

Detailed contents

<i>Legal tables</i>	xiii
Introduction	1
1 The history of the <i>ius ad bellum</i>	3
I Just war theory	3
II War as a sovereign right	4
Henry Wheaton, <i>Elements of International Law</i> (Stevens and Sons 1836/1904), excerpts from Chapter II	5
Robert Phillimore, <i>Commentaries on International Law</i> . Vol. I (T. & J. W. Johnson 1854), CXLIV, CXLVI	5
W. E. Hall, <i>Treatise on International Law</i> (4th edn, Clarendon Press, 1895), pp. 57 and 297	6
John Westlake, <i>International Law</i> . Part I: Peace (Cambridge University Press 1904), pp. 298f, 305	8
Lassa Oppenheim, <i>International Law: A Treatise</i> . Vol. I: Peace (Longmans, Green, and Co. 1905), §§ 129f	8
Lassa Oppenheim, <i>International Law: A Treatise</i> . Vol. II: War (Longmans, Green, and Co. 1905), §§ 50, 53 and 54 et seq.	9
III The Hague Peace Conferences	11
IV The League of Nations and the inter-war period	12
The Covenant of the League of Nations, Articles 10–16	12
The 1928 Kellogg-Briand Pact	15
V The first decades of the UN Charter	18
VI From the “Liberal World Order” to great power politics	19
2 The prohibition of the threat or use of force	22
I Introduction	22
A Article 2(4) UN Charter	22
B The Friendly Relations Declaration	23
C The Helsinki Final Act	29
II Case law and Advisory Opinions	36
A The Nicaragua case	36
B <i>Armed Activities on the Territory of the Congo</i> (Democratic Republic of the Congo v Uganda) paras 148f, 151–153, 160–165	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 1), 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
5	Intervention by invitation	149
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 Plénière, 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	Humanitarian intervention and the responsibility to protect	158
I	Introduction	158
II	From Biafra to Nicaragua	159
	The Nicaragua case, paras 263–268	159
III	The 1999 Kosovo intervention	161
	Press Statement by Dr. Javier Solana, Secretary-General of NATO, 23 March 1999	162
	Security Council Meeting 3988 on Kosovo, 24 March 1999	163
	Legality of Use of Force (Serbia and Montenegro v Belgium), <i>verbatim</i> record 1999/15	165
IV	From Humanitarian Intervention to the Responsibility to Protect	166
	Secretary-General Presents His Annual Report to General Assembly, Press Release, SG/SM/7136 GA/9596	167
	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	171
V	From the 2001 ICISS Report to the 2005 World Summit	171
	The Responsibility to Protect. Report of the International Commission on Intervention and State Sovereignty, December 2001, Core Principles	172
	A More Secure World paras 199–203	174
	In Larger Freedom paras 127–135 and para. 7 from the Annex	175
	2005 World Summit Outcome, 16 September 2005, A/60/L.1, paras 138f	178
	Security Council Resolution 1674 (2006)	179
	Implementing the Responsibility to Protect. Report of the Secretary-General, 12 January 2009, A/63/677, paras 11f	182
VI	The Libya intervention	184
	Security Council Resolution 1970	185
	Security Council Resolution 1973	191
VII	The April 2017 intervention in Syria	197
	Marty Lederman, (Apparent) Administration Justifications for Legality of Strikes Against Syria, <i>Just Security</i> , 8 April 2017	198
VIII	The April 2018 intervention in Syria	199
	Statement by President Trump on Syria, 13 April 2018	199
	Mr. Delattre (France), Security Council Meeting 8225, 9 April 2018, p. 12	201
	Policy Paper: Syria Action—UK Government Legal Position, published 14 April 2018	201
7	Peacekeeping	207
I	Introduction	207
II	The early phase of peacekeeping and the “implied powers” doctrine	207
	Certain Expenses of the United Nations (Article 17, Paragraph 2 of the Charter), <i>Advisory Opinion</i> , 20 July 1962, ICJ Rep 151	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