

# INTERNATIONAL LAW - SYLLABUS

Fall 2009  
Philip Alston

This course aims to illustrate the importance of international law, in all its forms, in relation to many of the central issues that preoccupy governments and other relevant actors and to highlight the extent to which the assumptions underpinning this body of law have changed in recent decades. The focus is on the norms, actors and processes which contribute to making international law what it is today. The approach seeks to combine theory and practice, although particular emphasis is attached to the actual practice of international law and its impact, or lack thereof, in relation to some of the most pressing issues on the international agenda. The course will follow relevant current events in the field.

No single course can teach international law in any comprehensive sense and the syllabus that follows is clearly selective. The assumption, however, is that these materials provide an understanding of the essential normative and analytical framework required to tackle a much wider range of issues within the field of international law. It does so by providing an introduction to diverse specialist areas such as trade and investment, human rights, the use of force, environmental law, humanitarian law, and international criminal law.

## Materials

The textbook is:

Dunoff, Ratner, & Wippman, *International Law: Norms, Actors, Process* (2nd ed., 2006) (referred to as 'DRW').

The DRW casebook is accompanied by a website which contains copies of many of the primary materials such as treaties, cases etc which are dealt with in the course. You can consult it at <http://www.temple.edu/lawschool/drwiltext/>

There is also a coursepack, which provides supplementary materials relevant to various sessions. Any additional course materials will be made available electronically.

Some students may wish to make use of a basic reference text from time to time. Any of the following are appropriate for this purpose:

Sean D. Murphy, *Principles of International Law* (2006). This is perhaps the most succinct and usable and is available in the NYU Bookshop  
Mark W. Janis, *An Introduction to International Law* (5<sup>th</sup> ed. 2008)  
Ian Brownlie, *Principles of Public International Law* (7<sup>th</sup> ed., 2008)  
Antonio Cassese, *International Law* (2<sup>nd</sup> ed., 2004)  
Malcolm Shaw, *International Law* (6<sup>th</sup> ed., 2008)  
Vaughan Lowe, *International Law* (2007)

**Exam**

There will be an eight hour take-home exam. Participation in class discussions is expected of all students and the final grades may be amended to take account of participation.

**Office hours**

Office hours will be held every week from 3-5pm on Tuesdays. Sign up with Kelly Ryan in Van Hall 310. If you cannot make it during that time send me an email and I will try to set up an alternative time to meet ([philip.alston@nyu.edu](mailto:philip.alston@nyu.edu)).

**COURSE STRUCTURE AND READING****I. INTRODUCING INTERNATIONAL LAW****Session 1: August 26**

International law and the conflict between Georgia and Russia

*Readings:*

Coursepack Session 1 materials

The Monroe Doctrine, December 2, 1823

The Roosevelt Corollary to the Monroe Doctrine, December 1904

Susan Rice, "A New Course in the World, a New Approach at the UN", Aug. 2009

Background to the Situation in the Democratic Republic of the Congo

Clinton Presses Congo on Minerals, NYT, Aug 11, 2009

Clinton Presents Plan to Fight Sexual Violence in Congo, NYT, Aug 12, 2009

Congo's Militias Lure Former Rebels From Burundi, NYT, Aug. 21, 2009

**Session 2: August 31**

Tracing the evolution of IL: Chad/Libya, Rainbow Warrior

*Readings:*

DRW pp. 1-33

**Session 3: September 2**

Creating and using treaties, Cyprus conflict

*Readings:*

DRW pp. 35-69

**Session 4: September 9**

Custom and soft law: foreign direct investment

*Readings:*

DRW pp. 74-105

Coursepack Session 4 materials

Henckaerts, 'Study on customary international humanitarian law' (2005)

Bellinger & Haynes, A US government response to the ICRC Study (2005)

Henckaerts, 'Customary international humanitarian law: A response to US comments' (2005)

## **II. PARTICIPANTS IN THE INTERNATIONAL LEGAL PROCESS**

### **Session 5: September 14**

Actors: The formation and recognition of states

*Readings:*

DRW pp. 107-43

Coursepack Session 5 materials

Kosovo Declaration of Independence, Feb. 17, 2008

### **Session 6: September 14 (make-up)**

Actors: International Organizations: The UN and Apartheid

*Readings:*

DRW pp. 171-200

## **III. INTERNATIONAL LAW AND DOMESTIC LAW**

### **Session 7: September 16**

The Domestic Arena, Making international law: Is NAFTA constitutional?

*Readings:*

DRW pp. 267-93

Coursepack Session 7 materials

### **Session 8: September 21**

Breaking International Law, Consular Notification and the International Court of Justice

*Readings:*

DRW pp. 293-315 (pp. 307-315 might not be discussed in class)

Coursepack Session 8 materials (to be inserted at the end of p. 306 of DRW.)

Moises Sanchez-Llamas V. Oregon and Mario A. Bustillo V Johnson, US  
Supreme Court, June 28, 2006

Ex Parte José Ernesto Medellín, Court Of Criminal Appeals Of Texas, Nov. 15,  
2006.

Medellin v. Texas, U.S. Supreme Court, March 25, 2008

Mexico v. United States of America, Request for Interpretation of the Judgment of 31 March 2004; and Request for the Indication of Provisional Measures, 16 July 2008.

**Session 9: September 21 (make-up)**

International law claims in US courts: The Alien Tort Statute

*Readings:*

DRW pp. 323-340

**Session 10: September 23**

The Reach of domestic law, and jurisdiction to make and apply law, The Boeing-McDonnell Douglas Merger

*Readings:*

DRW pp. 355-387

**Session 11: September 28**

Capturing Criminals Abroad: Jurisdiction to enforce

*Readings:*

DRW pp. 398-415

**IV. PROTECTION OF HUMAN DIGNITY**

**Session 12: September 28 (make-up)**

Protecting civil and political rights: the use of torture

*Readings:*

DRW 437-472

Coursepack Session 12 materials

US report to Committee on Torture

US report to the Human Rights Committee

**Session 13: September 30**

Human Rights Treaties: The United States, Reservations and the Racism Convention

*Readings:*

DRW pp. 472-500 and pp. 69-74.

Coursepack Session 13 materials

International Convention on the Elimination of All Forms of Racial Discrimination, 1965

U.S. reservations, declarations, and understandings, to ICERD (1994).

Concluding observations of the CERD Committee on the USA, March 5, 2008  
Heritage Foundation Backgrounder, The Inequities of the U.N. Committee on the  
Elimination of Racial Discrimination, August 7, 2008

**Sessions 14 and 15: October 19**

International law and the DRC

*Readings:*

To be distributed

**Session 16: October 21**

Women's rights and cultural relativism: female circumcision or FGM?

*Readings:*

DRW pp. 500-526

**Session 17: October 26**

Limits on conduct of war: nuclear weapons

*Readings:*

DRW pp. 527-53

**Session 18: October 28**

Protecting Non-Combatants

*Readings:*

DRW pp. 554-573

**Session 19: November 2**

International Criminal Law

*Readings:*

DRW pp. 607-25, 630-32, and 658-67

Coursepack Session 19 materials

**V. INTERDEPENDENCE AND INTEGRATION**

**Session 20: November 4**

The International Environment: Ozone Layer

*Readings:*

DRW pp. 782-810

**Session 21: November 9**

Climate Change

*Readings:*

DRW pp. 811-826

Coursepack Session 21 materials

**Session 22: November 11**

Balancing Trade and Environment

*Readings:*

DRW pp. 827-28, and 846-59

**Session 23: November 16**

Resolving Investment Disputes

*Readings:*

DRW pp. 859-872

**VI. CHALLENGES TO INTERNATIONAL LAW**

**Session 24: November 18**

Use of Force

*Readings:*

DRW pp. 877-915

**Session 25: November 23**

Intervention and Self-defense

*Readings:*

DRW pp. 915-37

**Session 26: November 25**

Humanitarian Intervention: Kosovo and the responsibility to protect

*Readings:*

DRW pp. 937-57

Coursepack Session 26 materials

**Session 27: November 30**

Legitimacy: The UN Security Council, DRW pp. 959-983

**Session 28: December 2**

The “War on Terrorism”

*Readings:*

DRW pp. 983-1012

Coursepack Session 28 materials