
Contents

- About the Author [xv](#)
- Preface to the Third Edition [xvii](#)
- Preface to the Second Edition [xxiii](#)
- Preface to the First Edition [xxvii](#)

PART ONE | DELIMITATION OF THE TASK

- 1. *International Law in a Policy-Oriented Perspective* [3](#)
 - Myths and Realities about International Law [4](#)
 - Inadequacies of Traditional Approaches to International Law [11](#)
 - The Policy-Oriented Approach of the New Haven School [14](#)

PART TWO | PARTICIPANTS

- 2. *Nation-States* [25](#)
 - Statehood [25](#)
 - The Principle of Self-Determination [31](#)
 - External Self-Determination in Practice: The Cases of Québec and Kosovo [35](#)
 - Self-Determination and World Order [37](#)
 - The Theory and Practice of Recognition [40](#)
 - Problems of Self-Determination and Recognition in Practice: The Evolution of Taiwan Statehood [46](#)
- 3. *International Governmental Organizations* [61](#)
 - The U.N. System [62](#)
 - International Organizations as Subjects of International Law [65](#)
 - The United Nations and World Order [70](#)

4. *Nongovernmental Organizations and Associations* 77

Political Parties 77

Nongovernmental Organizations 79

Private Associations 85

5. *The Individual* 91

PART THREE | PERSPECTIVES

6. *Minimum World Order and Optimum World Order* 101

Common Humanity and Diverse Identifications and Expectations 103

Contending Systems of World Order 104

Differing Perspectives Today 108

Religion and World Order 108

China and World Order 111

Third World Approaches to International Law (TWAAIL) 114

People and Human Security at the Center of World Order 116

PART FOUR | ARENAS

7. *Establishment of and Access to Arenas of Authority* 123

Establishment 124

Access 126

Compulsory Third-Party Decision Making 132

International Court of Justice (ICJ) 132

Ad Hoc Arbitral Tribunals 137

Dispute Settlement under the Convention on the Law of the Sea 138

Dispute Settlement in the World Trade Organization (WTO) 140

Investor-State Dispute Resolution 141

PART FIVE | BASES OF POWER

8. *Control over Territory* 149

9. *Control and Use of the Sea* 161

Basic Community Policy 162

Trends in Decision and Conditioning Factors 164

Internal Waters 167

The Territorial Sea 167

International Straits 169

Archipelagos 171

The Contiguous Zone 171

The Exclusive Economic Zone 172

The Continental Shelf 174

- High Seas 176
- The Area 178
- The 1994 Agreement 180
- Dispute Settlement under the 1982 Convention 181
 - Law of the Sea Claims 182
- Appraisal 183

- 10. *Control and Use of Other Resources* 189
 - International Rivers 189
 - Airspace 192
 - Outer Space 194
 - Polar Regions 198
 - The Global Environment 202
 - Toward Global Cooperation on Climate Change 206

- 11. *Control of People: Nationality and Movement* 211
 - Basic Community Policy 212
 - Trends in Decision and Conditioning Factors 213
 - Control of Community Membership via Nationality 214
 - Conferment of Nationality 214
 - Withdrawal of Nationality 217
 - Statelessness 222
 - Multiple Nationality 225
 - Control of Movement of People 227
 - Competence to Admit, Exclude, and Expel vs. Individual Demands to Enter, Stay, and Leave 227
 - Asylum 231
 - Extradition 233
 - Terrorism 236
- Appraisal 237

- 12. *Protection of People: From Alien Rights to Human Rights* 241
 - The Remedy of Diplomatic Protection 241
 - Standard for the Treatment of Aliens 244
 - The Contemporary Global Human Rights Movement 246
 - A Developing Global Bill of Human Rights 247
 - Conjunction of Human Rights and State Responsibility 259
 - Universality of Human Rights vs. Cultural Relativism 263
 - The Evolving Notion of Popular Sovereignty: From State Sovereignty to the Responsibility to Protect 264

13. *Vertical Allocation of Authority* 269

- Domestic Jurisdiction vs. International Concern 270
- Expanding International Concern in a Globalized World 272
- Limits on Domestic Jurisdiction 274

14. *Horizontal Allocation of Authority* 277

- The Principle of Territoriality 281
- The Principle of Nationality 281
- The Principle of Impact Territoriality 282
- The Principle of Passive Personality 283
- The Principle of Universality 284
- Sovereign Immunity 287
- The Act of State Doctrine 290
- Toward a Test of Reasonableness 294

PART SIX | STRATEGIES

15. *The Diplomatic Instrument* 301

- Diplomatic and Consular Privileges and Immunities 302
- Diplomatic Asylum 306
- Coercive Use of the Diplomatic Instrument 307
- Diplomatic Sanctions 308
- Consular Protection of Nationals Abroad and the Intersection of Domestic and International Law 310

16. *International Agreements* 317

- Basic Community Policy 320
- Trends in Decision and Conditioning Factors 320
 - The Process of Commitment 321
 - Competence 322
 - Adoption and Authentication of the Text 323
 - Consent to Be Bound 323
 - Reservation 324
 - Registration 325
 - Lack of Genuine Commitment (Grounds for Invalidity) 326
- The Process of Performance 328
 - Pacta Sunt Servanda* 328
 - The Task of Interpretation 328
 - Interparty Application 331
 - Effects on Third Parties 332
- The Process of Change and Termination 332
 - Amendment and Modification 333

Withdrawal, Denunciation, Suspension, and Termination 334
 The Relation between International Agreements and U.S. Constitutional
 Law 336

17. *The Ideological Instrument* 343

Constructive Use 343
 Coercive Use 344
 Basic Community Policy 346
 Trends in Decision and Conditioning Factors 347
 The Drive toward a New World Information and Communication Order 349
 Toward a Global Information Society in the New Era of Globalization 354
 Appraisal 357

18. *The Economic Instrument* 361

Economic Coercion 362
 Economic Sanctions 363
 The Struggle toward a New International Economic Order 369
 Toward Human Development in the New Era of Globalization 373
 Appraisal 375

19. *The Military Instrument* 377

Basic Community Policy of Peaceful Change 378
 Self-Defense 379
 Self-Help 384
 Humanitarian Intervention 388
 From the Law of War to International Humanitarian Law 392

PART SEVEN | OUTCOMES

20. *The Intelligence Function* 403

21. *The Promoting Function* 415

22. *The Prescribing (Lawmaking) Function* 423

The Process of Prescription 424
 International Agreement 426
 Customary International Law 426
 The Prescribing Role of International Governmental Organizations 431
 The Role of the U.N. General Assembly 432
 Appraisal 435

23. *The Invoking Function* 439

24. *The Applying Function* 447

Exploration of Facts 449

Recourse to Direct Negotiations 449

Third-Party Decision Making 450

Recourse to International Governmental Organizations (Especially the United Nations) 452

Recourse to Unilateral Measures of Self-Help 454

Toward Effective Management of Sanctioning Measures to Optimize Sanctioning Goals 455

25. *The Terminating Function* 461

26. *The Appraising Function* 469

PART EIGHT | EFFECTS

27. *Succession of States* 481

Basic Community Policy 482

Trends in Decision and Conditioning Factors 483

International Agreements 484

Membership in International Governmental Organizations 488

Nationality 490

State Property 492

State Debts 494

State Archives 494

28. *Responsibility of States* 497

Basic Community Policy 499

Trends in Decision and Conditioning Factors 499

What Act or Omission: An Internationally Wrongful Act 500

By Whom: The Concept of State Action—Imputability or Attributability 501

Standard of Conduct 502

Justifiable Defenses 504

Procedure for Remedy 504

Types of Remedy Available 506

29. *Individual Criminal Responsibility* 509

International Criminal Law Prior to World War I 510

The Frustration of Attempts to Impose Individual Criminal Accountability in the Wake of World War I 511

Nuremberg and Its Legacy 513

Examples from the Cold War Era 516

Post–Cold War: Establishment of Ad Hoc Tribunals	517
The International Criminal Court (ICC)	520
Key Features of the ICC	521
Offenses Recognized	521
Complementary Jurisdiction	522
Personal Jurisdiction	523
Significant Procedural Mechanisms	523
The ICC’s Progress Since 2002	525
Appraisal	529

PART NINE | PROSPECTS

30. <i>Toward a World Community of Human Dignity</i>	535
Historical Development	535
Achievements and Failures in the Pursuit of Public Order Goals	538
Conditions Affecting World Order	542
Projections of Future World Order	545
Alternatives for a World Order of Human Dignity: A Grand Strategy of Simultaneity and Total Mobilization	546

BIBLIOGRAPHY 553

TABLE OF SELECT TREATIES 597

INDEX 615