

# Public International Law

For my mother, Carol Ann Boas

# Public International Law

Contemporary Principles and Perspectives

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# Preface

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Dame Rosalyn Higgins wrote of her invitation to teach the General Course in International Law at the Hague Academy in 1991: ‘Can there really be anything new or interesting still to say, or is not all wisdom and scholarship already gathered in the Collected General Courses?’<sup>1</sup> Given her achievements and status as a scholar of international law even then, one might consider it folly to ever endeavour to write comprehensively on the topic of public international law. Of course, Higgins did deliver the Course and publish her highly regarded *Problems and Process* thereafter, and went on not only to publish important works but to preside over the World Court and deliver important opinions and decisions.

The point of course is that, like international law itself, scholarship must continue to be written. As the law progresses or recedes, as challenges to conceptions and practices of international law arise, new ideas and perspectives emerge. These ideas and perspectives need to be developed and explained through a range of academic and practice experiences, as reliance on the same views over time threatens to stifle thought and debate in a profoundly dynamic area of law. This book then is a modest contribution to this ever-evolving scholarship.

The writing of a book is in some ways a profoundly solitary exercise. At the same time, a work of this nature would not be possible without the wisdom and the assistance of others. Pascale Chifflet, whose grasp of structure, clarity of thought and great intellect is perhaps matched only by her modesty, I would like to thank for her meticulous review and advice. Thanks also to Gerry Simpson for reviewing some of this work and bringing to bear on it his perspicacity. I am grateful to Andrew Roe and Sylvester Urban, who provided highly valuable research assistance, as I am to a small hoard of researchers who aided this project in various ways: Irene Argeres, Sayomi Ariyawansa, William Bartley, Julia Kahan, Tyrone Liu, Patricia Saw, Jeremy Shelley, Marika Sosnowski and

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<sup>1</sup> Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (1994), 1.

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*Gideon Boas*  
*30 June 2011*  
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# Abbreviations

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ANZUS	Australia, New Zealand and the United States
CEDAW	Committee on the Elimination of Discrimination against Women
CMILS	Critical Marxist International Law Scholarship
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
ECOSOC	Economic and Social Council
EEZ	Exclusive Economic Zone
EU	European Union
FRY	Federal Republic of Yugoslavia
G8	Group of Eight
GATT	General Agreement on Tariffs and Trade
ICBL	International Campaign to Ban Landmines
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICISS	Internal Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICSID	International Centre for Settlement of International Disputes
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
ILC	International Law Commission
ILO	International Labour Organization
IRA	Irish Republican Army
ITLOS	International Tribunal for the Law of the Sea
LTTE	Liberation Tigers of Tamil Eelam
NATO	North American Treaty Alliance
NGO	Non-governmental organizations
NIOC	National Iranian Oil Company
NNPT	Nuclear Non-Proliferation Treaty
ONUC	United Nations Operation in the Congo
PCA	Permanent Court of Arbitration



PCIJ	Permanent Court of International Justice
PLO	Palestinian Liberation Organization
R2P	Responsibility to Protect doctrine
SC	Security Council
SCSL	Special Court for Sierra Leone
SFRY	Socialist Federal Republic of Yugoslavia
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNCLOS	United Nations Convention on the Law of the Sea
UNCRC	United Nations Convention on the Rights of the Child
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNMIK	United Nations Interim Administration Mission in Kosovo
UNTAET	United Nations Transitional Administration in East Timor
UPU	Universal Postal Union
USSR	Union of Soviet Socialist Republics
WHO	World Health Organization
WTO	World Trade Organization

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