

# PUBLIC INTERNATIONAL LAW

By

**MAHESH PRASAD TANDON**

M. A., B. COM., LL. B., F. R. E. S. (LOND.)

&

**RAJESH TANDON, B. A. LL. B.**

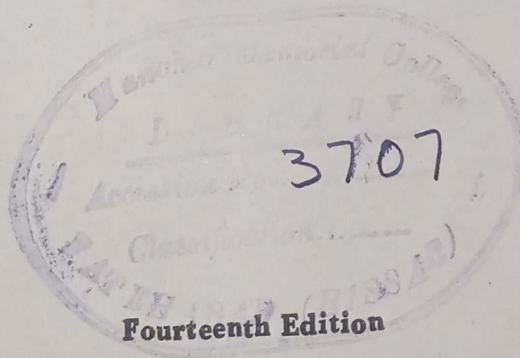
Advocate, High Court, Allahabad

FOREWORD

by

**Hon'ble Mr. JUSTICE P. L. BHARGAVA**

JUDGE, HIGH COURT, ALLAHABAD.



**ALLAHABAD LAW AGENCY**  
LAW PUBLISHERS  
9, UNIVERSITY ROAD ALLAHABAD-2

# TABLE OF CONTENTS

## Part I

Chapter	Introductory	Page
	...	1—18
<b>I</b>	<b>Nature of International Law</b>	...
	Its importance	...
	Its Origin	...
	Definitions of International Law	...
	Public International Law and Private International Law	6
	Subject-matter of International Law	7
	Is International Law True Law?	8
	Defects of International Law	13
	New Trend in International Law	15
	Basis of International Law	16
	Theory of Fundamental Rights	...
	Consent theory	...
	True Basis	17
		18
<b>II</b>	<b>Sources of International Law</b>	19—29
1.	Treaties	20
2.	Custom	21
	Custom and Usage	...
	When usage crystallises into custom	...
3.	The General Principles of Law	22
4.	Judicial Decisions	23
	Decision of Municipal Courts	24
	Prize Courts	25
5.	Text-Writers and Works of Jurists and Commentators	26
6.	International Comity	...
7.	International State Papers other than Treaties	...
8.	State Instructions for the guidance of their own officers	...
9.	Place of 'Reason' in the modern system	...
<b>III</b>	<b>History of International Law</b>	29—38
	Hindus	30
	Mohammedans	...
	Jews	...
	Greeks	...
	Romans	...
	Division of the History of International Law into three periods	...
	Seventeenth and Eighteenth Centuries	32
	Balthazar Ayala	34
	Albericus Gentilis	...
	Francis Suarez	...
	Grotius	...

Chapter	Page
Zeuche	35
Three Schools	<i>ibid</i>
Nineteenth and Twentieth Centuries	37
First World War—Covenant of the League of Nations, 1919	<i>ibid</i>
Treaty of Locarno, 1925	38
Kellogg-Briand Pact, 1928	<i>ibid</i>
The Geneva Convention, 1929	<i>ibid</i>
Codification of International Law	<i>ibid</i>
Second World War	39
Lessons from the History of Law of Nations	<i>ibid</i>
<b>IV Law of Nature and its Influence on the Development of International Law</b>	<b>39—46</b>
Justinian	3
Hooker	40
Christian Thomasius	<i>ibid</i>
The Greeks	<i>ibid</i>
The Romans	41
Maine on Law of Nature	42
The Medieval Conception	<i>ibid</i>
Law of Nature before Grotius	43
Grotius	44
Richard Zouche	<i>ibid</i>
Hobbes and Wulfendorff	<i>ibid</i>
Cornelius Van Bynkershoek	45
Wolff	<i>ibid</i>
Vattel	46
Three Different Schools	<b>46—65</b>
Law of Nature in Modern Times	<i>ibid</i>
<b>Codification of the Law of Nations</b>	<b>46</b>
Definition	<i>ibid</i>
Different Meanings of Codification	47
Advantages of Codification	<i>ibid</i>
Disadvantages of Codification	48
Difficulties of Codification	49
Short History	<i>ibid</i>
Declaration of Paris	50
Codification by individual writers	<i>ibid</i>
The Hague Conferences	51
Declaration of London	<i>ibid</i>
Codification by regional groups	52
The League of Nations	53
Oppenheim on the Hague Conference of 1930...	<i>ibid</i>
U. N. Charter and Codification	54
The International Law Commission	<i>ibid</i>
Formulation of the Nuremberg Principles	55

Chapter	Page
Definition of Aggression	55
Regime of the High Seas	57
International Criminal Jurisdiction	58
International Review of Criminal Policy	60
Nationality, including Statelessness	<i>ibid</i>
Arbitral Procedure	61
Vienna Convention on Diplomatic Relations, 1961	<i>ibid</i>
Vienna Convention on Consular Relations, 1963	62
Vienna Convention on the Law of Treaties	<i>ibid</i>
Universal Declaration of Human Rights	63
Other Conventions	<i>ibid</i>
Conclusion	64
<b>VI Relation Between International Law and Municipal Law</b>	<b>65—76</b>
Conflict between International Law and Municipal Law	65-69
Juristic Theories	6
Monistic Theory	66
Dualistic Theory	<i>ibid</i>
Pluralistic Theory	67
Transformation Theory	68
Delegation Theory	69
Practice of States with regard to application of International Law in municipal sphere	69-76
Great Britain	69
Doctrine of Incorporation	71
America	72
France	73
Spain	<i>ibid</i>
Latin American States	<i>ibid</i>
Norway	<i>ibid</i>
Belgium and Poland	<i>ibid</i>
Denmark	<i>ibid</i>
Austria	<i>ibid</i>
Germany	74
Constitution of India	<i>ibid</i>
Soviet view	<i>ibid</i>
Conclusion	76

Chapter		Page
	Subjects of International Law	78—80
	States in General	81—107
	Definition of State	81
	Rights of State	82
	Sovereignty and Independence of States	<i>ibid</i>
	Case law on Sovereignty and Independence	83
	Equality of States	84
	Classification of States	85
	Independent States	<i>ibid</i>
	Dependent States	86
	Composite Communities	<i>ibid</i>
	Real Union	87
	Personal Union	<i>ibid</i>
	Confederation	<i>ibid</i>
	Federal State	88
	Condominium	88-93
	Vassal States and Protectorates	88
	Vassal State	<i>ibid</i>
	Tibet	90
	Napal	<i>ibid</i>
	Indian States	91
	Protectorate	92
	Sikkim	93
	Bhutan	<i>ibid</i>
	British Protectorates	94-103
	French Protectorates	94
	Mandate and Trust Territories	95
	Development of the Mandate Principle	96
	Mandated Areas	
	Trust Territories	
	Declaration to place mandated territories under the Trusteeship System—International	98
	Status of South-West Africa	
	Competence of the General Assembly to revoke the Mandate for South Africa	99
	Advisory opinion of the International Court of Justice on the Legal consequences for States of the continued presence of South Africa in Namibia	101
	International Trusteeship and Mandates	<i>ibid</i>
	Neutralised States	102
	Switzerland	<i>ibid</i>
	Belgium and Luxemburg	<i>ibid</i>
	Distinction between Neutralised and Neutral States	103
	The Question of Diminutive States	<i>ibid</i>
	The Holy See and the Vatican City	105
	<b>IX The Commonwealth of Nations</b>	107—112
	Relations between Great Britain and the Members of the Commonwealth	107
	The Statute of Westminster, 1931	108

Chapter		Page
	Prime Ministers' meetings	13
	The Present Position of the Commonwealth in International Law	109
	Commonwealth on Trial on Rhodesian Unilateral Declaration of Independence	<i>ibid</i>
	Dismantling the Commonwealth	111
	<b>Recognition of States</b>	112
	Definition of Recognition	<i>ibid</i>
	Theories of Recognition	113—135
	Oppenheim's view	113
	Correct view	<i>ibid</i>
	Recognition—a legal or political problem	114
	Hallstein's Doctrine	115
	Forms of Recognition—1. Express and Implied Recognition	116
	2. Conditional Recognition	117
	3. Collective Recognition	118
	Collective Non-Recognition	<i>ibid</i>
	4. <i>De facto</i> and <i>De jure</i> Recognition	119
	Information from foreign office	120
	Distinction between <i>De facto</i> and <i>De jure</i> Recognition	<i>ibid</i>
	122	
	Considerations for Recognition	123
	Recognition of Governments	124
	Recognition of Government in Exile	125
	Recognition of States	127
	Non-recognition of absorption	<i>ibid</i>
	Stimson's doctrine of non-recognition	<i>ibid</i>
	The Estrada doctrine	<i>ibid</i>
	Retroactivity of Recognition	128
	Methods of Recognition	129
	Withdrawal of Recognition	130
	Consequences of Recognition	131
	Disabilities of Unrecognised State	<i>ibid</i>
	Recognition and the League	132
	Recognition and the U. N. O.	<i>ibid</i>
	Recognition of Belligerency and Insurgency	<i>ibid</i>
	Belligerency	133—135
	Insurgency	133
	Co-belligerency	134
	135	
	<b>XI State Succession</b>	136—145
	Universal Succession	136
	Partial Succession	<i>ibid</i>
	Consequences of State Succession	<i>ibid</i>
	1. Treaty Rights and Obligations	137
	State Succession in respect of law-making treaties	<i>ibid</i>
	2. Membership	138
	Change in Constitution and Frontiers of a State	139
	140	

CONTENTS		Page
Chapter	...	140
3. Public Property and Public Rights	...	<i>ibid</i>
4. Private Property	...	141
Private Rights	...	<i>ibid</i>
5. Contractual Liability	...	142
6. Public Debts	...	143
7. Torts	...	<i>ibid</i>
8. Succession to Property lying in Foreign State	...	<i>ibid</i>
9. Laws	...	144
10. Nationality	...	<i>ibid</i>
Succession on suppression of revolt	...	145
Succession in case of dismemberment	...	
Succession in International Organization	...	
<b>XII Intervention</b>		<b>146—160</b>
What is Intervention?	...	146
Provisions in the Charter	...	47
Kinds of Intervention	...	<i>ibid</i>
Grounds of Intervention:	...	148-153
1. Self-Preservation	...	148
Enforcement of Treaty Rights	...	149
2. Soviet Intervention in Hungarian Affairs	...	<i>ibid</i>
Invitational Intervention	...	150
3. Grounds of Humanity	...	<i>ibid</i>
Provisions in the Charter	...	151
4. Balance of Power	...	<i>ibid</i>
Protection of Persons and Property	...	152
5. Intervention in Civil Wars	...	153
6. Collective Intervention	...	<i>ibid</i>
7. Other Grounds	...	154
Prohibition contained in Charter	...	155
The Monroe Doctrine	...	158
Nehru Doctrine	...	<i>ibid</i>
Significance of Monroe Doctrine	...	159
The Drago Doctrine	...	160
The Brezhnev Doctrine	...	
<b>XIII Doctrine of Necessity and Self-Preservation</b>		<b>160—164</b>
Its Justification for violations of Territory	...	160
Inherent Right	...	161
Case of the Danish Fleet	...	<i>ibid</i>
Case of Amelia Island	...	<i>ibid</i>
First World War	...	162
Manchurian Dispute	...	<i>ibid</i>
Russian Invasion of Finland	...	<i>ibid</i>
American Neutrality	...	<i>ibid</i>
Affairs of Korea	...	<i>ibid</i>
Invasion of Tibet	...	163
Provisions in the Charter	...	<i>ibid</i>
Conclusion	...	

CONTENTS		Page
Chapter	...	15
<b>XIV State Territory</b>		<b>164—191</b>
Limitations of Territorial Sovereignty	...	164
Territory	...	165
Boundaries	...	<i>ibid</i>
Rivers	...	166
Congress of Vienna, 1815	...	167
The Paris Congress, 1856	...	<i>ibid</i>
League Covenant	...	166
Barcelona Conference, 1921	...	<i>ibid</i>
Geneva Conference, 1930	...	<i>ibid</i>
Principal Rivers	...	<i>ibid</i>
The Rhine	...	<i>ibid</i>
The Po	...	<i>ibid</i>
The Danube	...	<i>ibid</i>
The Congo	...	168
Canals	...	<i>ibid</i>
The Suez Canal	...	<i>ibid</i>
Kiel	...	168-173
Panama	...	168
Position of the Canal in two World Wars	...	171
The Corinth Canal	...	172
Straits	...	<i>ibid</i>
National and Territorial Waters	...	173
Maritime Belt	...	<i>ibid</i>
Extent of Marginal Waters	...	174
Rights of states over their Territorial Waters	...	<i>ibid</i>
Islands	...	<i>ibid</i>
Archipelagos	...	175
Rocks and Banks	...	176
Cabotage	...	<i>ibid</i>
The Doctrine of the Continental Shelf	...	177
Geneva Convention on the Continental Shelf...	...	<i>ibid</i>
Lakes and Land-locked Seas	...	<i>ibid</i>
Bays and Gulfs	...	179
Ports	...	181
The Doctrine of Hot Pursuit	...	<i>ibid</i>
The Geneva Conference on the Law of the Sea	...	<i>ibid</i>
Breadth of the Territorial Sea	...	182-186
Straight Baselines	...	183
Innocent Passage through International Straits	...	184
The Contiguous Zone	...	<i>ibid</i>
Fishing and Conservation of Living Resources	...	185
of the High Seas	...	
Continental Shelf	...	<i>ibid</i>
Miscellaneous Provisions	...	<i>ibid</i>
Measures to prevent radioactive pollution	...	<i>ibid</i>
Human Environment	...	<i>ibid</i>
Sovereignty over the Air	...	186
Theories as to Air Space	...	<i>ibid</i>
Paris Convention, 1919	...	<i>ibid</i>
Havana Convention, 1928	...	187
Warsaw Convention, 1929	...	<i>ibid</i>
Five Freedoms of the Air or the Chicago	...	<i>ibid</i>
Convention, 1944	...	

Chapter		Page
	International Civil Aviation Organisation ...	188
	Wireless Communications ...	<i>ibid</i>
	Servitudes ...	189
	Positive and Negative Servitudes ...	<i>ibid</i>
	Military and Economic Servitudes ...	<i>ibid</i>
	Validity of State Servitudes ...	190
	Extinction of Servitudes ...	<i>ibid</i>
	Leading Cases and Principles concerning International Servitude ...	191—198
<b>XV</b>	<b>Passage of Ships Through International Waterways</b> ...	191
	Barcelona Conference ...	<i>ibid</i>
	S. S. Wimbledon ...	192
	Free passage of waterways during War ...	<i>ibid</i>
	When the Littoral State is not at War ...	<i>ibid</i>
	Straits of Magellan ...	193
	Nationalization of Suez Canal ...	<i>ibid</i>
	Aqaba Gulf and Tiran Territorial Waters ...	195
	Effect of Armistice Agreements ...	<i>ibid</i>
	Peace Time ...	196
	Panama Canal ...	197
	When the Littoral or Riparian State is at War ...	<i>ibid</i>
	Exercise of the Right of Visit and Search ...	198—216
<b>XVI</b>	<b>Modes of Acquiring and Losing State Territory</b> ...	198
	Occupation ...	200
	Legal Status of Germany ...	201
	Legal Status of Formosa (Taiwan) ...	204
	Man's Conquest of Moon and Mars ...	205
	Prescription ...	206
	Accretion ...	207
	Cession ...	209
	Plebiscite ...	<i>ibid</i>
	International Legal Aspects of the Kashmir Problem ...	211
	State of Jammu and Kashmir part of India ...	212
	Conquest and Subjugation ...	213
	Title by Conquest under the Charter ...	<i>ibid</i>
	Liberation of Goa ...	214
	Original and Derivative Methods ...	215
	Adjudication or Award ...	<i>ibid</i>
	Leases ...	216
	Spheres of Influence ...	<i>ibid</i>
	Loss of State Territory ...	<i>ibid</i>
	Cession ...	<i>ibid</i>
	Operations of Nature ...	<i>ibid</i>
	Subjugation and Prescription ...	<i>ibid</i>
	Dereliction ...	<i>ibid</i>
	Revolt ...	<i>ibid</i>

Chapter		Page
<b>XVII</b>	<b>Jurisdiction</b> ...	217—228
	Jurisdiction on the Open Sea ...	217
	Legal Conceptions of the Freedom of the high seas ...	218
	Public Ships ...	219
	National vessels ...	<i>ibid</i>
	Piracy ...	<i>ibid</i>
	Fisheries in the Open Sea ...	<i>ibid</i>
	Bed of the Sea ...	<i>ibid</i>
	Subsoil under the Sea ...	<i>ibid</i>
	Atomic Tests over High Seas ...	220
	Peaceful uses of sea bed ...	221
	Imperial Jurisdiction over Nationals ...	<i>ibid</i>
	Civil and Criminal Jurisdiction ...	222
	Position of Foreigners in a Foreign State ...	<i>ibid</i>
	Exterritoriality ...	223
	Judicial Power of States ...	224
<b>XVIII</b>	<b>Qualified Jurisdictional Immunity of Armed Forces on Foreign Territory</b> ...	229—231
	Offences within the Camp ...	229
	Offences committed while on duty ...	230
<b>XIX</b>	<b>Jurisdiction over Public and Private Vessels</b> ...	232—236
	What is a Public Vessel? ...	232
	Proof of Character ...	<i>ibid</i>
	Legal Position of Public Vessels on Open Sea and foreign territorial waters ...	<i>ibid</i>
	Cases of Collision ...	<i>ibid</i>
	Public Armed Vessels ...	233
	Immunities ...	<i>ibid</i>
	State-owned commercial ships ...	234
	What is a Private Vessel? ...	<i>ibid</i>
	Legal Position of Private Vessels on the High Seas ...	<i>ibid</i>
	Jurisdiction over Foreign Private Vessels in national waters ...	235
<b>XX</b>	<b>Piracy</b> ...	237—244
	Definition ...	237
	Essential Ingredients of Piracy ...	<i>ibid</i>
	Piratical Acts authorised by a Government ...	238
	Right of Visit and Seizure of Piratical Ships ...	<i>ibid</i>
	Ownership of property in piracy ...	<i>ibid</i>
	Case Law ...	<i>ibid</i>
	Piracy according to Municipal Law ...	<i>ibid</i>
	Nyon Agreement ...	239
	Air Piracy (Hijacking) ...	<i>ibid</i>
	Aircraft hijacking defined ...	240—244
	Incidence of hijacking ...	<i>ibid</i>
	Hijacking by Palestinian guerillas ...	<i>ibid</i>

	Page
Hijacking of Indian plane	241
Air Piracy	... <i>ibid</i>
International Air Law	... <i>ibid</i>
Geneva Conventions on the High Seas, 1958	... 242
Perils of air piracy	... <i>ibid</i>
Tokyo Convention	... 243
U. N. resolution on skyjacking	... <i>ibid</i>
Hague Convention, 1970	... <i>ibid</i>
Montreal Convention, 1971	... 244
Remedial Measures	... 244-248
<b>XXI Jurisdiction over Aliens</b>	
Admission of Aliens	... 244
The Right of Asylum	... 245
Expulsion of Aliens	... <i>ibid</i>
Aliens subject to territorial supremacy	... <i>ibid</i>
Treatment of Aliens	... <i>ibid</i>
Aliens and the Protection of their Home State	... 248
Position of Resident Aliens	...
Rights to Tax Aliens	...
Jurisdiction over Aliens	...
The Calvo Clause	... 249-251
<b>XXII Jurisdiction of Municipal Courts in Seizures effected in Contravention of International Law</b>	
Introduction	... 249
Unlawful Seizures of Fugitives	... <i>ibid</i>
Seizures of Vessels in foreign territorial waters	... 250
in violation of International Law	... 251
Seizures on High Seas	... 252-262
Seizures on High Seas	... 252
<b>XXIII Nationality</b>	
What is Nationality?	... 253
Determination of Nationality	... <i>ibid</i>
Incidents of Nationality at International Law	... 254
Nationality, Domicile and Allegiance	... <i>ibid</i>
Nationality and Citizenship	... 255
Modes of acquiring Nationality	... <i>ibid</i>
British Nationality Act	... 256
U. S. Nationality Act	... 257
Double Nationality	... 258
Nationality in India	... 259
Loss of Nationality	... <i>ibid</i>
Child's Domicile	... 262
Statelessness	... <i>ibid</i>
International Law Commission	... 263-280
Expatriation	... 263
<b>XXIV Extradition connected with Jurisdiction</b>	
Its necessity	... 263
Definition	... <i>ibid</i>
Difficulties	... 264

	Page
English Extradition Act	... 264
U. S. Practice	... <i>ibid</i>
Indian Extradition Act	... <i>ibid</i>
Surrender of their own subjects	... 265
Doctrine of Reciprocity	... <i>ibid</i>
Necessary conditions	... 265-271
Attentat clause	... 267
Convention against Terrorism	... <i>ibid</i>
Neutral States and the Extradition of War Criminals	... 268
Rule of Speciality	... 269
Double Criminality	... 270
Surrender of a person within the State to another is a political act	... 271
Asylum	... 273
Territorial and diplomatic asylum	... <i>ibid</i>
Principle of Non-efoulment	... 274
Diplomatic Asylum	... 275
Law of expulsion and extradition distinguished	... <i>ibid</i>
Leading Cases and Principles	... 277-280
<b>XXV Place of the Individual in International Law</b>	... 280-298
Traditional View	... 80
Extreme View	... <i>ibid</i>
States and Individuals subjects of International Law	... 282
Russian View	... 283
Treaty Stipulations	... <i>ibid</i>
Nuremberg Trial	... 284
Genocide Convention	... 285
Atlantic Charter	... <i>ibid</i>
United Nations	... <i>ibid</i>
Right to petition an international authority	... 286
Petitions under the Trusteeship System	... <i>ibid</i>
Right to petition for Stateless Persons	... <i>ibid</i>
Universal Declaration of Human Rights	... 286-290
European Convention for the Protection of Human Rights	... 290-292
The European Court of Human Rights	... 292
International Human Rights Instruments—International Convention on Elimination of all forms of Racial Discrimination	... <i>ibid</i>
Nationality	... 293
Rights and Duties of Aliens	... 294
Whether freedom of the Seas belongs to individuals or to States	... 295
Individuals and International Treaties	... <i>ibid</i>
Claims of Individuals	... 296
Extradition	... <i>ibid</i>
Right of Asylum	... <i>ibid</i>
Recognition of the Right of Asylum	... 297
Pirates and War Criminals	... <i>ibid</i>
Individuals as subjects of International Law...	... 298

	Page
	298—319
...	298
Diplomatic Agents	299
Origin of the institution of Diplomatic Representation	ibid
Vienna Convention on Diplomatic Relations, 1961	300
Right of Legation	ibid
Classes of Diplomatic Representatives	ibid
Ambassadors, Papal Legates and Nuncios	301
Ministers Plenipotentiary and Extraordinary Ministers Resident	ibid
Chargés d' Affaires	302
Diplomatic Corps	ibid
Appointment	303
Full Powers	ibid
Notification of Arrival	ibid
When can a State refuse?	304
Designation of Diplomatic Agents	...
Size of the Mission	...
Functions of Diplomatic Agents	...
Diplomatic Immunities—Nature and Enforcement	305
Three Different Theories : Extraterritoriality, Representative Character of Diplomat and Interest of Function	306—314
Immunities and Privileges	306
1. Personal Safety	ibid
2. Immunity from Criminal Jurisdiction	308
3. Immunity from Civil Jurisdiction	ibid
4. Exemption from subpoena as witness	310
5. Immunity of Envoy's Retinue	311
6. Immunity connected with Residence	312
Grant of Asylum	ibid
7. Exemption from Taxes	313
8. Exemption from seizure of goods	ibid
9. Right to worship	...
10. Freedom of Communication	...
Commencement and Discontinuance of Immunities	ibid
Exemption from Local Jurisdiction and Immunity from legal liability	314
Right of Innocent Passage	...
Immunity of Plenipotentiaries of foreign countries at foreign courts	ibid
Proof of Diplomatic Status	315
Non-permanent Envoys	ibid
Extension of Diplomatic Immunities to Arbitral Tribunal	316
Covenant of the League	ibid
Provisions in the Charter	ibid
Termination of Diplomatic Mission	318
Formalities at Termination of Mission	...

	Page
International terrorism and Protection of Diplomats	21
<b>XXVII Consuls</b>	<b>320—323</b>
Definition	318
Their Origin	...
Vienna Convention on Consular Relations, 1963	320—323
Grades of Consul	...
Appointment of Consuls	ibid
Functions	ibid
Privileges	321
Termination of Consular Office	ibid
<b>XXVIII Treaties</b>	<b>323</b>
<b>INTERNATIONAL TRANSACTIONS</b>	<b>325—346</b>
Conception of Treaty	325
Other Documents	...
Kinds of Treaties	325
Power to enter into Treaties	ibid
Treaty-making Power of the Dominions	326
Treaty-making Power of U. N.	327
Mutual Consent of the Contracting Parties	ibid
Contracts and Treaties	ibid
Treaties inconsistent with the Charter and Immoral Treaties	328
Vienna Convention on the Law of Treaties	...
Constitutional Requirements	329
Conclusion of Treaties	330
1. Accrediting of Representatives	ibid
2. Negotiation	331
3. Signature	ibid
4. Ratification	ibid
Ratification subject to reservations in Bilateral Treaty	...
Multilateral Conventions	332
5. Accession and Adhesion	333
6. Coming into force of treaties	ibid
7. Registration	ibid
8. Incorporation of Treaty into State Law	ibid
Invalid Treaties	334
Effect of treaties on Third Parties	...
Pacta Sunt Servanda	335
Amendment or modification of Treaties	ibid
Termination of Treaties	336
Doctrine of Jus Cogens	337
Interpretation of Treaties	342
<b>XXIX Alliances and Commercial Treaties</b>	<b>343</b>
<b>346—347</b>	
Alliances	346
Casus Foederis	...
Guarantee Treaties	347
Commercial Treaties	ibid
Most-favoured Nation Clause	ibid



Chapter		Page
<b>XXX International Torts and Damages</b>		<b>348—350</b>
Types of International Torts	...	348
Nationality of the Claim	...	<i>ibid</i>
Exhaustion of Local Remedies	...	<i>ibid</i>
Difficulty of Determination	...	349
Liability for Mob Action	...	350
Liability for damage caused by objects launched into outer space	...	
Measure of Damages	...	
		<b>351—357</b>
<b>XXXI The League of Nations</b>		
Its Origin	...	<i>ibid</i>
Members	...	<i>ibid</i>
Functions and Objects	...	3 2
Constitution	...	<i>ibid</i>
The Assembly	...	<i>ibid</i>
The Council	...	354
The Secretariat	...	<i>ibid</i>
The Maintenance of World Peace	...	<i>ibid</i>
Promotion of International Co-operation	...	355
Withdrawal	...	
Position of the League	...	
Causes for the Failure of the League	...	
		<b>357—404</b>
<b>XXXII The United Nations</b>		
Its Genesis	...	357
1. London Declaration	...	<i>ibid</i>
2. Atlantic Charter	...	<i>ibid</i>
3. United Nations Declaration	...	358
4. Moscow and Teheran Conferences	...	<i>ibid</i>
5. Dumbarton Oaks and Yalta Conferences	...	<i>ibid</i>
6. San Francisco Conference	...	359
Its objects	...	<i>ibid</i>
The Principles of the United Nations	...	361
Erosion of Art. 2 (4) of the Charter	...	362
Membership	...	363
China's Admission in the U. N.	...	364
Blocking of Bangladesh to U. N. membership	...	365
The Constitution of the United Nations	...	<i>ibid</i>
1. The General Assembly	...	366
Functions and Powers	...	367
Voting Procedure	...	<i>ibid</i>
Organization	...	<i>ibid</i>
1. Main Committees	...	<i>ibid</i>
2. Procedural Committees	...	<i>ibid</i>
3. Standing Committees	...	<i>ibid</i>
4. Ad Hoc Committees	...	371
Withdrawal from the United Nations	...	373
Uniting for Peace Resolution	...	
Appraisal of the work	...	

Chapter		Page
<b>2. The Security Council</b>		<b>23</b>
Powers and Functions of the Security Council	...	373
Pacific and Compulsive Settlement of Disputes	...	374
Voting Procedure in the Security Council	...	<i>ibid</i>
Veto Right	...	376
Double Veto	...	<i>ibid</i>
Self-Defence	...	378
Legal Status of the Organization	...	380
Relation of U. N. Assembly with Security Council	...	381
Law in the United Nations	...	
U. N. and League	...	383
The Council of the League and the Security Council	...	<i>ibid</i>
Limitations on the Functions of U. N.	...	384
<b>3. The Secretariat</b>		387
<b>4. The Trusteeship Council</b>		388
Powers and Functions	...	389
Petitions	...	<i>ibid</i>
The Question of South-West Africa	...	390
Court's Opinion in 1950	...	<i>ibid</i>
Case filed by Ethiopia and Liberia against South Africa for declaration remandate over South-West Africa	...	391
World Courts' Advisory Opinion on the Status of South-West Africa	...	<i>ibid</i>
Strategic Areas	...	392
Self-Government for Trust Territories	...	<i>ibid</i>
<b>5. The Economic and Social Council</b>		<i>ibid</i>
Functions and Powers	...	393
Regional and Security Arrangements	...	<i>ibid</i>
Non-Self-Governing Territories	...	<i>ibid</i>
Towards Decolonization	...	395
Implementation and Enforcement of Decisions of International Organization	...	<i>ibid</i>
Revision of the Charter	...	399
Review of the activities of U. N. during the past years	...	400-402
		402
<b>XXXIII Survey of Security Council at Work</b>		<b>404—427</b>
1. Indonesia	...	405
2. Greece	...	<i>ibid</i>
3. The Berlin Blockade	...	406
4. Palestine	...	<i>ibid</i>
5. Syria and Lebanon	...	<i>ibid</i>
6. Anglo-Iranian Oil Dispute	...	407
7. The Corfu Channel Dispute	...	<i>ibid</i>
8. Legal Issues involved in Korean War	...	<i>ibid</i>
9. The Question of Algeria	...	407
10. Kashmir	...	410
		<i>ibid</i>

Chapter		Page
11.	The Suez Canal	411
12.	Hungary	<i>ibid</i>
13.	Tunisia	<i>ibid</i>
14.	Racial Bloodbath in South Africa	412
15.	Congo Crisis	<i>ibid</i>
16.	Armed Conflict between Pakistan and India	414-418
17.	Rhodesian Situation	418
18.	War in the Middle East	419
19.	Soviet Intervention in Czechoslovakia	421
20.	Legal and Political Aspects of the Soviet Intervention in Czechoslovakia	422
	Indo-Pak War, 1971	25
		427-442
		427
		428
		430
		431
		432
		433
		434
		<i>ibid</i>
		<i>ibid</i>
		435
		<i>ibid</i>
		<i>ibid</i>
		436
		<i>ibid</i>
		<i>ibid</i>
		437
		<i>ibid</i>
		<i>ibid</i>
		438
		<i>ibid</i>
		<i>ibid</i>
		439
		<i>ibid</i>
		440
		440-441
		440
		<i>ibid</i>
		<i>ibid</i>

#### XXXIV Collective Security

	League Covenant	...
	Charter of the United Nations	...
	The Failure of Collective Security	...
	Balance of Power	...
	Regional Pacts	...
1.	The North Atlantic Treaty Organization	...
2.	Inter-American Defence Treaty of Reciprocal Assistance or The Rio Pact of 1947	...
3.	Dunkirk Treaty	...
4.	The Brussels Treaty, 1948	...
5.	European Defence Community	...
6.	The Anzus Pact	...
7.	South-East Asia Collective Defence Treaty or Manila Pact	...
8.	U. S. Japanese Defence Pact	...
9.	Balkan Pact	...
10.	Treaty of Friendship between France and Libya	...
11.	Egypt-Syria Defence Pact	...
12.	The Soviet System of Collective Security	...
13.	Treaty of Friendship, Alliance and Mutual Assistance	...
14.	Warsaw Treaty or East European Treaty Organisation	...
	U. S.-Philippines Mutual Defence Treaty	...
15.	Arab League	...
16.	Baghdad Pact (Central Treaty Organization)	...
17.	Agreements for Military Aid between U. S. A. and Turkey, Iran and Pakistan	...
18.	Indo-Soviet Friendship Treaty, 1971	...
19.	India-Bangladesh Treaty, 1972	...
20.	Economic and Political Co-operation	...
21.	Benelux	...
22.	Organisation for European Economic Co-operation	...

Chapter		Page
23.	Organisation of American States	25
24.	The Schuman Plan or European Coal and Steel Community	440
25.	European Economic Community	<i>ibid</i>
26.	The Colombo Plan	441
	Conclusion	<i>ibid</i>
		<i>ibid</i>
		<i>ibid</i>
		443-460
		443
		<i>ibid</i>
		<i>ibid</i>
		444
		<i>ibid</i>
		447
		448
		<i>ibid</i>
		449
		<i>ibid</i>
		451
		453
		454
		<i>ibid</i>
		455
		456
		<i>ibid</i>
		457
		458
		460-465
		460
		461
		462
		<i>ibid</i>
		<i>ibid</i>
		<i>ibid</i>
		463
		<i>ibid</i>
		<i>ibid</i>
		464
		<i>ibid</i>
		<i>ibid</i>
		<i>ibid</i>

#### XXXVI The Specialized Agencies

1.	International Labour Organization	...
	Essential Character of the I. L. O.	...
2.	Food and Agricultural Organization of the United Nations (F. A. O.)	...
3.	U. N. Educational, Scientific and Cultural Organization (UNESCO)	...
4.	International Civil Aviation Organization (I. C. A. O.)	...
5.	International Bank for Reconstruction and Development	...
6.	International Finance Corporation	...
7.	International Development Association (IDA)	...
8.	International Monetary Fund	...
9.	World Health Organization	...
10.	International Refugee Organization (IRU)	...
11.	Universal Postal Union (UPU)	...
12.	International Telecommunication Union (ITU)	...
13.	World Meteorological Organization (WMO)	...
14.	Economic Commission for Asia and the Far East (ECAFE)	...

Chapter

15. Economic Commission for Latin America (ECLA) ...	ibid
16. Economic Commission for Europe (ECE)...	ibid
17. International Union of Official Travel Organization (IUOTO) ...	465
18. Inter-Governmental Maritime Consultative Organization (IMO)...	ibid
19. International Trade Organization (ITO)...	ibid
20. International Atomic Energy Agency (IAEA) ...	ibid

**THE LAW OF INTERNATIONAL INSTITUTIONS**

<b>XXXVII I. The Permanent Court of Arbitration</b> ...	466-468
Origin ...	466
Its Structure ...	ibid
Panel of Members ...	ibid
Administrative Council ...	ibid
Bureau ...	ibid
Finances ...	ibid
Nature of the Court ...	467
Awards ...	467-468
Cases before the Tribunal ...	469

<b>XXXVIII II. The Permanent Court of International Justice</b> ...	469
Creation of the Court ...	ibid
Members of the Court ...	ibid
Diplomatic Privileges ...	470
Improvement on the Arbitration Court ...	ibid
Access to Court ...	ibid
Jurisdiction of the Court ...	471
Laws applicable ...	471-472
Procedure ...	472-498
Important Decisions of the Permanent Court of International Justice ...	472

<b>XXXIX/III. The International Court of Justice</b> ...	472
Its Genesis ...	473
Organization of the Court ...	474
Competence of the Court ...	ibid
Jurisdiction of the Court ...	ibid
Voluntary Jurisdiction ...	476
Obligatory Jurisdiction ...	ibid
Advisory Jurisdiction ...	477
Procedure with regard to exercise of Advisory Jurisdiction ...	ibid
Immunities of Judges ...	ibid
The Law to be Applied by the Court ...	478
Procedure of the Court ...	ibid
Interim or Provisional Measures ...	ibid
Anglo-Iranian Oil Company Case ...	479-491
Execution of Judicial Decisions ...	491-498
Cases before the Court ...	
Advisory Opinions ...	

**PART III  
The Laws of War**

Chapter

<b>XL Settlement of Disputes</b> ...	Page
Amicable Means ...	500-507
② Negotiation ...	500
④ Good Offices and Mediation ...	501
Conciliation ...	501
International Commissions of Enquiry ...	502
① Arbitration ...	502
Compulsive Means ...	ibid
Complaints ...	ibid
Retorsion ...	504
Reprisals ...	ibid
Hostile Embargo ...	ibid
Pacific Blockade ...	505
Intervention ...	506
Declaration of Panama ...	ibid
Sanction of Compulsive Means by the Charter ...	507
<b>XLII War and its Effects</b> ...	508-518
Definition ...	508
Kinds of War ...	509
Total War ...	509
Is Prior Declaration of War Necessary? ...	ibid
Immediate Effects of War ...	510
Diplomatic and Consular Relations ...	512
Commercial Intercourse ...	ibid
Contracts ...	ibid
Partnership Firms ...	513
Payment of Debts ...	ibid
Property found in the enemy country ...	ibid
Belligerent Property in neutral States ...	ibid
Enemy Cargo in British Ship at the outbreak of hostilities ...	515
Effect of War on Treaties ...	ibid
<i>Fides etiam hosti servanda</i> ...	516
<b>XLIII Enemy Character</b> ...	519-534
Enemy Character of Individuals ...	519
Domicil ...	521
Who is an enemy ...	ibid
Enemy territory ...	523
Occupation and Conquest ...	ibid
Effect of Occupation and Conquest ...	524
Change of National Character ...	ibid
Executory Contract ...	527
Enemy Vessels ...	529
Transfer of Ships ...	530
Cargoes ...	531
Neutral Goods on belligerent merchantship and <i>vice versa</i> ...	ibid
Enemy Property ...	ibid

	Page
28	
Chapter	
CONTENTS	
Corporation	532
Incapacity of an alien enemy in English Law	534
<b>XLIII Laws of Land Warfare</b>	<b>535—543</b>
Geneva Convention, 1864	535
St. Petersburg Declaration	<i>ibid</i>
Methods of Warfare	<i>ibid</i>
Hague Convention, 1907	537
Developments of the Laws of Land Warfare	538
Geneva Conventions, 1949	<i>ibid</i>
Prisoners of War	540
Repatriation of Korean War Prisoners	541
Pakistani Prisoners of War and their Repatriation	542
Classes of persons having no claim to treatment of prisoners of War	<i>ibid</i>
Sick and Wounded	<b>543—549</b>
Rules of War	543
Stratagem and Deceit as understood in the Laws of War	544
<b>XLIV Belligerent Occupation</b>	<i>ibid</i>
Meaning of Occupation	<i>ibid</i>
Consequences of Occupation	545
Institutions dedicated to worship	<i>ibid</i>
Immovable Property	<i>ibid</i>
Movable Property of Non-Combatants	<i>ibid</i>
Public Movable Property	<i>ibid</i>
Private Property	546
Operations of War	<i>ibid</i>
Collective Penalty	<i>ibid</i>
Courts	547
Requisitions, Contributions and Fines	549—554
Geneva Conventions, 1949	549
Military Occupation, Belligerent Occupation and Annexation	<i>ibid</i>
<b>XLV Law of Maritime Warfare</b>	549
Object	<i>ibid</i>
Declaration of Paris	<i>ibid</i>
Attack on Public and Private Vessels of the Enemy	550
Exceptions	551
Neutral Merchant Ships in Enemy Service	<i>ibid</i>
Neutral Merchant Ships in Enemy Convoy	<i>ibid</i>
Bombardment of coast towns	<i>ibid</i>
Mines	552
Submarines	553
Postal Correspondence	<i>ibid</i>
Privateers	<i>ibid</i>
Ruses in Sea Warfare	<i>ibid</i>
Geneva Convention, 1949	554
Hospital Ships	...
Personnel	...

	Page
Chapter	
CONTENTS	
29	
<b>XLVI Prize Courts</b>	<b>554—560</b>
Meaning of Prize	554
Definition	<i>ibid</i>
Functions	<i>ibid</i>
Jurisdiction	...
Effect of Decision	<i>ibid</i>
Procedure	<i>ibid</i>
Duties of Prize Courts	555
Location of Prize Courts	<i>ibid</i>
Their Status in International Law and the Law they administer	556
Destruction of Prizes	<i>ibid</i>
German Prize Courts	559
Need for International Prize Court	<i>ibid</i>
Aircraft and Prize Law	<i>ibid</i>
<b>XLVII Laws of Air Warfare</b>	<b>560—565</b>
The Brussels Conference	560
The Hague Conferences	561
Defects in Conventions	<i>ibid</i>
First World War	<i>ibid</i>
Washington Conference	<i>ibid</i>
Position of non-combatants	<i>ibid</i>
Second World War	562
Ethics of Atom Bomb	563
Anti-Atomic Measures	564
Attack on Enemy Civil Aircraft	<i>ibid</i>
<b>XLVIII War Crimes</b>	<b>565—577</b>
What constitutes War Crimes?	565
Nuremberg Trial—Its Genesis	566
Justification for the Nuremberg Trial	567
Categories of Crime	567
Defence	<i>ibid</i>
Observations of the Tribunal	568
Criticism of the Trial	<i>ibid</i>
The Tokyo Trial	569
Crimes against Peace	571
Murder	<i>ibid</i>
Other Conventional War Crimes and Crimes against Humanity	<i>ibid</i>
Dissenting Judgment	572
Genocide	573
War Crimes and Trial of Pakistani Prisoners of War	<i>ibid</i>
The Killing of Hostages as a War Crime	576
Asylum for War Criminals, Quislings and Traitors	577
The War Crimes Trials and the Laws of War	<i>ibid</i>
<b>XLIX The Doctrine of Postliminium and Recapture</b>	<b>578—581</b>
Its History	578
Its meaning and application	<i>ibid</i>
Its enforceability in neutral countries	<i>ibid</i>

Chapter	Page
30	...
CONTENTS	...
Effect on Movable Property	578
Effect on Immovable Property	<i>ibid</i>
Payment of Debt	579
Its Influence	<i>ibid</i>
Limitations of the Doctrine	<i>ibid</i>
Hesse-Cassel Case	580
<b>L The Termination of War</b>	<b>581-583</b>
Modes of termination of war	581
Effect of Treaty of Peace	582
Uti Possidetis	<i>ibid</i>
Armistice and Truce	<i>ibid</i>
General and Local Armistices	583
Effect of Armistice	<i>ibid</i>
First World War	<i>ibid</i>
Second World War	<i>ibid</i>
<b>PART IV</b>	<b>585-599</b>
<b>The Law of Neutrality</b>	585
...	<i>ibid</i>
...	586
...	<i>ibid</i>
...	587
...	588
...	589
...	<i>ibid</i>
...	590
...	591
...	<i>ibid</i>
...	592
...	593
...	594
...	595
...	<i>ibid</i>
...	596
...	<i>ibid</i>
...	<i>ibid</i>
...	597
...	<i>ibid</i>
...	598
...	<i>ibid</i>
...	599-602
...	599
<b>LII Right of Angary</b>	600
Its meaning	601
Its Genesis	...
Franco-German War of 1870	...
Limitations	<i>ibid</i>

Chapter	Page
CONTENTS	31
First World War	...
The Zamora	...
Right of Angary in relation to Land Warfare	601
...	602
...	<i>ibid</i>
<b>LIII Blockade</b>	<b>602-609</b>
Definition	602
Characteristics of Blockade	<i>ibid</i>
Declaration of Paris (1856)	603
Declaration of London (1909)	<i>ibid</i>
Forms of Blockade	604
Essentials of a real and binding Blockade	<i>ibid</i>
Breach of Blockade	605
Cessation of Blockade	606
Penalty for Breach of Blockade	<i>ibid</i>
Case Law	606
Proof required	<i>ibid</i>
Long Distance Blockade	607
First World War	<i>ibid</i>
Second World War	<i>ibid</i>
Quarantine of Cuba	608
...	609
<b>LIV Contraband</b>	<b>610-618</b>
Definition	610
Its basis	<i>ibid</i>
Division of Commodities	<i>ibid</i>
Absolute Contraband	611
Conditional Contraband	<i>ibid</i>
Non-Contraband	<i>ibid</i>
The Peterhoff Case	<i>ibid</i>
Essentials of Guilt	612
Penalty for carrying Contraband	<i>ibid</i>
Compensation for lawful seizure	613
The Alwaki	<i>ibid</i>
Relationship between Contraband and Blockade	...
Doctrine of Continuous Voyage	<i>ibid</i>
Applicability of Continuous Voyage to Blockade, Contraband and Unneutral Service	614
Leading Cases on Continuous Voyage	615
Rule of the War of 1756	<i>ibid</i>
...	617
<b>LV Unneutral Service</b>	<b>618-621</b>
Its Meaning	618
The Declaration of London	<i>ibid</i>
Other terms	619
Unneutral Service and Contraband	<i>ibid</i>
Unneutral Service and Hostile Service	620
Case Law	<i>ibid</i>
<b>LVI The Right of Visit and Search</b>	<b>621-625</b>
Its Implication	621
Object	<i>ibid</i>
Belligerent Right	622

Visit	...
Search	...
Resistance to Search	...
Convoys	...
Public and Private Ships	...
When vessel and cargo are liable to condemnation	...
Practice during World Wars	...
<b>APPENDICES</b>	
A—The Geneva Conventions of August 12, 1949	...
B—The Hague Conferences	...
C—Leading Cases	...
D—Charter of the United Nations	...

### LEADING CASES ON INTERNATIONAL LAW

S. No.	Page
1. Chung Chi Cheung <i>v.</i> The King	64
2. The Paquete Habana	64
3. West Rand Central Gold Mining Co. Ltd. <i>v.</i> The King	6
4. The Lusitania	...
5. The Cristina	...
6. Civil Air Transport Incorporated <i>v.</i> Central Air Transport Corporation	...
7. The Arantzazu Mendi	...
8. The Ionian Ships	...
9. The Charkieh	...
10. Duff Development Co. Ltd. <i>v.</i> Government of Kelantan	...
11. Haile Selassie <i>v.</i> Cable and Wireless Ltd.	...
12. The United States of America <i>v.</i> McRae	...
13. Bank of China <i>v.</i> Wells Fargo Bank & Union Trust Company	...
14. The City of Berne in Switzerland <i>v.</i> The Bank of England	...
15. Cook <i>v.</i> Sir James Gordon Sprigg	...
16. Case of the Danish Fleet	...
17. Case of Amelia Island	...
18. The Parlement Belge	...
19. The Case of Adolf Eichmann : The Attorney-General of the Government of Israel <i>v.</i> Eichmann	...
20. Mighell <i>v.</i> Sultan of Johore	...
21. Amand <i>v.</i> Secretary of State For Home Affairs	...
22. Republic of Arab Unie <i>c.</i> Dame X	...
23. The Creole	...
24. Hirota <i>v.</i> McArthur	...
25. Case Concerning the Rights of Nationals of the United States of America in Morocco	...
26. The S. S. Lotus	...
27. The Schooner Exchange <i>v.</i> McFaddon	...
28. The Virginius	...
29. The Direct U. S. Cable Co. Ltd. <i>v.</i> The Anglo-American Telegraph Co. Ltd.	...
30. Miangas (or Palmas) Island	...
31. North Sea Continental Shelf Cases	...
32. The Corfu Channel Case. Albania and the United Kingdom	...