

TABLE OF CONTENTS

	Page
INTRODUCTION -----	xix
ACKNOWLEDGEMENTS -----	xxiii
TABLE OF CASES -----	lxiii

PART ONE. THE GLOBAL COMMUNITY CONTEXT

CHAPTER I. GLOBAL CONSTITUTIVE PROCESS: HOW INTERNATIONAL LAW IS MADE AND APPLIED

Section 1. International Law as a Process of Authoritative Decision -----	1
Section 2. The Making and Application of International Law -----	7
Statute of the International Court of Justice -----	7
(a) Lawfulness of Atmospheric Testing -----	8
McDougal & Schlei, The Hydrogen Bomb Tests in Perspective: Lawful Measures for Security -----	9
Treaty Banning Nuclear Weapon Tests in the Atmosphere, In Outer Space and Under Water -----	20
Treaty on the Non-Proliferation of Nuclear Weapons -----	21
G.A.Res. 2032 (XX) -----	22
Nuclear Tests Case (1973) -----	23
Nuclear Tests Case (1974) -----	29
Reisman, Chinese Fallout -----	44
(b) The Protection of Foreign Investment -----	46
G.A.Res. 1803 (XVII) -----	47
Banco Nacional v. Sabbatino -----	48
First National City Bank v. Banco Nacional -----	60
Dunhill v. Cuba -----	67
Charter of Economic Rights and Duties of States -----	75
(c) More Traditional Perspectives About Prescription and Application -----	76
The Paquete Habana -----	77
The Scotia -----	81
Schooner Exchange v. M'Faddon -----	83
Anglo-Norwegian Fisheries Case -----	83
Lotus Case -----	83
Nuremberg Judgment -----	83
Nottebohm Case -----	83
Lauritzen v. Larsen -----	83
McDougal & Reisman, The Prescribing Function: How International Law is Made -----	84
Tunkin, Remarks on the Juridical Nature of Customary Norms of International Law -----	86

TABLE OF CONTENTS

	Page
Section 3. The Context of the World Social Process -----	91
McDougal & Lasswell, The Identification and Appraisal of Diverse Systems of Public Order -----	91
McDougal, International Law and the Future -----	92
McDougal, The Impact of International Law Upon National Law: A Policy-Oriented Perspective -----	94
Section 4. The Global Process of Effective Power -----	95
McDougal & Lasswell, The Identification and Appraisal of Diverse Systems of Public Order -----	95
Reisman, Private Armies in a Global War System: Prologue for Decision -----	96
Section 5. The Major Features of the Global Constitutive Process of Authoritative Decision -----	99
Reisman, A Theory of Law from the Policy Perspective -----	99
McDougal, Legal Bases for Securing the Integrity of the Earth-Space Environment -----	100
A. Expansion of the Authority of the United Nations vis-a-vis Non-Members -----	107
Reparations Case -----	107
B. Expansion of the Inclusive Legislative Power -----	114
South-West Africa—Voting Procedure Case -----	114
Reisman, Living With the Majority -----	119
Uniting for Peace Resolution -----	120
Certain Expenses of the United Nations -----	122
C. Expansion of the Executive Power -----	138
Namibia Case (1971) -----	138
D. Expansion of Judicial Competence -----	142
Namibia Case (1971) -----	142
Section 6. Major Features of Contemporary World Public Order -----	144
McDougal, International Law and the Future -----	144
Section 7. Perspectives for an International Law of Human Dignity -----	148
McDougal & Lasswell, The Identification and Appraisal of Diverse Systems of Public Order -----	148

PART TWO. TERRITORIAL COMMUNITIES AS PARTICIPANTS IN WORLD PUBLIC ORDER

Introduction. The Role of Territorial Communities in World Social Process -----	154
McDougal, International Law, Power and Policy: A Contemporary Perspective -----	155
Radcliffe-Brown, African Political Systems -----	156
Reisman & Suzuki, Recognition and Social Change -----	157

TABLE OF CONTENTS

CHAPTER II. THE ESTABLISHMENT OF TERRITORIAL ENTITIES AS PARTICIPANTS IN AUTHORITATIVE DECISION	
	Page
Section 1. Establishment by Internal Elites	159
A. Authoritative Doctrines Facilitating Freedom of Establishment	160
United Nations Charter	160
Declaration on the Granting of Independence to Colonial Countries and Peoples	162
The Principle of Self-Determination	164
The Namibia Case	164
Western Sahara Case	164
Reisman, The Case of Western Somaliland: An International Legal Perspective	164
Charter of the Organization of American States	166
The Right to Revolution	167
Sumida, The Right of Revolution: Implications for International Law and Order	167
Non-Intervention	169
United Nations Charter	169
B. Authoritative Doctrines Limiting Freedom of Establishment	169
1. Inclusively Prescribed Restrictions	170
United Nations Charter, Article 39	170
The Rhodesian Case	170
Security Council Resolution 253	170
59 State Department Bulletin 199 (1968)	171
McDougal & Reisman, Rhodesia and the United Nations: The Lawfulness of International Concern	172
Nigeria and the Biafran War	174
2. Exclusive Assertions Facilitating and Restricting Establishment	175
Hungarian Intervention	175
The Brezhnev Doctrine	175
The Carter Doctrine	179
American Hemispheric Restraints	179
Eighth Meeting of Consultation of Ministers of Foreign Affairs	179
The Selden Resolution	181
President Johnson on the Dominican Intervention	186
Statement of May 4 by President Johnson	186
Johnson Quoted by Ellsworth Bunker	187
Section 2. Authoritative Establishment by External Elites	188
A. Authoritative Doctrines Facilitating Establishment	188
International Trusteeship System	188
Northern Cameroons Case	188
Section 3. Establishment of Associated States	196
Reisman, Puerto Rico and the International Process	196

TABLE OF CONTENTS

CHAPTER III. THE ESTABLISHMENT AND REGULATION OF ACCESS TO ARENAS

	Page
Section 1. The Establishment and Maintenance of Communications	204
Between Bodies Politic	204
A. The Initiation of Communications	204
Hackworth, Digest of International Law	205
B. Appropriate Authorities for the Conduct of Negotiations	206
Brookings Institution, The Administration of Foreign Affairs and Overseas Operations	206
C. The Classification of Diplomatic Agents and Their Functions	206
Brookings Institution	206
Vienna Convention on Diplomatic Relations	207
Diplomatic Relations Act	209
D. The Sending and Receiving of Missions and Individuals	209
Vienna Convention on Diplomatic Relations	209
E. The Absence of a Right to Legation	211
Vienna Convention on Diplomatic Relations	211
F. The Right of Agrément	211
Vienna Convention on Diplomatic Relations	211
G. The Power to Demand Recall	213
Vienna Convention on Diplomatic Relations	213
Section 2. The Protection of the Communications Process	213
(Diplomatic Immunity)	213
Diplomatic Relations Act	213
Trost v. Tompkins	213
Caravel Office Bldg. Co. v. Peruvian Air Attaché	220
A. Procedure for Establishing Immunities	221
Vienna Convention on Diplomatic Relations	221
B. Facilities and Agents Accorded Immunities	222
Premises and Personal Property	222
Vienna Convention on Diplomatic Relations	222
Case Concerning United States Diplomatic and Consular Staff in Iran	223
C. Communications	237
Rose v. The King	237
Vienna Convention on Diplomatic Relations	246
18 U.S.C. § 2511(3)	246
Foreign Intelligence Surveillance Act	248
Burnham & Horrock, Administration Maps Secret Plan to Fight Telephone Intrusion	251
D. Persons Accorded Immunity	253
1. Subjection to Jurisdiction and Process	253
Trost v. Tompkins	253
Vienna Convention on Diplomatic Relations	253

TABLE OF CONTENTS

	Page
Section 2. The Protection of the Communications Process (Diplomatic Immunity)—Continued	
2. Freedom of Movement of Persons Accorded Immunity	255
Vienna Convention on Diplomatic Relations -----	255
3. Taxes, Duties and Subjection to Public Service of Persons Accorded Immunity	256
Vienna Convention on Diplomatic Relations -----	256
Rovine, Digest of U.S. Practice in International Law -----	258
4. Duration of Immunities	259
(a) The Beginning -----	259
Vienna Convention on Diplomatic Relations -----	259
(b) Termination -----	259
Vienna Convention on Diplomatic Relations -----	259
5. Immunities of Diplomats in Transit	260
Vienna Convention on Diplomatic Relations -----	260
Section 3. The Special Problem of Diplomatic Asylum	260
Asylum Case -----	261
Haya de la Torre Case -----	275
The Kasenkina Case -----	279
Mann, Asylum Denied: The Vigilant Incident ---	284
General Policy for Dealing with Requests for Asylum by Foreign Nationals -----	295
Peerman, Harald Edelstam: Sweden's Ambassador Extraordinary -----	299

CHAPTER IV. THE DOCTRINES AND PRACTICES OF RECOGNITION

Introduction	301
Section 1. Recognition as Authoritative State Decision	303
A. Decision as Fact	303
Department of State, GIST Series, August, 1977 -----	303
Graham, In Quest of a Law of Recognition -----	304
B. Officials Authorized to Recognize	305
Hackworth, Digest of International Law -----	305
C. Modes of Recognition	306
Hackworth, Digest of International Law -----	306
Lauterpacht, Recognition in International Law -----	306
D. General Community Policies Relating to Recognition	307
1. Objectives of New Elites	307
Kaplan & Katzenbach, The Political Foundations of International Law -----	307
2. Objectives of Pre-existing States	307
Statement of President Carter, June 20, 1977 -----	307
3. More General International Policies	308
Tinoco Case -----	308

TABLE OF CONTENTS

	Page
Section 2. Trends in Past Practice Relating to Recognition	315
A. The Limits Upon Premature Recognition	315
Lauterpacht, Recognition in International Law	315
B. Alleged Duty to Recognize	316
Memorandum on the Legal Aspects of the Problem of the Representation in the United Nations	316
Lauterpacht, Recognition in International Law	317
United States Policy on Nonrecognition of Communist China	318
Joint Communique on the Establishment of Diplomatic Relations Between the United States and the People's Republic of China	324
President Carter	324
U.S. Statement	325
Statement of the Government of the People's Republic of China	326
Memorandum for All Departments and Agencies	326
Taiwan Relations Act	327
C. International Duty to Withhold Recognition	329
Lauterpacht, Recognition in International Law	329
Namibia Case (1971)	331
Separate Opinion of Judge Ammoun	333
Separate Opinion of Judge Petren	338
Separate Opinion of Judge Onyeama	341
Separate Opinion of Judge Dillard	341
Separate Opinion of Judge de Castro	342
Decree Adopted by the United Nations Council for Namibia	344
Department of State on "Hot Oil"	346
Sokoloff v. National City Bank	354
Salimoff & Co. v. Standard Oil Co.	358
Latvian State Cargo & Passenger S.S. Line v. McGrath	362
Carl Zeiss Stiftung and Rayner & Keeler Ltd. and Others	364
Kunstsammlungen Zu Weimar v. Elicofon	373
D. Alleged Duty to Withdraw Recognition	374
Lauterpacht, Recognition in International Law	374
McDougal & Feliciano, Law and Minimum World Pub- lic Order	374
Section 3. Consequences of Recognition Decisions	377
A. Consequences in External Arenas	377
Reisman & Suzuki, Recognition and Social Change	377
B. Consequences Within the Internal Arenas of States	378
Wulfsohn v. Russian Republic	378
1. Controversies Involving the Competence of Bodies Poli- tic to be Plaintiffs or Defendants	378

TABLE OF CONTENTS

	Page
Section 3. Consequences of Recognition Decisions—Continued	
Russian Republic v. Cibrario	379
Banco Nacional de Cuba v. Sabbatino	384
2. Judicial Specification of Executive Policies	386
Bank of China v. Wells Fargo Bank & Union Trust Co.	386
Upright v. Mercury Business Machines Co.	392
3. The Role of the Executive and of the Judiciary in Determining Consequences of Recognition	395
U. S. v. Pink	395
Duff Development Co. Ltd. v. Government of Kelantan	406
Goldwater v. Carter	409
4. Appraisal and Recommendation	409
Section 4. Admission to Organized Arenas	410
A. The United Nations	410
United Nations Charter, Article 4	410
Resolution 113 (II)	410
Advisory Opinion on the Conditions of Admission of a State to the United Nations	411
Competence of the General Assembly for the Ad- mission of a State to the United Nations	415
Reisman, Puerto Rico and the International Process	418
B. The International Court of Justice	426
Reisman, Puerto Rico and the International Process	426
C. Participation Controversies: Credentials and Representa- tion	429
McDougal & Goodman, Chinese Participation in the United Nations: The Legal Imperatives of a Nego- tiated Solution	429
PART THREE. THE BASES OF POWER OF STATES	
Introduction	432
CHAPTER V. CLAIMS TO COMPREHENSIVE AND CONTINUOUS CONTROL OF RESOURCES AS BASES OF POWER	
Section 1. Claims Relating to Whether Resources are Subject to Exclusive Appropriation	435
Declaration of Principles Governing the Sea- Bed and the Ocean Floor, and Subsoil Thereof, Beyond the Limits of National Ju- risdiction	437
The United Nations Moratorium Resolution	438
Notice of Discovery and Claim of Exclusive Mining Rights, and Request for Diplomatic Protection and Protection of Investment, by Deepsea Ventures, Inc.	438
Responses of Governments to Deepsea Ven- tures Claim	440
Deep Seabed Hard Mineral Resources Act ..	441

TABLE OF CONTENTS

	Page
Section 2. Resources Heretofore Not Subject to Exclusive Appropriation	448
A. Oceans	448
1. Transit Uses	448
Le Louis	448
The Jessie, The Thomas F. Bayard, and the Pescawha	450
McDougal & Burke, The Public Order of the Oceans	452
Convention on the High Seas	453
Draft Convention on the Law of the Sea (Informal)	453
2. Use for Military Purposes	454
Draft Convention on the Law of the Sea (Informal)	455
Pueblo Incident	455
Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof	455
Nuclear Tests Case (Australia v. France)	456
3. Resource Uses: Deep Sea Mining and Resource Exploitation	457
Deepsea Ventures Claim	457
Draft Convention on the Law of the Sea (Informal)	457
B. International Rivers	458
1. Navigational Uses	458
McDougal, Lasswell, Vlasic & Smith, The Enjoyment and Acquisition of Resources in Outer Space	458
Smith, The Economic Uses of International Rivers	459
The Faber Case	459
2. Non-navigational Uses	465
McDougal, Lasswell, Vlasic & Smith, The Enjoyment and Acquisition of Resources in Outer Space	465
The Lake Lanoux Case	466
C. Air Space Over the Oceans	473
Convention on the High Seas	473
McDougal & Burke, The Public Order of the Oceans	473
Draft Convention on the Law of the Sea (Informal)	474

TABLE OF CONTENTS

Section 2. Resources Heretofore Not Subject to Exclusive Ap-	
propriation—Continued	
D. Innovative Ocean Uses -----	Page
McDougal, Lasswell, Vlasic & Smith, The En-	
joyment and Acquisition of Resources in	
Outer Space -----	474
Report on Advanced Energy Technologies and	
Energy Conservation Research, Develop-	
ment and Demonstration -----	475
E. Polar Areas -----	480
Antarctic Treaty, 1959 -----	480
McDougal, Lasswell, Vlasic & Smith, The En-	
joyment and Acquisiton of Resources in	
Outer Space -----	481
F. Void in Space -----	484
McDougal, Lasswell & Vlasic, Law and Public	
Order in Space -----	484
General Assembly Resolution on International	
Cooperation in the Peaceful Uses of Outer	
Space -----	485
Treaty on Principles Governing the Activities	
of States in the Exploration and Use of	
Outer Space, Including the Moon and Other	
Celestial Bodies -----	485
Agreement Governing the Activities of States	
on the Moon and Other Celestial Bodies ..	486
Agreement Between the United States of	
America and the U.S.S.R. Concerning Coop-	
eration in the Exploration and Use of Outer	
Space for Peaceful Purposes -----	488
Moore, Earth Resource Satellites: A Puzzle	
for the United Nations -----	489
G. Fishery Resources of the Ocean -----	491
 1. Pelagic Seals -----	492
McDougal & Burke, The Public Order of the	
Oceans -----	492
 2. Whales -----	494
McDougal & Burke, The Public Order of the	
Oceans -----	494
 3. Salmon -----	496
McDougal & Burke, The Public Order of the	
Oceans -----	496
Draft Convention on the Law of the Sea (In-	
formal) -----	499

TABLE OF CONTENTS

	Page
Section 3. Resources Subject to Exclusive Appropriation -----	499
A. Land Masses -----	
McDougal, Lasswell, Vlasic & Smith, The Enjoyment and Acquisition of Resources in Outer Space -----	500
	503
B. Superjacent Airspace -----	
Chicago Convention on International Civil Aviation -----	503
Restatement (Second) of the Foreign Relations Law of the United States -----	505
Leiser v. United States -----	505
Matte, Aerospace Law -----	507
C. Internal Waters -----	511
Convention on the Territorial Sea and the Contiguous Zone -----	511
Draft Convention on the Law of the Sea (Informal) -----	511
Fisheries Case (United Kingdom v. Norway) -----	512
McDougal & Burke, The Public Order of the Oceans -----	518
Draft Convention on the Law of the Sea (Informal) -----	518
United States v. California -----	518
D. Territorial Seas, Straits, and Rights of International Passage -----	524
Convention on the Territorial Sea and the Contiguous Zone -----	524
The Corfu Channel Case (United Kingdom v. Albania) -----	524
Convention on the Territorial Sea and the Contiguous Zone -----	532
Draft Convention on the Law of the Sea (Informal) -----	533
United States v. California -----	537
E. Continental Shelf -----	542
Andrassy, International Law and the Resources of the Sea -----	542
Arbitration Between Petroleum Development (Trucial Coast) Ltd. and the Sheikh of Abu Dhabi -----	543
Convention on the Continental Shelf -----	550
North Sea Continental Shelf Case (Judgment) -----	552
Arbitration Between the United Kingdom of Great Britain and Northern Ireland and the French Republic on the Delimitation of the Continental Shelf -----	589
Draft Convention on the Law of the Sea (Informal) -----	589

TABLE OF CONTENTS

	Page
Section 3. Resources Subject to Exclusive Appropriation —Continued	
F. Contiguous and Exclusive Economic Zones -----	591
Church v. Hubbart -----	591
Fisheries Jurisdiction (Judgment) -----	592
Draft Convention on the Law of the Sea (Informal) -----	606
Canadian Arctic Waters Pollution Prevention Act -----	609
Fisheries Conservation and Management Act	609
Section 4. Claims Relating to the Modalities of Establishing Exclusive Appropriation -----	610
A. Claims to Establish Exclusive Appropriation on the Basis of Discovery and Symbolic Acts -----	610
McDougal, Lasswell, Vlasic & Smith, The Enjoyment and Acquisition of Resources in Outer Space -----	610
Hayton, The Nations and Antarctica -----	612
B. Claims to Establish Exclusive Appropriation on the Basis of Effective Occupation -----	615
McDougal, Lasswell, Vlasic & Smith, The Enjoyment and Acquisition of Resources in Outer Space -----	615
Island of Palmas Case -----	620
Sovereignty over Clipperton Island (France v. Mexico) -----	625
Legal Status of Eastern Greenland -----	628
McDougal, Lasswell, Vlasic & Smith, The Enjoyment and Acquisition of Resources in Outer Space -----	635
Western Sahara Case -----	639
Section 5. Claims Relating to Modalities of Transferring Appropriated Resources -----	658
A. By Agreement -----	659
1. Cession -----	659
Jennings, The Acquisition of Territory in International Law -----	659
Lauterpacht, Report on the Law of Treaties	661
2. The Requirement of Popular Consent -----	661
Chen & Reisman, Who Owns Taiwan: A Search for International Title -----	662
B. By Modalities Other Than Agreement -----	665
1. Conquest and Coercion -----	665
Jennings, The Acquisition of Territory in International Law -----	665
Resolution 242 -----	667

TABLE OF CONTENTS

	Page
Section 5. Claims Relating to Modalities of Transferring Appropriated Resources—Continued	
2. Prescription	668
Island of Palmas Case	668
Jennings, The Acquisition of Title to Territory	668
3. Historic Title	669
United States v. California	669
United States v. Alaska	669
4. Contiguity	677
North Sea Continental Shelf Case	678
Island of Palmas Case	678
Abu Dhabi Case	678
Section 6. Claims Relating to Boundaries	678
A. Land Boundaries	678
Temple of Preah Vihear	678
B. River Boundaries	686
1. Thalweg	686
New Jersey v. Delaware	686
Lauterpacht, River Boundaries: Legal Aspects of the Shatt-al-Arab Frontier	690
2. Course Changes in International Rivers	691
Lauterpacht, River Boundaries: Legal Aspects of the Shatt-al-Arab Frontier	691
C. Ocean Boundaries	694
1. International Waters	694
(a) Indentations in Coast	694
Anglo-Norwegian Fisheries Case	694
United States v. California	694
Convention on the Territorial Sea and Contiguous Zone	694
Draft Convention on the Law of the Sea	695
McDougal & Burke, The Public Order of the Oceans	696
(b) Offshore Islands	698
Anglo-Norwegian Fisheries Case	698
McDougal & Burke, The Public Order of the Oceans	698
Draft Convention on the Law of the Sea (Informal)	699
Channel Arbitration: United Kingdom v. France	699
(c) Artificial Structures	710
Anglo-Norwegian Fisheries Case	710
Convention on the Territorial Sea and Contiguous Zone	710
Convention on the Territorial Sea and Contiguous Zone	710

TABLE OF CONTENTS

Section 6. Claims Relating to Boundaries—Continued	Page
Channel Arbitration: United Kingdom v.	
France -----	710
United States v. California -----	715
(d) Deep Water Ports -----	719
Knight, International Legal Aspects of Deep	
Draft Harbor Facilities -----	719
(e) Rugged and Complex Coastal Configurations -----	724
Anglo-Norwegian Fisheries Case -----	725
North Sea Continental Shelf Case -----	725
United States v. California -----	725
Convention on the Territorial Sea and Con-	
tiguous Zones -----	725
Draft Convention on the Law of the Sea (In-	
formal) -----	725
McDougal & Burke, The Public Order of the	
Oceans -----	725
Hodgson & Alexander on Special Circum-	
stances -----	727
(f) Archipelagos -----	732
Draft Convention on the Law of the Sea (In-	
formal) -----	732
(g) Ports, Roadsteads, and Rivers -----	735
Convention on the Territorial Sea and Con-	
tiguous Zone -----	735
Draft Convention on the Law of the Sea -----	735
2. Territorial Sea: Determination of Width -----	736
McDougal & Burke, The Public Order of the	
Oceans -----	736
Draft Convention on the Law of the Sea -----	737
3. Contiguous Zones -----	738
Fisheries Jurisdiction Case -----	738
Map of Iceland -----	739
Church v. Hubbart -----	740
Convention on the Territorial Sea and Con-	
tiguous Zones -----	740
Draft Convention on the Law of the Sea (In-	
formal) -----	740
McDougal & Burke, The Public Order of the	
Oceans -----	740
4. Continental Shelf -----	741
North Sea Continental Shelf Case -----	741
Convention on the Continental Shelf -----	741
Draft Convention on the Law of the Sea (In-	
formal) -----	741

TABLE OF CONTENTS

	Page
Section 6. Claims Relating to Boundaries—Continued	
5. Claims Relating to Delimitation Between Proximate States	742
(a) Water and Submarine Boundaries Between Adjacent and Opposing States	742
Convention on the Territorial Sea and Contiguous Zone	742
Convention on the Continental Shelf	742
North Sea Continental Shelf Case	742
Draft Convention on the Law of the Sea (Informal)	742
(b) Delimitation of the Continental Shelf Between Proximate States	742
North Sea Continental Shelf Case	742
(i) Opposite Coasts	742
Channel Arbitration: United Kingdom v. France	743
Convention on the Continental Shelf	743
Draft Convention on the Law of the Sea (Informal)	743
(ii) Adjacent Coasts	743
Convention on the Continental Shelf	743
(c) Ocean Indentations in the Territory of Two or More States	743
McDougal & Burke, <i>The Public Order of the Oceans</i>	743
D. Air and Space Boundaries	744
McDougal, Lasswell & Vlasic, <i>Law and Public Order in Space</i>	744
Section 7. Servitudes: Claims to Rights in the Territory of Another	
The North Atlantic Coast Fisheries Case	745
The S.S. Wimbledon Case	751
Right of Passage Over Indian Territory	755
Section 8. Claims Relating to the Protection of the Comprehensive Environment	761
A. General Environmental Concern	761
McDougal, <i>Legal Bases for Securing the Earth—Space Environment</i>	761
B. Summary Trends	763
Trail Smelter Case	763
G.A. Resolution 2398 (XXIII)	768
Declaration on the Human Environment	769
Stockholm Recommendations on Development and Environment	771
Bleicher, <i>An Overview of International Environmental Regulation</i>	772

TABLE OF CONTENTS

Section 8. Claims Relating to the Protection of the Comprehensive Environment—Continued	Page
C. Marine Environment -----	774
Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, Beyond the Limits of National Jurisdiction -----	774
Draft Convention on the Law of the Sea (Informal) -----	775
D. Specific Military Prohibitions -----	777
Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques -----	777
Brown & Fabian, Toward Mutual Accountability in the Non-Terrestrial Realms -----	778
 CHAPTER VI. CLAIMS TO COMPREHENSIVE AND CONTINUING CONTROL OF PEOPLE AS BASES OF POWER	
Introduction -----	788
Decision Process -----	789
Policies -----	790
Section 1. Claims to Characterize People -----	791
McDougal, Lasswell & Chen, Human Rights and World Public Order -----	791
Universal Declaration of Human Rights -----	792
International Convention on the Elimination of All Forms of Racial Discrimination -----	793
International Covenant on Economic, Social and Cultural Rights -----	793
International Covenant on Civil and Political Rights -----	793
Convention Against Discrimination in Education -----	794
Namibia Case (1971) -----	794
Minority Schools in Albania (1935) -----	797
McDougal, Lasswell & Chen, Human Rights and World Public Order -----	801
Section 2. Claims to Ascribe Nationality or Membership Status Upon Individuals by Exclusively Chosen Criteria -----	803
A. Ascription of Nationality to People -----	803
Convention on Certain Questions Relating to the Conflict of Nationality Laws -----	803
Silving, Nationality in Comparative Law -----	804
Harvard Research in International Law, The Law of Nationality -----	806
Advisory Opinion on the Tunis-Morocco Nationality Decrees -----	806
Nottetbohm Case -----	812
Flegenheimer Case -----	820

TABLE OF CONTENTS

Section 2.	Claims to Ascribe Nationality or Membership Status Upon Individuals by Exclusively Chosen Criteria	Page
—Continued		
Harvard Research in International Law, The Law of Nationality		825
International Convention on the Elimination of All Forms of Racial Discrimination		826
United Nations Declaration on Discrimination Against Women		826
Convention on the Nationality of Married Women		826
Convention on the Reduction of Statelessness		827
United States ex rel. Schwarzkopf v. Uhl		828
B.	Ascriptions of Nationality to Corporations and Other Entities	831
Barcelona Traction Case		831
Section 3.	Claims to Protect People	849
A. Claims Regarding the Requirement of a "National Link" as a Condition for Exercising Protection		849
Nottebohm Case		849
Flegenheimer Case		849
Barcelona Traction Case		849
Mergé Claim		849
Flegenheimer Case		850
McDougal, Lasswell & Chen, Nationality and Human Rights		851
B. Claims Regarding Exhaustion of Local Remedies		852
Reisman, Nullity and Revision		854
The Interhandel Case		854
Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, Article 26		858
C. Claims Regarding Waiver of Protection: Calvo Clauses		858
United States of America (North American Dredging Co. of Texas) v. United Mexican States		859
D. Claims Regarding the Modalities of Protection		862
1. Protection through Diplomacy		862
Barcelona Traction Case		863
Redpath v. Kissinger		865
McDowell, The Entebbe Incident		868
2. Arbitration and Adjudication		870
Norwegian Loans Case		870
3. Humanitarian Intervention		874
French and Belgian Intervention in Shaba		875
McDougal & Reisman, Entebbe		876
Reisman, Humanitarian Intervention: The Rescue Mission		877
4. Protection by International Organizations		879
Reparations for Injuries Case		879

TABLE OF CONTENTS

	Page
Section 4. Claims to Withdraw or Terminate Nationality Upon Exclusively Chosen Criteria -----	879
Universal Declaration of Human Rights -----	880
International Covenant on Civil and Political Rights -----	881
International Convention on the Elimination of All Forms of Racial Discrimination -----	881
United Nations Declaration on the Elimination of Discrimination Against Women -----	881
Convention on the Reduction of Statelessness -----	881
<i>Kennedy v. Mendoza-Martinez</i> -----	883
<i>Afroyim v. Rusk</i> -----	890
<i>Rogers v. Bellei</i> -----	894
Section 5. Claims Regarding Multiple Nationality -----	900
<i>Kawakita v. United States</i> -----	902
<i>Joyce v. Director of Public Prosecutions</i> -----	910
<i>McDougal, Lasswell & Chen, Nationality and Human Rights</i> -----	914
Mergeé Claim -----	915
Section 6. Claims Regarding Statelessness (Absence of Nationality) -----	921
<i>McDougal, Lasswell & Chen, Nationality and Human Rights</i> -----	921
<i>Mutharika, The Regulation of Statelessness Under International and National Law</i> -----	923
Universal Declaration of Human Rights -----	925
Section 7. Claims to Control Access to Territory -----	925
<i>Fong Yue Ting v. United States</i> -----	926
<i>Patel v. United Kingdom</i> -----	932
<i>Buffolo Case</i> -----	936
Declaration and Covenant Provisions Dealing with Control -----	940
Universal Declaration of Human Rights -----	940
International Covenant on Civil and Political Rights -----	940
Convention to Suppress Slave Trade and Slavery -----	940
Convention Relating to the Status of Stateless Persons -----	941
Section 8. Claims to Exercise Control over People Within State Territory: State Responsibility and Human Rights -----	941
<i>In re Gill</i> -----	942
<i>Restatement (Second) Foreign Relations Law of the United States</i> -----	944
International Law Commission, Draft Articles on State Responsibility -----	944
What is a Taking? Who must Take? -----	947
<i>In re the Interoceanic Railway of Mexico, Ltd., the Mexican Eastern Railway Co. Ltd., and the Mexican Southern Railway Ltd.</i> -----	948

TABLE OF CONTENTS

Section 8. Claims to Exercise Control over People Within State Territory: State Responsibility and Human Rights	
—Continued	
Hostage Case	949
Trail Smelter Case	949
Boffolo Case	949
Duty to Repair Injury	949
Texaco v. Libyan Arab Republic Case	950
Adequacy of Compensation	950
Restatement (Second) of the Foreign Relations Law of the United States	951
Nyquist v. Mauclet	952
Foley v. Connelie	956
 PART FOUR. THE STRATEGIES BY WHICH STATES SHAPE AND SHARE POWER AND OTHER VALUES	
Introduction	963
 CHAPTER VII. THE LEGAL REGULATION OF THE MILITARY INSTRUMENT	
 Section 1. Aggression and Self-Defense 964	
McDougal & Feliciano, Law and Minimum World Public Order	964
League of Nations: Reduction and Limitation of Arma- ments	967
Inter-American Treaty of Reciprocal Assistance	968
G.A.Res. 3314, Definition of Aggression	968
McDougal & Feliciano, Law and Minimum World Public Order	970
Thomas & Thomas, The Concept of Aggression in Interna- tional Law	970
Tunkin, Theory of International Law	971
McDougal, Peace and War: Factual Continuum with Mul- tiple Legal Consequences	976
Whiteman, Cuban Quarantine-1962	981
Wright, The Cuban Quarantine	982
McDougal, The Soviet-Cuban Quarantine and Self-Defense	983
Malawer, Anticipatory Self-Defense Under Article 51 of the United Nations Charter	988
The Pueblo Incident	992
Butler, The Pueblo Crisis: Some Critical Reflections	993
 Section 2. Preparation for War 998	
International Military Tribunal	998
Nuclear Tests Case	1002
Kranzbuhler, Nuremberg Eighteen Years Afterwards	1002

TABLE OF CONTENTS

	Page
Section 3. Prohibitions of Certain Weapons	1003
A. Chemical and Bacteriological Weapons	1004
Chemical and Bacteriological (Biological) Weapons and the Effects of their Possible Use: Report of Secretary-General	1004
Protocol Prohibiting the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare	1005
Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction	1006
B. Atomic Weapons	1007
General Assembly Declaration on the Prohibition of the Use of Nuclear and Thermo-Nuclear Weapons	1008
The Shimoda Case	1008
Stone, Legal Controls of International Conflict	1014
Section 4. Disarmament and Arms Control	1018
G.A.Res. 2162	1018
Treaty for the Prohibition of Nuclear Weapons in Latin America	1020
Section 5. Covert Operations	1022
U.S. Senate Report on Assassinations	1023
Fatouros, Remarks on Covert Intervention and International Law	1026
Falk, An Alternative to Covert Intervention	1028
Halperin, American Military Intervention: Is it Ever Justified?	1030
Section 6. Overt Operations Short of War: Reprisals and Retorsion	1033
Sardino v. Federal Reserve Bank	1033
Hostages Case	1033
Sabatino Case	1033
Section 7. Conduct of War	1033
McDougal & Feliciano, Law and Minimum World Public Order	1034
Section 8. War Crimes	1042
International Military Tribunal (Nuremberg)	1043
Kranzbuhler, Nuremberg Eighteen Years Afterwards	1053
Calley v. Callaway	1054
Section 9. Belligerent Occupation	1056
McDougal & Feliciano, Law and Minimum World Public Order	1056
Gerson, War, Conquered Territory, and Military Occupation in the Contemporary International Legal System	1059
Schwebel, What Weight to Conquest?	1063

TABLE OF CONTENTS

	Page
Section 10. Non-State Violence	1066
Convention on the High Seas	1066
Johnson, Remarks on Control of Terrorism	1067
Clutterbuck, Political Violence in Great Britain	1070
 CHAPTER VIII. THE LEGAL REGULATION OF THE ECONOMIC INSTRUMENT 	
Section 1. Regulation of Deprivations: Inclusive Competence	1072
Charter of Economic Rights and Duties of States	1073
Security Council Res. 333	1074
The Southern Rhodesia (United Nations Sanctions) Order 1968	1075
United States: Rhodesian Sanctions Regulations	1076
Diggs v. Schultz	1077
Section 2. Regulation of Deprivations: Exclusive Competence	1080
Sardino v. Federal Reserve Bank of N. Y.	1080
Arab Boycott Against Israel	1085
Unified Law on the Boycott of Israel	1085
League of Arab States: Warning Letter	1086
U.S. Embargo Authority: Trading with Enemy Act	1088
Cuban Embargo	1089
Cuban Assets Control Regulations	1090
International Emergency Economic Powers Act	1091
U.S. Actions Against U.S.S.R.	1091
Hostages Case	1092
Reisman, Foreign Affairs and the Several States: Outline of a Theory for Decision	1094
Section 3. Regulation of Economic Indulgence	1094
Reisman, Folded Lies	1095
Flannery, Multinational "Payoffs" Abroad: International Re- percussions and Domestic Liabilities	1095
Iga & Auerbach, Political Corruption and Social Structure in Japan	1097
Reisman, Folded Lies	1097
G.A.Res. 3514 (XXX): Measures Against Corrupt Practices	1098
Foreign Corrupt Practices Act	1099
 CHAPTER IX. THE LEGAL REGULATION OF THE IDEOLOGICAL INSTRUMENT 	
Bramsted, Goebbels and National Socialist Propaganda	1101
Hale, Radio Power: Propaganda and International Broad- casting	1101
Policy	1102
International Covenant on Civil and Political Rights	1106
Genocide Convention	1106
Convention on the Elimination of All Forms of Racial Dis- crimination	1106
	1107

TABLE OF CONTENTS

CHAPTER IX. THE LEGAL REGULATION OF THE IDEOLOGICAL INSTRUMENT—Continued

	Page
Draft Convention on Freedom of Information	1108
Trends in Decision	1108
Evensen, Aspects of International Law Relating to Modern Radio Communications	1109
G.A.Res. 633: Information Facilities in Underdeveloped Re- gions of the World	1113
Unesco Declaration on the Contribution of the Mass Media to Peace	1115
No, No, Unesco	1117

CHAPTER X. THE LEGAL REGULATION OF INTERNATIONAL AGREEMENT-MAKING

Introduction	1119
Section 1. The Process of Commitment	1121
A. Claims Concerning the Competency of Participants	1121
1. International Prescriptions Relating to Competency	1121
Vienna Convention on the Law of Treaties	1121
Nuclear Tests Case	1122
Eastern Greenland Case	1122
Vienna Convention on the Law of Treaties	1123
2. National Prescriptions Relating to Competency: Five Functions	1123
(a) The Treaty-Making Power	1124
U.S. Constitution, Article II	1124
McDougal & Leighton, <i>The Rights of Man in the World Community: Constitutional Illusions Ver- sus Rational Action</i>	1124
Missouri v. Holland	1126
Power Authority of N. Y. v. Fed. Power Comm'n	1129
(b) The Powers of the Congress to Authorize and Vali- date Agreements: The President and the Con- gress Perform All Five Functions	1138
McDougal & Lans, <i>Treaties and Congressional Ex- ecutive Agreement</i>	1138
U. S. v. Curtiss-Wright Export Corp.	1139
Garner, <i>Acts and Joint Resolutions of Congress as Substitutes for Treaties</i>	1147
(c) Presidential Agreements: The Executive Performs All Five Functions	1147
U. S. v. Pink	1147
State Department Procedures on Treaties and oth- er International Agreements	1147
U. S. v. Capps	1149
U. S. v. Capps: Court of Appeals	1152
Consumers Union of U. S., Inc. v. Kissinger	1154

TABLE OF CONTENTS

	Page
Section 1. The Process of Commitment—Continued	
(d) Limitations Upon the Agreement-Making Power in the Bill of Rights and Other Constitutional Pro- visions	1168
Reid v. Covert	1168
Seery v. U. S.	1171
McDougal & Leighton, <i>The Rights of Man in the World Community: Constitutional Illusions Ver- sus Rational Action</i>	1173
(e) Proposals for Changing the Agreement-Making Power in the United States	1174
B. The Permissible Purposes of Agreements: International Prescriptions Regulating Content	1175
1. Peremptory Norms	1175
Vienna Convention on the Law of Treaties	1175
McDougal, Lasswell & Vlasic, <i>Law and Public Or- der in Space</i>	1175
2. Illegal Deprivations Upon Third States	1176
McDougal, Lasswell & Vlasic, <i>Law and Public Or- der in Space</i>	1176
3. Agreements Calling for Realization of "Immoral Ob- ligations"	1176
McDougal, Lasswell & Vlasic, <i>Law and Public Or- der in Space</i>	1176
4. Agreements Conflicting with Prior Agreements	1176
McDougal, Lasswell & Vlasic, <i>Law and Public Or- der in Space</i>	1177
C. Claims that Strategies are Coercive Rather than Per- suasive	1177
1. The Claim of Unequal Treaties	1177
Academy of Sciences of the U.S.S.R., <i>Interna- tional Law</i>	1177
Schwelib, <i>Some Aspects of International Jus Cogens as Formulated by the International Law Commission</i>	1178
2. Duress	1178
Vienna Convention on the Law of Treaties	1178
Declaration on the Prohibition of Military, Polit- ical or Economic Coercion in the Conclusion of Treaties	1179
3. Claims Relating to Misrepresentation	1179
4. Claims Relating to Mistake	1180
D. Outcomes: Consent to Be Bound	1180
1. Final Utterance of Commitment	1180
Vienna Convention on the Law of Treaties	1181
Asylum Case	1182
North Sea Continental Shelf Cases	1182

TABLE OF CONTENTS

	Page
Section 1. The Process of Commitment—Continued	
Fisheries Jurisdiction Case	1186
Nuclear Tests Case	1187
Eastern Greenland Case	1187
2. Reservations to Commitment	1187
Vienna Convention on the Law of Treaties	1187
Reservations to the Convention on Genocide	1188
E. Interpretation: Determining the Content of Agreement	1193
1. The Appropriate Decisionmakers for Interpretation	1194
Harvard Research in International Law, The Law of Treaties	1194
<i>Bigelow v. Zizianoff</i>	1195
2. Claims Relating to the Process of Interpretation	1201
(a) The Goals and Methods of Interpretation	1201
Vienna Convention on the Law of Treaties	1201
McDougal, The International Law Commission's Draft Articles Upon Interpretation: Textuality <i>Redivivus</i>	1202
Interpretation of Peace Treaties Case	1203
North Atlantic Coast Fisheries Case	1207
Certain Expenses of the United Nations	1207
<i>Day v. TWA, Inc.</i>	1207
The Aramco Case	1210
Section 2. The Process of Performance	1218
A. Claims Relating to Changes in Participation	1219
1. Becoming a Party by Accession	1219
Vienna Convention on the Law of Treaties	1219
2. State and Governmental Succession	1219
Fitzmaurice, Report on Treaties	1219
3. The Conferment of Benefits or Imposition of Obliga- tions Upon Third States in the Original Agree- ment	1220
Vienna Convention on the Law of Treaties	1220
U.N. Charter, Article 2(6)	1220
Fitzmaurice, Report on Treaties	1221
Harvard Research, The Law of Treaties	1221
4. Subsequent Assignment of Benefits or Assumption of Burdens	1221
Fitzmaurice, Report on Treaties	1221
B. Claims Relating to Change in Permissibility of Objectives	1222
Vienna Convention on the Law of Treaties	1222
United Nations Charter, Article 103	1222
C. Claims Relating to Outcomes in Performance or Breach	1223
1. Performance of Agreed Policies Within States: In- ternal Implementation	1223
<i>Sei Fujii v. State</i>	1223
<i>People of Saipan v. United States Department of Interior</i>	1227

TABLE OF CONTENTS

	Page
Section 2. The Process of Performance—Continued	1231
2. Performance or Breach in External Arenas	1231
Vienna Convention on the Law of Treaties	1231
Report of the ILC, 1966	1232
Section 3. The Process of Change (Amendment, Modification, Withdrawal, Suspension, Denunciation, and Termination)	1236
A. National Prescriptions Relating to Competence to Terminate	1237
McDougal & Lans, Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy	1237
Goldwater v. Carter	1239
Reisman & McDougal, Who Can Terminate Mutual Defense Treaties?	1249
B. International Prescriptions Relating to Competence to Terminate	1255
1. Termination by Mutual Consent	1255
(a) Termination in Accordance with Terms of the Original Agreement	1255
Vienna Convention on the Law of Treaties	1255
(b) Termination by a New Agreement	1256
Vienna Convention on the Law of Treaties	1256
(c) Renunciation of Claims by the Party Benefited	1257
Harvard Research in International Law, <i>The Law of Treaties</i>	1257
2. Termination in the Absence of Mutual Consent	1257
(a) The General Theory of <i>Rebus Sic Stantibus</i>	1257
Vienna Convention on the Law of Treaties	1257
1966 ILC Report	1258
International Load Line Convention Opinion	1262
Harvard Research in International Law, <i>The Law of Treaties</i>	1266
3. Procedures for Change and Termination	1267
Vienna Convention on the Law of Treaties	1267
Test Ban Treaty	1269
League of Nations Covenant	1269
United Nations Charter	1269
Namibia Case (1971)	1269

TABLE OF CONTENTS

PART FIVE. THE OUTCOMES ACHIEVED BY STATES INCOMPETENCE OVER PARTICULAR EVENTS: "JURISDICTION"

	Page
Introduction -----	1271
Initial or Primary and Secondary Competence -----	1273
McDougal, Act of State in Policy Perspective: The International Law of an International Economy -----	1274
Reisman, Foreign Affairs and the Several States: Outline of a Theory for Decision -----	1275
Substantive Principles of Jurisdiction: The International Bill of Rights -----	1276
The S.S. <i>Lotus</i> -----	1278

CHAPTER XI. CLAIMS RELATING TO INITIAL COMPETENCES TO PRESCRIBE

Section 1. The Principle of Territoriality -----	1295
Ross, A Textbook of International Law -----	1295
Story, Commentaries on the Conflict of Laws -----	1295
Island of Palmas Case -----	1296
Restatement (Second) of the Foreign Relations Law of the United States -----	1297
Cunard Steamship Co. v. Mellon -----	1297
American Banana Co. v. United Fruit Co. -----	1301
Wildenhus's Case -----	1305
Strathearn Steamship Co. v. Dillon -----	1310
Foley Bros. v. Filardo -----	1313
Wilson v. Girard -----	1315
Vermilya-Brown Co. v. Connell -----	1318
Section 2. The Protective Principle (Including Impact Territoriality) -----	1319
The Lotus Case -----	1319
McDougal, Lasswell & Vlasic, Law and Public Order in Space -----	1319
Church v. Hubbart -----	1320
United States v. Aluminum Co. of America -----	1323
Continental Ore Co. v. Union Carbide & Carbon Corp. -----	1326
Timberlane Lumber Co. v. Bank of America -----	1329
The Protection of Trading Interests Act, 1980 -----	1342
Craig, Application of the Trading with the Enemy Act to Foreign Corporations Owned by Americans: Reflections on Fruehauf v. Massardy -----	1344
Scherk v. Alberto Culver -----	1346
United States v. Winter -----	1348
Great Western United Corp. v. Kidwell -----	1355
Collins, Traffic in the Traffickers: Extradition and the Controlled Substances Import and Export Act of 1970 -----	1361

TABLE OF CONTENTS

	<i>Page</i>
Section 2. The Protective Principle (Including Impact Territoriality)—Continued	
Rocha v. United States	1363
Chayes and Laskin, A Report of the Panel on International Telecommunications Policy	1368
Section 3. The Principle of Nationality	1370
Steele v. Bulova Watch Co., Inc.	1372
Blackmer v. United States	1374
Cook v. Tait	1376
United States v. Flores	1378
Section 4. Jurisdiction Based on the Nationality of Corporations	1381
Restatement (Second) of Foreign Relations Law of the United States	1382
Barcelona Traction Case	1383
Section 5. The Principle of Passive Personality	1385
Israel v. Eichmann	1386

CHAPTER XII. CLAIMS RELATING TO INITIAL COMPETENCES TO APPLY LAW

Section 1. Consent of the Parties	1393
Ehrenzweig, The Transient Rule of Personal Jurisdiction: The "Power" Myth and Forum Conveniens	1393
European Convention on State Immunity	1394
Unterweser Reederei, G.m.b.H. v. Zapata Off-Shore Co.	1395
The Bremen v. Zapata Off-Shore Co.	1399
European Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters	1404
National City Bank of New York v. Republic of China	1404
Section 2. Domicile and Residence	1408
Hellenic Lines, Ltd. v. Rhoditis	1409
Milliken v. Meyer	1412
Section 3. Location of Property	1413
Section 4. Hot Pursuit	1415
Geneva Convention on the High Seas, Article 23	1415
The King v. The "North"	1416
Section 5. Universality	1419
Nuremberg Case	1419
Eichmann Case	1419
Geneva Convention on the High Seas, Articles 15-18	1419
Gross, International Terrorism and International Criminal Jurisdiction	1419
Abramovsky, Multilateral Conventions for the Suppression of Unlawful Seizure and Interference with Aircraft: Part I: The Hague Convention	1421
Dreyfus v. Von Finck	1424
Filartiga v. Pena-Irala	1427

TABLE OF CONTENTS

	Page
Section 6. United States Constitutional Doctrines	1434
International Shoe Co. v. Washington	1435
Shaffer v. Heitner	1440
Carey v. National Oil Corp. and Libya	1444

**CHAPTER XIII. CLAIMS RELATING TO IMMUNITY
FROM APPLICATION**

Section 1. Sovereign Immunity	1447
The Schooner Exchange v. M'Faddon	1447
Berizzi Bros. Co. v. Steamship Pesaro	1451
Republic of Mexico v. Hoffman	1453
The "Tate Letter"	1455
Victory Transport, Inc. v. Comisaria General de Abastacimien- tos y Transportes	1458
Foreign Sovereign Immunities Act	1463
Section 2. Forum Non Conveniens and Lis Alibi Pendens	1469
Gulf Oil Corp. v. Gilbert	1470
Morley, Forum Non Conveniens: Restraining Long-Arm Juris- diction	1473
J. F. Pritchard & Co. v. Dow Chemical of Canada, Ltd.	1473
Ehrenzweig & Jayme, 2 Private International Law	1476
European Convention on State Immunity, Article 19	1477

**CHAPTER XIV. CLAIMS RELATING TO SECONDARY
ASSERTIONS OF COMPETENCE**

McDougal, Act of State in Policy Perspective: The In- ternational Law of an International Economy	1479
Section 1. Secondary Competence to Prescribe	1480
A. Choice of Law	1480
Lauritzen v. Larsen	1480
American Banana v. United Fruit Co.	1489
United States v. Sabbatino	1489
B. Extradition	1489
Burdick, Introductory Comment, Extradition, Harvard Re- search in International Law	1489
Jimenez v. Aristeguieta	1490
Ramos v. Diaz	1498
Rosado v. Civiletti	1502
Section 2. Secondary Competence to Apply	1512
United States v. Sabbatino	1513
First National City Bank v. Banco Nacional	1513
Dunhill v. Cuba	1513
Sabbatino Amendment	1513
McDougal, Act of State in Policy Perspective: The In- ternational Law of an International Economy	1513
Underhill v. Hernandez	1514

TABLE OF CONTENTS

	Page
Section 2. Secondary Competence to Apply—Continued	
Letter from Legal Adviser Department of State to Solicitor General in the Dunhill Case	1515
Hunt v. Coastal States Gas Producing Co.	1518
S. 2633 (1980): A Bill to Eliminate the Act of State Doctrine	1528
A. Enforcement of Foreign Judgments	1529
Hilton v. Guyot	1529
European Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters	1534
B. Enforcement of International Judgments and Awards	1536
“Socobel” v. Greek State	1536
Reisman, Nullity and Revision	1537
Convention on the Recognition and Enforcement of Foreign Arbitral Awards	1539
Ipitrade International, S.A. v. Federal Republic of Nigeria	1540
Libyan American Oil Co. v. Socialist People's Libyan Arab Jamahirya. (LIAMCO)	1542
C. Rational Accommodation: Toward a Theory of Reasonableness in Relation to Common Interest	1546
McDougal, Lasswell & Vlasic, Law and Public Order in Space	1547

PART SIX. AGGREGATE CHANGES IN TERRITORIAL COMMUNITIES

CHAPTER XV. THE PROBLEMS OF GOVERNMENTAL AND STATE SUCCESSION

Introduction	1552
Policies	1553
O'Connell, State Succession in Municipal Law and International Law	1554
Korovin, Soviet Treaties and International Law	1555
Tinoco Case	1556
West Rand Central Gold Mining Co., Ltd. v. The King	1556
Vienna Convention on Succession of States in Respect of Treaties	1556
International Law Commission, Draft Articles on Succession of States in Respect of Matters Other than Treaties	1560
INDEX	1571