

# INTERNATIONAL LAW

Professor William J. Aceves  
Office 302  
515-1589  
wja@cwsl.edu

Fall 2002  
Tue./Thu.: 2:40-3:55  
Room New A

## Introduction

International law has a rich history. Its origins can be traced to the great empires of Greece and Rome. The *jus gentium*, for example, was recognized by Roman law as a law “common to all men.” The subsequent development of international law is filled with the distinct customs of diverse political and economic communities – from the Rhodian sea codes to the law merchant of the Hanseatic League. Its theoretical foundations are equally eclectic, representing the influences of history and philosophy, from the natural law approach of Thomas Aquinas to the positive law writings of Emerich de Vattel. By the 17th century, the *law of nations* had matured into a distinct legal system.

The term *international law* is itself of relatively modern origin. In 1789, Jeremy Bentham coined the term in reference to “the mutual transactions between sovereigns as such.” According to Bentham, only states were the proper subjects of international law.

Today, international law consists of a diverse set of norms, rules, and institutions that regulate a myriad of distinct issue areas (and actors). Environmental law, trade law, human rights law, intellectual property law, criminal law – each of these issue areas are addressed by international law. While it maintains a state-centric approach, international law is not limited to states. It regulates a variety of actors, including individuals, multinational corporations, and other nongovernmental organizations.

Despite its prominence, critics have challenged the relevance of international law. George Kennan cautioned that the “legalistic approach to international affairs ignores in general the international significance of political problems and the deeper sources of international instability.” Hans Morgenthau was even more caustic in his remarks. “[T]here can be no more primitive and no weaker system of law enforcement than this.”

And yet, it is difficult to question the existence or influence of international law in world affairs. As noted by Louis Henkin, “[i]t is probably the case that almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.” While such phenomenological observations are accurate, there are even more compelling explanations for the relevance of international law. Quite simply, international law is relevant because it provides an

efficient mechanism for regulating the behavior of states and other actors.

### **Course Requirements**

Students must take the final examination, which consists of a three-hour, closed book exam. Performance on the final examination will largely determine a student's grade for the course.

Class participation is an integral component of this course. Class participation includes the following: (1) attendance; (2) punctuality; (3) preparation; and (4) professionalism. Students are expected to attend class regularly, to be punctual, and to be fully prepared to discuss the readings. To promote class participation, a maximum of three points may be added or subtracted from a student's final grade based upon their participation throughout the semester.

### **Course Materials**

#### ***Required:***

MARK W. JANIS AND JOHN E. NOYES, CASES AND COMMENTARY ON INTERNATIONAL LAW (2d ed. 2000).

#### ***Recommended:***

MARK W. JANIS, AN INTRODUCTION TO INTERNATIONAL LAW (3d ed. 2000)

## **COURSE OVERVIEW**

### **I. AN INTRODUCTION TO INTERNATIONAL LAW**

*An Overview of International Law*

-Textbook, pp. 3-19

*The Challenge to International Law*

-Robert H. Bork, *The Limits of "International Law,"* THE NATIONAL INTEREST 41  
(Winter 1989/90)

### **II. THE SOURCES OF INTERNATIONAL LAW**

*Treaties*

-Textbook, pp. 20-49

-Textbook, pp. 49-70

-Textbook, pp. 70-86

*Customary International Law*

-Textbook, pp. 87-99

-Textbook, pp. 100-123

-Textbook, pp. 133-148

*General Principles of Law*

-Textbook, pp. 123-132

*Equity*

-Textbook, pp. 148-172

### **III. INTERNATIONAL LAW AND MUNICIPAL LAW**

*Treaties in Municipal Law*

-Textbook, pp. 173-189

-Textbook, pp. 189-209

-Textbook, pp. 210-233

*Customary International Law in Municipal Law*

-Textbook, pp. 233-242

### **IV. INTERNATIONAL DISPUTE SETTLEMENT**

*International Court of Justice*  
-Textbook, pp. 260-288  
-Textbook, pp. 288-313

*International Arbitration*  
-Textbook, pp. 243-260

## **V. THE LAW OF WAR**

*The Traditional Laws of War*  
-Textbook, pp. 504-512

*The United Nations and the Use of Force*  
-Textbook, pp. 512-538  
-Textbook, pp. 538-542  
-Textbook, pp. 564-567

## **VI. HUMAN RIGHTS LAW**

*Individuals and International Law*  
-Textbook, pp. 314-338

*International Human Rights Law*  
-Textbook, pp. 342-344  
-Textbook, pp. 352-366

*European Human Rights Law*  
-Textbook, pp. 366-395

## **VII. INTERNATIONAL CRIMINAL LAW**

*Ad Hoc International Criminal Tribunals*  
-Textbook, pp. 344-352

*Rome Statute of the International Criminal Court*  
-Textbook, pp. 395-399

## **VIII. THE FUTURE OF INTERNATIONAL LAW**

*An Interdisciplinary Critique*  
-Judith Goldstein et al., *Introduction: Legalization and World Politics*, 54 INT'L ORG.

385 (Summer 2000)

*The Relevance of International Law*

-Harold Koh, *Review Essay: Why Do Nations Obey International Law?* 106 YALE  
L.J. 2599 (1997)