

University of Baltimore School of Law
Spring 2017

Course: International Law
729-511

Instructor: Professor Nienke Grossman
Office Hours: Mondays, 3 to 4 pm or by appointment
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Days/Time: Monday/Wednesday, 10:30 – 11:45 am

Location: Angelos Law Center 402

Welcome to International Law. The information in this document is vital to your success in this course. Please read it carefully.

Course Description and Student Learning Objectives:

This course aims to introduce you to the basic vocabulary, actors, sources and several substantive areas of International Law. It is designed both for students who seek a career focused on International Law and for those who want a better understanding of a topic affecting legal practice in any forum, including the United States. In addition to acquiring substantive knowledge, this course will call upon you to sharpen a number of skills lawyers frequently use, including problem-solving, close reading and interpretation of texts, critical thinking and application of legal principles to fact scenarios. You will be required to use legal analysis skills to express arguments clearly both in class, on the mid-term assignment and on the final examination.

By the end of this course, you should be able to identify, analyze and argue about legal issues that may arise in real-life international problems. You should also be conversant in the main concepts and some of the contemporary theoretical debates in international law. Finally, I hope you will leave the course with a continuing interest in and excitement about International Law.

Course Materials:

You are required to bring the textbook and any additional assigned materials with you to class each day. Additional required readings will be available on the course's website or handed out in class. You will be required to go on-line to read different sources throughout the course.

Required: DAMROSCH & MURPHY, INTERNATIONAL LAW: CASES AND MATERIALS (6th ed., 2014)

Strongly Recommended: DAMROSCH & MURPHY, INTERNATIONAL LAW: CASES AND MATERIALS – DOCUMENT SUPPLEMENT (6th ed., 2014)

We will use the Document Supplement in the readings and in class. You may prefer not to purchase the Document Supplement and instead to look for the materials on-line. If you choose to look for the materials on-line, I highly encourage you to print out the materials before you come to class so that you can write on them and annotate them during class, especially the Vienna Convention on the Law of Treaties, the United Nations Charter and the ICJ Statute.

Good Secondary Sources:

If you believe it would be helpful to you to consult some secondary sources/horn books, I recommend:

- SEAN MURPHY, PRINCIPLES OF INTERNATIONAL LAW (2d ed., 2012).
- DAVID BEDERMAN & CHIMENE KEITNER, INTERNATIONAL LAW FRAMEWORKS (2016).

Grades (Exam and Participation):

Course grades will be determined on the basis of a timed take-home mid-term examination (25%), a three-hour closed-book final examination (75%) and class participation. The exams will test your knowledge of the subjects covered in this course, as well as your critical thinking, legal analysis and argument skills.

Your participation in class discussions and your short writing assignment may help or hurt your grade by up to one step (e.g., B+ to A-, or B- to C+). Participation will be graded by the quality of your contributions to class discussion. High quality participation shows that you have done the work assigned and reflected on the issues therein. Low quality participation shows that you have either not done the assignment or spent insufficient time reflecting on it before coming to class.

Course Expectations:

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

Like any ethical, competent and courteous lawyer, I expect you to be on time and prepared for every class. You may not leave the room during class time unless you are experiencing an unanticipated emergency or you have let me know in advance. As explained below, please note that if you sign the attendance sheet and are unprepared, this may negatively impact your grade.

Attendance:

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed

absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Regular Semester Hours		
Credit Hours	Meetings Per Week	
	1	2
2	2 absences	5 absences
3	2 absences	5 absences
4	--	5 absences

Please note that you are responsible for signing the attendance sheet to verify that you are present and prepared for class. You may attend class even if you are unprepared, but you may not sign the attendance sheet and will be counted as absent for the purposes of this policy. Do not sign in if you are not prepared. If you signed the attendance sheet and are unprepared when called upon, your final grade is likely to be negatively impacted by up to one step (e.g., from a B to a B-).

Course Website:

This course has a TWEN site that includes the syllabus, announcements, forums, assignments and other class materials. All students are required to register for the site.

Computers:

Laptops are permitted for the purpose of note-taking. On occasion, you may be required to close your laptop (e.g., if we are having a guest speaker or a simulation or debate). Consequently, you may want to bring some paper with you to class just in case.

Class Cancellation:

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex,

dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

List of Course Topics and Assignments:

The list of topics and assignments are *subject to change* to maximize student learning, and we may not cover every topic. All changes will be emailed to you and posted on the TWEN site.

INTERNATIONAL LAW- LIST OF COURSE TOPICS

UNIT I. INTRODUCTION TO INTERNATIONAL LAW

UNIT II. SOURCES OF INTERNATIONAL LAW

UNIT III. DOMESTIC IMPLEMENTATION OF INTERNATIONAL LAW

UNIT IV. SUBJECTS OF INTERNATIONAL LAW

UNIT V. STATE RESPONSIBILITY AND DISPUTE RESOLUTION

UNIT VI. HUMAN RIGHTS

UNIT VII. INTERNATIONAL ENVIRONMENTAL LAW

UNIT VIII. USE OF FORCE

INTERNATIONAL LAW – LIST OF ASSIGNMENTS

The casebook is “CB,” and the document supplement is “DS.” “TWEN” is the course website. To locate sources in the DS, look at the Table of Contents. Please note that this list of assignments is subject to change to further student learning.

I. Introduction

Class 1 (Monday, January 9): Introduction to International Law

- CB, Historical Introduction, at xvii-xxix
 - Read this for basic background on the history of international law and institutions
- Senate Armed Services Committee, “McCain, Graham, Schumer, Reed Joint Statement on Reports That Russia Interfered with the 2016 Election,” <http://www.armed-services.senate.gov/press-releases/mccain-graham-schumer-reed-joint-statement-on-reports-that-russia-interfered-with-the-2016-election> (Dec. 11, 2016).
- “FBI backs CIA view that Russia Intervened to Help Trump Win Election,” at https://www.washingtonpost.com/world/national-security/fbi-backs-cia-view-that-russia-intervened-to-help-trump-win-election/2016/12/16/05b42c0e-c3bf-11e6-9a51-cd56ea1c2bb7_story.html?utm_term=.9b41f37e0a6d (Dec. 16, 2016)
- “Meet Fancy Bear and Cozy Bear, Russian Groups Blamed for DNC Hack,” at <http://www.csmonitor.com/World/Passcode/2016/0615/Meet-Fancy-Bear-and-Cozy-Bear-Russian-groups-blamed-for-DNC-hack> (June 15, 2016)
- DS, Statute of the International Court of Justice, art. 38
- United Nations Charter, Preamble, articles 1-2, 51
- Resolution Adopted by the General Assembly of the United Nations, Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty (1965), at <http://www.un-documents.net/a20r2131.htm>

Class 2 (Wednesday, January 11): Introduction II: What is international law? Is it really law?

- The Declaration of the Russian Federation and the People's Republic of China on the Promotion of International Law, at http://www.mid.ru/en/foreign_policy/position_word_order/-/asset_publisher/6S4RuXfeYlKr/content/id/2331698 (June 25, 2016)
- Skim: International Law: 100 ways it shapes our lives, at https://www.asil.org/sites/default/files/100%20Ways%20Booklet_2011.pdf
- CB, p. 1-8, 17-24

Monday, January 16 – No Class – Martin Luther King, Jr. Day

II. Sources of International Law

Class 3 (Wednesday, January 18): Sources of International Law: Treaties I: VCLT, Conclusion and Entry into Force (Existence of a Treaty, Capacity to Conclude Treaties) Expression of Consent to Be Bound, Obligation not to Defeat Object and Purpose

- CB, 117-137
- DS, ICJ Statute, art. 38
- DS, Vienna Convention on the Law of Treaties; Read Preamble, look for relevant articles of VCLT as you read
- TWEN: Declaration of Santiago (1952). Is this a treaty?
- TWEN: JCPOA Excerpt
- Find a treaty you are interested in learning about either in the Document Supplement or on-line. What is your treaty about? Is it bilateral or multilateral? How many states are parties to it? Find any articles on requirements for entry into force.

Class 4 (Monday, January 23): Treaties II: Reservations, Application, Interpretation

- CB, 137-150 (up to “General Comment 24”)
- DS, VCLT, arts. 2, 19-21
- DS, Convention on the Prevention and Punishment of the Crime of Genocide
- The United States made the following Reservation when it became a party to the Genocide Convention:
 - “(1) That with reference to article IX of the Convention, before any dispute to which the United States is a party may be submitted to the jurisdiction of the International Court of Justice under this article, the specific consent of the United States is required in each case.”
 - Is this reservation permissible?
- Look for provisions on reservations in the treaty you found for last class.
- CB, 161-64
- DS, VCLT, arts. 26, 31, 32
- TWEN: Problem on Treaty Interpretation, Questions on Treaty Interpretation

Class 5 (Wednesday, January 25): Treaties III: Invalidity, Termination, Suspension

- CB, 174-176, 183-194, 204-210
- VCLT, arts. 46-53, 60-62
- TWEN: Problem on Treaty Interpretation, Questions on Termination
- Look for provisions on termination in your treaty.

Class 6 (Monday, January 30): Customary International Law I

- CB, 60-63
- TWEN: International Committee of the Red Cross, “Customary International Humanitarian Law,” Vol. I (Cambridge University Press). This is a study by the ICRC on the rules of customary international humanitarian law (IHL). IHL is concerned with what states are allowed to do and prohibited from doing during war. For example, the ICRC could analyze whether customary international humanitarian law prohibits states from using barrel bombs during war.
- TWEN: Letter from Office of the Legal Adviser to Dr. Kellenberger (p. 1-5). This is a letter from the State Department of the United States critiquing the ICRC study’s methodology.
- Why did the ICRC write a study on Customary International Humanitarian Law? Why not just rely on treaty law?
- What are the requirements for establishing a rule of customary international law?
- What are the State Department’s objections to the ICRC study?
- CB, 79, 88-91

Class 7 (Wednesday, February 1): Customary International Law II; Jus Cogens, Relationship between Treaties and Custom; General Principles

- CB, 98-105, 114-115, 217-28

Class 8 (Monday, February 6): Judicial Decisions, Teachings of Most Highly Qualified Publicists, Acts of International Organizations, Transnational Public Regulation, Soft Law, Positivism vs. Natural Law

- CB, 238-52, 257-64
- CB, 57-60
- Now you have learned about the various sources of international law. Are they based in state consent? Or do they come from natural law principles? Which ones seem to fit better into the positivism/voluntarism approach to international law? Which ones seem to fit better into the natural law framework?

III. Domestic Implementation of International Law

Class 9 (Wednesday, February 8): Treaties I

- CB, 621-22, 647-53 (Constitutional Limitations on the Treaty Power, *Missouri v. Holland*)
- CB, 657 (Restatement s. 115) – 659 (the later in time rule)
- CB, 660-84 (self-executing vs. non-self-executing treaties – Medellin case)

Class 10 (Monday, February 13): Treaties II (Self-Executing vs. NSE Treaties Cont’d, Interpreting Treaties, Suspension or Termination of Treaties, Congressional-Executive, Sole Executive Agreements)

- CB, 684-702

Class 11 (Wednesday, February 15): Customary International Law in US Law

- CB, 63-68 (Paquete Habana case). When you read this case, focus on the role of customary international law in US law.
- CB, 626-27 (up to Restatement); CB, 630-47

Class 12 (Monday, February 20): Guest Speaker: Syrian Human Rights Activist

- Readings TBD

Class 13 (Wednesday, February 22): International Law Before US Courts

- CB, 702-717

IV. Subjects of International Law

Class 14 (Monday, February 27): States

- CB, 281-307
- CB, 321-29 (skim)

Class 15 (Wednesday, March 1): Recognition of Governments

- CB, 332-51, 358-59

Class 16 (Monday, March 6): Peoples

- CB, 307-21
- TWEN: Excerpt of ICJ Advisory Opinion on Kosovo
- TWEN: “Crimea Votes to Secede from Ukraine as Russian Troops Keep Watch,” New York Times (March 16, 2014), at http://www.nytimes.com/2014/03/17/world/europe/crimea-ukraine-secession-vote-referendum.html?_r=0. Please make sure to watch the videos embedded in the article, as well as reading the article.

Class 17 (Wednesday, March 8): International Organizations

- CB, 387-404
- CB, 419-424
- DS: UN Charter, Preamble, arts. 1-8, 9-15, 17-19, 23-27, 55, 57, 61, 62, 67, 92, 97, 100, 102, 103, 104, 105, 108, 110 (Read these articles to get a sense of the structure and purpose of the UN)
- Go on-line and find the website for an international organization that sounds interesting to you. Find the organization’s constitutive instrument – the treaty that establishes it. Be prepared to share with the class:
 - Based on the treaty, what is the organization’s mission?
 - How many members does it have and when was it founded? Where are its headquarters?
 - At least one of the following:
 - How are decisions made within the organization?
 - What is its budget and how is it funded?
 - What challenges does the organization face?

Class 18 (Monday, March 13): NGOs, Corporations

- CB, 424-32
- CB, 468-469, 479-84
- DS, OECD Guidelines for Multinational Enterprises (revised 2011). These are voluntary principles and standards for responsible business conduct addressed to MNCs, created in the 1970s. Why do they matter if they are voluntary? Why do you think they are voluntary in the first place? What kinds of conduct are they concerned with?
- CB, 1010-1011
- DS, Model US Bilateral Investment Treaty. This is an example of a bilateral investment treaty.
 - What types of disputes does this cover? Where can disputes be heard and decided?
- Imagine you represent the CEO of Sneaks, a sneaker company who needs to build a new factory to meet rising demand and is concerned about keeping costs as low as possible. What legal and non-legal considerations do you think the CEO should be aware of as she decides where to locate the factory? What law (both hard and soft) should she know about as she ventures abroad to set up her factory?

Class 19 (Wednesday, March 15): Midterm

- This will be an in-class 1 hour and 15 minute midterm examination. More information to be provided.

March 20-26 – Spring Break

V. State Responsibility and Dispute Settlement

Class 20 (Monday, March 27): General Principles, Attribution of Conduct, Reparation, Countermeasures

- CB, 485-500, 506-511, 517-18, 521-23 (including Note 1)
- DS, International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts

Class 21 (Wednesday, March 29): Methods of Dispute Settlement, ICJ Jurisdiction

- CB, 531-544
- CB, 552-54, 559-61, 565-68
- TWEN: Skim Uruguay Materials I and II
- DS, Statute of the International Court of Justice

VI. Human Rights

Class 22 (Monday, April 3): Human Rights I – Overview, Global Instruments and Institutions

- 915-20 (overview of history and structure)
- 934-941 (global instruments)
- 942-947 (global institutions)
- 973-74 (limitations in human rights norms)
- 996-1006 (mechanisms for promoting compliance)
- DS, Universal Declaration of Human Rights – **Where do these rights come from? What stands out to you about them?**
- DS, International Covenant on Civil and Political Rights
- DS, First Optional Protocol to ICCPR
- *Optional: Other Human Rights treaties discussed in the readings*

Class 23 (Wednesday, April 5): Human Rights II – Regional Institutions, The Challenge of Cultural Relativism

- CB, 958-72 (read for background on the different regional human rights institutions)
- Look at one of the Regional Human Rights Conventions (either African, European or Inter-American) in the Document Supplement and at the website of one of the regional courts or the Inter-American Commission and be prepared to speak about one of the following:
 - A case you found interesting
 - Something the Court or Commission does that you found interesting
 - A news article about the Court or Commission
- CB, 920-34
- TWEN: Readings on Cultural Relativism (Alston, Goodman)

VII. International Environmental Law

Class 24 (Monday, April 10): Historic Development, Transborder Environmental Harm

- CB, 1467-87
- DS, Rio Declaration on Environment and Development (1992) (skim)
- DS, International Law Commission Articles on the Prevention of Transboundary Harm from Hazardous Activities (2001)

VIII. Use of Force

Class 25 (Wednesday, April 12): Use of Force I – Pre-UN Charter Regime CB, 1087-1100

Class 26 (Monday, April 17): Use of Force II – UN Charter Regime, exceptions to Prohibition on Use of Force

- CB, 1100-1103
- DS, UN Charter, arts. 2(4), 51
- CB, 1121-34 (up to Schachter), 1137-1150

Class 27 (Wednesday, April 19): Use of Force III (Security Council)

- CB, 1168-90

Class 28 (Monday, April 24): Wrap Up, and Compliance with International Law

- CB, 8-17

Make Up Days: April 25-26

Exam: Tuesday, May 2, at 1 pm (draft exam schedule)