

INTERNATIONAL LAW
INTL 4210 Fall 2008
Anne Herbert

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Class: T/Th 12:30 - 1:45
Location: SLC 245

Course Description/Objectives

International law (IL) is not something separate, or a part from, international relations (IR). The traditional corpus of IL provides a set of rules safeguarding the basic principles of sovereignty and territorial integrity which undergird the international state system. And, as the issues confronting IR have expanded, so to has the breadth of IL. In addition to national security and armed conflict issues, both fields now also have as their focus international political economy, human rights and humanitarian issues, and ecological concerns.

To better understand the dynamic nexus between IL and IR, the course will consider the following questions: What roles does international law play in international relations? To what extent can a legal regime be said to govern international relations? In what ways, if any, does international law have the ability to impact the course of international relations? What are the limitations to the effectiveness of international law? Are these limitations fixed and inherent in the structure of international relations? – Or does the evolving and developing structure of international law at times work to alter the structure of the international relations system itself? We will draw on a variety of literatures to examine these issues – chiefly, international relations, international law, political theory, and legal philosophy.

The course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.

Materials

These are the required texts available for purchase at the campus bookstores:

- A. D'Amato & J. Abbassi, International Law Today: A Handbook (Thomson/West, 2006)
- D. J. Bederman, International Law Frameworks (Foundation Press, 2nd ed. 2005)
- V. Epps, International Law (Carolina Academic Press, 3rd ed. 2005)

Additionally, there will be a small reading packet available for purchase.

You should read a national newspaper with a robust coverage of international affairs. I recommend the New York Times, not least because it's the paper State Dept.-types rely on. Other perspectives would also be good to bring to class.

Course Requirements

The class will involve both lecture and discussion. Students who do not volunteer to participate in class discussion can expect to be prompted to do so. Class participation will factor directly into your grade. **You should come to class having already read the assigned reading material for that session.** The exams and participation grade are designed to reward regular attendance and thoughtful participation. My expectations for a student taking this course are that: you regularly attend class prepared for class discussion, stay current with the reading assignments, complete assignments in a timely manner, and regularly read news coverage pertaining to international law and organization.

Things that drive me crazy in class (and, therefore, will not be tolerated):

- 1. Habitual Tardiness.**
- 2. Surfing the web, online chatting etc. during lecture or class discussion.**
- 3. Coming unprepared to class.**

P.S. # 2 REALLY bugs me. I may “unplug” the class if this becomes a problem.

Assignments and Evaluation

The Course Grade will be determined using a point system, with a possible of 500 points. There will be a two-day Midterm, a Final Exam, two 5-7 page essays, and a class participation grade. The class participation grade will be based on your regular attendance and your participation in class discussion (which will be made relatively easy because you will be given discussion assignments).

The Course Grade will be based on:

1. Two 5-7 page essays, due 9/16 (Wk 5) and 12/2 (Wk 16), 100 points each, 20% of course grade each, 40% of course grade total..
2. A midterm exam on 10/21 and 10/23 (Wk 10) , 100 points, 20% of the course grade.
3. A final exam on Dec. 16 (Tues.) 12 - 2 pm , 100 points, 20% of the course grade.
4. Class participation, including discussion of assigned law case or treaty, 100 points or 20% of the course grade.

Course Letter Grades will be assigned as follows:

A- to A	450 - 500 points
B- to B+	399 - 449 points
C- to C+	348 - 398 points
D- to D+	297 - 347 points

To receive International Affairs major credit for this Course you must receive a “C” grade or higher (“C-“ doesn’t get IA major credit). There is no possibility of extra credit in the Course to bring up your point total. In case of illness, Make-up Exams will require a doctor’s note from the UGA student medical center. If you have a legitimate conflict (documented school obligation, family/personal crisis) with a test date, you should speak with me at your earliest opportunity.

Please Note: All academic work must meet the standards contained in “A Culture of Honesty.” Students are responsible for informing themselves about those standards before performing any academic work. Plagiarism on essays and cheating on exams will not be tolerated, and will be considered grounds for failing the class.

Office Hours

My office hours are by appointment before class in the SLC coffee lounge, and by appointment in 307 Candler Hall. Please come see me if you have any questions, comments about the course, or problems with the reading material or assignments.

Email Policies

The best way to contact me is via email at herbert@uga.edu. If you have a general question about the course or the readings, I will address the question in class at the earliest opportunity. If you have specific questions about the lectures and/or readings or any matter concerning the course, you should come to my office hours or schedule an appointment. I will not provide substantive individual replies to emails concerning the course generally, nor will I provide substantive individual replies to emails concerning specific issues you may have regarding the class (i.e. your grade on a particular exam).

Schedule of Assignments

Section 1: What is International Law? : Sociological, Normative, and Policy perspectives

What is “law” and what good is it? What is meant by the “the rule of law”? Why is it important to have laws? What is International Law? In what ways is International Law similar to and different from law in a domestic context. What is the role of law in any society? What kinds of law exist in international relations? Are there fundamental social and political conditions that must be present for a legal system to function as “law”?

Week 1

T 8/19 Introduction to the Course.

Th 8/21 The roles of law in IR – Co-existence, Cooperation, “Gentle Civilizer of Nations”
Russian/Georgian conflict, Global Climate Change, and Darfur

Readings: Bederman, Ch. 1, Epps, pps. 3-4.

Week 2

- T 8/26** – The International Legal Landscape: Traditional and Modern approaches
– Doctrinal, Explanatory, and Normative approaches to IR/IL

Readings: Bederman, Ch. 1 and pps. 248-250; D & A, Ch. 1, Epps, pps. 3-4.

Cases: Hatchv. Baez (D&A); Pacific Fur Seal Arbitration (D&A); Pinochet (D&A); Shrimp/Turtle case (D&A); The Rainbow Warrior

- Th 8/28** IR/IL theory: In the shadow of Hobbes and Locke - Realists, Liberal Institutionalists

Readings: D&A, 30-36; E.H. Carr, Morgenthau, Keohane/Moravcsik/Slaughter readings in Hathaway & Koh (handout)

Weeks 3

- T 9/2** IR/IL theory: Norm Peddlers - Constructivists, Cosmopolitans, and Transnationalists

- Th 9/4** IR/IL theory: ‘English Realists’ (Bull and Hart) on Order and Justice in IR

Readings: Finnemore, Ruggie, Keck/Sikkink, Koh, H.L.A. Hart in Hathaway & Koh (handout); excerpt from Hedley Bull, *The Anarchical Society* (handout); D&A, 101- 106

Week 4

- T 9/9** Is international law “law”? : D’Amato v. Bolton ; The ‘rule of law’

- Th 9/11** Can we apply a rule of law (ROL) standard in IR? Should we apply ROL in IR?

Readings: Bederman, Ch. 1; D&A, 13-28, 218-223 (Amann and Franck on Guantanamo and ROL); Anne-Marie Slaughter, “A Liberal Theory of International Law “ and Jose Alvarez “Interliberal Law: A Comment” in Hathaway & Koh (handout); Jeremy Waldron, “The Rule of International Law,” 15 *Harvard Journal of Law & Policy* 30 (2006) (handout)

Section 2: International Law Mechanics

This section examines the nature and structure of the international legal system, focusing on the sources of law (treaty and custom), the actors and institutions of the international system

and the relationship of that system to US domestic law and courts.

Week 5

T 9/16 **Essay #1 due IN CLASS**
Sources overview; ICJ Statute: General Principles and Custom

Th 9/18 Customary International Law

Readings: Bederman, Ch. 2, and pps. 47-48; D&A, pps. 57-61, Epps, pps. 5-15, 19-21, 231-233

Cases: Trail Smelter, Paquette Habana, Filartiga,

Week 6 IL Sources: Custom cont'd.

T 9/23 Elements of Customary IL; Current development and use of CIL

Th 9/25 Nontreaty-based IL development: “Instant Custom”, “Soft Law”, NGO-based Standards regimes (Forest Stewardship Council example)

Readings: Cont'd from 9/6; Epps, pps. 10-21, 78, 151-158

Cases: Lotus, North Sea Continental Shelf Case, Barcelona Traction; Arrest Warrant Case.

Week 7 IL Sources: Treaty Law

T 9/30 What is a Treaty? What purposes do Treaties serve in IR? What are the

Th 10/2 different types of treaties, and why choose one form over another?

Readings: Bederman, Chs. 3-4; D&A, 36-57; Epps, 49-70, 76-79

Cases: Genocide Convention Case ; Avena; Case concerning Gabcikovo-Nagymaros Project

Week 8 IL Sources: Treaties as tools to solve coordination problems in IR

T 10/7 IR/IL: Effectiveness, Compliance, and Relevance of treaty obligations

Th 10/9 The view from International Environmental Law – What makes some treaties worth the paper their printed on?

Readings: Dan Bodansky, “International Environmental Agreements” chapter from forthcoming book on IEL (handout); Chayes and Chayes excerpt from *The New Sovereignty* in Hathaway and Koh (handout)

Week 9 IL Sources: Domestication of IL obligations

T 10/14 How does IL become a “part of our law”? – US and dualism/monism issues

Th 10/16 US Practice: Refugees, Prisoner Rights, and Torturers

Readings: Bederman, Chs. 14-15; Epps, 10-14, 319-334; D&A, 218-223 (Guantanamo prisoners)

Cases and Treaties: Paquete Habana; The Charming Betsy; INS v. Haitian Centers Council, Inc., et al; Filartiga; Avena and Sanchez-Llamas; the Torture Convention and US law

Week 10

T 10/21 *** MIDTERM – Short answer questions *******

Th 10/23 *** MIDTERM – Essay *******

Week 11 IL Participants: States, Institutions, Organizations, and Individuals

T 10/28 International Legal Personalities in the Westphalian IR Framework: States
Th 10/30 as the “subjects” of IL; states and “sovereign equality”; rights and duties of states; rights and duties of international organizations

Readings: Bederman, Chs. 5-7; D&A, 5-9, 72-81; Epps, 88-92, 243-246, 257-277
Cases and Treaties: 1933 Montevideo Convention; Nottebohm; UN Reparations

Week 12 IL Participants: States, Institutions, Organizations, and Individuals

T 11/4 The Human Rights Movement: Individuals as “subjects” of IL

Readings: Bederman, Ch. 9, and pps 76-83; D&A, pps. 101-106, 112-114, 121-127;
Epps, 300-309
Cases: Soering

Th 11/6 Group rights v. State rights: Secession and Self-determination re Quebec

Reading: Epps, pps. 246-257; D&A, pps. 127-140
Cases: Reference re Secession of Quebec

Section 3: Conflict Resolution – Pacific Settlement of Dispute to Recourse to Force

Week 13

T 11/11 Overview IL approaches to conflict resolution in IR

Th 11/13 NO CLASS

Readings: Bederman, Chps. 21, 18

Week 14

T 11/18 Jus ad Bellum: IL rule structure governing the right to use force in IR

Readings: Bederman, ch. 19, Epps, pps. 337-339, 361-377

Cases: The Caroline Incident; Legality of the Threat of Nuclear Weapons; Nicaragua v. United States

Th 11/20 Jus in Bello: International Humanitarian Law, the IL rule structure governing the conduct of the military in its use of force (types of weaponry, permissible tactics) and the treatment of POWs and noncombatants

Readings: Bederman, Ch. 20: Epps, pps. 396-399, 419-423; D&A, pps. 160-176

Cases and Treaties: Hamdan et al; Hague and Geneva Conventions

Week 15

UGA Thanksgiving Break 11/24 - 11/28

Week 16

T 12/2 **Essay #3 Due IN CLASS**

Challenges for Use of Force law: the “War on Terror”

Readings: Bederman, cont’d; Epps, pps. 381; D&A, pps. 196-213

Th 12/4 Challenges for Use of Force law: Humanitarian Intervention

Readings: Bederman, cont’d; Epps, pps 382-394; D&A, pps. 140-147

FINAL EXAM TUES. 12/16 12 - 2 pm