

VOLUME 115

INTERNATIONAL  
LAW REPORTS

Cambridge University Press  
 978-0-521-64245-3 — International Law Reports  
 Edited by E. Lauterpacht, C. J. Greenwood  
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Vol. 17 (1950)  
 Vol. 18 (1951)  
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 Edited by Sir Hersch Lauterpacht, Q.C., LL.D.,  
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 Vol. 21 (1954)  
 Vol. 22 (1955)  
 Vol. 23 (1956)  
 Vol. 24 (1957)  
 Edited by Sir Hersch Lauterpacht, Q.C., LL.D.,  
 F.B.A., and E. Lauterpacht }  
 Vol. 25 (1958-I)  
 Vol. 26 (1958-II)  
 Edited by E. Lauterpacht, Q.C. }  
 Vols. 27–68 and Consolidated Tables and Index to Vols. 1–35 and 36–45  
 Edited by E. Lauterpacht, Q.C.  
 Vols. 69–115 and Consolidated Index and Consolidated Tables of Cases and  
 Treaties to Vols. 1–80 and Vols. 81–100  
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**INTERNATIONAL LAW REPORTS**

*Volumes published under the title:*

Vol. 1 (1919-22)  
 Edited by Sir John Fischer Williams, K.C.,  
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 Vol. 2 (1923-24)  
 Vol. 3 (1925-26)  
 Edited by Arnold D. McNair, C.B.E., LL.D.,  
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 Vol. 4 (1927-28)  
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 Vol. 8 (1935-37)  
 Vol. 9 (1938-40)  
 Vol. 10 (1941-42)  
 Vol. 11 (1919-42)  
 Vol. 12 (1943-45)  
 Edited by H. Lauterpacht, Q.C., LL.D., F.B.A. }  
 Vol. 13 (1946)  
 Vol. 14 (1947)  
 Vol. 15 (1948)  
 Vol. 16 (1949)

**ANNUAL DIGEST AND REPORTS  
 OF PUBLIC INTERNATIONAL LAW CASES**

*Volumes published under the title:*

GROTIUS PUBLICATIONS  
CAMBRIDGE  
UNIVERSITY PRESS



*Fellow of the Lauterpacht Research Centre for International Law, University of Cambridge*

*Associate Editor: Civil Law Jurisdictions*

A. G. OPPENHEIMER

*and*

*London School of Economics and Political Science*

*Professor of International Law*

C. J. GREENWOOD, QC

*Bencher of Gray's Inn*

*Honorary Professor of International Law, University of Cambridge*

SIR ELIHU LAUTERPACHT, CBE QC

*Edited by*

VOLUME  
115

# INTERNATIONAL LAW REPORTS

*Lauterpacht Research Centre for International Law*  
*University of Cambridge*

## CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

Published in the United States of America by Cambridge University Press, New York

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9780521642453](http://www.cambridge.org/9780521642453)

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First published 1999

4th printing 2017

Printed in Singapore by Markono Print Media Pte Ltd

*A catalogue record for this publication is available from the British Library*

ISBN 978-0-521-64245-3 Hardback

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July 1999

LAW DEPARTMENT,  
 LONDON SCHOOL OF ECONOMICS  
 AND POLITICAL SCIENCE

C. J. GREENWOOD

LAUTERPACHT RESEARCH CENTRE  
 FOR INTERNATIONAL LAW,  
 UNIVERSITY OF CAMBRIDGE

E. LAUTERPACHT

Finally, we are grateful to our publishers, Cambridge University Press, and, in particular, to Ms Finola O'Sullivan, Ms Jayne Matthews and Dr Caroline Murray, and to our printers, the Gomer Press, for the trouble which they have taken with this volume.

We are also indebted to the following publishers for their kindness in allowing us to reproduce decisions from the reports which they publish: the Registrar of the International Court of Justice (*International Court of Justice Reports*), Butterworths (Australia) Limited (*Australian Law Reports*), the Canada Law Book Company (*Dominion Law Reports*) and the New Zealand Incorporated Council of Law Reporting and Butterworths of New Zealand Limited (*New Zealand Law Reports*).

Like its predecessors, the present volume contains a wide variety of national and international decisions and is the work of many hands. Mr Andrew Oppenheimer, Associate Editor for Civil Law Jurisdictions, translated, summarized and cited the Belgian decisions, which were contributed by Joe Verhoeven, Professor of International Law at the Catholic University of Louvain. Dr Michael Byers, Associate Professor of Law of Duke University, translated the decision of the Federal Constitutional Court in Germany, which was edited and summarized by Mr Oppenheimer. Dr Jenny Kuper, London School of Economics, prepared the summaries of six United Nations Human Rights Committee cases. The other United Nations Human Rights Committee cases and the summary of the *Tangora* case were the work of Ms Fiona Mucklow, LL.M. Ms Karen Lee, MA, prepared the summaries of the *Project Blue Sky* and *Delegumukwe* cases, as well as the two decisions from Lithuania. Ms Lee also prepared the Tables of Cases and the Digest and performed invaluable work in seeing the volume through the press. The Index and Table of Treaties were again prepared by HE Miss Maureen MacGlashan, CMG, who, together with Ms Lee, also compiled the Consolidated Tables of Cases for volumes 101-115. Ms Diane Hoyt was responsible for copy-editing and Mr Adrian Lee for correcting the proofs. To all of them we extend our grateful thanks.

## PREFACE

*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 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 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.

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.

## EDITORIAL NOTE

EDITORIAL TREATMENT OF MATERIALS

The basic policy of the Editors is, so far as possible, to present the material in its original form. It is no 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.

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.

*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.

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.



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 heading. Each entry in the Digest gives the name of the case concerned and the page

*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.

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

*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.

*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 the “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.

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.

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CONSOLIDATED INDEX AND TABLES  
 A Consolidated Index and Consolidated Tables of Cases and Treaties for volumes 1-80 was published in two volumes in 1990 and 1991. A further volume containing the Consolidated Index and Consolidated Tables of Cases and Treaties for volumes 81-100 was published in 1996. The present volume contains Consolidated Tables of Cases for volumes 101-115.

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.

(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.)

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