

PREFACE

Law is eminently a practical subject and its practitioners generally have little interest in theory. Those whom Montesquieu called “les grands décideurs” are content to make and apply rules and leave it to others to worry about the system as a whole or its basic premises. However, a purely technocratic approach to international law has its perils, even for the practitioner. In a non-hierarchical system, lacking a supreme authority, a claim of legal force ultimately rests on the underlying postulates of the system. Disputes as to the applicable principle of law are more likely than not to implicate such premises. In many cases, the “rules of recognition” (in international law, the “sources”) cannot be applied without understanding the broader theory and function of the system as a whole.

This book considers how that system operates in its unity and diversity. It recognizes that international law is not an ideal construct but part of a broader political process, shaped and applied in response to perceived needs, societal forces and disparities in power. However, the law is not reducible to politics; it has its distinctive character and relative autonomy. To show this in a realistic and coherent manner calls for both a broad perspective and concrete examples.

My attempt to do this in a single volume is a response to the challenge presented initially by the invitation of the Hague Academy of International Law to give its General Course in 1982. The lectures given subsequently appeared as volume 178 of the Academy’s *Recueil des Cours*. The present book has substantially revised and supplemented those lectures. It has done so especially in the chapters on the use of force and self-defense (chapters VII and VIII), and on human rights (chapter XV). It also has added new chapters on International Environmental Law (chapter XVI) and on Collective Security (chapter XVII).

This book appears at a time when international law has undergone a vast expansion into virtually every area of human activity extending across national lines. It is invoked and applied in countless decisions, accessible in many cases only to specialists. At the same time, some of its basic postulates seem to be challenged by calls for a “new world order”, and for a strengthened system of global governance. Moreover, new structures of authority are emerging as economic interdependence renders national boundaries of minor significance and demands for human rights and ethnic autonomy erode the exclusive domain of nation States. Even powerful States can no longer insulate themselves from external conflicts, or transboundary environmental damage or migrants driven by poverty and oppression.

International law will surely change in response to these factors and become more complex and pervasive. However, its principal features are likely to remain as long as a pluralist society of self-ruling territorial entities has the support of most peoples.