Nationality Act 1952 — Refugee Act 1980 — United States Court of Appeals (Ninth Circuit)

Alonzo v. Immigration and Naturalization Service

557

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

DIGEST OF CASES

xxi

Page

Refugees — Refugee status — Geneva Convention Relating to the Status of Refugees, 1951, and Protocol, 1967 — Illegal immigrant — Deportation proceedings — Request for asylum — Refusal to perform military service on account of religious beliefs — Whether punishment for refusing to perform military service constituting religious persecution — United Nations High Commissioner for Refugees — Handbook on Procedure and Criteria for Determining Refugee Status — Whether persecutor required to have specific intention of engaging in religious persecution — Political persecution — Whether requirement to hold political opinion — Whether political neutrality constituting imputed political opinion — “Clear probability” of persecution — “Well-founded fear” of persecution — Immigration and Nationality Act 1952 — Refugee Act 1980 — United States Court of Appeals (Ninth Circuit)

Canas-Segovia and Another v. Immigration and Naturalization Service 544

Arbitration

Arbitration between government and foreign company — UNCITRAL Rules — Composition of Tribunal — Failure of party to appoint arbitrator — Nomination of appointing authority by Secretary-General of Permanent Court of Arbitration — Procedure — Jurisdiction of Tribunal — Jurisdiction confined to matters covered by agreement to arbitrate — Whether including claim for violation of human rights — Award — Binding nature — Whether Tribunal can reconsider first award at behest of party — Costs — Award of costs to successful party — Arbitration Tribunal

Biloune and Marine Drive Complex Ltd v. Ghana Investments Centre and the Government of Ghana 183

Damages

Compensation for expropriation — Expropriation of investment in going concern — Standard of compensation — Whether to include loss of future profits — Discounted cash flow method of calculating future profits — Lack of evidence on which to base assessment of future profits — Restitution of original investment — Currency in which compensation to be payable — Whether requirement that currency be convertible — Date at which rate of conversion to be determined — Interest — Arbitration Tribunal

Biloune and Marine Drive Complex Ltd v. Ghana Investments Centre and the Government of Ghana 183

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Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

xxii

DIGEST OF CASES

	<i>Page</i>
Damages (<i>cont.</i>)	
For human rights violations — Scope, basis and amount of compensation — Pecuniary and non-pecuniary damages — Emotional harm — Method of calculation — Relevance of national law relating to calculation of compensation for violation of international law — Entitlement to compensation — Victim and next of kin — Manner in which kinship established — American Convention on Human Rights, 1969, Article 63(1) — Inter-American Court of Human Rights	
<i>Velásquez Rodríguez Case</i>	232
Expropriation	
Definition — Taking of property — Extinguishment of claim under international law — Whether constituting a taking of property — United States Court of Appeals (Federal Circuit)	
<i>Langenegger and Others v. United States</i>	615
Indirect expropriation — Nature of expropriation — Series of acts constituting expropriation of investment — Arrest and deportation of investor — Compensation for expropriation of investment in going concern — Arbitration Tribunal	
<i>Biloune and Marine Drive Complex Ltd v. Ghana Investments Centre and the Government of Ghana</i>	183
Taking of property — Responsibility for — Whether United States Government responsible for taking property belonging to United States citizens by foreign government — United States Court of Appeals (Federal Circuit)	
<i>Langenegger and Others v. United States</i>	615
Extradition	
Conditions — Return of fugitive offender other than by extradition — Disguised extradition — England, House of Lords	
<i>Regina v. Horseferry Road Magistrates' Court, ex parte Bennett</i>	380
Governments	
Head of State — Whether entitled to act on behalf of State — Bosnia-Herzegovina — Challenge to legitimacy of President and Government — Whether President entitled to seise International Court of Justice of dispute — International Court of Justice	
<i>Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))</i>	1

DIGEST OF CASES

xxiii

Page

Human Rights

Arrest and detention — Torture, inhuman and degrading treatment — Summary execution and murder — Causing the disappearance of individuals — Whether contrary to customary international law — Whether customary international law now prohibiting violations of human rights principles committed by a State against its nationals — United States District Court (Northern District, California)

Forti and Another v. Suarez-Mason

624

Freedom of movement — Arrest and detention at airport — Expulsion — Alleged extradition — Whether national security sufficient basis for expulsion to third State when individual leaving of own accord to return to country of residence — Failure of State Party to provide evidence showing expulsion “in accordance with law” — Right to submit reasons against expulsion and to have case reviewed by competent authority — International Covenant on Civil and Political Rights, 1966 — United Nations Human Rights Committee

Giry v. Dominican Republic (Communication No 193/1985)

321

Genocide — Definition of genocide — Genocide Convention, 1948 — Conflict in Bosnia-Herzegovina — Commission of atrocities against civilian population — Whether amounting to genocide — Relationship between genocide and other violations of humanitarian law and human rights law — Whether genocide taking place — Whether imputable to Yugoslavia (Serbia and Montenegro) — Duty to prevent genocide — Extent of duty placed upon States not party to the conflict — Whether requiring active intervention to prevent genocide — Prohibition of genocide — Whether possessing status of *jus cogens* — Effect on powers of the Security Council under Chapter VII of the United Nations Charter — International Court of Justice

Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))

1

Liberty and security of the person — German national resident in France tricked into re-entering Germany by police informant — Whether arrest, conviction and detention in accordance with procedure “prescribed by law” — Whether exercise of jurisdiction by German courts in circumstances of arrest constituting unfair trial — European Convention on Human Rights, 1950, Articles 5(1) and 6(1) — European Commission and Court of Human Rights

Stocké v. Federal Republic of Germany

327

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

xxiv

DIGEST OF CASES

	<i>Page</i>
Human Rights (<i>cont.</i>)	
Respect for family life — Whether grandmother entitled to custody of orphaned grandchildren — United Nations Declaration on Human Rights, 1948, Article 16 — United States Court of Appeals (Sixth Circuit)	
<i>Huynh Thi Anh and Another v. Levi and Others</i>	494
Right to life — Inhuman and degrading treatment — Disappearances — Individual abducted by State agents for alleged political involvement, held incommunicado and tortured — Victim never reappearing — Authorities denying knowledge of whereabouts of victim — Legal attempts to secure release of victim unsuccessful — Whether State sponsored or tolerated practice of forced disappearances — Whether State responsible for violation of individual's rights to life, integrity of the person and personal liberty — American Convention on Human Rights, 1969, Articles 4, 5 and 7 — Inter-American Court of Human Rights	
<i>Velásquez Rodríguez Case</i>	232
 International Court of Justice	
Jurisdiction — Genocide Convention, 1948, Article IX — Extent of jurisdiction conferred upon the Court — Doctrine of <i>forum prorogatum</i> — Whether Respondent consenting to jurisdiction of the Court by making request for provisional measures going beyond established basis for jurisdiction — International Court of Justice	
<i>Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))</i>	1
Provisional measures of protection — Jurisdiction — Requirement of <i>prima facie</i> basis for jurisdiction — Measures required to protect rights which might be established in the exercise of that jurisdiction — Duty of Court to refuse requests for provisional measures going beyond <i>prima facie</i> basis for jurisdiction — Grounds for indication of provisional measures — Effect of provisional measures — Whether legally binding — Effects on third parties — Power of Court to indicate provisional measures <i>proprio motu</i> — Power of Court to indicate provisional measures to prevent aggravation or extension of the dispute — Procedure on request for provisional measures — Evidence — Admissibility of media material — Findings of fact and imputability — Urgency — Duty of Court to enable both Parties to be heard — Fresh request for provisional measures — Relationship between Court and Security Council — Matter before both Court and Security	

DIGEST OF CASES

xxv

Page

Council — Duties of both organs — Genocide — Request for provisional measures to prevent genocide — International Court of Justice

Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))

1

International Organizations

United Nations — Security Council — Effect of resolutions — Resolution calling on Member States to refrain from dealings with South Africa from which it could be inferred that they had recognized its control over Namibia — Whether creating binding obligations on Member States — Whether creating right of action in municipal courts of Member States — United States Court of Appeals (District of Columbia Circuit)

Diggs v. Richardson

611

United Nations — Security Council — Powers under Chapter VII of the Charter — Limits on the power of the Security Council — Allegation of conflict between binding resolution of the Council and rule of *jus cogens* — Resolution 713 (1991) — Maintenance of arms embargo in respect of all territories of the former Yugoslavia — Application to Bosnia-Herzegovina — Whether denying Bosnia-Herzegovina the means to prevent the commission of genocide — Whether contrary to Genocide Convention, 1948 — Whether International Court of Justice should indicate provisional measures regarding validity and effect of resolution — International Court of Justice

Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))

1

International Tribunals

Procedure — Inter-American Court of Human Rights — Contentious matters — Case referred by Inter-American Commission on Human Rights — Competence of Court to decide issues relating to interpretation and application of Convention and procedural rules not restricted by previous decisions of Commission in same case — Exhaustion of domestic remedies — Exhaustion of preliminary procedures — Friendly settlement — Inter-American Court of Human Rights

Velásquez Rodríguez Case

232

	<i>Page</i>
Jurisdiction	
Executive — Abduction of wanted person from territory of foreign State — Whether abduction involving officials of State in which person wanted for trial — Canada, Ontario Court of Appeal <i>Jaffe v. Miller and Others</i>	446
Executive — Consequences of illegal arrest — Defendant detained in foreign country and returned to England — No attempt at extradition — Whether deportation from foreign country a disguised form of extradition — Whether circumstances of defendant's return to England deprive English courts of jurisdiction — Whether courts possess discretion not to hear charges against defendant — England, House of Lords <i>Regina v. Horseferry Road Magistrates' Court, ex parte Bennett</i>	380
Executive — Consequences of illegal arrest — United States agents kidnapping Mexican national in Mexico and transporting to United States to stand trial — Whether Fifth Amendment to United States Constitution applicable - United States Court of Appeals (Ninth Circuit) and Supreme Court <i>United States v. Alvarez-Machain</i>	355
Executive — Individuals abducting South African national in Swaziland and transporting him to South Africa to stand trial — Whether individuals agents of South African Government — Whether South African court having jurisdiction to try person brought into its jurisdiction against his will — "Clean hands" doctrine — South Africa, Supreme Court (Appellate Division) <i>State v. Ebrahim</i>	417
Extraterritorial — For breaches of international law — Alien Tort Claims Act — Jurisdiction of United States courts for torts against the law of nations committed against aliens — Extent of jurisdiction — Whether jurisdiction extending to violations of any rule of international law — Whether rule must be universally accepted and clearly defined — Torture, inhuman and degrading treatment — Arrest and detention — Summary execution and murder — Causing the disappearance of individuals — Whether constituting violations of the law of nations — Whether jurisdiction extending to a State's treatment of its own nationals — Whether Alien Tort Claims Act creating cause of action — Federal question jurisdiction — Whether extending to breaches of international law — United States District Court (Northern District, California) <i>Forti and Another v. Suarez-Mason</i>	624

DIGEST OF CASES

xxvii

Page

Human rights instrument — European Convention on Human Rights, 1950 — Application of Convention to individuals under authority and responsibility of States Parties — Application of Convention to nationals of States Parties — European Commission and Court of Human Rights

Stocké v. Federal Republic of Germany

327

Territorial — Extraterritorial effect of legislation — United States Congress — Whether Congress possessing the ability to enforce its laws outside the United States — Presumption against extraterritorial effect — Whether presumption to be strictly applied — Whether evidence of clear Congressional intention needed to rebut presumption — Whether presumption to be applied in matters relating to foreign relations — Legislation concerning the non-refoulement of aliens — Whether applicable to aliens on the high seas — United States Supreme Court

Sale and Others v. Haitian Centers Council Inc and Others

575

Relationship of International Law and Municipal Law

Act of State and justiciability — Extent of United States act of State doctrine — Whether applicable to acts in violation of international law — Relationship of doctrine to Alien Tort Claims Act — United States District Court (Northern District, California)

Forti and Another v. Suarez-Mason

624

Conduct of foreign relations — Justiciability of foreign relations questions — Political question doctrine — Criteria for determining whether doctrine applicable — United States involvement in expropriation of United States citizens' property by foreign government — Whether raising justiciable questions — United States Court of Appeals (Federal Circuit)

Langenegger and Others v. United States

615

Conduct of foreign relations — Justiciability of foreign relations question — United Nations Security Council resolution calling on Member States to refrain from certain dealings with South Africa — Whether raising justiciable question — United States Court of Appeals (District of Columbia Circuit)

Diggs v. Richardson

611

Conduct of foreign relations — Power of United States President to conduct foreign relations — President establishing naval blockade on the high seas prohibiting the entry of all Haitian aliens into the United States — Whether blockade contravening

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978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

xxviii

DIGEST OF CASES

	<i>Page</i>
Relationship of International Law and Municipal Law (<i>cont.</i>)	
United States refugee legislation and violating the Geneva Convention Relating to the Status of Refugees, 1951, and Protocol, 1967 — United States Supreme Court	
<i>Sale and Others v. Haitian Centers Council Inc and Others</i>	575
Customary international law — Application as part of United States law — Whether applicable when conflicting with Congressional legislation or lawful act of the Executive — United States Court of Appeals (Ninth Circuit)	
<i>Echeverria-Hernandez v. Immigration and Naturalization Service</i>	561
Customary international law — Enforcement by municipal courts — United States Alien Tort Claims Act — Violation of the law of nations — Whether depriving grandmother of custody of grandchildren constituting a violation of the law of nations — United States Court of Appeals (Sixth Circuit)	
<i>Huynh Thi Anh and Another v. Levi and Others</i>	494
In general — International restrictions upon the exercise of power by one State in the territory of another — German national returned to Germany against his will by police informant — Alleged violation of European Convention on Human Rights, 1950 — Whether evidence of State involvement — Whether exercise of jurisdiction over individual by German courts violating Convention — European Commission and Court of Human Rights	
<i>Stocké v. Federal Republic of Germany</i>	327
In general — International restrictions upon the exercise of power by one State in the territory of another — South African agents abducting South African national from Swaziland and transporting to South Africa to stand trial — Whether international law applicable — Whether applicable domestic law prohibiting such actions — South Africa, Supreme Court (Appellate Division)	
<i>State v. Ebrahim</i>	417
In general — International restrictions upon the exercise of power by one State in the territory of another — United States agents kidnapping Mexican national in Mexico — Alleged violation of Mexico-United States Extradition Treaty, 1978 — Whether circumstances of arrest precluding trial in United States — United States Court of Appeals (Ninth Circuit) and Supreme Court	
<i>United States v. Alvarez-Machain</i>	355

Cambridge University Press

978-0-521-47292-0 - International Law Reports, Volume 95

Edited by E. Lauterpacht and C. J. Greenwood

Frontmatter

[More information](#)

DIGEST OF CASES

xxix

Page

- Resolutions of United Nations Security Council — Whether creating directly applicable rights and obligations for individuals — United States Court of Appeals (District of Columbia Circuit)
Diggs v. Richardson 611
- State immunity — Generally recognized principle of international law — Whether part of municipal law — Constitution of Ireland, Article 29(3) — Ireland, High Court and Supreme Court
The Government of Canada v. The Employment Appeals Tribunal and Burke 467
- Treaties — Application by municipal courts — As aid to interpretation of municipal statutes — Geneva Convention Relating to the Status of Refugees, 1951, Article 33, and Protocol 1967, prohibiting refoulement of refugees — Whether aid to interpretation of United States Immigration and Nationality Act 1952 and Refugee Act 1980 — United States Supreme Court
Sale and Others v. Haitian Centers Council Inc and Others 575
- Treaties — Whether creating private rights of action — Criteria for determining whether treaty self-executing — United Nations Declaration on Human Rights, 1948 — Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949 — Geneva Convention Relating to the Status of Refugees, 1951 — United States Court of Appeals (Sixth Circuit)
Huynh Thi Anh and Another v. Levi and Others 494
- Sea**
- High seas — Jurisdiction — Power of United States authorities to intercept Haitian vessels on the high seas — 1981 Agreement between Haiti and the United States Regarding the Interdiction of Vessels Suspected of Carrying Illegal Immigrants — United States Supreme Court
Sale and Others v. Haitian Centers Council Inc and Others 575
- Maritime boundaries — Delimitation — Single maritime boundary for all purposes — Islands belonging to one State off coast of other State — Identification of relevant coastlines in delimitation area — Ratio of coastlines — Whether coastlines opposite or adjacent — Identification of relevant principles and criteria to be utilized — Capacity of all coasts to generate offshore zones — Whether qualified by competing coasts — Whether qualified by application of principle of proportionality or by political status of island — Relevance of ancient treaties ceding territory — Enclave and frontal projection theories — Relevance

	<i>Page</i>
Sea (<i>cont.</i>)	
of equidistance and contiguous zone rules — Combination of different methods with reference to different segments of delimitation line — Whether demarcation of broad continental shelf beyond 200-mile limit appropriate — Relevance of fisheries and mineral resources — Equity of result — Whether areas allocated disproportionate — Court of Arbitration	
<i>Case Concerning Delimitation of Maritime Areas Between Canada and the French Republic (St Pierre and Miquelon)</i>	645
 Sources of International Law	
Customary international law — Criteria for determining existence of rule of international law — Need for general acceptance of rule by States — Treaties — Geneva Convention Relative to the Protection of Civilians in Time of War, 1949 — State practice — Statements made by international organizations — Whether providing evidence that State not party to conflict required to give temporary asylum to refugees fleeing internal conflict — United States Court of Appeals (Ninth Circuit)	
<i>Echeverria-Hernandez v. Immigration and Naturalization Service</i>	561
General — State practice — Treaties — Writings of publicists — Judicial decisions — United States District Court (Northern District, California)	
<i>Forti and Another v. Suarez-Mason</i>	624
Hierarchy of sources — <i>Jus cogens</i> — Resolutions of Security Council — Priority of Security Council resolution over obligations derived from other international agreements — United Nations Charter, Article 103 — Whether applicable to rules of <i>jus cogens</i> — Genocide Convention, 1948 — International Court of Justice	
<i>Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))</i>	1

State Immunity

Jurisdictional immunity — Employment — Canada employing chauffeur with Canadian embassy in Dublin — Claim for unfair dismissal before Employment Appeals Tribunal — Unfair Dismissals Act 1977 — Whether Tribunal having jurisdiction to hear claim against foreign sovereign State — Canada claiming State immunity — Whether doctrine of absolute State immunity applicable — Whether doctrine of restrictive State immunity

DIGEST OF CASES

xxxii

Page

applicable — Distinction between *jure gestionis* and *jure imperii* — Whether driving for embassy commercial or governmental act — Ireland, High Court and Supreme Court

The Government of Canada v. The Employment Appeals Tribunal and Burke

467

Jurisdictional immunity — Plaintiff kidnapped from Canada — Criminal charges brought in Florida — Plaintiff alleging tortious conduct on the part of officials of State of Florida — Whether officials can claim State immunity — Canadian State Immunity Act 1985 — Whether functionaries of foreign State — Whether acting within scope of duties — Whether alleged acts of illegality and malice disallowing claim to State immunity — Application for stay of proceedings on ground of *forum non conveniens* — Whether Florida thereby waiving immunity — Claim for personal injury — Whether Section 6 of State Immunity Act applicable — Canada, Ontario Court of Appeal

Jaffe v. Miller and Others

446

State Responsibility

For acts of agents — German national returned to Germany against his will — alleged collusion between State authorities and private individual — State responsible for acts of private individual acting *de facto* on its behalf — Relevance of consent of State of residence — Whether collusion between State authorities and private individual — European Commission and Court of Human Rights

Stocké v. Federal Republic of Germany

327

For acts of agents — Individual abducted from residence in Swaziland and transported to South Africa to stand trial — Circumstances surrounding abduction — Whether sufficient to show involvement of South African Government in the abduction — South Africa, Supreme Court (Appellate Division)

State v. Ebrahim

417

For acts of armed groups operating in another State — Serb forces in Bosnia-Herzegovina — Whether acts imputable to Yugoslavia (Serbia and Montenegro) — Whether International Court of Justice should make findings of imputability in provisional measures proceedings — International Court of Justice

Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))

1

	<i>Page</i>
State Responsibility (<i>cont.</i>)	
For acts of expropriation — Expropriation decree promulgated by Government of El Salvador at behest of United States — Promulgation of decree resulting in expropriation of property belonging to United States citizens — Whether United States Government responsible for taking — Whether United States action a taking under Fifth Amendment to United States Constitution — Requirement that taking be direct and substantial — United States Court of Appeals (Federal Circuit)	
<i>Langenegger and Others v. United States</i>	615
Human rights violations — Disappearance of individuals — Whether carried out or tolerated by State authorities — Failure of State to act to stop practice or investigate disappearances — Whether State liable for violations of rights to life, integrity of the person and personal liberty — Whether State liable for breach of duty to ensure free and full exercise of individual's human rights — American Convention on Human Rights, 1969, Articles 1(1), 4, 5 and 7 — Inter-American Court of Human Rights	
<i>Velásquez Rodríguez Case</i>	232
State Succession	
Treaties — Yugoslavia — Dissolution of Socialist Federal Republic of Yugoslavia — Succession to treaty obligations — Genocide Convention, 1948 — Bosnia-Herzegovina — Whether entitled to succeed to Convention — Deposit of notification of succession — Vienna Convention on Succession of States in Respect of Treaties, 1978 — Whether declaratory of customary law — Yugoslavia (Serbia and Montenegro) — Whether continuation of Socialist Federal Republic of Yugoslavia — Whether bound by treaty obligations of Socialist Federal Republic — International Court of Justice	
<i>Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))</i>	1
States	
Dissolution of State — Socialist Federal Republic of Yugoslavia — Independence of former republics of Yugoslavia — Continued existence of Yugoslav State — Bosnia-Herzegovina — Peace negotiations — Partition between the three ethnic communities — International Court of Justice	
<i>Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))</i>	1