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PSC 433.01: International Law and Organizations

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UNIVERSITY OF MONTANA
Department of Political Science

Political Science 433E
Introduction to International Law
Spring Semester, 2003

F.L. Grieves
Office: LA 352
Hrs.:

The course purpose is to provide an introduction to classical principles and contemporary issues of international law.

Course objectives: Upon successful completion of this course, the student should be able to demonstrate 1) factual knowledge of basic principles of classical and contemporary international law, as well as a sense of enduring ethical themes, 2) introductory familiarity with legal research sources, and 3) competence in writing a formal research paper and related exercises, which will be presented orally in class.

Terry Nardin and David Mapel, Traditions of International Ethics (Cambridge University Press, 1992), identify twelve major ethical traditions, five of which receive attention in this course: international law, realism, natural law, liberalism and human rights. Successful completion of this course will provide an upper-division understanding of the following ethics issues from an international legal perspective:

1. a review of ethics themes posed by national sovereignty, the Westphalian system, individual rights, and jus cogens;
2. international political morality as discussed by realists, idealists, communitarians and cosmopolitans;
3. international legal philosophies espoused by naturalist, positivist and eclectic (Grotian) schools of thought, as well as those of monists and dualists;
4. alternative international legal perspectives (world law, transnational law, supranational law);
5. human rights v. states rights under international law; and
6. law v. power (pacifism, amoral realism, principled realism) and just war theory (jus ad bellum and jus in bello)

Achievement of these objectives will be measured by oral case briefings and discussions, a midterm and final reviewing course material and ethical principles covered, a research paper covering an international law topic and examining law as a normative constraint on national power, and an ethics essay taking a position on an international law problem.

1. Basic reading for the course will be assigned from:

W. Slomanson, Fundamental Perspectives on International Law (4th ed.)

--L. Henkin et al., Intl Law: Cases & Materials (3rd ed) and Wm Bishop, Intl Law casebook(3rd ed)--on reserve in Library

2. Students will be expected to prepare in advance the case materials from the reading as the basis for class discussion. The preparation of case briefs will be explained in class. Regular attendance, preparation and participation will be an important part of the course grade.

3. Writing assignments due (3-5 pages): a) Paraphrase/Summary: due by Feb 27 (Thurs); b) Ethics Essay: due April 24 (Thurs). Assignments (10 points each) will be explained in class.

4. A 10-15 page term paper will be assigned & explained in class. Topic picked by Feb 20 (Thu); paper due April 1 (Tue) at BEGINNING OF CLASS. Late papers WILL NOT be graded, but are required for completing the course. Style manual: Kate L. Turabian, A Manual for Writers of Term Papers, Theses, and Dissertations (6th ed.). Papers are graded on the basis of use of legal scholarly resources, organization and clarity of prose (incl. grammar, punctuation & spelling) and formal paper mechanics (Turabian manual) (50 points)

5. There will be a 1-hour midterm (100 points) & 2-hour final: (200 points)

MIDTERM: March 6 (Thurs)

FINAL: May 14 (Wed)--8:00-10:10

<u>Course Outline</u>	<u>Reading</u> (Slomanson)
I. Nature, Sources, History of Intl Law: The State and Human Values	Ch. 1
II. Membership in the Intl Community	Ch. 2
III. Jurisdiction (Land, Sea, Persons)	Ch. 6, 5, 3
IV. Individuals: Protecting People in a World of States	Ch. 4, 11
V. Diplomacy: Statesmanship and Ethical Choices	Ch. 7
VI. Treaties (& other intl agreements)	Ch. 8
VII. Modes of Redress Short of War, War & Neutrality	Ch. 9, 10
VIII. Future of International Law: Ethical Relationships and Choices	Ch. 12, 13

Additional materials will be handed out in class.

Grading: Midterm (100 points)--25 % of final grade
Paraphrase/Summary (10 points)
Ethics Essay (10 points)
Research Paper (50 points)
Oral Participation/Attendance (30 points)
Written/oral exercises (100 points)--25 % of final grade
Final (200 points)--50 % of final grade

Grading scale: total score ÷ 4 (90s = A, 80s = B, 70s = C, 60s =
D, 59 & below = F)

NOTE: Mon, Mar 10: last day to drop classes or change grading
option

PSc Website: <http://www.umd.edu/polsci/>

UNIVERSITY OF MONTANA
Department of Political Science

Political Science 433

Introduction to
International Law

Glossary

A. International Law

(Note: The student will be expected to be able to define and use the following terms which are commonly found in the literature of international law. The list is not exclusive.)

accretion--addition of territory by gradual deposit of soil from natural causes. One of the generally recognized methods for acquisition of territory under international law.

aide-memoire--a written summary or outline of important items of a proposed agreement. (diplomatic communication)

auto limitation--self-limitation. Used to describe that school of thought which holds that international law gets its binding force only from the consent of those to whom it applies.

avulsion--detachment of territory by sudden and violent action of water--e.g., when a river suddenly changes its course. Generally held not to effect a change in title to the affected territory.

comity--the informal and nonmandatory courtesy sometimes referred to as a set of rules to which the courts of one sovereignty often defer in determining questions (as of jurisdiction or applicable precedent) where the laws or interests of another sovereignty are involved. (Mutual consideration)

de facto--in fact. Used to distinguish that which actually exists from that which exists by legal right. (Applies to method in extending recognition by one state to another.)

de jure--in law, by lawful, or legal right. Used in contrast to de facto.

delicta juris gentium--offenses against the rights of nations.

droit des gens (Fr.)--the law of nations; international law.

dualism--the school of thought which believes that international law and municipal law are two separate systems.

ex aequo et bono (Lat.)--in equity and good conscience (fairness).

expatriation--the act, voluntary or involuntary, of withdrawal from one's native land.

modus vivendi--a temporary agreement in a dispute, a compromise. Literally, mode of living.

monism--the belief that municipal law and international law are parts of a single legal system.

most favored nation clause--a clause found in many treaties. It provides that each of the contracting parties be given the privileges and benefits accorded by any of them to any other state.

pacta sunt servanta--literally "pacts (or agreements) are binding. (Treaties are to be performed in good faith.)

passive personality--the principle by which jurisdiction in criminal cases is determined by reference to the nationality of the injured party.

prescription--the principle that right or title to territory may be acquired by long and uninterrupted possession.

persona non grata--a diplomatic agent who is unwelcome in the country to which he is accredited.

projection--in international law, the determination of ownership to disputed territories in the polar areas by extending lines from the eastern and western most boundaries of each continuous state to the pole.

protective principle--determining jurisdiction by reference to the national interest injured by the offense.

rebus sic stantibus--while things thus stand (The tacit condition claimed by some to be inherent in all treaties that they cease to be obligatory when the conditions upon which they were founded have substantially changed).

reprisals--actions, otherwise illegal, by one state against another which are legal when taken in retaliation for illegal actions of the target state.

retorsion--unfriendly, but legal, act done by a state in retaliation for unfriendly acts of another state.

reparian--belonging or relating to the bank of a river. Riparian states are those who have territory on the banks of a river.

subaqueous--under the water. Used to refer to the land under sea.

subjacent--that which is adjacent to, but specifically under, something else--as the land is subjacent to the air above it. (opposite: superjacent)

terra communis, territorium communis--land or territory belonging to everyone, commonly owned.

executory--not yet executed; not yet fully performed, completed, fulfilled, or carried out.

ex parte--of or from one side or party. Used in proceedings where only one party is represented.

ex post facto--from after the fact. Used to describe a law which would make punishable an act not punishable under law at the time it was committed.

ex proprio vigore--of its own force.

ex rel--abbreviation of ex relations.

ex relatione--on the relation of; on the information of.

force majeure (Fr.)--superior of irresistible force.

forum--place of jurisdiction.

habeas corpus--a writ to remove illegal restraint upon personal liberty. A writ to release from unlawful imprisonment.

implead--to sue or prosecute by due course of law.

in invitum--against the will; without consent.

in re--in the matter of; in the transaction.

in rem--against a thing and not against a person.

inter alia--among other things.

interpleader--an equitable remedy which lies when two or more persons severally claim the same thing under different titles or in separate interests from another who, not knowing which of the claimings ought to have the right or title, is subject to action or fears that he may suffer injury from conflicting claims.

inter se--among themselves.

inter vivos--between living persons.

ipse dixit--statement not made on the authority of any precedent.

ipso facto--by the fact itself.

locus delicti--the place of the wrongdoing.

mandamus--a command issued from a competent jurisdiction, in the name of the state or sovereign, directed to some inferior court, officer, corporation, or person, requiring the performance of a particular duty where without the writ there would be a failure of justice.

341.08 Recueil des Cours, Académie de Droit International
H 147r

341.058 British Year Book of International law
B862

341.058 Soviet Yearbook of International Law
S729

341.05 International & Comparative Law Quart.
I612

341.05 Columbia Journal of Transnational Law
C726

341.05 American Journal of International Law (AJIL)
A512

341.06 American Society of International Law Proceedings
A45sp

341.05 International Legal Materials
I614

341.05 Archiv des Völkerrechts
A673

341.05 Zeitschrift für ausländisches Öffentliches Recht und Völkerrecht
Z48

UN, IJC

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341.184
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Political Science 433 - Selected Articles

1. Oran Young, "International Law and Social Science," AJIL, LXVI, 1 (January, 1972), 60-76.
Myres McDougal, "International Law & Social Science" AJIL, 1 (January, 1972), 77-81.
2. George A. Finch, "The American Society of Intl Law, 1906-1956," AJIL, 50: 293-312 (1956)
3. Leo Gross, "The Peace of Westphalia, 1648-1948," AJIL, 42: 20-41 (1948)
4. Hersch Lauterpacht, "Codification & Development of IL," AJIL, 49:16-43 (1955)
5. C.W. Jenks, "Craftsmanship in IL," AJIL, 50: 32-60 (1956)
6. Myres McDougal, "Law and Power," AJIL, 46:102-114 (1952)
7. Richard Bilder, "The Office of the Legal Adviser," AJIL, 56:633-684 (1962)
8. G.G. Fitzmaurice, "Legal Advisers & Foreign Affairs," AJIL 59:72-86 (1965)
9. Oscar Schachter, "Enforcement of Intl Judicial & Arbitral Decisions," AJIL, 54:1-24 (1960)
10. R.P. Anand, "Role of the New Asian-African Countries in the Present Legal Order," AJIL, 56:383-406 (1962)
11. Chas. Fenwick, "Intl Law: the Old and the New," AJIL 60:475-483 (1966)
12. Richard Falk, "New Approaches to the Study of Intl Law," AJIL, 61:477-495 (1967)
13. Edward McWhinney, "Changing Intl Law Method & Objectives in the Era of the Soviet-Western Detente," AJIL, 59:1-15 (1965)
14. Richard Falk, "The Reality of IL," World Politics, 14:353-363 (1962)
15. Phillip Jessup, "The Reality of IL," Foreign Affairs, 18:244 - (1940)
16. Shabtai Rosenne, "The Court & the Judicial Process," INTL Org, 19:518-536 (1965)
17. W.W. Kulski, "The Soviet Interpretation of IL," AJIL, 49:518-534 (1955)
18. Leo Gross, "The UN & the Role of Law," Intl Org. 19:537-561 (1965)
19. Oliver Lissitzyn, "Western & Soviet Perspectives," Proceedings 53:21-30 (1959)
20. R. Judson Mitchell & Alan T. Leonhard, "Changing Soviet Attitudes toward IL: An Incorporative Approach," Georgia Journal of Intl & Comparative Law, VI, 1 (Winter, 1976), 227-244.

Political Science 433E--Selected Articles

1. ASIL/American Branch of the ILA, "The Role of the Legal Advisor of the Department of State," AJIL, LXXXV, 2 (April, 1991), 358-371.
2. B. Graefrath, "The International Law Commission Tomorrow: Improving its Organization and Methods of Work," AJIL, LXXXV, 4 (Oct, 1991), 595-612.
3. Oscar Schachter, "The Decline of the Nation-State and its Implications for International Law," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 7-23.
4. Jonathan I. Charney, "Third Party Dispute Settlement and International Law," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 65-89.
5. Rosalyn Higgins, "Interim Measures for the Protection of Human Rights," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 91-108.
6. John H. Jackson, "The Great 1994 Sovereignty Debate & United States Acceptance and Implementation of the Uruguay Round Results," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 157-188.
7. Thomas Buergenthal, "Modern Constitutions and Human Rights Treaties," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 211-223.
8. Louis Sohn, "Managing the Law of the Sea: Ambassador Pardo's Forgotten Second Idea," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 285-305.
9. Edward L. Miles, "U.S. Security Interests in a Post-Cold War World and the Law of the Sea," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 373-397.
10. Bernard Oxman, "Human Rights and the United Nations Convention on the Law of the Sea," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 399-429.
11. John Lawrence Hargrove, "Force, A Culture of Law, and American Interests," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997), 433-447.
12. Lori Fisler Damrosch, "Use of Force & Constitutionalism," Columbia Journal of Transnational Law, XXXVI, 1 & 2 (1997) 449-472.