



American Society  
of International Law



# The U.S. Constitution and International Law

A RESOURCE FOR TEACHERS CREATED BY THE  
AMERICAN SOCIETY OF INTERNATIONAL LAW

The American Society of International Law  
International Law Curriculum Series

# The U.S. Constitution & International Law

A resource for teachers

Created by the American Society of International Law

With support from the Open Society Foundations

Essential Questions	Essential Understandings	Essential Knowledge	Essential Skills
<p>What role did foreign thinkers and documents play in the creation of the United States' founding documents?</p> <p>How do countries use ideas from outside their own borders in creating their government structure?</p> <p>What is a treaty and how does it become a part of the U.S. legal system?</p> <p>What role does each of the three branches of the U.S. government play in applying international law to the United States?</p>	<p>Early American leaders used concepts from around the world to influence their ideas about government and the actual structure of our Constitution.</p> <p>The three branches of U.S. government each have a specific role to play in the use of treaties in U.S. law.</p> <p>U.S. law includes a variety of international agreements that impact domestic policies of the United States.</p> <p>When the U.S. enters into a treaty, unless it is "self-executing," it is not automatically directly applicable as a matter of domestic U.S. law but rather must be implemented into U.S. law through further Congressional legislation.</p>	<p>The English Bill of Rights</p> <p>Magna Carta</p> <p>Age of Enlightenment</p> <p>Supremacy Clause</p> <p>Treaties</p> <p>Ratification</p> <p>Sole- &amp; Congressional-Executive Agreements</p> <p>Advice &amp; Consent</p> <p>Self-executing</p>	<p>Students will be able to discuss and debate the foreign input into founding U.S. governmental documents.</p> <p>Students will be able to identify the role that differing viewpoints play in creating fundamental government principles.</p> <p>Students will be able to describe the process of adoption of a treaty and the different types of international agreements.</p>

## **The U.S. Constitution and International Law**

**A resource for teachers**

*“The law of nations, although not specially adopted by the constitution, or any municipal act, is essentially a part of the law of the land.”*

- Edmund Randolph, first Attorney General of the United States, 1792

*“International law is part of our law, and must be ascertained and administered by the courts of justice.”*

- U.S. Supreme Court Case *The Paquete Habana*, 1900

### Overview:

The United States Constitution is the keystone of our national identity. It is a document full of our ideals, promises, and commitments. It also addresses how we, as a political entity, interact with the rest of the world. The following lesson plans build on students’ previous introduction to the U.S. Constitution to educate them about the history of the United States’ involvement with international law and what the U.S. Constitution says about how international law is applied in our domestic laws. The first lesson addresses the history of America’s interaction with foreign sources of law, including those that influenced the creation of the U.S. Constitution. The second lesson examines what the Constitution says about international law and how it has been applied over the past several hundred years.

### Structure:

This document includes two 45 minute class sessions designed to be taught together. The sessions should be taught following students’ introduction to the U.S. Constitution and the federal system of government.

**Note:** There are two reading assignments for Lesson II that should be assigned as homework before the class is scheduled.

## Lesson I: America's History with Foreign and International Law

### A. Building on History (15 minutes)

*"I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging the future but by the past."*

- Patrick Henry

The men who wrote the foundational documents of the United States, the Declaration of Independence, the Constitution of the United States, and the Bill of Rights, were almost all recipients of what was called "classical education." This meant that almost all of them had studied Latin and Greek and were trained in reading philosophy and science texts in foreign languages. Of the 55 delegates that attended the Constitutional Convention, 30 were college graduates – an unheard of proportion at that time! Many of them had received their degrees from universities outside of the American colonies.

This education gave them the tools needed to create the foundational documents of the future United States. They looked to foreign thinkers, principles, and documents to help draft what would become the U.S. Constitution. These thinkers included political theorists like John Locke (England), Jean Jacques Rousseau (Switzerland), and Montesquieu (France). They were giants during the period of history called the Age of Enlightenment, when political theorists attempted to influence society using reason, rather than royalty, religion, or repression. Many governments were starting to include elements of Enlightenment theory into their political systems, even while maintaining monarchies or despotisms. Leaders of the fledgling American Colonies read these philosophers and took to heart their lessons on republicanism and liberalism and the examples of governments that had started to experiment with these ideas.

**Note:** Be sure to point out that "liberal" and "republican" in this context are not what we think of in modern-day America. Classical liberalism at its most basic level, although it had many variations, was the belief that individuals should possess certain rights that the government cannot take away, including elections, freedom of religion, and life, liberty, and property, among many others. Republicanism referred to the idea of a government accountable to the people and governed by law, as opposed to a monarchy or other government dictated by heredity and with absolute power.

**Suggested Video (3:23):** Enlightenment Philosophers: Locke, Voltaire, and Montesquieu (Available from Discovery Education with subscription). If the subscription is unavailable, use STUDENT HANDOUT #1 (Age of Enlightenment Philosophers) and select two of the provided texts for students to read.

Classroom questions (Use as many or as few as time permits):

1. How did these foreign thinkers influence American leaders as they drafted our core documents?
2. What values in the selection that you read are present in the Declaration of Independence, U.S. Constitution, or Bill of Rights?

## **B. Standing on the Shoulders (15 minutes)**

*“To all free men of our kingdom, we have also granted, for us and our heirs for ever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs....”*

- Magna Carta (1215)

In addition to a strong understanding of theory and philosophy, the leaders of the American Revolution had a firm grasp on the many documents that had been used around the world to codify the principles the Colonies had come to believe in. The Founding Fathers used these documents as resources to help write our own foundational texts, including the Declaration of Independence, the Constitution of the United States, and the Bill of Rights. Some of these documents were very old, dating back to Roman and Greek times, while others were relatively new. A few examples include:

- Latin histories (Plato, Aristotle, Cicero, Virgil, etc., 500 BC – 500 AD)
- Magna Carta (1215)
- Summa Theologica (St. Thomas Aquinas, late 1200s)
- On Secular Authority (Martin Luther, 1523)
- Institutes of Christian Religion (John Calvin, 1540)
- A Short Treatise on Political Power (John Ponet, 1556)
- The English Bill of Rights (1689)
- Blackstone’s Commentaries on the Laws of England (mid 1700s)

American authors started using these documents to produce their own writings on what they thought government should look like. Men like Benjamin Franklin and Thomas Paine challenged the idea of English authority over the colonists in newspaper articles, pamphlets, and books. Alexander Hamilton, James Madison, and John Jay wrote *The Federalist Papers*, a collection of essays promoting the draft text of the U.S. Constitution.

Classroom Exercise: Use STUDENT HANDOUT #2 (Excerpts of Magna Carta, the English Bill of Rights, and U.S. Bill of Rights). Have students read the included excerpts and identify specific rights included in the three different documents. Discuss the following questions:

- Which rights in the U.S. Bill of Rights are taken directly from either Magna Carta or the English Bill of Rights?
- Are these rights still relevant to today’s issues? (Encourage the students to consider how ideas and concepts of “rights” have changed over time).

### **C. Putting it into Practice (15 minutes)**

By now it should be obvious that the Declaration of Independence, the U.S. Constitution, and the U.S. Bill of Rights were all very strongly influenced by foreign political theories and documents. When the Founding Fathers created our governmental system, they looked at the rest of the world and picked what seemed to work best, wherever it came from. But creating a system of government from bits and pieces of other countries' theories and practices is a difficult task.

Classroom Exercise: Divide students up into groups of three or four. Have each group tackle the following assignment.

“You are the representatives of a new country, just given its independence, and your job is to write the Bill of Rights for your country’s constitution. But, because not everyone in your country agrees on every issue, you only have enough political power to get five individual rights entered into the constitution. And something like the First Amendment of the U.S. Bill of Rights is too complex to get approved. Each entry in your Bill of Rights can contain only one right. Which rights would you include? They can be rights from the documents we have studied in class, or other types of rights you think are important. Write out a list of the rights you have included and rank them from one to five.”

Students should be encouraged to discuss and debate which rights should be included among themselves. Part of the goal of the exercise is to teach students that each individual has their own idea of which rights are “very” important and those ideas might be different depending on their own history and experiences.

## **Lesson I Resources:**

### **Web-based Resources:**

- The Avalon Project by Yale Law School has a comprehensive listing of legal, historical, and diplomatic documents online. Most of the documents referred to in this section can be found in their entirety there. <http://avalon.law.yale.edu/default.asp>
- The National Archives has an excellent online collection of materials about the Founding Fathers.  
[http://www.archives.gov/exhibits/charters/constitution\\_founding\\_fathers.html](http://www.archives.gov/exhibits/charters/constitution_founding_fathers.html)
- Constitution.org has a very large listing of documents that were commonly read and used by early American colonists.  
<http://www.constitution.org/primarysources/primarysources.html>

### **Video Resources:**

- Discovery Education (subscription required) has a wealth of information on political thinkers important to early Americans, the creation of America's founding documents, and other early American political and constitutional history. They also have a five part series specifically addressing the Age of Enlightenment.  
[www.unitedstreaming.com](http://www.unitedstreaming.com)
- Learner.org has a free video and teacher's resources available online addressing Thomas Paine and his pamphlet *Common Sense*.  
<http://www.learner.org/workshops/primarysources/revolution/introduction.html>

## Lesson II: The U.S. Constitution and International Law

The mechanisms of separation of powers and checks and balances divide the ability to engage in foreign relations between the three branches of government. The President engages in diplomatic relations and negotiations over treaties. The Senate provides “advice and consent” on treaties that the President has submitted, Congress as a whole can enact national legislation to carry out the treaty, and the Supreme Court provides interpretation of American legislation related to treaties when there is a disagreement. In this lesson, students will learn the system by which treaties are approved and implemented in the United States and how the very current issues of international law’s application to the average American are handled by all three branches of government.

### A. Setting the Stage (10 minutes)

Have the following text available for students to read at the start of the class:

Article II, Section 2: “He [the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur.”

Article VI: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

The President of the United States is our official representative to the rest of the world. In that capacity, he or she has the power to negotiate agreements with foreign countries. When those agreements are written down and put into the form of a law, we call them treaties. Treaties require two steps to become valid. They must be signed and they must be “ratified” or approved by the government of the country that is joining the treaty. Under the authority of Article II, Section 2 of the U.S. Constitution, the President can sign a treaty without anyone else’s input. But because the Constitution uses the principle of checks and balances to limit each branch of government’s power, the President cannot ratify a treaty before he or she presents it to the Senate and ask for their “advice and consent.” If two-thirds of the Senate approve of the treaty, then the President may, but is not required to, ratify it on behalf of the United States.

Article VI is called the “Supremacy Clause.” It was a very important part of the Constitution that gave the Federal Government the authority to enforce its own laws above the laws of the individual states. It also indicates the priority of laws in the United States. Under Article VI, the Constitution, the laws of the United States, and all treaties America joins are considered “the supreme Law of the Land.” Thus, treaties that are signed by the President, approved by the Senate, and ratified in front of the international community are part of our legal system.

Classroom Discussion: What happens if a state dislikes a treaty to which the government has become party? Can they stop it in any way? [The short answer is no. The only way to change it is to change the law or elect a president who would withdraw from the treaty]. Is this fair?

## **B. Treaties and Executive Agreements (15 minutes)**

Reading Assignment: Have the students read the ASIL Insight “International Agreements and U.S. Law,” available online at <http://www.asil.org/insigh10.cfm> and in STUDENT HANDOUT #3.

Not every international negotiation results in a treaty. Sometimes the President needs to be able to make decisions about our relationships with other countries very quickly. In other cases, the Constitution has been interpreted to give the President power of specific areas of authority, like the use of military force or entering or leaving diplomatic relationships. Over time, these issues have created some exceptions that the President can use to create a binding international agreement without actually having to submit the text to the Senate for advice and consent. There are two specific exceptions we will look at: the “Sole Executive” agreement and the “Congressional-Executive agreement.”

Congressional-Executive agreements are just like treaties, except that a majority of both houses of Congress have consented to the text, rather than just two-thirds of the Senate. Most experts agree that a Congressional-Executive agreement can be used whenever a formal treaty would have been, so long as the President can get approval from a majority of both houses of Congress. There is no way for the Senate to demand that the agreement be submitted as a formal treaty instead, unless it is willing to vote against the Congressional-Executive agreement and indicate to the President that they would be willing to approve it as a treaty instead. Congressional-Executive agreements are often used for issues that impact areas best dealt with by both houses of Congress, rather than just the Senate.

Sole-Executive agreements are decisions made by the President alone, without any input at all from the legislative branch. This is a very controversial area of international agreements. Presidents like to have this authority, because it lets them bypass Congress and move quickly when they need to. Congress doesn't like it because it keeps them from limiting the President's power. Some power to make Sole-Executive agreements is acknowledged by everyone. For example, when U.S. military members are conducting operations in another nation, the President can enter into what is called a Status of Forces Agreement without Congressional approval. The agreement regulates where troops will be housed, how food will be brought in, and what laws will apply to troops while they are in a foreign country. But there is a limit to Sole-Executive Agreements, and Congress and multiple presidents have fought over where that line is.

### **C. Making it Work (20 minutes)**

Just because a treaty has been ratified does not mean it automatically applies to every individual, government agency, or state in America or can be enforced in our courts. Treaties must be “implemented” before they can be applied in American law. Implementation can take one of two forms. If the U.S. Congress passes a law which takes the text of the treaty and applies it directly to its intended target (individuals, companies, the government, etc.), then the treaty has been implemented through domestic legislation. Basically, Congress has adopted the treaty’s text as its own law. Some treaties, however, are so clearly intended to automatically apply to their intended targets that they are called “self-executing.” These treaties are automatically applied as the law of the United States by U.S. courts. There is commonly significant debate over whether a treaty is specific enough to be self-executing.

Once a treaty has been adopted and implemented, it becomes the “supreme law of the land” and is enforced just like any other law would be. If there is a dispute about how to apply that law, or if there is a question about whether a treaty is self-executing or not, the individuals or organizations impacted by the conflict can submit it to the judicial system for a federal court to review.

Reading Assignment: STUDENT HANDOUT #4 (Case Summary of *Medellín v. Texas*)

Classroom Exercise: Divide the students into two groups. One group will be required to present to the class on why they believe the *Medellín* case was decided correctly while the other provides the opposite view. Encourage discussion among the students as to how they would have changed the result.

## **Lesson II Resources:**

### **Web-based Resources:**

- U.S. Department of State <http://www.state.gov/s/l/treaty/faqs/70133.htm>; United States Senate <http://www.senate.gov/artandhistory/history/common/briefing/Treaties.htm>.
- “International Agreements and U.S. Law,” American Society of International Law, available online at <http://www.asil.org/insigh10.cfm>

### **Video Resources:**

- A School House Rock video on the checks and balances is available for a general discussion of the separation of powers. Have the students connect the general themes to treaty making process. <http://www.youtube.com/watch?v=tEPd98CbbMk>
- ASIL has a video interview with Donald Donovan, legal representative of Jose Medellin and the government of Mexico in *Medellin v. Texas* and *Avena*, discussing the history of the cases and the application of the ICJ judgment in *Avena* to the *Medellin* case. The video is available online at [www.youtube.com/watch?v=hAVrBpKskoU](http://www.youtube.com/watch?v=hAVrBpKskoU).

## STUDENT HANDOUT #1-1 Age of Enlightenment Philosophers

### John Locke (1632-1704)

One of the most influential thinkers of the Enlightenment and a father of modern liberal theory who influenced the principles behind the American Declaration of Independence, Locke was an English philosopher and scientist.

*The Second Treatise on Government (1690)*

Chapter 12: The Legislative, Executive, and Federative Power of the Commonwealth

...

143. The legislative power is that which has a right to direct how the force of the commonwealth shall be employed for preserving the community and the members of it. Because those laws which are constantly to be executed, and whose force is always to continue, may be made in a little time, therefore there is no need that the legislative should be always in being, not having always business to do. And because it may be too great temptation to human frailty, apt to grasp at power, for the same persons who have the power of making laws to have also in their hands the power to execute them, whereby they may exempt themselves from obedience to the laws they make, and suit the law, both in its making and execution, to their own private advantage, and thereby come to have a distinct interest from the rest of the community, contrary to the end of society and government. Therefore in well-ordered commonwealths, where the good of the whole is so considered as it ought, the legislative power is put into the hands of divers [sic] persons who, duly assembled, have by themselves, or jointly with others, a power to make laws, which when they have done, being separated again, they are themselves subject to the laws they have made; which is a new and near tie upon them to take care that they make them for the public good.

144. But because the laws that are at once, and in a short time made, have a constant and lasting force, and need a perpetual execution, or an attendance thereunto, therefore it is necessary there should be a power always in being which should see to the execution of the laws that are made, and remain in force. And thus the legislative and executive power come often to be separated.

## **STUDENT HANDOUT #1-2**

### **Age of Enlightenment Philosophers**

#### **Jean Jacques Rousseau (1712-1778)**

A philosopher, political theorist, writer, and composer from Geneva, Rousseau's political philosophy influenced the French Revolution and continues to serve as a foundation for modern political thought.

##### *The Social Contract (1762)*

Laws are, properly speaking, only the conditions of civil association. The people, being subject to the laws, ought to be their author: the conditions of the society ought to be regulated solely by those who come together to form it. But how are they to regulate them? Is it to be by common agreement, by a sudden inspiration? Has the body politic an organ to declare its will? Who can give it the foresight to formulate and announce its acts in advance? Or how is it to announce them in the hour of need? How can a blind multitude, which often does not know what it wills, because it rarely knows what is good for it, carry out for itself so great and difficult an enterprise as a system of legislation? Of itself the people wills always the good, but of itself it by no means always sees it. The general will is always in the right, but the judgment which guides it is not always enlightened. It must be got to see objects as they are, and sometimes as they ought to appear to it; it must be shown the good road it is in search of, secured from the seductive influences of individual wills, taught to see times and spaces as a series, and made to weigh the attractions of present and sensible advantages against the danger of distant and hidden evils. The individuals see the good they reject; the public wills the good it does not see. All stand equally in need of guidance. The former must be compelled to bring their wills into conformity with their reason; the latter must be taught to know what it wills. If that is done, public enlightenment leads to the union of understanding and will in the social body: the parts are made to work exactly together, and the whole is raised to its highest power. This makes a legislator necessary...

As nature has set bounds to the stature of a well-made man, and, outside those limits, takes nothing but giants or dwarfs, similarly, for the constitution of a State to be at its best, it is possible to fix limits that will make it neither too large for good government, nor too small for self-maintenance. In every body politic there is a maximum strength which it cannot exceed and which it only loses by increasing in size. Every extension of the social tie means its relaxation; and, generally speaking, a small State is stronger in proportion than a great one.

A thousand arguments could be advanced in favour of this principle. First, long distances make administration more difficult, just as a weight becomes heavier at the end of a longer lever. Administration therefore becomes more and more burdensome as the distance grows greater; for, in the first place, each city has its own, which is paid for by the people: each district its own, still paid for by the people: then comes each province, and then the great governments, satrapies, and vice-royalties, always costing more the higher you go, and always at the expense of the unfortunate people. Last of all comes the supreme administration, which eclipses all the rest. All these over charges are a continual drain upon the subjects; so far from being better governed by all these different orders, they are worse governed than if there were only a single authority over

them. In the meantime, there scarce remain resources enough to meet emergencies; and, when recourse must be had to these, the State is always on the eve of destruction.

This is not all; not only has the government less vigour and promptitude for securing the observance of the laws, preventing nuisances, correcting abuses, and guarding against seditious undertakings begun in distant places; the people has less affection for its rulers, whom it never sees, for its country, which, to its eyes, seems like the world, and for its fellow-citizens, most of whom are unknown to it. The same laws cannot suit so many diverse provinces with different customs, situated in the most various climates, and incapable of enduring a uniform government. Different laws lead only to trouble and confusion among peoples which, living under the same rulers and in constant communication one with another, intermingle and intermarry, and, coming under the sway of new customs, never know if they can call their very patrimony their own. Talent is buried, virtue unknown and vice unpunished, among such a multitude of men who do not know one another, gathered together in one place at the seat of the central administration. The leaders, overwhelmed with business, see nothing for themselves; the State is governed by clerks. Finally, the measures which have to be taken to maintain the general authority, which all these distant officials wish to escape or to impose upon, absorb all the energy of the public, so that there is none left for the happiness of the people. There is hardly enough to defend it when need arises, and thus a body which is too big for its constitution gives way and falls crushed under its own weight.

## **STUDENT HANDOUT #1-3**

### **Age of Enlightenment Philosophers**

#### **Charles-Louis De Secondat (Montesquieu) (1689-1755)**

A French political theorist whose framing of the principle of the separation of powers influenced modern constitutional governments around the world, including the United States.

*The Spirit of the Laws (1748)*

Book XI, Chapter 6: Of the Constitution of England

In every government there are three sorts of power: the legislative; the executive in respect to things dependent on the law of nations; and the executive in regard to matters that depend on the civil law.

By virtue of the first, the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies, establishes the public security, and provides against invasions. By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the subject is a tranquility of mind arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression.

There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.

Most kingdoms in Europe enjoy a moderate government because the prince who is invested with the two first powers leaves the third to his subjects. In Turkey, where these three powers are united in the Sultan's person, the subjects groan under the most dreadful oppression.

In the republics of Italy, where these three powers are united, there is less liberty than in our monarchies. Hence their government is obliged to have recourse to as violent methods for its support as even that of the Turks; witness the state inquisitors, and the lion's mouth into which every informer may at all hours throw his written accusations.

In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of

legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions.

The whole power is here united in one body; and though there is no external pomp that indicates a despotic sway, yet the people feel the effects of it every moment.

Hence it is that many of the princes of Europe, whose aim has been levelled at arbitrary power, have constantly set out with uniting in their own persons all the branches of magistracy, and all the great offices of state....

The judiciary power ought not to be given to a standing senate; it should be exercised by persons taken from the body of the people at certain times of the year, and consistently with a form and manner prescribed by law, in order to erect a tribunal that should last only so long as necessity requires....

But though the tribunals ought not to be fixed, the judgments ought; and to such a degree as to be ever conformable to the letter of the law. Were they to be the private opinion of the judge, people would then live in society, without exactly knowing the nature of their obligations.

The judges ought likewise to be of the same rank as the accused, or, in other words, his peers; to the end that he may not imagine he is fallen into the hands of persons inclined to treat him with rigour.

If the legislature leaves the executive power in possession of a right to imprison those subjects who can give security for their good behaviour, there is an end of liberty; unless they are taken up, in order to answer without delay to a capital crime, in which case they are really free, being subject only to the power of the law.

But should the legislature think itself in danger by some secret conspiracy against the state, or by a correspondence with a foreign enemy, it might authorise the executive power, for a short and limited time, to imprison suspected persons, who in that case would lose their liberty only for a while, to preserve it for ever....

As in a country of liberty, every man who is supposed a free agent ought to be his own governor; the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniences, it is fit the people should transact by their representatives what they cannot transact by themselves.

The inhabitants of a particular town are much better acquainted with its wants and interests than with those of other places; and are better judges of the capacity of their neighbours than of that of the rest of their countrymen. The members, therefore, of the legislature should not be chosen from the general body of the nation; but it is proper that in every considerable place a representative should be elected by the inhabitants.

## **STUDENT HANDOUT #2-1**

### **Excerpts from:**

### **Magna Carta (1215)**

...

24. No sheriff, constable, coroners, or other royal officials are to hold lawsuits that should be held by the royal justices.

...

30. No sheriff, royal official, or other person shall take horses or carts for transport from any free man, without his consent.

31. Neither [the king] nor any royal official will take wood for [his] castle, or for any other purpose, without the consent of the owner.

32. [The King] will not keep the lands of people convicted of felony in [the treasury] for longer than a year and a day ...

...

38. In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

39. No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will [the king] proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

40. To no one will [the king] sell, to no one deny or delay right or justice.

...

45. [The king] will appoint as justices, constables, sheriffs, or other officials, only men that know the law of the realm and are minded to keep it well.

**STUDENT HANDOUT #2-2**  
**Excerpts from:**

**English Bill of Rights (1689)**

[B]eing now assembled in a full and free representative of this nation ...do .. their ancient rights and liberties declare:

That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal;

That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law;

That the subjects which are Protestants may have arms for their defense suitable to their conditions and as allowed by law;

That election of members of Parliament ought to be free;

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament;

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted;

That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders;

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void;

And that for redress of all grievances, and for the amending, strengthening and preserving of the laws, Parliaments ought to be held frequently.

**STUDENT HANDOUT #2-3**  
**Excerpts from:**

**U.S. Bill of Rights**

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT II

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

...

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**STUDENT HANDOUT #3**  
**ASIL Insight: International Agreements and U.S. Law**  
(see generally <http://www.asil.org/insights>)

By Frederic L. Kirgis  
May 1997

There is confusion in the media and elsewhere about United States law as it relates to international agreements, including treaties. The confusion exists with respect to such matters as whether "treaty" has the same meaning in international law and in the domestic law of the United States, how treaties are ratified, how the power to enter into international agreements is allocated among the Executive Branch, the Senate and the whole Congress, whether Congress may override an existing treaty, and the extent to which international agreements are enforceable in United States courts.

Under international law a "treaty" is any international agreement concluded between states or other entities with international personality (such as public international organizations), if the agreement is intended to have international legal effect. The Vienna Convention on the Law of Treaties sets out an elaborate set of international law standards for treaties broadly defined.

"Treaty" has a much more restricted meaning under the constitutional law of the United States. It is an international agreement that has received the "advice and consent" (in practice, just the consent) of two-thirds of the Senate and that has been ratified by the President. The Senate does not ratify treaties. When the Senate gives its consent, the President--acting as the chief diplomat of the United States--has discretion whether or not to ratify the instrument. Through the course of U. S. history, several instruments that have received the Senate's consent have nonetheless remained unratified. Those instruments are not in force for the United States, despite the Senate's consent to them.

Not all international agreements negotiated by the United States are submitted to the Senate for its consent. Sometimes the Executive Branch negotiates an agreement that is intended to be binding only if sent to the Senate, but the President for political reasons decides not to seek its consent. Often, however, the Executive Branch negotiates agreements that are intended to be binding without the consent of two-thirds of the Senate. Sometimes these agreements are entered into with the concurrence of a simple majority of both houses of Congress ("Congressional-Executive agreements"); in these cases the concurrence may be given either before or after the Executive Branch negotiates the agreement. On other occasions the President simply enters into an agreement without the intended or actual participation of either house of Congress (a "Presidential," or "Sole Executive" agreement). The extent of the President's authority to enter into Sole Executive agreements is controversial, as will be noted below.

Although some Senators have at times taken the position that certain important international agreements must be submitted as treaties for the Senate's advice and consent, the prevailing view is that a Congressional-Executive agreement may be used whenever a treaty could be. This is the position taken in the American Law Institute's Restatement Third of Foreign

Relations Law of the United States, § 303, Comment e. Under the prevailing view, the converse is true as well: a treaty may be used whenever a Congressional-Executive agreement could be.

The President's authority to enter into Sole Executive agreements, however, is thought not to be so broad. Clearly, the President has some authority to do so in his capacities as commander in chief of the armed forces and as "chief diplomat." Thus, armistice agreements and certain agreements incidental to the operation of foreign embassies in the United States could be done as Sole Executive Agreements. The agreement-making scope of these two sources of Presidential authority is nevertheless somewhat vague.

Congress has attempted to curb the President's claimed authority as commander in chief to commit U. S. armed forces to positions of peril by adopted the well-known War Powers Joint Resolution in 1973, over a presidential veto. The War Powers Resolution in practice has had the effect of inducing Presidents to consult with, and report to, Congress when U. S. armed forces are used in combat situations, but it has not significantly limited the President's practical power to commit the United States to use military force.

Presidents have sometimes asserted agreement-making authority stemming directly from the basic constitutional grant to the President of executive power. If this grant includes some authority to enter into Sole Executive agreements independently from more specific grants of presidential power, it would be difficult to ascertain what limits, short of those imposed on the government itself by the Bill of Rights, there might be to it. For this reason, many members of Congress and others have disputed any claim by a President to base agreement-making authority solely on the grant of executive power.

At one time there was some doubt whether a treaty (adopted with the consent of two-thirds of the Senate) must comply with the Bill of Rights, and the Supreme Court has yet to hold a treaty unconstitutional. Nevertheless, there is very little doubt that the Court would do so today if a treaty clearly violated the Bill of Rights. Even more certainly, it would hold unconstitutional a Congressional-Executive agreement or a Sole Executive agreement that is inconsistent with the Bill of Rights.

As a matter of domestic law within the United States, Congress may override a pre-existing treaty or Congressional-Executive agreement of the United States. To do so, however, would place the United States in breach of the obligation owed under international law to its treaty partner(s) to honor the treaty or agreement in good faith. Consequently, courts in the United States are disinclined to find that Congress has actually intended to override a treaty or other internationally binding obligation. Instead, they struggle to interpret the Congressional act and/or the international instrument in such a way as to reconcile the two.

Provisions in treaties and other international agreements are given effect as law in domestic courts of the United States only if they are "self-executing" or if they have been implemented by an act (such as an act of Congress) having the effect of federal law. Courts in this country have been reluctant to find such provisions self-executing, but on several occasions they have found them so--sometimes simply by giving direct effect to the provisions without expressly saying that they are self-executing. There are varying formulations as to what tends to

make a treaty provision self-executing or non-self-executing, but within constitutional constraints (such as the requirement that appropriations of money originate in the House of Representatives) the primary consideration is the intent--or lack thereof--that the provision become effective as judicially-enforceable domestic law without implementing legislation. For the most part, the more specific the provision is and the more it reads like an act of Congress, the more likely it is to be treated as self-executing. A provision in an international agreement may be self-executing in U. S. law even though it would not be so in the law of the other party or parties to the agreement. Moreover, some provisions in an agreement might be self-executing while others in the same agreement are not.

All treaties are the law of the land, but only a self-executing treaty would prevail in a domestic court over a prior, inconsistent act of Congress. A non-self-executing treaty could not supersede a prior inconsistent act of Congress in a U. S. court. A non-self-executing treaty nevertheless would be the supreme law of the land in the sense that--as long as the treaty is consistent with the Bill of Rights--the President could not constitutionally ignore or contravene it.

Even if a treaty or other international agreement is non-self-executing, it may have an indirect effect in U. S. courts. The courts' practice, mentioned above, of interpreting acts of Congress as consistent with earlier international agreements applies to earlier non-self-executing agreements as well as to self-executing ones, since in either case the agreement is binding internationally and courts are slow to place the United States in breach of its international obligations. In addition, if state or local law is inconsistent with an international agreement of the United States, the courts will not allow the law to stand. The reason, if the international agreement is a self-executing treaty, is that such a treaty has the same effect in domestic courts as an act of Congress and therefore directly supersedes any inconsistent state or local law. If the international agreement is a non-self-executing treaty, it would not supersede inconsistent state or local law in the same way a federal statute would, but the courts nevertheless would not permit a state of the union to force the United States to breach its international obligation to other countries under the agreement. The state or local law would be struck down as an interference with the federal government's power over foreign affairs.

To summarize: the Senate does not ratify treaties; the President does. Treaties, in the U.S. sense, are not the only type of binding international agreement. Congressional-Executive agreements and Sole Executive agreements may also be binding. It is generally understood that treaties and Congressional-Executive agreements are interchangeable; Sole Executive agreements occupy a more limited space constitutionally and are linked primarily if not exclusively to the President's powers as commander in chief and head diplomat. Treaties and other international agreements are subject to the Bill of Rights. Congress may supersede a prior inconsistent treaty or Congressional-Executive agreement as a matter of U. S. law, but not as a matter of international law. Courts in the United States use their powers of interpretation to try not to let Congress place the United States in violation of its international law obligations. A self-executing treaty provision is the supreme law of the land in the same sense as a federal statute that is judicially enforceable by private parties. Even a non-self-executing provision of an international agreement represents an international obligation that courts are very much inclined to protect against encroachment by local, state or federal law.

**STUDENT HANDOUT #4**  
**Case Summary**  
***Medellín v. Texas* (U.S. 2008)**

**RELEVANT LAW**

Treaties are legally binding agreements between two or more countries. They are one of the most important kinds of international law. To understand the Medellín case, you need to know about two treaties to which the United States is a party. One is the Vienna Convention on Consular Relations, which the United States joined in 1969. Article 36 of the Vienna Convention gives a citizen of one country that is arrested and detained in another country the right to request that his country's consulate be notified of his detention, and it requires the country where he is detained to inform him of this right "without delay." So if a U.S. citizen was arrested while visiting Mexico, they have the right to seek assistance from the U.S. government. An Optional Protocol to the Vienna Convention allows disputes about the interpretation or application of the Vienna Convention to be brought before the International Court of Justice (the "ICJ" or "World Court" in The Hague, the Netherlands). The other relevant treaty is the Charter of the United Nations. Article 94 of the Charter says that each member of the United Nations, such as the United States, "undertakes to comply with the decision of the International Court of Justice in any case to which it is a party."

To understand the Medellín case, you also need to understand the "procedural default rule" that exists in the state of Texas. Texas's procedural default rule requires a criminal defendant to make any objections he or she may have during his or her trial. If the defendant fails to make a particular objection at trial, he or she is not allowed to make that objection later. Finally, you should know what a writ of habeas corpus is. A writ of habeas corpus is a court order commanding the government to explain why it is holding a person in custody. When a person being detained by the government files an application for a writ of habeas corpus, that person is asking the court to decide whether his or her detention is lawful.

**FACTS**

On June 24, 1993, two teenage girls were raped and murdered in Houston, Texas. Several days later, local law enforcement officers arrested José Ernesto Medellín, a citizen of Mexico who was 18 years old at the time, as a suspect in these crimes. The officers did not inform Medellín that the Vienna Convention gave him the right to have the Mexican consulate notified of his arrest. In 1994, José Ernesto Medellín was tried in a Texas court, convicted of murder, and sentenced to death. In 1997, the Texas Criminal Court of Appeals affirmed the conviction and sentence.

Medellín then filed an application for a writ of habeas corpus in a Texas state court. For the first time, he claimed that law enforcement officers had violated his rights under the Vienna Convention by failing to inform him of his right to contact his country's consulate. The court rejected the claim, reasoning that it was barred by the procedural default rule because he had failed to make the claim during his trial. The court denied Medellín's application in 2001. Medellín then filed another application for a writ of habeas corpus in a federal court, but in 2003 that court also denied his application. Meanwhile, Mexico had sued the United States in the International Court of Justice (the "ICJ"), asking the ICJ to rule that the United States had

violated the Vienna Convention by failing to inform Medellín and other Mexican citizens convicted of crimes in the United States of their rights under the Vienna Convention. In 2004, the ICJ issued its judgment. It ruled that the United States did violate the Vienna Convention, and it decided that the United States was obligated “to provide, by means of its own choosing, review and reconsideration of the convictions and sentences” of Medellín and other affected Mexican citizens—regardless of any procedural default rules.

President Bush decided that the United States should abide by the ICJ’s judgment. On February 28, 2005, he wrote a memorandum to the United States Attorney General stating that “the United States will discharge its international obligations under the decision of the International Court of Justice ... by having State courts give effect to the decision.” Relying on the ICJ’s decision and the President’s memorandum, Medellín filed another application for a writ of habeas corpus with the Texas Court of Criminal Appeals. On November 15, 2006, the court denied his request. Medellín then appealed the decision to the U.S. Supreme Court.

#### THE SUPREME COURT’S DECISION

The U.S. Supreme Court agreed with Medellín and President Bush that the ICJ judgment was binding on the United States, but this did not resolve the question of whether that binding decision could be enforced in U.S. courts as a matter of U.S. law. In considering this latter question, the U.S. Supreme Court faced two issues: First, is the ICJ’s decision directly enforceable as domestic law in a state court in the United States? Second, did the President’s memorandum require Texas to review and reconsider Medellín’s conviction and sentence regardless of Texas’s procedural default rule? The Optional Protocol of one treaty of the United States, the Vienna Convention, gave the ICJ the authority to decide disputes about the Vienna Convention; and another treaty of the United States, the United Nations Charter, requires the United States, as a member of the United Nations, to “undertake to comply with the decision of the International Court of Justice in any case to which it is a party.” For these reasons, Medellín argued that the ICJ’s decision was a binding rule of federal law that state and federal courts of the United States must follow, and that it should overrule any contrary state law.

But the Supreme Court noted that not all treaties of the United States necessarily have the effect of domestic law under the Supremacy Clause. There are two types of treaties. A “self-executing treaty” is a treaty that is automatically enforceable in U.S. courts and approved by the U.S. Senate with that understanding. A “non-self-executing treaty,” in contrast, is only enforceable in U.S. courts if Congress enacts implementing legislation making it enforceable. The Supreme Court decided that the Optional Protocol and Article 94 of the United Nations Charter are both non-self-executing, and it noted that Congress had not enacted implementing legislation for either of them. Therefore, the Supreme Court rejected Medellín’s argument: “Because none of these treaty sources creates binding federal law in the absence of implementing legislation, and because it is uncontested that no such legislation exists, we conclude that the [ICJ’s] decision is not automatically binding domestic law.”

Medellín also argued that the ICJ’s judgment was binding on state courts because of the President’s memorandum. The Bush administration agreed, arguing that “while the [ICJ’s] judgment does not of its own force require domestic courts to set aside ordinary rules of procedural default, that judgment became the law of the land with precisely that effect pursuant

to the President's Memorandum and his power to establish binding rules of decision that preempt contrary state law." However, the Supreme Court rejected that argument. It held that the "President has an array of political and diplomatic means available to enforce international obligations, but unilaterally converting a non-self-executing treaty into a self-executing one is not among them. The responsibility for transforming an international obligation arising from a non-self-executing treaty into domestic law falls with Congress." The Supreme Court decided that the treaties, and therefore the ICJ's judgment, are not binding law in the state courts of the United States.

For these reasons, the Supreme Court affirmed the Texas Court of Criminal Appeal's earlier decision. On Tuesday, August 5, 2008, the state of Texas executed Medellín.

## Glossary of Terms

**Congressional-Executive Agreements:** An international agreement between the United States and another country that is entered into with the concurrence of a simple majority of both houses of Congress, without the need for the official “advice and consent” step before the Senate.

**Consulate:** An office representing one government in the territory of another state in order to assist their own citizens and facilitate trade and commerce.

**Due Process:** Guarantee of justice and fairness usually through access to established process prior to the governmental deprivation of a right, e.g., an opportunity to be heard by an independent and impartial judge before imprisonment for a crime.

**Federalism:** The vertical division of governmental authority between the central (federal) government and smaller units (states).

**Judicial Review:** The actions of the legislature and the executive are subject to review by the courts to ensure consistency with the Constitution.

**Natural Rights:** The idea of universal rights not contingent on the laws of any state or government.

**Negative Right:** The right to be free from outside interference; freedom from being stopped or held from exercising your rights.

**Positive Right:** The obligation of an outside source, perhaps another person or the state, to take action on your behalf.

**Procedural Rights:** Rules followed by the courts that provide consistent and fair methods of determining and applying the substantive law.

**Self-Executing Treaty:** A treaty that does not need national legislation to be enforceable in the courts.

**Separation of Powers:** A model of governance where the authority of the government is divided between different branches—usually the executive, legislative, and judicial—so no single office or institution has all the power.

**Sole Executive Agreements:** An international agreement between the United States and another country that is reached by the Executive branch alone, without advice and consent of the Senate or other Congressional approval.

**Substantive Rights:** The scope and content of a right possessed by the individual.

**Treaty:** A legally binding agreement between two or more countries. In the United States it must be with the advice and consent of the U.S. Senate.

## Frequently Asked Questions by Students

1. Does the Bill of Rights limit the number of rights we have?

*The Bill of Rights, or the first ten amendments to the Constitution, expressly guarantee certain fundamental rights but do not eliminate others. In fact, the IX Amendment says “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” Rights not named in the Bill of Rights can be protected by State Constitutions, Statutes, court decisions, etc.*

2. What is the International Court of Justice?

*The International Court of Justice (ICJ), sometimes referred to as “The World Court” is the main judicial body of the United Nations. It serves the purpose of settling disputes between countries. Only countries and not individuals can bring a case before the ICJ. It sits in the city of The Hague, the Netherlands, at the Peace Palace, donated by American industrialist Andrew Carnegie.*

3. Does the United States belong to the International Court of Justice?

*The United States, as a member of the UN, is party to the ICJ statute but the Court can only hear cases involving a dispute between the United States and another country when both countries agree to submit their dispute to the ICJ or when the ICJ is specifically named as the body for settling disputes in a specific treaty to which the United States is a party.*

4. Why would we care what the ICJ says?

*This question lends itself to a good class discussion rather than a simple answer. Bring up the importance of global participation or have the students discuss whether the fact the United States has promised to heed this Court in certain circumstances should matter. As the cases the ICJ hears are between states, it can be an important mechanism for peaceful and legal settlement of disputes that may in the past have led to war. The U.S. has and can resort to the Court to resolve disputes it has with other countries.*

5. Do we have to follow rulings of this court? What authority does it have?

*As a member of the United Nations we have agreed to comply with the rulings of the ICJ. If any member state refuses, the matter can be brought before the United Nations Security Council. The Security Council can authorize various methods of enforcing the decision. However, any of the permanent members of the Security Council, including the United States, can veto enforcement actions. This question is a good basis for a discussion of different kinds of authority, legal, military, political, and moral.*

6. Have any Americans been tried by the International Court of Justice?

*The ICJ does not try individuals, only countries can be parties to a case before the Court. The United States has been a party to a number of cases. Perhaps the students can research the cases before the ICJ involving the United States by going to this website: <http://www.icj-cij.org/docket/index.php?p1=3&p2=2>. The International Criminal Court (ICC) is the permanent international court with the power to try individuals for genocide, war crimes, and/or crimes against humanity. Only nations that have signed and ratified the Rome Statute are subject to the jurisdiction of the ICC. The United States has not ratified the Rome Statute.*

7. How do you know if a treaty is self-executing?

*In some cases the treaty will say that states must enact domestic legislation to give effect to the treaty, in which case it is clearly not a self-executing treaty. In other cases, the language indicates that the treaty is directly incorporated into national law. This question is often debated by experts in international law, so there is no simple answer.*

## Class Trivia/ Quiz

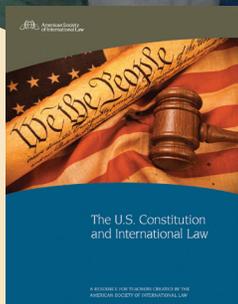
1. Which of the following are structural limits on the government's power?
  - a. Individual liberties
  - b. Separation of Powers
  - c. Supremacy Clause
  - d. Both (a) & (b)
  - e. Both (b) & (c)
  
2. Which of the following did not influence the United States Constitution?
  - a. Magna Carta
  - b. Declaration of the Rights of Man and Citizen
  - c. Universal Declaration of Human Rights
  - d. Articles of Confederation
  
3. Which Amendment to the Constitution requires probable cause for a warrant?
  - a. IV
  - b. V
  - c. VI
  - d. None of the above
  
4. Which Amendment to the Constitution guarantees a speedy trial? \_\_\_\_\_
  
5. (T/F) If an individual right is not listed in the Bill of Rights, it is not protected.
  
6. (T/F) The prohibition against cruel and unusual punishment is a uniquely American addition to individual rights.
  
7. Cesare Beccaria described the aims of the criminal justice system as:
  - a. Punishment
  - b. Revenge
  - c. Deterrence
  - d. Retribution
  
8. Congressional-Executive agreements are:
  - a. Treaties
  - b. Approved by two thirds of the Senate
  - c. Approved by a majority of the House of Representatives
  - d. All of the above
  
9. A Status of Forces Agreement is an example of: \_\_\_\_\_

10. A Self-Executing treaty:
- Is implemented through Congressional action
  - Provides clear rights and obligations that are automatically effective as a matter of domestic law
  - Does not require consent of the Senate
  - Enhances executive power
11. The *Medellin* case involved which treaty?
- Vienna Convention on Consular Relations
  - Charter of the United Nations
  - Universal Declaration of Human Rights
  - All of the above
  - Both (a) & (b)
  - Both (a) & (c)
12. A treaty is:
- Signed by the President
  - Approved by both houses of Congress
  - Automatically enforceable law
  - All of the above
13. Jose Medellin was not a party before which court?
- Texas Criminal Court
  - International Court of Justice
  - United States Supreme Court
  - He was a party before all of the above courts
14. Medellin argued his rights were denied because he was:
- Innocent
  - Not informed of his right to notify his consulate
  - Sentenced to death
  - Refused access to the Mexican consulate
15. (T/F) President Bush issued an order to ignore the ruling of the ICJ.
16. The Supremacy Clause says:
- United States law is the supreme over international law
  - State law is supreme in criminal cases
  - The Constitution and treaties signed pursuant thereof are the supreme law of the land
  - International law can never be applied in United States courts
17. The Supreme Court answered what two questions in the *Medellin* case? And what were the answers?
- \_\_\_\_\_
  - \_\_\_\_\_

## Class Trivia/ Quiz: The Answers

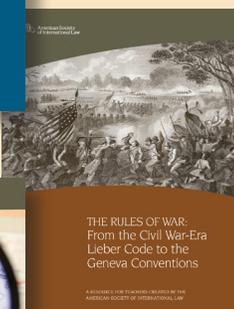
1. e
2. c
3. a
4. VII
5. False
6. False
7. c
8. c
9. Sole-Executive agreement
10. b
11. e
12. d
13. b
14. b
15. False
16. c
17.
  - i. Are ICJ decisions directly enforceable in US courts? NO
  - ii. Were the Texas courts required to follow the President's directive that they implement the ICJ's decision? NO

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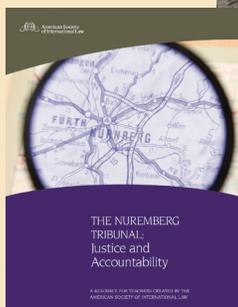
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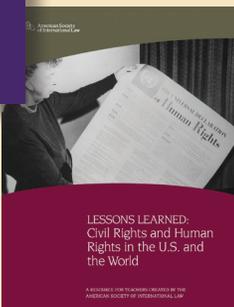
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