

MR. MARCELO KOHEN

Professor of International Law

Graduate Institute of International and Developmental Studies, Geneva

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Born in Rosario (Argentina) on 11 August 1957, Argentine citizen, Swiss resident, four daughters, three grandsons.

Professor of International Law at the Graduate Institute of International and Development Studies, Geneva. Titular Member and Secretary General of the *Institut de droit international*.

Lawyer (Law Faculty, National University of Rosario, Argentina, 1983), “*Docente Libre*” in Public International Law (Law Faculty, National University of Rosario, Argentina, 1986), Diploma from The Hague Academy of International Law (1990), PhD in Political Science (in the field of International Law) from the University of Geneva (Graduate Institute of International Studies) (1995) (equivalent to *summa cum laude*).

Awarded the Paul Guggenheim Prize in 1997 for his work entitled *Possession contestée et souveraineté territoriale (Adverse Possession and Territorial Sovereignty)* (Paris: Presses universitaires de France, 1997). Awarded “*Profesor Distinguido de la Ciudad de Rosario*” by the Municipal Council of the City of Rosario (Argentina) (2011).

Legal Counsel and Advocate

1) before the International Court of Justice:

-for Malaysia in a) the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* (2003-2008) and in

b) the advisory proceedings on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories* (2004);

-for Costa Rica in a) *Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*(2005-2009),

b) *Certain Activities Carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* (2010-2015),

c) *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)* (2011-2015),

d) *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean* (2014-present) and

e) *Delimitation of the Land Boundary in the Northern Part of Isla Portillos (Costa Rica v. Nicaragua)* (2017-present).

-for Argentina in the cases concerning

a) *Pulp Mills on the River Uruguay (Argentina v Uruguay)* (2006-2010) and in

b) *Judicial Decisions of the United States of America relating to the restructuring of the Argentine sovereign debt (Argentina v. United States of America)* (2014);

- for Colombia in the case of the *Territorial and Maritime Dispute (Nicaragua v. Colombia)* (merits and requests for interventions) (2008-2012);
- for Serbia in the advisory proceedings on the *Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo* (2008-2010).
- 2) Before the International Tribunal for the Law of the Sea:
for Argentina in the case concerning “*ARA Libertad*” (*Argentina v. Ghana*) (2012).
- 2) Before arbitral tribunals:
for Argentina in the *ARA Libertad Arbitration (Argentina v. Ghana)* (2013).

Consultant to several governments on questions of international law, particularly settlement of international disputes, immunities, territorial and maritime issues.

Arbitrator in the cases:

- 1) *Fouad Alghanim & Sons Co. for General Trading & Contracting, W.L.L. and Mr. Fouad Mohammed Thunyan Alghanim v. Hashemite Kingdom of Jordan* (ICSID Case No. ARB/13/38) (2014-2017),
- 2) *Venezuela US, S.R.L. v. Venezuela* (PCA Case No. 2013-3) (2016-present).
- 3) *Theodoros Adamakopoulos et al. vs Republic of Cyprus* (ICSID Case No. ARB/15/49) (2015-present)
- 4) *Sun-Flower and others v. Spain* (ICSID Case No. ARB/16/17) (2017-present)
- 5) *Vodafone Group Plc and Vodafone Consolidated Holdings Limited v. India* (2017-present)

Associate Member (2007) then Member (2013) and Secretary General (2015) of the *Institut de Droit international*

Rapporteur of the Commission on State Succession in matters of international responsibility of the *Institut de droit international* (2009-2015); Co-rapporteur of the International Law Association Committee on questions relating to State Succession (2003-2008); Co-rapporteur of the “Pilot project of the Council of European on the practice of States regarding State Immunity” (2004-2006); Member of the National Academy of Law and Social Sciences of Argentina (Academy correspondent in Switzerland), and many other academic institutions; Secretary-General of the Latin American Association of Public International Law and International Organisation (2000); Director-General of the Latin American Society of International Law (LASIL-SLADI) (2007-2015); Member (elected by the Member States) and Chair of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) Performance Review Panel (2008); Member of the Council of the French Society for International Law (2008-2016).

Advocate before regional and federal tribunals at the bar of Rosario (Argentina) (1983-1985); “Adscripto” (1984-1985), Appointed as Lecturer (1985-1987) and Associate Professor of Public International Law (1987) at the Faculty of Law at the National University of Rosario (Argentina). Teaching Assistant (1989-1995) and Lecturer (1995-1998) at the Faculty of Law at the University of Geneva; Lecturer (1995-1998), Acting Associate Professor (1998-1999), Associate Professor (1999-2002) and Professor of International Law (2002-present) at the Graduate Institute of International Studies, since 2008 the Graduate Institute of International and

Development Studies, Geneva; Member of the High Council of the National University of Rosario (Argentina) (1986-1987); Director of the BA (*Licence*) in international relations at the Graduate Institute of International Studies (1999-2002); Head of the International Law Unit at the Graduate Institute of International and Development Studies (2007-2009); Member of the Board of Directors of the Geneva LLM in International Dispute Settlement (MIDS) (2008-present).

Visiting Research Scholar at the Max-Planck Institute for Comparative Public Law and International Law, Heidelberg (1995); Visiting Professor at the University of Trento (Law Faculty, 1996), at the University of Paris II (Panthéon-Assas), I.H.E.I. (2000), at the Ortega y Gasset Graduate Institute (Madrid) (Master in International Relations and PhD in International Law, 2001-2008), at the Complutense University of Madrid (Master in International Law and International Relations, 2004), and at the Law Faculty of the University of Aix-en-Provence (Master in International Law, 2005); presented courses at the XXVIII and XXXV Courses in International Law of the Organization of American States (Rio de Janeiro, 2001 and 2008), at the VI Course Euro-Mediterranean Bancaja in International Law (Castellon, 2002), at the 32nd External Session of The Hague Academy of International Law in Phnom-Penh (2004), at the Hague Academy of International Law (2009) (course: “La rétroactivité en droit international public”), at the International Law Fellowship Programme organised by the UN Codification Division (2010); Director of Studies, French Language Section, Public International Law Session, The Hague Academy of International Law (2002); Held the Henri Rolin Chair, Belgian Universities (2003).

Numerous courses and conferences on various aspects of international law in Europe, the Americas, Africa and Asia.

Co-editor of the *Yearbook of the Institute of International Law*, Member of the Scientific Council of the *Belgian Review of International Law*, the *Colombian Yearbook of International Law* the *Journal of International Dispute Settlement* and the *Journal of Territorial and Maritime Studies*.

Main Publications

Books

Territoriality in International Law (ed.), Cheltenham, Edward Elgar Publ, 2016, 704p.

Las Malvinas entre el Derecho y la Historia. Refutación del folleto británico 'Más allá de la historia oficial. La verdadera historia de las Falklands/Malvinas' (with Facundo Rodríguez), Buenos Aires, Editorial Universitaria de Buenos Aires (Eudeba), 2015, 304p. English version: *The Malvinas/Falklands between History and Law. Refutation of the British Pamphlet : 'Getting It Right : the Real History of the Falklands/Malvinas'*, CreateSpace Independent Publishing Platform, 2017, 234p. (also available at : www.malvinas-falklands.net)

Mélanges en l'honneur du professeur Jean-Michel Jacquet, Le droit des rapports internationaux économiques et privés, Paris, LexisNexis, 2013, 450p. (co-editor with Dolores Bentolila).

Diplomatic and Judicial Means of Dispute Settlement, Leiden, M. Nijhoff, 2013, xv+337p. (co-editor with Laurence Boisson de Chazournes & Jorge Viñuales).

Perspectives of International Law in the 21st Century. Liber Amicorum Professor Christian Dominicé in Honour of His 80th Birthday, Leiden, M. Nijhoff, 2012, xxxi+470p. (co-editor with Robert Kolb & Djacoba Tehindrazanarivelo)

International Law and the Quest for its Implementation/Le droit international et la quête de sa mise en oeuvre : Liber Amicorum Vera Gowlland-Debbas (co-ed. with Laurence Boisson de Chazournes), Leiden, M. Nijhoff, 2010, xviii+513p.

La promotion de la justice, des droits de l'homme et du règlement des conflits par le droit international : Liber Amicorum Lucius Caflisch (ed.), Leiden: Martinus Nijhoff, 2006, xxviii+1228 p.

Secession. International Law Perspectives (ed.), Cambridge, Cambridge University Press, 2006, xxxvi+510p. (paperback edition: 2012)

State Practice Regarding State Immunities (co-ed. with Gerhard Hafner and Susan Breau), Leiden, M. Nijhoff and Council of Europe, 2006, xxviii+1100p.

La pratique et le droit international, Société française pour le droit international, colloque de Genève (co-ed. with Laurence Boisson de Chazournes and Gionata Buzzini), Paris, Pedone, 2004, 308p.

Possession contestée et souveraineté territoriale. Paris, P.U.F. (collection de l'Institut universitaire de hautes études internationales), 1997, xxv 582 p. Paul Guggenheim Prize 1997.

Main articles, courses, reports and contributions to collective works

“Etat: besoin de personne” in: H. Ascencio et al. (eds), *Dictionnaire des idées reçues en droit international*, Paris, Pedone, 2017, pp. 229-233.

New Introduction to Jennings’ *The Acquisition of Territory in International Law*, Manchester, Manchester University Press, 2017, pp. 1-13.

« À propos de « L’autodétermination de petits territoires revendiqués par des États tiers » de Denise Mathy (1974-I et 1975-I) : quatre décennies plus tard », *Revue belge de droit international*, 2015, vol. 1-2, pp. 310-318.

« State Succession in Matters of State Responsibility. Final Report », *Annuaire de l’Institut de Droit international*, Session de Tallinn, 2015, vol. 76, pp. 509-606.

« L’utilisation du précédent devant la CIJ : les immunités pénales des détenteurs de fonctions officielles à la lumière des affaires *Yerodia* et *Djibouti c. France* », in

Société française pour le droit international, *Le précédent en droit international. Colloque de Strasbourg*, Paris, E. A. Pedone, 2016, pp. 109-115.

« Conclusions », in Société française pour le droit international, *Droit des frontières internationales/The Law of International Boundaries*, Paris, E. A. Pedone, 2016, pp. 319-319.

“State Succession in Matters of International Responsibility. Provisional Report”, *Annuaire de l’Institut de Droit international*, Session de Tokyo, 2013, vol. 75, pp. 123-178.

“Is the Internal Waters Regime Excluded from the United Nations Convention on the Law of the Sea?”, in Del Castillo, Lilian (ed.), *Law of the Sea, from Grotius to the International Tribunal for the Law of the Sea. Liber Amicorum Judge Hugo Caminos*, Brill, Leiden, 2015, pp. 110-124.

“Considerations about What is Common’: the I.C.J. and Specialised Bodies”, in d’Argent P. & Combacau, J. (eds), *Considérations sur ce qui est privé : essais sur les limites du droit international / Reflections on what remains private : essays on the limits of international law. Liber amicorum Joe Verhoeven*, Bruylant, 2014, pp. 287-299.

“The Court’s Contribution to Determining the Content of Fundamental Principles of International Law”, in G. Gaja & J. Grote Stoutenburg (eds), *Enhancing the Rule of Law through the International Court of Justice*, Leiden, Brill-Nijhoof, 2014, pp. 139-150.

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“La relation titres/effectivités dans la jurisprudence récente de la Cour internationale de Justice (2004-2012)”, in D. Alland et al. (eds), *Unité et diversité du droit international. Ecrits en l’honneur du Professeur Pierre-Marie Dupuy*, Leiden, M. Nijhoff, 2014, pp. 599-614.

“La portée et la validité des clauses contractuelles exorbitantes de renonciation à l’immunité des Etats”, in M. G. Kohen & D. Bentolila (eds), *Mélanges en l’honneur du professeur Jean-Michel Jacquet, Le droit des rapports internationaux économiques et privés*, Paris, LexisNexis, 2013, pp. 201-213.

“General Principles of Law” in *Oxford Bibliographies in International Law* (ed. By A. Carty), New York: Oxford University Press, 2013, 23p. (with Bérénice Schramm).

“Keeping Subsequent Agreements and Practice in Their Right Limits”, in: G. Nolte (ed.), *Treaties and Subsequent Practice*, Oxford, Oxford University Press, 2013, pp. 34-45.

“Le Kosovo entre le droit et la puissance (les questions négligés par l’avis consultative de la Cour)”, in: *L’Afrique et le droit international: variations sur l’organisation internationale*, Paris, Pedone, 2013, pp. 532-547.

“Do Peoples Have Rights in Boundaries’ Delimitations?” in: Boisson de Chazournes, L., Leb, Ch. & Tignino, M. (eds), *International Law and Freshwater. The Multiples Challenges*, Cheltenham, Edward Elgar Publ., 2013, pp. 95-122 (with Mara Tignino).

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“The principle of non-intervention twenty-five years after the *Nicaragua* Judgment”, *Leiden Journal of International Law*, 2012, vol. 25, pp. 157-164

“Decolonisation in Latin America: A Trail-Blazing Role for Decolonisation in Other Parts of the World”, in: Claude Auroi & Aline Helg (eds), *Latin America, Dreams and Legacies 1810-2010*, London, Imperial College Press, 2012, pp. 43-65 (with Katherine Del Mar).

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“Territory, Acquisition”, *Max Planck Encyclopaedia of Public International Law*, online: www.mpepil.com, Printed version in: R. Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law*, Oxford, Oxford University Press, 2012, vol. IX, pp. 887-900 (with Mamadou Hébié).

“Territory, Discovery”, *Max Planck Encyclopaedia of Public International Law*, online: www.mpepil.com, Printed version in: R. Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law*, Oxford, Oxford University Press, 2012. Vol. IX, pp. 900-904 (with Mamadou Hébié).

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“Conquest”, *Max Planck Encyclopaedia of Public International Law*, online: www.mpepil.com, Printed version in: R. Wolfrum (ed), *The Max Planck*

Encyclopedia of Public International Law, Oxford, Oxford University Press, 2012, vol II, pp. 665-669.

“Memel Territory, Statute, Interpretation of, Case”, *Max Planck Encyclopaedia of Public International Law*, online: www.mpepil.com, Printed version in: R. Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law*, Oxford, Oxford University Press, 2012 vol. VII, pp. 87-89.

“Article 45”, in: Olivier Corten and Pierre Klein (eds), *The Vienna Convention on the Law of Treaties. A Commentary*, Oxford-New York, Oxford University Press, 2011, vol. 2, pp. 1064-1089 (with Sarah Heathcote).

“Article 42”, in: Olivier Corten and Pierre Klein (eds), *The Vienna Convention on the Law of Treaties. A Commentary*, Oxford-New York, Oxford University Press, 2011, vol. 2, pp. 1015-1030 (with Sarah Heathcote).

“Desuetude and Obsolescence of Treaties”, in: Enzo Canizzaro (ed.), *The Law of Treaties Beyond the Vienna Convention: Liber Amicorum Giorgio Gaja*, Oxford-New York, Oxford University Press, 2011, pp. 350-359.

“Les principes généraux du droit international de l’eau dans la jurisprudence récente de la Cour internationale de Justice”, in: Société française pour le droit international, *L’eau en droit international, Colloque d’Orléans*, Paris, Pedone 2011, pp. 61-78.

“The Kosovo Advisory Opinion and UNSCR 1244: A declaration of ‘independence from international law’?”, *Leiden Journal of International Law*, 2011, vol. 24, pp. 109-126 (with Katherine Del Mar).

“There is No Need to change the Composition of the Security Council. It is Time for Stressing Accountability”, in: L. Boisson de Chazournes and M. G. Kohen (eds), *International Law and the Quest for Its Implementation/Le droit international et la quête de sa mise en oeuvre: Liber Amicorum Vera Gowlland-Debbas* (editor with Professor Laurence Boisson de Chazournes), Leiden, M. Nijhoff, 2010, pp. 85-94.

“Secession - A Legal Approach”, in: Walter Kälin et al. (eds), *International Law, Conflict and Development. The Emergence of a Holistic Approach in International Affairs*, Leiden, M. Nijhoff, 2010, pp. 3-17.

“*L’uti possidetis* et les delimitations maritimes”, in: *Le process international. Liber Amicorum Jean-Pierre Cot*, Brussels, Bruylant, 2009, pp. 155-170.

“Murs, souveraineté et frontières”, in J.-M. Sorel (ed.), *Les murs et le droit international*, Paris, Pedone, 2010, pp. 127-134.

“La contribution de l’Amérique latine au développement progressif du droit international en matière territoriale”, *Relations internationales*, Paris, 2009, No. 139, pp. 13-29.

Report of the CCAMLR Performance Review Panel (CCAMLR-XXVII/8) (editor and co-author), Hobart, Conservation of the Antarctic Marine Living Resources (CCAMLR), 1 September 2008, XVII+166p. Available at:
<http://www.ccamlr.org/pu/E/00-Prfrm-Review-for-public-webpage.pdf>

Aspects of the Law of State Succession, Final Report (co-rapporteur with Wladyslaw Czaplinski), in: International Law Association, *Report of the Seventy-Third Conference, Rio de Janeiro, 2008*, pp. 251-363.

“La création de l'Etat d'Israël à la lumière du droit international”, in: I. Buffard, J. Crawford, A. Pellet and S. Wittich (eds), *International Law between Universalism and Fragmentation. Festschrift in Honour of Gerhard Hafner*, Leiden, M. Nijhoff, 2008, pp. 441-454.

“Le Kosovo: un test pour la communauté internationale”, in: V. Chetail (ed.), *Conflits, sécurité et coopération. Liber Amicorum Victor-Yves Ghebali*, Brussels, Bruylant, 2007, pp. 367-382.

“Sur quelques vicissitudes du droit des peuples à disposer d'eux-mêmes”, in: N. Angelet, O. Corten and P. Klein (eds), *Droit du pouvoir, pouvoir du droit, Mélanges offerts à Jean Salmon*, Brussels, Bruylant, 2007, pp. 961-982.

“The Decision on the Delimitation of the Eritrea/Ethiopia Boundary of 13 April 2002: A Singular Approach to International Law Applicable to Territorial Disputes”, in: Marcelo G. Kohen (ed.), *Promoting Justice, Human Rights and Conflict Resolution through International Law. Liber Amicorum Lucius Caflisch*, Leiden, M. Nijhoff, 2007, pp. 767-779.

“Article 45”, in: O. Corten and P. Klein (eds), *Les Conventions de Vienne sur le droit des traités. Commentaire article par article*, Brussels, Bruylant, 2006, pp. 1667-1702.

“L'autodétermination et l'avis consultatif sur le « mur »”, in: P.-M. Dupuy, B. Fassbender, M. Shaw and K.-P. Sommermann (eds), *Common Values in International Law, Festschrift Christian Tomuschat*, Kehl, Engel, 2006, pp. 961-971.

“Article 42”, in: O. Corten et P. Klein (eds), *Les Conventions de Vienne sur le droit des traités. Commentaire article par article*, Brussels, Bruylant, 2006, pp. 1593-1614.

“Commentaire (sur ‘Le rôle de la pratique dans le droit coutumier’)”, in: R. Huesa Vinaixa and K. Wellens (eds), *L'influence des sources sur l'unité et la fragmentation du droit international*, Brussels, Bruylant, 2006, pp. 103-107.

“The Distinction between State Immunity and Diplomatic Immunity”, in: G. Hafner, M. Kohen and S. Breau (eds), *State Practice Regarding State Immunities*, Leiden, M. Nijhoff and Council of Europe, 2006, pp. 48-58.

“The notion of State”, in: G. Hafner, M. Kohen and S. Breau (eds), *State Practice Regarding State Immunities*, Leiden, M. Nijhoff and Council of Europe, 2006, pp. 2-20.

“Article 39”, in: A. Zimmermann, Ch. Tomuschat and K. Oellers-Frham (eds), *The Statute of the International Court of Justice. A Commentary*, Oxford, Oxford University Press, 2006, pp. 837-848.

“Introduction”, in: M. Kohen (ed.), *Secession. International Law Perspectives*, Cambridge, Cambridge University Press, 2006, pp. 1-20.

“Treaty Law. There is no need for special regimes”, in: A. Zimmermann & R. Hofmann (eds), *Unity and Diversity in International Law*, Berlin, Duncker & Humblot, 2006, pp. 241-246.

“L’avis consultatif définit le cadre juridique du conflit israélo-palestinien”, in: *Réunion internationale des Nations Unies sur la question de Palestine*, Nations Unies, New York, 2005, pp. 73-76.

“La longue marche vers la reconnaissance territoriale de l’autre”, in W. Ossipow (ed.), *Israël et l’Autre*, Genève, Labor et Fides, 2006, pp. 13-74.

“Terrorismo, Estado y Derecho Internacional”, in C. Molina (ed.), *El Estado: Reflexiones acerca de sus retos en el Siglo XXI*, Bogota, Ed. Universidad del Rosario, 2005, pp. 313-334.

“Article 2, paragraphe 1”, in Jean-Pierre Cot and Alain Pellet (eds), *La Charte des Nations Unies, Commentaire article par article*, 3rd edition, Paris, Economica, 2005, pp. 399-416.

“L’interdiction du recours à la force dans les relations internationales: entre pratique et utopie”, in: *Le devenir du droit international*, Rabat, Publications de la REMALD, coll. ‘Thèmes actuels’, n° 48, 2004, pp. 111-118.

“La relation titres/effectivités dans le contentieux territorial à la lumière de la jurisprudence récente”, *Revue générale de droit international public*, 2004, t. 108/3, pp. 561-596.

“Is the Legal Argument for Self-defence against Terrorism Correct?” in: W.P. Heere (ed.), *From Government to Governance. The Growing Impact of Non-State Actors on the International and European Legal System*, The Hague, Asser Press, 2004, pp. 288-294.

“Recours à la force et valeurs universelles”, in: *Società Italiana di Diritto Internazionale, Ordine internazionale e valori etici*, Naples, Ed. Scientifica, 2004, pp. 27-41, and also: B. Delcourt, D. Duez and E. Rémacle (eds), *La guerre d’Irak. Prélude d’un nouvel ordre international?*, Bruxelles, P.I.E.-Peter Lang, 2004, pp. 63-76.

“L’administration actuelle de l’Irak: vers une nouvelle forme de protectorat?”, in: K. Bannelier, Th. Christakis, O. Corten and P. Klein (eds), *L’intervention en Irak et le droit international*, Paris, Pedone, CEDIN Paris I, Cahiers internationaux N° 19, 2004, pp. 299-315.

“La pratique et la théorie des sources du droit international”, in: Société française pour le droit international, *La pratique et le droit international*, colloque de Genève, Paris, Pedone, 2004, pp. 81-111.

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“Is the US Practice of Using Force Changing International Law?”, *World Editorial & International Law*, 2003, vol. II, n° 1, pp. 8-10.

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“Europe and the Standardization of the Law: Past and Present”, in: Henryk Kierzkowski (ed.), *Europe and Globalization*, Londres, Palgrave, 2002, pp. 87-103.

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