

COURSE OUTLINE
International Business Law Program
“Introduction to International Law”

Part II Sessions 6-10

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Course introduction

International law is the legal system that deals with international relations between States. As such it deals with only a particular aspect of international interactions, namely the rules made and enforced by States, mostly for States. International law is thus public law or law emanating from officials and public authorities. Other areas of international life are not necessarily regulated by international law, but by private legal relations and norms emanating from other actors. For instance, the allocation of internet domain names is regulated by ICANN, a non-for-profit public company whose policies have shaped the internet. Therefore, it is more accurate to label the totality of legal relations dealing with human interaction beyond the national State as transnational law, made of public and private law, whereof international law is just a subpart. Nevertheless, the legal situation at the transnational level is not characterized by a harmonious distribution of the different legal spheres that operate in their respective niche, that are in turn subjected to an overarching legal system with at the top thereof a constitution. Rather, the different legal systems that form together transnational law compete with each other, interfere with each other, and cross the public-private divide. Nowhere is this more clear than in international business law (or even better transnational business law), governed on the one hand by the practices and the customs of the business partners and on the other hand by State legislation and international treaties (Vienna Convention on the International Sale of Goods, New York Convention on the Recognition and Enforcement of Arbitral Awards) and international organizations such as the WTO.

Course objectives

Whether a legal system is successful in regulating a certain field depends on its effectiveness, which in turn is determined by the enforcement of the rules of the legal system. International law is at first sight not effective since it operates in an anarchic world where authorities and subjects collide, with no central legislator, executive and judiciary. Nonetheless, international law has developed mechanisms to peacefully settle disputes, mainly decentralized, but more and more centralized in international organizations, such as the UN and the WTO. Before, however, resort is made to a means of dispute settlement, responsibility has to be assigned. In the first lecture the law on State responsibility will be explained with a focus on the tension between reparations for breaches of individual State interests and community interests. This lecture will be followed by an exposé on the peaceful settlement of disputes, first on the decentralized means and second on the centralized settlement of disputes through the UN and the WTO.

In the next part, the course will go beyond the mere inter-State enforcement of international law. International law has also developed a criminal branch: the purpose is not to hold the State as a collectivity accountable for certain breaches of international law, but the individuals who have

actually ordered or committed the breach. Where initially international criminal law was confined to national enforcement, the creation of the ad hoc tribunals and the ICC has shifted the emphasis of criminal prosecution to the international level, a shift that brings in the problem of local ownership over the prosecution of international crimes. Is international justice better delivered in a court room at The Hague, instead of by a local trial with all the stakeholders involved? Finally, international law is also enforced before national civil courts in tort suits, not only commercial cases, but also human rights infractions. How does this square with traditional State immunities?

Course materials

Course materials will be made available through UMMoodle.