

Kluwer Arbitration Blog

James Crawford, International Law Academic, Practitioner, and Judge, 1948-2021

Thomas D. Grant (Lauterpacht Centre for International Law in the University of Cambridge) · Thursday, July 15th, 2021

James Crawford was the pre-eminent international lawyer of his generation. Throughout his career as arbitrator, judge, advocate, and counsellor he defied so-called “realists” who, when they addressed international law, often claimed there is no such thing.

Crawford was born in Adelaide, South Australia in 1948 and made his career at the intersection of academia and practice. By the 1990s, he had established a worldwide reputation as an advocate and adviser on thorny questions of public international law, mostly involving sovereign-to-sovereign disputes. Then came the great boom in international investment arbitration, which inextricably involves treaties, because it is under investment treaties that most arbitrations between investors and countries take place. Reading a treaty, as Crawford would tell students, is in many ways just like reading any other legal instrument—a contract, a trust, a bequest—but not quite. And adjudicating and arbitrating when a government is a party is somewhat like any other forensic process a lawyer engages in—but, again, not quite. Crawford honed his skills on high-profile disputes like *Nauru v. Australia*, representing the claimant against his home country; and the *East Timor* case, where he worked for Australia. These and other such cases prepared him well to play a leading role in the practice of investment arbitration during the heady days of its rise to prominence as a distinct field.

Regularly sought-after for *ad hoc* engagements when a firm needed the best in the field to boost its capacity on a particular case or problem, Crawford remained a sole practitioner, latterly at Matrix Chambers in London, until the UN elected him a judge of the ICJ—the International Court of Justice—for a nine-year term starting in 2015. The ICJ is sometimes confused with various other tribunals that sit in the Hague, but it would be no mistake, if one mentioned Crawford in connection with any number of them: he practiced in front of practically every international dispute settlement organ in existence; he led the drafting of the Rome Statute that governs the International Criminal Court. He advised the Crown Prince of Jordan on the Israel-Jordan Peace Treaty, the King of Bahrain on that country’s maritime dispute over an oilfield with Qatar, and the government of the King of Thailand in a dispute with Cambodia. Chile, Colombia, Costa Rica, Romania, Greece, and the United Kingdom numbered among some his other sovereign clients.

Crawford taught his students at Cambridge that one best be a *national* lawyer first: that is how one gets to *international* law. Crawford was an Australian lawyer first. Early in his career, he served on the Australian Law Reform Commission, where, from 1982 to 1984, he did pathbreaking work on

aboriginal customary law and laid the groundwork for Australia's Foreign State Immunities Act of 1985 and Admiralty Act of 1988, both, with amendments, still in force. And, yet, when asked to do a job in another country's courts, for example, to prepare an *amicus* brief in a United States federal court, he brought to bear his keen intellect and unflagging energy to match or better long-time practitioners in the jurisdiction on its own procedural quirks and substantive law.

When he represented Chevron against Ecuador, he formulated the bold strategy of requesting that the international tribunal grant a worldwide injunction against the enforcement of any future judgment by the Ecuadoran courts against the company. While anti-suit injunctions and the like are more common today, his was a novel request before a treaty-based tribunal that was bound to respect the rights of the sovereign party to the case. The tribunal granted his request, which protected the company when parties tried to "transport" internal Ecuadoran judgments to other countries.

He deftly led the UN International Law Commission in 2001 to break a four-decade stalemate and finalize its articles on State responsibility.

From a generation of generalists in a field increasingly subdivided into specialties, Crawford taught, practiced with, and inspired lawyers in every part of the world and every specialty. His influence as a pragmatic, text-based jurist is likely to endure.

Crawford enjoyed cricket and was a keen collector and drinker of wine from his native South Australia. Writing was his self-declared calling, and his writing was superlative in practically every form of the art. On one occasion, after we'd finished drafting a boundary crossing treaty, he helped us both to a glass of wine as he reflected that every lawyer should be so lucky at some point in his career to have drafted each of three kinds of instruments: a contract, a trust—and a treaty.

James Richard Crawford AC SC FBA, Judge of the International Court of Justice. Born, Adelaide, South Australia, 14 November 1948; died, the Hague, the Netherlands, 31 May 2021. Elected Judge of the International Court of Justice, November 2014. Whewell Professor of International Law, University of Cambridge, 1992 to 2014. Member, UN International Law Commission, 1992 to 2002. Dean of the Sydney Law School, 1990-1992; Challis Professor of International Law, Sydney Law School, 1986 to 1992. University of Adelaide lecturer in international law, 1977-1983, personal chair 1983-1986. Member, Australian Law Reform Commission, 1982 to 1984.

Thomas D. Grant completed his Ph.D. at Cambridge in 1999, under James Crawford's supervision, and served as Crawford's principal associate from 2002 to 2013. Grant is a Senior Fellow of the Lauterpacht Centre for International Law at Cambridge and practices international law having previously served as Senior Advisor for Strategic Planning in the Bureau of International Security and Nonproliferation in the U.S. Department of State and having been a U.S. designee to the Permanent Court of Arbitration.

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