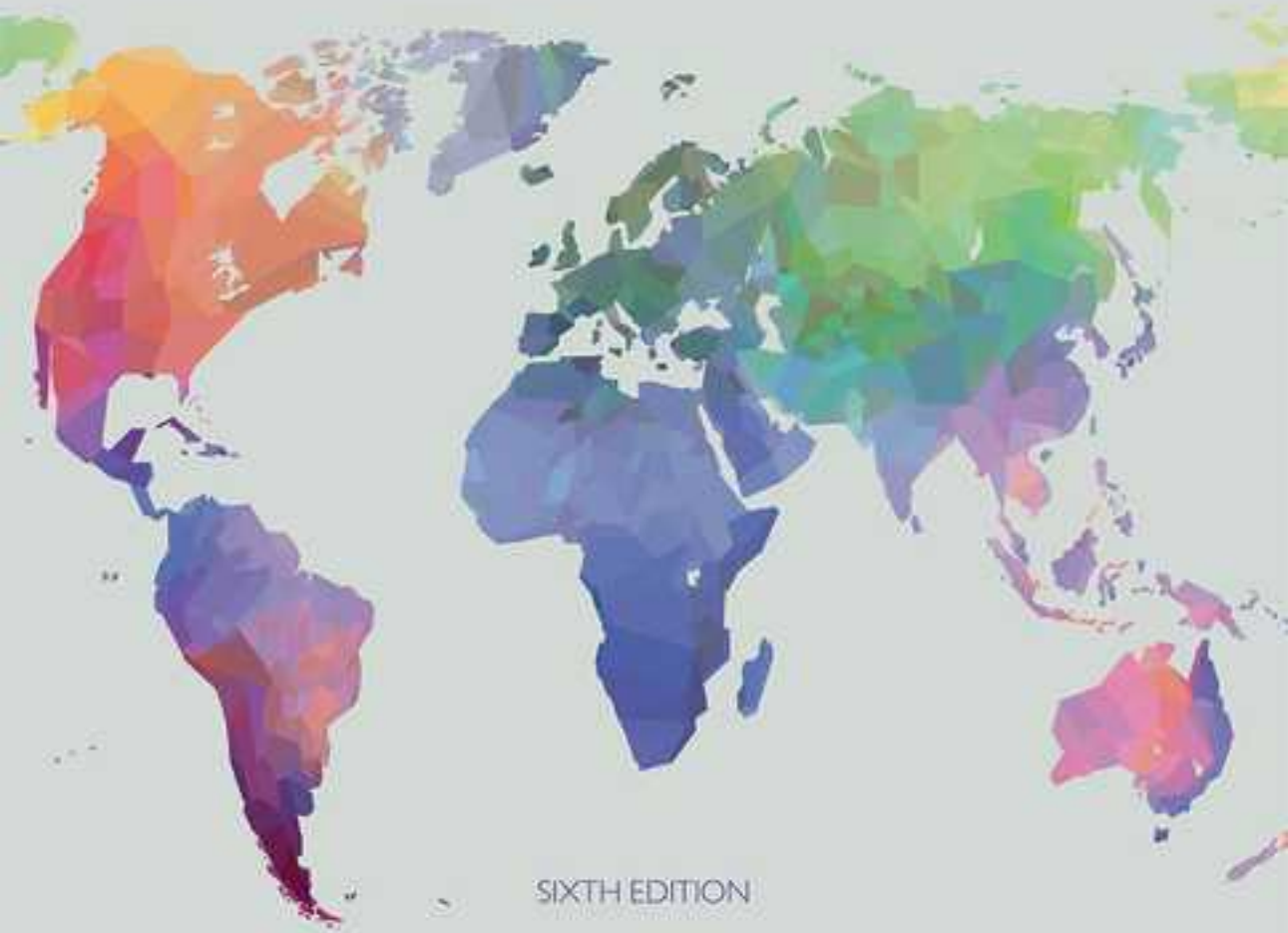


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CASES & MATERIALS ON

International Law

Martin Dixon | Robert McCorquodale | Sarah Williams



SIXTH EDITION

Cases & Materials on International Law

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International Law

Sixth Edition

Martin Dixon

*Professor of the Law of Real Property, University of Cambridge
Fellow of Queen's College, University of Cambridge*

Robert McCorquodale

*Director, British Institute of International and Comparative Law
Professor of International Law and Human Rights, University of Nottingham*

Sarah Williams

Associate Professor, Faculty of Law, University of New South Wales

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PREFACE TO SIXTH EDITION

If the daunting challenges now facing the world are to be overcome, it must be in important part through the medium of rules, internationally agreed, internationally implemented and, if necessary, internationally enforced. That is what the rule of law requires in the international order.

Lord Bingham, *The Rule of Law* (2010)

The clarification of international law is an essential part of the maintenance and promotion of the rule of law in the international system, as shown by Lord Bingham, who was the pre-eminent British judge of his generation. It is our intention to provide in this book the key cases and materials on current international law in an accessible manner, so that the international rules agreed, implemented and enforced are able to be applied by governments, lawyers and others everywhere, especially as the rule of law affects the daily lives of people around the world.

In this book, the relevant cases and materials are presented within the context of the development of international law over time and the changing understanding of the nature of international law. We have also attempted to respond to readers' comments and we continue to welcome constructive responses. This edition is fully revised and updated from the previous edition, which had been updated to October 2010, to reflect the amazing array of international legal activity over this time. Sarah Williams has undertaken the majority of the revisions, with Robert McCorquodale doing the other chapters, and then both reviewed each other's revisions. Martin Dixon was unable to assist with this edition.

We have been fortunate to have some very good research assistance in preparing this edition. We thank especially Jansen Calamita, Marine Corhay, Joseph Crampin and Souheir Edelbi and the support of the British Institute of International and Comparative Law and the University of New South Wales. We also thank Oxford University Press and all the various staff there, in particular, Tom Randall, Henry Cockburn and Fiona Tatham, who have been very helpful and patient.

Above all, we have been blessed with understanding partners and children. Our love and thanks go to Kate, Rory, Ella and Flora; and Jamie, Isobel and Lucy.

The materials in this book are generally current as at March 2016.

Robert McCorquodale

Sarah Williams

July 2016

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The Nature of the International Legal System

INTRODUCTORY NOTE

Open a newspaper, listen to the radio or watch television, and you will be confronted with events that have significance in international law. United Nations' resolutions and peacekeeping forces; the claims for independence by groups around the world; conferences on the environment and on trade; the changing political and social situation in Africa, Asia and Europe; allegations of human rights abuses in many States; attempts to control terrorism and drugs; debates concerning the future of the United Nations; and the increasing impact of European laws on the member States of the European Union, are but a few examples. Overall, there is an increased interdependence in the international community.

It is these events and this interdependence that international law addresses by analysing the legal principles arising from interactions between States, actions by States and certain actions by individuals, corporations, international organisations and other actors on the international plane. International law has effects on, and is affected by, international relations, political thought and communications, as well as by the awareness of women and men in every State that they are among those addressed by the United Nations Charter as being 'We, the Peoples of the United Nations'.

International law is really a description of an entire legal system: the international legal system. It is an international legal system by which legal rules are created in order to structure and organise societies and relationships. It acknowledges the influence of political, economic, social and cultural processes upon the development of legal rules. Within this international legal system are, for example, constitutional laws, property laws, criminal laws and laws about obligations, although these terms are not normally used. It is this extensive array of laws within the international legal system that is included under the name 'international law'.

SECTION 1: THE RELEVANCE OF INTERNATIONAL LAW

International law is law and has relevance to our daily lives. For example, international law enables international telephone calls to be made, overseas mail to be delivered and travel by air, sea and land to occur relatively easily. Fear of enforcement of law is rarely the sole reason why law is obeyed, but the behaviour of States and people often is modified depending on the substance of the law and its aspirational and inspirational aspects. International law does affect the actions of States and others in the international community.