

International Law
LAW 6260, Section 14G9
Professor Berta E. Hernández-Truyol

Fall 2018

TUESDAY, WEDNESDAY & Thursday – 11:00AM – 11:50AM
Room HOL 360

SYLLABUS

1. Class Materials

INTERNATIONAL LAW, 6th Ed., Carter et al., 2011. ISBN: 9780735598102.

Unless otherwise indicated, the reading assignments refer to the required textbook. Every student is expected to have completed the assigned readings **prior** to class.

Students also are expected to read additional materials as indicated and as posted on the Canvas page, usually in either pdf or html format. Adobe Reader 6.0 or higher should be used to view pdfs, otherwise you may experience some difficulties. Students should check Prof. Hernández's Canvas course page on a regular basis for updates to the online materials and readings. Dates of last update are given for your convenience.

Note: In order to inform the current events discussion with which every class will start, students must read a newspaper daily. As the class focus is international, it is suggested that students read the New York Times, Wall Street Journal, London Financial Times, or some such publication (all of which are available via WestLaw or Lexis/Nexis). It is important every student be prepared and class participation will be considered in grading.

2. Course Description and Objectives

The purpose of this course is to provide students with an overview of International Law as well as to develop critical thinking. We will study both international legal principles and the United States' position on these norms. We will always be looking at current events that will frame the context for the course because, as we speak, the law is in a state of flux. The first part of the course (classes 1-4) is an introduction to the subject matter in which we will read about ISIS; interrogate what is international law and whether it is really law; and then proceed to consider some of the current critiques of the international legal system. The second part of the course (classes 5-16) covers the sources of law in international law – the way norms are created. In part three (classes 17-22), we consider who are the actors in international law, both the traditional actors – states – and more recent participants in global matters – non-state actors, such as international organizations and non-governmental organizations (NGOs). In part four (classes 23-28), we will consider the issues of sovereign immunity and

the act of state doctrines – both rules that may deprive courts of the United States of the right to decide cases brought before them. The fifth part of the course (classes 29-33) considers the bases of jurisdiction and choice of law in the international sphere – concerns that inform us on the allocation of legal authority among states. In part six (classes 34-39), we study issues of state responsibility for injury to aliens and international human rights. In the last part of the course, we will study the use of force.

3. Student Learning Outcomes

At the conclusion of the course, students will have a basic knowledge of and will be able to analyze:

- International Legal Principles
- Sources of International Law
- Structures of Enforcement
- Role of State Actors and Non-State Actors
- Issues of State Responsibility

4. Attendance

I take attendance in accordance with University and Law School policy and ABA rules. Law School policy states as follows:

“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.”

The American Bar Association’s standards provide that “regular and punctual class attendance is necessary to satisfy residence and class hour requirements.”

Absences for religious reasons are excused in accordance with university policy.

Please be on time as it is distracting for everyone to have persons coming into the classroom after class starts.

5. Examination

The exam will be a 24-hour take-home. The exam will be distributed and collected electronically. Further information regarding this will be available later in the semester. A previous year's exam and answer key will be made available for review from Prof. Hernández's Canvas course page.

6. Class Participation

Class participation is an important part of the course. I anticipate that students will keep up with the reading and be prepared for class discussion. The most instructive and enjoyable classes are those in which many people take part in the conversation. I understand that some students are eager to speak while others are

reluctant to do so. While I will call on volunteers, I will also call on others. If you are not prepared for class on a particular day, please let me know before class and I will not call on you that day. We all have unexpected things happen that can derail our plans. I look forward to everyone contributing their insights in class.

7. Class Preparation

Anticipate spending about 3-4 hours preparing for each class meeting. Prep time includes reading the materials, briefing the cases, thinking about the materials, and synthesizing your learning and knowledge of the assigned materials.

8. Grades

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

Grading is in accordance with Law School policy, which is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>.

I may raise grades for extraordinary performance in class up to a one-half grade "bump." Minus grades will be used in this course. Grades may be negatively affected by excessive absences.

Information on the University policy as to assigning grade points is available at: <http://www.registrar.ufl.edu/catalog/policies/regulationgrades.html>

9. Accommodation

Students with needs for accommodations should see Student Affairs whose staff will work with students according to Law School and University policy.

10. Internet Policy and Related Issues

The internet, and more generally your laptop, is a great learning tool and invaluable asset to effective advocates. It should be used during class time as you will use it in practice: responsibly and ethically, consistent with the high professional standards that will be expected of you by your clients and by those who will employ you. This is important not only to you, but also to all the students around you who are affected by how you use your computer. It can be distracting to your classmates if you use your computer for activities unrelated to class. When you are talking, you should lower your laptop to facilitate communication.

Cell phones, tablets, and other electronic equipment should be turned off and not used during class. If you need to leave your phone on vibrate to receive an emergency call, please feel free to do so.

11. Academic Misconduct

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

12. Office Hours

Tuesdays: 2-4PM

My office is 319-A, my office number is 273-0928, and my email is hernandez@law.ufl.edu. I have an open door policy.

13. The assignment sheet is attached.

CLASS		ASSIGNMENT
	I. Introduction	
Classes 1-3 Aug. 14, 15, 16	General Information; 9/11	pp. 59-84; UN Charter art 2(4) & 51(Canvas); (skim 1018-23)
Class 4 Aug. 21	What is International Law?	pp. 1-22
Class 5 Aug. 22	Is International Law Really Law? (Lotus Case)	pp. 22-44
Class 6 Aug. 23	International Law Theory & Methodology	pp. 44-59
	II. Creation of Norms	
Class 7 Aug. 28	Treaties: Formation, Observance, Invalidity, Reservations	pp. 85-105; Vienna Convention (Canvas); Statute of the International Court of Justice art. 38 (Canvas); prepare Q1, p. 89(Denmark v. Norway); Q4, p. 89 (Nuclear test cases)
Class 8 Aug. 29	Treaties (cont'd): Termination, Withdrawal, Jus Cogens; Resolutions	pp. 105-115 (including Hungary and Slovakia); Statute of the ICJ art. 38 (Canvas)
Class 9 Aug. 30	Customary International Law (CIL); International Organizations, NGOs as creators of law; General Principles of Law	pp. 115-145 (including nuclear weapons case); pp. 146-152
Class 10 Sept. 4	Treaties – U.S. Law: Articles II and IV	pp. 153-164 (including cases: <i>Missouri v. Holland</i> ; <i>Reid v. Covert</i> ; <i>Bond v. U.S.</i> (Canvas); <i>Verdugo-Urquidez & Boumediene</i> (note 8, p. 163); U.S. Constitution (Canvas).
Class 11 Sept. 5	Treaties as Domestic Law; Self-Executing Treaties, Reservations, Last in Time, Termination	pp. 164-190 (including cases: <i>Asakura v. City of Seattle</i> , <i>Medellin v. Texas</i> , <i>Breard v. Greene</i>); On Canvas -- <i>Foster and Elam v. Neilson</i> (excerpt only); <i>U.S. v. Percheman</i> (excerpt only); ICCPR arts. 2, 4-7, 9, 10, 14, 15, 18-20, 26, 41, 42, 50; Vienna Convention arts. 19-23; U.S. Senate Resolution on ICCPR (p. 181)
Class 12 Sept. 6	Presidential Foreign Relations Power	pp. 190-202 (including cases: <i>U.S. v. Curtiss-Wright Corp.</i> , <i>Youngstown Sheet & Tube Co. v. Sawyer</i>)
Class 13 Sept. 11	Presidential Executive Agreements	pp. 202-216 (including cases: <i>U.S. v. Pink, Dames & Moore v. Regan</i>); IEEPA (Canvas)
Class 14 Sept. 12	National Emergency Legislation, the War on Terrorism	pp. 216-240 (including <i>Hamdi, Hamdan</i>)
Class 15 Sept. 13	CIL in U.S. Courts	pp. 240-253 (including cases: <i>The Paquete Habana</i> , <i>Filartiga v. Pena-Irala</i>); Alien Tort Claims Act; Torture Victim Protection Act

Class 16 Sept. 18	CIL in U.S. Courts (cont'd), The Charming Betsy Canon	pp. 253-269 (including cases: <i>Sosa</i> , <i>Garcia Mir</i> , <i>Kadic</i>); Kiobel (Canvas)
Class 17 Sept. 19	Federalism	pp. 269-282 (including cases: <i>Crosby v. National Foreign Trade Council</i> ; <i>American Insurance v. Garamandi</i>)
	III. Actors in the International Arena States and Other International Entities	
Class 18 Sept. 20	States and their governments; Recognition	pp. 429-443, AJIL Unbound blog: Democratic Legitimacy and Respect for Human Rights: The New Gold Standard by Christina M. Cerna (Canvas)
Class 19 Sept. 25	Taiwan; State succession	pp. 443-459
Class 20 Sept. 26	Territories and other entities; International Organizations, MNCs, NGOs	pp. 459-463
Class 21 Sept. 27	International & Regional Entities: UN	pp. 463-479, UN Draft Declaration on the Rights of Indigenous Peoples (Canvas)
Class 22 Oct. 2	International & Regional Entities: IMF, WB, WTO, G7/8, G77	pp. 479-481; 490-501
Class 23 Oct. 3	Regional Entities – EU, NATO, OSCE, OAS, AU	pp. 501-505, 517-524, 524-533
	IV. Foreign Sovereign Immunity and the Act of State Doctrine	
Class 24 Oct. 4	Immunity of Foreign States: Absolute, Restrictive, Foreign Sovereign Immunities Act (FSIA) Overview	pp. 535-552 (including cases: <i>Verlinden B.V. v. Central Bank of Nigeria</i> , <i>Amerada Hess</i>); U.S. FSIA (Canvas)
Class 25 Oct. 9	FSIA (cont'd) Entities, Waiver, Retroactivity, Counterclaim	pp. 552-570 (including case: <i>Mohamed Ali Samtar v. Bashe Abdi Yousuf</i> , <i>Republic of Austria v. Altman</i> , <i>Argentina v. Weltover</i>)
Class 26 Oct. 10	FSIA: Commercial, Non-Commercial Tort, Expropriation, Enforcement of Arbitral Agreements	pp. 570-586 (including cases: <i>Saudi Arabia v. Nelson</i> , <i>Letelier v. Chile</i> , <i>Risk v. Halvorsen</i>); U.S. FSIA (Canvas)
Class 27 Oct. 11	FSIA: Terrorist Acts, Immunity from Attachment or Execution, Current Status of Immunity Outside the U.S.	pp. 586-604 (including cases: <i>Murphy</i>)
Class 28 Oct. 16	Immunity: Embassies and Consulates, Diplomats and Consuls, Head of State; Act of State (AOS) through <i>Sabbatino</i>	pp. 604-627 (including case: <i>U.S. v. Noriega</i>), (including cases: <i>Banco Nacional de Cuba v. Sabbatino</i>); On Canvas -- Vienna Convention on Diplomatic Relations; Vienna Convention on Consular Relations

Class 29 Oct. 17	AOS – Limitations and Exceptions	pp. 627-634 (including case: <i>First National City Bank v. Banco Nacional de Cuba; Dunhill</i>)
Class 30 Oct. 18	AOS – Limitations (cont'd); AOS in Other States	pp. 634-636 (including case: <i>W.S. Kirkpatrick & Co. v. Environmental Tectonics Corp.</i>)
	V. ALLOCATION OF LEGAL AUTHORITY AMONG STATES	
Class 31 Oct. 23	Introduction, Jurisdiction to Prescribe Public Law; Territory	pp. 637-657 (including case <i>Morrison v. National Australian Bank</i>)
Class 32 Oct. 24	Territory (Cont'd)	pp. 657-670 (including cases: <i>Hartford Fire Insurance Co. v. California; Hoffman-La Roche v. Empagran</i>)
Classes 33 Oct. 25	Prescriptive Jurisdiction – Nationality; The Cuban Embargo, Protective	pp. 670-687 (including case: <i>The Netherlands... v. Sensor Nederland B.V., US v. Romero-Galue</i>); B.E. Hernández-Truyol, <i>Sanctions & Sovereignty: Analysis of the Embargo Under International Legal Norms</i> , 215 <u>N.Y.L.J.</u> S4 (col. 1) (1996) (Canvas)
Class 34 Oct. 30	Prescriptive Jurisdiction -- Passive, Universal; Jurisdiction to Enforce and Adjudicate Public Law	pp. 687-709 (including case: <i>U.S. v. Columba-Collela</i>)
Class 35 Oct. 31	Choice of Law – Private Disputes	pp. 710-718 (including case: <i>Pancotto v. Sociedade de Safaris de Mozambique</i>)
	VI. STATE RESPONSIBILITY- INJURY TO ALIENS AND INTERNATIONAL HUMAN RIGHTS	
Class 36 Nov. 1	Historical Background; Attribution of Conduct to the State	pp. 721-733
Class 37 Nov. 6	Property Rights; Nationality	pp. 733-744
Class 38 Nov. 7	Human Rights – Introduction	pp. 744-771; <i>see also</i> Class 16 material on UN organs (Canvas)
Class 39 Nov. 8	Human Rights (cont'd) -- Domestic Implementation	pp. 771-793
Class 40 Nov. 13	Human Rights (cont'd) -- Regional Systems	pp. 793-811 (including case: <i>Schalk and Kopf v. Austria</i>); skim B.E. Hernández-Truyol, <i>Human Rights Through a Gendered Lens: Emergence, Evolution, Revolution</i> , in <u>Women and International Human Rights Law</u> , Vol. 1 (Askin & Koenig eds.), pp. 5-24 (two excerpts: #1, #2 on Canvas)

Class 41 Nov. 14	Humanitarian Law; Guantánamo Cases	pp. 811-12; Review <i>Hamdi & Hamdan</i>
Class 41 Nov. 15	Review	