

# Detailed contents

<i>Legal tables</i>	xiii
Introduction	1
<b>1 The history of the <i>ius ad bellum</i></b>	<b>3</b>
I <i>Just war theory</i>	3
II <i>War as a sovereign right</i>	4
Henry Wheaton, <i>Elements of International Law (Stevens and Sons 1836/1904), excerpts from Chapter II</i>	5
Robert Phillimore, <i>Commentaries on International Law. Vol. I (T. &amp; J. W. Johnson 1854), CXLIV, CXLVI</i>	5
W. E. Hall, <i>Treatise on International Law (4th edn, Clarendon Press, 1895), pp. 57 and 297</i>	6
John Westlake, <i>International Law. Part I: Peace (Cambridge University Press 1904), pp. 298f, 305</i>	8
Lassa Oppenheim, <i>International Law: A Treatise. Vol. I: Peace (Longmans, Green, and Co. 1905), §§ 129f</i>	8
Lassa Oppenheim, <i>International Law: A Treatise. Vol. II: War (Longmans, Green, and Co. 1905), §§ 50, 53 and 54 et seq.</i>	9
III <i>The Hague Peace Conferences</i>	11
IV <i>The League of Nations and the inter-war period</i>	12
<i>The Covenant of the League of Nations, Articles 10–16</i>	12
<i>The 1928 Kellogg-Briand Pact</i>	15
V <i>The first decades of the UN Charter</i>	18
VI <i>From the “Liberal World Order” to great power politics</i>	19
<b>2 The prohibition of the threat or use of force</b>	<b>22</b>
I <i>Introduction</i>	22
A <i>Article 2(4) UN Charter</i>	22
B <i>The Friendly Relations Declaration</i>	23
C <i>The Helsinki Final Act</i>	29
II <i>Case law and Advisory Opinions</i>	36
A <i>The Nicaragua case</i>	36
B <i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda) paras 148f, 151–153, 160–165</i>	50

C *The Nuclear Weapons Advisory Opinion, paras 34–39, 47f, 98–104* 52

D *The Wall Advisory Opinion (2003), paras 86f* 56

### 3 The collective security system

59

#### I Introduction 59

#### II UN Charter Articles 61

*Chapter I: Purposes and Principles* 61

*Chapter IV: The General Assembly* 62

*Chapter V: The Security Council* 62

*Chapter VI: Pacific Settlement of Disputes* 64

*Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression* 65

*Chapter VIII: Regional Arrangements* 66

*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, ICJ Rep 2004, p. 136 paras 26–28* 67

#### III Collective security in the Cold War era 72

A *The “Uniting for Peace” Resolution* 72

#### IV The post-Cold War era 75

*An Agenda for Peace. Preventive Diplomacy, Peacemaking and Peace-keeping. Report of the Secretary-General Pursuant to the Statement adopted by the Summit Meeting of the Security Council on 31 January 1992, 17 June 1992, A/47/277—S/24111, paras 8–19, 42–45, 60–65* 76

#### V From International to Non-International Conflicts: The Kurds in Northern Iraq 1991 and the Conflict in Somalia 1992 81

*Supplement to an Agenda for Peace Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations, 25 January 1995, A/50/60-S/1995/1, paras 66–80, 102–105* 82

#### VI The 2003 Iraq War and the Crisis of the Collective Security System 85

A *More Secure World: Our Shared Responsibility. Report of the High-Level Panel on Threats, Challenges and Change, 2 December 2004, A/59/565, paras 193–198, 204–209* 86

*In Larger Freedom: Towards Development, Security and Human Rights for All. Report of the Secretary-General, 21 March 2005, A/59/2005, paras 76–85, 109f, 122–126* 88

### 4 Self-defense

94

#### I Introduction 94

*Article 51 UN Charter* 94

#### II Collective self-defense 95

A *Mutual defense treaties* 95

B *The Nicaragua case* 97

III	<i>The “armed attack” criterion</i>	100
	A <i>The Nicaragua case, paras 191–195, 229–231, 248f</i>	100
	<i>dissenting opinion of Judge Sir Robert Jennings (excerpts)</i>	105
	B <i>The Oil Platforms case, paras 51, 63f, 72</i>	105
IV	<i>Necessity and proportionality</i>	107
	A <i>Eighth Report on State Responsibility by Mr. Roberto Ago, Special Rapporteur—The Internationally Wrongful Act of the State, Source of International Responsibility (Part I), Yearbook of the International Law Commission 1980. Vol. II(1), paras 119–123</i>	108
	B <i>The Nuclear Weapons Advisory Opinion, paras 40–47, 97</i>	110
	C <i>The Oil Platforms case, paras 68, 74, 76f</i>	112
V	<i>Self-defense against non-state actors</i>	114
	Security Council Resolution 1368 (2001)	115
	Security Council Resolution 1373 (2001)	115
	Statement by the North Atlantic Council, NATO Press Release, 12 September 2001	118
	Invocation of Article 5 Confirmed, NATO Press Release, 2 October 2001	119
	Statement by NATO Secretary General, Lord Robertson, 2 October 2001	119
	Statement by NATO Secretary General, Lord Robertson, 8 October 2001	120
	A <i>The Wall Advisory Opinion, paras 138f</i>	121
	B <i>Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda), paras 106–147</i>	125
	C <i>The fight against the so-called Islamic State</i>	139
VI	<i>Preemptive and preventive self-defense</i>	144
	2002 US National Security Strategy	144
<b>5</b>	<b>Intervention by invitation</b>	<b>149</b>
I	<i>Introduction</i>	149
	Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries 2001, Article 20	150
	Institut de droit international 10th Commission, Sub-group C, Session de Rhodes, 2011 Plenièrè, 8 September 2011, Present Problems of the Use of Force in International Law, Military Assistance on Request	152
II	<i>Intervention by Invitation in Civil Wars</i>	154
	The Nicaragua Case, para. 246: Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States of America)	154
	Institut de droit international, Session of Wiesbaden, 1975, The Principle of Non-Intervention in Civil Wars	154

6	<b>Humanitarian intervention and the responsibility to protect</b>	158
	I Introduction	158
	II From Biafra to Nicaragua	159
	<i>The Nicaragua case, paras 263–268</i>	159
	III The 1999 Kosovo intervention	161
	<i>Press Statement by Dr. Javier Solana, Secretary-General of NATO, 23 March 1999</i>	162
	<i>Security Council Meeting 3988 on Kosovo, 24 March 1999</i>	163
	<i>Legality of Use of Force (Serbia and Montenegro v Belgium), verbatim record 1999/15</i>	165
	IV From Humanitarian Intervention to the Responsibility to Protect	166
	<i>Secretary-General Presents His Annual Report to General Assembly, Press Release, SG/SM/7136 GA/9596</i>	167
	<i>We the Peoples: The Role of the United Nations in the Twenty-First Century. Report of the Secretary-General, 27 March 2000, A/54/2000, paras 215–219</i>	171
	V From the 2001 ICISS Report to the 2005 World Summit	171
	<i>The Responsibility to Protect. Report of the International Commission on Intervention and State Sovereignty, December 2001, Core Principles</i>	172
	<i>A More Secure World paras 199–203</i>	174
	<i>In Larger Freedom paras 127–135 and para. 7 from the Annex</i>	175
	<i>2005 World Summit Outcome, 16 September 2005, A/60/L.1, paras 138f</i>	178
	<i>Security Council Resolution 1674 (2006)</i>	179
	<i>Implementing the Responsibility to Protect. Report of the Secretary-General, 12 January 2009, A/63/677, paras 11f</i>	182
	VI The Libya intervention	184
	<i>Security Council Resolution 1970</i>	185
	<i>Security Council Resolution 1973</i>	191
	VII The April 2017 intervention in Syria	197
	<i>Marty Lederman, (Apparent) Administration Justifications for Legality of Strikes Against Syria, Just Security, 8 April 2017</i>	198
	VIII The April 2018 intervention in Syria	199
	<i>Statement by President Trump on Syria, 13 April 2018</i>	199
	<i>Mr. Delattre (France), Security Council Meeting 8225, 9 April 2018, p. 12</i>	201
	<i>Policy Paper: Syria Action—UK Government Legal Position, published 14 April 2018</i>	201
7	<b>Peacekeeping</b>	207
	I Introduction	207
	II The early phase of peacekeeping and the “implied powers” doctrine	207
	<i>Certain Expenses of the United Nations (Article 17, Paragraph 2 of the Charter), Advisory Opinion, 20 July 1962, ICJ Rep 151</i>	208

- III *The 1990s: a “new breed” of conflicts* 212  
 An Agenda for Peace *paras* 28–33, 46–59 212
- IV *Peacekeeping in crisis* 216  
*Supplement to an Agenda for Peace, paras* 12–15, 20–25, 33–56,  
 98f 218  
*Report of the Panel on United Nations Peace Operations (the Brahimi  
 Report), 21 August 2000, A/55/305—S/2000/809, paras* 15–28,  
 48–64, 76–83 224
- V *Peacekeeping today* 232  
*UN Peacekeeping Operations: Principles and Guidelines—“Capstone  
 Doctrine”, para. 3.1 (footnotes omitted)* 233

## Index

237