

extraordinary patience and cooperation in helping to make it possible for me to write this work. All my other colleagues at the same Faculty also deserve considerable credit for putting up with me.

On the production side, I would like to thank Jocelyn Holmes and Leung Ho Yan, of LexisNexis Butterworths, for their support for and faith in the project.

I owe a special debt to Stankie Yap Hong Chai for all-round support in Hong Kong, which greatly assisted in the manuscript's finalisation.

Finally, I feel compelled to thank my students at The Chinese University of Hong Kong, the University of New South Wales, and the City University of Hong Kong, from whom I have learned much.

Stephen Hall
 Sha Tin
 Hong Kong
 3rd February 2012

Contents

<i>Preface</i>	v
<i>Table of Cases</i>	xi
<i>Table of Legislation</i>	xxiii
<i>Table of Treaties, Conventions</i>	xxv
Chapter 1: Nature and sources of international law	1
Concept of international law	2
Development and scope of international law	3
Structure of the international system	12
Legal character of international law	22
Necessity of sources	30
Range of sources	33
Treaties	35
Custom	37
Elements of custom	38
General principles of law	59
Judicial decisions	68
Teachings of publicists	70
Acts of international organisations	72
Unilateral declarations by States	77
Soft law	80
Chapter 2: Law of treaties	87
Vienna Convention on the Law of Treaties and Customary Rules	88
Definition of 'treaty'	90
Formation of treaties	95
Effect of treaties	103
Reservations	109
Interpretation	121
Amendment and modification	126
Denunciation and withdrawal	140
Termination and suspension	141
Procedures relating to invalidity, denunciation, withdrawal, termination and suspension	155
Chapter 3: International law in Hong Kong law	169
Monism and dualism	170
International law and the common law	173
International law and legislation	215
International law and administrative discretion	222

Chapter 4: Statehood and personality	237
Concept of personality	238
Elements of statehood	240
Recognition of States	247
Recognition of governments	252
Self-determination of peoples	255
International organisations	269
Individuals	273
Chapter 5: State responsibility and treatment of foreign nationals	285
Responsibility generally	286
Definition of State responsibility	288
Draft Articles on State Responsibility and Draft Articles on Diplomatic Protection	290
Basic principles of State Responsibility	292
Attribution	294
Reparation	310
Circumstances precluding wrongfulness	315
Treatment of foreign nationals	320
Chapter 6: State jurisdiction and immunity	363
Jurisdiction generally	364
Territorial principle	366
Nationality principle	370
Protective principle	375
Universality principle	376
Sovereign immunity	384
Diplomatic and consular immunity	388
Heads of State, Heads of Government and Foreign Ministers	391
Chapter 7: State territory	405
Nature and scope of State territory	405
Cession	409
Occupation	410
Prescription	418
Accretion	420
Conquest	420
Uti possidetis juris	422
Chapter 8: International dispute settlement	433
Dispute settlement generally	434
Obligation to resolve disputes peacefully	435
Negotiation, enquiry, good offices, mediation and conciliation	437
Arbitration	439
Judicial settlement	443

Chapter 9: International use of force	469
Use of force before 1945	470
Use of force prohibited	474
Self-defence	483
Intervention	496
United Nations authorisation	500
Protection of nationals abroad	508
Humanitarian intervention	510
Chapter 10: International criminal law	521
Emergence of individual criminal responsibility	522
Piracy jure gentium	530
Slavery and the slave trade	533
Genocide	536
Torture and cruel, inhuman or degrading treatment or punishment	545
Crimes against humanity	557
War crimes	583
Individual and command responsibility	598
Chapter 11: International human rights	615
Antecedents of international human rights	617
United Nations human rights system	621
Regional human rights systems	622
Self-determination of peoples	622
Genocide	623
Racial discrimination	624
Civil and political rights	627
Economic, social and cultural rights	676
Discrimination against women	678
Children's rights	681
Customary human rights	683
Chapter 12: Law of the sea	695
Freedom of the sea and sovereignty of the sea	696
Codification of the law of the sea	701
Maritime zones	705
Baselines	705
Internal waters	715
Territorial sea	717
Contiguous zone	726
Exclusive economic zone	728
Continental shelf	736
High seas	740
International seabed (the 'Area')	753
Delimiting boundaries between maritime zones	755

Appendix	771
Charter of the United Nations.....	773
Draft Articles on Diplomatic Protection.....	805
Draft Articles on Responsibility of States for Internationally Wrongful Acts.....	813
International Covenant on Civil and Political Rights.....	829
United Nations General Assembly Resolution 2625 (XXV): Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations.....	849
Vienna Convention on the Law of Treaties.....	859
Other important documents.....	893
Index	895

Table of Cases

A

<i>A S v Canada</i> [1981] UNHRC 3.....	11.81
<i>A v Australia</i> [1997] UNHRC 7.....	11.47
<i>Aaland Islands case League of Nations Official Journal</i> , Special Supplement No 3, 1920.....	4.6
<i>Advisory Opinion on Western Sahara</i> [1975] 1 ICJR 12.....	3.32
<i>Aegean Sea Continental Shelf case (Greece v Turkey)</i> ICJ Rep (1978) 3.....	2.14, 2.17
<i>Affaire des Frontières Colombo-Vénézuéliennes (Colombia v Venezuela)</i> (1922) 1 RIAA 223.....	7.36
<i>Akkoç v Turkey</i> [2000] ECHR 577.....	11.31
<i>Al-Adsani v United Kingdom</i> (2001) 34 EHRR 273.....	6.61
<i>Aloboetoe v Suriname</i> (1993) Inter-Am Ct HR Ser C No 15; (1994) 1 IHRR 208.....	2.108
<i>Amstelos Claim (Greece v United Kingdom)</i> (1956) 12 RIAA 83.....	5.120, 5.121, 5.124
<i>Ambrose Light</i> , 25 Fed Rep 408.....	10.23
<i>Amoco International Finance Corporation v Government of the Islamic Republic of Iran</i> (1987) 15 Iran-US CTR 189.....	5.92, 5.93, 5.97
<i>Anglo-Iranian Oil Co Case (United Kingdom v Iran)</i> Pleadings, Oral Arguments, Documents (1952), 105-107.....	5.95
<i>Anglo-Iranian Oil Co case (United Kingdom v Iran) Preliminary Objection</i> , ICJ Rep (1952) 93.....	2.10
<i>Anglo-Norwegian Fisheries case (United Kingdom v Norway)</i> ICJ Rep (1951) 116.....	1.104, 1.106, 1.110, 1.119, 1.121, 7.16, 12.20, 12.21, 12.26
<i>Appeal Relating to the Jurisdiction of the ICAO Council (India v Pakistan)</i> ICJ Rep (1972) 46.....	2.146
<i>Applicant A v Minister for Immigration and Ethnic Affairs</i> (1997) 190 CLR 225.....	3.61
<i>Arbitral Award on the Subject of the Difference Relative to the Sovereignty over Clipperton Island (France v Mexico)</i> (1932) 26 American Journal of International Law 390 (<i>Clipperton Island case</i>).....	7.12, 7.16, 7.20
<i>Asian Agricultural Products Ltd v Sri Lanka</i> (1990) 4 ICSID Rep 246.....	5.32, 5.88
<i>Asylum case (Colombia v Peru)</i> ICJ Rep (1950) 266.....	1.110, 1.120, 1.121, 1.127, 1.128, 1.148, 1.149, 1.180
<i>Attorney-General v Enigster</i> (1952) 18 ILR 540.....	10.101
<i>Attorney-General v Tarnak</i> (1951) 18 ILR 540.....	10.101
<i>Attorney-General for Canada v Attorney-General for Ontario</i> [1937] AC 326.....	3.50
<i>Attorney General of the Government of Israel v Eichmann</i> , District Court of Jerusalem, 12 December 1961, (1968) 36 ILR 340.....	10.44
<i>Attorney-General of the Government of Israel v Eichmann</i> (1962) 36 ILR 5 (Supreme Court of Israel).....	6.22, 6.25, 10.42, 10.45