

Marcelo Gustavo KOHEN

Born in Rosario (Argentina) on 11 August 1957, Argentine citizen, Swiss resident, four children, one grandchild.

Professor of International Law at the Graduate Institute of International and Development Studies, Geneva. Associate Member of the *Institut de Droit international*.

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

Awarded the Paul Guggenheim Prize in 1997 for his work *Possession contestée et souveraineté territoriale* (Adverse Possession and Territorial Sovereignty) (Paris: Presses universitaires de France, 1997).

Counsel and advocate before the International Court of Justice: for Malaysia in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* and in the advisory proceedings on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*; for Costa Rica in the *Dispute Regarding Navigational and Related Rights (Costa Rica v Nicaragua)*, for Argentina in the case concerning *Pulp Mills on the River Uruguay (Argentina v Uruguay)*; for Colombia in the *Territorial and Maritime Dispute (Nicaragua v Colombia)* (merits); 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*. Consultant to several governments on questions of international law.

Rapporteur of the Commission on State Succession in matters of international responsibility of the *Institut de Droit international*, Co-rapporteur of the International Law Association Committee on questions relating to State Succession, Co-rapporteur of the “Pilot project of the Council of Europe on the practice of States regarding State Immunity”, 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 Organization (2000), Director-General of the Latin American Society of International Law (2007-present). Member (elected by the Member States) and Chair of the Commission for the Conservation of the Antarctic Marine Living Resources (CCAMLR) Performance Review Panel (2008). Member of the Council of the French Society for International Law (2008).

Advocate before regional and federal tribunals at the bar of Rosario (Argentina) (1983-1985). “Adscripto” (1984-1985), Lecturer (1985-1987) and Associate Professor of Public

International Law (1987) at the Law Faculty of 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, Geneva (since 2008: the Graduate Institute of International and Development Studies). 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 of the Graduate Institute of International and Development Studies (2007-2009). Co-Director of the Geneva Master in International Dispute Settlement (2008-present).

Amicus curiae in re *Odissey Marine Exploration, Inc., v. The Unidentified Shiprecked Vessel and The Kingdom of Spain* before the United States Court of Appeal for the Eleventh Circuit (with Vittorio Mainetti and Katherine Del Mar), 9 June 2010.

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, since 2001), at the Complutense University of Madrid (Master in International Law and International Relations, 2004), at the Law Faculty of the University of Aix-en-Provence (Master in International Law, 2005) and at the Law Faculty of the University of Palermo (PhD on Philosophy of Law, 2006). Gave 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 Euro-Mediterranean Bancaja Courses in International Law (Castellon, 2002), and at the Hague Academy of International Law (“La rétroactivité en droit international public”, 2009). Director of Studies, French Language Section, Public International Law Session, The Hague Academy of International Law (2002). Holder of the Henri Rolin Chair, Belgian Universities (2003). Professor of the 32nd External Session of The Hague Academy of International Law in Phnom-Penh (2004) (course on territorial disputes). Course at the International Law Fellowship Programme organised by the UN Codification Division (“Les compétences de l’Etat en droit international”, July 2010).

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

Member of the Scientific Council of the Belgian Review of International Law and the Colombian Yearbook of International Law.

Main Publications:

A. Books

1. *Possession contestée et souveraineté territoriale*. Paris, P.U.F. (collection de l'Institut universitaire de hautes études internationales), 1997, xxv+582 p. *Prix Paul Guggenheim* 1997.
2. *La pratique et le droit international, Société française pour le droit international, colloque de Genève* (co-éd. avec Laurence Boisson de Chazournes et Gionata Buzzini), Paris, Pedone, 2004, 308p.
3. *Secession. International Law Perspectives* (ed.). Cambridge, Cambridge University Press, 2006, xxxvi+510p.
4. *State Practice Regarding State Immunities/ La pratique des Etats concernant les immunités des Etats* (co-ed. with Gerhard Hafner and Susan Breau), Leiden, M. Nijhoff and Council of Europe, 2006, xxviii+1100p.
5. Promoting Justice, Human Rights and Conflict Resolution through International Law/ 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, M. Nijhoff, 2007, xxviii+1228p.
6. *International Law and the Quest for its Implementation/Le droit international et la quête de sa mise en oeuvre. Liber Amicorum Vera Gowlland-Debbas* (ed. With Laurence Boisson de Chazournes), Leiden, M. Nijhoff, 2010, xviii+513p.

B. Main articles, courses et contributions to collective works :

- 1.- "El carácter jurídico de las resoluciones de la Asamblea General de las Naciones Unidas en materia de descolonización", *Revista Jurídica "Zeus"*, Rosario, 1985, Vol.37, pp. 3-11.
- 2.- "La resolución 39/6 de la Asamblea General de las Naciones Unidas sobre la cuestión de las Islas Malvinas", *Revista Jurídica Argentina "La Ley"*, Buenos Aires, Vol.1985-C, pp. 804-809.
- 3.- "Veinticinco años de la Declaración sobre Descolonización", *Revista Jurídica Argentina "La Ley"*, Buenos Aires, Vol. 1985-E, pp. 637-646.
- 4.- "La jurisprudencia reciente sobre delimitación de espacios marítimos y el Tratado de Paz y Amistad entre la Argentina y Chile", *Revista Jurídica Argentina "La Ley"*, Buenos Aires, Vol. 1987-A, pp.818-826.
- 5.- "Alternativas para la solución del conflicto por las Islas Malvinas", *Revista de Estudios Internacionales*, Madrid, 1986, Vol.VII No.4, pp.1145-1163.

- 6.- "La declaración británica de una zona de pesca alrededor de Malvinas", *Revista Jurídica Argentina "La Ley"*, Buenos Aires, Vol.1987-A, pp. 940-948 et *Revista Española de Derecho Internacional, Madrid*, 1987-2, Vol.XXXIX, pp.487-498.
- 7.- "La alternativa jurisdiccional en la disputa sobre las Islas Malvinas", *Rivista di Studi Politici Internazionali*, Florence, 1988, No.219, pp.395-424.
- 8.- "The Universal Declaration of Human Rights and Latin America", *The Review of the International Commission of Jurists*, Geneva, 1988, No.41, pp.44-47.
- 9.- "La requête à fin d'intervention du Nicaragua dans l'affaire du Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras). L'ordonnance de la Cour du 28 février 1990 et l'arrêt de la Chambre du 13 septembre 1990", *Annuaire français de droit international*, 1990, Vol. XXXVI, pp. 341-367.
- 10.- "The "Laguna del Desierto" Case between Argentina and Chile", *Boundary and Security Bulletin*, University of Durham, International Boundaries Research Unit, 1993, Vol. 1 N° 1, pp. 70-73.
- 11.- "L'*uti possidetis* revisité: L'arrêt du 11 septembre 1992 dans l'affaire El Salvador / Honduras", *Revue générale de droit international public*, 1993, T. 97 N° 4, pp. 939-973.
- 12.- "La fecha crítica y la cuestión de las Islas Malvinas", *Revista Española de Derecho Internacional*, 1994, Vol. XLVI N° 1, pp. 7-37.
- 13.- "Le règlement des différends territoriaux à la lumière de l'arrêt de la C.I.J. dans l'affaire Libye/Tchad", *Revue générale de droit international public*, 1995, T. 100 N° 2, pp. 301-334.
- 14.- "L'avis consultatif de la C.I.J. sur la Licéité de la menace ou de l'emploi d'armes nucléaires et la fonction judiciaire", *European Journal of International Law*, 1997, vol. 8, pp. 336-362.
15. "La frontière et la recomposition de l'espace en ex-Yougoslavie", in : Institut du droit de la paix et du développement, *Frontières en Méditerranée. Hommage au Doyen Maurice Torrelli*, Nice, IDPD, 1998, pp. 61-83.
16. "Règlement territorial et maintien de la paix", in : Weckel, Philippe (éd.), *Le juge international et l'aménagement de l'espace: la spécificité du contentieux territorial*. Paris, Pedone, 1998, pp. 203-224.
17. "El futuro de la Corte Internacional de Justicia a la luz de la práctica reciente", *Revista Jurídica de Buenos Aires*, 1998, vol. I-II, pp. 133-159.

18. "The Notion of State Survival in International Law", in : Boisson de Chazournes et Sands, Ph. (eds.), *International Law, the International Court of Justice and Nuclear Weapons*, Cambridge, Cambridge University Press, 1999, pp. 293-314.

19. "Le problème des frontières en cas de dissolution et séparation d'Etats: quelles alternatives?", in : Corten, Olivier ; Delcourt, Barbara ; Klein, Pierre et Levrat, Nicolas (éd.), *Démembrements d'Etats et délimitations territoriales : L'uti possidetis en question(s)*, Brussels, Bruylant, 1999, pp. 365-401 et *Revue belge de droit international*, 1998/1, pp. 129-160.

20. "Le raisonnable en droit international public. A propos du livre d'Olivier Corten L'utilisation du "raisonnable " par le juge international. Discours juridique, raisons et contradictions", *Annuaire africain de droit international*, 1998, vol. 6, pp. 373-381.

21. "L'emploi de la force et la crise du Kosovo : vers un nouveau désordre juridique international", *Revue belge de droit international*, 1991/1, pp. 122-148, ainsi que dans Charles-A. Morand (dir.), *La crise des Balkans de 1999. Les dimensions historiques, politiques et juridiques du conflit du Kosovo*. Brussels, Bruylant, Paris, L.G.D.J., 2000, 129-166.

22. "Le droit des traités: questions restées ouvertes après la codification", in : Nations Unies, *La Commission du droit international cinquante ans après: bilan d'activités. Actes du Séminaire organisé pour commémorer la cinquantième anniversaire de la Commission du droit international, 21-22 avril 1998*, New York, Nations Unies, 2000, pp. 74-89.

23. "Is the Notion of Territorial Sovereignty Obsolete?" in: M.A. Pratt et J.A. Brown (ed.), *Borderlands under Stress*, Dordrecht, Kluwer, 2000, pp. 35-47.

24. "La codification du droit des traités: quelques éléments pour un bilan global", *Revue générale de droit international public*, 2000, t. 106 n° 3, pp. 577-613.

25. "Manifeste pour le droit international du XXe siècle". in : L. Boisson de Chazournes et V. Gowlland (eds), *The International Legal System in Quest of Equity and Universality. Liber Amicorum Georges Abi-Saab*, The Hague, Kluwer, 2001, pp. 123-152.

26. "Internationalisme et mondialisation" in Charles-Albert Morand (éd.), *La mondialisation et le droit*, Brussels, Bruylant, 2001, pp. 107-130.

27. "*Uti possidetis*, prescription et pratique subséquente à un traité dans l'affaire de l'île de Kasikili/Sedudu devant la Cour internationale de Justice", *German Yearbook of International Law*, vol. 43, 2000, pp. 162- 186.

28. "L'influence du temps sur les règlements territoriaux", Société française pour le droit international, *Le droit international et le temps*. Colloque de Paris 2000. Paris, Pedone, 2001, pp. 129-157.

29. "L'arme de la civilisation, c'est le droit". *Bulletin du Centre d'Information des Nations Unies*, Paris, 2001, N° 45, pp. 30-31.
30. "International Law is the Most Appropriate Moral Answer to Territorial Conflicts", in: *Geopolitics*, London, 2001, Vol. 6 N° 2, pp. 173-177.
31. "La contribución de América Latina al desarrollo progresivo del derecho internacional en materia territorial", *Anuario de Derecho Internacional*, 2001, vol. XVII, pp. 57-77.
32. "Les questions territoriales dans l'arrêt de la C.I.J. du 16 mars 2001 en l'affaire Qatar c. Bahreïn", *Revue générale de droit international public*, 2002, t. 106, pp. 295-328.
33. "Europe and the Standardization of the Law: Past and Present", in : Henryk Kierzkowski (ed.), *Europe and Globalization*, London, Palgrave, 2002, pp. 87-103.
34. "El individuo y los conflictos territoriales", in: O.E.A., Comité Jurídico Interamericano, *Curso de Derecho Internacional*, 2001, vol. XXVIII, pp. 425-460.
35. "Les controverses sur la question du 'terrorisme d'Etat'", in : K. Bannelier et al. (éd.), *Le droit international face au terrorisme*. Paris, Pedone, CEDIN Paris I, Cahiers internationaux N° 17, 2002, pp. 83-93.
36. "La libre determinación de los pueblos y su relación con el territorio", in : Z. Drnas de Clement et M. Lerner (éd.), *Estudios de Derecho Internacional en homenaje al Profesor Ernesto J. Rey Caro*, Cordoba (Argentina), Lerner, 2002, pp. 859-872.
37. "Is the US Practice of Using Force Changing International Law?" *World Editorial & International Law*, 2003, vol. II, n° 1, pp. 8-10.
38. "The Use of Force by the United States after the End of the Cold War and Its Impact on International Law", in : Michel Byers and Georg Nolte (eds), *United States Hegemony and the Foundations of International Law*, Cambridge, Cambridge University Press, 2003, pp. 197-231.
39. "Création d'Etats en droit international contemporain", *Cours euro-méditerranéens Bancaja de droit international*, vol. VI, 2002, pp. 546-635.
40. "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
41. "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

42. "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, ainsi que : B. Delcourt, D. Duez and E. Remacle (eds.), *La guerre d'Irak. Prélude d'un nouvel ordre international?*, Bruxelles, P.I.E.-Peter Lang, 2004, pp. 63-76.

43. "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*, La Haye, Asser Press, 2004, pp. 288-294.

44. "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.

45. "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.

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

47. "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.

48. "La longue marche vers la reconnaissance territoriale de l'autre", in W. Ossipow (dir.), *Israël et l'Autre*, Geneva, Labor et Fides, 2006, pp. 13-74.

49. "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.

50. "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.

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

52. "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.

53. "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.
54. "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.
55. "Commentaire (sur "Le rôle de la pratique dans le droit coutumier")", in: R. Huesa Vinaixa et K. Wellens (dir.), *L'influence des sources sur l'unité et la fragmentation du droit international*, Bruxelles, Bruylant, 2006, pp. 103-107.
56. "L'autodétermination et l'avis consultatif sur le « mur » ", in : P.-M. Dupuy, B. Fassbender, M. Shaw et K.-P Sommermann (eds.), *Common Values in International Law, Festschrift Christian Tomuschat*, Kehl, Engel, 2006, pp. 961-971.
57. "Article 42", in: O. Corten and P. Klein (eds.), *Les Conventions de Vienne sur le droit des traités. Commentaire article par article*, Bruxelles, Bruylant, 2006, pp. 1593-1614 (new updated edition in English to be published by Oxford University Press in 2009).
58. "Article 45", in: O. Corten and P. Klein (eds.), *Les Conventions de Vienne sur le droit des traités. Commentaire article par article*, Bruxelles, Bruylant, 2006, pp. 1667-1702 (new updated edition in English to be published by Oxford University Press in 2009).
59. "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: Kohen, Marcelo G. (ed.), *Promoting Justice, Human Rights and Conflict Resolution through International Law. Liber Amicorum Lucius Caflisch*, Leiden, M. Nijhoff, 2007, pp. 767-779.
60. "Sur quelques vicissitudes du droit des peuples à disposer d'eux-mêmes", in : N. Angelet, O. Corten et P. Klein (eds.), *Droit du pouvoir, pouvoir du droit, Mélanges offerts à Jean Salmon*, Bruxelles, Bruylant, 2007, pp. 961-981.
61. "Le Kosovo : un test pour la communauté internationale", in : V. Chetail (ed.), *Conflits, sécurité et coopération. Liber Amicorum Victor-Yves Ghebali*, Bruxelles, Bruylant, 2007, pp. 367-382
62. "Memel Territory, Statute, Interpretation of, Case", *Max Planck Encyclopaedia of Public International Law*, www.mpepil.com.
63. "Territory, Abandonment", *Max Planck Encyclopaedia of Public International Law*, www.mpepil.com.
64. "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.

65. "La contribution de l'Amérique latine au développement progressif du droit international en matière territoriale", *Relations internationales*, Paris, 2009, N° 139, pp. 13-29.

66. "Conquest", *Max Planck Encyclopaedia of Public International Law*, www.mpepil.com.

67. "L'uti possidetis et les delimitations maritimes", in: *Liber Amicorum Jean-Pierre Cot*, Bruxelles, Bruylant, 2009, pp. 155-170.

68. "Secession - A Legal Approach", in: W. 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.

69. "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* (ed. with Laurence Boisson de Chazournes), Leiden, M. Nijhoff, 2010, pp. 85-94.

C. Reports

1. Commission for the Conservation of the Antarctic Marine Living Resources (CCAMLR), Report of the Performance Review Panel, 2008, 166p. (Editor and co-author). Available at:

<http://www.ccamlr.org/pu/E/e-Prfrm%20Review%20Report%20Jun09.pdf>

2. International Law Association, Final Report on Aspects of the Law of State Succession, 2008, 72p. (Co-rapporteur with Wladyslaw Czaplinski). Available at:

<http://www.ila-hq.org/en/committees/index.cfm/cid/11>

D. Reviews:

1. "Revue des revues", *Annuaire français de droit international* (in charge of the review of the Inter-American, Spanish and Portuguese periodicals), 1989 to 2002.

2. *Staatennachfolge in völkerrechtliche Verträge. Zugleich ein Beitrag zu den Möglichkeiten und Grenzen völkerrechtlicher Kodifikation*, by Andreas Zimmermann, *Revue générale de droit international public*, t. 105, 2001, pp. 265-266.

3. *Determining Boundaries in a Conflicted World: The Rule of Uti Possidetis*, by Suzanne N. Lalonde, in: *American Journal of International Law*, 2004, vol. 98, pp. 379-383.

4. *The African Charter on Human and Peoples' Rights. A Comprehensive Agenda for Human Dignity and Sustainable Democracy in Africa*, by Fatsah Ouguergouz, in : *Revista Española de Derecho Internacional*, 2005, vol. LVII, pp. 558-559.

Other information:

Lectures at the UN Audiovisual Library of International Law on the relationship between titles and *effectivités* in territorial disputes (in French), *uti possidetis* and maritime delimitations (in English), and the role of State practice in the formation of international law (in Spanish, forthcoming). Available at: <http://www.un.org/law/avl/>

Articles and Interviews in the Swiss, Argentine, French, British, Austrian, Serbian and Uruguayan media.

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