



MAURICE MENDELSON QC



Called to Bar: 1965

Appointed to Silk: 1992; Master of the Bench of Lincoln's Inn

Degree: B.A. Oxford, Law (1st Class Honours), 1964, M.A., 1968, D.Phil. 1971

Other Information: Languages - French (fluent); Italian and Spanish (working knowledge); German (some knowledge).

Practice areas: Public International Law; International Arbitration; Commercial; Public Law and Human Rights.

Maurice Mendelson QC is recognised by both the leading independent legal directories, *The Legal 500 2013* and *Chambers UK 2014*, as a leading silk in Public International Law and also for Human Rights & Civil Liberties in *Legal 500*.

Maurice is also ranked in *Chambers Global 2014* in Global-wide Public International Law: The English Bar. "*You can rely on him to give authoritative advice. He thinks around the problem to come up with a well-considered view that looks at it from different angles. He has a sound academic mind.*"

In *Chambers UK 2014* for Public International Law, "Although especially renowned for his investment arbitration advice, he is also sought out for his experience on land and maritime boundary delimitation, state and diplomatic immunity, and territorial sovereignty disputes. Commentators say: '*He gives very useful and user-friendly advice.*' '*He has a great deal of experience and can give an informed perspective on just about any issue.*' '*You can rely on him to give authoritative advice.*'"

In *Legal 500 2013* in Public International Law, sources say Maurice has "*a top mind*" with a very busy practice in public international law" and in Civil Liberties and Human Rights, he has previously been said to have an "*unparalleled knowledge of human rights issues.*"

Public International Law

Governments advised and/or represented include:

- Bangladesh
- Cameroon
- Canada, North-West Territories
- Colombia
- El Salvador
- India

- Morocco
- Namibia
- Pakistan
- Peru
- Qatar
- Russian Federation
- Turkey
- United Kingdom

NOTE: For reasons of confidentiality, this list is not complete.

International Organisations advised and/or represented include:

- Council of Europe
- European Economic Community
- Inmarsat

Corporations advised and/or represented include:

- Bank of England
- International banking consortia
- Multinational corporations in the financial, oil & gas, communications and other industrial and service fields

Types of work include:

- Litigation in international courts (e.g. International Court of Justice, European Court of Justice, European Court of Human Rights), international arbitral tribunals (e.g. ICSID) and English courts.
- Transactions (e.g. inter-State negotiations; advising on contracts between States and corporations; restructuring international organisations).
- Arbitrating
- Expert evidence in international arbitral tribunals and foreign courts.

Areas covered include:

Territorial sovereignty disputes; land/maritime boundary delimitation; international investment disputes and negotiation of investment protection agreements; sovereign loans; international aviation; state and diplomatic immunity and act of state; constitution and status of international organisations; international aspects of anti-trust law; international employment; compensation/damages for expropriation; state jurisdiction in territorial waters, exclusive economic zone, high seas etc; jurisdictional disputes, including extraterritorial jurisdiction; pursuit of assets of former heads of state/government; petrochemical extraction; freezing of foreign assets; state succession; international art disputes; international environment (including water resources); international protection of human rights; immigration and asylum; aspects of European Union law concerned with public international law (including legal personality, status of territory, anti-trust, anti-dumping, borrowing

powers, & eligibility for membership); self-determination; state responsibility; GATT/WTO; interaction between international law and domestic law.

Examples of current and recent cases include:

Case 38263/08 *Georgia v Russian Federation (II)*, *European Court of Human Rights* [2011] ECHR 2175.

Maurice is counsel for the respondent in this case in the European Court of Human Rights. Grand Chamber hearings pending.

Agility for Public Warehousing Co. KSC v Islamic Republic of Pakistan, ICSID Case No. ARB/11/8.

Maurice is Counsel for Pakistan in this arbitration under the auspices of the International Centre for the Settlement of Investment Disputes.

Project to build an inter-oceanic canal across Nicaragua

This \$40 billion international project has recently been approved by the Nicaraguan legislature. Maurice advises the Hong Kong promoter on public international law aspects of the project.

Maurice is an arbitrator in a case under the auspices of the International Centre for the Settlement of Investment Disputes; *David Minnotte and Robert Lewis v Republic of Poland* (ICSID Case No. ARB(AF)/10/1)

The Republic v High Court (Commercial Division), Accra, ex p. Attorney-General, NML Capital Ltd. 1st Interested Party; Republic of Argentina, 2nd Interested Party. Supreme Court of Ghana, 20 June 2013.

This was a case concerning the civil arrest of the *ARA Libertad*, an Argentine warship, at the behest of NML Capital Ltd., suing to enforce a New York judgment regarding defaulted Argentine bonds. Maurice provided an expert opinion to the Ghana Supreme Court.

Advising numerous clients on structuring international investments or investment claims (details confidential).

Republic of Serbia v Imagesat International NV [2009] EWHC 2853 (Comm)

This case was concerned with whether the Republic of Serbia was bound by a contract and arbitration clause originally entered into by the State Union of Serbia and Montenegro. It raised questions concerning State identity, continuity and succession, as well as issues concerning the law of international arbitration. Maurice appeared in the arbitration and in the Commercial Court for the successful claimant/respondent.

Other matters

Maurice gave expert testimony, by invitation, to House of Lords Select Committee on the Arctic (July 2014).

International Arbitration

Maurice Mendelson QC is a specialist in international arbitration involving States, State entities and inter-governmental organizations. His practice in this area mainly relates to international investment disputes, where he has appeared before ICSID, participated in and advised on the negotiation and drafting of investment treaties and contracts, and advised generally. However, he has also worked in the area of commercial arbitration involving States, State entities and intergovernmental organizations, for instance in ICC arbitration and Commercial Court litigation: for example *Republic of Serbia v Imagesat International NV* [2009] EWHC 2853 (Comm).

Maurice is an arbitrator in a case under the auspices of the International Centre for the Settlement of Investment Disputes; *Mr David Minnotte and Mr Robert Lewis v Republic of Poland* (ICSID Case No. ARB(AF)/10/1)

Agility for Public Warehousing Co. KSC v Islamic Republic of Pakistan, ICSID Case No. ARB/11/8.

Maurice is Counsel for Pakistan in this arbitration under the auspices of the International Centre for the Settlement of Investment Disputes.

Advising numerous clients on structuring international investments or investment claims (details confidential).

GrandRiverEnterprises vUSA

<http://www.naftaclaims.com/Disputes/USA/GrandRiver/GRE-USA-Award-Merits.pdf>

This was a North American Free Trade Agreement arbitration, which raised questions relating to international investments. Maurice has given expert evidence in this case, which involves issues concerning public international law and international arbitration.

He has published widely in the field, and is Consultant Moderator (formerly Moderator-in-Chief) of OGEMID, the world's leading electronic listserv on international investment law and arbitration.

Commercial

Maurice Mendelson QC has wide expertise in the areas of commercial law that involve public international law. Much of the work he has done which is listed under the "public international law" section has had commercial aspects, whether in the areas of State immunity, international arbitration, or even much of the work he has done in the area of human rights - amongst many other branches of his practice. He is a member of COMBAR, and Consultant Moderator (formerly Moderator-in-Chief) of OGEMID, the world's leading electronic listserv on international investment law and arbitration.

Public Law & Human Rights

Maurice Mendelson QC originally practiced widely in most areas of public law and civil rights, as well as teaching it at Oxford and London Universities. However, his main speciality is public international law, and currently his involvement in public law is almost exclusively concerned with the areas where it overlaps with public international law. This concerns not only human rights, where he has *inter alia* appeared before the European Court of Human Rights, but also such matters as assisting in the drafting of domestic constitutional provisions (abroad as well as in the UK), questions of self-determination, matters related to accession to the European Union, etc.

His most recent appearance in the European Court of Human Rights (September 2011) was in the inter-State case, Case 38263/08 *Georgia v Russian Federation (II)*, *European Court of Human Rights* [2011] ECHR 2175 in which Maurice is counsel for the respondent. Grand Chamber hearings pending.

Koivusaari & others v Finland, European Court of Human Rights, case no. 20690/06 Admissibility decision: Article 1, 1st Protocol and Article 6 case concerning salvage rights etc. to a historic wreck. Maurice appeared for the unsuccessful applicants.

Other Relevant Experience:

- Member, Editorial Advisory Board, *British Year Book of International Law*.
- Member, Editorial Board, *Current Legal Problems* 1991-94.
- Chairman (formerly Rapporteur), International Law Association International Committee on Formation of Customary (General) International Law, 1985-2000.
- Chairman, International Law Association Study Group on The Use of Domestic Law Principles for the Development of International Law (2012-date).
- Member, International Law Association, International Committee on Aspects of State Succession, 1998-2008.
- Member, International Law Association, International Committee on the Exclusive Economic Zone, 1983-92.

Membership of professional bodies, learned societies etc:

- International Law Association (Council, British Branch)
- American Law Institute
- Société française de droit international
- London Court of International Arbitration
- British Institute of International and Comparative Law (International Law Advisory Panel)
- Fellow of the Royal Geographical Society
- Royal Institute of International Affairs
- American Society of International Law
- International Bar Association
- Investment Treaty Forum

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- Commercial Bar Association
- European Circuit

Past academic posts:

- Chair of International Law, University College, London University 1987 - September 2001 (now Emeritus).
- University Lecturer in Law (C.U.F.), Oxford University 1975 - 1986.
- Official Fellow and Tutor in Law, St. John's College, Oxford, 1975 - 1986 (Senior Dean 1985).
- Lecturer in Laws, King's College, London University, 1968 - 74.

Visiting posts:

- Visiting Professor of International Law, University of Paris X (Nanterre), 2002-3.
- Freehills, Hollingdale & Page Fellow and Visiting Professor of International Law, University of New South Wales, 1999.
- Visiting Professor of International Law, Institut des Hautes Etudes Internationales, Paris, 1993.
- Visiting Professor of International Law, University of Paris II (Panthéon - Assas), 1993.
- Visiting Professor of International Law, University of Pennsylvania, 1986.
- Visiting Professor, University of North Carolina, Chapel Hill, Law School, 1982.
- Visiting Scholar, Harvard Law School, 1977.

Universities & Institutions at which Guest Lectures, guest papers etc. given, include:

- Academy of International Law, The Hague
- American Society of International Law
- University of California, Berkeley, Law School
- University of Catania
- Charles University, Prague
- Coinvertír, Colombia (members of Congress, etc.)
- Council of Europe
- Czech Society of International Law
- European University Institute
- University of Florence
- Harvard Law School
- Institute of State & Law, Soviet Academy of Sciences
- International Chamber of Commerce, Institute of International Business Law & Practice
- Judge Advocate General School, Charlottesville, Va.
- Los Andes University, Bogotá, Colombia
- New York Law School
- New York University Law School
- University of N. Carolina, Chapel Hill, Law School
- University of Paris I (Panthéon - Sorbonne)
- University of Pisa

- University of Siena
- Stanford University Law School
- University of Texas Law School
- University of Virginia Law School
- Yale Law School

Decorations, prizes, scholarships:

- Officier de l'Ordre de la Valeur, Republic of Cameroon
- UK Association for European Law prize 1982
- Fulbright Visiting Scholar (Harvard Law School), 1977
- Kennedy Law Scholar, Lincoln's Inn, 1970-73
- Leverhulme European Scholar (Institut Universitaire des Hautes Etudes Internationales, Geneva) 1966-7
- European Law Fund Scholar (Hague Academy of International Law) 1966
- UN International Law Commission seminar scholarship 1966

Articles, etc.:

1. "Reservations to the Constitutions of International Organisations", 1971 British Year Book of International Law, 137.
2. "European Magna Carta?", "New Society", 26 Aug. 1971.
3. "Diminutive States in the United Nations", 21 International & Comparative Law Quarterly (1972), 609.
4. "Assessment of Undergraduate Performance", 21 Jl. of the Society of Public Teachers of Law, 314.
5. "Interim Measures of Protection in Cases of Contested Jurisdiction", 1972-73 British Year Book of International Law, 259.
6. "Assessment of Law Students' Performance", in Council of Europe, Proceedings of the 3rd European Conference of Law Faculties, 17-19 April 1974, 85.
7. "The Present Legal Regime of the North Sea: International Law", in Sibthorp (ed.), *The North Sea: Challenge and Opportunity* (1975), Chap. IV.
8. (with E. Wilmshurst) "The Present Legal Regime of the North Sea: National Law", *ibid.*, Chap. V.
9. "International Law" in Annual Survey of Commonwealth Law, 1976, Chap. 13.
10. Annual articles on International Law in *The Annual Register*, 1978-84.
11. "The Legal Character of General Assembly Resolutions" in Hossain (ed.), *Legal Aspects of the New International Economic Order* (1980), Chap. 4.
12. "The European Court of Justice and Human Rights", 1 Year Book of European Law (1981), 125.
13. Report for Secretary-General of Council of Europe: "The Impact of European Community Law on the European Convention on Human Rights" (translated into French as "L'incidence du droit Communautaire sur la mise en oeuvre de la Convention Européenne des Droits de l'Homme"), Council of Europe Human Rights File No. 6, 1984 (also published in 3 Year Book of European Law (1983), 99).
14. "The Flux and Reflux of the Law of the Sea", 5 Oxford Journal of Legal Studies (1985) 285.

15. "The Valuation of Nationalized Shares in International Law: Two French Cases", 34 *International and Comparative Law Quarterly* (1985), 284.
16. "Compensation for Expropriation: the Case-Law" 79 *American Journal of International Law* (1985) 414 & 1041.
17. "Interim Measures of Protection and the Use of Force by States" in Cassese (ed) *The Use of Force in the International Community: Current Developments* (1986).
18. "The United Kingdom Nationalization Cases and the European Convention on Human Rights", 57 *British Yearbook of International Law* (1986), 33-77.
19. "Disentangling Treaty and Customary International Law", 1987 *Proceedings of the American Society of International Law*, 160.
20. Review Article on Lillich (ed.) *The Valuation of Nationalized Property in International Law*, Volume IV. 27 *Virginia Journal of International Law* (1987), 935-943.
21. "Fragmentation of the Law of the Sea", 12 *Marine Policy* (1988), 192-200.
22. 1st and 2nd Reports of the Rapporteur (with appendices on "Formation of International Law & the Observational Standpoint" and on terminology and concepts used in relation to the formation of customary international law) in *International Law Association, 63rd Conference (Warsaw 1988), 1st Interim Report of the International Committee on the Formation of Rules of Customary (General) International Law*, 935 & 941.
23. "The Nicaragua Case and Customary International Law", 26 *Coexistence* (1989), 85-99. Also in Butler (ed.), *The Non-Use of Force in International Law* (1989), 85. Also translated into Russian as "Delo Nikaragua i obychnoe mezhdunarodnoe pravo" in Danilenko & Ushakov (eds.), *Mezhdunarodnoe pravo: sovetskii i angliiskii podkhody* (1989).
24. "Practice, Propaganda and Principle in International Law" (Inaugural Lecture), 42 *Current Legal Problems* (1989), 1.
25. "Are Treaties Merely a Source of Obligation?" in Butler (ed.) *Perestroika and International Law* (1990), 81.
26. "State Acts and Omissions as Explicit or Implicit Claims" in *Le droit international au service de la paix, de la justice et du développement: Mélanges en honneur de Michel Virally* (1991), 373.
27. (with S.C. Hulton) "La revendication par l'Irak de la souveraineté sur le Koweït", 36 *Annuaire français de droit international* (1990), 195-227.
28. (with S.C. Hulton) "The Iraq-Kuwait Boundary: Legal Aspects", 1991 *Revue Belge de Droit International* 293.
29. 3rd Interim Report of the Rapporteur, *International Law Association Proceedings of the 63rd Conference* (1992), 935, 941.
30. "In Memoriam Georg Schwarzenberger", 63 *British Year Book of International Law* (1992), xxii-xxvi.
31. "Legal Aspects of the Iraqi Sovereignty and Boundary Dispute with Kuwait" in Schofield & Schofield (eds.), *World Boundaries, vol.2: The Middle East & North Africa* (1994), 142-57.
32. (with S.C. Hulton) "Iraq's Claim to Sovereignty over Kuwait" in Schofield (ed.), *Territorial Foundations of the Gulf States* (1994), 117-52.
33. (with S.C. Hulton) "The Iraq-Kuwait Boundary", 64 *British Year Book of International Law*, (1993) 135-95.

34. (with S.C. Hulton) "Les décisions de la Commission des Nations Unies sur la démarcation de la frontière entre l'Iraq et le Koweït", 1993 *Annuaire français de droit international*, 178-231.
35. "Principios que rigen los BITs y sus tendencias internacionales" in COINVERTIR (ed.) *Políticas de inversión extranjera*, (1995), 90.
36. "The International Court of Justice and the Sources of International Law" in Fitzmaurice & Lowe (eds.), *50 Years of the International Court of Justice: Essays in Honour of Sir Robert Jennings* (1996), 63-89.
37. "Opinio Juris Sive Necessitatis" in *Contemporary International Law Issues: Conflicts and Convergence Proceedings of 3rd Joint American & Netherlands Societies of International Law Conference*, 1995 (25-31).
38. "Self-Determination in Kashmir" 1996 *Indian Journal of International Law*, 1-33.
39. "The Subjective Element in Customary International Law" 66 *British Year Book of International Law* (1995), 177-208.
40. "The Formation of Customary International Law", 272 *Hague Academy of International Law, Collected Courses* (1998), 155-410.
41. "International Law in the Past Half Century - and the Next?" 50 *Current Legal Problems* (1997), 421-41.
42. "The Application of International Legal Concepts of Sovereignty in the Arabian Context", 3 *Geopolitics* (1998) 133-38.
43. "The Practitioner in Domestic Law" in Wickremasinghe (ed.), *The International Lawyer as Practitioner* (2000), 165-84.
44. International Law Association, International Committee on the Formation of Customary (General) International Law, *Final Report of the Committee, including London Statement of Principles relating to the Formation of General Customary International Law*, in International Law Association, *Report of 69th Conference* (2000), 712-777: also on internet at www.ila-hq.org.
45. "The Curious Case of Qatar v Bahrain in the International Court of Justice", 72 *British Year Book of International Law* (2001), 183-211.
46. "On the Quasi-Normative Effect of Maritime Boundary Agreements" in *Liber Amicorum for Judge Shigeru Oda* (2002), 1069-86.
47. "State Responsibility for Breach of Interim Protection Orders of the International Court of Justice" in Fitzmaurice & Sarooshi (eds.), *State Responsibility & the International Court of Justice* (2004), 35-53.
48. "The Effect of Customary International Law on Domestic Law: An Overview", 4 *Non-State Actors and International Law* (2004), 75-85.
49. "The Definition of 'International Organization' in the International Law Commission's Current Project on the Responsibility of International Organizations" in Ragazzi (ed.), *Essays in Memoriam Oscar Schachter* (2005), 371-89.
50. "The Cameroon-Nigeria case in the International Court of Justice: Some Territorial Sovereignty and Boundary Delimitation Issues", 75 *British Year Book of International Law* (2004), 223-47.
51. "Does the *Loewen* Award Endanger the Credibility of the NAFTA Dispute Settlement Mechanism?" 6 *Journal of World Investment & Trade* (2005), 84-87.
52. "The Runaway Train: The 'Continuous Nationality Rule' from the *Panevezys-Saldustiskis Railway Case* to *Loewen*", in Weiler (ed.), *International Investment Law and Arbitration: Leading Cases from the NAFTA, ICSID, Bilateral Treaties and Customary International Law* (2005), 97-149.

53. "Recognition of Referendum Results" in Elezovic (ed.), *Legal Aspects for [sic] Referendum in Montenegro in the Context of International Law and Practice* (2005), 103=111.
54. "United Nations Conferences on the Law of the Sea: UNCLOS I (1958) and II (1960)", in *Oxford Encyclopedia of Maritime History* (2007), vol. 4, 237-46.
55. Comment on [Schwebel] "May preparatory Work be Used to correct Rather than confirm the 'clear' meaning of a Treaty Provision?", 2 *Transnational Dispute Management* (Nov. 2005), www.transnational-dispute-management.com.
56. "What laws are companies currently bound to? What changes have been proposed and what are the likely developments?", 2 *Oil, Gas and Energy Law Intelligence (OGEL) Journal* (2005), www.ogel.org.
57. "Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v Bahrain)" in *Max Planck Encyclopaedia of International Law* (2nd ed., www.mpepil.com).
58. "Right of Passage over Indian Territory Case" in *Max Planck Encyclopaedia of International Law* (2nd ed., www.mpepil.com).
59. "Customary International Law" in Cane & Conaghan (eds.), *The New Oxford Companion to Law* (2008), 291-93.
60. "International Dispute Settlement: Developments and Challenges", 61 *Revue hellénique de droit international* (2008), 463-75.
61. "In Memoriam Sir Francis Vallat, GBE, KCMG, QC (1912-2008)", 79 *British Year Book of International Law* (2008), 3-6.
62. "Double Counting and the Origin of *Lucrum Cessans*: Introductory Comments" 41-45, in Bjorklund, Laird & Ripinsky (eds), 3 *Investment Treaty Law: Current Issues* (2009), 41-45.
63. "Investment and BITs in Clinical Isolation? Conflicting Legal Obligations of Host States", 24/2 *ICSID Review* (2009), 82-87.
64. "Issues Relating to the Identity of the Investor" in *5th Annual Fordham Law School Conference on International Arbitration and Mediation 2010* 22-32.
65. Panel discussion: 'Arbitration as a growth industry: where will the growth come from - the BRICs and other emerging economies? Is it a case for supply-side economics?' *15th Geneva Global Arbitration Forum* (2010) - in the press.
66. "Sir Francis Vallat, GBE, KCMG, QC", in *Dictionary of National Biography*.
67. (With M. Paparinskis) 'Bail-Ins and the International Investment Law of Expropriation: in and Beyond Cyprus', *Butterworths Journal of International Banking and Financial Law* (Sept. 2013), 475-79.
68. 'The Importance of Instructions', in *Essays in Honour of Michael Schneider* (in the press).

Reviews (inter alia):

- American Journal of International Law
- British Year Book of International Law
- European Law Review
- International & Comparative Law Quarterly
- ICSID Review
- International Affairs
- Law Quarterly Review
- Lloyd's Maritime & Commercial Law Quarterly

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- Modern Law Review
- Marine Pollution Bulletin
- Times Higher Education Supplement

Broadcasts:

For TV & radio, in UK and abroad, on various aspects of International Law.

Doctoral Thesis:

Acquisition of Membership in Selected International Organizations (Oxford University, 1971).

Other Information:

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