

LLM Public International Law

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Teaching and assessment (2014): Semester 1, Essay - 6,000 words

Module description:

In an increasingly globalised world, there are fewer and fewer areas of law and practice that do not involve some form of international law. International law is also increasingly a part of political debate, as occurred, for example, in relation to the Iraq conflict, and is now frequently referred to in judicial decisions at the highest level. International law has antecedents that predate the Common Era, but the modern, State-based international order is slightly more recent, dating from 1648. Nonetheless, there have been large changes in global order in the last century, with, for example the creation of the United Nations and the emergence of individuals and multinational corporations as international actors. This course is intended to introduce students to the basic nature, structure, legal sources and concepts of contemporary international law, alongside a selection of its basic rules.

Module Content:

The course will begin with an analysis of the basic structure of international society and how it has developed in the last century. The major social, economic and political factors that have had a bearing on the formation of international law and society will be discussed going on to explain and familiarise those taking it with the sources of international law.

International society does not have a universal legislator, so the sources of international law are considerably different to those in domestic society. The generally accepted sources of international law, treaties, custom, general principles of law judicial decisions and the writings of publicists will be evaluated, along with other candidates for the status of sources, such as General Assembly resolutions and the decisions of international organisations.

The advantages and disadvantages of Non-binding codes of conduct ('soft law') will be discussed, along with the relationship between international law and domestic law in a number of States. We will then investigate the participants in international society and the ways that international law governs the creation, recognition and activities of those international persons. This will include sections on the creation and recognition of States, the position of the individual in international law and the nature, structure and powers of selected international organisations, such as the UN. At all appropriate times reference will be made to the effect that the nature and sources of international law and the participants in international society have on the structure of international society and how they affect the interests of international actors.

States have a number of rights and duties which will be examined within the module. The first area is the right to exercise jurisdiction over those persons (natural and legal) which international law allows. This is not usually problematic where territorial jurisdiction is concerned, but broader jurisdictional claims, over persons and property abroad, are very often controversial. We will look at some of those claims, and the responses to them, in the context of international crimes and economic regulation. We will then look at a right of States which is the counterpoint to their jurisdictional rights. This is the right to claim immunity from the jurisdiction of other States for acts performed in their sovereign capacity. In recent times, the distinction between those acts performed by States commercially and those performed solely in a sovereign capacity has become more difficult to draw. We will look at examples in which the distinction has been applied by the courts. We will also deal with the immunities of diplomatic and consular personnel, who are essential for the representation of States abroad.

To finish the course, we will cover two important aspects of the obligations of States relating to violations of international law. The first of these is State Responsibility. When States breach their international obligations, responsibility arises. The ways this may occur, and the consequences of such responsibility are dealt with in a number of rules of international law, many of which are now reflected in the International Law Commission's Articles on State Responsibility. Whenever States are in dispute about their rights and obligations under international law, the UN Charter makes it clear that they must settle their disputes peacefully. To bring the course to a close, we will investigate the political and judicial means by which this may be done, and the positive and negative aspects of each of the various types of settlement.

Seminar topics:

- International Law and International Society
- The Sources of International Law
- Hierarchy of International Rules
- International Legal Personality: States
- International Legal Personality: Individuals and International Organisations
- International Law and Domestic Law
- Jurisdiction
- The Law of Treaties
- State Responsibility
- Peaceful Settlement of International Disputes
- The United Nations and its Organs
- Use of Force

