Yoram Dinstein’s influential textbook is an indispensable guide to the legal issues of war and peace, armed attack, self-defence and enforcement measures taken under the aegis of the Security Council. This fifth edition incorporates recent treaties such as the Kampala amendments of the Statute of the International Criminal Court, new case law from the International Court of Justice and other tribunals, and contemporary doctrinal debates. Several new supplementary sections – taking into account recent conflicts around the world – are also included, and consideration is given to new resolutions of the Security Council. With many segments having been rewritten to reflect recent State practice, this book remains a wide-ranging and highly readable introduction to the legal issues surrounding war and self-defence.

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Introduction to the fifth edition

This is a completely updated edition of a book originally published in 1988 and last revised at the end of 2004. In the few years that have elapsed since the fourth edition was issued, world events have led to the sharpening of debates over several of the topics examined in the present volume. These debates touch upon a raft of controversial questions relating to, e.g., the adequacy of the legal tools provided by the Charter of the United Nations in the face of aggression; judicial review of binding decisions of the Security Council; unilateral ‘preemptive’ military action against terrorist threats; armed attacks by non-State actors; extra-territorial law enforcement; and the degree of effective control required over acts of de facto organs of States.

An update of the book is anyhow called for in light of new developments. The International Court of Justice has rendered weighty decisions, especially in the Armed Activities and Genocide proceedings. Other tribunals have also made their contributions to the case law, for instance in an Award of the Eritrea Ethiopia Claims Commission devoted exclusively to the jus ad bellum. Most significantly, the crime of aggression has been defined for the purposes of the International Criminal Court (although the actual exercise of jurisdiction by the Court is deferred until a future date). The legal literature on war, aggression and self-defence (which, prior to the Nicaragua Judgment of 1986, was desultory) is currently growing in prodigious proportions.

To complement the numerous additions and changes introduced in the text, the table of contents has been expanded. The fifth edition also has an easier cross-referencing system, to enable a closer look at the way in which similar subjects mesh in diverse contexts. The numerical cross-references in the text of the book (as distinct from the indices) are to paragraphs and not to pages.

To facilitate syntax, generic pronouns relating to individuals (especially in the settings of prosecution and immunities) are usually drawn in masculine form. This must not be viewed as gender-specific.

References to the jus in bello and to the law of belligerent occupation have been reduced, inasmuch as these themes are now covered in full in two companion volumes which may be consulted: The Conduct of Hostilities under the Law of International Armed Conflict (2nd edn, 2010, Cambridge University Press) and The International Law of Belligerent Occupation (2009, Cambridge University Press).
From the introduction to the first edition

War has plagued *homo sapiens* since the dawn of recorded history and, at almost any particular moment in the annals of the species, it appears to be raging in at least a portion of the globe (frequently, in many places at one and the same time).

War has consistently been a, perhaps the, most brutal human endeavour. If for no other reason, the subject of war should be examined and reexamined continuously. There is a tendency today to avoid the use of the term ‘war’, regarding it as arcane and largely superseded by the phrase ‘international armed conflict’. However, apart from the fact that the expression ‘war’ – appearing as it does in many international instruments and constituting an integral part of a host of customary international legal norms – is far from outdated, a general reference to international armed conflicts ignores the important theoretical as well as practical distinctions existing between wars and other uses of inter-State force (‘short of war’).

This book is divided into three parts. The first part deals with questions like: What is war? When does it commence and terminate? Is there a twilight zone between war and peace? What is the difference between treaties of peace, armistice agreements and cease-fires? Where can war be waged and what is the meaning of neutrality? These problems, with their numerous ramifications, seriously impact on the substance of international law.

The focus of the discussion in the second part is the contemporary prohibition of the use of force in international relations. The current state of the law is put in relief against the background of the past. The meaning of aggression, as defined by a consensus Resolution of the United Nations General Assembly in 1974, is explored. The construct of crimes against peace, which is part of the *Nuremberg* legacy, is set out. Some controversial implications of the illegality and criminality of wars of aggression are fathomed, with a view to establishing the true dimensions of the transformation undergone by modern international law in this domain.

The third part wrestles with the complex topics of self-defence and collective security. In the practice of States, most legal disputes concerning the use of force hinge on the alleged exercise of the individual or collective right of self-defence. In fact, more often than not, self-defence is invoked by both
antagonists simultaneously. The question when, and under what conditions, self-defence may lawfully take place is crucial. In this context, the scope of an armed attack – giving rise to self-defence – is investigated, and a differentiation is made between armed attacks from and by a State. The functions discharged by the Security Council in the evaluation of self-defence are probed. Other pertinent matters relate to the modalities of self-defence, e.g., can armed reprisals or forcible measures for the protection of nationals abroad be harmonized with the law of the United Nations Charter? Collective self-defence comes under a special scrutiny, and the infrastructure of the various types of treaties in which it is usually embedded is analyzed.

Collective security, as an institutionalized use of force by the international community, is still an elusive concept in reality. The original mechanism devised by the Charter has yet to be activated, although some imperfect substitutes have evolved. An important subject of discourse is the relative powers – actual and potential – of the Security Council, the General Assembly and the International Court of Justice.
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IRRC International Review of the Red Cross
ISAF International Security Assistance Force
IYHR Israel Yearbook on Human Rights
Int.Con. International Conciliation
Int.Law. International Lawyer

Int.Rel. International Relations
Io.LR Iowa Law Review
Ir.YIL Irish Yearbook of International Law
Is.LR Israel Law Review
JCSL Journal of Conflict and Security Law
JICJ Journal of International Criminal Justice
JILE Journal of International Law and Economics
JPP Journal of Political Philosophy
JYIL Jewish Yearbook of International Law
Jur.R Juridical Review
KCLJ King’s College Law Journal
Ken.LJ Kentucky Law Journal
LCP Law and Contemporary Problems
LIJL Leiden Journal of International Law
LNTS League of Nations Treaty Series
LQR Law Quarterly Review
LRTWC Law Reports of Trials of War Criminals
MLLWR Military Law and Law of War Review
MPYUNL Max Planck Yearbook of United Nations Law
MaineLR Maine Law Review
Mar.JILT Maryland Journal of International Law and Trade
Mel.JIL Melbourne Journal of International Law
Mer.LR Mercer Law Review
Mich.JIL Michigan Journal of International Law
Mich.LR Michigan Law Review
Mich.SJIL Michigan State Journal of International Law
Mil.LR Military Law Review
Minn.JIL Minnesota Journal of International Law
Mod.LR Modern Law Review
NATO North Atlantic Treaty Organization
NCLR North Carolina Law Review
NDLR Notre Dame Law Review
NILR Netherlands International Law Review