American Journal of International Law

VOLUME 70 1976



Published by

American Society of International Law

BOARD OF EDITORS

Editor-in-Chief
RICHARD R. BAXTER
Harvard Law School

RICHARD B. BILDER
University of Wisconsin Law School

THOMAS BUERGENTHAL
University of Texas at Austin School of

INIS L. CLAUDE, JR. University of Virginia

JEROME A. COHEN Harvard Law School

ALONA E. EVANS Wellesley College RICHARD A. FALK

Princeton University
THOMAS M. FRANCK

New York University

RICHARD N. GARDNER
Columbia University School of Law

LOUIS HENKIN
Columbia University School of Law

ROSALYN HIGGINS
London School of Economics and
Political Science

RICHARD B. LILLICH University of Virginia Law School OLIVER J. LISSITZYN
Columbia University School of Law

STANLEY D. METZGER

Georgetown University Law Center

JOHN NORTON MOORE
University of Virginia Law School

COVEY T. OLIVER
University of Pennsylvania
Law School

WILLIAM M. REISMAN Yale Law School

OSCAR SCHACHTER
Columbia University School of Law

STEPHEN M. SCHWEBEL Washington, D. C.

Louis B. Sohn Harvard Law School

ERIC STEIN
University of Michigan Law School

JOHN R. STEVENSON New York, N.Y.

Burns H. Weston University of Iowa School of Law

RICHARD YOUNG Van Hornesville, N.Y.

Honorary Editors

WILLIAM W. BISHOP, JR.
University of Michigan Law Secool

HERBERT W. BRIGGS
Cornell University
HARDY C. DILLARD

University of Virginia Law School

ALWYN FREEMAN Beverly Hills, Calif.

LEO GROSS
Fletcher School of Law and
Diplomacy, Tufts University

JOHN N. HAZARD
Columbia University School of Law

JAMES NEVINS HYDE New York, N.Y. PHILIP C. JESSUP New York, N.Y.

Brunson MacChesney
Northwestern University School of Law

MYRES S. McDougal. Yale Law School PITMAN B. POTTER American University

STEFAN A. RIESENFELD University of California Law School

MARJORIE M. WHITEMAN
Liberty Center, Ohio

JOHN B. WHITTON
Princeton University

Assistant Editor

Anne Patricia Simons

Editorial Assistant
ROSEMARY G. CONLEY

Assistant Editor Emerita ELEANOR H. FINCH

AMERICAN JOURNAL OF

INTERNATIONAL LAW

CONTENTS

1976

[No. 1, January 1976, pp. 1–218; No. 2, April 1976, pp. 219–423; No. 3, July 1976, pp. 425–658; No. 4, October 1976, pp. 659–938.]	
	PAGE
The United States and Self-Determination: Perspectives on the Wilsonian Conception Michla Pomerance	1
The Deliberative Process of the International Court of Justice: A Preliminary Critique and Some Possible Reforms	20
Richard Lillich & G. Edward White Who Guards the Guardians: Third Parties and the Law of Armed	28
Conflict David P. Forsythe The 1975 Vienna Convention on the Representation of States in Their	41
Relations with International Organizations of a Universal Character J. G. Fennessy Citizen Access to Judicial Regions of Administration Action in Transport	62
Citizen Access to Judicial Review of Administrative Action in a Trans- natonal and Federal Context Eric Stein and G. Joseph Vining	219
The Helsinki Declaration: Brobdingnag or Lilliput? Harold S. Russell The Most-Favored-Nation Treatment in Japan's Treaty Practice During the Paried 1984 1995	242
ing the Period 1854–1905 Shinya Murase H.R. 11315—The Revised State-Justice Bill on Foreign Sovereignty Immunity: Time for Action	
Timothy Atkeson, Samuel Perkins, and Michael Wyatt Independence under International Law Edward Dumbauld	298 425
The Protection of Aliens from Discrimination and World Public Order: Responsibility of States Conjoined with Human Rights	
Myres S. McDougal, Harold D. Lasswell, and Lung-chu Chen Voting in the Security Council and the PLO Leo Gross	432 470
International Law in the New Greek Constitution A. A. Fatouros Staff of the United Nations Secretariat: Problems and Directions	492
The Stealing of the Sahara Theodor Meron Thomas M. Franck	659 694
The Currency Exchange Rate Provisions of the Proposed Amended Articles of the Agreement of the International Monetary Fund	
Richard W. Edwards, Jr. Austrian Practice on Lump Sum Compensation by Treaty	722
Ignaz Seidl-Hohenveldern The Protocol to the United Nations Covenant on Civil and Political	763
Rights and the Inter-American System: A Study of Co-Existing Petition Procedures M. E. Tardu	778

VOLUME 70

	PAGE
Developments in the Law and Institutions of International Economic Relations	
Reflections Concerning the United Nations Commission on Trans- national Corporations Seymour J. Rubin	73
Editorial Comments	
The Problem of the Applicability of Existing International Pro-	
visions for the Protection of Human Rights to Individuals who	
are not Citizens of the Country in which They Live Richard B. Lillich	507
African Imperialism W. Michael Reisman	801
Foreign Policy and Fidelity to Law: The Anatomy of a Treaty	
Violation John Norton Moore	802
The Francis Deák Prize A.P.S.	808
Notes and Comments Is Piracy Illegal? Alfred Rubin	92
Hot Pursuit from a Fisheries Zone Eugene Fidell	95
Enforcement of Foreign Exchange Control Regulations in Domestic	-
Courts John S. Williams	101
Supremacy of the Communist Party of the Soviet Union Recognized	000
in International Law? Could the Use of the Contentious Procedure of the International	322
Court of Justice Have Any Significant Impact upon the Practice	
of the United Nations? Reply to Professor Louis B. Sohn	
Dan Ciobanu	328
Entry into Force of the International Covenants on Human Rights	
and the Optional Protocol to the International Covenant on Civil	211
and Political Rights Egon Schwelb International Law at America's Centennial: The International Code	511
Committee's Centennial Celebration and the Centenary of Field's	
International Code Kurt H. Nadelmann	519
Public Debt and Sovereign Immunity Revisited: Some Consider-	
ations Pertinent to H.R. 11315 G. R. Delaume	529
Election of Members of the International Court of Justice: Late Nominations and Withdrawals Shabtai Rosenne	54 3
Hot Pursuit from the Fisheries Zone: A Further Comment on	UIU
United States v. Fishing Vessel Taiyo Maru No. 28 and United	
States v. Kawaguchi Dan Ciobanu	549
The Use of Jessup International Moot Court Cases in Political	
Science Departments Edward Collins, Jr.	809
Mercenaries at Geneva Henry W. Van Deventer	811
Correspondence 111, 338, 554	816
Contemporary Practice of the United States Relating to International	
Law Eleanor C. McDowell 113, 340, 557,	817
Judicial Decisions Alona E. Evans 132, 354, 571	828
Book Reviews and Notes Edited by Leo Gross 156, 368, 585,	850
Books Received 201, 414, 619	902
Official Documents	
United Nations General Assembly. Resolution on Development	00.4
and International Economic Cooperation	204
Conference on Security and Co-operation in Europe. Final Act:	
Declaration of Principles Guiding Relations Between Participating States	417
United States. Fishery Conservation and Management Act of 1976	624

	PAGE
International Court of Justice. Resolution Concerning the Internal Judicial Practice of the Court International Legal Materials. Contents, Vol. XIV, No. 6 (1975) and Vol. XV, Nos. 1-4 (1976) Table of Cases Index	905
220002	OI.

The views expressed in the articles, editorial comments, book reviews, and notes, and other contributions which appear in the JOURNAL are those of the individual authors and are not to be taken as representing the views of the Board of Editors or of The American Society of International Law.

Manuscripts in triplicate may be sent to the Editor-in-Chief of the Journal, Professor R. R. Baxter, Harvard Law School, Cambridge, Mass. 02138 (Tel. 617-495-3132), or to the Assistant Editor. Subscriptions, orders for back numbers, correspondence with reference to the Journal, and books for review should be sent to the American Journal of International Law, 2223 Massachusetts Avenue, N.W., Washington, D. C. 20008.

The Journal is published in January, April, July, and October and is supplied to all members of The American Society of International Law. The annual subscription to nonmembers of the Society is \$36.00. Available back numbers of the current volume of the Journal will be supplied at \$7.50 a copy; other available back numbers at \$8.00 a copy.

EDITORIAL AND EXECUTIVE OFFICE; 2223 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D. C. 20008 Publication Office: Prince and Lemon Streets Lancaster, Pa. 17604

Copyright © 1976 by The American Society of International Law Second-class postage paid at Washington, D. C. and additional mailing office

The American Society of International Law

The American Society of International Law was organized in 1906 "to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice."

The Society serves as a meeting place and forum for scholars, teachers, officials, lawyers, and others, from some one hundred countries. In April, it holds a three-day Annual Meeting at which current problems of international law are discussed. The Society also sponsors regional meetings outside of Washington in cooperation with other institutions. Salient questions of international law and relations are considered in depth by panels and study groups organized by the Society's Board of Review and Development. Works of scholarship are often published under the Society's auspices in connection with studies sponsored by the Board, many in the Society's series of Studies in Transnational Legal Policy.

The Society periodically issues four publications:

The American Journal of International Law, the leading journal in the field of international law, has been published since 1907. The Proceedings of the American Society of International Law carries the papers and discussion of the annual meeting of the Society. Both are distributed to all members of the Society without additional charge, and are available to nonmembers at a subscription rate of \$36 a year.

International Legal Materials, a bimonthly, is a unique international collection of texts of current official documents, including legislation, treaties, court decisions, and reports. Subscription rates are \$20 a year for members of the Society, \$55 for others.

The quarterly Newsletter provides members with news of the Society and other organizations in the field.

Society membership is open to all persons of whatever nationality and profession who are interested in its objectives. Dues are: regular, \$30 for residents of the United States, \$22 for non-residents; professional, \$40; intermediate, \$15; student, \$10. (\$15 of membership fee is allotted to AJIL subscription.) Membership application form is printed at the back of each issue of AJIL.

OFFICERS OF THE SOCIETY, 1976–1977

Honorary President PHILIP C. JESSUP
President Walter Sterling Surrey
Vice Presidents ALONA E. EVANS, C. CLYDE FERGUSON, LEONARD C. MEEKER
Executive Vice President and Executive Director SEYMOUR J. RUBIN
Honoraty Vice Presidents: Richard R. Baxter, William W. Bishop, Jr., Herbert W. Briggs, Arthur H. Dean, Hardy C. Dillard, Leo Gross, John N. Hazard, James N. Hyde, Harold D. Lasswell, Monroe Leigh, Brunson MacChesney, Charles E. Martin, Myres S. McDougal, William D. Rogers, Dean Rusk, Oscar Schachter, John R. Stevenson, Marjorie M. Whiteman.
Secretary EDWARD DUMBAULD
Treasurer JAMES R. PATTON, JR.
Assistant Transurar Tames C. Conner

AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 70	January, 1976	NO.
	CONTENTS	
		PAGI
The United States and Sc Conception	elf-Determination: Perspectives on the Wilsonian Michla Pomerance	
The Deliberative Process nary Critique and Some	of the International Court of Justice: A Prelimi e Possible Reforms	
	Richard Lillich & G. Edward White	28
Who Guards the Guardia	ns: Third Parties and the Law of Armed Conflict David P. Forsythe	
	tion on the Representation of States in Their Rela- l Organizations of a Universal Character	
	J. G. Fennessy	62
Developments in the Lav	v and Institutions of International Economic Re-	•
Corporations	the United Nations Commission on Transnational Seymour J. Rubin	
Notes and Comments		
Is Piracy Illegal?	Alfred Rubin	
Hot Pursuit from a Fish		
Courts	gn Exchange Control Regulations in Domestic John S. Williams	
Correspondence		
Contemporary Practice of	the United States Relating to International Law Eleanor C. McDowell	
Judicial Decisions	Alona E. Evans	132
Book Reviews and Notes	Edited by Leo Gross	156
Mendlovitz, Saul A. (ed ferred Worlds for the	d.), On the Creation of a Just World Order: Pre-	
Kothari, Rajni, Footstep	s Into the Future: Diagnosis of the Present World	
and a Design for an		156
Falk, Richard A., A Stu		156
, ,	d.), Law and Civil War in the Modern World	158
	nal Courts and Contemporary Conflicts	160
•	ategy of Treaty Termination	161
arodnoe pravo	heniia mirnogo sosushchestvovaniia i mezhdun-	163
	problemy teorii mezhdunarodnogo prava	165
Tratado General de C	to, Derecho Internacional Público (4th ed.); Organización Internacional (1st ed.)	167
	ziprozitätselement im Zustandekommen völker-	100
rechtlicher Verträge Moskowitz Moses Inter	rnational Concern with Human Rights	168

Holborn, Louise W., Refugees: A Problem of Our Time. The Work of the United Nations High Commissioner for Refugees, 1951-1972, Vols. I and II	170
Syz, John, International Development Banks	172
Ladas, Stephen P., Patents, Trademarks, and Related Rights, National and International Protection, Vols. I, II, and III	172
Sassoon, David M., C.I.F. and F.O.B. Contracts (2nd ed.)	175
Gomez Palacio, Ignacio, and Gutierrez Zamora, Analisis de la Ley de Inversion Extrajera en Mexico	176
Scheuner, Ulrich, and Beate Lindemann (eds.), Die Vereinten Nationen und die Mitarbeit der Bundesrepublik Deutschland	177
Reuter, P., A. Blondeau, N. Questiaux, L. Dubouis, D. Ruzié, L'Application du Droit International Par le Juge Français	179
Seaton, E. E., and S. T. Maliti, Tanzania Treaty Practice	180
Logan, R. M., Canada, the United States, and the Third Law of the Sea Conference	181
Foreign Relations of the United States, 1949, Vol. IX, The Far East: China	182
Delbrück, Jost (ed.), Die Friedens-Warte	184
Soviet Yearbook of International Law 1972 and 1973	186
Keeton, George W., and George Schwarzenberger (eds.), The Year Book of World Affairs, 1975	188
Briefer Notices: Thomas and Thomas, 190; Grotian Society Papers 1972, 191; Ruddy, 192; Udokang, 193; Pocar, 193; Francioni, 194; Diederiks-Verschoor, 194; Jados, 195; Picchio, 195; Smith, 196; Zorgbibe, 196; Martin, 196; The Work of the Asian-African Legal Consultative Committee, 198; Weser, 198; Morvay, 199; Peaslee, 200.	
Books Received	201
OFFICIAL DOCUMENTS	
United Nations General Assembly. Resolution on Development and International Economic Cooperation	204
•	
International Legal Materials. Contents, Vol. XIV, No. 6 (November 1975)	217

The views expressed in the articles, editorial comments, book reviews, and notes, and other contributions which appear in the JOURNAL are those of the individual authors and are not to be taken as representing the views of the Board of Editors or of The American Society of International Law.

Manuscripts in triplicate may be sent to the Editor-in-Chief of the Journal, Professor R. R. Baxter, Harvard Law School, Cambridge, Mass. 02138 (Tel. 617-495-3132), or to the Assistant Editor. Subscriptions, orders for back numbers, correspondence with reference to the Journal, and books for review should be sent to the American Journal of International Law, 2223 Massachusetts Avenue, N.W., Washington, D. C. 20008.

The Journal is published in January, April, July, and October and is supplied to all members of The American Society of International Law. The annual subscription to nonmembers of the Society is \$36.00. Available back numbers of the current volume of the Journal will be supplied at \$7.50 a copy; other available back numbers at \$8.00 a copy.

EDITORIAL AND EXECUTIVE OFFICE: 2223 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D. C. 20008

Publication Office:
Prince and Lemon Streets
Lancaster, Pa. 17604

Copyright © 1976 by The American Society of International Law Second-class postage paid at Washington, D. C. and additional mailing office

BOARD OF EDITORS

Editor-in-Chief

RICHARD R. BAXTER Harvard Law School

RICHARD B. BILDER
University of Wisconsin Law School

THOMAS BUERGENTHAL
State University of New York, Buffalo

INIS L. CLAUDE, JR. University of Virginia

JEROME A. COHEN Harvard Law School

ALONA E. EVANS Wellesley College

RICHARD A. FALK Princeton University

THOMAS M. FRANCK New York University

RICHARD N. GARDNER
Columbia University School of Law

Louis Henkin Columbia University School of Law

ROSALYN HIGGINS
London School of Economics and
Political Science

RICHARD B. LILLICH
University of Virginia Law School

OLIVER J. LISSITZYN
Columbia University School of Law

BRUNSON MACCHESNEY
Northwestern University Law School

STANLEY D. METZGER
Georgetown University Law Center

JOHN NORTON MOORE
University of Virginia Law School

COVEY T. OLIVER
University of Pennsylvania
Law School

WILLIAM M. REISMAN Yale Law School

OSCAR SCHACHTER
Columbia University School of Law

STEPHEN M. SCHWEBEL Washington, D. C.

Louis B. Sohn Harvard Law School

ERIC STEIN
University of Michigan Law School

JOHN R. STEVENSON New York, N.Y.

BURNS H. WESTON University of Iowa College of Law

Honorary Editors

WILLIAM W. BISHOP, JR.
University of Michigan Law School
HERBERT W. BRIGGS
Cornell University
HARDY C. DILLARD
University of Virginia Law School
LEO GROSS
Fletcher School of Law and
Diplomacy, Tufts University

JOHN N. HAZARD
Columbia University School of Law

JAMES NEVINS HYDE New York, N.Y. PHILIP C. JESSUP New York, N. Y.

MYRES S. McDougal. Yale Law School

PITMAN B. POTTER American University

STEFAN A. RIESENFELD University of California Law School

MARJORIE M. WHITEMAN Liberty Center, Ohio

JOHN B. WHITTON Princeton University

Assistant Editor
ANNE PATRICIA SIMONS

Editorial Assistant
ROSEMARY G. CONLEY

Assistant Editor Emerita
ELEANOR H. FINCH

The American Society of International Law

The American Society of International Law was organized in 1906 "to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice."

The Society serves as a meeting place and forum for scholars, teachers, officials, lawyers, and others, from some one hundred countries. In April, it holds a three-day Annual Meeting in Washington at which current problems of international law are discussed. The Society also sponsors regional meetings outside of Washington in cooperation with other institutions. Salient questions of international law and relations are considered in depth by panels and study groups organized by the Society's Board of Review and Development. Works of scholarship are often published under the Society's auspices in connection with studies sponsored by the Board, many in the Society's series of Studies in Transnational Legal Policy.

The Society periodically issues four publications:

The American Journal of International Law, the leading journal in the field of international law, has been published since 1907. The Proceedings of the American Society of International Law carries the papers and discussion of the annual meeting of the Society. Both are distributed to all members of the Society without additional charge, and are available to nonmembers at a subscription rate of \$36 a year.

International Legal Materials, a bimonthly, is a unique international collection of texts of current official documents, including legislation, treaties, court decisions, and reports. Subscription rates are \$20 a year for members of the Society, \$55 for others.

The bimonthly Newsletter provides members with news of the Society and other organizations in the field.

Society membership is open to all persons of whatever nationality and profession who are interested in its objectives. Dues are: regular, \$30 for residents of the United States, \$22 for non-residents; professional, \$40; intermediate, \$15; student, (\$15 of membership fee is allotted to AJIL subscription.) Membership application form is printed at the back of each issue of AJIL.

OFFICERS OF THE SOCIETY, 1975-1976

Honorary President Myres S. McDougal
President Richard R. Baxter
Vice Presidents Louis Henkin, Dean Rusk, Walter S. Surrey
Executive Vice President and Executive Director Seymour J. Rubin
Honorary Vice Presidents: William W. Bishop, Jr., Herbert W. Briggs, Arthur H. Dean, Hardy C. Dillard, Leo Gross, John N. Hazard, James N. Hyde, Philip C. Jessup, Harold D. Lasswell, Monroe Leigh, Brunson MacChesney, Charles E. Martin, William D. Rogers, Oscar Schachter, John R. Stevenson, Marjorie M. Whiteman.
Secretary Edward Dumbauld
Treasurer Franz M. Oppenheimer
Assistant Transurar LAMES C. CONNER