

## **Government S1740: International Law**

Professor Beth Simmons

Office: CGIS-North Building, N-212

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Summer 2008

Lecture: M-Th., 8:30-10:00AM

Sections: 10:00-11:00 AM, 11:00-12:00PM,  
1:00PM-2:00PM

Location: Sever Hall 113

### **Teaching Fellows:**

Prithvi Datta: [pdatta@fas.harvard.edu](mailto:pdatta@fas.harvard.edu)

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This course is an introduction to public international law for students of international relations. The primary purpose of this course is to enhance students' understanding of the ways in which international law orders international politics. How and to what extent has it been used in resolving conflicts between nations? How and to what extent has it facilitated the achievement of common goals? What is the relationship between international law and states' foreign policies? Emphasis throughout the course is on the relationship between law and politics, developing and assessing theories as to why international law operates as it does, and on historical and recent episodes that illustrate the issues.

A special effort is made to relate the course material to international incidents and conflicts in the past decade or so: the use of force in Iraq; the issue of war crimes and the formation of an International Criminal Court; reforming the United Nations; the development and elaboration of the World Trade Organization; and the development of international human rights law. The text is written for law students, but the lectures bring in perspectives from the social sciences and more consistently link law with politics.

This is a lecture course with a significant discussion component. Those who take this course agree to treat discussion participation as seriously as they do exams. Discussion sections Mondays, Tuesdays, and Wednesdays will largely be an opportunity to explore applications of international law to actual international incidents and issues. We expect all weekly reading to be completed before attending sections; in turn, we promise to help clarify any confusion resulting from the lectures or readings, and to provide as stimulating a setting as is possible for you to share ideas and analyze cases. Your contribution to sections is as important as any other aspect of this course to its (and your) ultimate success. Thursdays will be review sessions and a quiz (with the exception of week 4, when you will have a final exam on Thursday.)

### Grades will be determined on the basis of:

- Three quizzes, 10% each (total 30%).
- Discussion participation, 20%.
- Final exam, Thursday, August 14, 9:00 am, 50%.

The texts (available in the Coop):

William R. Slomanson. 2006. *Fundamental Perspectives on International Law*. 5<sup>th</sup> Edition. West Thomson Learning.

Beth Simmons and Richard Steinberg (eds.) 2007. *International Law and International Relations* Cambridge University Press.

All readings assignments are required. The primary text is somewhat more legal than would be ideal for our course, so it is recommended that for the most part you skip the cases, study questions, and problems, since we will be concerned less with legal details and more with the politics associated with international legal arrangements and outcomes.

Course Website:

We have a course website at [<http://courses.fas.harvard.edu/sum/31918>]. Our intention is to post all discussion questions and section assignments for section at least 2 days in advance on this site. You will find the syllabus and readings other than Slomanson and Simmons and Steinberg there as well.

**Schedule of Classes:**

**Part I: WHY INTERNATIONAL LAW?**

**Monday, July 21: Introduction: International Law and International Relations Theory and Practice**

Slomanson, 1.1, pp. 1-10.

Michael J. Glennon, "Sometimes a Great Notion." *The Wilson Quarterly*, Autumn, pp. 45-49.

Oona Hathaway (2003), "Two Cheers for International Law." *The Wilson Quarterly*, Autumn, pp. 50-54.

*No Sections Monday*

**Tuesday, July 22: Explaining the "Legalization" of International Relations**

Slomanson, 1.5, pp. 54-57.

Abbott, Keohane, Moravcsik, Slaughter and Snidal, "The Concept of Legalization." In Simmons and Steinberg, pp. 115-130

Charles Lipson, “Why are Some International Agreements Informal?” In Simmons and Steinberg, pp. 293-330.

### **Section 1: Organization, Introduction to International Law**

#### **Wednesday, July 23: Explaining Law Compliance**

Abram Chayes and Antonia Chayes. On Compliance. In Simmons and Steinberg, pp. 65-91,

George Downs et. al. Is the Good News about Compliance Good News About Cooperation? In Simmons and Steinberg, pp. 92-114.

### **Section 2: Discussion: To comply or not to comply? The United States, the Convention Against Torture, and Abu Graib**

Oona Hathaway, “The promise and limits of the international law of torture,” in Stanford Levinson (ed.), *Torture, A Collection* (2004) (pp. 199-212)

“Dealing with the abuse cases,” *The Economist*, January 2005

## **Part II: STRUCTURES AND MECHANICS**

#### **Thursday, July 24: Sources of International Law: Treaties and Custom**

Slomanson, 1.2: pp. 10-29 (skip cases!); 8.1 and 8.2, pp. 355-374.

### **Section 3: Review and Quiz 1 – 10% of grade**

#### **Monday, July 28: States, State Sovereignty, and Recognition**

Slomanson, 2.1-2.3, pp. 66-85.

### **Section 4 Discussion: “Quasi-States” and “Failed States” in International Law**

Robert H. Jackson, “Quasi-States, Dual States and Neoclassical Theory: International Jurisprudence in the Third World.” In Simmons and Steinberg, pp. 205-232.

Robert Madsen, “The Struggle for Sovereignty Between China and Taiwan,” in Stephen Krasner (ed.), *Problematic Sovereignty: Contested*

*Rules and Political Possibilities* (New York: Columbia University Press, 2001), pp. 141-143, 153-167, 172-183.

## **Tuesday, July 29: International Organizations: Focus on the United Nations**

Slomanson, 3.1-3.3: pp. 118-158.

### **Section 5 Discussion: Reforming the United Nations: Representation and Accountability**

Brown, Mark Malloch, "Can the UN be Reformed." Holmes Lecture to the Academic Council on the UN. 7 June 2007.

Glennon, Why the Security Council Failed, *Foreign Affairs* 82 (May/June 2003)

Holmes, Kim R. (Assistant Secretary for International Organization Affairs), "Democracy and International Organizations", available at: <http://www.state.gov/p/io/rls/rm/2003/26949.htm>

*Recommended:*

Ruggie John G, The UN Oil-for-Food-Program: What went wrong – and right? UNA-USA Policy Brief (June 7, 2004)

Franck, Thomas, "What Happens Now? The United Nations after Iraq," *The American Journal of International Law*. 97 (3) 2003: pp. 607-20.

## **Wednesday, July 30: Jurisdiction/Immunity**

Slomanson, 2.6, pp. 92-105; 5.1-5.3: pp. 233-260 (skip cases and study questions).

### **Section 6 Discussion: The Pinochet Case**

"The Pinochet Case: Bringing the General to Justice" and "Ex-Dictators are not Immune." *The Economist*. November 28, 1998.

"Comment and Analysis: Beyond Pinochet," *The Guardian (London)*, 11 July 2001

"Push for human rights could hurt Americans," *Christian Science Monitor*, 2 August 2001

"Long-range justice raises fears for sovereignty," *New York Times*, 1 July 2001

“After Decades, Nations Focus on Rights Abuses”, *New York Times*, 1 September 2005

*Recommended:*

Louis Henkin, “The Eichmann Case,” *How Nations Behave*, Ch. 14, pp. 269-278.

### **Thursday, July 31: International Court of Justice and the Peaceful Settlement of Disputes**

Slomanson, 9.1-9.4, pp. 389-414.

Posner, Eric and John Yoo, "Judicial Independence in International Tribunals," 93 (1) *California Law Review* (2005): 1-40.

*Recommended:*

Keohane et.al., “Legalized Dispute Resolution: Interstate and Transnational.” In Simmons and Steinberg, pp. 131-156.

### **Section 7: Review and Quiz 2 (10% of grade)**

## **PART III: THE SUBSTANCE OF INTERNATIONAL LEGAL REGULATION**

### **Monday, August 4: International Law and the Use of Force**

Slomanson, 10.1-10.2: pp. 445-479.

Mark Zacher, “The Territorial Integrity Norm: International Boundaries and the Use of Force.” In Simmons and Steinberg, pp. 259-293.

*Reference:* Charter of the United Nations: <http://www.un.org/aboutun/charter/>

### **Section 8 Discussion: Case: Nicaragua v. the United States (1984, 1986)**

International Court of Justice, Case concerning the military and paramilitary activities in and against Nicaragua (Nicaragua v. United States of America):

- Jurisdiction and Admissibility, Judgment of 26 November 1984  
<http://www.icj-cij.org/docket/index.php?sum=366&code=nus&p1=3&p2=3&case=70&k=66&p3=5>
- Merits, Judgment of 27 June 1986

<http://www.icj-cij.org/docket/index.php?sum=367&code=nus&p1=3&p2=3&case=70&k=66&p3=5>

Briggs, Herbert. "Editorial Comments: Nicaragua v. United States: Jurisdiction and Admissibility", *American Journal of International Law*, (79) 2 April 1985.

## **Tuesday, August 5: Warfighting, the Laws of War, and Individual Criminal Responsibility**

Slomanson, 10.6 and 10.7, pp. 497-510.

Morrow, James. "When Do States Follow the Laws of War?" 101(3) *American Political Science Review* (August 2007): 559-561; 568-571.

Smith, Thomas W. 2002. The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence. *International Studies Quarterly* 46 (3):355-74.

Recommended: Christopher Rudolph, "Constructing an Atrocities Regime: The Politics of War Crimes Tribunals." In Simmons and Steinberg, pp. 594-621.

### **Section 9 Discussion: The Debate on the International Criminal Court in the United States**

See the instructions for the simulation posted on the course website.

## **Wednesday, August 6: Human Rights and the Individual in International Law**

Slomanson, 11.1-11.2: pp. 529-551

Andrew Moravcsik, "The Origins of Human rights Regimes: Democratic Delegation in Postwar Europe." In Simmons and Steinberg, pp. 622-654.

### **Section 10 Discussion: The Myanmar Gas Pipeline Case**

<http://homepages.uc.edu/thro2/sanct/synopsis.htm>

Monshipouri, Mahmood, Claude Welch and Evan Kennedy, 2003. "Multinational Corporations and the Ethics of Global Responsibility: Problems and Possibilities." *Human Rights Quarterly*. Vol. 25 pp. 965-989.

*Recommended:*

<http://homepages.uc.edu/thro/yadana/yadana-all.pdf>

**Thursday, August 7: Mechanisms to Enhance Individual Human Rights: Political or Legal Mechanisms?**

Slomanson, 11.3-11.5, pp. 552-579.

Keck, Margaret and Kathryn Sikkink, Human Rights Advocacy Networks. *Activists without Borders: Transnational Advocacy Networks in International Politics* (Cornell, 1998), ch. 3

**Section 11: Review and Quiz 3**

**Monday, August 11: Arms Control – Steven Miller, guest lecturer**

**Section 12: Discussion: Successes and Failures in Nonproliferation**

“Rice to Discuss Antiproliferation Program,” *New York Times*, 31 May 2005

“Russia and China Condemn US Missile Shield Plan as Threat to Stability,” *The New York Times*, 24 May 2008.

“U.N. Arms Inspectors, Led by Chief, Get First Look at Libyan Sites,” *New York Times*, 29 December 2003

“Back in the Fold” *The Economist*, 9 September 2004.

“A Countdown to Confrontation: Dealing with Iran,” *The Economist*, 10 February 2007.

“Playing with Fallout: The UN and Iran,” *The Economist*, 26 May 2007

“As the Enrichment Machines Spins On” *The Economist*, February 2<sup>nd</sup> 2008.

“Trust Me? - Trust Me? Dealing with North Korea,” *The Economist*, 17 February 2007.

“Getting Technical.” *The Economist* November 10 2007.

*Recommended:*

“Oil Wealth Fuels Gaddafi’s Drive for Reinvention”, *Washington Post*, 6 November 2007.

“Vienna Meeting on Arms Data Reignites Iran Nuclear Debate”, *The New York Times*, 3 March 2008.

“US Sees Stalling by North Korea on Nuclear Pact”, *New York Times*, January 19 2008.

**Tuesday, August 12: From the GATT to the WTO. Guest Lecturer: Iain Osgood**

Slomanson, 13.1, 13.2: pp. 621-649.

Richard Steinberg, "In the Shadow of Law or Power? Consensus-Based Bargaining and Outcomes in the GATT-WTO." In Simmons and Steinberg, pp. 543-567.

WTO sites:

[http://www.wto.org/legal/ursum\\_wp.htm#Agreement](http://www.wto.org/legal/ursum_wp.htm#Agreement)

<http://www.WTO.ORG/wto/new/lo140199.htm>

**Section 13 Discussion: Development and The Case of Intellectual Property Rights**

"The Right to Good Ideas," *The Economist*, June 1, 2001.

"The WTO under fire - The Doha round," *The Economist*, September 20, 2003

"Weighed in the Balance" *The Economist*, 10 December 2005.

"A Gathering Storm," *The Economist*, 7 June 2007.

"Mangling Trade," *The Economist*, 28 June 2007.

*Recommended background:*

"What are Intellectual Property Rights?" World Trade Organization.

[http://www.wto.org/english/tratop\\_e/trips\\_e/intell\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/intell_e.htm)

"Trips and Pharmaceutical Patents," World Trade Organization.

[http://www.wto.org/english/tratop\\_e/trips\\_e/factsheet\\_pharm00\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/factsheet_pharm00_e.htm)

"Frequently Asked Questions," World Trade Organization.

[http://www.wto.org/english/tratop\\_e/trips\\_e/tripfq\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/tripfq_e.htm)

"Intellectual property: protection and enforcement," WTO.

[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm7\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm)

**PART IV: TOWARD CONCLUSIONS**

**Wednesday, August 13: Democracy and International Law – Prithviraj Datta, guest lecturer, 1<sup>st</sup> hour.**



**Conclusions: US Policy, World Order, and the Future of International Law [2<sup>nd</sup> hour]**

Peter Spiro. "The New Sovereignists: American Exceptionalism and its False Prophets." *Foreign Affairs*. Vol. 79, No. 6, November/December 2000, pp. 9-15.

Jed Rubenfeld (2003), "The Two World Orders." *Wilson Quarterly*, Autumn, pp. 22-36.

Anne-Marie Slaughter (2003), "Leading Through Law." *The Wilson Quarterly*, Autumn, pp. 37-44.

Wedgwood, Ruth, "The Fall of Saddam Hussein: Security Council Mandates and Pre-emptive Defense". *The American Journal of International Law*. 97 (3) 2003, pp. 563-76.

**Section 14: *Optional*. Review for exam.**

**Thursday August 14, 9:00 am: Final Exam.**