

**MASSACHUSETTS SCHOOL OF LAW  
FINAL EXAMINATION**

**International Law  
Spring Semester 2010**

**Professor Robert J. Forrest**

MSL ID No.: \_\_\_\_\_

This examination will consist of short answer questions and essays. You have three hours to complete the examination. Suggested time allotments are in the margin.

Please write all answers in the examination booklet and be sure to put your social security number on the examination booklet and this examination. If you make any assumptions please state clearly what assumptions you made.

Please return this examination and the booklet together once you have completed the examination.

1. Consider whether a presidential executive agreement entered into solely on the basis of the President's Constitutional Foreign Affairs Power should override a prior federal statute? In United States vs. Pink 315 U.S. 203, (1942), the Supreme Court quoted the Federalist Number 64: "All Constitutional Acts of Power, whether in the executive or the judicial department, have as much legal validity and obligation as if they proceeded from the legislature." Does the Court suggest that executive agreements supercede statutes? Based on this reasoning should not a Presidential Executive Agreement have the same legal effect as a statute if the agreement doesn't contradict an existing statute? Explain.

30 min.

2. International Law has been often criticized as vague and unenforceable. Some commentators have said that the current United States war on terror is a violation of International Law. Others have said that the United States response to terrorist acts has been ineffective. Still others have said that International Law trumps National Constitutions. Do you agree? What constitutional provisions allow for U. S. involvement in the affairs of foreign states? Who has this power within the U. S. legal and political system to engage in International activities? The Executive Branch? The Legislative Branch? The Judiciary? Explain your reasoning.

30 min.

3. The President of the United States and the Prime Minister of Canada have concluded an unwritten agreement that neither government will interfere with the trade activities of each other nor will either government enact any trade sanctions against each other for an unlimited period of time. Would such an agreement be considered an international agreement? Are there any requirements under United States domestic law that would require action by Congress in connection with such an agreement? Is the Case Act applicable?

30 min.

4. Explain and define the following concepts:
- A. The Foreign Sovereign Immunities Act.
  - B. The Act of State Doctrine
  - C. The Charming Betsy Cannon
  - D. The commercial activity exception to the Foreign Sovereign Immunities Act
  - E. Self Executing Treaties
  - F. Delphic Oracle
  - G. Last in Time Rule
  - H. Genocide
  - I. Terrorism
  - J. Head of State Doctrine
  - K. Reservations, Understandings and Declarations
  - L. Crimes Against Humanity
  - M. State

30 min.

5. After a long series of border clashes, India decides to invade Pakistan. The occupation takes place and after several months of diplomatic negotiations, there is no resolution. The United Nations Security Council cannot agree on a resolution authorizing a military offensive against India. Can the United States engage in a major military offensive against India? Consider Article 51 of the

United Nations Charter in your answer. Does it make any difference whether or not Pakistan has requested the assistance of the United States in responding to the Indian invasion? Does the War Powers Resolution, 50 U.S.C., give the President power to send U.S. Troops into Pakistan?

30 min.

6. Hans, a German citizen from Germany, entered the United States with a fraudulent passport, which he had purchased from a company in Frankfurt, Germany. Upon entering the United States, Hans tracked down and assassinated a federal Prosecutor who had several years earlier prosecuted one of Hans's friends. Hans then escaped to Germany and remained there until it was discovered by German authorities that he committed a crime in the United States. Through previously reliable informants, the U. S. Department of Justice learned that Hans was living in Dresden, Germany. Negotiations between the American State Department and Germany were unsuccessful in arranging for Hans's release to United States Authorities. May the United States enter Germany and abduct Hans? Would your answer be any different if Hans obtained a valid passport and visa to attend a business conference in the United States and while here committed the same crime? If Hans was employed by an American company and committed the crime while on business for the American company in the United States, would this change your analysis of jurisdiction? Would the American company have any liability for Hans's crime? Are there any due process issues?

30 min.

**END**

**MASSACHUSETTS SCHOOL OF LAW  
FINAL EXAMINATION**

**International Law  
Winter Semester 2009**

**Professor Robert J. Forrest**

**Identification No.:** \_\_\_\_\_

This examination will consist of short answer questions and essays. You have three hours to complete the examination. Suggested time allotments are in the margin.

Please write all answers in the examination booklet and be sure to put your student identification number on the examination booklet and this examination.

Please return this examination and the booklet together once you have completed the examination.

1. Good Stuff, LTD is a Chinese government-owned entity, which primarily promotes tourism in China from the United States and Europe. Using the Internet, Good Stuff, LTD, ordered 1,000 executive desks for \$1,000 each. The seller was ABC, Co. a company organized and existing under the laws of Massachusetts with its principal place of business in Boston., ABC, Co. timely shipped the desks to Good Stuff, free along side (FAS) Good Stuff's designated vessel berthed at the Port of Boston, but Good Stuff's check was dishonored by the Chinese bank upon which it was drawn. Good Stuff has not responded to ABC's demands for payment. There is no bona fide dispute about the receipt, suitability or merchantability of the desks.
  - A. Does the FSIA apply to ABCs claims against Good Stuff?
  - B. What, if any, exception(s) to immunity may apply to ABC's claims against Good Stuff?
  - C. If you represent ABC, where will you begin legal proceedings?

D. What is the basis for jurisdiction in your selected forum?

30 min.

2. Explain and define the following concepts:

- A. The Foreign Sovereign Immunities Act.
- B. The Act of State Doctrine
- C. The Charming Betsy Cannon
- D. The commercial activity exception to the Foreign Sovereign Immunities Act
- E. Self Executing Treaties
- F. Delphic Oracle
- G. Last in Time Rule
- H. Genocide
- I. Terrorism
- J. Head of State Doctrine
- K. Reservations, Understandings and Declarations
- L. Crimes Against Humanity
- M. State

20 min.

3. Assume you are the legal advisor to the United States Secretary of State. The Secretary wants to set priorities and goals in Foreign Policy for the Executive Branch. The Secretary asked you what position the United States should take in its approaches to International Dispute Resolution. As an example, the Secretary reminds you that she has had discussions with the European Union over the effects of its further integration with other nations; and with Russia over future Arms Control Treaties; and with Mexico and Columbia about the continued flow of drugs into the United States; and with various nations in the world over enforcement of possible new environmental conventions to combat the greenhouse effect or other environmental

problems. How would you advise the Secretary on each of these issues if diplomacy is not a possibility?

30 min.

4. Consider whether a presidential executive agreement entered into solely on the basis of the President's Constitutional Foreign Affairs Power should override a prior federal statute? In United States vs. Pink 315 U.S. 203, (1942), the Supreme Court quoted the Federalist Number 64: "All Constitutional Acts of Power, whether in the executive or the judicial department, have as much legal validity and obligation as if they proceeded from the legislature." Does the Court suggest that executive agreements supercede statutes? Based on this reasoning should not a Presidential Executive Agreement have the same legal effect as a statute if the agreement doesn't contradict an existing statute? Explain.

30 min.

5. Assume that customary International Law prohibits customs searches of diplomats in transit. Considering the recent acts of world terrorism, could the European Union Nations start such searches? If you believe they cannot, how can Customary Law ever change? What would be the consequences if the European Union Nations violated this Customary International Law?

20 min.

6. After a long series of boarder incursions, Iran decides to invade Israel. The invasion takes place and after several months of diplomatic negotiations involving the United States, Britain, Iran, Israel and several other European Union Nations, there is no resolution. The United Nations Security Council cannot agree on a resolution authorizing military action against Iran. May the United States engage in a major military offensive against Iran for this incursion? Consider Article 51 of the United Nations Charter in your answer. Would it make any difference to your answer if Israel requested the assistance of the United States in responding to the incursion. Would it make any difference to your answer if Iran has consistently refused to abide

by requests from the International Atomic Energy Commission to inspect Iran's nuclear program?

20 min.

7. James, a professional assassin from Japan, entered the United States with a fraudulent passport which he had purchased from a company in Frankfurt, Germany. Upon entering the United States, James tracked down and assassinated a federal judge who had several years earlier ruled adversely in a case involving one of James' friends. James then escaped to Japan and remained there until it was discovered by Japanese authorities that he committed crime in the United States. Through previously reliable informants, the U. S. Department of Justice learned that James was living in Tokyo, Japan. Negotiations between the American State Department and Japan were unsuccessful in arranging for James' release to United States Authorities. May the United States enter Japan and abduct James? Would your answer be any different if James obtained a valid passport and visa to attend a business conference in the United States and while here committed the same crime? If James was employed by an American company and committed the crime while on business for the American company in the United States, would this change your analysis of jurisdiction? Would the American company have any liability for James' crime? Are there any due process issues?

30 min.

---

**You are not required to answer the following problem. If you do so it may help your overall grade on this exam. Giving a poor or incorrect answer/analysis will not lower your grade.**

8. Assume the same facts as in Problem 7 with the following exception:

Japan and the United States have a valid Friendship, Commerce and Navigation Treaty containing a clause which provides for extradition to either Country of persons

who have been charged with crimes. May U.S. Authorities enter Japan to forcibly abduct James?

Would your analysis change if the Extradition Clause specifically outlawed abductions?



**MASSACHUSETTS SCHOOL OF LAW  
FINAL EXAMINATION**

**International Law  
Winter Semester 2008**

**Professor Robert J. Forrest**

Social Security No.: \_\_\_\_\_

This examination will consist of short answer questions and essays. You have three hours to complete the examination. Suggested time allotments are in the margin.

Please write all answers in the examination booklet and be sure to put your social security number on the examination booklet and this examination.

Please return this examination and the booklet together once you have completed the examination.

1. Alcor, LTD is a Japanese government-owned instrumentality which primarily promotes tourism in Japan from the United States and Europe. Using the Internet, Alcor ordered 1,000 executive desks for \$1,000 each. The Seller was International Office Supply (IOS), a company organized and existing under the laws of Massachusetts with its principal place of business in Boston. IOS timely shipped the desks to Alcor, free along side (FAS) Alcor's designated vessel berthed at the Port of Boston, but Alcor's check was dishonored by the Japanese bank upon which it was drawn. Alcor has not responded to IOS's demands for payment. There is no bona fide dispute about the receipt, suitability or merchantability of the desks.

30 min.

- A. Does the FSIA apply to IOS's claims against Alcor?
- B. What, if any, exception(s) to immunity may apply to IOS's claims against Alcor?

- C. If you represent IOS, where will you begin legal proceedings?
- D. What is the basis for jurisdiction in your selected forum?
2. After a long series of border clashes, India decides to invade Pakistan. The occupation takes place and after several months of diplomatic negotiations, there is no resolution. The United Nations Security Council cannot agree on a resolution authorizing military action against India. Can the United States engage in a major military offensive against India? Consider Article 51 of the United Nations Charter in your answer. Does it make any difference whether or not Pakistan has requested the assistance of the United States in responding to the Indian invasion? Does the War Powers Resolution, 50 U.S.C., give the President power to send U.S. Troops into Pakistan?

20 min.

3. The President of the United States and the President of Mexico have concluded an unwritten agreement that neither government will interfere with the trade activities of each other nor will either government enact any trade sanctions against each other for an unlimited period of time. Would such an agreement be considered an international agreement? Are there any requirements under United States domestic law that would require action by Congress in connection with such an agreement? Is the Case Act applicable?

20 min.

4. It is generally accepted that international agreements that can be given effect by decisions of the Executive Branch or the Judiciary, without any enacting legislation, are considered to be self-executing. Considering the decisions of the United States Supreme Court in interpreting self-executing treaties, what provisions would you consider to be acceptable in drafting a treaty that is deemed to be self-executing?

20 min.

5. Explain and define the following concepts:
- A. The Foreign Sovereign Immunities Act.
  - B. The Act of State Doctrine
  - C. The Charming Betsy Cannon
  - D. The commercial activity exception to the Foreign Sovereign Immunities Act
  - E. Self Executing Treaties
  - F. Delphic Oracle
  - G. Last in Time Rule
  - H. Genocide
  - I. Terrorism
  - J. Head of State Doctrine
  - K. Reservations, Understandings and Declarations
  - L. Crimes Against Humanity
  - M. State

20 min.

6. The Bangladesh Ministry of Agriculture (BMA) granted Monkey Business, LLC (MBL) a Massachusetts Corporation, a ten year license to capture and export monkeys. The agreement specified quantities and prices and required MBL to build in Bangladesh a breeding farm for Rhesus monkeys. The agreement was granted on the sole condition that the monkeys be used “exclusively for purposes of medical/scientific research for the benefit of peoples of the world”. MBL was required to keep detailed records on the use of each monkey. The agreement provided for Arbitration of Disputes. BMA reserved the right to terminate the agreement without notice if MBL has failed to fulfill its obligations under the contract.

Within 6 months of signing the contract, the Indian Government banned the export of Rhesus monkeys. World monkey prices rose but BMA complied with the agreement for 12 additional months during which time it continued to deliver monkeys to MBL. Thereafter, BMA learned that some of the monkeys were sold to the United States Armed Services for radiobiological research. Thereafter BMA announced that it was

terminating the contract because MBL had not built the breeding farm and that it had breached the requirement that the monkeys be used only for humanitarian purposes. It claimed MBL sold the monkeys to the Armed Services for “neutron bomb radiation experiments.” MBL sought arbitration. BMA refused asserting its right to terminate for breach. MBL asked the State Department to intervene. Despite these efforts and MBL’s assurances that the monkeys would not be used for radiation experiments, BMA refused to reinstate the agreement. You are counsel to MBL. What action will you recommend?

40 min.

7. International Law has been often criticized as vague, and unenforceable. Some commentators have said that the current United States war on terror is a violation of International Law. Others have said that the United States response to terrorist acts has been ineffective. What constitutional provisions allow for U. S. involvement in the affairs of foreign states? Who has this power within the U. S. legal and political system to engage in International activities? The Executive Branch? The Legislative Branch? Explain your reasoning.

30 min.

**MASSACHUSETTS SCHOOL OF LAW  
FINAL EXAMINATION**

**International Law  
Winter Semester 2006**

**Professor Robert J. Forrest**

Social Security No.: \_\_\_\_\_

This examination will consist of short answer questions and essays. You have three hours to complete the examination. Suggested time allotments are in the margin.

Please write all answers in the examination booklet and be sure to put your social security number on the examination booklet and this examination. If you make any assumptions please state clearly what assumptions you made.

Please return this examination and the booklet together once you have completed the examination.

1. Assume that an American passenger is killed by another passenger (a Brazilian citizen) on a domestic flight in Brazil on a passenger plane owned by Brazilian Airlines. The passenger purchased his ticket in New York City from a United States travel agent acting as an agent for Trans World Airlines which was the ticketing agent for Brazilian Airlines. The ticket required that it be confirmed in Brazil for all domestic flights. The passenger did confirm his ticket and was not required to purchase a new ticket or pay any further fees. The passenger's heirs brought a wrongful death action against Brazilian Airlines which raised the defense of Foreign Sovereign Immunity. Is Brazilian Airline liable for the death of the passenger? Are there any exceptions to Foreign Sovereign Immunity, which would apply on these facts? Are there any other potential defendants? You may ignore any airline liability limitations under the Montreal or Warsaw Conventions.

20

2. Assume you are the legal advisor to the United States Secretary of State. The Secretary wants to set priorities and goals in Foreign Policy for the Executive Branch. The Secretary asked you what position the United States should take in its approaches to International Dispute Resolution. As an example, the Secretary reminds you that she has had discussions with the European Union over the effects of its further integration with other nations; and with Russia over future Arms Control Treaties; and with Mexico and Columbia about the continued flow of drugs into the United States; and with various nations in the world over enforcement of possible new environmental conventions to combat

the greenhouse effect or other environmental problems. How would you advise the Secretary on each of these issues if diplomacy is not a possibility?

20

3. Consider whether a presidential executive agreement entered into solely on the basis of the President's Constitutional Foreign Affairs Power should override a prior federal statute? In United States vs. Pink 315 U.S. 203, (1942), the Supreme Court quoted the Federalist Number 64: "All Constitutional Acts of Power, whether in the executive or the judicial department, have as much legal validity and obligation as if they proceeded from the legislature." Does the Court suggest that executive agreements supercede statutes? Based on this reasoning should not a Presidential Executive Agreement have the same legal effect as a statute if the agreement doesn't contradict an existing statute? Explain.

20

4. Article 4 of the American Convention on Human Rights provides that "Every person has the right to have his life protected..., in general from the moment of conception." If the United States adopted this convention without a reservation, could Congress then pass a statute implementing the treaty obligation and prohibiting abortion? Following this reasoning, if *Roe vs. Wade* were overturned so that the states could regulate abortions, could the President and the Senate preempt that result through a treaty guaranteeing a woman's right to an abortion? Explain.

15

5. Assume that the President of the United States and the Prime Minister of Germany orally agree during one of their summit meetings that neither government will impose any trade sanctions against the other for a period of 5 years. Is this an international agreement? Would it make a difference if the oral agreement was recited in a press release? Would it make any difference if Germany had never in the past invoked trade sanctions against the United States? Is valuable consideration required under the Vienna Convention or Customary International Law?

15

6. Respond to the following comments:
  - A. The question that has haunted International Law Advocates, and has fueled the skepticism of critics, is: Is International Law properly called "Law", and why is it binding on "Sovereign" states? Consider the concepts of "positivism and "natural law" in your answer.

- B. Many serious students of the law react with skepticism when they encounter the term “International Law”, as if to say to themselves we know it isn’t really law but we know that International Lawyers and scholars have a vested professional interest in calling it law. Or they may agree to talk about international law as quasi-law. They also maintain that it cannot be law because it is unenforceable. How do you enforce a law against an entire nation? How would you respond to such comments?
- C. Most International Lawyers would say that International Law trumps the National Constitution, although most American citizens would disagree. International Law is not superior to and does not trump the Constitution. The rest of the world may not like that approach, but abandoning it the first step to abandoning the United States of America. International Law is not law; it is series of political and moral arrangements that stand or fall on their own merits, and anything else is simply theology and superstition masquerading as law. How would you respond to such statements?

40

7. Consider the following scenarios:

- A. State X is among the first to sign and ratify a convention against Arbitrary Detention. In the period of time between the ratification by State X and the entry into force of the convention, State X continues to detain a number of individuals arbitrarily. Does State X, and do we so, violate International Law?
- B. State Y signs a Disarmament Convention and plans to ratify it at the earliest possible date, but in the meantime, State Y continues to procure the very armaments that the convention will ban when it enters into force. Is State Y violating International Law?
- C. State Z has ratified an extensive free trade agreement that, upon into force, will prohibit any new tariffs and similar charges and will be self-executing. Two weeks before the agreement enters into force, State Z increases tariffs on products coming from one of its perspective partners, to the detriment of a producer operating from within that trading partner. Is State Z acting in violation of International Law?

Explain your reasoning for each of the preceding Scenarios:

25

8. Consider the following comments and fact patterns:

- A. How would you respond to the following comment:  
The suggestion that every individual is or may be subject to the laws of every state at all times and at all places is intolerable. But surely it is intolerable only if the laws vary from place to place; if they are the same in all countries the individual suffers little hardship. Explain.
- B. Assume that customary International Law prohibits customs searches of diplomats in transit. Considering the recent acts of world terrorism, could the European Union Nations start such searches? If you believe they cannot, how can Customary Law ever change? What would be the consequences if the European Union Nations violated this Customary International Law?
- C. After a long series of boarder incursions, Iran decides to invade Israel. The invasion takes place and after several months of diplomatic negotiations involving the United States, Britain, Iran, Israel and several other European Union Nations, there is no resolution. The United Nations Security Council cannot agree on a resolution authorizing military action against Iran. May the United States engage in a major military offensive against Iran for this incursion? Consider Article 51 of the United Nations Charter in your answer. Would it make any difference to your answer if Israel requested the assistance of the United States in responding to the incursion. Would it make any difference to your answer if Iran has consistently refused to abide by requests from the International Atomic Energy Commission to inspect Iran's nuclear program?



**MASSACHUSETTS SCHOOL OF LAW  
FINAL EXAMINATION**

**International Law  
Winter Semester 2004**

**Professor Robert J. Forrest**

Social Security No.: \_\_\_\_\_

This examination will consist of short answer questions and essays. You have three hours to complete the examination. Suggested time allotments are in the margin.

Please write all answers in the examination booklet and be sure to put your social security number on the examination booklet and this examination.

Please return this examination and the booklet together once you have completed the examination.

1. Red Star Travel (Red Star) is a Chinese government-owned instrumentality which primarily promotes tourism in China from the United States and Europe. Using the internet, Red Star ordered 1,000 executive desks for \$1,000 each. The Seller was Travel Desks International & Co. (TDI), a company organized and existing under the laws of California with its principal place of business in San Francisco. TDI timely shipped the desks to Red Star, free along side (FAS) Red Star's designated vessel berthed at the Port of San Francisco, but Red Star's check was dishonored by the Chinese bank upon which it was drawn. Red Star has not responded to TDI's demands for payment. There is no bona fide dispute about the receipt, suitability or merchantability of the desks.

15 min.

- A. Does the FSIA apply to TDI's claims against Red Star?
- B. What, if any, exception(s) to immunity may apply to TDI's claims against Red Star?
- C. If you represent TDI, where will you begin legal proceedings?
- D. What is the basis for jurisdiction in your selected forum?

2. Babar Aklor, (known as BA), a U.S. citizen and resident, entered into a two year contract of employment for assignment to a foreign hospital with Medical Staffing Services, Inc. (MSS) of Atlanta, Georgia. BA is a registered nurse (R.N.) with ten years experience in U.S. hospitals, most recently in Atlanta. BA's contract with MSS, which was negotiated and executed in Atlanta, provided:

Arbitration: Any dispute arising between the parties concerning the meaning, effect, or enforcement of this Agreement shall be submitted exclusively to binding arbitration to be conducted by the International Chamber of Commerce (ICC), Paris, France, and according to the ICC Rules of International Arbitration. The tribunal shall consist of three neutral arbiters; each party to select an arbiter and the two selected to appoint a third arbiter. The arbitration shall be conducted in English and any award may be enforced by any national court of competent jurisdiction....

BA was assigned by MSS to employment at the National Peoples' Hospital (NPH), in Mombasa, Kenya. NPH is an agency of the Kenyan Government, as it is owned and operated by the National Health Service. NPH signed an ACCEPTANCE AND ASSIGNMENT OF CONTRACT with MSS, agreeing to all terms and conditions of BA's contract.

Through the course of his employment, BA discovered that medical supplies and particularly narcotics were in short supply and were apparently being removed periodically in trucks with military markings. The NPH staff grapevine indicated that this had been occurring for a period of years since a relative of the Kenyan President had been appointed local military commander. When BA brought this to his supervisor's and the hospital administration's attentions, they denied such activity was occurring and told BA in forceful terms to tend to his nursing duties. Concerned for patient care, BA told a local Reuters' News Service reporter of his findings. The story was published by various news networks and embarrassed Kenyan officials.

Immediately upon the story's publication, BA was arrested, tortured and imprisoned by the Mombasa police force. Certain military officials assisted the police in his mistreatment. He was charged with various offenses under Kenyan law relating to public order and conduct prejudicial to government. He was also charged with stealing certain of the missing narcotics. NPH terminated BA's employment immediately upon his arrest.

Through diplomatic channels, BA's release from prison was obtained after three months and he was deported to the United States. BA seeks legal redress for his economic, physical and emotional injuries and has filed suit in United States District Court for the northern district of Georgia against NPH (for wrongful termination/breach of contract), the Mombasa police force (an agency or instrumentality of the Kenyan Government), the Kenyan Military (a foreign state), and certain military officers (individuals), for assault, battery, false imprisonment, negligence, gross negligence, intentional and/or negligent infliction of emotional distress, malicious prosecution,

slander, libel and punitive damages. All the defendants have asserted the defense of foreign state immunity and have moved the court to dismiss the case. Kenya has not been designated by the U.S. State Department as a “state sponsor of terrorism.”

May BA’s litigation proceed in federal court? You may be counsel for BA or for any of the defendants.

Kenya is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Kenyan Government and Military each maintain several bank accounts in New York.

60 min.

- A. What exceptions to Foreign State immunity might apply to the NPH, Police and Military defendants concerning BA’s claims?
- B. Regarding the NPH: would the commercial activity exception apply? Is NPH’s conduct commercial in nature?
- C. Would the commercial act exception apply to NPH concerning the wrongful termination/breach of contract claims of BA?
- D. Regarding the Kenyan Police and Military: would the commercial activity exception apply to BA’s arguments that the police and military misconduct of Kenya were in furtherance of the commercial activity of stealing and selling narcotics and hospital supplies?
- E. Would the terrorism/torture exceptions apply to BA’s claims?
- F. Does it matter for jurisdictional immunity purposes that the police are a government agency and the military is treated as a foreign state itself?
- G. If the Federal District Court dismisses BA’s lawsuit, may he commence arbitration against the Defendants?

3. Explain and define the following concepts:

- 15 min.
- A. The Foreign Sovereign Immunities Act.
  - B. The Act of State Doctrine.
  - C. The Charming Betsy Cannon.
  - D. The commercial activity exception to the Foreign Sovereign Immunities Act.
  - E. Self Executing Treaties.

4. Henry, a professional assassin from Syria, entered the United States with a fraudulent passport which he had purchased from a company in Frankfurt, Germany. Upon entering the United States, Henry tracked down and assassinated a federal judge who had several years earlier ruled adversely in a case involving one of Henry’s friends.

Henry then escaped to Syria and remained there until it was discovered by Syrian authorities that he committed crime in the United States. Through previously reliable informants, the U. S. Department of Justice learned that Henry was living in Damascus, Syria. Negotiations between the American State Department and Syria were unsuccessful in arranging for Henry's release to United States Authorities. May the United States enter Syria and abduct Henry? Would your answer be any different if Henry obtained valid passport and visa to attend a business conference in the United States and while here committed the same crime? If Henry was employed by an American company and committed the crime while on business for the American company in the United States, would this change your analysis of a jurisdiction, would the American company have any liability for Henry's crime?

30 min.

5. Assume the same facts as in Problem 4 with the following exception:

Syria and the United States have a valid Friendship, Commerce and Navigation Treaty containing a clause which provides for extradition to either Country of persons who have been charged with crimes. May U.S. Authorities enter Syria to forcibly abduct Henry?

15 min.

Would your analysis change if the Extradition Clause specifically outlawed abductions?

6. International Law has been often criticized as vague, and unenforceable. Some commentators have said that the current United States war on terror is a violation of International Law. Others have said that the United States response to terrorist acts has been ineffective. What constitutional provisions allow for U. S. involvement in the affairs of foreign states? Who has this power within the U.S. legal and political system to engage in International activities? The Executive Branch? The Legislative Branch? The Judiciary? Explain your reasoning.

45 min.