



WEEK ONE: LAW IN A GLOBAL CONTEXT

An Intensive Program Integrating Transnational Legal Perspectives
into the First Year Curriculum

GEORGETOWN UNIVERSITY LAW CENTER
January 9 – 13, 2006

Georgetown Law Center is initiating this year a one-week course at the beginning of the second semester for first year students, which will explore the role of law in a global context. Its principal purpose is to introduce students to a complex problem that involves not only U.S. law, but also international and/or foreign law in a transnational setting so they can begin to understand that legal problems increasingly transcend national boundaries and involve more than one legal system. In the course of doing so, the week will also introduce students to at least one formal decision-making process in addition to U.S. courts – e.g., international arbitration and/or foreign courts. The problems have been designed, as well, to provide an opportunity for students to be introduced to the importance of the careful analysis of statutes, regulations, or international agreements, as distinct from analysis of common law cases.

During the week, students will be offered opportunities to experience different lawyering roles in order to capture the intellectual benefits of the engaged learning made possible by a continuous project for the entire week. Week One will have the added benefit of introducing students to the fact that legal problems occur in categories not neatly captured by traditional course divisions, since the problems involve cross-cutting issues.

The goal of the intensive week is not to provide a comprehensive introduction to any particular subject area, nor to be a prerequisite to anything else. Rather the goal is to introduce students to learning and working with international and/or foreign legal materials in addressing legal problems that relate to their first year courses, in a simplified but realistic legal setting, with a closed packet of materials that permit the students to learn some basic concepts of international and/or foreign law that are in some respects different from the U.S. law.

This week will include about 15 hours in various settings, including large class lectures, outside speakers, and small group meetings facilitated by full time faculty with the assistance of upper class Global Teaching Fellows, during which the students will engage in more interactive learning.

Three problems developed during the summer by teams of faculty members were vetted with the entire faculty at a series of gatherings this past fall. Most of the U.S. aspects of the problems will be rooted in issues that the students had covered in one of their fall courses. The problems will involve contracts, torts, civil procedure, and constitutional law. The new materials will focus on international and/or foreign law, some non-U.S. formal dispute resolution, and the differing roles a lawyer might play. A thumbnail of the three problems follows.

Two first year sections will work on a **death penalty/extradition problem**, which features an attempt by the United States to secure the extradition of two suspected terrorists who have been indicted in federal court for participating in terrorist acts on U.S. soil. In the indictment, the United States seeks the death penalty, a circumstance that might create problems under two international human rights treaties if the fugitives were extradited from the countries in which they now reside – France and Russia. Students will be asked to evaluate whether those two treaties—the European Convention on Human Rights and, to a lesser extent, the International Covenant on Civil and Political Rights—bar extradition in the circumstances of the case, working within an assigned role as counsel for one of the defendants or one of the governments or as a neutral decision maker. Students will be asked throughout the week to compare the institutional features of

the international decision-making bodies with each other and with the U.S. Supreme Court, as well as to compare treaty interpretation under human rights treaties with constitutional interpretation as they studied it in their Fall Constitutional Law courses. Faculty members will facilitate discussions in small groups and monitor students' oral arguments before an international decision-making body.

One section of first year students will address an **Internet defamation problem**. The problem involves a French plaintiff and two possible California defendants: a news network that posted an article on its website alleging that the plaintiff used his wine export business to launder money for organized crime figures in Russia and Italy, and a web hosting service that hosts the news network's website. The students will be assigned roles, representing one of the three parties or the neutral decision-makers in the case. On Thursday of Week One, they will engage in a simulated ICC arbitration hearing in which the advocates will argue, and the neutrals will decide, whether French or United States law will govern the dispute. The assigned readings and classroom sessions during the week are designed to prepare the students to engage in the simulated hearing and will cover the theory and doctrine governing recognition and enforcement of arbitration agreements and awards, recognition and enforcement of foreign judgments, components of defamation law and limitations on Internet Service Provider liability in several jurisdictions, and choice of law decisions. Faculty members will lead breakout sessions in small groups on two days, and at the end of the week students will have the opportunity to hear from a panel of expert practitioners who deal on a regular basis with some of the issues the students have explored during the week, including experts on Internet defamation, the First Amendment, and international arbitration.

Two sections of first year students will work on a **transnational contracts and dispute resolution problem**, which involves a basic contract doctrine (impracticability or *force majeure*) that will be featured in several factual variations and procedural postures. The core problem involves a contract for sale of goods (sea barges for use in a major construction project in Laos). The supplier is a French company; the contracting construction company is American. Students will explore questions of choice of law and choice of forum in a situation where the contract specifies neither and the national laws come to different conclusions on whether a serious change of circumstance (a political event) makes the contract unenforceable. Students will also explore whether adding an international treaty (the Convention on the International Sale of Goods) helps resolve the matter. The students will engage in a series of exercises demonstrating the variety of processes available to deal with these issues, including international arbitration, international and intercultural negotiation and enforcement of judgments and international or "foreign" arbitral awards. The week will conclude with a panel of experienced international litigators, transnational lawyers, arbitrators and faculty, who will help the students integrate the learning experience.

Week One is a required, one-credit course for first year students, which will be graded pass/fail. All members of the faculty, including both first year and upper class teachers, will have the opportunity to participate in Week One on a rotating basis. This year, more than a third of the full time faculty will participate, as well as a smaller number of adjunct professors. More than 40 upper class students will serve as Global Teaching Fellows. Faculty members who designed the problems have also prepared teaching guides for faculty participation.

The impetus for development of Week One was the Law Center's 2004-2009 strategic plan, in which the faculty recommended incorporating more international and transnational material in the first year. The program was proposed by the Curriculum and Academic Standards Committee in 2004-2005 and approved by the faculty. Vicki Jackson is the overall coordinator of the effort. She worked with several other faculty members who assumed significant responsibility for conceptualization and development of the problems and pedagogy, including Barry Carter, Richard Diamond, Michael Gottesman, Carrie Menkel-Meadow, Julie O'Sullivan, Julie Ross, and Carlos Vázquez. This summary condenses material written by various of these colleagues for presentation to the Law Center faculty.