Karel Wellens

Question Time at the ICJ in Contentious Cases

A Functional Analysis of the Practice





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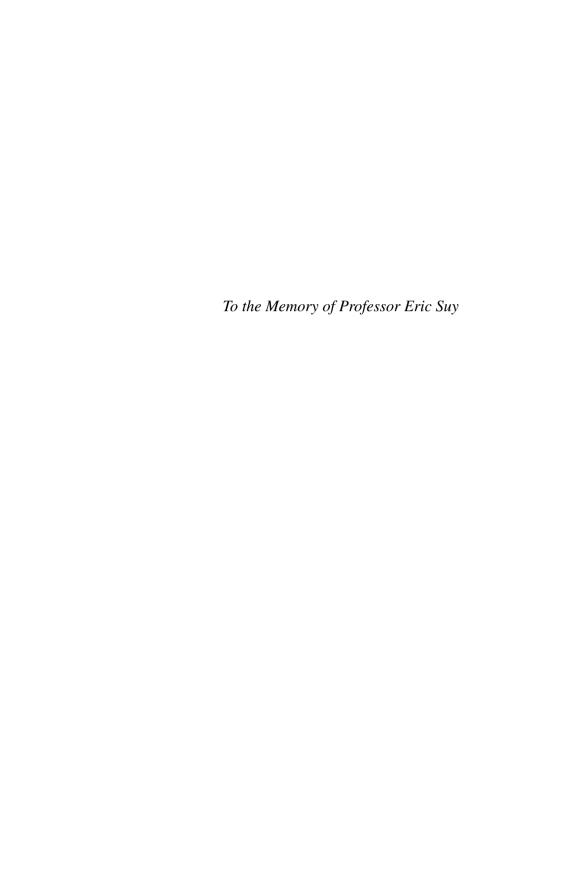
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Preface

The idea for this book was born when I was reading the Court's Judgment of 1 December 2020 in the *Arbitral Award of 3 October 1899 case between Guyana and Venezuela*. The Court not only recalled and cited a question by Judge Bennouna and part of the reply given, but, in its reasoning, engaged with the issue raised. Judge Bennouna's engagement with the issue was decisive for his dissent.

Intrigued by the way the Court and the Judge operated, I embarked upon an empirical survey of the practice of questioning from the Bench and a qualitative analysis of judicial engagement as it appears in subsequent reasoning.

The functional interaction between questioning, replying and judicial reasoning turned out to be important, but has so far not been the subject of an in-depth, comprehensive monograph.

Scholars and practitioners studying and involved with the Court's daily functioning will find the book useful and interesting.

A special vote of thanks goes to Charo Huesa Vinaixa and Mariano Javier Aznar Gomez—both also visiting fellows at the Lauterpacht Centre for International Law, a quarter of a century ago—and of course to Pierre Michel Eisemann and Malcolm Shaw: their continuous friendship and support has been a source of inspiration throughout this journey.

My sincere thanks go also to the team of Asser Press: Frank Bakker, publisher, who in the spring of 2022 kindly accepted my book proposal, and to Ms. Kiki van Gurp, production coordinator. Their cooperation, support, professionalism and understanding has been tireless and invaluable.

Last but not least I would like to thank my wife Chris for her love, patience, and tolerance during these years: without her I would not have been able to write this book.

My 12-year-old grandson, Sam, intermittently, has been successful in making me leave my study.

Kalmthout, Belgium 28 January 2025

Karel Wellens

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Abbreviations

BIICL British Institute of International and Comparative Law

CAT Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment

CERD International Convention on the Elimination of All Forms of Racial

Discrimination

CLCS Commission on the Limits of the Continental Shelf

CR Verbatim Records

DRC Democratic Republic of the Congo EEC European Economic Community

EEZ Exclusive Economic Zone

EIA Environmental Impact Assessment FCN Friendship Commerce and Navigation

FRG Federal Republic of Germany
FRY Federal Republic of Yugoslavia
ICC International Criminal Court
ICJ International Court of Justice

ICRW International Convention for the Regulation of Whaling

IGN French Institut géographique national

ILA International Law Association IWC International Whaling Commission

JARPA Japanese Whale Research Program under Special Permit in the

Antarctic

MFN Most Favoured Nation NCD Nuclear Disarmament

NEDECO Netherlands Engineering Consultants

NZ New Zealand

PCIJ Permanent Court of International Justice

POW Prisoner of War SA South Africa SC Security Council SWA South West Africa xvi Abbreviations

UAE United Arab Emirates
UK United Kingdom
UN United Nations

UNCLOS United Nations Convention on the Law of the Sea

UNGA United Nations General Assembly UNSG United Nations Secretary-General

US United States