

INTERNATIONAL LAW
INTL 4210 Maymester Spring 2008
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Office Hours: by appointment, after class

Class: M-F 9:30-12:15

Location: Caldwell 107

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)

Course handouts and law cases (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, and regularly read news coverage pertaining to international law and organization.

The Course Grade will be based on:

1. Attendance and Participation at EVERY class session – we’re talking 15 days guys.
2. 2 in-class tests: 1 and ½ hours in length, short answer and essay, 50 points each.
3. A final exam: 2 hours in length, short and answer and essay, 100 points.
4. Total points available for course grade: 200 points
5. I reserve the right to lower your final grade if your attendance/ participation is subpar.

Course Letter Grades will be assigned as follows:

A- to A	175 - 200 points
B- to B+	150 - 174 points
C- to C+	130 - 149 points
D- to D+	100 - 129 points

To receive International Affairs major credit for this Course you must receive a “C” grade or higher. A “C-“ grade will not be sufficient to receive International Affairs 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 will be right after class if you need to see me.

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”?

1. May 13 (T) – Overview of IL: the roles of law and the ways of studying law in IR

Introduction to the Course. Distribute class handouts.

What is “law” in international relations? What is IR/IL?

International Relations theory review – why does IR theory matter in the study of IL?

Readings: Class handouts, Bederman , Ch. 1; D&A, 30-36

2. May 14 (W)

a. The International Legal Landscape: Traditional & Modern Approaches

b. Is international law “law”? D’Amato v. Bolton

c. Introduction to the “rule of law”

Readings: Bederman, Ch. 1 and pps. 248-250; D&A, Ch. 1 and pps. 13-28

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

3. May 15 (TH) — class starts at 10 am

Can we apply a rule of law (ROL) standard in IR? Should we apply ROL in IR?

Readings: Bederman, Ch. 1; D&A, 30-36, 218-223; Jeremy Waldron, “The Rule of International Law,” 15 Harvard Journal of Law & Policy 30 (2006) (handout)

4. May 16 (F) — Test Day

a. Review questions

b. 1 and ½ hour exam

c. Introductions to International Law Mechanics: Doctrines of Sources and Actors

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.

Sources overview; ICJ Statute: General Principles, Custom, and Treaty Law

5. May 19 (M)

Customary International Law and Nontreaty-based IL development
Elements of Customary IL; Current development and use of CIL
General Principles “Instant Custom”, “Soft Law”, Standards

Readings: Bederman, Ch. 2, and pps. 47-48; D&A, pps. 57-61, Epps, pps. 5-21, 151-158, 231-233

Cases: Paquette Habana, Filartiga, Trail Smelter, Lotus, North Sea Continental Shelf Case, Barcelona Traction, Arrest Warrant Case.

6. May 20 (T)

What is a Treaty? What purposes do Treaties serve in IR? What are the different types of treaties, and why choose one form over another? Intro to treaty rules ... construction, reservation process, interpretation, beginning and ending obligations

Readings: Bederman, Chs. 3-4; D&A, 36-57; Epps, 49-70, 76-79, 81-92

Cases: Genocide Convention Case; Avena and Sanchez-Llamas

7. May 21 (W)

IL Sources: Domestication of IL obligations

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

US Practice: Refugees, Prisoner Rights, and Torturers

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

Cases: Paquette Habana; The Charming Betsy; INS v. Haitian Centers Council, Inc., et al; Filartiga; Avena and Sanchez-Llamas

8. May 22 (TH)

- a. Continue US domestication of IL obligations
- b. Issues and controversies regarding the “encroaching” of IL into our domestic legal system in the areas of human rights and business law

Readings: Continued from 5/22 and TBA

9. May 23 (F) – Test Day

- a. Review questions
- b. 1 and ½ hour exam
- c. Introduction to IL Participants: States, Institutions, Organizations, and Individuals

NO CLASS MEMORIAL DAY, Mon. May 26

10. May 27 (T)IL Participants: States, Institutions, Organizations, and Individuals

International Legal Personalities in the Westphalian IR Framework: States as the “subjects” of IL; states and “sovereign equality”; rights and duties of states; rights and duties of individuals; rights and duties of international organizations.

Readings: Bederman, Chs. 5,6,7; D&A, 5-9, 72-81; Epps, 88-92, 243-246, 257-277
Cases: Nottebohm; Pacific Fur Seal Arbitration; Shrimp/Turtle, UN Reparations

11. May 28 (W)

IL Participants: States, Institutions, Organizations, and Individuals

The Human Rights Movement: Individuals as “subjects” of IL Group rights v. State rights:
Secession and Self-determination re Quebec

Reading: Bederman, Ch. .9, 76-83, Epps, pps. 246-257; D&A, pps.101-106, 112-114 121-140

Cases: Reference re Secession of Quebec., Kosovo issue

12. May 29 (TH)

Conflict Resolution – Pacific Settlement of Dispute to Recourse to Force

- a. Overview IL approaches to conflict resolution in IR
- b. Jus ad Bellum: IL rule structure governing the right to use force in IR

Readings: Bederman, Chps. 21, 18, 19, Epps, pps. 337-339, 361-377

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

13. May 30 (F)

- a. Challenges for Use of Force law: the “War on Terror”
- b. Challenges for Use of Force law: Humanitarian Intervention and the Responsibility to Protect

Readings: Bederman, cont’d; D&A, pps. 140-147, 196-213

14. June 2 (M)

a. Jus in Bello: International Humanitarian Law ... the Geneva Conventions and Torture
Readings: Bederman, Ch. 20: Epps, pps. 396-399, 419-423; D&A, pps. 160-172
Cases: Hamdan

b. International Environmental Law
Readings: Bederman, Ch 12; D&A, pps. 224-238, 244-245

15. June 3 (T)– last day of class

International Environmental Law

Readings: Bederman, Ch 12; D&A, pps. 224-238, 244-245

... and Review

16. June 4 — FINAL 9:45 - 11:15