3. The relations of international and national law

This chapter explores the relationship between international and national law, discussing both the common law tradition and the civil law tradition. It suggests that each system is supreme in its own field; neither has hegemony over the other. And yet any generalities offered can only provide a background to the complex relations between the national and international systems. Three factors operate. The first is organizational: to what extent are the organs of states ready to apply rules of international law internally and externally? The second factor is the difficulty of proving particular rules of international law. Third, courts, national and international, will often be concerned with the question of which is the appropriate system to apply to particular issues arising. The question of appropriateness emphasizes the distinction between organization, that is, the character of the jurisdiction as ‘national’ or ‘international’, and the character of the rules of both systems as flexible instruments for dealing with disputes and regulating non-contentious matters.
3. The relations of international and national law