Customary International Law in Times of Fundamental Change
Recognizing Grotian Moments
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Customary International Law

Conventional view:
Widespread state practice and *opinio juris*.
Slow crystallization that takes many decades
Re-Crystalized Jem Stones
Grotian Moments

A context of fundamental change that serves as an accelerant, often involving a GA Resolution or Tribunal decision.
Why call it “Grotian Moments”? 
ICTY Appeals Chamber Tadic Decision
The Legality of Unilateral Humanitarian Intervention

Vietnam invasion of Cambodia in 1978-1979

Tanzania invasion of Uganda in 1978-1979
1999 NATO’s 78-day bombing campaign
“Unlawful but legitimate”
A Global Controversy
The U.S. Invasion of Iraq

Security Council constriction of R2P
The Syrian people are slaughtered. Where is the world?
Targeted killing/kidnapping of non-State actors who pose a terrorist threat.
Al-Qaeda suspect seized

US forces struck on the streets of the Libyan capital, ending a 15-year manhunt

- Abu Anas al-Libi was on the FBI's most wanted list
  Age: 49

- He was sought for his role in the 1998 bombings of US embassies in Kenya and Tanzania

The raid took place in broad daylight on Saturday
DRC v. Rwanda (2006)
Tipping point or paradigm shift?
Undemocratic?