

JURI 4640: International Law I The International Legal Process

**Professor Bodansky, Fall 2009
University of Georgia School of Law**

Version 1.0: August 12, 2009
Note: This syllabus is subject to revision.

SYLLABUS

Class Time

Monday, Wednesday, Thursday 8:30-9:20
Room G

Contact Information:

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I. Overview

This course provides a general introduction to the international legal process. In doing so, we will examine many of the basic doctrines of international law, including the sources of international law, the creation and continuity of states, international organizations, and the use of force. But the primary purpose of the course is to investigate the role that law plays in international society, *not* to survey the substantive rules of international law.

The basic quandary of international law arises from the fact that there is no authoritative decision-maker at the international level either to say what the law is (the role that legislatures and courts play in national legal systems) or to implement and enforce the law (the role of the executive branch). Many commentators argue that, consequently, international law is really just rhetoric used by states to justify their actions, which they violate when it suits their interests. As the French philosopher, Raymond Aron, once quipped, "International law is a permanent incitement to hypocrisy."

The course will assess the status of international law by examining the following questions:

- (1) How and why do legal norms emerge at the international level?
- (2) How do we ascertain the rules of international law, in the absence of courts?
- (3) What reasons do states have to comply with those norms?

We will address these questions in the context of particular case studies or current events. The class will consist mostly of discussion.

II. Readings

The required text is:

Jeffrey Dunoff, Steven Ratner & David Wippman, *International Law: Norms, Actors, Process* (Aspen 2nd ed. 2006)

In addition, there are photocopied Supplemental Readings, available for purchase from Bel-Jean Copy/Print Center on Broad Street.

You should also regularly read the blog, Opinio Juris, <http://opiniojuris.org>, which we will be discussing in class from time to time.

If you are interested in further information about international law, other good sources include:

- David Bederman, *International Law Frameworks* (Foundation Press 2001).
- Ian Brownlie, *Principles of Public International Law* (Oxford Univ. Press 6th ed. 2003).
- Mark W. Janis, *An Introduction to International Law* (Little Brown & Company (Aspen 4th ed. 2003),
- Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (Routledge 8th ed. 2002).

III. Lexis/Nexis Blackboard Course Page

There is a LexisNexis web course page, which you should subscribe to as soon as possible:

<http://www.lexisnexis.com/lawschool/webcourses/>

The syllabus, any additional assignments, Powerpoint presentations, and useful links will all be available on the web course page. I also plan to use the course page to make announcements and to respond to general questions about the course, so you should check it on a regular basis.

IV. Exam

There will be a two-hour open-book final exam. "Open-book" means that you may consult the assigned readings, class handouts, and your notes.

You have the option of taking the exam on your computer.

V. Other Course Requirements

A. Written Assignments

- *Treaty exercise* (graded) – There will be a short (4-5 page) treaty exercise on the Montreal Protocol, during the fifth week of class (September 10-14).
- *Wikipedia* (graded) – You will be responsible for creating or significantly editing a Wikipedia page relating to international law. Your article or edits should be in the range of 1000-1250 words. Detailed information on this assignment will be distributed later.
- *Opinio juris* (credit/no-credit)– At least twice during the semester, you should post a short response to an *Opinio Juris* post. Your posts need not be more than a paragraph long.

In addition, I may occasionally assign short, ungraded written assignments of no longer a page on particular questions raised by the course readings.

B. Class Participation

Classroom participation is an important part of the course. If you are unprepared for a particular class, please let me know before class begins. Remember, good classroom participation depends on the quality of the comments rather than the quantity.

VII. Grading

Grades will be based as follows:

Final exam: 60%
Treaty exercise: 20%
Wikipedia article: 20%

Grades can be adjusted up for exceptional classroom participation. Grades will be adjusted downward for:

- Failure to post two responses on *Opinio Juris* (1/2 grade)
- Unexcused absences from more than 6 classes (1 full grade deduction), 7-8 unexcused absences (1 ½ grades), 9-10 absences (2 full grades), more than 10 unexcused absences (failing grade).

CLASS SCHEDULE

A. Nature of International Law

1. Introduction
Handout
2. "100 Ways International Law Shapes Our Lives"
Handout
3. Traditional International Law: Aouzou Strip
Supplement 1
Casebook 1-18
4. Modern International Law: *Rainbow Warrior Case*
Supplement 3-4
Casebook 18-33
- 5/6. Consensual Theory of International Law: *Lotus Case* (2 classes)
Supplement 5-28
Casebook 355-61, 363-65, 377-80 (skim)

B. Sources of International Law

7. Introduction to Treaties
Supplement 29-36
Casebook 35-52
8. ABM Treaty
Supplement 37-60
Casebook 58-62 (skip the notes and questions), 315-20
- 9/10. European Convention on Human Rights (2 classes)
Supplement 61-110
- 11/12. Treaty Exercise: Ozone Agreements (2 classes)
Supplement 111-34
Casebook 695-99, 782-805
- 13/14. Custom: Diplomatic Immunities (2 classes)
Supplement 135-87
Casebook 74, 78-87

15. Custom: Continental Shelf Doctrine
Supplement 189-220
Casebook 736, 738-40
16. Custom and Treaties: Continental Shelf Convention
Supplement 221-37
Casebook 740-55
17. UN Resolutions: Expropriation of Foreign Property
Supplement 239-54
Casebook 74-78, 87-89
18. Soft Law: Paris AIDS Declaration
Supplement 255-59
Casebook 92-105
19. Non-Consensual Sources: Prohibition on the Slave Trade
Supplement 261-84
20. Limits of International Law: Kellogg-Briand Pact
Supplement 285-98

C. Participants in the International Legal Process

21. Formation of States
Casebook 107-43
22. International Organizations
Casebook 171-200
23. International Organizations: The Problem of Legitimacy
Casebook 959-83
24. NGOs
Casebook 201-16
Handout on Land-Mines Convention
25. Corporations
Casebook 216-34

D. The Role of National Courts

26. Introduction to the Problem of Implementation
Handout
27. Conflicts between Domestic and International Law: *Breard*

Casebook 267-73, 293-315

28. National Courts and Customary Law: Alien Tort Claims Act
Casebook 326-40, 667-693
29. National Courts and Domestic Law: Act of State Doctrine
Casebook 340-53

E. The Role of International Tribunals

30. Introduction to International Dispute Resolution
31. WTO Dispute Resolution: *Bananas Case*
Casebook 827-46
32. NAFTA Dispute Resolution: *Loewen*
Casebook, 859-74
33. ICJ Advisory Opinions: *Nuclear Weapons Advisory Opinion*
Casebook 527-53
34. International Criminal Prosecutions
Casebook 607-10, 646-67

F. Limits of International Law?

35. Protecting Non-Combatants during Wartime
Casebook 527-28, 534-39, 554-73
36. Use of Force: 1991 and 2003 Gulf Wars
Casebook 873-915
37. Use of Force: Humanitarian Intervention
Casebook 937-57

G. Wrap-Up

38. Is International Law in the US Interest?
Handout
39. Is International Law Effective?
Casebook 1031-44