

SEMESTER AT SEA COURSE SYLLABUS

COLORADO STATE UNIVERSITY, ACADEMIC PARTNER

Voyage:	Fall 2018
Discipline:	Political Science
Course Title:	POLS 431 International Law
Division:	Upper
Faculty Names:	Julie Bunck and Michael Fowler (co-taught)
Semester Credit Hours:	3

Prerequisites: One (1) international relations course OR permission of the instructors

COURSE DESCRIPTION

This course introduces students to the role of international law within the realm of international relations, where it is effective and where, less effective, with a special focus on the seas and human rights. The class will consider where international law comes from, how it has developed over time, how it differs from and resembles domestic law of various sorts, how various international tribunals function, and what such terms as sovereignty, sovereign immunity, jurisdiction, extradition, adjudication, and arbitration mean.

As we travel around the world, the course will be exploring numerous issues related to the seas: fishing, piracy, drug trafficking, maritime boundaries, and deep sea-bed mining. The cases we will examine include issues involving the hunting of whales, the wreck of an oil tanker, a night-time collision of ships, the war-time capture of fishing boats, the interception of a cocaine-trafficking mother vessel, the planting of explosives on a Greenpeace vessel while at berth, and the destruction of battleships traveling through international straits in peacetime by moored mines.

The course will also have a special focus on sovereignty and the process of gaining independent statehood and on human rights, a leading political issue, current or historical, in numerous countries that we will visit including Germany, Spain, South Africa, India, Myanmar, Vietnam, and China. We will explore human rights matters involving slavery and human trafficking, refugees and stateless persons, war crimes and the use of torture against prisoners. The cases we will examine will involve the fate of so-called "boat people," trials involving alleged Nazi, American, and Japanese war criminals, and a foreign-sponsored assassination in the United States of a former Chilean politician by Chile's secret police.

We will also analyze international law and development, discussing the legal responsibilities of foreign investment, corporations acting abroad, and the expropriation of foreign-owned property. And, we will debate different views of how legal systems did handle, and should have

handled, the enormous environmental disaster unleashed by Union Carbide in Bhopal, India. We will examine how law-enforcement agencies in different countries use international law to help them to cooperate to combat terrorism, drug trafficking, and other forms of organized crime. Among the international law matters to be discussed are the Iran hostage crisis of 1980, artifact-looting in war-torn Cyprus, the clashing of neighboring states concerning a remote Southeast Asian jungle temple, and terrorist plans to down commercial jets flying from Asia to the U.S.

The course will include a video on the career of a drug kingpin, featuring interviews by both of your professors, and two active-learning simulations, provided by the Harvard Program on Negotiation, involving a diplomatic immunity issue in a hypothetical African country and a Cold War ship bumping crisis. In the simulations the students will receive general and confidential instructions to review ahead of time and then will assume assigned roles and see if they can use international law concepts to engineer a resolution.

LEARNING OBJECTIVES

This international law course will aim to expose students to each of the following educational objectives:

- to learn fundamental principles of international law;
- to use legal arguments, in advancing and countering arguments, and to analyze the strengths and weaknesses of such arguments;
- to understand better how courts, both domestic and international, use international law in deciding cases;
- to critically assess the role of international law in international relations by asking where is law important, where is it less important, and why?; and
- to foster both the critical-thinking and the persuasive writing skills of the students.

As students become more familiar with the topic, they should be able to identify international law issues that they come upon during their semester at sea as they interact with people in different countries, tune in to media, take other courses, experience Field Classes, learn of the history and politics of the countries we will visit, and travel independently in our scheduled ports. Class sessions will combine lecture with a law-school oriented case-study approach in which a multitude of international judicial opinions are analyzed. Throughout the course we will adopt an interdisciplinary approach to the study of international law, making a special effort to discuss political, historical, and other relevant social contexts.

REQUIRED READINGS

There is no textbook for this course. Instead, copies of all required readings as well as lecture outlines, study guides for each class, and points to search for in the readings, will be placed on

the ship's electronic reserve, marked (ER). The simulation materials will be handed out in class, marked by a (CH) below. They come from the Harvard Program on Negotiation, at a cost of \$3.00 for the Zalada simulation, \$5.00 for the Ship Bumping one, and \$3.50 for Arms Control on Cobia, plus a small fee for shipping and handling. The cost of each student's simulations will be charged to the students' shipboard accounts.

AVAILABLE ON RESERVE IN THE LIBRARY

In addition, the following book may be found on reserve at the ship's library and may be useful in understanding complex topics or preparing to write the Field Assignment Report.

AUTHOR: Malcolm N. Shaw
TITLE: *International Law*
PUBLISHER: Cambridge University Press
ISBN #: 9781107188471
DATE/EDITION: 2017/8th Edition

TOPICAL OUTLINE OF COURSE

PART I. THE LEGAL FRAMEWORK OF INTERNATIONAL RELATIONS

Depart Hamburg, Germany – Sunday, September 9

A1. International Legal Institutions: Tues. 9/11/18 – How has the business of international courts and arbitral tribunals developed over time? The assigned case involves the Violation of the rights of a U.S. citizen working in Mexico in the early twentieth-century. *[Professor Fowler will lead this class.]*

Required Readings: ** Louis Henkin, "The Role of Law and its Limitations," *How Nations Behave*, pp. 12-27. (ER)

** *William T. Way Claim* (U.S. v. Mexico) U.S. and Mexico General Claims Commission, 1928. [1928-1929] 4 U.N. Rep. Int'l Arb. Awards 401. (ER)

** Statute of the International Court of Justice, Articles 1-2, 23, 34-36, 38, 41, 48, 50, 53, 55, 59, and 65. (ER)

A2. The Diplomatic Framework: Thurs. 9/13 – What is the legal structure of diplomatic relations, and what is meant by recognition, and diplomatic privileges and immunities? Note that the ship's community will be regularly meeting with various U.S. diplomats, to be given briefings on upcoming ports. At this early juncture in the course we will consider international law and diplomacy to help students to gain an understanding of the legal framework within which diplomats of all states work. The assigned case involves the

taking hostage of U.S. diplomats in Iran. **[Professor Bunck will lead this class.]**

Required Readings: ** Vienna Convention on Diplomatic Relations, Articles 9, 24-27, 29. (ER)
** *Case Concerning United States Diplomatic and Consular Staff in Teheran*, (U.S. v. Iran)
1980 ICJ Rep. 4. (ER)

Spain Visit

Barcelona, Spain – September 15-16

Valencia, Spain – September 17-18

You do not have a specific port assignment to undertake in your time in Spain, but we would like you to prepare for future port assignments by reading ** Michael Fowler, Julie Bunck, "What Constitutes the Sovereign State?," Review of International Studies, 22 (1996): 381-404. (ER)

A3. Zalada Simulation: Wed. 9/19 – Students assume the roles of Embassy First Secretary and Deputy Minister of Justice and confer over the arrest of personnel native to the host country but employed by a foreign embassy. **[Your professors will help to organize and debrief what occurs in your negotiation of the Zalada Crisis simulation.]**

Simulation Preparation: ** *Zalada Crisis* preparatory materials. (CH)

A4. The Laws of the Seas: Fri. 9/21 – How did the concept of *freedom of the seas* become a part of international law (in contrast to the idea of territorial sovereignty)? How has law affected piracy, navigation and fisheries? Part of the lecture will trace the dazzling career of Francis Drake, including his strike on the Spanish in the harbor we will be passing off-shore at Cadiz, Spain, and its effect on the development of laws of the seas. The assigned case, actually the first case ever heard by the International Court of Justice, involves the killing of British sailors when a destroyer struck a mine, allegedly planted by the state of Albania, in the straits between the coast of Greece and Corfu Island in the Mediterranean early in the Cold War era. This will enable us to discuss the concept of innocent passage through territorial waters. ***[Professor Fowler will lead this class.]***

Required Readings: ** *Corfu Channel Case* (United Kingdom v. Albania) ICJ 1949. [1949] ICJ Rep. 4. (ER)

[Note: The short provisions from the conventions listed below are found at the end of the Corfu Channel Case.]

** Convention on the Territorial Sea, 1958, Article 16(4). (ER)

** United Nations Convention on the Law of the Sea, Articles 2-3, 5-6, 15, 17, 19-21, 24, 34, 36-39, 44-45. (ER)

PART II. THE FOUNDATIONS AND SCOPE OF INTERNATIONAL LAW

Study Day – September 23: No class

A5. The Sources of International Law: Mon. 9/24 – From whence does international law come?; in bold strokes, how has international law developed, historically and philosophically? The assigned case involves the seizure by the U.S. Navy of fishing boats off the coast of Cuba during the Spanish-American war and the issue of whether this violated customary international law. **[Professor Bunck will lead this class.]**

Required Readings: ** Joan Donoghue, “The Role of the World Court Today,” 47 Ga. L. Rev. 181 (2012): 181-201. (ER)

** *The Paquete Habana Case*, 175 U.S. 677 (1900). (ER)

A6. Jurisdiction: Wed. 9/26 – How is the subject of jurisdiction conceived of in international law?; what is meant by executive, domestic, and judicial jurisdiction? The assigned case involves the collision of French and Turkish ships in the Mediterranean and the issue of whether Turkey could properly exercise jurisdiction over the captain. **[Professor Bunck will lead this class.]**

Required Readings: ** *The Case of the S.S. Lotus*, (France v. Turkey) PCIJ, 1927. PCIJ, Ser. A, No. 10. (ER)

[Note: The short provisions from the two conventions noted below are found at the end of the S.S. Lotus case.]

** Convention on the High Seas, 1958, Article 11. (ER)

** United Nations Convention on the Law of the Sea, 1982, Articles 27, 28, 34, and 97. (ER)

** U.S. Terminates Acceptance of ICJ Compulsory Jurisdiction. (ER)

Ghana Visit

Tema, Ghana – September 27-28

Takoradi, Ghana – September 29-30

During your time in Ghana – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on Ghana’s colonial period and how the country then gained its independence and its status as a sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

Community Programming – October 2: No class

A7. Sovereignty and Sovereign Immunity: Wed. 10/3 – The lecture will explore the case of the Cuban ship, *Bahia de Nipe*, and the effort of its crew to defect to the United States. More generally, we will explore how the concept of sovereign immunity has limited the scope of a state’s jurisdiction in various eras as well as how the U.S. Foreign Sovereign

Immunities Act works. The case raises the issue of the rights of expatriates working abroad in another sovereign state, and it involves the alleged torture by police of a whistle-blowing U.S. employee of a hospital in Saudi Arabia. **[Professor Fowler will lead this class.]**

Required Readings: ** “The Tate Letter: Letter from the Acting Legal Adviser of the Department of State to the Department of Justice,” 26 Dept.St.Bull. 984 (1952). (ER)
** The Foreign Sovereign Immunities Act of 1976, sections 1602, 1604-1605. (ER)
** *Saudi Arabia v. Nelson*, 113 S.Ct. 1471 (1993). (ER)

A8. Discussion Section: Fri. 10/5 – Occasionally, international law classes fall behind in their analysis of the assigned cases. Today, we will be sure to get up to speed on all the cases you should have read thus far in the course. And, we will review two new cases. The first case introduces students to the field of international art law via a U.S. federal court decision involving the looting of religious artifacts from a church in Cyprus during the civil war there. The second involves the request for asylum in the Colombian Embassy in Lima by an out-of-favor Peruvian politician. **[Professor Fowler will lead this class.]**

Required Readings: ** Michael Fowler, Julie Bunck, “The Nation Neglected: The Organization of International Life in the Classical State Sovereignty Period,” in *International Law and the Rise of Nations*, eds. Robert Beck and Thomas Ambrosio (Chatham House, 2001): 38-60. (ER)
** *The Asylum Case* (Colombia v. Peru) (1950) ICJ Rep. 266. (ER)
** *Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc.* 917 F.2d 278 (7th Cir. 1990), cert. denied, 502 U.S. 941 (1991). (ER)

South Africa Visit

Cape Town, South Africa – Oct. 7-12

During your time in South Africa – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on the colonial period in South Africa and then how the country gained its independence and its status as a sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

PART III. THE RESOLUTION OF INTERNATIONAL LEGAL MATTERS

A9. Adjudication of International Disputes and Alternative Dispute Resolution: Sat. 10/13 – Why are certain types of international disputes brought to a court for resolution? Why are others not? How might the concept of international adjudication be likened to a ‘pyramid-in-a-box’? We will then turn to international alternative dispute resolution. How are arbitration, mediation, conciliation, and good offices used to attempt to resolve

international disputes? The assigned case involves the interception by the U.S. Coast Guard of a Colombian cocaine-smuggling mother ship in the Caribbean. **[Professor Bunck will lead this class.]**

Required Readings: ** Thomas Franck, "A Brief History," *Judging the World Court*, pp. 13-25. (ER)

** Stephen Schwebel, "Fifty Years of the World Court: A Critical Appraisal," *90 Am. Soc'y Int'l L. Proc.* (1996): 339-347. (ER)

** *United States v. Leuro-Rosas*, 952 F.2d 616 (1st Cir. 1991). (ER)

A10. International Law and Individuals: Nationality, Aliens, Refugees: Mon. 10/15 – How have disputes concerning issues of nationality, asylum, and state responsibility to aliens been resolved? When we reach Myanmar, we will be hearing and thinking about the Rohingyas, a Muslim ethnic minority stripped of citizenship by the state. The first assigned case involves allegations concerning a supposed stateless person, born at sea, who grew up in east Africa, stowed away as an adult, and after multiple trips back and forth across the ocean was refused admission to Canada for failing to have any passport or travel documents. The second case involves the planned execution by Great Britain of a U.S. citizen who, during World War II, held himself out as a British subject and then moved to Germany and broadcast pro-Nazi radio propaganda in English. **[Professor Fowler will lead this class.]**

Required Readings: ** *Re Immigration and Hanna*, Can., Supr. Ct. Brit. Colum., 1957 21 W'rn Wkly Rep. 400. (ER)

** Convention Relating to the Status of Stateless Persons, Articles 1, 3, 4, 7, 31, and 32. (ER)

** *Joyce v. Director of Public Prosecutions*, 15 *International Law Reports* 91 (1948). (ER)

Study Day – October 16: No class

A11. International Law and Criminals I: Extradition and Other Rendition of Fugitives: Thur. 10/18 – How does a state legally surrender an individual within its borders accused of crimes abroad? How do the other methods of gaining custody over fugitives – expulsion, bounty-hunting, trickery, and kidnaping – intersect with international law? We will focus special attention on the political and legal repercussions of the rendition of a series of drug-trafficking suspects from Latin America to the United States. The assigned case involves the kidnaping of Nazi war criminal Adolf Eichmann in Argentina by Israeli agents, who spirited him back to Israel to stand trial. **[Professor Bunck will lead this class.]**

Required Readings: ** *Attorney General of Israel v. Eichmann*, Sp. Ct. Isr., 1962. 36 Int'l L. Rep. 5 (1968). (ER)

Mauritius Visit

Port Louis, Mauritius – Oct. 19

During your time in Mauritius – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on the colonial period in Mauritius and how the country gained its independence and its status as a sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

Study Day, Sunday, October 21: No class

A12. International Law and Criminals II: Drug Trafficking: Mon. 10/22 – To delve further into the subject of drug trafficking and international law, we will watch the film, *The Devil Incarnate*, from the AHC series *Manhunt: Kill or Capture*, that draws on the research in Michael Fowler and Julie Bunck's book, *Bribes, Bullets, and Intimidation: Drugs and the Law in Central America*, while reviewing the career of drug kingpin Juan Ramon Matta Ballesteros. We will then consider an assigned case, related to Matta's career, concerning the kidnaping of a Mexican doctor, accused of having participated in the torture of a U.S. DEA agent, by Mexican operatives being paid by the U.S. government. ***[Professor Fowler will lead this class.]***

Required Readings: ** *United States v. Alvarez-Machain*, 504 U.S. 655 (1991). (ER)
** U.S. Department of Justice, Extraordinary Renditions and *United States v. Alvarez-Machain* (1993). (ER)

A13. International Law and Development: Wed. 10/24 – How has international law intersected with issues of economic development? How and why do cases involving international business get resolved in court?; what have been the changing principles of expropriation? As we approach India, the assigned case and accompanying readings involve the massive chemical release by Union Carbide in Bhopal, India, and the issue of which court system should hear the resulting cases. ***[Professor Bunck will lead this class.]***

Required Readings: ** OECD Declaration on International Investment and Multinational Enterprises - Guidelines for Multinational Enterprises, General Policies. (ER)
** *In Re Union Carbide Corporation Gas Plant Disaster at Bhopal, India in December, 1984*, 809 F.2d 195 (2d Cir. 1987). (ER)
** Inis Claude, "Compensatory Justice and Multinational Corporations," *Issues in Compensatory Justice: The Bhopal Accident*, ed. R.S. Khare, pp. 44-47. (ER)
** Marc Galantar, "When Legal Worlds Collide: Reflections on Bhopal, the Good Lawyer, and the American Law School," 36 *Journal of Legal Education*, (1986): 292-310. (ER)

India Visit

Cochin, India – Oct. 25-30

During your time in India – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on the colonial period in India and how the country gained its independence and its status as a sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

Reflection and Study – October 31: Global Studies Reflection

A14. International Agreements: Human Rights: Fri. 11/2 – We will explore how human rights have been defined, what has been their changing role in the broader field of international law, how human rights law has intersected with political campaigns, and how civil litigation and the enforcement of criminal laws have been used to enforce human rights law. In the assigned case we will delve into the clash between authoritarian and democratic regimes, reading a case involving the assassination of an exiled Chilean politician in Washington D.C. by agents of the Chilean military regime. *[Professor Fowler will lead this class.]*

Required Readings: ** *Letelier v. Republic of Chile*, 502 F.Supp. 260 (1980). (ER)

** Chile - US Commission Decision on Responsibility for Letelier Death, *ILM* 1 (1992): 3-4. (ER)

Myanmar Visit

Yangon, Myanmar – Nov. 4-8

During your time in Myanmar – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on the colonial period in Myanmar and how the country gained its independence and its status as a sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

PART IV. LAW, CONFLICT, AND INTERNATIONAL ORDER

A15. Non-Aggression and Non-Intervention: Fri. 11/9 – What are the core principles of international law and armed conflict? What is the extent of their chief exceptions: self-defense, rescue of nationals, and anticipatory attack? As we continue the Asian section of our voyage, we will consider the assigned case involving a dispute over ownership of a religious temple in the jungles on the Thai-Cambodian border in which the disputants avoided aggression by taking the case to the court; however, disagreements have continued, including recent violence. *[Professor Bunck will lead this class.]*

Required Reading: ** Inis Claude, “The Tension Between Principle and Pragmatism in International Relations,” *Review of International Studies* 19 (1993): 215-226. (ER)

** John Bellinger, "International Courts and Tribunals and the Rule of Law," in *The Sword and the Scales*, ed. Cesare P. Romano, pp. 1-11. (ER)

** *The Temple of Preah Vihear*, (Thailand v. Cambodia) 1962 ICJ Rep. 20. (ER)

Community Programming – Nov. 11 - No class

A16. The Conduct of Warfare: Mon. 11/12 – The laws of war crimes have been an important aspect of international law for various countries that we are visiting, including Germany. And, countries like South Africa have instituted truth and reconciliation commissions to investigate crimes committed during civil conflicts. This class will trace the development of international crimes of war, while asking what is their effect on the conduct of actual conflicts? We will explore issues involving prisoners of war and non-combatants. We will ponder how the International Criminal Court has altered the traditional modes of prosecuting war crimes? The key reading involves the execution of a Japanese general in the Tokyo war-crimes trials after World War II. The assigned case involves the My Lai massacre of Vietnamese civilians by a U.S. Army lieutenant in the Vietnam War.
[Professor Fowler will lead this class.]

Required Readings: ** Hague Convention (IV) Respecting the Laws and Customs of War on Land. (ER)

** Geneva Convention Relative to the Protection of Civilian Persons in Time of War. (ER)

** Ann Marie Prevost, "Race and War Crimes: The 1945 War Crimes Trial of General Tomoyuki Yamashita," *Human Rights Quarterly* 14 (1992): 303-338. (ER)

** *Calley v. Callaway*, 519 F.2d 184 (5th Cir. 1975). (ER)

Vietnam Visit

Ho Chi Minh City, Vietnam - Nov. 14-18

During your time in Vietnam – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on the colonial period in Vietnam and how the country gained its independence and its status as a sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

Note that our Field Class will be held on Thursday, November 15th in Ho Chi Minh City. We will be hearing and seeing some different perspectives on the Vietnam War: a visit with a UPI photographer who took pictures during the war, a trip to the War Remnants Museum, and a meeting with the President of a Vietnamese university and a student group from that university.

To prepare, please look over the Field Class Daily Study Guide and read Paul Warnke, et al., "Individual Responsibility in Warfare" and "Comments" in Peter Trooboff, ed., *Law and Responsibility in Warfare*, 187-232. You can find both of them on Electronic Reserve.

A17. The Management of Crises: Mon. 11/19 – the role of international law in managing,

defusing, and resolving international crises; case studies - the invasion of Grenada; the invasion of Panama. **[Professor Fowler will lead this class.]**

Required Readings: ** Abraham Sofaer, "The Legality of the United States Action in Panama," *Columbia Journal of Transnational Law* 29 (1991): 281-292. (ER)

** Anthony D'Amato, "The Invasion of Panama Was a Lawful Response to Tyranny," *American Journal of International Law* 84 (1990): 516-524. (ER)

Study Day, Wednesday, November 21: No class

A18. Terrorism and Counter-terrorism: Thur. 11/22 – What has been the changing role of international law in counter-terrorist efforts? What are the implications of a 'war on terrorism' for present and future international law issues? The first focuses on whether the U.S. would extradite an American citizen of Irish descent accused of having participated in terrorism involving the conflict in Northern Ireland. The assigned case involves the effort by terrorists to bomb twelve U.S. commercial airliners in Southeast Asia and how jurisdiction over their cases depended, in part, on the major conventions dealing with air travel. **[Professor Bunck will lead this class.]**

Required Readings: ** Anthony Clark Arend, "International Law and the Preemptive Use of Military Force," *The Washington Quarterly*, 26, 2 (Spring 2003): 89-103. (ER)

** Adam Roberts, "The Relevance of the Laws of War in Anti-Terrorist Wars," *Survival*, 44 (Spring 2002): 7-32. (ER)

** *Quinn v. Robinson*, 783 F.2d 776 (9th Cir. 1986). (ER)

** *United States v. Yousef*, 327 F.3d 56 (2d Cir. 2003). (ER)

China Visit

Shanghai, China – Nov. 24-29

During your time in China – including the pre-port diplomatic briefing – aim to learn enough to write at least several paragraphs in your Field Journal on the period in Chinese history when western powers forced China to open itself to international trade, then held spheres of influence within the country, followed by observations on how China gained its status as a fully sovereign state. Then, when you get back to the ship after your port stop, incorporate that short writing assignment in the Field Journal.

PART IV. LAW, TREATIES, AND INTERNATIONAL BEHAVIOR

A19. International Agreements: Sea Resources: Fri. 11/30 – In this class we will examine how off-shore coastal waters have been divided among states, elucidating what international lawyers mean by such terms as the contiguous zone, the continental shelf,

and the exclusive economic zone. We will review two cases involving the natural-resource issue of Japanese whaling. **[Professor Bunck will lead this class.]**

Required Readings: ** Anne Cullen, “The Changing Nature of International Relations: the International Whaling Commission and Japan,” *The Globalization of World Politics*, eds. Anne Cullen and Stuart Murray, pp. 1-3. (ER)

** Kelly Kate Pease, “Case Study 10: Whaling,” “A Realist Cut,” “A Marxist Cut,” “A Feminist Cut,” “Conclusion,” *International Organizations: Perspectives on Governance in the Twenty-first Century*, 2d ed., pp. 228-33. (ER)

** *Japan Whaling Association v. American Cetacean Society*, 478 U.S. 221 (1986). (ER)

** *Whaling in the Antarctic, Australia/New Zealand v. Japan*, 2014 ICJ 228. (ER)

Japan Visit

Kobe, Japan – Dec. 2-6

During your time in Japan please keep alert for any information you might pick up on Japanese whaling. (We will discuss your finding in the next class.) However, you need not add anything to your Field Journals based on your time in Japan. Do note that the due date for the Journal – Thursday, December 13 – is fast approaching. So, once you are back on the ship, review, edit, and finalize your Field Journal with all of its observations on how the prior states you visited gained independence and sovereign status.

A20. International Agreements: The Life History of a Treaty: Fri. 12/7 – International agreements of various sorts will play a central role in this course. The lecture will thus carefully review the life-history of a treaty, as we explore what power legal commitments have. The assigned case involves the destruction of a Green Peace ship, anchored in a New Zealand harbor, by French secret agents, and the array of international agreements aimed at resolving the disputes that arose from that incident. **[Professor Fowler will lead this class.]**

Required Readings: ** *The Rainbow Warrior Case, New Zealand v. France, France-New Zealand Arbitration Tribunal*, 82 *ILR* 500 (1990). (ER)

A21. Ship Bumping Simulation: Sun. 12/9 – Students will aim to draft instructions for their negotiators in a Cold War superpower crisis involving the bumping of naval ships in the Black Sea. The focus of our discussion will be on the possible outcomes of a negotiating session. **[Professor Fowler will lead this class.]**

Simulation Preparation: ** *Ship Bumping Exercise* preparatory materials. (CH)

A22. International Agreements: Arms Control: Tues. 12/11 – the role of treaties and International law in controlling arms; the current issue of international law and weapons of mass destruction. **[Professor Bunck will lead this class.]**

Required Readings: ** Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-ballistic Missiles Systems of May 26, 1972,” 28 U.S.T. 3435 (1972), articles 1, 2, 3, 4, and 5. (ER)

** Thomas Graham, Jr., “An Overview of International Law and Arms Control,” *Commonsense on Weapons of Mass Destruction*, pp. 30-49. (ER)

** Margaret Karns and Karen Mingst, “Arms Control and Disarmament,” *International Organizations*, pp. 355-366. (ER)

** *Nuclear Tests Case*, (Australia & New Zealand v. France), 1974 I.C.J. 253. (ER)

A23. Discussion Section: Thur. 12/13 – Occasionally, international law classes fall behind in their analysis of the assigned cases. Today, we will be sure to get up to speed on all the cases you should have read thus far in the course. And, we will review two new cases. The first concerns the fate of Haitian boat people denied entry to U.S. territorial waters by the U.S. Coast Guard. The second focuses on the wreck of the oil tanker *Amoco Cadiz* off the French coast in 1978. [**Professor Fowler will lead this class.**]

Required Readings: ** United Nations Convention Relating to the Status of Refugees (1951) and Protocol Relating to the Status of Refugees. (ER)

** *Sale v. Haitian Centers Council*, 509 U.S. 155 (1993). (ER)

** International Convention on Civil Liability for Oil Pollution Damage and 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties. (ER)

** *In the Matter of the Oil Spill by the Amoco Cadiz Off the Coast of France on March 16, 1978*, 954 F.2d 1279 (7th Cir. 1992). (ER)

PART VI. ASSESSING INTERNATIONAL LAW IN INTERNATIONAL RELATIONS

A24. Concluding Remarks: International Law Today and Tomorrow: Sat. 12/15 – After a brief final lecture, summarizing my views on the roles that international law plays in international relations. We will be sure to get up to speed on any cases that we may have missed. [**Professor Fowler will lead this class.**]

Hawaii Visit

Honolulu, Hawaii – Sunday, Dec. 16

A25. Final Exam: Wd. 12/19 – Cumulative final examination covering all course materials.

FIELD WORK

Semester at Sea field experiences allow for an unparalleled opportunity to compare, contrast, and synthesize the different cultures and countries encountered over the course of the voyage. In addition to the one Field Class, students will complete independent field assignments that span multiple countries.

Field Class & Assignment

The Field Class for this course will be Thursday, 15 November in Ho Chi Minh City, Vietnam

Field Class attendance is mandatory for all students enrolled in this course. Do not book individual travel plans or a Semester at Sea sponsored trip on the day of your field class. Field Classes constitute at least 20% of the contact hours for each course, and are developed and led by the instructor(s).

For our International Law Field Class during the **Ho Chi Minh City, Vietnam Port Stop** we will visit the home of a Vietnamese citizen who served as a UPI photographer during the Vietnam War. We will examine the photos he took during that conflict, listening to his commentary on them, and have a question-and-answer session with him about his experiences during and after the conflict. We will talk with him, in particular, about what war photography accomplishes, and more generally, about the media's responsibility in providing information to the public and to policy makers regarding how the strategies and objectives of countries' foreign policies are relating to what is actually happening on the ground. We will then travel by bus to downtown Ho Chi Minh City to visit the War Remnants Museum. Exhibits in the Museum document various aspects of who the Vietnam War was fought. After the Field Class students will write a Field Class Reflection Paper that considers one or more issues regarding international law, war, and the laws and conduct of war. We will also meet with the president of a Vietnamese university and a group of students from that university.

Students will turn in a 3-to-5 page Field Class Reflection Paper, due on **Thursday, November 22**, discussing what they learned from this field experience and connecting it to the other course materials, lectures, and discussions.

Independent Field Assignments

In this class the principal piece of written work will be a **Field Journal**. **This is how students will incorporate all of the ports of call into our international law curriculum.** For the Journal, due on **Thursday, December 13**, each student is tasked with considering how the countries we will visit gained the legal status of being a full-fledged sovereign state. You will first read a relevant article by your professors (Michael Fowler, Julie Bunck, "What Constitutes the Sovereign State?," *Review of International Studies*, 22 (1996): 381-404). You will then spend time in the ports we visit learning about the colonial (or quasi-colonial) period in most of the countries and about the route that each state took toward gaining full-fledged sovereignty. You may gain information on these topics from the diplomatic pre-port briefing, from discussions with people

you meet in the countries, from other Field Classes or Field Trips, from your own in-country travels (especially visits to museums, historical sites, and so on), and from books, journals and magazines, newspapers, and other things you read in or concerning the countries we visit. We want each student, while in the ports, to be busy ferreting out information on the country's sovereignty and how it relates to the national identity and the historical accounts (and perhaps the myths) popular with the people and government. As you travel through each country, please write your observations, as legibly as possible, in your own field notebook, which you can then refer to as you write your Field Journal.

We will judge the journals on the basis of how much good information and analysis you have uncovered. We very much hope that you will, from time to time, work in to your journals observations about the course materials we have covered and how they relate to what you have found. We expect each Journal to be well-written, carefully edited and proof-read, and free from violations of the rules in the Student Guide to Editing Papers that will be placed on the ship's electronic reserve for this class.

We will accept your Field Journal at any time you have it prepared, though no earlier than Friday, December 7 and no later than Thursday, December 13.

GRADING SCALE

The following Grading Scale is utilized for student evaluation. Pass/Fail is not an option for Semester at Sea coursework. Note that C-, D+ and D- grades are also not assigned on Semester at Sea in accordance with the grading system at Colorado State University. Otherwise, pluses and minuses are awarded as follows on the following 100% scale:

<u>Excellent</u>	<u>Good</u>	<u>Satisfactory/Poor</u>	<u>Failing</u>
97-100%: A+	87-89%: B+	77-79%: C+	Less than 60%: F
93-96%: A	83-86%: B	70-76%: C	
90-92%: A-	80-82%: B-	60-69%: D	

METHODS OF EVALUATION

A. Overview of Graded Assignments:

The grades for the course will include (1) two first-half Case Briefs worth up to 25 points each and two second-half Case Briefs worth up to 25 points each – answering questions and analyzing the court opinion in one of the assigned international law cases for particular class days (adding up the grades of the four Case Briefs will thus provide one of your grades on a 0-100 scale); (2) the Field Class Reflective Paper; (3) the Field Journal, encompassing the field work to be undertaken in the port stops; and (4) a cumulative Final Exam, including true/false,

multiple choice, short answer, and identification questions, also graded on a 0-100 scale. In determining your final grade for the course, we will weigh the four grades equally (25% each).

B. Calculating Final Grades:

Normally, final grades will be rounded downward to the nearest whole number (e.g., whether a student's average for the course was an 88.4 or an 88.7, he or she would receive an 88, which would correspond to a B+). When we average together the four graded assignments to compute a final grade, we are sometimes confronted with an average that is within a fraction of a point of a higher grade (e.g., an 89.8 would be within a fraction of a point of an A- average for the course). In that case we examine three criteria from the course as a whole (on-board class sessions and field lab) to determine whether to round up or round down: (a) **class attendance**: the number of classes missed, if any; (b) **class participation**: the frequency and intelligence of the student's comments in class; and (c) **grade trend**: the extent to which the movement of the student's grades was in an upward direction during the semester. If all three criteria are positive, we will definitely round upward to the higher grade; a single positive criterion will not normally suffice to warrant rounding up; two positive criteria and one negative factor will result in a judgment call, based on the balance of positive versus negative factors.

C. The Case Briefs:

One or the other of the instructors will lecture on each of the topics listed in this syllabus. Then, when we review the assigned international law cases, we will pose questions for the class members to try to answer. The handful of students assigned to brief the assigned case(s) for a typical class session will have a special responsibility to help analyze 'their' case.

With respect to the Case Briefs, early in the course we will hand out an assignment sheet, in which we designate the four cases for which each student should prepare a brief, distributed across the term so that we always have a handful of students who have briefed the cases assigned for the day. At the beginning of the course students will be supplied with a sample Case Brief, so that they can see how these writing assignments should include each of the following: a statement of the facts that lays out the essence of the dispute, the question before the court, the parties to the case, the winner and loser, the most important reason or reasons the court cites, and whatever important points about international law that the case illustrates. ***Then, most important of all, each Case Brief must include a couple of paragraphs of analysis in which the student tells us whether or not he or she agrees with the court's decision and why.*** (Quite a few of the cases will include a majority opinion and a dissenting opinion, giving students different perspectives on how the case might have been resolved.)

D. The Final Exam

Please note that the final exam, counting a quarter of each student's grade, will cover in detail all the material in the lecture and readings to date. Therefore, we strongly encourage students to take very careful, extremely thorough, and highly detailed notes of what occurs in class and the basic points in the readings, including the cases. Any of these matters might appear on an exam question, as might any point raised in lecture or in the course readings that are not legal cases. However, daily study guides will be placed on reserve and will help students to prepare

for exams. Indeed, the vast majority of the questions on the final exam will come from material highlighted on the study guide.

To excel in this course, students should (a) come punctually to every class, (b) take neat and detailed notes of the lectures and of the readings and cases, (c) take ample time to review lecture and reading notes, perhaps periodically outlining them to highlight what is most important, and (d) prepare for each class by setting aside approximately 1 ½ hours to do the readings. (That number might be a bit more or a bit less depending on the speed with which you read and the length of the assignments for that day; however, if you are spending far less than that target, you are probably not reading the assignments carefully enough.) In addition, we strongly encourage students to form study groups to review matters together before the exam.

Students who have trouble with this course tend to make one or more of the following mistakes: (a) they miss various classes; (b) they fail to keep up with the readings; (c) they do not spend enough time preparing for the exams: outlining their notes, reviewing the study guide and points in the readings, and meeting in study groups to compare notes with fellow students. Note that missing class sessions not only vastly increases the difficulty of eventual exam preparation, but it makes future lectures more difficult to understand. Also note that doing the readings ahead of class makes the lectures much easier to follow, illuminates the judicial opinions, and helps students to master the course materials before each exam.

ATTENDANCE/ENGAGEMENT IN THE ACADEMIC PROGRAM

Attendance in all Semester at Sea classes, including the Field Class, is mandatory. Students must inform their instructors prior to any unanticipated absence and take the initiative to make up missed work in timely fashion. Instructors must make reasonable efforts to enable students to make up work, which must be accomplished under the instructor's supervision (e.g., examinations, laboratories). In the event of a conflict in regard to this policy, individuals may appeal using established CSU procedures.

We thus expect all students to attend all class sessions and to come to class fully prepared and up to date on the several readings assigned for each class session. Realize that some of these are legal opinions, which can take a good deal longer to absorb than an article or book selection. The discussion portion of the class will thus proceed via a style of teaching called "socratic dialogue," used extensively in American law schools. Thoughtful participation in the simulations is exceedingly important. If you do not prepare well or participate thoughtfully, you are harming not only your own learning experience and understanding of the subjects at issue, but the experience and understanding of all those with whom you are negotiating. Hence, it is each student's responsibility to prepare carefully by reading the assigned general and confidential instructions before class.

LEARNING ACCOMMODATIONS

Semester at Sea provides academic accommodations for students with diagnosed learning disabilities, in accordance with ADA guidelines. Students who will need accommodations in a class, should contact ISE to discuss their individual needs. Any accommodation must be discussed in a timely manner prior to implementation.

A letter from the student's home institution verifying the accommodations received on their home campus (dated within the last three years) is required before any accommodation is provided on the ship. Students must submit verification of accommodations to academic@isevoyages.org as soon as possible, but no later than two months prior to the voyage.

STUDENT CONDUCT CODE

The foundation of a university is truth and knowledge, each of which relies in a fundamental manner upon academic integrity and is diminished significantly by academic misconduct. Academic integrity is conceptualized as doing and taking credit for one's own work. A pervasive attitude promoting academic integrity enhances the sense of community and adds value to the educational process. All within the University are affected by the cooperative commitment to academic integrity. All Semester at Sea courses adhere to this Academic Integrity Policy and Student Conduct Code.

Depending on the nature of the assignment or exam, the faculty member may require a written declaration of the following honor pledge: "I have not given, received, or used any unauthorized assistance on this exam/assignment."

RESERVE BOOKS FOR THE LIBRARY

AUTHOR: Malcolm N. Shaw
TITLE: *International Law*
PUBLISHER: Cambridge University Press
ISBN #: 9781107188471
DATE/EDITION: 2017/8th Edition

ELECTRONIC COURSE MATERIALS

The case reports for all of the cases listed above as well as the points in the readings for each class are my own (done for an International Law textbook I am writing).

All of the treaties and other documents listed above are in the public domain.

The other readings, which will be available in the electronic course folder, are listed below:

1. AUTHOR: Louis Henkin

CHAPTER TITLE: "The Role of Law and its Limitations"

BOOK TITLE: *How Nations Behave*

PUBLISHER: Columbia University Press

DATE: 1979

PAGES: 12-27

2. AUTHOR: Thomas Franck

CHAPTER TITLE: "A Brief History"

BOOK TITLE: *Judging the World Court*

PUBLISHER: Twentieth Century Fund (Priority Press Publications)

DATE: 1986

PAGES: 10, 175-184

3. AUTHOR: Editor Paul H. Kreisberg (chapter author: Oscar Schachter)

CHAPTER TITLE: "International Law in the Hostage Crisis"

BOOK TITLE: *American Hostages in Iran*

PUBLISHER: Yale University Press

DATE: 1985

PAGES: 325-354

4. AUTHOR: Editors Robert Beck & Thomas Ambrosio (chapter authors: Michael Fowler/Julie
Bunck)

CHAPTER TITLE: "The Nation Neglected"

BOOK TITLE: *International Law and the Rise of Nations*

PUBLISHER: Chatham House

DATE: 2001

PAGES: 38-60

5. AUTHOR: Michael Fowler and Julie Bunck

CHAPTER TITLE: "What Constitutes the Sovereign State?"

JOURNAL TITLE: *Review of International Studies*

VOLUME/PUBLISHER: 22/Cambridge University Press

DATE: 1996

PAGES: 381-404

6. AUTHOR: Inis Claude

CHAPTER TITLE: "The Tension Between Principle and Pragmatism in International Relations"

JOURNAL TITLE: *Review of International Studies*

VOLUME PUBLISHER: 19/Cambridge University Press

DATE: 1993

PAGES: 215-226

7. AUTHOR: Abraham Sofaer

CHAPTER TITLE: "The Legality of U.S. Intervention in Panama"

JOURNAL TITLE: *Columbia Journal of Transnational Law*

Volume/Publisher: 29/Columbia University

DATE: 1991

PAGES: 281-292

8. AUTHOR: Anthony D'Amato

CHAPTER TITLE: "The Invasion of Panama was a Lawful Response to Tyranny"

JOURNAL TITLE: *American Journal of International Law*

Volume/Publisher: 84/American Society of International Law

DATE: 1990

PAGES: 516-524

9. AUTHOR: Patricia Davis

CHAPTER TITLE: "The Politics of Prosecuting Rape as a War Crime"

JOURNAL TITLE: *The International Lawyer*

Volume/Publisher: 34/American Bar Association

DATE: 2000

PAGES: 1223-1248

10. AUTHOR: Anthony Arend

CHAPTER TITLE: "International Law and the Preemptive Use of Military Force"

JOURNAL TITLE: *The Washington Quarterly*

Volume/Publisher: 26/Center for Strategic and International Studies, Georgetown

DATE: 2003

PAGES: 89-103

11. AUTHOR: Adam Roberts

CHAPTER TITLE: "The Relevance of the Laws of War in Anti-Terrorist Wars"

JOURNAL TITLE: *Survival*

VOLUME/PUBLISHER: 44/International Institute for Strategic Studies (London)

DATE: 2002

PAGES: 7-32

12. AUTHOR: Anne Cullen and Stuart Murray editors (chapter author: Bethan K. Greener)

CHAPTER TITLE: "International Law in Action: The Rainbow Warrior Affair"

BOOK TITLE: *The Globalization of World Politics*

VOLUME/PUBLISHER: Oxford University Press

DATE: 2007

PAGES: 45-47

13. AUTHOR: Anne Cullen and Stuart Murray editors (chapter author: Anne Cullen)
CHAPTER TITLE: "The Changing Nature of International Relations: The International Whaling
Commission and Japan"

BOOK TITLE: *The Globalization of World Politics*

PUBLISHER: Oxford University Press

DATE: 2007

PAGES: 1-3

14. AUTHOR: Joan Donaghue

CHAPTER TITLE: "The Role of the World Court Today"

JOURNAL TITLE: *Georgia Law Review*

VOLUME/PUBLISHER: 47/University of Georgia

DATE: 2012

PAGES: 181-201

15. AUTHOR: Stephen Schwebel

CHAPTER TITLE: "Fifty Years of the World Court: A Critical Appraisal"

JOURNAL TITLE: *American Society International Procedure*

VOLUME: 90

DATE: 1996

PAGES: 339-347

16. AUTHOR: R.S. Khare editor (chapter author Inis Claude)

CHAPTER TITLE: "Compensatory Justice and Multinational Corporations"

BOOK TITLE: *Issues in Compensatory Justice: The Bhopal Accident*

PUBLISHER: University Press of America

DATE: 1988

PAGES: 44-47

17. AUTHOR: Marc Galantar

CHAPTER TITLE: "When Legal Worlds Collide: Reflections on Bhopal, the Good Lawyer, and the
American Law School"

JOURNAL TITLE: *Journal of Legal Education*

VOLUME/PUBLISHER: 36/Association of American Law Schools

DATE: 1986

PAGES: 292-310

18. AUTHOR: Thomas Graham, Jr.

CHAPTER TITLE: "An Overview of International Law and Arms Control"

BOOK TITLE: *Common Sense on Weapons of Mass Destruction*

PUBLISHER: University of Washington Press

DATE: 2004

PAGES: 30-49

19. AUTHOR: Margaret Karns and Karen Mingst
CHAPTER TITLE: "Arms Control and Disarmament"
BOOK TITLE: *International Organizations*
PUBLISHER: Lynne Rienner Publishers
DATE: 2010
PAGES: 355-66

20. AUTHOR: Kelly Kate Pease
CHAPTER TITLE: "Case Study 10: Whaling"
BOOK TITLE: *International Organizations: Perspectives on Governance in the Twenty-first Century*
PUBLISHER: Prentice Hall
DATE: 2003
PAGES: 228-233

21. AUTHOR: Cesare P. Romano editor (John Bellinger chapter author)
CHAPTER TITLE: "International Courts and Tribunals and the Rule of Law"
BOOK TITLE: *The Sword and the Scales*
PUBLISHER: Cambridge University Press
DATE: 2009
PAGES: 1-11

22. AUTHOR: Ann Marie Prevost
CHAPTER TITLE: "Race and War Crimes: The 1945 War Crimes Trial of General Tomoyuki Yamashita"
JOURNAL TITLE: *Human Rights Quarterly*
VOLUME/PUBLISHER: 14/Johns Hopkins University Press
DATE: 1992
PAGES: 303-338

FILM REQUEST

Title of Film: Manhunt: Kill or Capture - The Devil Incarnate: The International Manhunt for a DEA Agent Killer

Distributor: AHC [American Heroes Channel] and other outlets (Amazon, Microsoft, AOL, IMDB, etc.) and other outlets.

ADDITIONAL RESOURCES

Zalada Crisis and the Ship Bumping Crisis from the Harvard Program on Negotiation.