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School of Diplomacy and International
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Fall 2018

DIPL 6005 Public International Law

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PUBLIC INTERNATIONAL LAW

DIPL 6005

Professor Moremen

Fall, 2018

[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 20%, the midterm 30%, and the final 35%.** 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 a number of 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 in-class mid-term exam on October 17 (Weds class) and October 18 (Thurs class).
- d. ICJ Mock Argument Exercise. You will participate in a mock argument before the ICJ in class on November 14 (Weds class) or 15 (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. The paper will be due Tuesday, November 20, at 4:00 p.m. through Safe Assign. If you are having difficulties with Safe Assign, you may send the paper to me by email to beat the clock, but must also submit through Safe Assign when possible.
- e. Final Exam. The final exam for Wednesday's class will be held during finals week in our normally scheduled class time, on Wednesday, December 12. The exam for Thursday's class is scheduled for Tuesday, December 18, from 2:30 to 4:30 according to the University exam schedule. We can explore changing that.

COURSE MATERIALS: The course books will be Dunoff, Ratner, & Wippman, International Law: Norms, Actors, Process (4th. ed.) and Janis, International Law (7th or 6th ed.). 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. My office hours are Thursdays 9:30-12:30, or by appointment. I am also available after class. Please do not hesitate to come and talk to me. My e-mail address is philip.moremen@shu.edu (best way to reach me) and my extension is 2517.

PLAGIARISM AND OTHER SERIOUS 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 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.

CURRICULUM AND READINGS

Dunoff = Dunoff, Ratner, & Wippman.

Janis = Janis, International Law. Pages are for the 6th edition; 5th edition pages in brackets.

Blackboard = materials on the course Blackboard site.

Online = online materials.

The assignments listed below are subject to modification.

1. 8/29; 8/30] **Introduction**
Nature and Sources of International Law
 - Janis: pp. 4-8; 62-65 [6th ed. 62-64] [these pages from an earlier edition are also on Blackboard]
 - Blackboard: Akehurst, Modern Introduction to Int'l Law, 15-18.
 - Janis: 169-173 [6th ed. 167-171] [also on Blackboard].
 - ICJ Statute Art. 38: Dunoff, p. 33, or [here](#).
2. [9/5; 9/6] **Sources of International Law—Treaties**
 - Dunoff: Ch. 2, pp. 33-68.
 - Janis, 65-70 [6th ed., 65-69].
 - Suggested Background Reading**
 - Janis: Ch. 2.
3. [9/12; 9/13] **Sources of International Law—Custom**
 - Dunoff, Ch. 2, pp. 68-86 (middle); 88-92.
 - Please brief the Texas Overseas Petroleum case.**
 - Blackboard: The Asylum case, in Readings from Janis & Noyes.
4. [9/19; 9/20] **Non-consensual sources; Subsidiary Sources**
 - Janis: 57-65; 83-86 [6th ed., 57-64; 83-86].
 - States, Self-Determination**
 - Dunoff: Ch.3, 101-130. [Please brief the Aaland Islands case]
 - International Law and Municipal Law**
 - Dunoff: Ch. 5, 209-214.
 - Suggested Background Reading:**
 - Janis: Ch. 4.

5. [9/26; 9/27] **Jurisdiction**
-Blackboard, The Lotus case, in Readings from Janis & Noyes.
-**Suggested Background Reading**
-Janis: Ch. 10, except 355-358; 370-377 [6th ed., except 352-360; 367-374]
-Dunoff, Ch. 6, 277-283; 288-298.
State Responsibility, State Protection, and Standing
-Dunoff: 339-341.
-Blackboard: Henkin et al., International Law, (3rd ed.) 677-682; 693-695; 708-717.
-Blackboard: Readings from Janis & Noyes, International Law, pp. 155 (note 7)-157; 161 (note 2);]
6. [10/3; 10/4] **Human Rights**
-Dunoff: Ch. 7, pp. 335-364; 366-374; 379-380; 386-388; 406-413[skim]. **Please brief Public Committee against Torture in Israel v. Israel.**
Suggested Background Reading
-Janis: Ch. 8.
7. [10/10; 10/11] **Humanitarian Law/ Jus in Bello**
-Dunoff: Ch. 8 pp. 415-417; 421-426; 436-450.
-Blackboard: Dunoff, Ratner, Wippman (3rd ed.), pp. 534-546 (Tadic case).
-Ch. 14, pp. 833-836; 850-862.
-Blackboard: Articles 2 and 3, Geneva Conventions III (POWs) [For reference]
8. [10/17; 10/18] **MIDTERM**
9. [10/24; 10/25] **The Use of Force/ Jus ad Bellum**
-Blackboard: The Caroline Case, in Readings from Janis and Noyes, Int'l Law, p. 604-608.
-Dunoff: Ch. 13, pp. 713-746.
-Dunoff: Ch. 14, pp. 825-833.
10. [10/31; 11/1] **Intervention and Self Defense**
-Dunoff: Ch. 13, 746-757; 763-768. **Please brief the Nicaragua Case**
Peacekeeping, Humanitarian Intervention, R2P
-Dunoff: Ch. 13, pp. 768-778; 782-793.
11. [11/7; 11/8] **Protecting the Ozone Layer**
-Dunoff, Ch. 11: 626-646
Prep for ICJ Exercise
-Blackboard: Read background materials for ICJ Exercise [TBA]

12. [11/14; 11/15] **ICJ Exercise**

TUES, 11/20 AT 4 P.M.: ICJ ISSUE BRIEF DUE THRU SAFE ASSIGN

THANKSGIVING

13. [11/28; 11/29] **International Criminal Law and Tribunals**

-Dunoff: Ch. 9, pp. 473-494; 500-504; 515-524; 524-542.

14 [12/5; 12/6] **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].