Introduction

This study examines the rules of international law governing the global commons. Because global common resources are shared among states, competition for the use of such resources and the sharing of externalities from resource use are bound to increase in the future. The book examines how the quest for a minimum order, fairness, and effectiveness has guided the development of international environmental law and policy making.

Chapter 1 provides an introduction to international law and international environmental law. It provides an overview of the actors of international lawmaking, the international lawmaking process, and the historical evolution of international environmental law. Concepts of international environmental law, such as sovereignty over national resources, the "polluter pays" principle, the precautionary principle, equitable cost-sharing of environmental externalities, sustainable development, and common but differentiated responsibilities are explored. The chapter examines human rights as the threshold principles of international environmental lawmaking. Issues of monitoring and enforcement in international law are also introduced.

Chapter 2 examines the foundations of international environmental law. The pursuit of minimum order, equity, and effectiveness in international law is analyzed and the interconnection among the foundations of international environmental law is explored. The chapter examines how issues of distributive equity often determine the effectiveness of international environmental lawmaking. Issues of cost-effectiveness as they influence the success of international environmental regimes are also examined. The enclosure of national common pool resources is introduced and analyzed. More specifically, it is examined how many national/local common pool resource systems could acquire differing forms of governance ranging from common property and state property to private property. The "Tragedy of Commons" rationale that precipitated the enclosure of common pool resources in national systems is driving the enclosure of global common resources. The gradual enclosure of global common resources – as it is taking place in fisheries, germplasm resources and related knowledge, freshwater resources, air, sea, waste management, and national biodiversity resources – is analyzed. Chapter 2 examines the interrelationship between the nature of different enclosures and the effectiveness of international environmental regimes. The inclusionary or exclusionary nature of enclosures as they affect perceptions of distributive equity is analyzed.

Chapter 3 examines the compliance and governance mechanisms of international environmental lawmaking such as environmental impact assessment, strategic environmental assessment, exchange of information, notification, consultation, the right to participation, and the right to information. The chapter examines whether such instruments have been effective in the pursuit of international environmental law objectives. The application of these instruments by international institutions and states is particularly emphasized. Reporting, monitoring, and compliance procedures as they are developing in different international environmental law regimes are scrutinized.

The seas are a common pool resource that has become an open-access resource in terms of pollution that states are putting into the seas. Chapter 4 examines the different regulatory efforts that states have engaged in so as to diminish the open-access character of the resource including the Law of the Sea Convention, the MARPOL Convention, various regional conventions, and safety regulations. The chapter concludes that – despite the efforts of states to enclose the global resources of the seas under national or international regulatory regimes – the seas have remained more or less an open-access resource in terms of pollution inputs.

Chapter 5 examines the problems associated with the management of shared water resources. Water resources are not global resources like the seas but often are shared among a number of states. As such, they are common pool resources that present the collective action problems encountered in other common pool resource systems. The chapter examines in detail the UN Watercourses Convention and its influence on the articulation of regional instruments on the allocation and protection of freshwater resources. Issues of equity in water allocation, efficiency, demand-led management, and water quality are examined as they have been elaborated in different regional fora, namely – Africa, Asia, Europe, the Middle East, and the American region. Integrated water management, as it incorporates issues of water quantity and quality at the river basin level, the establishment of Regional Basin Organizations (RBOs), and their role in equitable and sound water management are explored in depth.

Fisheries are a typical example of global common resources. Fisheries are by nature mobile resources, as they straddle sea areas under national jurisdiction and the high seas. The management of fisheries has been a highly contentious issue in international fora. Chapter 6 provides an overview of national regulatory systems for fisheries resources ranging from the typical command-and-control measures to privatization through Individual Transferable Quotas (ITQs). The enclosure of national fisheries resources has reverberated in international fora where states have been eager to enclose global fisheries resources. The enclosure movement with regard to fisheries resources has been mostly exclusionary because the establishment of Regional Fisheries Organizations, which increasingly assume rights beyond the Exclusive Economic Zone (EEZ) of states, is rarely accommodating to new entrants. There are even disputes among the states that are regime-insiders as they vie for the apportionment of fisheries resources. Chapter 6 examines the international instruments for the regulation of fisheries resources, including the 1995 Fisheries Agreement. Regional efforts for the enclosure of fisheries resources are examined for the purposes of revealing the degree of effectiveness of regional enclosure movements.

Most biodiversity resources, especially terrestrial biodiversity resources, are under a state's jurisdiction or are shared among a number of states in a region. Therefore,

many biodiversity resources could not be characterized as the classic example of global common resources. The biodiversity loss that is witnessed today worldwide, however, has put biodiversity on the international agenda with a new sense of urgency. The international management of biodiversity is characterized by two trends. One trend has to do with the assertion of state sovereignty over germplasm resources situated in nature or in gene banks. The other trend has to do with the attempts of the international community to regulate national and local biodiversity protection systems so as to implement an international enclosure of national commons. As many states do not have adequate resources to protect and manage their biodiversity resources, such resources often become open-access resources and are degraded. National and transnational protected areas and regional and international gene banks are methods that have been used for the protection of biodiversity. The international system has attempted to regulate the national management of biodiversity through trade mechanisms, which prohibit or restrict the trade in endangered species, and through a number of conventions that address regional biodiversity issues or species-specific conservation issues. The effectiveness and equity of national and international mechanisms for the protection of biodiversity resources are examined in Chapter 7.

The Convention on Biological Diversity was the first convention to address biodiversity as a global common pool resource. The convention, in addition to dealing with issues of protection of biodiversity, addresses distributive issues with regard to the allocation of benefits from the exploitation of germplasm resources. Although "raw" germplasm resources have been, for all practical purposes, open-access resources, "worked" germplasm resources have been protected under various intellectual property rights systems, such as breeders' rights and biotechnology patent rights. The disparity in the treatment of germplasm resources has led developing countries to assert their jurisdiction over "raw" germplasm resources located within their territory and to demand fees from legal entities wishing to access such resources. It was believed that the market value of biodiversity, as it is used in pharmaceuticals and other biotechnology devices, would lead developed countries and companies to share the benefits from the commercialization of germplasm resources with developing countries. Chapter 7 analyzes the bilateral redistribution, transnational redistribution, and institutionalized redistribution of germplasm resources. The effectiveness of distributional mechanisms in terms of bringing wealth to developing countries and indigenous peoples and farmers is scrutinized.

Air quality is a global common pool resource as air pollution by some industries affects the quality of the air for the rest of users. The enclosure of global air resources has been inclusionary as countries quickly realized that control of air pollution by some states will not do much to improve air quality as long as other states continue to pollute. In the ozone and climate change regimes, developed countries have been willing to provide side-payments to developing countries for joining in for the outlawing of ozone-depleting substances and the reduction of greenhouse gases. Chapter 8 explores the regime for the protection of the ozone, the climate change regime, and transboundary air pollution regime. Issues of equity and effectiveness in the elaboration and possible future articulation of the regimes are further examined. Market-based instruments and their repercussions for the "privatization" of the air are addressed.

Chapter 9 examines international environmental issues as they intersect with trade issues. The case law of the World Trade Organization (WTO) is examined in the various cases in which free trade stumbles over regulatory measures that states have enacted for the protection of species or of human health. Chapter 9 analyzes the Trade-Related Intellectual Property Rights (TRIPs) system and its interaction with the world intellectual property rights system. The development of the TRIPs Agreement and its influence on intellectual property rights over pharmaceuticals and germplasm resources are analyzed. The issue of intellectual property rights over germplasm resources, concerns regarding the "enclosure of intellectual commons," and perceptions of fairness, as they have been articulated in related human rights instruments, are analyzed in depth.

Waste is not *prima facie* a global common resource. Generally, wastes are looked on as a negative resource in the sense that no value is assigned to them. Wastes are generally viewed as an externality produced by industries and households, and the question has been how to assign the costs associated with such an externality. The transfer of wastes from developed to developing countries with no infrastructure and lenient environmental laws brought the waste issue to the international arena and made imperative the development of a transnational system for the management of wastes. States have dealt with the waste issue as a forced enclosure issue. Generators are forced to own their wastes and, thus, bear the costs of the externalities produced by their wastes. Because wastes are perceived as a negative resource, unless ownership is forced, they could be found disposed of on common pool resources polluting the land, water, and air. The international instruments that regulate international waste shipments have imposed state self-sufficiency and safeguards on waste transfers based primarily on the prior notification and informed consent of the importing country before a waste transfer is realized. Chapter 10 examines the effectiveness and fairness of arrangements for the management and transfer of hazardous and radioactive wastes. The question that is examined is whether the forced enclosure of wastes, a so-called negative resource, has worked and whether the equity principles implied in the notion of self-sufficiency are the only principles that should guide the future international management of hazardous and radioactive wastes. National regulatory systems are examined, as it is the management and often mismanagement of wastes in national fora that has led to transnational waste shipments.

Chapter 11 explores the private liability regimes that have been developed to address issues of oil pollution, hazardous materials trade, nuclear energy, and liability for damage to the environment. The issue of state responsibility and associated case law are analyzed. The issue of international liability for acts not prohibited by international law (e.g., pollution that is not prohibited by international instruments), as it has been elaborated by the International Law Commission, is specifically scrutinized. A question addressed is whether state practice indicates liability of states for polluting activities originating within their territory or whether the principle that emerges is that of equitable sharing of costs of externalities caused by polluting activities.

1 Introduction to International Environmental Law

1. THE WORLD COMMUNITY AND INTERNATIONAL LAW

1.1. International Law

Modern international law has emerged from the ruins of two world wars. Before World War I, public international law regulated the conduct of war. During that period, states had the freedom to choose between war and peace. States had the right to pursue their goals by war. The distinction between just wars and unjust wars was not legally pertinent.[1]

The reorientation of international law came with the establishment of the League of Nations following World War I. The League condemned external aggression against the territorial integrity and political independence of League members.[2] Another important development during this period was the establishment of the Permanent Court of International Justice (PCIJ) and the International Labor Organization (ILO). However, these developments did not prevent the eruption of World War II.

In the aftermath of World War II, one of the most important developments was the establishment of the United Nations. The United Nations Charter outlawed war as a general means for the resolution of disputes among states.[3] After two world wars, states realized that some institutional framework must be established and some rules promulgated that would provide procedural and substantive safeguards to avert future wars. The United Nations was to serve primarily that purpose: preservation of peace among states.

International law is the law that states make to regulate matters among them: first and foremost, war and peace and, after the attainment of a minimum peace order, other matters including economic development, exchange rates, trade, the

[1] L. Oppenheim, International Law 177–78 (vol. 2, 7th ed., 1952). The issue of morality of war has preoccupied commentators, though. See Michael Walzer, Just and Unjust Wars: A Moral Argument with Historical Illustrations 3–13 (1977). See also Clarence Wilfred Jenks, Law, Freedom and Welfare 52 (1963).

[2] See also D.W. Bowett, The Law of International Institutions 15–16 (1963).

[3] See *infra* notes 13–15.

environment, and intellectual property rights. A number of organizations have been developed to deal with such matters, including the World Trade Organization (WTO) with regard to matters that affect trade and the United Nations Environment Program (UNEP) with regard to matters that affect the environment.

It would be wrong, however, to perceive international law as only the regulatory instrument of interstate relations. In order to prevent future egregious atrocities against human beings – prevailing especially during war – the international system developed a number of instruments that focus on the protection of the rights of the individual. These human rights instruments launched by the Universal Declaration of Human Rights present the order that the international system aspires to achieve. In addition to what could be called traditional human rights[4] (such as the right to life, the right to property, and the right to be free from discrimination), other rights have been proposed more or less persuasively. Such rights include the right to development,[5] the right to a decent environment,[6] and the right not to be forcibly displaced.[7]

Human rights articulate the demands for a maximum order of law. This order goes beyond the achievement of elementary peace and incorporates the aspiration for a better quality of life. Human rights shape the notion of human dignity, which gives direction for the future development of international law. The ultimate goal of the international law process is the protection of human dignity.[8]

1.2. States

1.2.1. Sovereignty

The United Nations Charter is based on the principle of sovereignty of states. According to the Charter, each state is sovereign and no state is to violate the

[4] The Universal Declaration of Human Rights, Dec. 10, 1948, reprinted in Basic Documents on Human Rights 106 (Ian Brownlie, ed., 1971).

International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), reprinted in 999 UNTS 171, entered into force Mar. 23, 1976.

International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966), reprinted in 993 UNTS 3, entered into force Jan. 3, 1976.

See also African Charter on Human and Peoples' Rights (Banjul Charter), June 27, 1981, reprinted in 21 ILM 58 (1982); Bangkok Declaration on Human Rights, April 2, 1993, A/CONF.157/ASRM/8.

[5] Initially controversial, this right is now more or less accepted as a legitimate right. For an articulation of the right in the Rio Declaration, see *infra* note 149.

[6] The right to live in a decent or a healthy environment has been the subject of debate, see, e.g., Dinah Shelton, Human Rights, Environmental Rights and the Right to Environment, 28 Stanford Journal of International Law 103 (1991). See also Günther Handl, Human Rights and Protection of the Environment: A Mildly "Revisionist" View, in Human Rights, Sustainable Development and the Environment 117 (Antonio Augusto Cancado Trindade, ed., 1992).

[7] Maria Stavropoulou, The Right not to Be Displaced, 9 American University Journal of International Law & Policy 689 (1994). For the right not to be displaced, see also *infra* note 290.

[8] See Myres S. McDougal & Harold D. Lasswell, The Identification and Appraisal of Diverse Systems of Public Order, 53 American Journal of International Law 1 (1959).

sovereignty of another state.[9] This principle of legal equality based on the sovereignty of states should not be confused with an assumption of equal power. In fact, the concept of sovereignty is fairly new in international affairs. Historically, sovereignty was not a given. Instead, states had to obtain the right to be called sovereign.[10] Sovereignty denotes the ability to self-govern, and many states today do not really possess that ability. In fact, some states are weaker than corporations and nongovernmental organizations (NGOs) in their capacity to run their own affairs.

As the reality of international politics indicates, certain states have more power, self-government, and control and, thus, yield more influence in the configuration of international relations than other states. The imbalance in the actual power of states is enshrined into the UN Charter. The Security Council of the United Nations, the body that makes decisions regarding war and peace, was formed by the victors of World War II.[11] The structure of power in the Security Council may be anachronistic but, nevertheless, reflects that even the constitutive organs of the international system could not have afforded to be oblivious of the importance of power in the making of international relations. Sometimes this power is authoritative. In other cases, it lacks legitimacy but, nevertheless, could still be effective in shaping the future of international order.[12]

The principle of sovereignty implies that states "shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."[13] But, as explored later in this book, this principle contains its own antinomy in the UN Charter, as well as in the way that the Charter has been interpreted including the cases of use of force, self-defense,[14] or anticipatory self-defense.[15]

It is provided that the United Nations must not intervene "in matters which are essentially within the domestic jurisdiction of any state. . . ."[16] The International Court of Justice, however, in the *Tunis-Morocco Nationality Decrees* case,[17] ruled that the scope of a state's domestic jurisdiction is relative and depends on the development of international law. The mere inclusion of a matter in the agenda of the General Assembly or the Security Council does not in itself constitute intervention within the meaning of article 2(7). The United Nations has engaged in activities considered

[9] Art. 2(1) & (4), United Nations Charter, June 26, 1945 available online at http://www.un.org/aboutun/charter [hereinafter UN Charter].

[10] B. Buzan, National Security in the Post Cold War Third World, Paper presented at the Conference on National Security in Developing Countries, Jan. 26, 1994, Institute for Strategic Studies, University of Pretoria, South Africa.

[11] Art. 23, UN Charter, *supra* note 9. Permanent members of the Security Council are China, France, Russia, the United Kingdom, and the United States.

[12] W. Michael Reisman, Law from the Policy Perspective, reprinted in International Law Essays 1, 7 (Myres S. McDougal & W. Michael Reisman, eds., 1982).

[13] Art. 2(4), UN Charter, *supra* note 9.

[14] Art. 51, *id.*

[15] Myres S. Mc Dougal & Florentino P. Feliciano, Law and the Minimum World Public Order: The Legal Regulation of Coercion 231–41 (1961). See also Philip C. Jessup, A Modern Law of Nations 166–67 (1948); Oscar Schachter, The Rights of States to Use Armed Force, 82 Michigan Law Review 1620, 1633–35 (1984).

[16] Art. 2(7), UN Charter, *supra* note 9.

[17] Tunis-Morocco Nationality Decrees, Feb. 2, 1923, (1923) PCIJ, Ser.B, no.4, at 24.

traditionally to be the prerogative of a nation-state, for example, in cases of self-determination,[18] racial discrimination,[19] mass starvation,[20] and environmental regulation.

The unequal distribution of power is a constitutive element of international law from the creation of international regimes that formalize the division between haves and haves-not to the development of customary international law. The Nuclear Non-Proliferation Treaty is based on the presumption that it is legitimate for some countries to possess nuclear weapons, whereas for others it is not.[21] And customary international law often is based on the practice of states that happen to be able to shape international developments in an area. Space law has been developed by states with the technology to explore space.[22] The development of the Antarctic Treaty system is based on an alliance of states that were the first to be able to enunciate rights over the natural resources of Antarctica. The Antarctic Treaty regime could be characterized as a kind of trusteeship arrangement developed by the acquiescence of excluded states rather than by their willful consent.[23]

During the Cold War, the common reference to the United States and the Soviet Union as the world's superpowers, which mutually constrained each other, is well known. In today's world, a world in which one superpower has remained, the question for other states has been how to constrain that power. A potential contender – the European Union – has yet to acquire an independent voice and to amass military resources that would match its economic breakthroughs. There are regionally powerful states as well, such as India and China, which exert significant authority in regional circles and, as a consequence, in international circles.

1.2.2. Wealth

After the wars of decolonization were fought, new states became members of the international community. There was, therefore, the danger of a potential clash between the new states and those states that are, so to speak, the founders of most international law. New states generally have not adopted an outlook of international law that fundamentally undermines the traditional view of such law by Western states. The new states, however, came into international fora with a new set of interests and demands. Developing states have pursued the right to development, for instance, as a fundamental human right that is a precursor of other human rights.

[18] Legal Consequences for States of the Continued Presence of South Africa in Namibia (Advisory Opinion), June 21, 1971, (1971) ICJ Reports 16.

[19] E.S. Reddy, United Nations and Apartheid: Forty Years (1987).

[20] The United Nations and Somalia – 1992–1996, Blue Book Series, Vol. VIII (UN Publication Sales No. E.96.1.8).

[21] Treaty on the Non-Proliferation of Nuclear Weapons, July 1, 1968, reprinted in 729 UNTS 161. See also Edward L. Miles, Nuclear Nonproliferation, 1945 to 1995, in Environmental Regime Effectiveness: Confronting Theory with Evidence 273 (Edward L. Miles et al., eds., 2002).

[22] Malcolm N. Shaw, International Law 66 (1986).

[23] Some view the Antarctic Treaty regime as a sectoral *res communis*, a property that is held in trust by the few for the benefit of many, something like an international trusteeship system. However, there have been skirmishes in the development of the regime as some excluded countries have sought to be included as Antarctic Treaty Consultative Parties. Efforts to make the area a true *res communis* have been rejected by the Antarctic Treaty Consultative Parties. See Thomas M. Franck, Fairness in International Law and Institutions 402–04 (1997).

Developing states often espouse the view that environmental protection should not jeopardize their pursuit of wealth and development.

As new states came to the fore of the international arena, the economic gap between developed states and developing countries became a permanent feature of international relations. This division between developed states and developing states intensified the challenge against some rules of international law developed by the economically prosperous Western states. The division between developed and less developed states created demands for a new international economic order (NIEO) based on notions of sharing in wealth creation by all states. Ideas for the development of a new international economic order eventually faded. Demands for sharing prosperity, however, have not ceased to present themselves under different disguises in various international fora, including that of environmental lawmaking.

Distinctions between developed and developing states (the North-South division) are made in most international instruments and are prevalent in the international discourse. Most recent distinctions are those made between newly industrialized states (including mostly the southeast Asian states) and least-developed states (certain states in Africa). There is also the addition of states with economies in transition, states that came about after the breakup of the Soviet Union.

Because developing states do not have the same economic power as developed states,[24] they have formed the group G-77 (which now includes more than seventy-seven states) to confront the power of the elite with the power of numbers. This cluster of developing countries presenting a unified façade against developed states should not obfuscate the fact that there are divisions and disagreements among developing states as well. Sometimes developing states remain unified – under the umbrella of G-77 – both in appearances and in substance. Frequently, however, although appearances remain, the substance crumbles under the reality of different interests. An example in the environmental field involves the climate change negotiations. During these negotiations, small island-states fought for a strong normative treaty as a means to protect their islands from the real danger of flooding. By contrast, other developing states (including those perceived to be regional powers, such as China and India) pursued the usual path in international environment negotiations, reiterating their right to development and putting the blame on industrialized countries.[25]

The gap between developed and developing states continues to be wide. Although citizens of a minority of states are quite affluent, the citizens of the majority of states live under conditions of abject poverty. Citizens of the majority of states, for instance, have an income of less than $1 per day. Although some states have been able to break through the barrier between them and developed states, such is not the case for all states, especially certain states located in vulnerable regions including sub-Saharan Africa.

Despite the absence of a global war, states frequently engage regional conflicts that involve violations of human rights. Furthermore, even developed democratic states – which could be considered founders of human rights instruments – often engage in

[24] The GNP of a developing state may be less than the revenues of a multinational corporation.
[25] Daniel Bodansky, The United Nations Convention on Climate Change: A Commentary, 18 Yale Journal of International Law 451 (1993).

human rights violations.[26] States that are more powerful mingle in the affairs of – and even invade – less powerful states under the real threat or the pretext of a threat to their national security[27] or by simply pursuing the appropriation of other states' resources.[28] Many states are ravaged by a number of diseases, including AIDS and malaria. Under these global circumstances, the question that emerges is what the role of international law is, and, more specifically, what the role of international environmental law is. This is a question that Chapter 2 will attempt to answer.

1.2.3. Cooperation

States are not equal in their power and authority.[29] Whereas in decisions affecting war and peace, the hegemonic power of some states is obvious, in the everyday affairs of state interaction hegemonic tendencies tend to be subtler. Because war is not an option for most societies under normal conditions, states have tried to cooperate to achieve desirable outcomes. Even hegemonic states find it costly to affirm their position constantly through the use of force. Often, therefore, they engage in some sort of cooperative behavior with other states.

In game theory parlance, states find themselves captured in repeated games in which the number of players is limited. Such players usually possess quite substantial information about the past performance of other players. The international community is comprised of a small number of states; this community becomes even smaller if one only counts states actively participating in most international matters. States are avid collectors of information about the performance and general circumstances of other states, especially that of states that affect their interests. Thus, one could conceive state interaction as one in which cooperation is the expected norm rather than the exception.[30] The reluctance to use force, the absence of a centralized enforcement authority, reciprocity, and cooperative patterns of behavior make the international arena look like alternating from hierarchy to coarchy and vice versa.[31]

A result of cooperation is the establishment of networks or clubs among certain states. The General Agreement on Tariffs and Trade (GATT) was, in effect, a trade club among industrialized states. Various security regimes connect allies that happen to possess similar ideological outlook and development orientation, for instance, the North Atlantic Treaty Organization (NATO). Such organizations often lack transparency, but the lack of open and transparent procedures is viewed as the key to organizational effectiveness. This lack of transparency gives freedom to officials

[26] See U.S.: Abu Ghraib only the "Tip of the Iceberg," Human Rights Watch, Apr. 27, 2005. See also David Scheffer, Beyond Occupation Law, in 97 American Journal of International Law 842 (2003) (on the law of occupation and the potential liability of occupying states).

[27] See General Assembly Resolution 38/7, The Situation in Grenada, A/RES/38/7, Nov. 3, 1983. See also Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States), (Merits), June 27, 1986, (1986) ICJ Reports 14. See also John Yoo, International Law and the War in Iraq, 97 American Journal of International Law 563 (2003). But see Richard Falk, What Future for the UN Charter System of War Prevention, 97 American Journal of International Law 590 (2003).

[28] Iraq's invasion of Kuwait was allegedly performed to take over Kuwait's oil resources. See also Security Council Resolution 661, S/RES/661, Aug. 6, 1990.

[29] See Reisman, *supra* note 12.

[30] See, e.g., Robert Axelrod, The Evolution of Cooperation (1984).

[31] W. Michael Reisman, Sanctions and Enforcement, reprinted in International Law Essays 381, 405 (Myres S. McDougal & W. Michael Reisman, eds., 1981).