

INTERNATIONAL LAW AND POLITICAL REALITY

ALSO BY ANTHONY D'AMATO

The Concept of Custom in International Law
International Law: Process and Prospect
International Law Coursebook
International Law Anthology
International Law and World Order
 (*with* Burns Weston & Richard Falk)
International Environmental Law Anthology
 (*with* Kirsten Engel)
Jurisprudence: A Descriptive and Normative
 Analysis of Law
Justice and the Legal System
 (*with* Arthur J. Jacobson)
Desegregation from Brown to Alexander: An
 Exploration of Supreme Court Strategies
 (*with* Stephen Wasby & Rosemary Mettrailer)
Environment and the Law of the Sea
 (*with* John L. Hargrove)
The Judiciary and Vietnam
 (*with* Robert O'Neil)
The Realities of Vietnam
 (*with* Christopher Beal)
How to Understand the Law

**INTERNATIONAL
LAW AND
POLITICAL REALITY**

***COLLECTED PAPERS
VOLUME ONE***

Anthony D'Amato

**KLUWER LAW INTERNATIONAL
THE HAGUE/BOSTON/LONDON**



A C.I.P. Catalogue record for this book is available from the Library of Congress

ISBN 90-411-0036-9

Published by Kluwer Law International,
P.O. Box 85889, 2508 CN The Hague, The Netherlands.

Sold and distributed in the U.S.A. and Canada
by Kluwer Academic Publishers,
101 Philip Drive, Norwell, MA 02061, U.S.A.

In all other countries, sold and distributed
by Kluwer Academic Publishers Group,
P.O. Box 322, 3300 AH Dordrecht, The Netherlands.

Printed on acid-free paper

All Rights Reserved
© 1995 Kluwer Law International
Kluwer Law International incorporates the publishing programmes of
Martinus Nijhoff Publishers, Graham & Trotman and Kluwer Law and Taxation.

No part of the material protected by this copyright notice may be reproduced or
utilized in any form or by any means, electronic or mechanical,
including photocopying, recording, or by any information storage and
retrieval system, without written permission from the copyright owner.

Printed in the Netherlands

TABLE OF CONTENTS

Foreword by L.C. Green	v
Table of Contents	vii
Preface	ix
Acknowledgements	x
PART I. THE VIETNAM WAR	
1. The War Crimes Defense	3
2. The Constitution and Undeclared War	64
3. A State's Challenge to the War	80
4. Congress and Undeclared War	90
5. The Draft Resister and Undeclared War	104
PART II. OTHER WARS AND INTERVENTIONS	
6. The Justification of Force Short of War	115
7. Sanctions	140
8. Terrorism: Libya	151
9. Statehood: Israel and Palestine	164
10. Covert Intervention: Nicaragua	170
11. Humanitarian Intervention: Panama & Grenada	180
12. War Crimes: Kuwait & Bosnia	192
13. Defenses to War Crimes	218
PART III. NUCLEAR WEAPONS AND TECHNOLOGY	
14. The French Nuclear Tests of 1966	233
15. Pre-Emptive Strikes Against Nuclear Installations	247
16. State Responsibility for Exporting Nuclear Power Technology	258
PART IV. MINORITY RIGHTS	
17. Should Groups Have Rights?	309
18. Assyrian Autonomy	323
19. Claims of Equality in South West Africa	354
20. The Homelands Plan for South West Africa	372
Abbreviations	386
Index	387