

INTERNATIONAL LAW  
FALL SEMESTER 1992  
Professor Turack

Preface

1. This is not an open book examination. No outside books or notes may be used.
2. Read question #4 first. You do not need to answer question #4 before answering any other question.
3. Write legibly in pen.
4. Answer the questions fully, based on your knowledge, casebook, course materials and any outside reading you have done.
5. The examination is 1 hour.
6. The questions are of approximately the same value.
7. You may keep this examination questionnaire and use the back of each page to plan your answer.

GOOD LUCK

Question 1

On July 16th of this past year, a homicide occurred in the Arctic on Ice Island T3, a three-by-six-mile ice floe, floating approximately three hundred miles northwest of the nearest land point, Alert, Ellesmere Island, North West Territories, Canada.

The ice floe is usually inhabited by a nine-man joint government industry team engaged in meteorological and oceanographic experimentation under the direction of the Environmental Sciences Service Administration of the United States Weather Bureau and supported by the United States Navy. The director of the group is an employee of the Environmental Sciences Service Administration.

Benny Lightsey, the director, died from a knife wound inflicted by Tooma, an Eskimo. When the other members of the team entered upon the homicide scene, Tooma calmly related his story in "Pidgeon English". It seems that Tooma came upon Lightsey while the deceased was engaged in sexual intercourse with Tooma's wife, Tala. As Lightsey was a constant visitor to Tooma's igloo during the long winter, Tooma urged his wife to engage in extra-marital activities with Lightsey, a social courtesy among Eskimos. On July 16th, Lightsey was enjoying the hospitality without the presence of his host, who returned unexpectedly. Tooma misinterpreted Lightsey's motives, thinking that the deceased was trying to encourage Tala to run off and leave Tooma, which could

have meant extreme hardship or possible death to Tooma.

The team finds out that Tooma and his wife know nothing about their nationality or citizenship. Tooma was born somewhere up north. His language indicates four Eskimo dialects, a few basic words of Swedish, Ukrainian and Russian, in addition to his "English." He is nomadic, as is his family, and he has never been below the permanent ice-line, even in the summer.

When the team's plane arrived from Cleveland with supplies following the next month, the team gave Tooma a drug and loaded him onto the plane for return to Cleveland. Once off the plane, he was arrested and held for trial under a federal statute. The United States has been asked to return Tooma to Canada under the U.S.-Canada Extradition Treaty, a bilateral treaty between the two countries containing the usual clauses.

(a) What are the international law issues that arise in this case? How would you handle the issues?  
(b) Suppose that the homicide occurred in the Antarctic and the accused was a stateless meteorologist married to an Australian girl, with whom Lightsy took liberties. Both the accused and his wife were working for the New Zealand government when death occurred to Lightsy although the actual "death scene" took place in a "no-man's zone," located one mile from the Russian and German camps. Briefly outline what legal problems confront you?

#### Question 2

What is the nature and function of customary international law? How satisfactory is customary international law in theory and practice?

#### Question 3

Before "Desert Storm" in 1991 President Bush, in an address before Congress, claimed that 1991 marked the beginning of a "new world order" to justify the forthcoming international effort in the Persian Gulf to free Kuwait of its Iraqi invaders. Since that time, many lawyers, politicians, political scientists, humanists, and other, have advocated that changes in international law are attributable to the "new world order." Just as many professionals in the same fields have indicated that the "new world order" is nothing more than rhetoric, and international law has not undergone any transformation in the last two years.

As a student of international law who has read widely in the field since the summer of 1992, and who has studied the principles of contemporary international law in considerable detail, outline as many different topics of this field to support the position that the "new world order" has not arrived (through concrete examples), and answer those who would argue in the affirmative.

#### Question 4

If you could legislate one change in the theory or practice of international law, what would it be? Please do not focus your argument on a proposition that you have discussed in your response to another question.