

CONTENTS

| | |
|--|--------|
| <i>Preface</i> | xv |
| <i>New in this edition</i> | xvii |
| <i>Table of treaties and other international instruments</i> | xviii |
| <i>Table of legislation</i> | xxxii |
| <i>Table of cases</i> | xxxvi |
| <i>Abbreviations</i> | lxvii |
| <i>Glossary</i> | lxxxii |

PART I PRELIMINARY TOPICS

| | |
|---|-----|
| 1 INTRODUCTION | 3 |
| 1. Development of the Law of Nations | 3 |
| 2. International Law as Law | 6 |
| 3. The Reality and Trajectory of International Law | 12 |
| 2 THE SOURCES OF INTERNATIONAL LAW | 18 |
| 1. Introduction | 18 |
| 2. The Statute of the International Court of Justice | 19 |
| 3. International Custom | 21 |
| 4. Treaties | 28 |
| 5. General Principles of Law | 31 |
| 6. Judicial Decisions | 35 |
| 7. Other Material Sources | 39 |
| 8. Other Considerations Applicable in Judicial Reasoning | 41 |
| 9. Conclusion | 44 |
| 3 THE RELATIONS OF INTERNATIONAL AND NATIONAL LAW | 45 |
| 1. Theoretical Approaches | 45 |
| 2. Relations of International and National Law: An Overview | 48 |
| 3. International Law in the Common Law Tradition | 58 |
| 4. International Law in the Civil Law Tradition | 80 |
| 5. Conclusion | 101 |

PART II PERSONALITY AND RECOGNITION

| | | |
|----------|---|------------|
| 4 | SUBJECTS OF INTERNATIONAL LAW | 105 |
| 1. | Introduction | 105 |
| 2. | Established Legal Persons | 106 |
| 3. | Special Types of Personality | 111 |
| 4. | Conclusion | 115 |
| 5 | CREATION AND INCIDENCE OF STATEHOOD | 117 |
| 1. | Introduction | 117 |
| 2. | The Criteria for Statehood | 118 |
| 3. | Some Issues of Statehood | 126 |
| 4. | Achieving Independence: Secession and Self-Determination | 130 |
| 5. | Identity and Continuity of States | 132 |
| 6. | Conclusion | 133 |
| 6 | RECOGNITION OF STATES AND GOVERNMENTS | 134 |
| 1. | Recognition as a General Category | 134 |
| 2. | Recognition of States | 135 |
| 3. | Recognition of Governments | 141 |
| 4. | Collective Non-Recognition and Sanctions | 145 |
| 5. | Issues of Recognition Before National Courts | 147 |
| 6. | Conclusion | 155 |
| 7 | INTERNATIONAL ORGANIZATIONS | 156 |
| 1. | Introduction | 156 |
| 2. | Legal Personality | 156 |
| 3. | Privileges and Immunities | 161 |
| 4. | Performance of Acts in The Law | 168 |
| 5. | Interpretation of the Constituent Instrument | 173 |
| 6. | Relations of International Organizations | 178 |
| 7. | Law-Making Through Organizations | 181 |
| 8. | Control of Acts of Organizations | 185 |
| 9. | Conclusion: The Rule of Law and International Organizations | 187 |

PART III TERRITORIAL SOVEREIGNTY

| | | |
|-----------|---|------------|
| 8 | FORMS OF GOVERNMENTAL AUTHORITY OVER TERRITORY | 191 |
| 1. | The Concept of Territory | 191 |
| 2. | Key Terms and Distinctions | 192 |
| 3. | Territorial Administration Separated From State Sovereignty | 194 |
| 4. | Restrictions on Disposition of Territory | 198 |
| 5. | Conclusion | 200 |
| 9 | ACQUISITION AND TRANSFER OF TERRITORIAL SOVEREIGNTY | 203 |
| 1. | Introduction | 203 |
| 2. | Determining Title | 204 |
| 3. | The 'Modes' of Acquisition | 208 |
| 4. | Displacement of Title | 217 |
| 5. | Extent of Sovereignty: Territorial Disputes | 223 |
| 6. | Territorial Sovereignty and Peremptory Norms | 228 |
| 7. | Conclusion | 230 |
| 10 | STATUS OF TERRITORY: FURTHER PROBLEMS | 231 |
| 1. | International Procedures of Territorial Disposition | 231 |
| 2. | Sovereignty Displaced or in Abeyance | 235 |

PART IV LAW OF THE SEA

| | | |
|-----------|---|------------|
| 11 | THE TERRITORIAL SEA AND OTHER MARITIME ZONES | 241 |
| 1. | The Territorial Sea | 241 |
| 2. | The Contiguous Zone | 250 |
| 3. | The Continental Shelf | 254 |
| 4. | The Exclusive Economic Zone/Fisheries Zone | 259 |
| 5. | Other Zones for Special Purposes | 265 |
| 6. | Conclusion | 266 |
| 12 | MARITIME DELIMITATION AND ASSOCIATED QUESTIONS | 267 |
| 1. | Introduction | 267 |
| 2. | The Distinction Between Entitlement and Delimitation | 269 |

| | |
|--|------------|
| 3. Delimitation by Agreement | 270 |
| 4. Territorial Sea Delimitation | 271 |
| 5. Continental Shelf Delimitation | 271 |
| 6. Exclusive Economic Zone Delimitation | 277 |
| 7. The Effect of Islands Upon Delimitation | 278 |
| 8. Conclusion | 279 |
| 13 MARITIME TRANSIT AND THE REGIME OF THE HIGH SEAS | 280 |
| 1. Introduction | 280 |
| 2. Freedom of the High Seas | 281 |
| 3. Jurisdiction over Ships on the High Seas | 295 |
| 4. Regimes of Transit to and from the High Seas | 300 |
| 5. Regulation of High Seas Fisheries | 304 |
| 6. The Seabed and Ocean Floor Beyond the Limits of National Jurisdiction | 310 |
| 7. Conclusion | 314 |

PART V THE ENVIRONMENT AND NATURAL RESOURCES

| | |
|---|------------|
| 14 COMMON SPACES AND COOPERATION IN THE USE OF NATURAL RESOURCES | 317 |
| 1. Introduction | 317 |
| 2. Cooperation in the Generation and Use of Energy | 318 |
| 3. Transboundary Water Resources | 322 |
| 4. The Polar Regions | 329 |
| 5. Outer Space | 331 |
| 6. Conclusion | 335 |
| 15 LEGAL ASPECTS OF THE PROTECTION OF THE ENVIRONMENT | 336 |
| 1. The Role of International Law in Addressing Environmental Problems | 336 |
| 2. Emergent Legal Principles | 339 |
| 3. Development of Multilateral Standard-Setting Conventions | 345 |
| 4. Conclusion | 350 |

PART VI INTERNATIONAL TRANSACTIONS

| | |
|-------------------------------|------------|
| 16 THE LAW OF TREATIES | 353 |
| 1. Introduction | 353 |
| 2. Conclusion of Treaties | 356 |

| | |
|--|------------|
| 3. Reservations | 360 |
| 4. Observance, Application, and Interpretation of Treaties | 363 |
| 5. Amendment and Modification of Treaties | 371 |
| 6. Invalidity, Termination, and Suspension of Treaties | 372 |
| 7. Conclusion | 380 |
| 17 DIPLOMATIC AND CONSULAR RELATIONS | 381 |
| 1. Modalities of Interstate Relations | 381 |
| 2. General Legal Aspects of Diplomatic Relations | 382 |
| 3. Staff, Premises, and Facilities of Missions | 385 |
| 4. Inviolability of Missions | 387 |
| 5. Diplomatic Agents | 390 |
| 6. Other Matters | 396 |
| 7. Conclusion | 399 |
| 18 UNILATERAL ACTS, ACQUIESCENCE, AND ESTOPPEL | 401 |
| 1. Introduction | 401 |
| 2. Unilateral Acts | 402 |
| 3. Acquiescence | 405 |
| 4. Estoppel | 406 |
| 5. Conclusion | 408 |
| 19 SUCCESSION TO RIGHTS AND DUTIES | 409 |
| 1. Introduction and Overview | 409 |
| 2. The Forms of Territorial Change | 411 |
| 3. State Succession and Municipal Legal Relations | 414 |
| 4. State Succession: Fields of Operation | 423 |
| 5. Conclusion | 428 |
| <hr/> | |
| PART VII STATE JURISDICTION | |
| 20 SOVEREIGNTY AND EQUALITY OF STATES | 431 |
| 1. The Concept of Sovereignty | 431 |
| 2. Some Uses of 'Sovereignty' | 432 |
| 3. The Interaction of States with International Law | 434 |

| | |
|---|-----|
| 21 JURISDICTIONAL COMPETENCE | 440 |
| 1. Overview | 440 |
| 2. Prescriptive Jurisdiction over Crimes | 441 |
| 3. Civil Prescriptive Jurisdiction | 455 |
| 4. The Separateness of the Grounds of Jurisdiction | 460 |
| 5. Enforcement Jurisdiction | 462 |
| 6. Conclusion | 468 |
| 22 PRIVILEGES AND IMMUNITIES OF FOREIGN STATES | 470 |
| 1. Evolution of the International Law of Immunity | 470 |
| 2. The Modalities of Granting Immunity | 475 |
| 3. Attachment and Seizure in Execution | 487 |
| 4. Further Concerns and Issues | 489 |
| 5. Conclusion | 491 |
| <hr/> | |
| PART VIII NATIONALITY AND RELATED CONCEPTS | |
| 23 THE RELATIONS OF NATIONALITY | 495 |
| 1. Introduction | 495 |
| 2. The Effective Link Principle and <i>Nottebohm</i> | 499 |
| 3. The Application of Rules of International Law | 504 |
| 4. Conclusion: A Functional Approach to Nationality | 511 |
| 24 NATIONALITY OF CORPORATIONS AND ASSETS | 512 |
| 1. General Aspects | 512 |
| 2. Nationality of Corporations | 512 |
| 3. Nationality of Ships | 515 |
| 4. Other Rules of Allocation | 517 |
| 5. Conclusion | 520 |
| <hr/> | |
| PART IX THE LAW OF RESPONSIBILITY | |
| 25 THE CONDITIONS FOR INTERNATIONAL RESPONSIBILITY | 523 |
| 1. Configuring the Law of Responsibility | 523 |
| 2. The Basis and Character of State Responsibility | 524 |
| 3. Attribution to the State | 526 |
| 4. Breach of an International Obligation | 538 |

| | | |
|---|---|-----|
| 5. | Circumstances Precluding Wrongfulness | 546 |
| 6. | Conclusion | 550 |
| 26 | CONSEQUENCES OF AN INTERNATIONALLY WRONGFUL ACT | 552 |
| 1. | Introduction | 552 |
| 2. | Cessation, Reparation, Invocation | 553 |
| 3. | The Forms of Reparation | 555 |
| 4. | Invocation of Responsibility | 566 |
| 5. | Conclusion | 576 |
| 27 | MULTILATERAL PUBLIC ORDER AND ISSUES OF RESPONSIBILITY | 577 |
| 1. | The Varying Content of Illegality | 577 |
| 2. | Objective Consequences of Illegal Acts | 580 |
| 3. | Conclusion: An Emerging System of Multilateral Public Order? | 587 |
| <hr/> | | |
| PART X THE PROTECTION OF INDIVIDUALS AND GROUPS | | |
| 28 | THE INTERNATIONAL MINIMUM STANDARD: DIPLOMATIC PROTECTION AND PROTECTION OF INVESTMENTS | 591 |
| 1. | State and Individual: The Search for Standards | 591 |
| 2. | Admission, Expulsion, and Liabilities of Aliens | 592 |
| 3. | Requirements for and Standards of Diplomatic Protection | 595 |
| 4. | Breach and Annulment of State Contracts | 605 |
| 5. | Conclusion | 609 |
| 29 | INTERNATIONAL HUMAN RIGHTS | 610 |
| 1. | Introduction | 610 |
| 2. | Historical Perspectives | 611 |
| 3. | Sources of Human Rights Standards | 613 |
| 4. | Non-Discrimination and Collective Rights | 619 |
| 5. | Scope of Human Rights Standards: Some General Issues | 625 |
| 6. | Protection and Enforcement of Human Rights | 630 |
| 7. | Conclusion | 641 |
| 30 | INTERNATIONAL CRIMINAL JUSTICE | 645 |
| 1. | Introduction | 645 |
| 2. | Development of International Criminal Law and Institutions | 646 |

| | |
|--|-----|
| 3. International Criminal Courts and Tribunals | 648 |
| 4. International Criminal Justice in National Courts | 660 |
| 5. Conclusion | 663 |

PART XI DISPUTES

| | |
|---|------------|
| 31 THE CLAIMS PROCESS | 667 |
| 1. Jurisdiction and Admissibility Distinguished | 667 |
| 2. Interstate Claims: Prior Negotiations and the Requirement of a Dispute | 668 |
| 3. Interstate Claims: Grounds of Inadmissibility | 671 |
| 4. Diplomatic Protection | 675 |
| 5. Mixed Claims: Private Persons versus States | 688 |
| 6. Conclusion | 691 |
| | |
| 32 THIRD PARTY SETTLEMENT OF INTERNATIONAL DISPUTES | 692 |
| 1. Peaceful Settlement in General | 692 |
| 2. Development of International Dispute Settlement | 693 |
| 3. The International Court of Justice | 695 |
| 4. Other International Courts and Tribunals | 707 |
| 5. Conclusion | 716 |
| | |
| 33 USE OR THREAT OF FORCE BY STATES | 717 |
| 1. Historical Overview 1815–1945 | 717 |
| 2. The Charter Prohibition on Use or Threat of Force | 719 |
| 3. Authorizing the Use of Force: The Security Council | 731 |
| 4. Continuing Sources of Controversy under the Charter | 742 |
| 5. Conclusion | 748 |
| | |
| <i>Index</i> | 749 |