# Table of Contents

Preface xi  
Acknowledgements xiv  
Foreword xv  
Abbreviations xx  
Table of Cases xxii  
Table of Treaties and United Nations Resolutions xxiv

Chapter One: International Politics, International Law, and the Legitimacy of Domestic Governments 1  
A. The issue: illegitimate governments as a legal category 1  
B. Legal norms and international security 5  
C. The paradox of sovereignty in international law 8

Chapter Two: Legal Legitimacy in Theoretical Perspective 17  
A. The question of legitimate authority 20  
   1. State illegitimacy: self-determination of whom? 22  
   2. Governmental illegitimacy: who speaks for the political community? 26  
   3. Humanitarian intervention and the natural duties of states 30  
B. Legal legitimacy and international political morality 33

Chapter Three: Popular Sovereignty and Domestic Constitutional Orders 37  
A. Vehicles of legitimation 41  
   1. Tradition 43  
   2. Charisma 46  
   3. Legality 48  
B. The constitutional order and its limits 51  
   1. The “constitution” in positivist jurisprudence 51  
   2. Constitutionalism 55  
      (a) A political definition of “constitution” 55  
      (b) The absence of an uncommanded commander 57  
      (c) The state of exception 61  
   3. The significance of the exception: sovereign will and the limits of constitutionalism 64  
   4. Constitutional orders and international recognition 68  
C. The primacy of the legitimating vision 69
# Table of Contents

## Chapter Four: The Rise and Fall of Revolutionary-Democratic Dictatorship

**A. Theoretical foundations of revolutionary democracy**
- “Totalitarian” democracy and positive liberty: 77
  - The Rousseauian framework: 84
    - Moral freedom and the political community: 84
    - The general will: 87
  - The Marxian framework: 93
    - Freedom and species-essence: 93
    - Dictatorship of the proletariat: 96

**B. Teleological democracy and vanguard dictatorship**
- The challenge of substantive democracy: 104
- The ruling party as vanguard of the sovereign citizenry: 106
- Vanguardism and the decision: 112

**C. Revolutionary-democratic dictatorship and contemporary international discourse**
- Consequences of the rise of revolutionary dictatorship: 113
- Consequences of the fall: 118

## Chapter Five: Legal Legitimacy and Recognition of Governments: A Doctrinal Guide

**A. Recognition doctrine**
- The nature of recognition: 124
- The objects of recognition:
  - Governments and states: 130
  - Governments and institutions: 133
- The criteria of recognition:
  - Effective control: 137
  - Legitimism: 142
  - Additional factors and limited recognition: 149
- Legal consequences of non-recognition: 152

**B. Recognition and intervention in internal armed conflict**
- Sovereign equality and non-intervention norms:
  - Non-intervention and popular sovereignty: 162
  - Non-intervention and human rights: 165
- Non-intervention norms and internal armed factions:
  - Recognition of insurgency: 173
  - Recognition of belligerency: 177
  - Recognition of the opposition as the de jure government: 182
- Military intervention by invitation: 185
- Military intervention by advance consent: invasion pacts: 188

**C. Legitimacy contests and modes of collective resolution**
Chapter Six: Ascertaining the Will of "Peoples": Governmental Illegitimacy and Self-Determination

A. From principle to right: self-determination in the scheme of sovereign equality
   1. Evolution of the principle 204
   2. The 1960 resolutions 208
   3. Self-determination and the use of force 212

B. Self-determination and popular will
   1. Popular will and the determination of political status 223
   2. Insurgent movement as "sole legitimate representative" 227

C. Local deprivations of self-determination: Rhodesia, South Africa and beyond
   1. Rhodesia 236
   2. South Africa 243
   3. Further implications 250

Chapter Seven: Two Governments, One State: Recognition Contests and the Use of Force

A. U.N. credentials and collective legal recognition
   1. The U.N. credentials process 255
   2. Credentials controversies 261
      (a) China (1949–71) 261
      (b) Hungary (1956–63) 263
      (c) Congo-Leopoldville (1960) 268
      (d) Yemen (1962) 274
      (e) Cambodia/Khmer Republic (1973–74) 276
      (f) Cambodia/Kampuchea (1979–90) 280
   3. Recognition principles in credentials cases 283

B. Intervention by invitation of the legitimate government 284

C. Governmental illegitimacy and foreign intervention: three cases
   1. Nicaragua (1979)
      (a) The de-legitimation of the Somoza government 290
      (b) Implications for the subsequent legitimacy of Sandinista rule 297
      (c) Implications for the norm of governmental illegitimacy 303
   2. Grenada (1983) 303
   3. Panama (1989) 310

D. Recognition contests, 1950–89: conclusions 318
**Table of Contents**

**Chapter Eight: Governmental Illegitimacy and Political Participation**

A. Political participation in human rights law 324
   1. Interpretation of the right 325
      (a) UDHR Article 21 325
      (b) ICCPR Article 25 329
      (c) Article 25 in the post-Cold War era 333
   2. Implementation of the right 338
   3. Conclusion: popular sovereignty and participatory rights 343

B. Legitimacy and quasi-plebiscitary elections 344
   1. Demonstration elections 346
      (a) El Salvador (1982, 1984) 348
      (b) Nicaragua (1984) 351
      (c) Lessons of the 1980s 356
   2. Arbitration elections 357
      (a) Nicaragua (1990) 358
      (b) The spread of U.N.-sponsored electoral arbitration 361

C. Participation and the basis of governmental authority 363

**Chapter Nine: Haiti and Beyond: Popular Will and De-Legitimation in the 1990s**

A. Collective responses to the breakdown of electoral arbitration 366
   1. Haiti (1991–4) 366
      (a) Background to the coup 368
      (b) International responses to the coup, 1991–93 372
      (c) Enforcement measures 377
      (d) The Haiti precedent 383
      (a) The Failure of electoral arbitration and the resumption of civil war 387
      (b) The Security Council response 389
   3. Cambodia (1997–98) 391
   4. Conclusions 393

B. The broader context: sovereignty and internal crises in the 1990s 394
   1. Civil war and humanitarian catastrophe: Liberia and Somalia 394
   2. Coup against elected governments in the 1990s 401
   3. Sierra Leone and the New African Interventionism of the late 1990s 405

C. Governmental illegitimacy and collective practice 410
# Table of Contents

**Chapter Ten: Conclusion: Sovereignty and Popular Will**  
A. The international law of governmental illegitimacy  
B. The dangers of liberal-democratic legitimism  
  1. The danger to democracy and popular sovereignty  
  2. The danger to peace  
C. Conclusion

Index