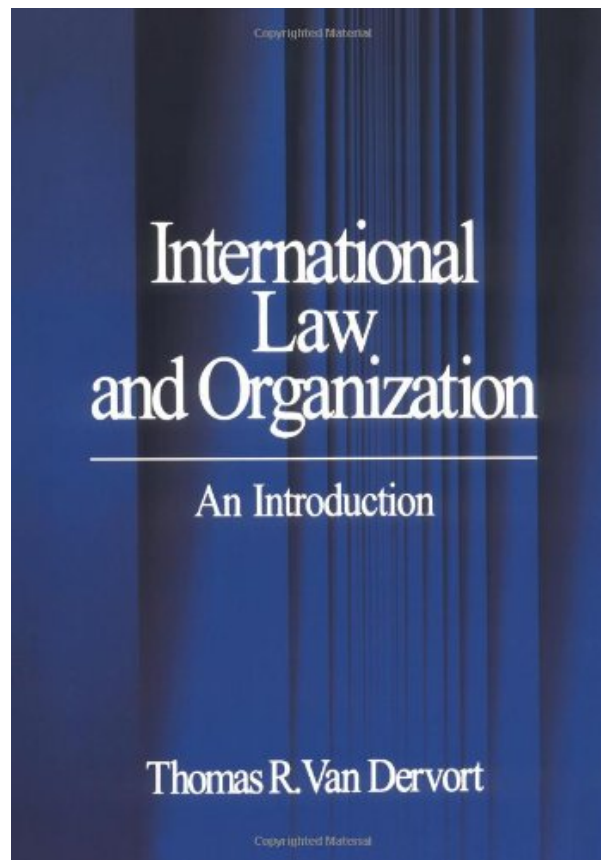


**INTERNATIONAL LAW AND
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THOMAS R. VAN DERVORT**



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An Introduction

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The study of international law has, in recent times, appeared disconnected from real world politics. In this book, international law is introduced as a dynamic process with an explicit connection to the contemporary realpolitik.

Following an historical overview of the development of international law - starting with ancient Rome and continuing up to the present day - the author considers the basic principles of international law in specific fields, focusing on the application of international legal principles in domestic courts. Van Dervort concludes with an examination of law on an international plane, discussing disputes between sovereign nation-states.

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Reviewed in International Relations Vol14 No4 April 1999 byVLADIMIR MATVEYEV, Moscow State Institute of InternationalRelations...

Professor Van Dervort has written a most comprehensiveand authoritative textbook on contemporary internationallaw. Containing, as it does, carefully chosen legal documents, thebook is of indispensable value for both students and teachers. Theauthor's logical and elegant narration ensures that it will sparkgeneral interest in international law.

Van Dervort contests theerroneous, through widespread, assumption that international law is adry and dull subject, unrealistically normative and without muchrelevance to world politics and international relations. In Part I hetraces the long evolution of international law and the history ofinternational organization, linking these logically with the historyof international relations and a general world history. He begins withancient Rome, concentrating particularly on Roman jus gentium whichwas designed to govern the relations of non-Romans in the Roman Empireas well as relationships between Romans and non-Romans. Arguing thatcontemporary international law is basically a product of Westerncivilization, Van Dervort follows its

evolution through the crucial events in the history of Western Christendom, namely through the Renaissance and Reformation and the rise of the nation state in Europe. Particular attention is paid to the 19th century Concert of Europe which, for the first time since the rise of the nation state, provided an international organization, albeit an informal one, which successfully maintained a general peace in Europe for a century. The diplomatic activity of the major European powers within the framework of the Concert of Europe gave impetus to the expansion of international legal regulation in various fields, to the establishment in 1900 of the Permanent Court of Arbitration as a follow up to the Hague Convention for the Pacific Settlement of International Disputes, and to the creation of the first permanently functioning intergovernmental organizations (the International Telegraphic Union in 1865 and the Universal Postal Union in 1874). But mankind had to undergo immense suffering in two world wars in the twentieth century before it appreciated the absolute necessity of establishing international political organizations with wide responsibilities for the maintenance of international peace and security. The period after the Second World War witnessed a fundamental change in international law with the prohibition of the use of force against the territorial integrity or political independence of any state. Summing up his historical overview, the author concludes, 'the emergence of a worldwide community of nations with a functioning set of differentiated political decision-making institutions, and a set of legal principles that define its functions, is the most important development of the twentieth century'.

While viewing the United Nations as the key coordinating set of international problem-identification and problem-solving institutions, and reasonably devoting a large part of his book to UN legal activities, the author nonetheless argues that the contemporary world community encompasses much more than just the United Nations, and he cites some impressive figures. Since 1946 more than 30,000 formal treaties have been registered. Most of the customary principles of international law have been codified in hundreds of lawmaking treaties establishing rules of universal application in diplomacy, law of the sea, airspace, outer space and warfare. Nearly 400 intergovernmental organizations illustrate the depth of the new international community.

Describing contemporary international law, the author points out that the traditional division between public international law, private international law and the law of international commerce can no longer be considered valid in the light of the major international changes. His view is that the distinction between public law, which focuses on states not people and which is regulated by international tribunals, and private law, which affects individuals and corporations and is administered by domestic courts of justice, has become blurred. As illustrated by the numerous law cases quoted in the book, more and more treaties and international agreements have become a part of the law adjudicated in domestic courts. Professor Van Dervort clearly sides with the first US Judge on the International Court of Justice who in 1956 invented the term 'transnational law' and defined it 'to include all law which regulates actions or events that transcend national frontiers. Both public and private international law are included, as are other rules which do not wholly fit into such standard categories'.

Van Dervort firmly believes that individual state implementation of many aspects of international law is the important feature of the new world order. Thus, every chapter of Part II of his book (encompassing human rights law, international business law, international labour and environmental regulation, crimes and extradition, diplomatic and sovereign immunity, international property and consumer protection) provides illustrations of the application of the principles of international law in US courts. Some notable examples can be found in Chapter 10 covering diplomatic and sovereign immunity. For example, the 1961 Vienna Convention on Diplomatic Relations was enacted into US domestic law as the 1978 Diplomatic Relations Act. The 1976 Foreign Sovereign Immunities Act represented an important departure from previous concepts of absolute sovereign immunity and allowed states to be sued by private parties. Accordingly individuals acquired a broad range of rights and duties involving international disputes which could be directly adjudicated in national courts.

Part III of the book deals with the traditional international plane of disputes involving acts of state, that is with public international law. The process of adjudication through international tribunals is the principal focus

of these chapters. Finally, the extensive set of enforcement mechanisms available to individual states, multinational organizations and the United Nations to enforce the norms and rules of international law are examined. The appendices contain the United Nations Charter, the Treaty on European Union and approximately a dozen of other important international legal documents.

In his concluding chapter 'Toward the Future', Professor Van Dervort again stresses the expansion of international law into the realm of the protection of the fundamental rights of individuals and the new possibilities for direct legal action by private parties to remedy wrongs which have been committed against them by their own, or even by foreign, governments. He sees this as the most positive development of the last decades. He also applauds recent indications of the willingness of states to surrender criminals to regulation by the international community, especially in cases involving universal crimes. Yet, his assessments are not wholly optimistic. Towards the end of the century international law, as distinct from domestic law, has failed to develop clearly defined institutions of lawmaking, law interpretation and law enforcement. International tribunals have very limited jurisdictions and depend on the prior consent of the parties to agree to adjudication. Iran's refusal to cooperate with the International Court of Justice and, later, in 1980, to comply with its decision (thoroughly narrated by Van Dervort) is one of many examples illustrating the deficiencies of international law enforcement mechanisms.

The author's reflections on the development of international law in the next century are explicitly connected with the United Nations. Referring to the 1995 report of the Commission on Global Governance, entitled *Our Global Neighbourhood* Professor Van Dervort particularly emphasizes that the Commission recommended strengthening the World Court by giving it compulsory jurisdiction, enlarging the Security Council, improving the financial soundness and accountability of the agencies of the United Nations and revitalizing the General Assembly. The author himself is a convinced advocate of these recommendations and by placing them at the end of his text, he underlines their importance.

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