About the Course

International law, according to one definition, consists of the “rules and principles of general application dealing with the conduct of states and of international organizations and with their relations inter se, as well as with some of their relations with persons, whether natural or juridical.” (“States” in this definition refers to nation-states rather than the fifty U.S. states.) This course examines the nature and sources of international law, the relationship between international law and domestic U.S. law, the role of international organizations such as the United Nations, some of the methods of resolving international disputes, the bases of international jurisdiction and sovereign immunity, and select substantive areas of international law, including the laws governing the protection of human rights and the use of force. Where relevant, the course will focus on current events.

Required Materials

We will be using Barry E. Carter, Phillip R. Trimble, and Curtis A. Bradley, *International Law* (4th ed. 2003) ("Casebook"); a documentary supplement consisting of the most relevant treaties; and a supplementary packet of materials ("Supp.").

Class Times and Location

We will meet Mondays, Tuesdays, and Thursdays, from 3:00-4:00 pm, in Room 3043.

Why Study International Law?

There are many reasons to study international law. Some of you may want to pursue a career in the field. Careers in international law, while relatively hard to come by, can be found in government agencies, international organizations and tribunals, non-profit organizations, private law firms, and academia. Even if you do not end up pursuing an international law career per se, the study of international law is likely to be relevant to your practice as a lawyer. Many areas of domestic U.S. law, from environmental law to antitrust law to intellectual property law, have important international aspects. Some of your clients are also likely to have international connections: American lawyers today commonly

represent either U.S. companies doing business abroad or foreign companies doing business here. The study of international law also will give you a better understanding of both law in general and U.S. law in particular. You will consider in this class, for example, whether international law is really “law,” which will require you to think about what is meant by the term law. You will also examine how the rules and procedures of the international legal system interact with those of your own legal system. Finally, knowledge of international law will be useful to your general understanding of, and participation in, world affairs. As you will see, international law underlies many of the global events that you hear about every day.

Restatement

We will refer frequently to the Restatement (Third) of the Foreign Relations Law of the United States (1987). Restatements, as you probably know, are prepared by the American Law Institute, which is made up of prestigious professors, judges, and practitioners. They purport to provide a black-letter summary of the state of the law. Although not binding, they are often relied upon heavily by U.S. courts. This is certainly true of the Restatement (Third) of Foreign Relations Law. You should not assume, however, that everything the Restatement says is correct. Sometimes I will tell you that a proposition in the Restatement is in fact well-accepted, but other times I will tell you that the law is not as settled as the Restatement might suggest. The most relevant sections of the Restatement are excerpted in the casebook. However, you may be interested in consulting the notes or comments to some of these sections or in reading related sections. Multiple copies of the Restatement are available in the library.

Newspaper

Because this class will focus to some extent on current events, I encourage you to read a good newspaper or news magazine regularly during the semester. The newspaper with the best coverage of international events is probably The New York Times, which is available online as well as in paper form. The news magazine with the best coverage of international events is probably The Economist (although it does not always make for scintillating reading).

Other Collateral Reading

You are not required to read any other collateral materials in studying for the course. If you are nevertheless inclined to do so, each of the following books provides a concise overview of the international legal system: David J. Bederman, International Law Frameworks (2001); Thomas Buergenthal & Sean D. Murphy, Public International Law in a Nutshell (2002); and Mark W. Janis, An Introduction to International Law (4th ed. 2003). For more detailed reading on select subjects, you might want to consult Ian Brownlie, Principles of Public International Law (6th ed. 2003); Antonio Cassese, International Law (2001); Louis Henkin, Foreign Affairs and the United States Constitution (2d ed. 1996); Robert Jennings & Arthur Watts, eds., Oppenheim’s International Law (9th ed. 1997) (2 vols.); Peter Malanczuk, Akehurst’s Modern Introduction to International Law (7th rev. ed.)

**Internet Resources**


**Class Participation and Attendance**

I will generally look to volunteers in response to questions, but I will resort to involuntary calling when necessary. (I will proceed alphabetically through the class list, so you will have at least a rough sense of when you are likely to be on call.) Because class participation takes effort and contributes to everyone’s learning experience, I will add a small bonus to the grades of students who participate consistently and meaningfully in class discussions. I will not, however, reduce grades due to lack of participation. Regular class attendance is expected and is a prerequisite for a class participation bonus. If you anticipate missing a class, please let me know either in person or by e-mail.

**Exam**

The exam will be given at 8:30 am on Tuesday, December 6. You may bring with you to the exam your casebook, the documentary supplement, the supplementary packet, any other materials I have distributed, and any student-prepared notes or outlines. You may not bring the *Restatement* or any other books, treatises, nutshells, or the like. I will hold an exam review session on the last day of class. In addition, I will post some of my past exams on Blackboard.

**Office Hours**

Until the new wing is completed, my office will be in Room 3007. My office hours are Mondays, Tuesdays, and Thursdays, from 4:15-5:15 pm. Please feel free to stop by at other times as well, or to make an appointment.
Reading Assignments

Below I have listed 36 reading assignments, which is my best guess concerning the number of assignments we will have time to cover this semester. If we move slower or faster than I have anticipated, I will adjust the number of assignments accordingly. For each upcoming class, please study the next assignment, unless I clearly announce that we will not be moving on to that assignment. Also, please be sure to study all pertinent materials in the documentary supplement.

Introduction

1. Nature and History of International Law

Casebook 1-20
Supp. 1-3

2. International Law as Law

Casebook 25-47

3. Case Study on the Consular Convention

Supp. 4-21

Sources and Evidence of International Law

4. Treaties: Formation, Reservations, and Interpretation

Casebook 93-106, 114-19

5. Treaties: Invalidity, Breach, and Withdrawal

Casebook 106-107, 109-14, 119-20
Supp. 22-28

6. Customary International Law

Casebook 120-35
Supp. 29-31

7. Jus Cogens; General Principles

Casebook 107-09, 150-54
Supp. 32-39
International Law in the U.S. Legal System

8.  Scope of the Treaty Power

Casebook 157-68
Supp. 40-41

9.  Self-Execution and Last-in-Time Rule

Casebook 168-89

10. Executive Agreements

Casebook 203-22

11. Customary International Law; Charming Betsy Canon

Casebook 225-39, 255-56

12. International Human Rights Litigation

Casebook 243-55
Supp. 42-53

13. Federalism and Foreign Affairs

Casebook, pages 257-70
Supp. 54-60

States, the United Nations, and the International Court of Justice

14. States and Governments; Attribution of Conduct to States

Casebook 432-49, 751-56

15. Changes in States and Governments

Casebook 449-61
Supp. 61-72

16. United Nations

Casebook 468-83
17. *International Court of Justice: Overview*

Casebook 284-96
Supp. 86-93

18. *International Court of Justice: Nicaragua Case*

Casebook 296-312

**Jurisdictional Authority of States**

19. *Bases of Prescriptive Jurisdiction; Territoriality*

Casebook 647-60

20. *Extraterritoriality in U.S. Law*

Supp. 94-117

21. *Nationality; Protective Principle; Passive Personality*

Casebook 670-71, 680-98

22. *Universal Jurisdiction*

Casebook 698-99, 709 (Note 5)
Supp. 118-44

**The Use of Force**

23. *The UN Charter; Self-Defense; Other Exceptions*

Casebook 977-99 (through Note 10)

24. *Collective Intervention; Example of the Gulf War*

Casebook 1026-39, 1045-51

25. *Use of Force in the War on Terrorism*

Casebook 62-64, 69-86
Supp. 145
26. **Legality of the 2003 Invasion of Iraq**
Casebook 1059-69
Supp. 146-58

*International Human Rights and Humanitarian Law*

27. **Overview of Human Rights Treaties and Institutions**
Casebook 767-84

28. **Customary International Law of Human Rights**
Casebook 784-92
Supp. 159-70

29. **The United States and International Human Rights Law**
Casebook 798-808
Supp. 171-79

30. **International Humanitarian and Criminal Law**
Casebook 976-77, 1084-1108

31. **U.S. Treatment of Detainees in the War on Terrorism**
Supp. 180-201

*Immunity of States and Officials*

32. **Immunity of Governments**
Casebook 547-56, 601-06
Supp. 202-15

33. **Overview of the Foreign Sovereign Immunities Act**
Supp. 216-33

34. **Immunity of Officials Under International Law**
Casebook 615 (Note 7), 617 (Note 9)
Supp. 234-66

35. **Immunity of Foreign Officials in U.S. Courts**
36.  *Inviolability of Embassies and Immunity of Diplomats*

Casebook 606-11
Supp. 281-93