CONTENTS

Foreword: The Thesis and a Confession  page ix

1 Matters of Nomenclature  1
   ‘Concepts’, ‘Principles’, and ‘Rules’  1
   The Particular Unhelpfulness of the Word ‘Abuse’  4
   Four Alternative Uses of the Word  7
   Abuse of Law Distinguished  13

2 An Idealistic but Troublesome Impulse  17
   Noble Sentiments Are Not Good Rules  18
   Reading Bin Cheng Properly  20
   Equivocal French Intellectual Origins and Claims  24
   Not a Necessary Corollary of Good Faith  33

3 A Cacophony of Criteria  36

4 A ‘Principle’ with No Rules?  45
   The French Evolution  45
   A Disturbing Illustration: The French Benetton Case  51
   The Louisiana Experience  55
   Himpurna: An Unnecessary Claim of Universality  61

5 The Challenge of Establishing Universal Principles  68
   Article 38(1) of the ICJ Statute  68
   Paragraph (a)  69
   Paragraph (b)  73
   Paragraph (d)  75
   A Hard Look at Paragraph (c)  76

6 The Politis/Lauterpacht Quest to Elevate the Concept  79
viii CONTENTS

7 Rejection and Retrenchment 85
   The Hostile Reception 85
   Retrenchment 89
   A Critique of Robert Kolb’s ‘Polymorph Galaxy’ 98
   The Danger of Stray Phrases 103

8 The Vanishing Prospect 108
   A Principle Generated by International Economic Arbitration? 109
   A Principle Generated by International Law Itself? 114
   ‘Abuse of Law?’ 126
   Concluding Observations 131

Index 135