

## **SEMINAR ON INTERNATIONAL COURTS**

Chris J. Brantley, Esq.  
John Q. Heywood, Esq.

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Washington College of Law  
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*Revised Edition*

### **I. COURSE DESCRIPTION**

Introduction to the practice of international courts and arbitral tribunals and their role in the development of international law. Offered in a seminar format using lectures, case-studies, and class exercises as teaching methods, the course will outline the evolution and structure of international tribunals, examine the development of international legal principles by international tribunals with reference to "sources" methodology, and discuss issues concerning the effectiveness and future role of international courts in the development of international law.

### **II. COURSE GOALS**

- 1) Introduce students to the historical evolution, structure, and function of international tribunals within the international legal system.
- 2) Reinforce students' conceptual understanding of the sources of international law and their inter-relationships.
- 3) Examine selected international legal issues and modes of legal argumentation using class exercises simulating international judicial dispute resolution.
- 4) Outline issues concerning the effectiveness of international tribunals as dispute resolution mechanisms and their future.

### **III. OFFICE HOURS, TELEPHONE NUMBERS AND E-MAIL**

John's office is in the W.C.L. Library, on the middle floor beside the Circulation Desk. His office hours are Mondays, 2:00 p.m. to 10:00 p.m., and Tuesdays through Fridays, 9:00 a.m. to 5:00 p.m. John will also be available for a short time after class, and by special appointment. John's office telephone is 202-885-2689, and his home telephone is 202-667-8926. His e-mail address is: [heywood@american.edu](mailto:heywood@american.edu)

Chris works downtown and is thus not readily available for walk-in consultation. He will be available after class, and you can always telephone to make arrangements to meet with him. Chris's office telephone is 202-785-0017, and his home telephone is 301-439-7729. His e-mail address is: [c.brantley@ieee.org](mailto:c.brantley@ieee.org)

All students at The American University have e-mail accounts on the campus mainframe. Your account name is the first initial of your first name, the first initial of your last name, the last four digits of your student i.d. number, and the letter "A". Your password is the six digits of your date of birth. Your e-mail address is your account name followed, without spaces by "@american.edu". An example: If your name is Jane Smith, and your i.d. number is 123-45-6789, and your date of birth is April 9, 1964: Your account name is JS6789A, your password is 040964, and your e-mail address is js6789a@american.edu

#### **IV. COURSE REQUIREMENTS**

40% Final Examination: Take-home essay examination which will be distributed at the third class meeting on 7 September 1993. This examination will be due on the last day of final examinations, 18 December 1993. It is open-notes, open-materials, open-book, open-everything-but-another-person.

40 % Scholarly Paper: (15-20+ pages, exclusive of notes, double-spaced with one inch margins) based on a topic relating to the role of an international tribunal(s) in the development of international law. A written topic proposal must be presented for instructor approval by 5 October 1993. With the permission of the instructors, students may opt to write a longer paper satisfying the W.C.L. Upper Level Writing Requirement. An optional additional credit is available if you chose to do this.

10 % Class Presentation: 10 minute class presentation on paper topic. The grade will be based on the following factors: preparation, organization, grasp of topic, effective use of time, and responsiveness to questions.

10 % Class Participation: evaluation of attendance, preparation for and participation in class room discussion, and participation in class exercises.

#### **V. ATTENDANCE**

All students are expected to attend and participate in classes. More than three unexcused absences will result in entry of a failing grade for the course.

#### **VI. LATE PAPERS AND PLAGIARISM**

##### *Late Papers*

Papers are due in John Heywood's office no later than 5:00 p.m. on Monday, 6 December 1993. This is the last day of Reading Period. **If you are a student who is graduating this December, you MUST get your paper in to us by this date in order to graduate.** We need time to read and evaluate your work before assigning a grade. If you miss this deadline, we may not be able to turn your grade in to the Registrar in time for you to graduate.

Papers turned in after this date and time without a previously approved extension will be penalized one-half letter grade for every weekday (excluding holidays) after the due date. **The day ends at 5:00 p.m.**

Example: *A paper is turned in at 5:45 p.m. on Wednesday, 8 December 1993, without a pre-approved extension. If the paper had been turned in on time, it would have received a B+. The paper was effectively handed in on Thursday, 9 December 1993, and is thus 3 days late. It receives the grade of C.*

Short extensions for worthy causes, such as computer failure, death in the family, my dog ate my disk/paper, etc., will be granted with no penalty **if you apply for it before the time the paper is due.** (i.e., If you are printing out your paper 10 minutes before 5:00 p.m. on the sixth of December and your computer dies, call us immediately.) These extensions will be very short in duration; no more than a day or two.

### *Plagiarism and Related Problems*

Everyone knows that plagiarism is wrong, but not everyone is clear on what exactly is plagiarism. It is the gravest of the academic sins, and it is more than just copying without attribution. We have listed the various forms of plagiarism below in descending order of gravity, (1) being classic absolute plagiarism, and (9) being a much lesser version. All of them should be avoided. Non-*de minimus* plagiarism will be punished. It will result in zero points for the paper, and thus an F for the course. The case will also be turned over to the Associate Dean of Student Affairs for prosecution under the W.C.L. Honor Code.

*Plagiarism is:*

1. Word-for-word lifting of seven consecutive words or more, without quotation marks or block quotation, and without attribution to any source.
2. Word-for-word lifting of seven consecutive words or more, without quotation marks or block quotation, with an attribution to a source that was not the original source from which the passage was actually lifted nor the source cited (if any) by that original source.
3. Word-for-word lifting of seven consecutive words or more, without quotation marks or block quotation, with attribution to a source that was not the original source from which the passage was actually lifted, but was a source cited by that original source.
4. Word-for-word lifting of seven consecutive words or more, with attribution to the original source from which the passage was actually lifted, but without indication that these are the words of another.
5. Word-for-word lifting of seven consecutive words or more, without quotation marks or

block quotation, with attribution to the original source from which the passage was actually lifted, and with the indication that these are the words of another.

6. Attributing a quoted passage to a source that does not contain that quoted passage.
7. Attributing material to a source that does not support the passage for which it is cited.
8. Misquoting a source.
9. Lifting a quoted passage and its attribution from a source without acknowledgement or other indication. An example of this would be if you were reading an article by Smith that quoted another article by Jones, and you put the quotation in your paper with an attribution to Jones, but no mention that you got it from Smith who was quoting Jones.

**VII. CLASS OUTLINE (Discussion Topics and Assignments)**

**Class 1**                      **Introduction to Course**  
8/24/93

*Discussion Topics:*

- 1) Administrative Matters
- 2) Review of International Legal Sources
- 3) Theoretical Underpinnings of International Law
- 4) Evolution and Structure of International Tribunals
- 5) Introduction to Course Themes

*Reading Assignment:* None

**Class 2**                      **Introduction to the International Court of Justice**  
8/31/93

*Discussion Topics:*

- 1) Basic Structure of the ICJ: Organs, Function, Composition and Selection
- 2) Procedure in the ICJ: Bringing a Case
- 3) Discussion of the *Corfu Channel* Case
- 4) Problems of Non-Appearance, Non-Participation, and Non-Performance

*Reading Assignments:*

- 1) The United Nations Charter (selected articles).
- 2) The Statute of the International Court of Justice.
- 3) The *Corfu Channel* Case: A Chronology.
- 4) The *Corfu Channel* Case (U.K. v. Alb.)(Merits)(1949).

**Class 3**                      **The Role of International Tribunals in Developing Customary Law**  
9/7/93

*Discussion Topics:*

- 1) Evolution of Modern "Instant" Customary Law
- 2) Discuss In-Class Exercise on Self-Determination
- 3) Discussion of paper topics and writing techniques
- 4) Discuss and distribute the final examination

*In-Class Exercise:*

I.C.J. Advisory Opinion for the Security Council: Self-Determination for the People of Hong Kong.

*Reading Assignment:*

- 1) The *North Sea Continental Shelf* Case (W. Ger. v. Den.)(1969).
- 2) Materials for the In-Class Exercise on Self-Determination.

**Class 4      Regional Customary Law in an International System**

9/14/93

*Discussion Topics:*

- 1) Concept of Regional/Local Norms
- 2) Regional Norms and the Respective Roles of International and Regional  
Tribunals
- 3) Discussion of the *Asylum* Case
- 4) Discussion of the *Right of Passage* Case

*Reading Assignments:*

- 1) The *Asylum* Case (Columbia v. Peru) (1950).
- 2) The *Case Concerning Right of Passage Over Indian Territory (Port. v. India)*  
(1960).

**Class 5      Jurisdiction and Justiciability in International Tribunals**

9/21/93

*Discussion Topics:*

- 1) The Compulsory Jurisdiction of the ICJ
- 2) Justiciability and the Suitability of So-Called Political Cases for Judicial  
Resolution
- 3) U.S. Modification/Renunciation of Compulsory Jurisdiction in the *Nicaragua*  
Case - Background
- 4) Discussion of the *Nicaragua* Case holding on Jurisdiction
- 5) Development of the Law Governing the Threat or Use of Force in the  
International System

*Reading Assignments:*

- 1) United Nation's Charter, Arts. 2(4), 51.
- 2) International Court of Justice: United States Recognition of Compulsory Jurisdiction.
- 3) Letter to the United Nations Secretary-General Concerning the Non-Applicability of Compulsory Jurisdiction of the International Court of Justice with Regard to Disputes with Central American States (April 6, 1984).
- 4) The *Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. U.S.) (Jurisdiction and Admission)* (1984).
- 5) Department of State Letter and Statement Concerning Termination of Acceptance of International Court of Justice Compulsory Jurisdiction (October 7, 1985).

**Class 6**

**Equitable Jurisdiction of International Tribunals**

9/28/93

*Discussion Topics:*

- 1) Equitable Jurisdiction of the ICJ
- 2) The ICJ's Chambers Procedure
- 3) Discussion of the *Gulf of Maine* Case
- 4) Expertise and Fact-finding by International Tribunals

*Reading Assignments:*

- 1) Statute of the International Court of Justice, Art. 26.
- 2) The *Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area (U.S. v. Can.) (Constitution of Chamber)* (1982).
- 3) The *Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area (U.S. v. Can.) (Merits)* (1984).
- 4) Schwebel, *Ad hoc Chambers of the International Court of Justice*.

**Class 7**

**Role of the ICJ in the United Nations System**

10/5/93

*Discussion Topics:*

- 1) Enforcement of ICJ Decisions.
- 2) Relation of ICJ and Security Council in Resolution of Disputes Involving International Peace and Security.
- 3) Discussion of Bosnia-Herzegovina Case,
- 4) Discussion of Libyan Case, (*Libya v. U.S./U.K.*) (1993).

- 5) The Advisory Jurisdiction of the ICJ

*In-Class Exercise:*

The ICJ and the Conflict in Bosnia.

*Reading Assignments:*

- 1) The *Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (Libya v. U.S./Libya v. U.K.)(Provisional Measures)*(1992).
- 2) News Reports for Discussion With the Libyan Case.
- 3) *Advisory Opinion on Certain Expenses of the United Nations* (1962).
- 4) The *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro))(Provisional Measures, 1st request)*(1993).

**Class 8 Crime in the International Legal System**

10/12/93

*Discussion Topics:*

- 1) The Nüremberg and Japanese War Crimes Trials
- 2) The Enforcement of International Humanitarian Law by International Tribunals
- 3) Efforts to Develop an International Criminal Court
- 4) Efforts to Develop a Draft International Criminal Code
- 5) Creation of New International Courts: Political, Jurisdictional, and Procedural

Issues

*Reading Assignments:*

- 1) Materials on the International Military Tribunal at Nüremberg.
- 2) Meron, *The Case for War Crimes Trials in Yugoslavia*.
- 3) Materials on the War Crimes Tribunal for Yugoslavia.
- 4) Bassiouni, *The Codification of International Criminal Law and the Establishment of an International Criminal Court*.

*In-Class Exercise:*

Prepare and advocate statutory definition(s) for International Environmental Crime.



**Class 9      Introduction to the Inter-American Court of  
10/19/93      Human Rights**

*Discussion Topics:*

- 1) Overview of the Inter-American Court
- 2) Discussion of the Velásquez Rodríguez Case
- 3) Guest Lecturer (to be announced later)

*Reading Assignment:*

- 1) Buergenthal, *Introductory Note to the Velásquez Rodríguez Case*.
- 2) *Velásquez Rodríguez Case*, Inter-American Court of Human Rights, Judgment of July 29, 1988, (Ser. C, No. 4).

**Class 10      Introduction to the European Court of Justice  
10/26/93      and European Court of Human Rights**

*Discussion Topics:*

- 1) Overview of the Courts
- 2) Discussion of the *Söering* Case
- 3) The Federalization of International Courts

*Reading Assignments:*

- 1) The *Söering* Case.

**Class 11      International Arbitral Tribunals  
11/2/93**

*Discussion Topics:*

- 1) Introduction and History of Arbitral Tribunals
- 2) Arbitral Procedures and Choice of Law
- 3) Discussion of France v. New Zealand Arbitration (April 1990)(Extradition & Greenpeace)
- 4) Overview of U.S.-Iran Claims Tribunal

*Reading Assignment:*

- 1) *Ruling Pertaining to the Differences Between France and New Zealand Arising*

**Class 12      Relation of National and International Courts**  
11/9/93

*Discussion Topics:*

- 1)      International Law in National Legal Systems
- 2)      Discussion of *U.S. v. Alvarez-Machain* case
- 3)      International Trade Tribunals and Domestic Law

*In-Class Exercise:*

*In Re Chinese Refugees*

*Reading Assignment:*

- 1)      *The Paqueta Habana* (1900).
- 2)      *U.S. v. Alvarez-Machain* (1992).
- 3)      Falk, *Domestic Courts and World Legal Order: A Statement of Purpose and Outlook*.
- 4)      *Sale v. Haitian Centers Council, Inc.* (1993).

**Classes 13 & 14      Class Presentations**  
11/16/92 & 11/23/92

*Discussion Topics:*                  None

*Reading Assignments:* None

**Introduction to Sources of International Law and International Legal Theory**

- 1) F. Bonkowsky, International Norms and National Policy 1-20 (1980).
- 2) Boyle, Ideals and Things: International Legal Scholarship and the Prison-House of Language, 26 Harv. Int'l L. J. 327-59 (1986).
- 3) I. Brownlie, Principles of Public International Law 1-32 (3d ed. 1979).
- 4) J. Cohen & Hungdah Chiu, 1 People's China and International Law (1974).
- 5) D'Amato, Is International Law Really Law?, 79 Nw. U.L. Rev. 1293-314 (1985).
- 6) Franck, Is Justice Relevant to the International Legal System?, 64 Notre Dame L. Rev., 945-963 (1989).
- 7) Grzybowski, Soviety Theory of International Law for the Seventies, 77 Am. J. Int'l L. 862 (1983).
- 8) H.L.A. Hart, The Concept of Law 77-96, 208-31 (1961).
- 9) History of the Law of Nations, in 7 Encyclopedia of Public International Law 126-203, 252-73 (1984).
- 10) Kelsen, The Pure Theory of Law (1967).
- 11) Kennedy, Primitive Legal Scholarship, 27 Harv. Int'l L.J. 1-98 (1986).
- 12) C. Krauthammer, "The Curse of Legalism", The New Republic, 44-50 (Nov. 6, 1989).
- 13) McDougal & Lasswell, The Identification and Appraisal of Diverse Systems of Public Order, 53 Am. J. Int'l L. 1-29 (1959).
- 14) McWhinney, Western and Non-Western Legal Cultures and the International Court of Justice, 65 Wash. Univ. L. Quarterly 873-889 (1987)
- 15) Mullerson, Sources of International Law: New Tendencies in Soviet Thinking 83 Am. J. Int'l L. 494-512 (1989).
- 16) Tunkin, International Law in the International System, 147 Recueil des Cours 77-84 (1975).

- 17) B. Weston, R. Falk & A. D'Amato, International Law & World Order 19-115 (1980).
- 18) Restatement (Third) of the Foreign Relations Law of the United States §§ 101-103 (1987)(Introductory Note & Comments).
- 19) G. Finch, The Sources of Modern International Law 15-29 (1937).
- 20) H. Morgenthau & K. Thompson, Politics Among Nations 293-327 (6th ed. 1985).
- 21) Tunkin, The Contemporary Soviet Theory of International Law, 31 Current Legal Probs. 177-88 (1978).
- 22) Kelson, Principles of International Law 3-16 (R. Tucker 2d rev. ed. 1966).

### **Evolution and Structure of International Judicial Bodies**

- 1) Bernhardt, Commentary: The European System, 2 Conn. J. of Int'l L., 299-301 (1987).
- 2) Cerna, The Inter-American Commission on Human Rights, 2 Conn. J. of Int'l L. 311-318 (1987).
- 3) Everling, The Member States of the European Community Before Their Court of Justice, 9 Eur. L. Rev. 215-241 (1984).
- 4) Hudson, "The Central American Court of Justice", The Permanent Court of International Justice: 1920-1942, 42-70 (1943)
- 5) Jimenez de Arechega, The Work and Jurisprudence of the International Court of Justice - 1947-1986, 58 Brit. Y.B. Int'l L. 1-38 (1987).
- 6) Lockwood, Advisory Opinions of the Inter-American Court of Human Rights, 13 Den. J. Int'l L. & Pol'y 245-267 (1984).
- 7) Slynn, The Court of Justice of the European Communities, 33 Int'l & Comp. L. Quarterly 409-429 (1984).
- 8) Statute of the Inter-American Court of Human Rights, 12 Lawyer of the Americas, 787-796 (1980).
- 9) Stewart, The Iran-United States Claims Tribunal: Accomplishments and Prospects,

Private Investors Abroad, 525-560 (1984).

- 10) Stuart, The Court of Justice of the European Communities: The Scope of Its Jurisdiction and the Evolution of Its Case Law Under the EEC Treaty, 3 Nw. J. Int'l L & Bus. 415-451 (1981)
- 11) Rosenne, The World Court, 3-22 (4th ed. 1989).
- 12) 1 Rosenne, The Law and Practice of the International Court, 7-10 (1965).
- 13) Schlochauer, "Arbitration", 1 Encyclopedia of Public International Law, 13-26 (Bernhardt ed. 1981).
- 14) Plender, The European Court as an International Tribunal, 42 Cambridge L.J. 279-98 (1983).

### **Introduction to the International Court of Justice - Structure, Procedures, & Jurisdiction**

#### *Generally*

- 1) Elkind, The Duty to Appear Before the International Court of Justice, 37 Int'l & Comp. L. Quarterly 674-681 (1988).
- 2) Gordon, Observations on the Independence and Impartiality of the Members of the International Court of Justice 2 Conn. J. of Int'l L. 397-426 (1987).
- 3) Hamilton, Jurisdiction of the International Court of Justice, 8 G. Mason Univ. L. Rev. 253-284 (1985).
- 4) Jennings, The Internal Judicial Practice of the International Court of Justice, 59 Brit. Y.B. Int'l L. 31-47 (1988).
- 5) Lachs, A Few Thoughts on the Independence of Judges of the International Court of Justice, 25 Colum. J. Trans. L. 593-600 (1987)
- 6) Lee & McWhinney, The 1987 Elections to the International Court of Justice, 25 Can. Y.B. Int'l L. 379-388 (1987).
- 7) McWhinney, Law, Politics, and "Regionalism" in the Nomination and Election of World Court Judges, 13 Syr. J. Int'l L. & Comm. 1-28 (1986).
- 8) Rosenne, Procedure in the International Court (1983).

- 9) Rosenne, The World Court, 51-77, 113-53 (4th ed. 1989).
- 10) Panel Discussion, The Independence and Impartiality of International Judges, Am. Soc. Int'l L. Proc. 508-529 (1989).

*Compulsory Jurisdiction of the International Court of Justice and the Nicaragua Case*

- 1) D'Amato, Modifying U.S. Acceptance of the Compulsory Jurisdiction of the World Court, 79 Am. J. Int'l L., 385-405 (1985).
- 2) Glennon, Nicaragua v. U.S.: Constitutionality of U.S. Modification of International Court of Justice Jurisdiction, 79 Am. J. Int'l L. 682-689 (1985).
- 3) Hight, "You Can Run But You Can't Hide": Reflections on the U.S. Position in the Nicaragua Case, 27 Va. J. Int'l L 551-572 (1987).
- 4) Panel Discussion, Should the United States Reconsider its Acceptance of World Court Jurisdiction?, 1985 Am. Soc. of Int'l L. Proc. 95-109.
- 5) Oda, Reservations in the Declaration of Acceptance of the Optional Clause and the Period of Validity of those Declarations: The Effect of the Schultz Letter, 59 Brit Y.B. Int'l L. 1-30 (1984).
- 6) Reisman, Has the World Court Exceeded Its Jurisdiction?, 80 Am. J. Int'l L. 128-134 (1986).
- 7) Scott and Csajko, Compulsory Jurisdiction and Defiance in the World Court: A Comparison of the PCIJ and the ICJ, 16 Den. J. Int'l L. & Pol'y, 377-392 (1988).

*Advisory Jurisdiction of the International Court of Justice*

- 1) Butcher, The Consonance of U.S. Positions on International Law with Advisory Opinions of the International Court of Justice, 30 How. L. J. 45-91 (1987)
- 2) Goldkang, House Approves Proposal Permitting International Court of Justice to Advise Domestic Courts, 77 Am. J. Int'l L. 338-340 (1983).
- 3) McLaughlin, Allowing Federal Courts Access to International Court of Justice Advisory Opinions: Critique and Proposal, 6 Hastings Int'l & Comp. L. Rev 745-772 (1983).
- 4) Rosenne, Preliminary Rulings by the International Court of Justice at the Instance of National Courts: A Reply, 29 Va. J. Int'l L. 401-412 (1989).

- 5) Schwebel, Preliminary Rulings by the International Court of Justice at the Instance of National Courts, 28 Va. J. Int'l L. 401-412 (1989).
- 6) Schwebel, Authorizing the Secretary-General of the United Nations to Request Advisory Opinions of the International Court of Justice, 78 Am. J. Int'l L. 869-878 (1984).
- 7) Schwebel, Widening the Advisory Jurisdiction of the International Court of Justice Without Amending Its Statute, 32 Cath. Univ. L. Rev. 355-361 (1984).
- 8) Sohn, Broadening the Advisory Jurisdiction of the International Court of Justice, 77 Am. J. Int'l L. 124-129 (1983).

### Treaty Law in International Tribunals

- 1) Bederman, The 1871 London Declaration, Rebus Sic Stantibus and a Primitivist View of the Law of Nations, 82 Am. J. Int'l L. 1-40 (1988).
- 2) Belilos Case, 132 Eur. Ct. H.R. (ser. A)(1988), reprinted in 10 Eur. Hum. Rts. Rep. 466 (1988)(treaty reservations).
- 3) Bourguignon, The Belilos Case: New Light on Reservations to Multilateral Treaties, 29 Va. J. Int'l L. 347-86 (1989).
- 4) Grenville & Wasserstein, The Major International Treaties Since 1945: A History and Guide with Texts, 1-18 (1987).
- 5) Lukashuk, The Principal Pacta Sunt Servanda and the Nature of Obligation Under International Law, 83 Am. J. Int'l L. 513-18 (1989)(Soviet perspective).
- 6) McGinley, Practice as a Guide to Treaty Interpretation, 9 Fletcher Forum 211-230 (1985).
- 7) Sinclair, The Vienna Convention on the Law of Treaties 1-28, 114-58 (2d ed. 1984).
- 8) Yambrusic, Treaty Interpretation: Theory and Reality, 55-145 (1987)(jurisprudence of the ICJ).
- 9) Singh, The Role and Record of the International Court of Justice, 156-165 (1989).
- 10) Vienna Convention on the Law of Treaties (1969), Arts. 19, 20, 26, 38, 53, 61, 62, 64, 71.
- 11) Lee, The Law of the Sea Convention and Third Parties, 77 Am. J. Int'l L. 541-568

(1982).

- 12) Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (Advisory Opinion), 1951 ICJ 15-55 (treaty reservations).
- 13) Nuclear Tests Case (Australia v. France), Judgment, 1974 ICJ 253, 257-258, 265-270.

### **Development of Customary International Law by International Tribunals**

- 1) Christianson, Jus Cogens: Guarding Interests Fundamental to International Society 28 Va. J. Int'l L. 585-648 (1988).
- 2) Colson, How Persistent Must the Persistent Objector Be?, 61 Wash. L. Rev. 957 (1986).
- 3) D'Amato, The Concept of Custom in International Law 3-20 (1971).
- 4) Jessup, Non-Universal International Law, 12 Colum. J. Transnat'l L. 415-29 (1973).
- 5) Kunz, The Nature of Customary International Law, 47 Am. J. Int'l L. 662-69 (1953).
- 6) Restatement (Third) of the Foreign Relations Law of the United States §102(2).
- 7) Rozakis, The Concept of Jus Cogens in the Law of Treaties (1976).
- 8) Stein, The Case of the Persistent Objector, 26 Harv. Int'l L. Rev. 457-82 (1985).
- 9) Vienna Convention on the Law of Treaties, Arts. 34-38.
- 10) Whiteman, Jus Cogens in International Law, With a Projected List 7 Ga. J. Int'l & Comp. L. 609-26 (1977).
- 11) Asylum Case (Columbia v. Peru) 1950 I.C.J. 266, 272-79, 288-89, 335-39, 369-72 (regional norms).
- 12) Fisheries Case (U.K. v. Nor.), 1951 I.C.J. 116, 124-25, 190-193 (Read, J., dissenting).
- 13) Summary of the North Sea Continental Shelf Case from I.C.J. Yearbook.
- 14) North Sea Continental Shelf Case (W. Ger. v. Den.), 1969 I.C.J. 3, 28-29, 41-46.
- 15) Right of Passage Over Indian Territory Case (Port. v. Ind.) 1960 I.C.J. 6, 27-32, 36-



46.

- 16) Fisheries Case (U.K. v. Nor.), 1951 I.C.J. 116, 131-32
- 17) Asylum Case (Colom. v. Peru), 1950 I.C.J. 266, 277-78
- 18) Statement by the President of July 1982, 18 Weekly Comp. Pres. Doc. 887 (July 12, 1982).
- 19) Statement by the President of March 10, 1983 on United States Oceans Policy, reprinted in 22 Int'l Leg. Mat. 464-465 (1983)
- 20) Proclamation 5030 of March 10, 1983 Concerning the Exclusive Economic Zone of the United States, reprinted in 22 Int'l Leg. Mat. 465 (1983).
- 21) Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. U.S.), 1986 I.C.J. 14, 22, 100-101, 199-200
- 22) Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. U.S.), 1984 I.C.J. 14, 614-616
- 23) Legal Consequences for States of the Continued Presence of South Africa in Namibia (S.W. Africa) Not With-standing Security Council Resolution 276 (1970), 1971 I.C.J. 16, 73-75, 89-90
- 24) South West Africa Cases (Ethiopia v. S. Africa; Liberia v. S. Africa), 1966 I.C.J. 6, 297-300
- 25) Vienna Convention on the Law of Treaties, Arts. 53, 64, 71.

### **The Application of General Principles of Law Common to All Nations and the Use of Subsidiary Sources By International Tribunals**

- 1) 1 H. Lauterpacht, International Law: Collected Papers 68-77 (E. Lauterpacht, ed. 1970).
- 2) I. Brownlie, Principles of International Law 15-20 (3d ed. 1979).
- 3) Restatement (Third) of the Foreign Relations Law of the U.S., §102, Comment 1 & Reporters' Note 7 (1986).
- 4) Tunkin, International Law in the International System, 147 Recueil des Cours 98-106

(1975).

- 5) Virally, Sources of International Law, in Manual of Public International Law 116, 143-48 (M. Sørensen ed. 1968).
- 6) Akehurst, The Application of General Principles of Law by The Court of Justice of the European Communities 52 Brit. Y.B. of Int'l L. 29-51 (1981).
- 7) Cheng, General Principles of Law as Applied by International Courts and Tribunals 1-26 (1953).
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