

Law 248

**PUBLIC INTERNATIONAL LAW**

Texts: Janis, Noyes, Sadat, *International Law*, 6<sup>th</sup> ed, 2020 (= unattributed page numbers below)  
Damrosch, Murphy, *Basic Documents Supplement*, 7<sup>th</sup> ed, 2019 (= "DOC" below)  
Additional materials on TWEN site for this course (= "TWEN" below)

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Learning Outcomes: Familiarity with principles of state-centered law of nations; difficulties of implementing programs of global regulation today; how domestic legal systems in U.S. and Europe inter-act with international law

Part I: Classical Framework

**Aug 23: Foundations**

"Definitions" (TWEN); "History" (1-3); "Sources" (29-31);  
"Treaty Sampler" (31-53 - browse): esp. Jews-Romans, Westphalia, Paris, Alaska, Kellogg-Briand;  
Hobbes and Locke on State of Nature (TWEN); Am. Dec. of Ind. (TWEN); UN Charter (DOC 1 browse)

**Aug 25: Sovereign States**

"Sovereign State" (573-583): esp. Vattel, *Island of Palmas*  
"Recognition" (583-97; 607-30): esp. Montevideo Conv., *Sealand*, *Tinoco*, *Greek Orth Church Helena* (TWEN); "Liechtenstein" (TWEN); "Instructions on Red Cross" (TWEN); "ICRC's Status" (686-91)

**Aug 30: Nationality**

*U.S. (Hilson) v. Germany* (TWEN); *Rex v. Bottrill* (TWEN); *Nottebohm* (465-476);  
*Reparations* (673-81); *Barcelona Traction* (477-90); "Self-Determination" (630-50): esp'ly *Chagos*

**Sept 1: Jurisdiction: Fundamentals**

"Lynching in New Orleans" (TWEN); Webster, "Reply to Austrian Foreign Minister" (TWEN)  
"Principles of Jurdxn" (987 - 1003), esp'ly *Am Banana*, *Blackmer*, *ALCOA*  
Vienna Convention on Diplomatic Relations (DOC 121)

**Sept 8: Jurisdiction: Exceptions and Special Cases**

"Foreign Sovereign Immunity" (1097- 1101; 1106-37): esp. *Schooner*, *Texas Trading*, *Arg. Rep.*, *Rubin*  
"Act of State Doctrine" (1137 - 1155): esp. *Underhill*, *Banco Nacional*, *Kirkpatrick*  
Convention on Jurisdictional Immunities of States (DOC 132)

### **Sept 13: Universal Jurisdiction?**

*Lauritzen* (1021 - 28); *Bernstein v. N.V. Nederlandsche* (TWEN); *Filartiga* (17-27); *Regina v. Bartle* (TWEN); *Sosa v. Alvarez* (305 - 322); *Congo v. Belgium* (TWEN); Foreign Sovereign Immunity Act (DOC 143)

### **Sept 15: Sources of Law - Custom**

“Customary” (113-55): esp. *Paquete Habana*, *Asylum*, *Lotus*, *Texaco*;  
“Natural Law” (166-179): esp. *Smith*, *Verdross*, *Furundzija*;  
ILC on Identification of Customary Law (DOC 48)

### **Sept 20: Treaties**

Law of Treaties (68-88, 102-112): esp. *Reservations*, *Eastern Airlines*, *Eastern Greenland*  
Vienna Convention on the Law of Treaties (DOC 52)

### **Sept 22: International Arbitration**

“Arbitration” (339-368): esp. *Alabama*, *Dogger Bank*, *Rainbow Warrior*  
*Mex (Garcia) v. U.S.* (TWEN); *U.S (Laura Janes) v. Mex* (TWEN); *U.S. (NorAm. Dredging) v. Mex* (TWEN)

### **Sept 27: International Court of Justice**

“International Court” (374-407): esp. *Minquiers*, *Diplomatic Staff*; *Nicaragua* (790-805 - browse)  
“Advisory Opinions” (410-30): esp. *Wall in Palestine*  
Statute of ICJ (DOC 34)

### **Sept 29: Law of the Sea – Traditional Concerns**

*Murray v. Schooner Charming Betsy* (298-303)  
High Seas (880-87): esp. *Grotius*; *Vessels* (887-911): esp. *Muscat*, *Dire*, *Saiga*  
Territorial Sea (950 - 970): esp. *Keyn*, *Comdr’s Handbk*, “Package Deal” and “U.S. and Law of Sea Conv.”  
Proliferation Security Agreements (TWEN)

### **Oct 4: Law of the Sea – Modern Additions**

Continental Shelf and EEZ (912-49): esp. *Truman*, *Fisheries*; *Deep Sea Bed* (971-86);  
Convention on the Law of the Sea (DOC 269); Proposed Senate Res. of Ratification (TWEN)

## **Part II: U.S. Law and International Law**

### **Oct 6: Treaties in U.S. law**

“Treaties and the Constitution” (217-243): esp. *Ware*, *Foster*, *Asakura*, *Sei Fuji*, *Missouri*, *Whitney*  
PLO case (304-05); Proposed Bricker Amendment (TWEN); *Reid v. Covert* (TWEN);  
*U.S. v. Bond* (TWEN); Senate Res. of Consent to ICCPR (TWEN); Sen. Res. Gen. Conv (TWEN);  
General Comment 24 of UN H.Rts. Com’tee (TWEN)

### **Oct 12: Executive Agreements**

*U.S. v. Curtiss-Wright* (247-52); *U.S. v. Belmont* (243-46); *U.S. v. Guy Capps* (TWEN); *Dames & Moore v. Regan* (252-61); *NRDC v. EPA* (TWEN); Hague Convention XIII: Duties of Neutral Powers in Naval War (TWEN); FDR Proclamation Of U.S. Neutrality (TWEN); Hull-Lothian (62-68)

### **Oct 13: Executive Initiative, Legislative Constraints**

*Johnson v. Eisenrager* (TWEN); *Ex Parte Quirin* (TWEN); *Hamdan v. Rumsfeld* (760-68); *Zivotofsky v. Sec. of State* (TWEN); *Medellin v. Texas* (262-90); FDR on Greer Attack (TWEN); War Powers Res. (TWEN); OLC on UN Command (TWEN); Obama on Syria (850-55)

### **Oct 18: Judicial Deference**

*U.S. v. Alvarez-Machain* (TWEN); “Comity” (1034-47): *Hilton, Hartford Ins.*  
*Morrison v. Aust Bank* (TWEN); *Kiobel v. Royal Dutch Shell* (323-37); *Roper v. Simmons* (TWEN);  
Torture Victim Act (TWEN)

## Part III: Global Domestic Policy?

### **Oct 20: Constitutional Evolution of the European Union**

“Individuals as Subjects” (491-95); *Van Gend en Loos v. Nederlandse Administratie* (TWEN);  
*Costa v. E.N.E.L* (TWEN); *Inter’l Handelgesellschaft v. Einfuhr* (TWEN); *Factortame v. Sec. of State* (TWEN); *Kadi v. Council* (TWEN); Treaty of Lisbon (excerpts, TWEN)

### **Oct 25: European Human Rights Law**

“Eur. Rts. Law (520-54): esp’y *Sun. Times, Soering*; *Al Skeini v. UK* (TWEN); *McCann v. UK* (3-16);  
Euro. Conv. on H.Rts. (TWEN)

### **Oct 27: Human Rights Protection Beyond Europe**

“H.Rts and UN” (508-519); Universal Declaration of Human Rights (DOC 161);  
Cov. on Civil and Pol. Rights (DOC 165); Opt. Protocol I (DOC 178); Conv. on Econ, Social Rts (DOC 182); Conv.  
Agst Torture (DOC 197); Conv. on Elimination of Discrim Agst Women (DOC 190);  
Comments of UN H.Rts. Council (TWEN); U.S. Withdrawal from H.Rts Council (TWEN)

### **Nov 1: Regional Law in the Americas**

Charter of Org. of Am States (DOC 83); “Resolutions on Cuba” (TWEN);  
*Michael Domingues* (179-84); “Respon. For Laws in Violation of the Convention” (TWEN);  
*Valasquez Rodriguez* (TWEN)

### **Nov 3: International Trade Law**

GATT '47 (TWEN); Agreement Establishing WTO (TWEN); WTO Dispute Settlement (TWEN); *Thailand-Cigarettes* (TWEN); *U.S.-Mexico (Stainless Steel)* (TWEN); *Shrimp-Turtle* (431-447); Conv. on Settlement of Investment Disputes (DOC 101); *Vivendi* (447-63); NAFTA Env. Agreement (TWEN); NAFTA Labor Agmt (TWEN); *Lowen v. U.S.* (TWEN); USMCA (TWEN)

### **Nov 8: International Environmental Law**

*Trail Smelter* (712-22); "Antarctica" (700-11); "Stockholm Dec" (723-26); Rio Declaration (185-88); "Ozone" and "Climate" (726-738); "Nuclear Tests Case" (TWEN); Framework Convention on Climate Change (DOC 389); Paris Agreement (2015)

## **Part IV: Law and Force**

### **Nov 10: Historic Norms on Resort to Force**

"Jus ad Bellum" (768-79): esp. *Nauillaa, Caroline*; Classic Commentary on War (TWEN); League of Nations (TWEN); Kellogg-Briand Pact (51-56); Letter from Sec. Kellogg (TWEN)

### **Nov 15: Resort to Force in the UN Era**

"Art. 2(4)" (779-05): esp. Henkin, Reisman; "Iraq" (807-23); Res. On Libya (TWEN); "Terrorism" (823-41); "Humanitarian Intervention" (842-49); Kampala Amendments on Aggression (DOC 262); GA Res Ukraine (TWEN)

### **Nov 17: Restraints on the Conduct of Armed Conflict**

"Jus in Bello" (739-59): esp. Meron, *Tadic*  
Oppenheim on Reprisals (TWEN); Hague Convention on the Laws of War (TWEN); Geneva Convention on Civilians (DOC 206); Additional Protocol I (excerpts, TWEN);

### **Nov 22: International Criminal Law**

Nuremberg Charter (DOC 217); "Nuremberg Judgment" (498-508)  
"International Criminal Law" (554-71): esp. *Lubanga*; Statute of Int'l Criminal Court (DOC 219)