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School of Diplomacy and International
Relations

Fall 2020

DIPL 6005 Public International Law

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PUBLIC INTERNATIONAL LAW
DIPL 6005
Professor Moremen

Fall, 2020

[PRELIMINARY SYLLABUS]

This course explores the nature and content of the law governing relations between states and relations between states, individuals, and other non-state actors. The first part of the course examines the building blocks of international law; the second part applies this framework to particular topics, such as the use of force, human rights and the war on terrorism. No prior knowledge of law is necessary. By the end of the course, students will possess an understanding of the operation of the international legal system and the role of international law in relations between states. Students will also gain an introduction to legal reasoning and to legal concepts.

In terms of the learning goals and student outcomes the School's Faculty have identified as key for students, students will:

- increase their knowledge and understanding of
 - key concepts, models, theories, and debates in international relations
 - the institutional backdrop underpinning international politics, including international organizations and international law
 - the normative aspect of international relations as reflected in international law, including human rights
 - an in-depth knowledge of a particular functional area and/or region of the world
- develop skills to
 - collect, sort, and evaluate information
 - analyze complex situations and synthesize information
 - communicate effectively in oral and written form
- develop a sense of global citizenship and to employ a global perspective to:
 - recognize and understand differences among a diversity of cultures and viewpoints
 - employ a global perspective and self-awareness regarding their own culture and responsibility as world citizens
 - demonstrate leadership qualities and other essential skills of diplomacy.

COURSE REQUIREMENTS:

This course will include several requirements, more fully described below: (a) completing assigned readings before class and participating in class discussions and exercises; (b) preparing a number of case briefs and a paper related to the ICJ mock argument exercise; (c) participating in the ICJ exercise; (d) taking a mid-term exam; and (e) taking a final examination. **Class participation and briefs together will be worth 15% of your grade, the ICJ exercise 25%, the midterm 30%, and the final 30%.** I encourage you to (1)

prepare an outline of the course as we go along as an aid to studying for the exams and (2) to form study groups to review the materials and issues.

- a. Readings and Participation. Class attendance and participation are a required part of the course and will be considered in determining your grade. I will expect you to read the assigned materials before class and to be prepared to discuss them in class. I will select a few students to lead discussion for each class.
- b. Case briefs. You will submit several case-briefs on the dates indicated in the syllabus. **Late briefs will be penalized ½ a mark; briefs that are more than a week late will not be accepted. You should submit your brief electronically to Safe Assign before the beginning of class.** Case briefs will be approximately a page in length, and will consist of the following information:
 - The title of the case, the court deciding the case, and the date of the decision.
 - A brief, one to three sentence summary of the facts.
 - A brief, one-sentence statement, in question form, of the issue(s) in the case.
 - A brief description of the court's decision, or "holding," on each of the issues, expressed as a rule of law.
 - A brief summary/analysis of the legal basis for the decision and of the court's reasoning.
- c. Mid-Term Exam. There will be one mid-term exam on October 7 (Weds class) and October 8 (Thurs class) during our regular class time, conducted remotely and proctored through remote software.
- d. ICJ Mock Argument Exercise. **You will participate in a mock argument before the ICJ in class on November 4 (Weds class) or 5 (Thurs class).** You will be graded on the eight-page paper you prepare and on your oral participation. This exercise is a big part of your grade so please be sure to save the date and be prepared to participate in group activities during the previous week or two. **The paper will be due Monday, November 9 through Blackboard.** If you are having difficulties with Blackboard, you may send the paper to me by email to beat the clock, but must also submit through Blackboard when possible. **Submissions will go through SafeAssign, a plagiarism detection software.** Late papers will be penalized by a 1/3 letter grade reduction; papers late more than a week, by a 2/3 reduction, absent medical/family emergency, or COVID-related issues.
- e. Final Exam. The final exam will be conducted remotely through proctoring software. We will arrange for a date during the University's normal exam week or the week before.

COURSE MATERIALS: The course books will be Dunoff, Ratner, & Wippman, International Law: Norms, Actors, Process (5th. ed. or 4th ed.) and Janis, International Law (7th or earlier.). Additional readings will be placed on Blackboard, and there will be some readings available online. The Janis book should be used as a supplement to the other, primary readings, except where specific assignments are noted.

GRADING SCALE: The grading scale used for most assignments will be: 93 and above=A; 90-92=A-; 87-89=B+; 83-86=B; 80-82=B-; 77-79=C+; 73-76=C; 70-72=C; etc. Case briefs will be graded on a check, check minus, check plus basis.

OFFICE HOURS AND CONTACT INFORMATION. I will hold virtual office hours through Teams on Thursdays 9:30-12:30, or by appointment. I am also available after class. Please send me an email to set up a meeting during office hours or at another mutually convenient time. I may set up a sign-in sheet later. My e-mail address is philip.moremen@shu.edu .

PLAGIARISM AND OTHER ABUSES OF ACADEMIC INTEGRITY. **All forms of dishonesty, whether by act or omission, including, but not limited to, cheating, plagiarism, and knowingly furnishing false information to the University, are prohibited.** Work submitted in courses must be the product of the efforts of the student presenting the work, and contributions of others to the finished work must be appropriately acknowledged. The presentation of another's work as one's own is a serious violation of the academic process. Plagiarism and other forms of academic dishonesty will be reported to the administration and may result in a lowered or failing grade for the course and up to possible dismissal from the School of Diplomacy. See University and School standards for academic conduct here:

<<https://www.shu.edu/student-life/upload/Student-Code-of-Conduct.pdf>>

<<http://www.shu.edu/academics/diplomacy/academic-conduct.cfm>>

More particularly: any indication of plagiarism on a case brief will result in a failing grade for the assignment and a reduction in the participation grade for the class. **Any indication of plagiarism in the ICJ Brief** will result in a minimum reduction of 10 points in the score for the assignment, may result in a failing grade for the assignment or for the course, and will be reported to the School's administration. **A repeated incident of plagiarism (i.e., more than one) is likely to result in a failing grade for the class and will be reported to the administration.**

STUDENTS WITH DISABILITIES

It is the policy and practice of Seton Hall University to promote inclusive learning environments. If you have a documented disability you may be eligible for reasonable accommodations in compliance with University policy, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and/or the New Jersey Law against Discrimination. Please note, students are not permitted to negotiate accommodations directly with professors. To request accommodations or assistance, please self-identify with the Office for Disability Support Services (DSS), Duffy Hall, Room 67 at the beginning of the semester. For more information or to register for services, contact DSS at [\(973\) 313-6003](tel:9733136003) or by e-mail at DSS@shu.edu.

POLICY ON INCOMPLETES

Incompletes will be given only in exceptional cases for emergencies. Students wishing to request a grade of Incomplete must provide documentation to support the request accompanied by a Course Adjustment Form (available from the Diplomacy Main Office) to the professor *before* the date of the final examination. If the incomplete request is approved, the professor reserves the right to specify the new submission date for all missing coursework. Students who fail to submit the missing course work within this time period will receive a failing grade for all missing coursework and a final grade based

on all coursework assigned. Any Incomplete not resolved within one calendar year of receiving the Incomplete or by the time of graduation (whichever comes first) automatically becomes an “FI” (which is equivalent to an F). It is the responsibility of the student to make sure they have completed all course requirements within the timeframe allotted. Please be aware that Incompletes on your transcript will impact financial aid and academic standing.

CORONAVIRUS SAFETY

In accordance with the Seton Hall pledge, students must wear a mask in class, maintain required social distancing, and not come to class if you are ill. No mask, no class. The pledge can be found here: <https://www.shu.edu/health-intervention-communication/seton-hall-pledge.cfm>

CAPS

As part of our commitment to the health and well-being of all students, Seton Hall University’s Counseling and Psychological Services (CAPS) offers initial assessments, counseling, crisis intervention, consultation, and referral services to the SHU community. The CAPS office is located on the second floor of Mooney Hall, room 27. Appointments can be made in-person or by calling 973-761-9500 during regular business hours, Monday-Friday, 8:45 a.m. - 4:45 p.m. In case of a psychological emergency, call CAPS (973-761-9500) at any time to speak to a crisis counselor. For more information, please visit: <https://www.shu.edu/counseling-psychologicalservices/index.cfm>

CURRICULUM AND READINGS

Dunoff = Dunoff, Ratner, & Wippman. The first entry is for pages in the 5th edition; the second entry is for corresponding pages in the 4th edition and for supplementary 5th edition pages on Blackboard.

Janis = Janis, International Law. Pages are for the 7th edition; 6th edition pages in brackets.

Blackboard = materials on the course Blackboard site.

Online = online materials.

The assignments listed below are subject to modification.

1. 8/26; 8/27]

Introduction

Nature and Sources of International Law

- Janis: pp. 4-8; 62-65 [6th ed. 62-64] [the copy on Blackboard comes from an earlier edition]
- Akehurst, Modern Introduction to Int’l Law, 15-18.
- Janis: 169—173 [6th ed. 167-171]
- ICJ Statute Art. 38: Dunoff, p. 31 [4th ed.: 33], or [here](#).
- Recommended: Dunoff, 5th Edition, pp. 13-24.

2. [9/2; 9/3]

Sources of International Law—Treaties

- Dunoff, 5th Edition: pp. 31-63
- Dunoff 4th Edition: pp. 33-68.
- Janis, 65-70 [6th ed., 65-69].

-Suggested Background Reading

-Janis: Ch. 2.

3. [9/9; 9/10]

Sources of International Law—Custom

-Dunoff, 5th Edition: 63-78; 81-85.

-Dunoff, 4th Edition: pp. 68-86 (middle); 88-92.

Please brief the Texaco Case in the reading.

-Blackboard: The Asylum case, in Readings from Janis & Noyes.

4. [9/16; 9/17]

Non-consensual Sources; Subsidiary Sources

-Janis: 57-65; 83-86 [6th ed., 57-64; 83-86].

-Dunoff, 5th Edition, 544-556.

-Dunoff, 4th Edition, 586-597.

International Law and Municipal Law

-Dunoff, 5th Edition: 209-214.

-Dunoff, 4th Edition: 209-214.

-Suggested Background Reading:

-Janis: Ch. 4.

5. [9/23; 9/24]

Jurisdiction

-Blackboard, The Lotus case.

-Dunoff, 5th Edition: 267-274 [skip Lotus]; 278-284; 287-295.

-Dunoff, 4th Edition: 273-282 [skip Lotus]; 288-298.

-Suggested Background Reading

-Janis: Ch. 10, except 355-358; 370-377 [6th ed., Ch. 10, except 352-360; 367-374]

State Responsibility, State Protection, and Standing

-Dunoff, 5th Edition: 333-334.

-Dunoff, 4th Edition: 339-341.

-Blackboard: Henkin et al., International Law, (3rd ed.) 677-682; 693-695; 708-717.

6. [9/30; 10/1]

Human Rights

-Dunoff, 5th Edition: pp. 329-355; 355-361; 376-380 [skim].

-Dunoff, 4th Edition: pp. 335-366; 379-388; 406-413 [skim].

-Please brief Public Committee Against Torture v. Israel.

-Suggested Background Reading

-Janis: Ch. 8.

7. [10/7; 10/8]

MIDTERM

8. [10/14; 10/15]

The Use of Force/ Jus ad Bellum

-Blackboard: The Caroline Case, in Readings from Janis and Noyes, Int'l Law, pp. 604-608. **Please brief the Caroline Case.**

-Dunoff 5th Edition: 667-685; 706-709.

-[Also on Library E-reserve or Blackboard]

9. [10/21; 10/22] **Intervention and Self Defense**
- Dunoff, 5th Edition: 686-706
-[Also on Library E-reserve or Blackboard]
Peacekeeping, Humanitarian Intervention, R2P
-Dunoff, 5th Edition: 710-714; 717-726.
-[Also on Library E-reserve or Blackboard]

10. [10/28; 10/29] **Protecting the Ozone Layer**
-Dunoff, 5th Edition: 582-599.
-Dunoff, 4th Edition: 626-646
Prep for ICJ Exercise
-Blackboard: Read background materials for ICJ Exercise
[TBA]

11. [11/4; 11/5] **ICJ Exercise**

MON, 11/9: ICJ ISSUE BRIEF DUE THRU BLACKBOARD

12. [11/11; 11/12] **Humanitarian Law/ Jus in Bello**
-Blackboard: Murphy, Jus in Bello, in Principles of Int'l Law,
602-604; 607-616
-Blackboard: Articles 1-3, Geneva Convention III (POWs)
-Blackboard: Dunoff, 4th Edition: pp. 833-836.
-Dunoff, 5th Edition: pp. 398-410; Blackboard:
-Dunoff, 4th Edition: pp. 436-450.
-Blackboard: Dunoff, Ratner, Wippman (3rd ed.), pp. 534-546
(Tadic case).
13. [11/18; 11/19] **International Criminal Law and Tribunals**
-Dunoff, 5th Edition: pp. 435-455; 482-501.
-Dunoff, 4th Edition: pp. 475-494; 524-542.

THANKSGIVING WEEK

14. [12/2; 12/3] **[REMOTE] Interdisciplinary Perspectives on International Law**
-Blackboard: Keohane, International Relations and International Law: Two Optics, 38 Harv. Int'l L. J. 487 (1997).
-Blackboard: Arend, Do Legal Rules Matter? International Law & International Politics, 38 Va. J. Int'l L. 107 (1998).
-Blackboard: Slaughter, A Liberal Theory of International Law, in Foundations of International Law and Politics (Hathaway & Koh, eds.)
-Blackboard: Chayes, The New Sovereignty (1995) [Excerpt].
-Blackboard: Franck, Legitimacy in the International System, (1988) [Excerpt].