

## INTERNATIONAL ORGANIZATION COURSES AND INTERNATIONAL ORGANIZATION IN INTERNATIONAL LAW COURSES

PROF. LOUIS B. SOHN (Harvard Law School): The basic problem in teaching international organization courses is the fluidity of the subject matter and the profusion of available materials. Every morning's mail brings to my desk many new documents, and quite often at least one of them has to be brought immediately to the attention of the class meeting on that day. The New York Times carries every day items which require further investigation, and voluminous correspondence is necessary to obtain the basic documents. There is no international West Publishing Company nor an international Prentice-Hall to bring us our cases neatly packaged and properly indexed.

Teaching any course is an individual experience and all those to whom I have talked about teaching my subject have different methods of approach. I cannot speak for others, but you might be interested, perhaps, in my own experiences in teaching the main course on world organization and the seminars which are closely related thereto over a period of almost ten years.

When I gave my first course on the subject at Harvard in 1946, my materials were quite different from those used today. At that time, we had available only the records of debate at San Francisco, the reports of the Preparatory Commission and of its Executive Committee, and the records of the first organizational meeting of the General Assembly in London. I felt, therefore, that the new organization and its possibilities must be studied in their historical setting, and consequently I divided that first course into three parts: first on the concert of Europe, second on the League of Nations, and third on the United Nations. From the beginning I tried to emphasize two problems of special interest to lawyers: interpretation of legal instruments and settlement of disputes.

We dealt, for instance, with such cases as the Greek revolution against the Turks in the 1820's and the Belgian revolution against the Netherlands in the 1830's, dealing both with the various methods by which these difficult situations were settled, and the incidental problems raised with respect to the interpretation of the basic documents on which the action of the Great Powers rested, the treaties of 1815 and 1818. Similarly we dealt with cases which arose in the League of Nations, such as the Corfu case, the Bulgarian-Greek frontier incident of 1925, the Japanese invasion of Manchuria, and the Italian invasion of Ethiopia. In suc-

ceeding years, this method was extended to a growing number of cases before various United Nations organs, trying to get the facts straight, analyzing the arguments of the parties and the constitutionality of the final decisions reached by the United Nations.

After a while it proved impossible to deal with all these cases in chronological order. The last time we used this method, we had before us 31 cases dealt with by the Concert of Europe, 40 cases discussed in the League of Nations, and 10 cases considered by the United Nations. Many of those cases could be presented only in the form of written student reports which could not be discussed in class, and it became obvious that the whole structure of the course needed complete revision. The historical method had to be abandoned in favor of a more analytical approach. After a few years of experimentation I arrived at an outline which formed the basis for my casebook, the first edition of which was published in 1950.

The original manuscript of that casebook had close to 5,000 pages, and the publishers immediately said that it had to be cut down to less than 1,000 pages. After several months of re-evaluation of the current importance of various documents and cases and of their practical value as teaching instruments, it proved possible to cut the core of the casebook to 1,100 pages, though 200 additional pages of basic documents were smuggled in later as an appendix. Of course, the final book bore little resemblance to the original manuscript except in general structure. All materials dealing with nineteenth-century cases were rigidly excluded, and only a few bibliographical notes show that international government is not an invention of our generation but that it had a respectable history prior to 1918. Only sixteen documents from the period 1918-1939 survived the pruning scissors, though to this total must be added ten decisions of the Permanent Court International Justice. Some interesting cases fell thus by the wayside, such as the case of the boundary between Turkey and Iraq, the European Commission of the Danube case, the case of the Finnish ships, and the Leticia incident. Even some important United Nations cases had to be omitted, e.g., the Iranian question, the Corfu Channel case, and the Egyptian request for the withdrawal of British troops from Egypt. Several whole chapters had to be cut out during the final revision on privileges and immunities of international organizations, on the status of the secretariat, and on budgetary and financial problems.

After this painful process of diminution was completed, still a hefty book remained, and most teachers found it impossible to

cover all the materials in the book in one course. As years passed, the situation became even more difficult, particularly as each of us found it necessary to add some newer cases to those already contained in the casebook. Part of my collection of such cases was published in the form of a supplement in 1953, but there are many other cases by now which should not be neglected. I am struggling, therefore, at this point with a new edition of the casebook and with the problem of finding a new and more satisfactory approach.

But before discussing the proposed contents of the new casebook and thus of my course as it has evolved during the last five years, it might be useful to report on other developments in the field of teaching international organization courses. When I started first in 1946, I did not hesitate to discuss within the framework of the general course also the question of the growth of international administrative agencies such as the Universal Postal Union, the fascinating legal problems of the International Labor Organization, and the intricacies of the Organization of American States. But slowly the new United Nations problems crowded the other organizations out of the course, and even the four classical ILO cases with which my casebook opens no longer interest the students and had to be omitted from the course in the last few years.

But this storehouse of rich experience in solving international problems by co-operative effort cannot be entirely neglected by teachers and scholars. We have, therefore, added to our curriculum at Harvard two special seminars dealing, respectively, with the international administrative agencies (especially with the specialized agencies of the United Nations) and with regional organizations.

In these two seminars similar methods of teaching are being used. In the one on specialized agencies students are asked to draft the constitution of a new international agency—e.g., one dealing with peaceful use of atomic energy—on the basis of the texts and actual practice of existing agencies. Special materials have been prepared giving students a common background for discussion of various problems, in addition, each student is made responsible for a particular agency and is asked to study not only the constitution of that agency but its actual practice and to bring to the attention of other members of the seminar any important deviations from the general norm. Thus when we discuss in the seminar the question of membership, one of the students will ordinarily raise the question of the usefulness of provisions requiring prior United Nations' consent to the admission of new

members to UNESCO, another will discuss the question of associate membership in the World Health Organization, while a third one will call our attention to the problems caused by the United Nations request that ICAO expel Spain. On the other hand, the students are discouraged from writing papers on one agency only, and are asked to select topics of a comparative character. While working on their papers, each student usually consults with his colleagues who are experts on various agencies and, reciprocally, helps others to find precedents in the documents of the agency with which he is most familiar. A co-operative effort is thus encouraged and additional knowledge is acquired in the process by both parties.

The seminar on regional organizations is conducted at Harvard in a similar manner. The current project is to study the problems which will need to be solved if and when the North Atlantic Treaty Organization should broaden its activities beyond the military sphere. Here again the approach is based on the study of the experience of other regional organizations in Europe and the Western Hemisphere, and students are given the responsibility for bringing the relevant materials about each organization to the seminar.

Coming back to the problems of general international organization, I have to admit that here also we have solved our difficulty in part by separating some questions from the main course and putting them in a seminar on problems of world order. The agenda of that seminar differs from year to year, but we usually select for it problems of topical interest or questions which a lawyer is especially qualified to answer. Last year, for instance, we discussed in this seminar the jurisdiction of international courts, disarmament, and the punishment of international crimes. In other years, we have discussed human rights, self-determination of nations, co-ordination of specialized agencies, and collective self-defense arrangements.

In the main course, I am trying to rely more and more on the case method, and in my new edition I propose to include a much larger proportion of cases as distinguished from other types of documents (such as international agreements, documents of the San Francisco Conference, and various drafts and proposals). The case method as applied in my casebook differs, however, to some extent from that used in other fields of law. There is in it, of course, a fair sprinkling of decisions of international courts, though most of them are advisory opinions rather than judgments rendered in contentious proceedings. But the main body of cases consists of excerpts from United Nations debates

presenting the points of view of the main contestants and the final decision given by the body discussing the matter. To some extent this is equivalent to presenting to a student not the decisions of the Supreme Court of the United States but the briefs of the parties together with the final decree of the court, omitting the reasons given by the court as leading it to the particular solution adopted in the case. Perhaps this development is not entirely undesirable. Most lawyers spend their time not deciding cases, but pleading them, and the mystery of the art of marshalling their arguments is as important for fledgling lawyers as the knowledge of the rules contained in already decided cases. Thus we can perhaps make a virtue of necessity and capitalize on the opportunity here offered. Next year I intend to stimulate discussions further by dividing the class in two and asking one group to present the arguments in favor of the final decision, while the other group is asked to oppose such a decision. After reading the arguments actually made in the case, both sides would be required not only to present them in a proper way but also to supplement them with such other arguments as seem relevant to the case but have not been made.

The question of proper interpretation of the Charter and of prior decisions on similar questions discussed by the United Nations would form naturally an important part of each debate. In some cases, when the debate reveals inadequacy of the rules applicable to the case, the question of the possibility of changing them may properly be discussed, together with concrete proposals for change brought in by members of the class.

With respect to problems to be discussed in the main course on international organizations, I found it necessary to shift emphasis every year. At the end of each course I have tried to gather comments from students as to the problems which they found most interesting and which they considered most appropriate for the law school discussions. Some of the students came up with useful suggestions which then were tried on the next class, not always with success. Two things seem to be clear—that students come to a course in world organization mostly because they are interested in problems of peace and security, and that, therefore, those problems should be put to the fore in any course in this field.

The original order of proceedings as outlined in my case-book was more or less as follows: after four hours devoted to a general introduction, we started with the basic problem of interpreting international constitutions, and followed this up with the discussion of the crucial issue of domestic jurisdictions, rights

and duties of states, composition and functions of the General Assembly, peaceful change, the Economic and Social Council, human rights, trusteeship and colonial questions. In the final part of the course, we considered the problems of peace and security and peaceful settlement of international disputes, with special emphasis on the activities of the Security Council and the exercise of obligatory jurisdiction by the International Court of Justice.

It proved, however, too difficult to deal separately with the General Assembly and the Security Council. Many cases were considered by both of them, in other instances the General Assembly took over some functions of the Security Council, the growth of the role of the General Assembly was closely connected with the decline of the role of the Security Council. My new materials try to consider the functioning of the General Assembly and the Security Council as an organic whole. After an introductory part devoted to the problems of organization and procedure, such as membership, composition, voting, subsidiary organs, we take up first some cases which were settled by the Security Council itself e.g., the Iranian Case, follow them up with those which were transferred from the Security Council to the General Assembly, e.g., the Spanish and Greek Cases, and finally deal with cases in which the General Assembly took over some of the functions of the Security Council, e.g., the Uniting for Peace Resolution and the final stages of the Korean Case. Emphasis is placed here on the interpretation of Charter provisions relating to the powers of the two organs, the constitutionality of various acts and the differences between the letter of the Charter and the living law of the Organization. The materials help to point out that the law on the books is not the same as the law applied in practice, and that the law governing a new international institution often develops quite differently from what was anticipated by its founders.

In the second part of the course we deal with social and economic problems, discussing the activities of both the General Assembly and the Economic and Social Council in such fields as human rights and economic development of under-developed countries. Problems considered here include the case of Indians in South Africa, forced labor, trade union rights, the declaration and covenants on human rights, self-determination of nations, and also control of a nation over her natural resources and land reform.

The third part of the course is devoted to trusteeships and colonial cases considered by the General Assembly, its special

committees and the Trusteeship Council. We deal here with the Southwest Africa Case, the Ewe problem, customs unions between trust territories and other colonies, the powers of the General Assembly to determine whether a territory is no longer self-governing, the duty to supply information to the United Nations on the political development of the non self-governing territories, etc.

The problem at this point is to keep all these materials within 1,000 pages and at the same time present sufficient excerpts from the cases to show the flow of arguments. It seems more desirable to discuss a smaller number of cases more fully rather than a larger group of cases superficially. In making the final selection I have tried to lay emphasis upon cases which present several interesting problems rather than cases which illustrate a single point only. The whole arrangement is still in a state of flux, but I hope to get it in final shape by March 1956, and my materials should become generally available by the end of next summer.

Turning now to the other half of the subject assigned to me, it seems important to note that all new casebooks on international law contain a sizable amount of materials on international organization. A teacher of international law can no longer ignore such materials, and I believe that in most courses on international law there is a fair consideration of some problems of international organization. In addition, various United Nations organs deal with problems of international law in the strict sense of that term, and their contribution cannot be ignored by a conscientious teacher.

For instance, Professor Bishop in his casebook on international law deals with both compulsory and advisory jurisdiction of the World Court in his chapter on nature, sources, and application of international law. In dealing with treaties, he considers the various documents of the League of Nations and the United Nations on reservations to international agreements, the opinion of the Permanent Court of International Justice interpreting the ILO convention concerning the employment of women during the night, and the revision of treaties through "peaceful change" procedures established by international organizations. The question of membership in the international community can not be considered without taking into account the membership provisions of international constitutions, and besides the usual materials on the subject Professor Bishop includes here the debate in the Security Council on the status of the Republic of Indonesia, and documents on mandates and trusteeships. There

is also here a set of questions on international organization which could easily be expanded into a whole course on the subject. A generous excerpt from the advisory opinion on reparation for injuries suffered in the service of the United Nations is also included in this section. Professor Bishop uses also the International Declaration of Human Rights and excerpts from the two covenants. Similar use is made of other international organization materials in other parts of this casebook, as well as in the latest editions of casebooks by Professor Briggs and Judge Hudson.

It seems to me that this is as it should be. The two subjects— international law and international organization — are closely interconnected and it would be presumptuous to try to build an artificial curtain between them. Neither of these two subjects can be taught without encroaching upon the other, either one of them constantly derives benefit from the other, and there is a continuous flow of ideas from one field to the other. The link here is already more organic than, for instance, between public and private international law, and I believe that in due course these two subjects will merge into one system of world law, assuring freedom, order and justice to all nations of the world.



## COMMENT

PROF. BRUNSON MacCHESNEY (Northwestern University Law School): The important thing to me about law school teaching of international law and organization is the hope that we will arouse the student's interest and energies and help him become a more useful citizen, and better informed in his potential role as a leader of the bar and public opinion. This has been our main objective at Northwestern since World War II. To achieve this objective, the faculty has made the course in international law in effect required of all students. The method of achieving this requirement has been to combine the materials in public international law with conflicts of law, which in Illinois is a bar subject and taken by nearly all students. Since the jurisdictional part of conflicts is taken up in prior courses in civil procedure, this means the combining of choice of law and constitutional questions with public international law materials. In practice, the time thus devoted to public international law has varied from twenty-five to thirty classroom hours.

What do we try to do in this introductory international law course, which is given in the third year? We have tried to establish in this course an understanding of the nature of international law as a primitive, undeveloped legal system for dealing with the crucial problem of the control of force by law. Consequently, the emphasis is on the fundamental elements of international law that bear on this problem rather than on those aspects which may be of more importance in the practice of law. For this reason, as part of such a course we examine those aspects of international organization that relate to this central problem. Similarly, in the conflicts part of the course an effort is made to emphasize the philosophical problems and the relation between a system of world law, if you will, and the power of the local law system. The jurisdictional and the jurisdictional immunity parts of public international law can thus be examined carefully from the same standpoint. There are many other aspects of the two subjects which permit useful cross-references. The effort throughout is to treat the materials, while not integrated as much as might be desirable, as presenting a common problem through which the students are being exposed to legal systems and concepts other than the ones familiar to them in the more traditional subjects.

Just a word in closing on the question of a separate course in international organization. Some of its aspects, as has been noted, are treated in the general course in international law. For a more detailed study of international organization we have found the seminar most useful. Students who are interested in taking more work in the field can, through the use of term papers, a smaller discussion group, and examination of original sources, obtain a deeper understanding of some of the issues which are explored in general in the basic course in international law.