

Carlos Jimenez Piernas (ed.) ***The Legal Practice in International Law and European Community Law – A Spanish Perspective***. The Hague: Brill Academic Publishers, 2006. Pp. 690. \$189.00. ISBN: 9789004154261.

## 1 Introduction

This article reviews the book edited by Professor Carlos Jiménez Piernas entitled *The Legal Practice in International Law and European Community Law – A Spanish Perspective*. As the editor points out in his prologue, this publication is an updated and revised English edition of a volume published in 2003 in Spanish.<sup>1</sup> The new publication retains the Spanish edition's general structure of five substantive parts, plus indexes, which deal with legal practice before International Tribunals in International Organizations and in the European Union, national legal practice in international law, as well as with some legal tools for international lawyers, in particular to determine evidence of state practice and concerning sources of knowledge of international law on the internet. The title of the book is suggestive and confusing at the same time. It is suggestive in that it apparently deals with a topic which is seldom addressed in the literature on international law, i.e., 'legal practice'. Indeed, the book covers innovative topics which, in the near future, may become very relevant both for states and international organizations, as well as individuals and private companies.

The confusing aspect of this title is its subtitle, '*A Spanish Perspective*'. This means either that the authors of the contributions are Spanish, and thus offer their 'Spanish' perspective on the topics covered, or that the actual contents of the different contributions focus primarily on 'Spanish practice'. On looking through the summary of this book we find a few authors

<sup>1</sup> *Iniciación a la práctica en Derecho internacional y Derecho comunitario europeo* (2003).

who are certainly not ‘Spanish’, even though they have close ties with that country. Furthermore, many contributions do not address ‘Spanish practice’ proper, whereas other contributions indeed present topics from this point of view. This odd mix has been pointed out already by others who have reviewed this book;<sup>2</sup> however, it should be underlined that it would be difficult to offer a genuinely ‘Spanish perspective’ on all aspects of international activity. The present work is a compromise between the two options, and indeed a thorough reading of this 689-page book allows us to discover real jewels of legal writing and professional legal experience. This review will comment on two major aspects: first, we will offer an overview of the present practice of ‘Spanish’ international lawyers, and, secondly, we will comment on ‘international legal practice’ itself. With regard to this ‘international legal practice’ it is important to note that it is referred to in this book in two different senses. First, it refers to the legal exercise – or practice – in international law, which presently is carried out by lawyers before a wide array of international tribunals or in international conferences or organizations. This type of ‘legal practice’ in a broad sense differs from ‘state practice’, understood as the ‘legally relevant repetition of a given conduct by the subjects of the international system’,<sup>3</sup> i.e., states. This practice is a specific category of practice which has to comply with a number of elements, in particular its legal relevance and repetition, in order to be considered ‘unequivocal’ in proving the existence of an international legal rule.

## 2 Spanish International Lawyers

Practising international law is also ‘*in*’ in Spain. During the last 30 years Spanish lawyers have discovered the international side of law. Many

have even professionally specialized in this field, and over the years they have been able to build up competitive law firms whose activities span the world. The fact that Spain has very close cultural, economic, and legal ties with Latin American countries has certainly aided this international expansion of Spanish law firms. Jointly with some others, firms like Garrigues Walker, Uría Menéndez and Gómez-Acebo & Pombo are among the most important firms worldwide. Mr. Fernando Pombo, who co-founded the Madrid-based firm Gómez-Acebo & Pombo, currently holds the Presidency of the International Bar Association (2007–2008).

Most of their litigation, though, is related to private and commercial law matters. Traditionally, disputes under Public International Law, be it in the field of International Economic Law or Human Rights Law, have seldom been the object of professional litigation by Spanish lawyers. The *Barcelona Traction* case may be considered an early exception. In 1958 Belgium submitted an application to the ICJ in the exercise of its right to diplomatic protection for Belgian shareholders of a Canadian company. The Belgian shareholders claimed that they had suffered losses in running the Spanish-registered Barcelona Traction Light & Power Company due to the intervention of the Spanish authorities. Even though this was, to a great extent, a case of Public International Law, Spain defended its position mainly through the intervention before the Court of lawyers specializing in commercial, civil, procedural, administrative, and even constitutional law. Apparently, at that stage, neither the Government nor the Spanish company which directly benefited from the shutdown of Barcelona Traction, FECSA, had much faith in the professionalism of their own international lawyers: thus, for the presentation of oral arguments they chose to hire foreign lawyers specializing in Public International Law, with the exception of two (Antonio de Luna and José María Trías de Bes).<sup>4</sup>

<sup>2</sup> See the book review published in *LII AFDI* (2006) 873.

<sup>3</sup> See Jiménez Piernas, ‘The International Practice and the Evidence (A Brief Guide for Young Lawyers)’, in this book at 612.

<sup>4</sup> For a full account of this case see Remiro Brotóns, ‘The International Legal Consultancy of Governments from the Outside’, in this book at 489, in particular 513–514.

Since then, things have changed considerably. Spanish lawyers do not only advise the Spanish Administration in its legal dealings before the ICJ, as, for example, in the two recent cases before the Court in which Spain was involved, as the claimant in the case against Canada<sup>5</sup> and as respondent in the case submitted by the Federal Republic of Yugoslavia.<sup>6</sup> Today Spanish lawyers more and more frequently advise foreign governments, in particular those of Latin American countries.<sup>7</sup> Thanks to this trend, most of the contributors to this book have gained thorough experience in international legal practice involving governments. It should be pointed out that this book includes one of the last writings of the highly regarded Spanish professor and lawyer Julio D. González Campos, who sadly died on 20 November 2007, shortly after this book

was published. He was among the first Spanish international lawyers to appear before the ICJ. He participated on behalf of Spain in the mid-1970s in the advisory proceedings before the Court regarding the status of Western Sahara.<sup>8</sup>

Most recently, Spanish lawyers have also taken part in international arbitration proceedings between states, although the book does not cover this topic. As in many of the contentious cases before the ICJ and in arbitral proceedings for the delimitation of international boundaries in Latin American countries, their knowledge and understanding of the historical, political, and cultural background, as well as easier access to the archives located and managed in Spain, may have facilitated this presence.<sup>9</sup> It should also be underlined that Spain has very experienced and qualified lawyers, Juan A. Carrillo Salcedo, Santiago Torres Bernárdez, José Manuel Laclata Muñoz, and José A. Pastor Ridruejo, on the list of arbitrators at the Permanent Court of Arbitration, and they have become attractive choices for other countries.<sup>10</sup>

The fact that there is already a substantive group of lawyers specializing in Public International Law does not mean that a 'Spanish

<sup>5</sup> See *Fisheries Jurisdiction (Spain v. Canada)*, *Jurisdiction of the Court, Judgment*, [1998] ICJ Rep 432. In this case, Spain was legally represented by a team composed of José Antonio Pastor Ridruejo, Aurelio Pérez Giralda, Pierre-Marie Dupuy, Keith Highet, Antonio Remiro Brotons, and Luis Ignacio Sánchez Rodríguez.

<sup>6</sup> See the Application instituting Proceedings filed in the Registry of the ICJ on 29 April 1999, in *Legality of Use of Force (Yugoslavia v. Spain)*, 1999, General List No. 112.

<sup>7</sup> For a complete account of Spanish lawyers of Public International Law in cases before the ICJ, see Sánchez Rodríguez and López Martín, 'The Travails of Poor Countries in Gaining Access to the International Court of Justice', in this book at 81, in particular 95–96. In the last two cases between Latin American countries where a judgment has already been delivered, there appeared as Counsel and Advocates the Spanish professors Carlos Jiménez Piernas, Antonio Remiro Brotons, and Luis Ignacio Sánchez Rodríguez. Santiago Torres Bernárdez appeared as judge *ad hoc*. See *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras)*, *Judgment*, [2003] ICJ Rep 392; and the *Case concerning territorial and maritime dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, *Judgment of 8 October 2007*, available at: [www.icj-cij.org](http://www.icj-cij.org).

<sup>8</sup> He wrote reports on this issue, and participated in the oral hearing before the Court in 1975; see ICJ, *Mémoires. Sahara occidental*, vol. v, at 78.

<sup>9</sup> This can clearly be seen in *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (El Salvador v. Honduras)*, *Judgment*, [2003] ICJ Rep 392. One of the core arguments in this case was the issue of interpretation of a historic diary and a chart of an expedition through the disputed areas. Whereas the original material was located in the Maritime Museum of Madrid, a 'new' copy of this material was discovered in the Ayer Collection of the Newberry Library in Chicago. This gave rise to a request for revision of the original judgment of the Court, thus requiring a thorough interpretation of the two copies.

<sup>10</sup> See the list of members of the Permanent Court of Arbitration updated as 17 Jan. 2008, available at: [www.pca-cpa.org/upload/files/MC%2020080117.pdf](http://www.pca-cpa.org/upload/files/MC%2020080117.pdf).

international law circle' has been established, as in other countries such as France or the United Kingdom.<sup>11</sup> Their lawyers have rather excelled thanks to their individual commitment and occasional participation in different types of international cases. Indeed, it is not even common in Spain for public international lawyers to integrate or otherwise enter into partnerships with (international) law firms. Usually they undertake individual research and teach at public universities in Spain.

It can be noted with satisfaction that this book clearly refrains from a recalcitrant 'nationalism' – which would contradict the international spirit of this publication – by incorporating non-Spanish authors, like Alfred de Zayas, and even non-Hispanic authors, like Philippe Couvreur (ICJ), Stanley Neismith<sup>12</sup> (ECHR), and Björn Arp (even though he works in Spain). In any case, the apparent inconsistency reflected in the title is fully compensated by the quality of the contributions on the more general topic covered by this book: legal practice.

### 3 Spanish International Legal Practice

Since the 1990s, new international jurisdictions have been added to the 'classic' international courts, the International Court of Justice and the Permanent Court of Arbitration, which fall into the realm of public international law, and which call for qualified legal advice for the parties involved in the proceedings. Many of these courts offer some sort of legal standing to private parties, even though the defendant is a state authority. This rather new phenomenon explains a

shift from the traditional legal setting of 'diplomatic protection' – as in the *Barcelona Tractition* case – to much more sophisticated legal remedies for persons who have directly and individually suffered a violation of a right protected under public international law. This book tries to present the most important of these mechanisms. Those which have been selected are doubly relevant to the book: they offer a 'Spanish' perspective because Spanish cases have been brought before these mechanisms. We will comment now on the most relevant aspects of this contemporary practice.

#### *A Practice before International Tribunals*

Under the heading of legal practice before international tribunals, there are contributions on the International Court of Justice (ICJ), the European Court of Human Rights (ECHR), the International Criminal Court (ICC), and arbitration at the International Centre for the Settlement of Investment Disputes (ICSID). There is also a chapter on the Human Rights Committee (HRC) in the part on practice in International Organizations. One may ask whether it would have been wiser to incorporate this chapter in the part on international tribunals. In recent years, the HRC has come very close to being an international tribunal, except of course for the legal effects of its 'Views'. It should be pointed out that there are even some examples of state practice which seem to recognize non-compliance with the Committee's Views as contrary to good faith.<sup>13</sup>

<sup>11</sup> See on these 'circles' Sánchez Rodríguez and López Martín, 'The Travails of Poor Countries in Gaining Access to the International Court of Justice', in this book at 81.

<sup>12</sup> It ought to be said that he merely helped in the English translation of the Spanish original drafted by Santiago Quesada.

<sup>13</sup> This might be implied by the following statement of Austria: 'Austria regarded the Committee's views on communications from individuals ... as non-binding opinions, and did not think its obligations under the Covenant extended to acting in accordance with those views. It did, however, believe that such views should be taken duly into account', see UN Doc CCPR/ &C/ SR.1719 (4 Apr. 1998), at para. 22. See further on this B. Arp, *Las minorías nacionales y su protección en Europa* (2008), at 232.

Practice before international tribunals can be very tedious and technical, but for a lawyer it is essential to master every detail of an international procedure. The ability to properly request provisional measures, to produce and present evidence, to manage incidental and other special proceedings, and to appeal the decisions of tribunals are the tools which may allow a lawyer to 'win' a case, even if the substantive claim does not succeed. Some of the legal remedies presented here are very recent in their generalized application. The ICSID arbitration procedure deserves particular attention. In the book under review, a former high-ranking World Bank official of Spanish origin, Andrés Rigo Sureda, explains the *Wena Hotels Limited v. Egypt* case.<sup>14</sup> This case is very instructive, since it involves almost every procedural remedy available to an investor whose rights have been violated by the country in which he invested, as well as to the host state. The author unveils some very useful tips for any lawyer wishing to set up a successful procedural strategy. In any case, it should be pointed out that there exists a 'Spanish' practice. Spain was respondent in an international investment arbitration in *E. A. Mafezzini v. Spain*,<sup>15</sup> and on several occasions Spanish companies have been parties to proceedings against foreign countries, most recently in a number of cases against Argentina. Between September 2006 and 15 April 2008, ICSID was even headed by the former Spanish Foreign Minister, Ana Palacio, until she had to resign in the wake of Paul Wolfowitz's anticipated resignation from the World Bank Presidency. Whilst Spanish arbitral practice does not yet merit a comprehensive study, the editor of this volume included a study of Spanish practice with respect to bilateral investment treaties, most of which include a reference to arbitration (including ICSID arbitration) for the settlement of disputes.<sup>16</sup> But due to the more substantive

content of this contribution, it appears in Part Four of the book, on the national legal practice in international law.

It is a shame that the present book does not include any contribution on dispute settlement in the WTO. Spain has not directly participated as a party in any of these proceedings because of the EU's competence in this field, but they certainly affect Spain as an EU Member State. Furthermore, Spanish lawyers regularly take part in these proceedings.

While three contributions in the part on International Tribunals, strictly speaking, concern procedural issues, the others combine procedural with substantive considerations. Clearly, all these chapters focus on what each contributor considers the most relevant or the most exemplary aspect of each mechanism. Only the contribution by Santiago Quesada Polo and Stanley Naismith comprises a complete account of the cases brought against Spain since its recognition of the right of individual petition to the ECHR on 1 July 1981.<sup>17</sup> As the authors themselves admit, the Spanish practice before this court is still relatively insignificant.<sup>18</sup> The figures presented here are proof of the 'international shyness' of many Spanish lawyers, and clearly justify the need for a book like the present one, which is intended to motivate lawyers to get more involved in international litigation.

## B Practice before International Organizations

Over the years, several types of legal action before International Organizations have developed; these are directly accessible to lawyers. In particular in the field of human rights, the United Nations Human Rights Commission, and more recently the Human Rights Council, offer various complaint procedures against member states for violations

<sup>14</sup> ICSID Case No ARB/98/4.

<sup>15</sup> ICSID Case No ARB/97/7.

<sup>16</sup> See García Rodríguez, 'Spanish Practice on Investment Treaties', in this book at 567.

<sup>17</sup> See Quesada Polo and Naismith, 'Survey of Applications against Spain Lodged with the ECHR', in this book at 103.

<sup>18</sup> *Ibid.*, at 109.

of human rights. However, the practice is much broader than that described in the book under review. In the United Nations and its specialized agencies there is ample room for international lawyers to intervene and practise, for example, through the individual complaint procedures before ILO and UNESCO.<sup>19</sup>

The four contributions (Part Three of the book) on legal practice in the EU are particularly interesting. In the first two contributions the reader gains a very ‘practical’ insight into the complex world of the procedures before the European Court of Justice (ECJ). These might be rated as too technical, yet an understanding of the ECJ procedures is essential in order to follow the argument advanced in the third contribution. In this chapter, a former judge at the ECJ and the Spanish Constitutional Court, Professor Manuel Díez de Velasco Vallejo, makes a challenging comparison between the two tribunals and points out why they both fulfil genuinely constitutional functions.<sup>20</sup> This is certainly an innovative perspective since not many authors have analysed the ECJ from a constitutional and procedural stance. Indeed, the two Courts have essentially the same characteristics. Both have supremacy in the interpretation of EC and national law, respectively. Furthermore, both have a genuinely ‘constitutional’ character. Some politicians, and eventually also lawyers, have argued in favour of the administrative nature of the ECJ. It is only since the Amsterdam and Nice European Councils in 1997

and 2000 that the view that the Court fulfils essentially constitutional functions has been consolidated.<sup>21</sup>

### C *National Legal Practice in International Law*

Part Four also contains a stimulating selection of contributions. Apart from the voluminous literature on the technique and strategies of negotiation, not much has been written about the *métier* of the national legal adviser in international law. It is noteworthy that in 1991 the *European Journal of International Law* published a symposium on the work of legal advisers, with contributions on role of legal advisers in the United States, France, Switzerland, and Great Britain.<sup>22</sup> Since then, the *Journal* has not again addressed this important topic in a dedicated manner. Apart from that *EJIL* issue and some minor works,<sup>23</sup> only a collection of essays published by the United

<sup>19</sup> In the field of human rights the procedural possibilities are broad, and it is understandable that in a book like the present one not every mechanism can be addressed. More specialized literature would be necessary, such as the book by G. Alfredsson *et al.* (eds), *International Human Rights Monitoring Mechanisms, Essays in Honor of Jakob Th. Müller* (2001).

<sup>20</sup> Díez de Velasco Vallejo, ‘The Court of Justice of the European Communities and the Spanish Constitutional Court – a Comparison’, in this book at 397.

<sup>21</sup> *Ibid.*, at 399. Nevertheless, it should be said that there have been handbooks which declared that constitutional character, in conjunction and ranking equally with the administrative character. See for instance G. Isaac, *Droit communautaire général* (1999); we cite the Spanish translation by Germán-Luis Ramos Ruano, G. Isaac, *Manual de derecho comunitario general*, 2nd edn., 1992, at 316–317. The German handbook by Bleckmann also seems to characterize the ECJ as a court of constitutional character, even though with relevant technical differences which prevent constitutional procedural principles being used to fill eventual gaps in the ECJ procedure. See A. Bleckmann, *Europarecht* (1997), at 348–349.

<sup>22</sup> See the following articles: Schwebel, ‘Remarks on the Role of the Legal Advisor of the US State Department’, 2 *EJIL* (1991) 132; Guillaume, ‘Droit international et action diplomatique. Le cas de la France’, 2 *EJIL* (1991) 136; Krafft, ‘L’attitude de la Suisse à l’égard du droit international’, 2 *EJIL* (1991) 148; and Watts, ‘International Law and International Relations: United Kingdom Practice’, 2 *EJIL* (1991) 157.

<sup>23</sup> Hans Corell keeps up a website with the few publications and articles about this topic. See [www.un.org/law/counsel/litlist.htm](http://www.un.org/law/counsel/litlist.htm).

Nations in 1999 is worth mentioning.<sup>24</sup> The present contributions cover – now really! – a genuinely Spanish perspective on the advisory work of governments from the inside (as in-house Legal Adviser of the Ministry of Foreign Affairs) and from the outside (as external consultant for the same Ministry). Some accounts are very personal and relate to the way in which Spain prepares its legal position with respect to a number of topics, for instance in the negotiation of a treaty, the formulation of the declaration of acceptance of the ICJ's jurisdiction, or the submission of an oral pleading before that court. It is certainly a positive sign that lawyers in Spain can now recount their experiences in this field, which for so long was subject to secrecy and lack of transparent decision-making procedures. This more open approach to international legal and political practice is also reflected in other contexts.

While reading this part of the book, 'Spanish practice' in the field of universal jurisdiction immediately comes to mind. Several cases have been brought before Spanish domestic courts relating to human rights abuses committed abroad. The legal basis for this practice is Article 23.4 of the 1985 Organic Law of Judicial Power, which provides for universal jurisdiction in genocide, terrorism, and offences which Spain has a duty to prosecute as a treaty obligation. The most famous case in which this Article was invoked may be the *Pinochet* case, although this issue has really become the object of legal practice since the case of *Rigoberta Menchú and others v. Rios Montt and others* (the 'Maya Genocide Case'). This case shows the tension which had arisen between criminal courts, in particular the Central Court for Criminal Prosecution (*Audiencia Nacional*), which pushed for a more restrictive interpretation of the universal jurisdiction principle based on the 'connecting

factor doctrine',<sup>25</sup> and the Constitutional Court, which undertook a literal interpretation of Article 23.4 and thus applied a broad concept of this principle.<sup>26</sup> Spain has made a unique contribution to international legal practice in this area, and it is unfortunate that it has not been addressed in this book.<sup>27</sup>

The development of national policy plans on internationally relevant topics, such as national human rights plans, certainly contributes to more effective legal work by practitioners in the international field, particularly diplomatic representatives. These plans outline action to be followed by state representatives. In Spain there has been considerable debate about the national human rights plan, and at present this plan seems close to being adopted as a political guideline.<sup>28</sup> The same applies

<sup>25</sup> See the decision of the Spanish Supreme Court of 25 Feb. 2003, [2003] Aranzadi Repertorio de Jurisprudencia 2147.

<sup>26</sup> See the decision of the Spanish Constitutional Court of 26 Sept. 2005, in the cases for constitutional protection (*recurso de amparo*) Nos 1744/2003, 1755/2003 and 1773/2003, available at: [www.tribunalconstitucional.es](http://www.tribunalconstitucional.es).

<sup>27</sup> The contribution by Pastor Ridruejo and Pastor Palomar, 'Public International Law before Spanish Domestic Courts', in this book at 521, deals only in general with how international norms are incorporated into the Spanish legal order. On the topic of universal jurisdiction see Ferrer Lloret, 'Impunity in Cases of Serious Human Rights Violations: Argentina and Chile', III *Spanish Yearbook of International Law* (1993–1994) 3, in particular at 20–29; *id.*, 'El Principio de Jurisdicción Universal: su aplicación en España', V *Cursos de Derechos Humanos de Donostia-San Sebastián* (2004) 108; and *id.*, 'Alcance y límites del principio de jurisdicción universal en la jurisprudencia española más reciente', in Huesa Vinaixa (ed.), *Derechos humanos, responsabilidad internacional y seguridad colectiva: intersección de sistemas* (2007), at 193.

<sup>24</sup> See United Nations, Office of Legal Affairs, *Collection of Essays by Legal Advisers of State, Legal Advisers of International Organizations and Practitioners in the Field of International Law* (1999).

<sup>28</sup> See the lecture by the Spanish Prime Minister, J. L. Rodríguez-Zapatero, 'In Spain's Interest: A Committed Foreign Policy', held in Madrid at the Real Instituto Elcano on 2 July 2008, available at: [www.realinstitutoelcano.org](http://www.realinstitutoelcano.org).

to Spain's 2005 Law of National Defence,<sup>29</sup> which requires Parliament's authorization for any military mission to be sent abroad. These examples are simply intended to show that in Spain there is increasing concern about transparent and regulated action in international relations, which facilitates international lawyers' work, be it in public or private law.

### D From 'Practice' to 'Evidence' of International Law

Finally, Part Five of the volume offers two chapters which aim to analyse some of the international lawyer's tools. As has already been recognized by the Société Française pour le Droit International in similar terms,<sup>30</sup> evidence of state practice – and with it access to practice and the appraisal of that practice – is among the greatest challenges and difficulties in this legal field due to its heterogeneity, multiformity, and multifunctionality. 'Practice', here, refers to legally relevant acts of states (or international organizations), which express a conduct and an *opinio iuris* and which bind those states, or prevent them from being bound by norms developed without their agreement. It is possible that the 'practice' of certain international lawyers, while representing their states, constitutes legally relevant state practice, but certainly not all state practice is the result of the practice of international lawyers.

The editor of the book, Professor Carlos Jiménez Piernas, addresses this topic.<sup>31</sup> In doing so, he draws on his experience in cases before the ICJ. His background in academia as well as in practice enables him to present a well-documented and correctly argued contribution on how to gain knowledge about the norms of public international law,

a topic on which he has been writing since 1993.<sup>32</sup> This study is very closely based on the pattern of reasoning of the ICJ, although the same or very similar comments could have been made regarding the practice of many other international tribunals which must apply public international law. In insisting so vehemently upon the need for international lawyers to address real international practice, and to analyse it in the light of the consent of the state, he obviously follows a markedly consensual approach to international law. As he sees it, '[l]egal work in international law is inconceivable in isolation from routine day-to-day analysis of *international practice*, which is essential for a well-founded, non-deductive defense of the parties' positions in a dispute or lawsuit'. He not only justifies the work of international courts, but also the need for this book, because 'to do otherwise would be to indulge in slipshod legal metaphysics, certainly unsupported by the jurisprudence of international courts and tribunals and fatal for the interest of any client'.<sup>33</sup> Here we see that this chapter is relevant to all international lawyers, and not just 'young' ones, as he modestly states in the title of this chapter.

The second chapter in this Part, and the book's final chapter, deals with access to sources of international practice through the internet. It would indeed have been difficult to offer a purely Spanish perspective on this topic; so the author, Björn Arp, rather writes about access to sources of international law in general. The author observes that Spanish sources on the internet remain scarce and incomplete,

<sup>29</sup> Organic Law 5/2005, of 17 Nov. 2005, on National Defence.

<sup>30</sup> See Société Française pour le Droit International, *Colloque de Genève: La pratique et le droit international* (2004).

<sup>31</sup> See Jiménez Piernas, 'The International Practice and the Evidence (A Brief Guide for Young Lawyers)', in this book at 601.

<sup>32</sup> See Jiménez Piernas, 'Reflexiones sobre el método del Derecho Internacional Público', in M. Pérez González et al. (eds), *Hacia un nuevo orden internacional y europeo. Estudios en homenaje al Profesor Don Manuel Díez de Velasco* (1993), at 377. This first approach was further developed in his small monograph, *El método del Derecho Internacional Público: una aproximación sistémica y transdisciplinar* (1995).

<sup>33</sup> See Jiménez Piernas, 'The International Practice and the Evidence (A Brief Guide for Young Lawyers)', this book, at 622.



though he is optimistic that this will change in the near future.<sup>34</sup> Several projects are underway to digitize archives, and their outcomes will hopefully soon be appreciable. Furthermore, this study clearly shows the importance of technological development to states. Whilst the internet is an excellent resource for the study of the legal practice of virtually all states, the reality is that serious inequalities exist in terms of access to computer and data management technologies throughout the world. To offer a definite answer to the question of the relationship between these two trends may not be possible, and distinctions need to be made between different regions of the world. Yet it is undeniable that computer technology and the internet offer vast possibilities for all international lawyers in their work.

## 4 Conclusions

This book, as I am sure its editor would himself say, is 'manifestly improvable'. Yet it is a first step in the right direction. Indeed, it is a first step towards a very difficult field of legal practice. International law has opened up only very recently to direct litigation by private parties against states or international organizations. Furthermore, only very recently has the complexity of contemporary international law meant that Foreign Ministries and Chancelleries have opened their doors in search of qualified legal advice. This development has taken place in Spain and in many other European countries. The experiences, tips, and explanations offered in this volume provide a welcome and timely contribution to the literature.

### *Individual Contributions*

*Carlos Jiménez Piernas*, Introduction;  
*Philippe Couvreur*, The Registrar of the International Court of Justice: Status and Functions;

*Santiago Torres Bernárdez*, Presentation from the Standpoint of Spanish Law, on the Legal Process Available to Parties in the Contentious Procedure of the International Court of Justice;

*Luis Ignacio Sánchez Rodríguez* and *Ana Gemma López Martín*, The Travails of Poor Countries in Gaining Access to the International Court of Justice;

*Santiago Quesada Polo* and *Stanley Naismith*, Survey of Applications against Spain Lodged with the European Court of Human Rights;

*Héctor Olasolo*, International Criminal Court and International Tribunals: Substantive and Procedural Aspects;

*Andrés Rigo Sureda*, Introduction to Investor-State Arbitration. A Case study: *Wena Hotels Limited (Wena) v. Arab Republic of Egypt*;

*Gregorio Garzón Clariana*, The Work of the Legal Adviser of International Organizations, with Special Reference to the European Union;

*Alfred M. de Zayas*, The Procedures and Case-Law of the United Nations Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights;

*Carlos Villán Durán*, The UN Commission on Human Rights' Machinery for the Protection of Human Rights;

*Gil Carlos Rodríguez Iglesias* and *Fernando Castillo de la Torre*, The Procedure before the Court of Justice of the European Communities;

*Alejandro del Valle Gálvez* and *Miguel A. Acosta Sánchez*, References for Preliminary Rulings and their Procedure before the Court of Justice of the European Communities;

*Manuel Díez de Velasco Vallejo*, The Court of Justice of the European Communities and the Spanish Constitutional Court – a Comparison;

*Francisco Fonseca Morillo*, The Decision-Making Process in the European Union;

*Aurelio Pérez Giralda*, Advising Governments from the Inside: the Legal Adviser of the Ministry of Foreign Affairs;

<sup>34</sup> See Arp, 'Navigare Necesses Est: Internet for European and International Lawyers', in this book at 623.

*Antonio Remiro Brotóns*, International Legal Consultancy of Governments from the Outside;

*José Antonio Pastor Ridruejo* and *Antonio Pastor Palomar*, Public International Law before Spanish Domestic Courts;

*Julio González Campos*, Spanish Constitutional Court Practice on Private International Law;

*Isabel García Rodríguez*, Spanish Practice on Investment Treaties;

*Carlos Jiménez Piernas* *Carlos Jiménez Piernas*, The International Practice and the Evidence (A Brief Guide for Young Lawyers);

*Björn Arp*, *Navigare Necesses Est: Internet for European and International Lawyers.*

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