

DISSECTING THE LAWFULNESS OF UNITED STATES FOREIGN POLICY: CLASSROOM DEBATES AS PEDAGOGICAL DEVICES

Christopher C. Joyner

| | | |
|-------|--|-----|
| I. | INTRODUCTION | 331 |
| II. | THEORETICAL CONSIDERATIONS | 332 |
| III. | THE RELEVANCE OF INTERNATIONAL LAW | 334 |
| IV. | WHY DEBATE INTERNATIONAL LAW AND UNITED STATES FOREIGN POLICY? | 336 |
| V. | PREPARATION | 339 |
| VI. | THE EVENT | 340 |
| VII. | GRADING | 342 |
| VIII. | EVALUATION | 342 |
| IX. | CONCLUSION | 344 |

I. INTRODUCTION

Simulations can be used as educational exercises that enable students in the classroom to appreciate better the difficulties and nuances of legal issues affecting international relations. The simulations discussed in this paper are constructed as debates, which are used as role-playing games that compel students to act as advocates on the lawfulness of various United States policy positions on international issues. The students marshal evidence in support of their respective positions, attempt to persuade other class members of the correctness of their views, and defend their positions against an opposing team. In this classroom, simulated debates are intended to represent real-world politics in operation.

These debates are part of an upper-level undergraduate course, International Law and United States Foreign Policy, taught at Georgetown University. The course covers various roles played by international law in the formation and implementation of United States foreign policy. Understanding the constraints that international law places on American actions, as well as the ways in which international law is used by the United States (and other states) to legitimize and justify actions taken in the national interest, are central to the course objectives.

Confronting international law in practice is critical to achievement of the course objectives, and is greatly facilitated through a series of debates on the legal aspects of key United States foreign policy issues. Students try to “win” the games by attracting support from the rest of the class based on the merits and persuasion of their legal arguments, although past experience indicates that clear winners are not often produced. The success of these debates rests on two key factors: First, the willingness of students to assume their adopted roles with enthusiasm, and second, the extent to which student debate participants can learn and communicate how, where, and why international law is integrated into the United States foreign policy decision-making process. To this end, they must also be able to demonstrate the tensions between national security considerations and international legal constraints in the formulation of United States foreign policy. Taken in tandem, these two ingredients produce a successful and unique learning experience that fosters a deeper understanding of the subject matter and the relevance of international law than would likely be attained through a lecture-format course. They also allow for insights into the theoretical implications of international law and the nuances presented for policy-making.

II. THEORETICAL CONSIDERATIONS

International law constitutes a set of binding rules that seeks to regulate the behavior of international actors by conferring on them specific rights and duties.¹ These rules are the products of various processes of international norm-creation, usually accomplished through customary state practice or international agreements. Traditionally, three principal sources for the rules of contemporary international law are acknowledged: international conventions and treaties; international custom; and general principles of law recognized by “civilized” nations. Judicial decisions and the writings of publicists is a fourth, subsidiary source and albeit serves mainly as means for interpretation of the rules of law.²

While international relations professors often refer to the “state” as the focal actor in international relations, states themselves do not in fact act internationally. Nor do “states” actually make foreign policy or international law. Rather, it is the decision-making officials in the national governments of states who make policy and determine the course of action for states.³

1. See generally Christopher C. Joyner, *International Law In The 21st Century: Legal Rules For Global Governance* (2003).

2. See *International Court of Justice*, 1945, 59 Stat. 1055, 1 U.N.T.S. XVI.

3. See generally Eugene Wittkopf et al., *American Foreign Policy: Pattern And Process* (6th ed. 2003); James M. McCormick, *American Foreign Policy And Process* (3rd ed. 1998); Glenn P. Hastedt, *American Foreign Policy: Past, Present, Future* (4th ed. 2000). It is interesting to note that in these textbook

Accordingly, it falls to these same officials to recognize, interpret, and apply relevant international law to a policy situation.

Although often portrayed as a collection of bureaucratic offices and agencies, the United States government is actually operated by individual persons. People, not anthropomorphic polities, make policy. United States foreign policy is assessed, designed, and determined by decision-makers in the United States government. International law is negotiated, drafted, and agreed through the diplomatic interactions of these same government officials. And it is those same government officials who ultimately decide whether, when, how much, and under what particular circumstances the United States will or will not obey a certain rule of international law. How legal norms affect United States foreign policy thus becomes an important question for practitioners and students alike.

Perception is critical to policy-making. Perception (and misperception) by United States decision-makers shape national approaches to international reality. The political ideology of those persons who are decision-makers in the United States government will determine the way in which that government perceives international affairs, and those perceptions are the main ingredients for the United States' policy options and action choices. In a real sense, what American decision-makers perceive internationally results in United States foreign policy. And these perceptions, of course, are greatly influenced by the political values, social mores, and ideological norms of the political culture in American society. A realist, power-focused view of foreign policy is not inconsistent with this picture. What is true of persons is also true of states. Young and old see the world through different eyes, as do great powers and lesser powers. National capability can influence world perspectives, affect international politics, and shape foreign policies. In these ways, power can govern the American policy-maker's perception of the world and the United States role in it. In this sense, policy makers may accept the realist paradigm of international relations in interpreting the world, without even giving it a second thought.

A host of other factors combine to influence United States governmental decision-makers' perceptions of the world and their government's role in it: the United States' economic needs and geographic position; the perceived military threats to the United States and the historical sense of security and insecurity; memories of earlier threats, past wars and previous political persecutions; the

treatments of the American foreign policy process, the term "international law" does not appear in the index, albeit "diplomacy" does.

country's relative conditions of development and access to natural resources; the United States' controlling political ideology and its pervasive economic conditions; and its national character and national morale. All these factors and others go into shaping and shading the political perceptions of decision-makers that determine United States foreign policy.

It is critical to appreciate that perceptual differences exist between decision-makers of all governments, including the United States. The tendency of the United States government to move toward lawful or unlawful behavior can be affected by these perceptions. It is largely in the shaping of such perceptions that international legal rules become relevant.

III. THE RELEVANCE OF INTERNATIONAL LAW

Is international law really as irrelevant in the foreign policy-making process as realist international relations theorists would have us believe? After examining how officials proceed in discussing decisions that determine the foreign policy of the United States government, is it accurate to conclude that the rules of international law have little or no impact on those decisions? When analyzed within the context of the actual process of policy-making, rather than through hypothesis and theoretical conjecture, it becomes clear that United States government officials cannot help but be mindful of international law's real-world effects. International law promotes stability and regularity in the conduct of international relations. For United States decision-makers, international law thus creates expectations about the behavior of other actors in the international system.⁴ Similarly, if United States decision-makers know what the law is, then they can fashion policy to conform to the expectations of other governments. In this manner, international rules facilitate regularity in international behavior and promote cooperation over conflict, yielding greater stability in interstate relations.

American foreign policy-makers cannot escape the fact that international law shapes the international system in several ways: first, international law embraces and legitimizes the concept of sovereignty. Sovereignty is the paramount political feature of the state. A sovereign state is independent from any authority superior to its own, cannot be bound to a rule without its consent, and enjoys juridical equality among other states. The state is politically independent, with equal legal status in the international community. While the exercised sovereignty of a state may fluctuate, the concept still constitutes a fundamental operating principle of international relations. International

4. See Christopher C. Joyner, *The Reality And Relevance Of International Law In The Post-Cold War Era*, In *The Global Agenda: Issues And Perspectives* 241 (6th ed. Charles W. Kegley, Jr. & Eugene R. Wittkopf, eds., 2001).

relations theorists sometimes overlook sovereignty as a cardinal principle of international law as well.⁵

A second way that international law shapes the international system is by determining the rules for membership and participation in the international community. International legal rules set standards for one government's recognition of the lawful existence of another state.⁶ This means that international law determines the ground rules for a state's legitimacy in the international system. Furthermore, international law also sets out the rights and duties of states. These general rights and duties are guidelines for foreign policy makers as to what actions are permissible in international intercourse.⁷

Third, international law provides the language of interstate diplomacy for national foreign policy makers. When the United States government communicates with another state, it usually does so through international legal channels, using the discourse of international law. When foreign policy makers in the United States criticize another government for its actions, some reference to the other state's failure to abide by international legal precepts is made in virtually every case. When a dispute or confrontation breaks out between the United States and another government, legal principles nearly always become pivotal considerations in the international negotiations that usually ensue.

No less important for American foreign policy-makers is that international legal rules enable normative judgments of actions and assertions by made the United States government. International legal rules serve as indicators or guidelines for policy-makers regarding the procedures or actions to be pursued in order for some particular policy to be considered internationally legitimate. United States foreign policy makers might decide to disregard those guidelines because they are not compatible with United States national interests or specific foreign policy objectives. Even so, that does not obviate the fact that those officials are aware of those rules' existence, legal meaning, and policy implications, and do realize when those rules have been breached.

The point here is clear: American foreign policy decision-makers nearly always will seek to determine what international legal implications are posed by a particular course of action. While they might opt not to comply with the law, United States decision-makers want to know the relevance that law holds for the policy in question. Otherwise, they would be blind to the rules of the road for international intercourse, and would invite unintentional and unnecessary

5. See generally Alan James, *Sovereign Statehood: The Basis O-f International Society* (1986); Louis Henkin, *How Nations Behave: Law And Foreign Policy* (1979).

6. See Gerhard Von Glahn, *Law Among Nations: An Introduction To Public International Law* 66-90 (7th ed. 1996); William R. Slomanson, *Fundamental Perspectives On International Law*, at 64-73 (4th ed. 2002).

7. See Von Glahn, *supra* note 6, at 123-200.

collisions with other governments. Obviously this can complicate relations between the United States and other governments.

It is apparent that international law is expressly relevant for American foreign policy. While academics are right to recognize and highlight theoretical deficiencies of international law, it is essential to realize that the United States government does not deem those international rules to be irrelevant in formulating real world foreign policy choices. Without question, the United States government formally and officially attaches considerable importance to international rules, and American decision-makers expend much energy and effort contending over issues concerning their interpretation and evolution. Clearly, American policy-making officials strive to fashion, revise, and interpret international law so that the outcome best serves their purposes and advances United States national interests. This is evident from the functional role assigned to legal advisers throughout the United States government's foreign policy apparatus.

The rules of international law are interpreted by American decision-makers to serve United States national interests. When international law is viewed away from the academic realm (where it is regarded as weak, debilitated idealism), its role becomes elevated to the dimension of practical policy utility. International legal considerations remain salient and significant for policy choices for United States government officials. The classroom debate exercises described and analyzed below strive to illustrate how international legal rules influence United States foreign policy-making.

IV. WHY DEBATE INTERNATIONAL LAW AND UNITED STATES FOREIGN POLICY?

Simulations generally, and debates more specifically, are well-recognized tools for education in the social sciences.⁸ The American Educators' Encyclopedia notes as an advantage of debate that it "serves to crystallize an issue, presents both sides objectively, and stimulates interest."⁹ Debates, sometimes in the form of "moot courts," are often used to teach principles of United States domestic law, especially constitutional law.¹⁰ Role-playing more

8. As one work on the subject points out, "the function of social science is, of course, to formulate theories that explain and predict human behavior. Simulation is a very useful device for this exploration of verbal theories and the testing of hypotheses, for the reason that it is often impossible to subject an actual group of human beings to experiments. By successfully simulating the significant variables, it is possible to explore such phenomena by experimenting with the simulated system." Fannie R. Shaftel & George Shaftel, *Role-Playing For Social Values: Decision-Making In The Social Studies* 10 (1967).

9. Dejnozka & Dapel, *American Educators Encyclopedia*, at 149.

10. See Gerald P. Long, *Understanding Religious Freedom through Courtroom Simulation*, 5 *OAH Magazine Of History* 1990, at 31-34.; Eileen H. Tamura, *Should the Minimum Drinking Age Be Changed?*

generally is often used to teach international issues, where students can take the part of a particular country in treaty negotiations, interstate conflicts, or UN discussions.¹¹ Debates, like other role-playing simulations, help students understand different perspectives on a policy issue by adopting a certain perspective as their own. But unlike other simulation games, debates do not require that a student participate directly in order to realize the benefit of the game. Instead of developing policy alternatives and experiencing the consequences of different choices in a traditional role-playing game, debates present the alternatives and consequences in a formal, rhetorical fashion before a judgmental audience. Having the class audience serve as “jury” helps each student develop a well-considered opinion on the issue by providing contrasting facts and views and enabling audience members to pose challenges to each debating team.

The debates in this course invite students to examine the international legal implications of various United States foreign policy actions. Their chief tasks are to assess the aims of the policy in question, determine its relevance to United States national interests, ascertain what legal principles are involved, and conclude how the policy squares with relevant principles of international law. The debates compel students to consult the vast literature of international law, especially the nearly 100 professional law-school-sponsored international law journals now being published in the United States. This literature furnishes an incredibly rich body of legal analysis that often treats topics affecting United States foreign policy, as well as other more esoteric international legal subjects. Most of these journals are accessible in good law schools, but are largely unknown to the political science community specializing in international relations, much less to the average undergraduate.

By assessing the role of international law in United States policy making, students realize that United States actions do not always measure up to international legal expectations. At times, international legal rules are compromised or short-circuited for the sake of perceived national interests. Concepts and principles of international law, like in domestic law, can be interpreted, manipulated, and twisted in order to justify United States policy in various circumstances. In these ways, the debate format gives students the benefits ascribed to simulations and other “action learning” techniques, in that it “requires that students be actively engaged with their subjects, and not be

A Simulation on the Legislative Process, 83 Soc. Stud. J. 201-206 (1992); Karen E. Cope, Teaching the Constitution by Simulation, 18 Soc. Stud. J. 10 (1989).

11. See Mary Louise Williams & George Mowry, Global Responses To Potential Climate Change: A Simulation (1995); Joe Regenbogen, A Mock U.N. Game: Teaching Global Awareness, 15 La. Soc. Stud. J. 20-21 (1988).

mere passive consumers. Students should be seen as cultural participants, observing, reacting to, and structuring their world."¹²

The debate exercises carry several more specific educational objectives. First, students on each team must work together to refine a cogent argument that compellingly asserts their legal position on a foreign policy issue confronting the United States. In this way, they gain greater insight into the real-world legal dilemmas faced by policy makers. Second, as they work with other members of their team, they realize the complexities of applying and implementing international legal rules and the difficulty of bridging the gaps between United States policy and international legal principles, either by reworking the former or creatively reinterpreting the latter. Finally, the simulations familiarize students with contemporary issues on the United States foreign policy agenda, and the role that international law plays in formulating and executing these policies.¹³ The debate simulation provides an excellent vehicle for pushing students beyond stale arguments over principles into the real world of policy analysis, political critique, and legal defense.

A debate simulation is particularly suited to an examination of United States foreign policy, which in American political science courses is usually studied from a theoretical, often heavily realist, perspective. In such courses, international legal considerations are usually given short shrift, if discussed at all. As a result, students may come to believe that international law plays no role in United States foreign policy making. In fact, serious consideration is usually paid by government officials to international law in the formulation of United States policy, albeit sometimes *ex post facto* to justify policy, rather than as a *bona fide* prior constraint on consideration of policy options. In addition, lawyers serve as prominent advisers at many levels of the foreign-policy-making process. Many students in the class are in Georgetown's School of Foreign Service, and intend to pursue careers in diplomatic service or in law. This course aims to make students appreciate the relevance of law for past and current United States actions (e.g., the invasion of Grenada and the refusal to sign the land mines convention), as well as for hypothetical United States policy options (e.g. hunting down and arresting war criminals in Bosnia or assassinating Saddam Hussein).

12. George Mehaffy, et al., *Action Learning In Social Studies*, in *Eightieth Yearbook Of The National Society For The Study Of Education*, Pt. II 191 (Howard D. Melinger and O.L. Davis, Jr. eds., 1981).

13. The choice of issues for debate reflects this objective: each debate topic is a concern widely discussed in the news media, and often in Congressional hearings and debates. In addition, each subject tests the lawfulness of United States policy vis-à-vis current treaties, principles, and norms of international law to which the United States is formally committed.

V. PREPARATION

A key problem in designing the simulation is deciding which United States policy decisions should be examined in the debates. Three key criteria are used:

1. The issue must be highly salient for contemporary United States foreign policy and be (or have been) prominent in the news. In this way, students can gain a better appreciation for the relevance of international law to the real world of international relations.
2. The issue must involve tensions in defining the United States national interest, often including tensions between international legal requirements and United States national security interests. By examining the propriety assassination or the destruction of chemical or biological weapons factories in Iraq, students become aware that the United States might not have the lawful right to act unilaterally, irrespective of national security implications. By considering the United States attitude toward the Kyoto Protocol on global warming, students learn that varying views on interdependence among Washington policy makers can lead to opposing definitions of the national interest and opposing policy proposals.
3. The events chosen for assessment must be conducive to lively debate in that there is no clearly correct legal analysis of the issue, and the analyses in contemporary political and legal literature might be clouded by political or economic considerations.

To aid in generating possible topics, several colleagues are asked to suggest what three events over the past two years seem most important for contemporary United States foreign policy. From this list of responses, eleven topics are selected which best illustrate various facets of international law and its relationship to United States foreign policy. (NB: Each year the list of topics varies according to which topics are newsworthy and the implications they present for United States foreign policy.) For each topic, debate propositions are then formulated to highlight the international law context (e.g., "Resolved: that the United States should refuse to pay its UN dues until reform of that organization is successfully completed").

Students are permitted to choose which of the available topics they want to debate and which position (affirming or negating the stated proposition) they prefer to defend. This is done by circulating a schedule for the debates with blanks for students to fill in their names as team members under each topic. In the past, nearly all students were pleased with the choices available to them. In some cases, however, where students were forced by circumstance (i.e., the position they wanted was taken when the sign-up sheet reached them) to take a position opposite to their true opinion or to take on a topic with which they were unfamiliar, they generally took on the challenge with zeal. In particular,

Georgetown's large population of foreign students helps to ensure that some might be called upon to defend the lawfulness of United States policy positions that they might find distasteful, while many United States nationals must assume the role of legal critics of the United States.

The desired format for the debates is then explained to the students. Students are also encouraged to meet as a team and make arrangements to visit the professor together during office hours, in order to receive guidance on researching their respective positions and on what essential policy and/or legal issues should be addressed in their presentations. These office visits, brief though they usually are, also serve two practical purposes: First, they bring each team together and compel the students to work together toward a mutual goal; second, they reveal to the professor how the work is being distributed among the team members so that their individual efforts can be fairly evaluated in grading their performances. Students are directed to conduct research on the legal arguments surrounding their topic, even including those arguments that support the opposing team's position.

Students are made aware on the first day of class that the debates carry considerable weight as an academic requirement. Preparation for and participation in the debate count as 20 percent of the student's final grade. The course syllabus includes an example of the form on which debaters will be evaluated, so that on the very first day, students can have a clear idea of what is expected. Mandatory attendance for the entire class is declared for the debate sessions, and substantive materials covered during the debates are included on both the mid-term and final examinations. Special reading assignments for each debate are included on the syllabus for the class as a whole to provide them with background on the topics and legal principles that will be addressed. Class discussion and questioning of the debate teams are central parts of each day's debate, and both the teams and audience learn to prepare accordingly.

VI. THE EVENT¹⁴

The debates follow a well-defined structure and strict time allotment. Each team of two to three members is given, in turn, 15 minutes to make an initial presentation, in which they provide some historical background for the issue and describe the legal underpinnings of their positions. (Usually the team members split this time among them, so that two students each present 7.5 minutes of the argument). Each team is then given 10 minutes to rebut the arguments of the opposing side. The teams are instructed to prepare a detailed "brief" outlining their view of the issue and the legal rationale for the policy position they

14. The course syllabus, attached as an appendix to this paper, lays out the debate format as explained to the students.

support, and they are encouraged to exchange their briefs with the opposing team the night before the debate. This “trading” strategy ensures more effective, well-thought-out rejoinders, and keeps the event focused more on the legal arguments at stake rather than on the rhetorical skills of the students. The briefs are also distributed to the rest of the class, providing them with study guides and a substantive outline of their debate points. Following the formal presentations and the rebuttals, the professor or teaching assistant sums up the important course themes that emerge from the presentations, and invites the rest of the class to question the teams. Class questions and moderated discussion occupy the remainder of the class period.

Several aspects of the debate format enhance its effectiveness as a role-playing exercise. The professor or teaching assistant opens each debate as a formal event, welcoming the audience, stating the “proposition” at issue that day, and introducing each team’s members by name. The introduction lends an air of ceremony to the proceedings that encourages students to take the event seriously. Students are encouraged to show respect for the opposition, as if they were in a court of law (with the professor as judge, the graduate teaching assistant as bailiff, and the remainder of the class serving as a jury of peers). The sense of formality extends to the preparation of the “briefs” and even to the dress students chose for their presentations: Most wear coats and ties, suits, or dresses, and refer to each other in a formal manner (i.e., by last name or as “my colleagues” or “the opposition”).

It is worth noting that the enrollment in this course is usually around 50 students, with a large cohort of seniors and juniors. With this class size, a whole-class simulation exercise might be unwieldy, while a lecture format would risk leaving more passive students disengaged from the subject matter. Structured debates, each including four to six students, place the spotlight in turn on each student individually while simultaneously promoting team spirit and team effort. This format appears to succeed in motivating all but the most lackadaisical learners. The requirement that students confront an audience in a debate format also contributes to the students’ rhetorical ability, as well as their ability to address perspectives with which they might not be familiar or sympathetic.

Unlike many simulations, the objective of the debate format is not to teach bargaining techniques or to produce a negotiated outcome. Rather, the main aim in this class is to make students aware that United States policy, like the policies of all states, is predicated on international legal constraints, and that, at times, those constraints are compromised by the pressures of interests (often couched in terms of “national security”) perceived by policy makers to have a higher priority.

Students are encouraged to be highly assertive during the debates. Players are not merely to stand and read a position paper. Rather, they are to argue

forcefully the legal merits of their cases, and in the process refute the contentions of the other side. The drama of the debates tends to catch the attention of the class as a whole, and the more lackluster presentations seem to spark resolve among the other students to do better themselves when their turn comes, in order to provide a good show for the class. Some teams have been very creative: For example, one debater shook a handful of coins at the audience, telling them that the measly amount she held in her hand represented the cost per day per capita to the United States taxpayer of supporting the United Nations.

VII. GRADING

In this simulation, each student must participate actively and demonstrate his or her own competence and mastery of the material. Each student is evaluated on his or her performance only. No team grade is assigned. Rather, students are graded on how well they as individuals argue their portion of the case and on what they contribute to the team's briefing paper.

No "winner" is formally declared at the end of a debate session, although in many instances it becomes clear which team presented the most compelling legal argument and facts to support its case. In other instances, though, the class discussion mirrors the real-world policy debate in that it reflects genuine tensions between the requirement to comply with international legal dictates and the imperative to pursue the best interests of the United States.

VIII. EVALUATION

Generally, the debate simulations have proven very successful and elicited high praise from the students. They enjoy the opportunity to play the role of legal advocates and to try to persuade the class of the merits of their positions. Students also appreciated the chance to respond directly (in questions and discussion) to the performances of their peers, and they seem to enjoy delving into the politics of how international law and national interests mesh (or clash) in the formulation of United States foreign policy.

The students take their debating roles to a surprisingly serious degree, engaging in animated discussions that have sometimes continued after class with joint appeals to the professor to serve as referee. The spectator often has the sense he is watching the proceedings of the UN Security Council or sometimes the United States Congress, and that stakes no less than the prestige and national interests of the United States are at risk. As might be expected, those students who read the assigned materials and listen carefully to the teams' presentations become most caught up in the issues, participate most actively in the discussions, and demonstrate in their written examinations the best

understanding of the ways in which international law serves as a restraint on, and an instrument of, United States policy.

Certain problems are notable, however. In a few instances, individual students have been less than cooperative in meeting with their team members to divide labor and prepare the briefs. This places an undue burden on their teammates. A second problem has been the tendency of some students to read their brief (perhaps with some annotations) as their oral presentation. This creates a less than exhilarating experience for the audience, which sometimes tunes out or merely follows along in rote-reading the text, rather than engaged in thinking about the legal issues being raised. Third, during the past three years, there has been the problem of students having to journey across the city to Georgetown's law library in order to secure the materials they needed to research their positions. That has proven at times to be frustrating. Since Georgetown undergraduates cannot check out books or periodicals from the Georgetown law library, all research has had to be done on the premises unless students were willing to invest considerably in photocopying. Since 2001, increased access for students to Lexis/Nexus on line has greatly alleviated this problem.

Essential to the success of the simulation as a learning tool is the question/discussion period that follows each debate. This period, which usually runs the last 25 minutes of a 75-minute class, enables the audience to present challenges to or ask for clarifications of points made in the debaters' formal presentations. While the discussion tends to be ad hoc, it often generates mini-spin-off debates of its own on particular points of law or on the implications of particular United States policies. Debaters who are underprepared faced questions they cannot answer well, illustrating the incentive they face to prepare thoroughly and to have more facts and arguments at their disposal than they present in their prepared statements. The discussion also helps to highlight the legal principles at issue and the recurring themes of the course that are illustrated in the debate topics. The professor and teaching assistant interject comments and pose queries to aid in spotlighting issues for the class to consider.

Past experience suggests two types of students who seem to gain the most from the debate experience. First are those students who start out by signing up for a debate topic because they already hold a firm, relatively dogmatic or simplistic view of a given issue. One semester, for example, the class included several students from Gulf Arab states who wanted to argue for the lawfulness of the United States-led war against Iraq, but one Arab woman was forced by circumstance to join the team that opposed the United States action. She took on the assignment and was a credit to her team, demonstrating that she had reflected on the issue in a way she would otherwise have been unlikely to do. Likewise, last year's class included a student who saw no reason for international law to stand in the way of United States security interests

regarding the proposed landmine ban treaty. But the debate experience helped him see how banning landmines was congruent not only with humanitarian values, but also with international humanitarian law to which the United States was already bound by convention and customary practice.

The second group of students who benefit most from the debate format are those students who would typically sit passively (though perhaps attentively) through a lecture course without being particularly engaged by the material and without interacting significantly with the professor. The debate format prompts these students to take a firm stance on an issue, play a role, and develop a level of expertise on a specific issue. Moreover, it gives them the opportunity to display their expertise by educating the rest of the class on how to view their topic.

IX. CONCLUSION

This debate simulation provides students with deeper insights into and an appreciation of the complexities of integrating international law into the United States foreign policy making process. The success of any given debate depends upon the quality of the team members' efforts to research and present a topic, and on their ability to relate concepts and principles of international law to the ways in which United States foreign policy objectives are formulated and achieved. The exercise is *not* intended to train international lawyers or to promote forensics as a skill. Rather the intention is to give students a greater sense of the real-world process by which United States foreign policy is made and implemented, and of the place international legal considerations are given in that process.

The lasting impact of the debates on the class as a whole is reflected in the fact that many issues first raised in the debate carry over into serious exchanges after class and into subsequent class lectures and discussions. In this way, the knowledge gained from the debates accumulates over the semester and contributes to the achievement of the course objectives.