

# INTERNATIONAL LAW

AS APPLIED BY  
INTERNATIONAL COURTS AND TRIBUNALS

BY

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*VOLUME I*

GENERAL PRINCIPLES (First published 1945—3rd ed. 1957)

*VOLUME II*

THE LAW OF ARMED CONFLICT (1968)

*VOLUME III*

INTERNATIONAL CONSTITUTIONAL LAW  
Fundamentals—The United Nations—  
Related Agencies (1976)

*VOLUME IV*

INTERNATIONAL JUDICIAL LAW  
(in preparation)

**TO MY WIFE**

## PREFACE

VOLUME III has grown out of Part Seven of the first and second editions of *International Law as Applied by International Courts and Tribunals*. It is concerned with the Fundamentals of the Law of International Institutions and the quasi-constitutional framework of contemporary world society: the United Nations and its Related Inter-Governmental Agencies. In a non-technical sense, which will require clarification,<sup>1</sup> these contents have provided the title of Volume III: *International Constitutional Law*.

The volume is addressed to five groups of readers: academic teachers and postgraduate students specialising in the disciplines of International Organisation, International Institutions and the Law of International Institutions or what, in his comprehensive and stimulating work, Professor Schermers terms International Institutional Law; legal practitioners in foreign ministries; members of the secretariats of, and delegations to, international institutions, as well as those of 40,000 staff members of the United Nations and its Related Inter-Governmental Agencies who may find it necessary to invoke the jurisdiction of any of the administrative tribunals concerned. Finally, it may assist students of international law who prefer to find their bearings in international law from law-determining agencies which, at least relatively, are more immune than others from the impact of vested national and international interests, eristic ideologies and the emanations of "committed" and, therefore, self-neutralising scholarship.

At one time or another during the preparation of this volume, I have received invaluable assistance—academic, critical, editorial and technical—from a number of friends and colleagues: E. D. Brown, Bin Cheng, Margaret Homewood, Hilde Jacobi, Gunhild Mueller, Maryam Shadab and Gwyneth Williamson. To all of them I owe a considerable debt of gratitude.

The secretariats and legal departments of the international institutions concerned as well as the Registries of the International Court of Justice, the United Nations Administrative Tribunal and the ILO Administrative Tribunal have answered, as fully as their official duties permit, questions put to them, and I should like to acknowledge this assistance with a due sense of appreciation.

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<sup>1</sup> See below, Chapters 10, 11 and 47.

The selected Bibliography is the work of Professor Brown. In addition to reading the whole of the proofs, he has also prepared the tables of cases, treaties and resolutions, the index of persons and the subject index. I am more indebted to him than words can express for his unfailing assistance and helpful criticism in a subject with which years of teaching and research have made him thoroughly familiar.

I am also greatly obliged to the editors of a number of periodicals for permission to incorporate in this volume portions of papers published there in their first versions. The individual contributions and the places of first publication are fully listed in Section B of the Selected Bibliography at the end of this volume.

Like its predecessors, this volume is dedicated to my wife, who has borne with me for half a century.

Finally, as on previous occasions, the co-operation I have received from the publishers and printers has been exemplary.

G. S.

LONDON

*January 14, 1976*

## ABBREVIATIONS

A .. .. .	Series A, containing the Judgments and Orders of the Permanent Court of International Justice, 1923-30
A/B .. .. .	Series A/B, containing the Judgments, Orders and Advisory Opinions of the Permanent Court of International Justice, 1931-40
A.D. .. .. .	<i>Annual Digest and Reports of Public International Law Cases</i> , 1929-55
A.J. Comp. Law ..	<i>American Journal of Comparative Law</i>
A.J.I.L. .. .. .	<i>American Journal of International Law</i>
A.O. .. .. .	Advisory Opinion
A.S.I.L. Proceedings ..	<i>Proceedings of the American Society of International Law</i>
AT/DEC/1 — ..	<i>Judgments of the United Nations Administrative Tribunal</i> : Nos. 1-70, 1950-1957, 1958 Nos. 71-86, 1958-1962, 1963 Nos. 87-113, 1963-1967, 1968 Nos. 114 — (continuing series)
<i>Acta Scandinavica</i> ..	<i>Acta Scandinavica Juris Gentium</i>
<i>Annuaire de l'Institut</i> ..	<i>Annuaire de l'Institut de Droit International</i>
<i>Annuaire français</i> ..	<i>Annuaire français de droit international</i>
<i>Australian Y.B.I.L.</i> ..	<i>Australian Year Book of International Law</i>
B .. .. .	Series B, containing the Advisory Opinions of the Permanent Court of International Justice, 1922-30
B.Y.I.L. .. .. .	<i>British Yearbook of International Law</i>
C .. .. .	Command Papers (United Kingdom) 1870-99
C.E.I.L. .. .. .	<i>Cambridge Essays in International Law. Essays in Honour of Lord McNair</i> , 1965
CERN .. .. .	European Organisation for Nuclear Research
CIPEC .. .. .	Inter-Governmental Council of Copper-Exporting Countries
C.L.P. .. .. .	<i>Current Legal Problems</i>
COMECON .. .. .	Council for Mutual Economic Aid
<i>Cambridge Essays</i> ..	See C.E.I.L.
<i>Cambridge L.J.</i> ..	<i>Cambridge Law Journal</i>
<i>Can. B.R.</i> .. .. .	<i>Canadian Bar Review</i>
<i>Canadian Y.B.I.L.</i> ..	<i>Canadian Yearbook of International Law</i>
Cd. .. .. .	Command Papers (United Kingdom), 1900-18
Cheng, B., <i>General Principles of Law</i> ..	Cheng, B., <i>General Principles of Law as applied by International Courts and Tribunals</i> , 1953
<i>Clunet</i> .. .. .	<i>Journal du Droit International Privé</i> (Clunet)
Cmd. .. .. .	Command Papers (United Kingdom), 1919-56
Cmdnd. .. .. .	Command Papers (United Kingdom), 1956-
Co. Litt. .. .. .	Cooke and Littleton
Col. J. Tr. L. .. ..	<i>Columbia Journal of Transnational Law</i>
Col. L.R. .. .. .	<i>Columbia Law Review</i>
D. .. .. .	Series D, containing Acts and Documents concerning the Organisation of the World Court, 1922-1947
D.O. .. .. .	Dissenting Opinion
Die Kreuger-Anleihen ..	G. Schwarzenberger, <i>Die Kreuger-Anleihen</i> , 1931
E. .. .. .	Series E, Annual Reports of the Permanent Court of International Justice, 1925-1945
E.A.E.A. .. .. .	European Atomic Energy Agency
E.E.C. .. .. .	European Economic Community
E.S.O. .. .. .	European Southern Observatory
EUROCONTROL ..	European Organisation for the Safety of Air Navigation
<i>Eastern J.I.L.</i> .. ..	<i>Eastern Journal of International Law</i>
<i>Economic World Order? Equity in International Law</i> .. .. .	G. Schwarzenberger, <i>Economic World Order?</i> , 1970 G. Schwarzenberger, <i>Equity in International Law</i> , 26 Y.B.W.A. (1972)

F.A.O. . . . .	Food and Agricultural Organisation
<i>Fitzmaurice 1973</i> . . . .	Sir Gerald Fitzmaurice, <i>The Future of Public International Law and of the International Legal System in the Circumstances of Today</i> , in <i>Institut de Droit International, Livre du Centenaire, 1873-1973</i> , 1973
<i>Foreign Investments</i> . . . .	G. Schwarzenberger, <i>Foreign Investments and International Law</i> , 1969
<i>Frontiers</i> . . . . .	G. Schwarzenberger, <i>The Frontiers of International Law</i> , 1962
<i>Frontiers of International Law</i> . . . . .	G. Schwarzenberger, <i>The Frontiers of International Law</i> , 1962
<i>Fundamental Principles</i> . . . .	G. Schwarzenberger, <i>The Fundamental Principles of International Law</i> , 87 <i>Hague Recueil</i> (1955)
G.A. Res. . . . .	General Assembly Resolution
GATT . . . . .	General Agreement on Tariffs and Trade
<i>Georgetown L.J.</i> . . . .	<i>Georgetown Law Journal</i>
Goodrich-Hambro-Simons . . . .	L. M. Goodrich, E. Hambro, A. P. Simons, <i>Charter of the United Nations. Commentary and Documents</i> (3rd ed.) 1969
<i>Grotius Society Transactions</i> . . . .	<i>Transactions of the Grotius Society</i>
H.M.S.O. . . . .	Her (His) Majesty's Stationery Office
<i>Hague Recueil</i> . . . . .	<i>Recueil des Cours, Académie de Droit International de la Haye</i>
<i>Harvard L.R.</i> . . . .	<i>Harvard Law Review</i>
Hersch Lauterpacht, <i>Development</i> . . . .	H. Lauterpacht, <i>The Development of International Law by the Permanent Court of International Justice</i> , 1934; revised edition, 1958: <i>The Development of International Law by the International Court</i>
Hudson, <i>Int. Leg.</i> . . . .	Hudson, M. O., <i>International Legislation, 1931-50</i> (9 vols.)
I.A.E.A. . . . .	International Atomic Energy Agency
I.C.A.O. . . . .	International Civil Aviation Organisation
ICITO-GATT . . . . .	Interim Commission for the International Trade Organisation—General Agreement on Tariffs and Trade
I.C.J. . . . .	International Court of Justice
<i>I.C.J. Reports</i> . . . . .	<i>Reports of Judgments, Advisory Opinions and Orders of the International Court of Justice</i>
I.C.J.Y.B. . . . .	International Court of Justice, <i>Yearbook</i>
I.C.L.Q. . . . .	<i>International and Comparative Law Quarterly</i>
I.L.M. . . . .	<i>International Legal Materials</i>
I.L.O. . . . .	International Labour Organisation
I.L.O.A.T. . . . .	International Labour Organisation Administrative Tribunal
I.L.R. . . . .	<i>International Law Reports</i> , 1950-
I.M.F. . . . .	International Monetary Fund
I.O.I. . . . .	H. F. van Panhuys, L. J. Brinkhorst, and H. H. Maas, <i>International Organisation and Integration</i> , 1968
I.P.I. . . . .	International Patent Institute
I.R.O. . . . .	International Refugee Organisation
I.T.U. . . . .	International Telecommunications Union
<i>Indian J.I.L.</i> . . . .	<i>Indian Journal of International Law</i>
<i>Inductive Approach</i> . . . .	G. Schwarzenberger, <i>The Inductive Approach to International Law</i> , 1965
<i>International Law and Order</i> . . . . .	G. Schwarzenberger, <i>International Law and Order</i> , 1971
<i>International Law and Totalitarian Lawlessness</i> . . . .	G. Schwarzenberger, <i>International Law and Totalitarian Lawlessness</i> , 1943
J.C.L. . . . .	<i>Journal of Comparative Legislation and International Law</i>
J.I.R. . . . .	<i>Jahrbuch für Internationales Recht</i>
J.W.T.L. . . . .	<i>Journal of World Trade Law</i>



- Kelsen Symposium* .. S. Engel (ed.): *Law, State, and International Legal Orders*, 1964
- L.J.* .. .. *Law Journal*, for instance, *Cambridge L.J.*
- L.N.T.S.* .. .. *League of Nations Treaty Series*
- L.o.N.* .. .. *League of Nations*
- L.o.N.O.J.* .. .. *League of Nations, Official Journal*
- L.Q.R.* .. .. *Law Quarterly Review*
- L.R.* .. .. *Law Review*, for instance, *Harvard L.R.*
- League of Nations and World Order* .. .. G. Schwarzenberger, *The League of Nations and World Order*, 1936
- M.L.R.* .. .. *Modern Law Review*
- McMahon Essays* .. J. E. S. Fawcett and R. Higgins (eds.) *International Organisation. Law in Movement. Essays in Honour of John McMahon*, 1974
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- Mich. L.R.* .. .. *Michigan Law Review*
- Moore, International Arbitrations* .. .. Moore, J. B., *History and Digest of the International Arbitrations to which the United States has been a Party*, 1898 (6 vols.)
- NATO* .. .. North Atlantic Treaty Organisation
- Netherlands, R.I.L.* .. .. *Netherlands Review of International Law*
- O.A.S.* .. .. Organisation of American States
- O.A.U.* .. .. Organisation of African Unity
- O.C.A.M.* .. .. *Organisation commune africaine et malgache et mauricienne*
- O.E.C.D.* .. .. Organisation for Economic Co-operation and Development
- O.E.E.C.* .. .. Organisation for European Economic Co-operation
- OPEC* .. .. Organisation of Petroleum Exporting Countries
- Ö.Z.Ö.R.* .. .. *Österreichische Zeitschrift für öffentliches Recht*
- P.C.I.J.* .. .. Permanent Court of International Justice
- P.T.V.* .. .. Peace Treaty of Versailles (1919)
- Peaslee, I.G.O.* .. .. A. J. Peaslee, *International Governmental Organisations*, 2 vols., 1961
- Power Politics* .. .. G. Schwarzenberger, *Power Politics, A. Study of World Society*, 1964
- R.D.I. (Paris)* .. .. *Revue de droit international*, founded by A. de La Parallele and N. Politis, Paris
- R.D.I.L.C.* .. .. *Revue de droit international et de législation comparée*
- R.G.D.I.P.* .. .. *Revue générale de droit international public*
- R.I.* .. .. *Revue de Droit International et de Législation Comparée*
- R.I.A.A.* .. .. *United Nations, Reports of International Arbitral Awards*, 1948–
- Revue belge* .. .. *Revue belge de droit international*, 1965–
- Rivista* .. .. *Rivista di diritto internazionale*
- Rosenne, Vol. 1* .. S. Rosenne, *The Law and Practice of the International Court*, 1965 (2 vols.), Vol. 1.
- S.O.* .. .. Separate Opinion
- Schermers* .. .. H. G. Schermers, *International Institutional Law*, 1972–1974 (3 vols.)
- Schuecking—Wehberg* .. W. Schuecking and H. Wehberg, *Die Satzung des Voelkerbundes*, Vol. I, 1931
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Scott, <i>Hague Conventions</i> .. ..	J. B. Scott, <i>The Hague Court Reports</i> , 1916, 1932 (2 vols.)
Soviet Y.B.I.L. ..	Soviet Year Book of International Law
Strupp-Schlochauer ..	K. Strupp, <i>Wörterbuch des Völkerrechts</i> , Vols. I-IV, 1960-62, edited by H.-J. Schlochauer
<i>Symbolae Verzijl</i> ..	F. M. van Asbeck and Others (eds.), <i>Symbolae Verzijl, présentées au professeur J. H. W. Verzijl</i> , 1958
U.N.A.T. ..	United Nations Administrative Tribunal
U.N.C.I.O. ..	United Nations Conference on International Organisation
U.N.C.T.A.D. ..	United Nations Conference on Trade and Development
U.N.D.P. ..	United Nations Development Programme
U.N.E.F. ..	United Nations Emergency Force
UNESCO ..	United Nations Educational, Cultural and Scientific Organisation
U.N.G.A. ..	United Nations General Assembly
UNITAR ..	United Nations Institute for Training and Research
UNRRA ..	United Nations Relief and Rehabilitation Agency
UNRWA ..	United Nations Relief and Works Agency for Palestinian Refugees
<i>U.N. Repertoire</i> ..	United Nations, <i>Repertoire of the Practice of the Security Council, 1946-1951, 1954, and five Supplements covering practice to 1968</i>
<i>U.N. Repertory</i> ..	United Nations, <i>Repertory of Practice of United Nations Organs</i> , Vols. 1-5 and Supplements
U.N.Y.B. ..	<i>Yearbook of the United Nations</i>
U.P.U. ..	Universal Postal Union
<i>Varia Juris Gentium</i> ..	<i>Varia Juris Gentium, Liber Amicorum J.P.A. Francois</i> , 1959
Verzijl, <i>Jurisprudence</i> , Vol. 1 .. ..	J. H. W. Verzijl, <i>The Jurisprudence of the World Court</i> , Vol. 1, 1966
<i>Virginia J.I.L.</i> ..	<i>Virginia Journal of International Law</i>
<i>Voelkerbunds-Mandat fuer Palästina</i> ..	G. Schwarzenberger, <i>Das Voelkerbunds-Mandat für Palästina</i> , 1929
Vol. I ..	G. Schwarzenberger, <i>International Law as applied by International Courts and Tribunals</i> , 3rd ed., 1957
Vol. II ..	G. Schwarzenberger, <i>International Law as applied by International Courts and Tribunals</i> , Vol. 2, <i>The Law of Armed Conflict</i> , 1968
Vol. IV ..	G. Schwarzenberger, <i>International Law as applied by International Courts and Tribunals</i> , Vol. 4, <i>International Judicial Law</i> (in preparation)
W.H.O. ..	World Health Organisation
W.I.P.O. ..	World Intellectual Property Organisation
W.M.O. ..	World Meteorological Organisation
Whiteman Digest ..	M. M. Whiteman, <i>Digest of International Law</i> , 1963-1973 (15 Vols.)
Y.B.W.A. ..	<i>Year Book of World Affairs</i>
Z.A.Ö.R.V.R. ..	<i>Zeitschrift für ausländisches öffentliches Recht und Völkerrecht</i>
Z.V. ..	<i>Zeitschrift fuer Voelkerrecht</i>

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