

The Grenada Invasion

**Politics, Law, and
Foreign Policy
Decisionmaking**

Robert J. Beck

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Robert J. Beck

Preface

This book examines the influence of international law on foreign policy decisionmaking. It is motivated by two principal concerns. First, this study embraces Roger Fisher's premise that "if we want law and legal institutions to play larger and more effective roles in coping with international conflict, we shall need to understand more clearly the roles they now play."¹ Professor Fisher's argument, made in 1974, is perhaps even more compelling today when the twin notions of "New World Order" and "the rule of law" are routinely invoked by pundits, diplomats, and presidents. Second, this study seeks to help bridge the gap between the fields of international law and political science which emerged in the post-World War II period and which continues to plague the contemporary study of international relations.² For too long, political scientists have insufficiently appreciated the significance of the law's impact upon international politics, assuming with Dean Acheson that "law simply does not deal with ... questions of ultimate power — power that comes close to the sources of sovereignty."³ Similarly, legal scholars have too often neglected the political underpinnings of international law, preferring to concentrate instead on the more familiar question of the law's substance.⁴ But, as this study will show, law cannot fully be comprehended without reference to politics, nor politics without reference to law.

This book focuses specifically on the Reagan administration's decision to invade Grenada. Why examine the Grenada episode? After all, in the years since the American intervention, Grenada has returned to relative obscurity and Reagan to private life. The Soviet Union has ceased to exist, and democracy has come to numerous formerly communist states. Despite the advent of a post-Cold War era, the Grenada case offers several conspicuous advantages to students of international law's policy-relevance. First, President Reagan's 1983 policy choice involved the recourse to armed force. Such "use of force" decisions constitute the most challenging test of international law's efficacy. Second, the decision to launch Operation "Urgent Fury" was made within a brief,

bounded time frame and was prompted by distinct, relatively straightforward circumstances. Hence, its reconstruction is far simpler than are reconstructions of other foreign policy decisions made incrementally over longer periods in response to more complicated events. Moreover, given the brevity of the Grenada deliberations, it is less difficult to isolate law's role in the policy process. Finally, until very recently one could not reconstruct with any balance, scope, or nuance the Grenada decision-making process. Now, however, the departure of Reagan administration officials from government service has made personal, detailed reports of the Grenada episode more readily available, and thus, has greatly facilitated the scholar's task.⁵ Memoir accounts, for example, have been written by President Reagan's National Security Assistant for Latin America, by his special emissary to the Caribbean, by his Secretaries of Defense and State, by his White House Counsellor, and even by Ronald Reagan himself. Meanwhile, formerly tight-lipped officials have become increasingly willing to discuss candidly an event that has faded from popular consciousness, but not yet from their own. Only in such a congenial environment can a proper study of law's policy-relevance be undertaken.

Three primary methodological propositions inform this book. First, this study accepts Hedley Bull's definition of "international law" as "a body of rules which binds states and other agents in world politics in their relations with one another and is considered to have the status of law."⁶ The specific "rules" upon which this work will concentrate are the *jus ad bellum* provisions of the United Nations Charter. Second, this study assumes that the motives underlying foreign policy decisions are best found not by focusing on a monolithic "state" or its "government," but rather by examining very closely the actual process of decision-making.⁷ This inquiry begins, therefore, with the presumption that individual persons can significantly influence policy outcomes. Third, like a number of prior analyses of international law's policy-relevance,⁸ this one assumes that precise measurement of law's role in the decision-making process is virtually impossible. It allows that the persuasive force of legal arguments and their ultimate efficacy "will depend on infinitely complex moral, psychological, and interpersonal processes of group decisionmaking," and hence, that "quantification must always elude us."⁹ This limitation need not deter the scholar, however, for as Professor Fisher has cogently observed: "What one needs to know is not *how much* did law affect a given decision, but *how*."¹⁰

Notes

1. Roger Fisher's "Foreword" to Abram Chayes, *The Cuban Missile Crisis: International Crises and the Role of Law* (New York: Oxford University Press, 1974), p. v.
2. See David Bederman's review of Friedrich Kratochwil's *Rules, Norms, and Decisions* in *American Journal of International Law* 84 (July 1990): 775-777; Francis A. Boyle, *World Politics and International Law* (Durham, NC: Duke University Press, 1985); Anne-Marie Slaughter Burley, "International Law and International Relations Theory," *American Journal of International Law* 87 (April 1993): 205-239; and Richard Falk, "Foreword," in David P. Forsythe, *The Politics of International Law: U.S. Foreign Policy Reconsidered* (Boulder, Colo.: Lynne Rienner Publishers, 1990), pp. xiii-xvi.
3. Dean Acheson, *Proceedings of the American Society of International Law* 57 (1963): 14. See also Stanley Hoffmann, "International Law and the Control of Force," in Karl Deutsch and Stanley Hoffmann, eds. *The Relevance of International Law* (Garden City, NY: Anchor Books, 1971), pp. 34-66.
4. According to Professor Boyle, "too often public international law has been taught as if it were just another black-letter law course whose subject matter was about as straight-forward as the federal tax code." Francis A. Boyle, *American Journal of International Law* 83 (April 1989): 403.
5. See Chapter One for complete citation of memoir accounts and interviews by the author.
6. Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977). This study rejects the notion that law should be defined in terms of "the probable perceptions of participants [in decisionmaking]" or of "the normative expectations of those who are politically effective in the world community." See Thomas Ehrlich, *Cyprus 1958-1967* (New York: Oxford University Press, 1974), p. 4; and W. Michael Reisman and Andrew Willard, eds., *International Incidents: The Law That Counts in World Politics* (Princeton: Princeton University Press, 1988).
7. My study's approach will depart, for example, from that taken by Professor Henkin. See Louis Henkin, *How Nations Behave: Law and Foreign Policy* (New York: Columbia University Press, 1979).
8. See Georges Abi-Saab, *The United Nations Operation in the Congo 1960-1964* (New York: Oxford University Press, 1978); Robert R. Bowie, *Suez 1956* (New York: Oxford University Press, 1974); Chayes, *The Cuban Missile Crisis*; Scott Davidson, *Grenada: A Study in Politics and the Limits of International Law* (Aldershot: Avebury, 1987); Ehrlich, *Cyprus*; Roger Fisher, *Points of Choice* (New York: Oxford University Press, 1978); Forsythe, *The Politics of International Law*; and Louis Henkin, "Comment," in Ehrlich, *Cyprus*, pp. 128-133. The works of Abi-Saab, Bowie, Chayes, Ehrlich, and

Fisher comprise a series on "International Crises and the Role of Law" sponsored by the American Society of International Law.

The "international incidents" approach advocated by Professor Reisman would appear at least implicitly to reject the possibility of quantifying law's influence. See Reisman and Willard, eds., *International Incidents*.

9. Abram Chayes, *The Cuban Missile Crisis*, p. 103.

10. Fisher, "Foreword," p. v.

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1

International Legality and Use of Force Decisionmaking

Grenada, we were told, was a friendly island paradise for tourism. Well, it wasn't. It was a Soviet-Cuban colony, being readied as a major military bastion to export terror and undermine democracy. We got there just in time.¹

— Ronald Reagan, October 1983

If you are going to pronounce a new law that "wherever there is communism imposed against the will of the people then the U.S. shall enter," then we are going to have really terrible wars in the world.²

— Margaret Thatcher, October 1983

At 9:07 A.M. on October 25, 1983, Ronald Reagan walked into the White House briefing room accompanied by Eugenia Charles, the Prime Minister of Dominica. As the current chair of the Organization of Eastern Caribbean States (OECS) stood beside him, the President made a startling announcement: "Early this morning, forces from six Caribbean democracies and the United States began a landing or landings on the island of Grenada in the eastern Caribbean." The United States had taken this decisive step, Reagan explained, for three reasons: to protect innocent lives, including those of almost a thousand Americans; to forestall further chaos; and to assist in the restoration of conditions of law and order and of government institutions to the island. Ultimately, he concluded, the U.S./OECS "collective action" had been "forced" on

the United States by events that had "no precedent in the eastern Caribbean and no place in any civilized society."³

Of the many persons listening to President Reagan that early Tuesday morning, few had ever heard of Grenada, a sovereign state of 133 square miles and approximately 110,000 inhabitants.⁴ Perhaps even fewer had heard of Dominica and its hard-boiled Prime Minister, Eugenia Charles. And certainly, only a handful of experts at the time could correctly identify the OECS, the regional grouping that had formally requested American military assistance on October 23.⁵ Hence, Reagan's brief remarks left many questions, both grave and trivial, to be answered. From the outset, however, one fact was apparent to virtually everyone: the United States had sent its troops into combat for the first time since the Vietnam War.⁶

Reaction on the island of Grenada to the American "rescue mission" was overwhelmingly positive.⁷ A CBS poll of Grenadian public opinion, for example, found that ninety-one percent of those contacted were "glad the United States troops [had come] to Grenada."⁸ Similarly, by early November, Reagan's decision to employ American armed force had won broad support in the United States: an ABC-*Washington Post* survey showed seventy-one percent in favor and only twenty-two percent opposed.⁹ Outside Grenada and the United States, however, the story was quite different.¹⁰

Within a week of the invasion, seventy-nine governments had condemned, repudiated or in some way expressed disapproval of the operation.¹¹ As one might expect, the Soviet Union was among the first to voice a scathing denunciation. TASS, the official Soviet news agency, called Reagan "a modern Napoleon," devoid of conscience and simple-minded; it characterized the American action as "an act of open international banditry."¹² Shortly thereafter, the United Nations General Assembly joined in the attack, voting 108 to 9 to condemn the American action as a "violation of international law." The November 2 resolution was approved by an even larger majority than that which had earlier condemned the Soviet invasion of Afghanistan.¹³ More surprising, however, was the reaction of British Prime Minister Margaret Thatcher, Reagan's most staunch supporter in Europe and a strident anti-communist. In a Sunday phone-in radio program on the BBC World Service, the Tory leader remarked, "If you are going to pronounce a new law that 'wherever there is communism imposed against the will of the

people then the U.S. shall enter,' then we are going to have really terrible wars in the world."¹⁴

For two reasons, the General Assembly resolution and Prime Minister Thatcher's terse assessment are especially provocative. First, they illustrate well the depth and breadth of international disapproval that the Grenada intervention engendered. Second, and more importantly, they draw attention to two fundamental questions raised by the American use of force in Grenada. Was the American action legal? And what was the relationship between international law and the Reagan administration decisionmaking process?

Since October of 1983, the question of the Grenada invasion's permissibility under the *jus ad bellum*, the international law relating to the state's recourse to armed force, has been the subject of no little controversy.¹⁵ Not surprisingly, a wide array of scholars has entered the fray, armed with an equally wide array of legal arguments. Over the years, the American action has been condemned as illegal on a host of grounds, *inter alia*: (1) as a violation of the U.N. Charter's prescriptions on the use of force; (2) as a violation of the OAS Charter; and (3) as inconsistent with the OECS Charter. Likewise, the U.S. operation has been defended on a number of grounds: (1) as an intervention in response to an "invitation by lawful authority," the Grenadian Governor-General; (2) as "regional peace-keeping" authorized by competent regional treaties and grounded in Article 52 of the U.N. Charter; (3) as a "protection of nationals abroad"; and (4) as a "humanitarian intervention."¹⁶ Such diversity of legal interpretation reflects general disagreement over the proper understanding of the contemporary *jus ad bellum*,¹⁷ and specific disagreement over the facts surrounding the Grenada invasion.¹⁸

While the question of the international legality of Operation "Urgent Fury" is a worthwhile one, it is far from novel and therefore will not be considered in any great detail here. However, the question of the role played by international law in the Reagan administration's decision to launch "Urgent Fury" has thus far received inadequate scholarly attention.¹⁹ Indeed, only Scott Davidson, a Lecturer in Law at the University of Hull, has yet attempted in a systematic way to divine how law influenced Reagan's Grenada decision. Although his 1987 work, *Grenada: A Study in Politics and the Limits of International Law*, is admirable in many other respects, Davidson's analysis of "the role which

law played" is based on "interpolation,"²⁰ and hence, is of very limited utility. As Davidson himself concedes:

Unfortunately, there is, at present, very little direct information on the actual decisionmaking processes of the intervening states other than relatively exiguous references in post-intervention statements and it is therefore necessary to attempt to infer from references to legal norms within those statements the importance which was attached to the law in reaching decisions. Reconstruction is thus likely to be a hazardous process.²¹

Because "the evidence is clearly incomplete and the full details of the decisionmaking process with all its variable inputs will not emerge for some time," his is admittedly only "an interim assessment."²²

The goal of this study is to provide more than an interim assessment. Drawing upon the memoir accounts of those who participated in²³ or witnessed the Reagan administration's decisionmaking process,²⁴ and upon interviews and correspondence with key participants,²⁵ it will reconstruct as accurately as possible the thirteen-day period during which the decision to invade Grenada was made. Without such a reconstruction, a reasonably accurate assessment of law's role in decisionmaking can probably not be made.

In order best to evaluate the relationship between international law and the Reagan administration's invasion decision, the remainder of this study will be divided into six chapters. Chapter Two, "In Search of Motives," will tell the story of the Grenada invasion in order to establish the factual record and to draw tentative conclusions about Reagan administration motives. It will examine first the antecedents and course of the American action, recounting both the triumphs and tragedies of Grenada's New Jewel Movement (NJM), as well as those of America's armed forces. Then, it will set out the foreign policy context within which President Reagan's invasion decision was made, considering formative events in both the Carter and Reagan administrations. Chapter Three, "The Public Rationale," will trace the evolution of the Reagan administration's public rationale for its action, as articulated first by the President himself and then by a succession of government officials. As in Chapter Two, tentative conclusions will be drawn about Reagan administration motives. In addition, Chapter Three will offer provisional conclusions about the Reagan administration's general attitude toward international law, the role played by law in the Grenada decision, and the

conformity of the administration's legal justification with the *jus ad bellum* as it has been commonly rendered.

Chapter Four, "The Stage is Set," will begin a careful reconstruction of the administration's invasion decision. Specifically, it will relate the events of Thursday, October 13, through the early morning of Saturday, October 22. Chapter Five, "The Decision is Made," will complete the story of the invasion decision by recounting the events of Saturday, October 22 through Tuesday, October 25. Here, the decision to invade Grenada was tentatively reached, reconsidered, confirmed, and ultimately implemented. Chapter Six, "Law After the Invasion Announcement," will explore international law's influence upon the post-invasion justification of American policy, focusing particularly on the discussions between the State Department Legal Adviser's Office and the U.S. Mission to the United Nations. Chapter Seven, "Thirteen Days in October, Again," will answer specifically the central question of this study: What role did law play in the Reagan administration's decision to use military force? In so doing, it will first set out the three legal principles cited by the State Department Legal Adviser's Office to justify Operation "Urgent Fury." Next, it will determine how these principles actually influenced the administration's decisionmaking process. Finally, it will assess whether the principles cited did in fact justify the American invasion. The chapter will conclude with a discussion of the Grenada episode's broader "lessons" for international law and foreign policy decisionmaking.

Notes

1. "Address to the Nation, October 27, 1983," *Weekly Compilation of Presidential Documents* 19 (October 24, 1983): 1501.
2. "Remarks of Prime Minister Thatcher," *Documents on the Invasion of Grenada, Caribbean Monthly Bulletin*, October 1983, Supplement No. 1, item XX, pp. 87-88 (hereafter cited as *Documents on the Invasion*).
3. "President's Remarks, October 25, 1983," *Department of State Bulletin* 83 (December 1983): 67.
4. Grenada is about twice the size of Washington, D.C. United States Department of State, Bureau of Public Affairs, "Background Notes: Grenada," March 1980, p. 23. Indicative of the island's obscurity in October of 1983, there was some doubt then over how properly to pronounce its name.

5. The OECS was established June 4, 1981, as a successor to the West Indies Associated States Council of Ministers, set up in September 1966. The group includes seven member states: Antigua/Barbuda, Dominica, Grenada, Montserrat, St. Kitts/Nevis, St. Lucia, and St. Vincent and the Grenadines. The governing treaty of the OECS is the OECS Treaty of Establishment, June 18, 1981. Reprinted in *International Legal Materials* 20 (1981): 1166.

6. This does not include Operation "Rice Bowl," the failed Iran hostage rescue mission launched by President Carter on April 24, 1980. See Richard A. Gabriel, *Military Incompetence* (New York: Hill & Wang, 1985), pp. 85-116; David C. Martin and John Walcott, *Best Laid Plans: The Inside Story of America's War Against Terrorism* (New York: Harper & Row, 1988), pp. 1-42; and Gary Sick, *All Fall Down* (New York: Viking Penguin, 1985), pp. 327-356.

7. Even years after the American action, local Grenadians continued to call it a "rescue mission." See Cristina Garcia, "One U.S. Invasion Later ...," *Time*, November 23, 1987, p. 43; and Don A. Schanche, "Grenada struggles to shake off recent past," *Los Angeles Times*, October 23, 1988, sect. 1, p. 16. See also, William C. Adams, "The Public's Attitudes," *Public Opinion* 7 (February/March 1984): 53-55.

8. Eighty-five percent believed they had been in danger under the Revolutionary Military Council. Seventy-six percent thought Cuba had wanted to take control of the Grenadian government. See Gregory Sandford and Richard Vigilante, *Grenada: The Untold Story* (New York: Madison Books, 1984), p. 16; and "Grenadians Welcomed Invasion, A Poll Finds," *New York Times*, November 6, 1983, p. 21.

9. Cited by Kai Schoenhals and Richard A. Melanson, *Revolution and Intervention in Grenada: The New Jewel Movement, the United States, and the Caribbean* (Boulder, Colo.: Westview Press, 1985), p. 141. See also Michael Jay Robinson and Maura Clancey, "Student Attitudes," *Public Opinion* 7 (February/March 1984): 52-53; and David P. Forsythe, *The Politics of International Law: U.S. Foreign Policy Reconsidered* (Boulder, Colo.: Lynne Rienner, 1990), pp. 77-80.

Initially, Congress was rather critical of the administration's action. However, opinion on Capitol Hill did an abrupt about-face in response to several factors: the massive public support of the action; the apparent evidence of danger in Grenada provided by the returning students; the discovery of Cuban and Soviet weapons; and the popularity of Reagan's October 27 speech. See Schoenhals and Melanson, *Revolution and Intervention in Grenada*, pp. 154-158.

Larry Speakes recalled later: "When that first planeload [of medical students] returned ... and the first student off the plane knelt and kissed the ground and they all cheered their country and thanked the U.S. military for rescuing them from a dangerous and chaotic situation, the public relations

problem was solved right there." Larry Speakes, *Speaking Out* (New York: Charles Scribner's Sons, 1988), pp. 159-160.

10. On the international reaction, see especially Scott Davidson, *Grenada: A Study in Politics and the Limits of International Law* (Aldershot: Avebury, 1987), pp. 138-149; Hugh O'Shaughnessy, *Grenada: Revolution, Invasion and Aftermath* (London: Hamilton Hamish, 1984); pp. 173-216; Anthony Payne et al., *Grenada: Revolution and Invasion* (New York: St. Martin's Press, 1984), p. 168; Schoenhals and Melanson, *Revolution and Intervention in Grenada*, pp. 162-163; and Forsythe, *The Politics of International Law*, pp. 80-81.

11. Anthony Payne et al., *Grenada: Revolution and Invasion*, p. 168.

12. Cited by Walter Isaacson, "Weighing the Proper Role," *Time*, November 7, 1983, p. 42; and Payne et al., *Revolution and Invasion*, p. 168.

13. John Norton Moore, "Grenada and the International Double Standard," *American Journal of International Law* 78 (January 1984): 153.

14. "Remarks of Prime Minister Thatcher," *Documents on the Invasion*, pp. 87-88. The Grenada episode engendered "the sharpest and most public dispute between Thatcher and Reagan throughout the whole of their time in politics together." Geoffrey Smith, *Reagan and Thatcher* (London: The Bodley Head, 1990), p. 125.

15. Three book-length legal analyses have been done: Davidson, *A Study in Politics*; William C. Gilmore, *The Grenada Intervention: Analysis and Documentation* (London: Mansell, 1984); and John Norton Moore, *Law and the Grenada Mission* (Charlottesville, VA: Center for Law and National Security, 1984).

A large number of shorter analyses have also been done: Francis A. Boyle et al., "International Lawlessness in Grenada," *American Journal of International Law* 78 (January 1984): 172-175; Richard P. Dieguez, "The Grenada Invasion: 'Illegal' in Form, Sound as Policy," *New York University Journal of International Law and Politics* 16 (Summer 1984): 1167-1203; Isaak I. Dore, "The US Invasion of Grenada: Resurrection of the 'Johnson Doctrine?'" *Stanford Journal of International Law* 20 (Spring 1984): 173-189; L. Doswald-Beck, "The Legality of the U.S. Intervention in Grenada," *Netherlands International Law Review* 31 (1984): 362-366; H. Aubrey Fraser, "Grenada: The Sovereignty of the People," *West Indian Law Journal* 7 (October 1983): 205-291; Edward Gordon et al., "International Law and the United States Action in Grenada," *International Law* 18 (1984): 331; Christopher Joyner, "Reflections on the Lawfulness of Invasion," *American Journal of International Law* 78 (January 1984): 131-144; Jon M. Karas and Jerald M. Goodman, "The United States Action in Grenada: An Exercise in Realpolitik," *University of Miami Inter-American Law Review* 16 (Spring 1984): 53-108; Michael J. Levitin, "The Law of Force and the Force of Law: Grenada, the Falklands, and Humanitarian Intervention," *Harvard Journal of International Law* 27 (Spring 1984): 621-657;