

*Philippe Sands QC\**



I first came across Ivan through his work on the law of the sea, and in particular his edition of DP O’Connell’s *The International Law of the Sea*,<sup>1</sup> which I appreciated for the clarity of structure and lightness of touch, in not imposing upon the reader an inflexible interpretation of legal text. From this work I sensed an openness of spirit, a view confirmed by James Crawford, his pupil and friend.

We got to know each other better in October 2013, travelling around the Bay of Bengal. Ivan had been appointed a member of the *United Nations Convention on the Law of the Sea* (‘UNCLOS’) Arbitral Tribunal in the maritime boundary dispute between Bangladesh and India,<sup>2</sup> and enthusiastically supported the idea of a site visit, which involved travelling by car, coach, helicopter, plane, boat and hovercraft. His enthusiasm was infectious, not least when we stopped off at the military airport at Jessore, prompting recollections of his time with the Royal Australian Air Force, and the delights of a military lodging. His attention to detail — both legal and factual — was pronounced, as was his commitment to collegiality amongst his colleagues and two opposing sets of counsel. The trip would have been memorable under any conditions, but Ivan’s presence added a particular sense of warmth and occasional irreverence.

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<sup>1</sup> DP O’Connell, *The International Law of the Sea*, ed IA Shearer (Oxford University Press, 1982–84) vol 1.

<sup>2</sup> *Bay of Bengal Maritime Boundary (Bangladesh v India) (Award)* (UNCLOS Arbitral Tribunal, 7 July 2014).

He was an attentive and punctilious arbitrator. You always had the sense of openness and absolute independence and integrity, with no prejudgment of any issue. His ability to inspire a general sense of satisfaction amongst counsel meant that he was a logical choice to preside at another *UNCLOS* Arbitral Tribunal, established to resolve a dispute between Mauritius and the United Kingdom over the latter's purported creation of a marine protected area.<sup>3</sup>

Once again, Ivan's diligence and collegiality went a long way in contributing to a memorable case, not least the two-week hearing held in the basement of the legendary Pera Palas Hotel in Istanbul (a location settled on by the parties, with the eager support of the Tribunal, for being neither in Africa nor Europe), in May 2014. The residence in the hotel of both parties and their counsel, as well as the members of the Tribunal and secretariat, made breakfast and early morning visits to the gym (for some, although I never saw Ivan in that particular room) especially delicate, in the best of ways.

Ivan was a wonderful presiding arbitrator. Fair and balanced, open-minded and acute, firm yet with humour, he was actively engaged in bringing the best out of both parties. Indeed, he presided over one of the finest long moments I have ever had the privilege to witness in an international courtroom: a three-way exchange between counsel James Crawford SC and arbitrators Christopher Greenwood and Rüdiger Wolfrum centred on the precise moment — if any — at which the right to self-determination crystallised into a rule of international law.<sup>4</sup> It was one of those times when everyone present understood the joy and privilege of being an international lawyer. Somehow, I have the feeling that Ivan played a crucial role in allowing that to happen, the lightness of his presiding touch coupled with a recognition of the vitality and significance of the point being debated.

We last saw each other last year, when I visited Adelaide for the first time. Ivan was keen for me to see the sights, an area he truly loved, and offered to take me on what he described as a 'short driving tour'. Six and a half hours of road and food later — starting at the Law School, followed by strudel in Hahndorf, coffee on the ocean, dinner at a vineyard restaurant — he was as full of energy and talk as when we started out.

It was a joy to know Ivan. From him I learned much about international law, the joys of life and the meaning of collegiality.

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<sup>3</sup> *Chagos Marine Protected Area (Mauritius v United Kingdom) (Award)* (UNCLOS Arbitral Tribunal, 18 March 2015).

<sup>4</sup> Transcript of Proceedings, *Chagos Marine Protected Area (Mauritius v United Kingdom)* (UNCLOS Arbitral Tribunal, PCA Reference MU-UK, Professor Shearer, Sir Greenwood QC, Judge Hoffmann, Judge Kateka and Judge Wolfrum, 5 May 2014) 980–5 <<https://pcacases.com/web/send/Attach/1578>>. The International Court of Justice recently endorsed the submissions of James Crawford, to the effect that the right to self-determination had crystallised as a rule of customary international law by 1965: *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Advisory Opinion)* (International Court of Justice, General List No 169, 25 February 2019) [161].