Contents

Preface vii
List of abbreviations ix

1. Concept and history 1
   1. Responsibility and law 1
   2. Legal nature of responsibility 2
   3. Relationship between reparation and countermeasures 4
   4. Primary and secondary obligations 6
   5. Historical evolution of the law of State responsibility 8
   6. Responsibility and sovereignty 12
   7. Analogies with municipal law 13
   8. State responsibility and international responsibility 15
   9. Types of ‘civil’ responsibility 18
  10. Constitutive elements of State responsibility 20
  11. Unitary nature of State responsibility with regard to the sources of obligations 24
  12. Special legal regimes of responsibility 26
  13. The codification of State responsibility by the ILC 27
  14. Digging deeper 30

2. Internationally wrongful act 34
   1. General issues 34
   2. The violation of a legally applicable obligation 35
   3. Conduct: Acts or omissions; standard of conduct 38
   4. Conduct: Obligations of conduct and obligations of result 41
   5. Qualification of the IWA only through international law 45
   6. Breach and temporal issues 48
   7. Gravity of the breach; international crimes 54
   8. Digging deeper 60

3. Attribution 70
   1. General issues 70
   2. Three main principles of the law of attribution 74
   3. Organs placed at the disposal of another State 83
   4. Attribution of ultra vires and private acts 85
The international law of State responsibility

5. Attribution by ad hoc endorsement 88
6. Attribution of acts of insurrectional movements 93
8. Digging deeper 102

4. Circumstances precluding wrongfulness 109
1. General issues 109
2. Consent (Article 20 ASR) 114
3. Self-defence (Article 21 ASR) 118
4. Countermeasures (reprisals) (Article 22 ASR) 120
5. Force majeure (Article 23 ASR) 121
6. Distress (Article 24 ASR) 125
7. State of necessity (Article 25 ASR) 128
8. Peremptory norms as a limit for the plea of CPWs 135
9. Equitable compensation for material loss 137
10. Digging deeper 138

5. Legal effects of responsibility 148
1. General aspects 148
2. Reparation 149
3. Countermeasures 173
4. Diplomatic and functional protection 185
5. Digging deeper 203

6. Issues of collective and ancillary responsibility 215
1. Collective unlawful conduct 215
2. Responsibility for conduct of member States within an international organization 221
3. Member State responsibility for conduct of an international organization 225
4. Digging deeper 228

7. Conclusion 231

Bibliography 234
Table of Reports of Special Rapporteurs of the ILC on State Responsibility for Internationally Wrongful Acts 235
Appendix 2: Draft Articles on the Responsibility of International Organizations (2011) 252
Appendix 3: Draft Articles on Diplomatic Protection (2006) 268
Index 273