The purpose of this one credit course is to examine the evolving body of international and U.S. law providing immunity to foreign states and their officials from domestic U.S. jurisdiction. Almost everyone knows that diplomats, visiting heads of state, foreign governments, and international organizations are generally entitled to some kind of “immunity” from the enforcement of U.S. law – but when, and for what, and why? How are the relevant international legal rules applied in practice at the domestic U.S. level? This class will introduce students to the range of jurisdictional immunities recognized by international law and implemented in domestic law. Together, we will explore sovereign immunity and its conceptual offspring: state, diplomatic, and consular immunity; the immunities accorded to heads of state, heads of government, and other sitting and former government officials; and the immunity enjoyed by international organizations, their staffs, and the representatives of member states.

Class discussions will center on the application of customary international law, treaties and other international agreements, domestic statutes, and judicially crafted rules that create and apply the law governing these immunities.

There are no specific prerequisites for this class but a basic familiarity with international law is essential and students who have not taken at least one course in public international law may find the material difficult to grasp. Nevertheless, if you need a basic introduction, we recommend Brownlie and Crawford, *Brownlie’s Principles of Public International Law* (8th ed., Oxford University Press, 2012), Murphy, *Principles of International Law* (2d ed., West, 2006), or Buergenthal and Murphy, *Public International Law in a Nutshell* (5th ed., West, 2013). We assume everyone has had at least one course in criminal law and one in civil procedure.

**REQUIRED READING ASSIGNMENTS:** Our texts will be primary source materials (treaties, statutes, judicial decisions, and other documents) that will either be sent to you directly or made available on CANVAS. More recent cases and perhaps some articles may be assigned as the course progresses. If so, we will tell you in class or through email or CANVAS announcement, and the document will either be sent to you or be posted on CANVAS.

At the CANVAS site, we have provided links to or copies of an entire case or other document. Before reading them, please check this syllabus for an indication of the specific sections of the documents that are assigned. When reading cases, remember that the headnotes and case synopses are not part of the decision. They are not assigned reading, but feel free to consult them as they may help you understand the courts’ decisions.
STRONGLY RECOMMENDED READING: To supplement the class assignments, we would strongly recommend that, over the course of the next seven weeks, you read Chapter 6 in Carter and Weiner, *International Law*; (6th ed., 2011). This will not serve as a substitute for reading the assigned materials but will provide an excellent overview on the subject of immunity and, in some respects, a different perspective on the material we will cover.

PARTICIPATION: This will be a relatively small class, and your participation is essential. We expect *every* class member to be prepared for each session. Our discussions and presentations will assume your familiarity with the assigned material. Your active participation in, and positive contributions to, class discussions may be taken into account in the final course grade, but only to your benefit.

EXAM: The *examination* will be a two-hour, *open-book* test given on April 1, 2017 at 10.00 a.m.

CONTACT: As adjunct professors, we have no scheduled office hours at the Law Center but will be available before and after scheduled class sessions for consultations. We can also be reached by telephone or email most days between 9:00 a.m. and 6 p.m. and are happy to talk with you at any time. If you phone, please identify yourself as a member of the “immunities class” and, if we not available, leave a telephone number where you can be reached at the end of the day.

Contact information: Professor Julian Simcock

[Redacted]

Professor James A. Gresser

[Redacted]
Schedule of Classes

No. 1  Introduction to Foreign Sovereign Immunity (January 19)


**Required Reading:**

*The Schooner Exchange v. McFaddon*, 11 U.S. (7 Cranch) 116 (1812) [Please read the excerpts in the Document section on CANVAS.]

**Recommended Listening:**

In Our Time: Sovereignty, [http://www.bbc.co.uk/programmes/b07hhvxx](http://www.bbc.co.uk/programmes/b07hhvxx)

No. 2  Immunity *Ratione Personae*: Heads of State and Foreign Ministers (January 26)

Immunities of current heads of state and foreign ministers from domestic and international jurisdiction.

**Required Reading:**


*Wei Ye v. Jiang Zemin*, 383 F.3d 620 (7th Cir. 2004) [Please read entire decision.]

No. 3  Immunity *Ratione Personae*: Diplomatic Immunity (February 2)


**Required Reading:**


Shoot-out at Libyan embassy (excerpt) [Please read the excerpt found in the Course Materials Section of CANVAS.]

Tabion v. Mufti, 73 F.3d 535 (4th Cir. 1996) [Please read entire decision.]


Recommended Reading:


No. 4 Immunity Ratione Materie: Foreign State Immunity (February 9)


Required Reading:

Tate Letter (1952), 26 Department of State Bulletin 984 [Please read the entire letter, which is found in the Course Materials Section of CANVAS.]

Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1330, 1332, 1391, 1441, 1602-1611 (including 1605A and 1605 Note--Civil Liability for Acts of State Sponsored Terrorism) [You may use the excerpted text in the Course Materials Section of CANVAS.]


Republic of Argentina v. Weltover, 504 U.S. 607 (1992) [Please read the entire case.]

Recommended Reading:

Justice Against State Sponsors of Terrorism Fund (JASTA), Public Law No: 114-222
(Sept. 28, 2016).

No. 5 Immunity Ratione Materiae: Foreign State Immunity (cont’d) (February 16)


Required Reading:


Dole Food Co. v. Patrickson, 538 U.S. 468 (2003) [Please read the entire case.]


Recommended Reading:


Other comparative materials:

Canada:  State Immunity Act (1985)
Australia:  Foreign States Immunities Act (1985)
South Africa:  Foreign States Immunities Act (1981)
Singapore: State Immunity Act (1985)

No. 6  Immunity Ratione Materiae.  Consular immunity and the immunity of other current and former officials. (March 2)


Readings


Gerritsen v. Consulate of Mexico, 989 F.2d 340 (9th Cir. 1993), cert. denied, 510 U.S. 828 (1993) [Please read entire decision.]

Underhill v. Hernandez, 168 U.S. 250 (1897) [Please read entire decision.]


Jones v. Minister of the Interior,
http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060514/jones -1.htm

No. 7  Immunity of International Organizations. (March 9)

The UN’s “General Convention” and Headquarters Agreement. The International Organization Immunities Act. Specialized agencies. Immunities of personnel of, and representatives to, international organization.

Readings

Atkinson v. Inter-American Development Bank, 156 F.3d 1335 (DC Cir. 1998)  [Please read the entire case.]

Ahmed v. Hoque, 2002 WL 1964806 (SDNY Aug. 23, 2002) (not reported) [Please read the entire case.]

International Organizations Immunities Act, 22 U.S.C. 288 to 288l

