

THE GLOBAL COMMUNITY

Yearbook of
International Law and Jurisprudence

2009

Volume I

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AIMS & SCOPE

Editor's Note

by Giuliana Ziccardi Capaldo*

The Global Community Yearbook of International Law and Jurisprudence was first published in 2001. Beginning with the present issue, the *Yearbook* will undergo a restructuring to update its format and to better respond to its aim.

The *Yearbook* will continue to address “the structuring process of a global community in which a coherent legal system for a universal human society is being built.”¹

No changes will be made to the theoretical Sections of the *Yearbook* (*In Focus, Articles, Notes and Comments*) that have always been, and continue to be, devoted to the doctrinal analysis of current and possible future developments of international law and policies, as well as to the contribution of judicial pronouncements to the building of the new international legal order.

The change will affect the Section entitled *Decisions of International Courts and Tribunals*. This Section, divided into twelve sub-Sections (devoted to many of the highest judicial bodies), presents annually the more significant international case law in the form of “legal maxims,” systematically collected. The elaboration of legal maxims, extracted from the courts’ decisions, and their systematic classification is the peculiarity and uniqueness of the *Yearbook*. The remarkable development of the international courts and tribunals has made it increasingly difficult to follow closely the wealth of case law now emanating from those jurisdictions, without the help of an intermediary. The originality and utility of the *Yearbook* lies precisely in its role of “intermediation” between the case law and international scholars, practitioners, and students.

In the previous issues of the *Yearbook*, these maxims were prepared by referring not only to the law but also, often extensively, to the specific facts of the case at hand. We have set up a new format in the regard. The “legal maxims” will now distil the most important elements of the judicial decisions, leaving aside the facts of the case as far as possible. Following this thought we have reduced the text of the legal maxims to the minimum necessary for systematic classification, printing the website links for the case law. However, as in the past, an introductory note on each international tribunal or court provides a synopsis of their activity over the course of the year.

The drastic reduction of the text of legal maxims better responds to the *Yearbook’s* aim to perform the aforementioned role of “intermediation” as well as to offer complete coverage of the case law of the major international courts and tribunals

* General Editor.

1 Editorial, 1 GLOBAL COMMUNITY YILJ xix (2001).

for systematic classification as a guide for comparative studies of a greater number of cases. As an example, the present issue of the *Yearbook* includes a new sub-Section on the evolving jurisprudence of the ICC. More than once the *Yearbook* fills in the gaps left by other journals that provide partial coverage of international decisions.

We are truly grateful to our editor at Oxford University Press, Kevin Pendergast. He has sustained this project over the years and continues to do so, offering generous support and cooperation in the annual completion of this *Yearbook*. We also thank the new editor, Zinta Saulkalns, who worked on the current issue of the *Yearbook*.

OUTLINE OF THE SECTIONS

The *Yearbook* contains the following Sections:

In Focus

Beginning with the 2008 issue, the *Yearbook* includes a Section entitled “In Focus—Global Policies and Law,” exploring the globalization of politics, communication, economics, culture, and the environment, while identifying objectives, programs, models, public policy choices, and emerging global policies, and considering some of the major issues and challenges facing the world as a whole, in an attempt to enhance the coordination and harmonization of norms and procedures and the implementation of global law.

Articles

This Section is devoted to doctrinal contributions to international legal theory and gives priority to works dealing with changes in the rules and structure of the international community. The aim is to follow the development of the international legal order and the building of the global community heralded at the end of the second millennium. This Section is at all times open to report on fresh developments and to debate new, and often contradictory, trends.

Notes and comments

This Section is reserved for news items. Events of relevance to the international legal scholar are reported and briefly discussed by one or more authors.

In line with the *Yearbook's* orientation, comments touching on international case law are given precedence.

Decisions of International Courts and Tribunals

The decisions of international courts and tribunals receive ample coverage in the *Yearbook*, reflecting their recognised importance for the development of international law.

International Courts and Tribunals covered include: International Court of Justice, International Tribunal for the Law of the Sea, WTO Dispute Settlement System, International Criminal Court, International Criminal Tribunal for Rwanda, International Criminal Tribunal for the Former Yugoslavia, Court of First Instance and Court of Justice of the European Communities, European Court of Human Rights, Inter-American Court of Human Rights, Iran-U.S. Claims Tribunal, International Centre for Settlement of Investment Disputes (ICSID). Moreover, if there were no decisions issued by these tribunals for the year under consideration, we would omit the relating subsection.

Each major international court or tribunal has its own sub-section, which includes an Introductory Note on the activity of that judicial body over the course of the preceding year. The activities of the court and tribunals are presented in the

form of “legal maxims,” i.e., brief and easily understood extracts of statements on international law announced in a judicial decision, focusing on points of law decided by various international courts, systematically arranged.

Normally, the maxims consist of integral citations from the text of the judgment. However, divergences from the original text (i.e., omissions or additions) are marked by the use of square brackets (round brackets with dots are used to indicate that the quotation which follows is situated in the original text before the previous quotation). Maxims sometimes reproduce the text of several extracts drawn from different paragraphs of the decision to which reference is made. Further, to give the reader an immediate idea of the constituent parts of the maxim, the paragraph number corresponding to each extract is given below each legal maxim in the order in which they have been used.

The maxims are collected according to the “Systematic classification scheme,” which can be found at the beginning of this Section. This scheme has two parts, dealing respectively with substantive and procedural international law. Each of these parts is further divided into headings and sub-headings.

The maxims are systematically presented and also logically arranged in such a manner as to permit the reading of the overall context of each decision, serving as a forerunner to the full reading of the text of each judgment.

The chosen working method has been adapted from the one successfully employed in the “Repertory of Decisions of the International Court of Justice/Répertoire de la Jurisprudence de la Cour Internationale de Justice” (1947–1992), edited by Giuliana Ziccardi Capaldo, Martinus Nijhoff Publishers, Dordrecht/Boston/London, 1995.

The following information is also given for each decision covered:

- the full title of the case and the parties to it, where these exist;
- the type of decision, the date, and the original language; and
- reference to the collection of Reports in which the original text of the decision is to be found and/or specialised Web sites for Internet access.

Indices

The *Yearbook* is accompanied by an “Analytical Index” containing a large range of items, divided into sub-items. All the items begin with a capital letter, while sub-items are in small letters. They are sometimes followed by words in brackets or in square brackets. Words in round brackets are meant to be read before the item preceding them. Words in square brackets contain clarifications. Occasionally, references are attached which usually make cross reference to other items or possibly sub-items. Sometimes, references may be to other sub-items of the same item (in which case the sub-item referred to appears in italics). In all cases the reference to an item or sub-item followed by a parenthesis is made without the parenthesis, except where the latter contains the initials of an international organization or entity, in which case the reference is made solely to those initials.

Attached to the *Yearbook* is also a "Table of Cases" listing in chronological order the decisions of the international courts and tribunals considered or cited, as well as a "Chronological Index of International Instruments and Conventions" (treaties, agreements, protocols, exchange of notes, etc.) mentioned in the *Yearbook*.

GENERAL INFORMATION

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All views expressed in the articles, notes and comments, editorial comments, and other contributions to the *Global Community YILJ* represent the opinions of the individual authors, and should not be interpreted as an expression of the views of the Editors.

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Manuscripts should be submitted, in English, to the General Editor, Professor Giuliana Ziccardi Capaldo, Department of International Studies, University of Salerno, via Ponte don Melillo, 84084 Fisciano (SA), Italy, by e-mail to globalcommunity@tin.it; tel/fax ++ 39 089 962615. Authors are invited to submit their contributions on computer disk or by e-mail attachment, in either case accompanied by a paper copy, together with a 150-word abstract. Authors are invited to follow the *Yearbook's* style-sheet, which may be obtained upon request. *Global Community YILJ* uses the Word 2003 program, and can also accept works in other formats. Please specify the word-processing program used. If contributions are submitted in paper form only, four copies should be sent. Regrettably, manuscripts and discs submitted will not be returned. *Global Community YILJ* will not consider submissions whose content has been, or will be, published before it appears in this *Yearbook*.

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