

Course Outline

Title of the Course: The Law and Practice of the United Nations

Lecturer: Dr. David M. Malone (rector@unu.edu)

NB: Beyond the required text, assigned readings may vary, around January 9, depending on whether we have been able to locate in Tokyo those currently assigned.

TIMING: January 12-16, and January 26-30, each day, 4 to 6 PM, except for Tuesday 13 January which shall finish at 5.30pm. There will be a total of ten sessions with significant reading (estimated at three hours per class) expected in advance of each class.

REQUIRED TEXT: Chesterman, Franck, Malone, *Law and Practice of the United Nations* (Oxford University Press, 2008). (Two copies available in library)

COURSE DESCRIPTION: The development of the United Nations as shown by interpretations of the Charter in practice.

AIMS & OBJECTIVES: By examining primary materials focused on the normative context within which the United Nations functions, students will develop an understanding of the interaction between law and practice. This is essential to a proper understanding of the UN Organization, but also to the possibilities and limitations of multilateral institutions more generally.

There are no pre-requisites for this course at UNU, but please note in particular the course requirements identified below.

COURSE CREDITS: 2

COURSE REQUIREMENTS

There is no exam in this seminar which emphasizes, as most seminars do, broad participation by the students and not the professor (who will not be lecturing on the topics assigned). **Students who expect a lecture course or who are not willing to participate every day orally in class should seek a different course.** Students are only expected to read the “required” readings; additional optional readings are only indicated for those who have a deeper interest in a topic but will generally not be the basis of class discussion.

Students’ grades will be based upon submission of four 1-page reaction papers (no longer than 500 words each) written over the course of the semester in response to the questions presented in the readings (30%). In-class participation will account for 30% of the grade. And a final paper of 15 pages (double-spaced) on a topic agreed

with the instructor will be due by **Monday, March 2**. The final paper should be submitted to the Degree Administration Office (Room 1114 11F) by 17:00 hours on **2 March 2015**.

Reaction papers will be due by e-mail by **6 PM on Tuesday, January 13; Thursday, January 15; Monday, January 26; and Thursday, January 29**. Each of the reaction papers will need to focus on one question assigned for the following class. The first reaction paper will not count towards the final grade. Each reaction paper will require a minimum of three hours of preparation. Once student and instructor are agreed on a topic for a final paper, a 1-page outline will need to be cleared with the instructor before drafting proceeds. If the student would like the instructor to read the final paper in draft form (with the possibility of the student making subsequent changes), this will be possible if submitted prior to 23 February. The final paper will require a minimum of 40 hours of preparation.

Depending on how conversation in the seminar evolves, we may adjust what each week's class will address. As well, please note that we may host one or two relevant guests during the seminar.

SCHEDULE

NB: Beyond the course-work, assigned readings may vary around January 9, depending on whether we have been able to locate in Tokyo those currently assigned.

Class 1 – Why International Organizations Matter: Perspectives from International Relations and International Legal Theory

Required Reading

Anne-Marie Slaughter, "The Technology: Principal Theories of International Relations", Chapter 1 in *International Law and International Relations* (Ann- Marie Slaughter, Hague Academy of International Law Lectures, 2000), pp. 21-54.

Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (1996), pp. 22-28, and 112-127.

Ian Johnstone, "Security Council deliberations: the power of the better argument", *European Journal of International Law*, Vol. 14(3), pp. 440-451.

Recommended Reading

Oona Hathaway and Harold Koh eds, *Foundations of International Law and Politics* (2005), pp. 191-201.

Robert Keohane, "International Relations and International Law: Two Optics", *Harvard International Law Journal*, Vol. 38(2), Spring 1997, pp. 487-502.

NB: Students are asked to be familiar with the first three texts at least. Prof. Malone will present some of the ideas (and some schools of IR theory) in the first half of class and students will be asked to relate this to legal theory and principles in the second half.

Class 2 – The UN Charter

Required Reading

Chesterman, Franck and Malone – Introduction and Chapter 1

Class 3 – Hard Cases in the Security Council

Required Reading

Chesterman, Franck and Malone, Chapter 2

Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, December 2001, “Synopsis” <http://responsibilitytoprotect.org/ICISS%20Report.pdf>

“A More Secure World: Our Shared Responsibility”, Report of the Secretary-General’s High Level Panel on Threats, Challenges and Change, paras. 199-209

http://www.un.org/en/peacebuilding/pdf/historical/hlp_more_secure_world.pdf

Resolution of the General Assembly, 2005 World Summit Outcome, A/RES/60/1, 24 October 2005, paras. 138-40

http://www.un.org/ga/search/view_doc.asp?symbol=A%2FRES%2F60%2F1&Submit=Search&Lang=E

Recommended Reading

Report of the Secretary-General, Implementing the Responsibility to Protect

<http://www.responsibilitytoprotect.org/files/SGRtoPEng.pdf>

Class 4 – Legal Status

Required Reading

Chesterman, Franck and Malone, Chapter 3, p. 83-119.

Ian Johnstone, “Legislation and Adjudication in the UN Security Council: Bringing Down the Deliberative Deficit”, 102 *American Journal of International Law* 275 (2008), pp. 283-308.

Class 5 – The Secretary-General and the Secretariat

Required Reading

Chesterman, Franck and Malone, Chapter 4

James Cockayne and David Malone, “Relations with the Security Council” in *Secretary or General?* (Simon Chesterman ed., 2006).

Ian Johnstone, “The Secretary-General as Norm Entrepreneur”, in *Secretary or General?* (Simon Chesterman ed., 2006).

Class 6 – Terrorism and Proliferation of Weapons of Mass Destruction

Required Reading

United Nations General Assembly, “The United Nations Global Counter-Terrorism Strategy”, 8 September 2006, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/504/88/PDF/N0550488.pdf?OpenElement>

Letter dated 7 October 2001 from the Permanent Representative of the US to the UN to the President of the Security Council, S/2001/946 (7 October 2001)

2002 US National Security Strategy, Part V. “Prevent Our Enemies from Threatening Us , Our Allies and Our Friends with Weapons of Mass Destruction”, September 2002 (4 pages).

Report of the High Level Panel on Threats, Challenges and Change, paras. 157-164, 185-198.

J. Cirincione, J. Wolfstahl and M. Rajkumar, “The International Non-proliferation Regime”, Chapter 2 of *Deadly Arsenals: Nuclear, Biological and Chemical Threats* (2nd ed, 2005) (16 pages).

Nuclear Non-Proliferation Treaty, available at:

http://www.un.org/disarmament/WMD/Nuclear/pdf/NPTEnglish_Text.pdf (5 pages)

Security Council resolutions on North Korea: Resolution 1695 (2006), Resolution 1718 (2006), Resolution 1874 (2009).

Juliane Kokott and Christoph Sobotta “The Kadi Case – Constitutional Core Values and International Law – Finding the Balance?” *The European Journal of International Law*, 2012, Vol. 23 no. 4, pp. 1015–1024.

David M. Malone, *The International Struggle Over Iraq* (2006), Chapter 6.

Class 7 – Membership & Financing

Required Reading

Chesterman, Franck and Malone, Chapters 5 and 6

Class 8 – Development

Required Reading

Chesterman, Franck, Malone, Chapter 11

Connell Working Paper

Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda (A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development)
<http://www.post2015hlp.org/the-report/>

The Future We Want, Resolution Adopted by the General Assembly on 27 July 2012, A/RES/66/288
http://www.un.org/ga/search/view_doc.asp?symbol=A%2FRES%2F66%2F288&Submit=Search&Lang=E

Class 9 – Human Rights and International Criminal Justice

Required Reading

Chesterman Franck and Malone, Chapter 13

William Schabas, An Introduction to the International Criminal Court (2007), Chapter 2 (34 pages)

Security Council resolution 1593 (31 March 2005) (referral of Darfur situation to the International Criminal Court)

“ICC Prosecutor presents case against Sudanese President, Hassan Ahmad AL BASHIR, for genocide, crimes against humanity and war crimes in Darfur.” The Hague, 14 July 2008 http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/situation%20icc%200205/press%20releases/Pages/a.aspx

International Criminal Court Issues a Warrant for Arrest of Omar Al-Bashir, President of Sudan.
http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/situation%20icc%200205/related%20cases/icc02050109/press%20releases/Pages/icc%20issues%20a%20warrant%20of%20arrest%20for%20omar%20al%20bashir%20president%20of%20sudan.aspx

Article 16 of the Statute of the International Criminal Court
http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

Class 10 – Sustainable Development

Required Reading

Chesterman, Franck and Malone, Chapter 11

COURSE ASSESSMENT

Student performance will be assessed by a combination of continuous assessment, active classroom participation, reflection papers and a final paper as follows:

1. Active participation, reading of required material, participation in class debates and **full** attendance (30%).
2. Reflection/reaction paper - (30%).
3. Final paper (40%)