

International Law

Professor John Lindell

Course Description

The objective of this course is to examine the nature, scope and basic principles of international law. Special emphasis shall be placed upon the subjects of jurisdiction, nationality and citizenship, territory, international agreements, state responsibility, force and war.

Required Reading William W. Bishop *International Law: Cases and Materials* Little, Brown and Co., Boston: 1971.

Alternate Texts on reserve in the Hartwick Library:

Barry Carter & Phillip Trimble *International Law* Little, Brown and Co., Boston: 1991.

William Slomanson *Fundamental Perspectives on International Law* West Publishing Co., New York 1995

Each student should prepare for submission a written summary or "brief" of each of the materials listed below. A "brief" is a summation of a case which answers the following questions:

1. What happened?
2. What question(s) of international law was raised by the incident?
3. How was it resolved?
4. What is the rule(s) of international law defined or clarified by the case? A "brief" should be precisely that, brief. Your brief dealing with the SS *Lotus* for example should not exceed two pages. Treaties and other materials may also be succinctly summarized. Most of the cases and summaries will be one page or less.

During each class period we will examine a number of materials which you have prepared. Class participants can anticipate making one oral presentation each class. In the final week of classes each student's written briefs and summaries will be collected and evaluated. They will be returned to the student in time to be utilized during the final examination. The examination will consist of several international incidents which you will be asked to analyze and evaluate as to legality and/or liability.

The final grade for each student will be compiled from his/her oral presentations (1/3), written briefs (1/3), and final examination (1/3).

Course Schedule

Week

- 1 The Nature and Scope of International Law
- 2 Applications and Sanctions
- 3 Jurisdiction
- 4 Immunities from Jurisdiction
- 5 International Agreements
- 6 Membership in the International Community
- 7 Recognition
- 8 Territory
- 9 Individuals, Nationality and Citizenship
- 10-11 State Responsibility
- 12-13 Force and War
- 14 Briefs Due, Final Examination

The Nature, Scope and Sources of International Law

Bishop pp 3-25 or Carter pp 1-28 or Slomanson pp 1-26

The following materials can be found in Bishop unless another source is indicated.

The *Paquete Habana*, The *Lola* pp 26-30

Dissenting Opinion of Judge Tanaka. Southwest Africa Cases pp 46-50

The "World Court" pp 67-71

In National Courts pp 77-82

Jurisdiction

Five bases of Jurisdiction with respect to the enforcement of criminal law pp 558-559

SS *Lotus* (France v Turkey) pp 536-547

Cutting case pp 549-551

Harvard Research in International Law pp 551-552

Law of the Sea Treaty 1994 (Slomanson pp 231-233)

Extradition pp 572-577: Carter pp 786-792

United States v Alvarez-Machain (xeroxed)

Attorney General of Israel v Eichmann pp561-565

State (South Africa) v Eblahim (xeroxed)

Genocide Convention pp565-566

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia-Herzegovina v Yugoslavia) (xeroxed)

US v Flores W 580-582

Wildenhus's Case p 606

United States on Behalf of Kate A Hoff v. United Mexican States pp 612-615

Innocent Passage; LOST - Article 18.1, Slomanson pp241-244

Cook v United States (The *Mazel Tov*) pp 624-628

The *I'm Alone* (Canada v United States) pp 635-636

Presidential Proclamations 2667 and 2668 pp 637-639(ref LOST 1994)

Immunities from Jurisdiction

Schooner Exchange v McFaddon pp 659-662

Berizzi Bros. Co. v SS Pesaro pp 662-663

Republic of Mexico v Hoffman (The *Baja California*) pp 667-668

New York and Cuba Mail SS Co. v Republic of Korea pp 687-689

National City Bank v Republic of China pp 695-697

French Republic v Board of Supervisors of Jefferson County pp 700-702

Republic of Argentina v City of New York pp 705-708

Foreign Sovereign Immunities Act 1976 (28 U.S.C.) Carter pp 577-590

Filartiga v Pena-Irala Carter pp 224-235

Representatives of Foreign States pp 709-719

NATO Status of Forces Agreement pp 728-730

Short v Kingdom of the Netherlands (xeroxed)

International Organizations and their Personnel pp 734-736

International Agreements

(See Carter pp 77-109 or Slomanson pp 311-351)

Missouri v Holland pp 96-98

State Responsibility

See Bishop pp 742-747; Carter pp 825-834; Slomanson pp 80-81, 178-183.

Root p 750
United States (Chattin) v Mexico pp 753-758
Quintanilla Case pp 761-762
Mexico (Garcia and Garza) v United States pp 764-766
United Mexican States (Mallen) v United States pp 767-771
United States (Laura B. Janes) v Mexico pp 771-776
Lynching of Italians in New Orleans 1891 pp 777-779
Drago Doctrine p 787-788
War Claims pp 795-797
Calvo Clause p 811
Expropriation (xeroxed)
United Nations General Assembly Resolution 1803 (XVII) pp 867-868
Hickenlooper Amendment p 876
Banco Nacional De Cuba v Sabbatino pp 877-891
Sabbatino Amendment p 899
American Prisoners in Foreign Countries (xeroxed)

Force and War

Bishop pp 900-903, 904-909; or Carter pp 1211-1233; or Slomanson pp 423-487.
Intervention pp 907-909 (Also see Slomanson pp 452-460)
United Nations General Assembly Resolution 2131 (XX) pp 909-910
Kellogg-Briand "Pact of Paris" pp 912-913
League of Nations Covenant, Article 16 pp 913-914
United Nations Charter, Article 2 p 916
Self-defense, the Caroline Case pp 916-917
Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression UN Charter Chapter VII (xeroxed)
Cuban Missile Crisis, Vietnam War, Entebbe, Nicaragua, Panama, Desert Storm (xeroxed)
United Nations Peacekeeping (xeroxed)
War pp 947-949
Laws of Warfare; Hague Convention IV of 1907 pp 965-967
United States Department of the Army, The Law of Land Warfare (xeroxed)
London Naval Treaty, 1930, Article 22 p 974
Unrestricted Submarine Warfare in Pacific p 975
IMT Nurnberg, In Trial of Admiral Doenitz pp 976-977
nuclear weapons United Nations General Assernbly Resolution 1653 (XVI)
and NOTE pp 979-980
Belligerent Occupation; Hague Convention IV, 1907 pp 981-983
Goldstar (Panama) S.A. v U.S. (xeroxed)
Geneva Convention on Protection of War Victims (Civilian Persons) pp 983-984
War Crimes pp 996-998
Agreement and Charter of the International Military Tribunal pp 998-1002
International Military Tribunal Nurnberg, Indictment pp 1002-1004
Judgement of the Nurnberg Tribunal pp 1005-1018
Azanian People's Organization v President of South Africa (xerox)
Neutrality; The *Alabama* Claims pp 1023