Required materials:

Damrosch & Murphy, International Law: Cases and Materials (7th ed.).

All references refer to D&M if not otherwise noted.

The text is available in the Bookstore. The text is not available via the NYU libraries. There will be nothing on reserve, hard copy or e-copy. This is a link to the publisher to purchase and e-copy:

The link below is to the West Academic website for the digital edition of the book.


Session 1

Introduction. The old order and the new: Continuities and ruptures

Read: The historical introduction and the summary of content (xix-xxxiv) of D&M

What is international law, why have it and what is distinctive about it?

International law was deeply implicated in the project of European colonialism from the 16th to the early 20th century but was, notwithstanding important continuities, radically reshaped after the old European order collapsed in the wake of WWI and WWII. The new order that emerged after WWII is constituted by new basic principles, that also serve as regulative ideals for the interpretation and progressive development of the law, as well as serving as a ground for criticism of existing legal practices. In this session we’ll seek to get a better understanding of that historical shift by focusing on some of the core structural features and general principles of international law as they emerged after WWII and contrasting them to what preceded them.
Session 2

The Global Jurisgenerative Process (GJP) I: Sources of Law and Customary Law

Read: pp. 51-76. We will discuss Paquete Habana, then the Lotus case.

Session 3

GJP II: Modern Customary Law – The role of Treaties and GA Resolutions

Read pp. 76-94

For the effect of Treaties on CIL focus on the Nicaragua Case

For the significance of GA Resolutions focus on the Nuclear Weapons Advisory Opinion

Session 4

GJP III: Customary Law: Non-Consenting States and Jus Cogens

Read pp. 95-112.

Can a state be bound by CIL against its will, if it continuous to persistently object?

What follows from the fact, that a norm has *jus cogens* status? How are *jus cogens* norms identified? What are examples of *jus cogens* norms?

Session 5

GJP IV: Treaties: Conclusion and Entry Into Force of Treaties

Read pp. 113-117 and 134-158 (Reservations). Make sure to have a copy of Vienna Convention of the Law of the Treaties accessible. Skim Art. 1-5, read carefully Art. 6-25. After an introductory lecture, the focus of class discussion will be on reservations, focusing in particular on reservations to human rights treaties. Should states be able to make reservations to human rights treaties? Why or why not? If so, what kind of reservations are acceptable?
Session 6

GJP V: Treaties: Interpretation and Validity

Make sure to read carefully Art. 31 and 32 VCLT and read pp. 161-171 (the ICJ case involving Bosnia v. Serbia). Read provisions governing the invalidity of Treaties, Art. 42-53 VCLT.

Session 7

GJP VI: Termination and Suspension of Treaties

Read Art. 54-72 VCLT and pp. 180-210. Class discussion will focus on (1) withdrawal (2) termination as a consequence of breach and (3) change of circumstance. With regard to cases focus on Hungary v. Slovakia.

Session 8

GJP VIII: Other sources: General principles, international institutions, the status of judicial decisions and publicists


Read pp. 246-253. Is the UN Security Council a “World Legislature”? What legal restrictions are there on what the UN Security Council can do?

Session 9

States as Subjects of International Law: Recognition of States and the right to self-determination

Read pp. 277-304 on recognition of states. What are the criteria for the existence of a state? Should these criteria include normative criteria, such as respect for human rights, democracy and the rule of law?

Read pp. 304-318 on the right of self-determination. Ask yourself: Who are "Peoples"? What is "self-determination"? Under what circumstances is there a right to unilateral secession (read carefully the excerpts from the Supreme Court of Canada's opinion concerning the secession of Quebec).
Read pp. 318-328 on Palestine, Taiwan and Hong Kong as special cases. Are either states under international law? If not, why not? What are the legal implications?

**Session 10**

Territorial sovereignty and the legacy of colonialism: From “terra nullius” to “uti possidetis”

We'll be covering the materials in pp. 357-382. Skim it, if you can. Discussion in class will focus on title by military conquest (pp. 360-363), the Island of Palmas Case (365-370), the Burkina Faso/Mali Dispute (374-379).

Through which doctrines relating to territorial sovereignty did international law facilitate the construction of Empire by European nations?

In the context of decolonialization, what does the doctrine of “uti possidetis” mean? Does it reflect it a perpetuation of colonialism or is it a useful pragmatic tool for the creation of a peaceful decolonized world?

**Session 11**

The Individual in International Law: Nationality

Read pp. 443-459. Ask yourself: Why is nationality important? How is nationality tied to residency? Why? Why should a state not be able to decide freely whom it confers nationality on? Some countries are hesitant to confer nationality on someone who is already a national of another state and unwilling to give that up. Why?

Read pp. 459-477 How is the nationality of corporations determined? Who can make claims internationally on its behalf? Is there a special problem with regard to the regulation of multinational corporations that international should address?

**Session 12**

The individual in international law: Human rights – Evolution and the Structure of primary law
Read pp. 887-909.

Be ready to discuss Dakir v. Belgium (ECHR 2017) (893-898).

Was the case rightly decided in your view? Why or why not? What in the reasoning of the Court reflects the fact that it is an international and not a national court that is adjudicating a rights issue?

Session 13

The individual in international law: Human rights – Extraterritorial application and mechanisms fostering compliance

1. Extraterritorial Application: Read pp. 956-963
2. Regional norms and institutions: Skim pp. 927-942
3. Mechanisms fostering compliance: Read pp. 963-976

Which of these mechanisms do you think are the most important/effective? Which ones are the least important/effective? Why?

Session 14 & 15

State Responsibility

Download the materials on state responsibility (check under course documents) and carefully go over the General Assembly Resolution and the ILC draft articles on state responsibility.

Session 16

Dispute Settlement: The role of courts and tribunals

Skim 525-553. Read 553-578. Focus on the Nicaragua Case, which we’ll discuss in class. Also read 592-603 (on Advisory Opinions). What does the duty to settle disputes peacefully require of states? Is there ever a duty for a state to subject itself to the jurisdiction of an international court or tribunal? Does the jurisdiction of the ICJ to pronounce itself on a legal issue always depend on the consent of the relevant states? How can consent be given? Read the Nicaragua Case. What are the limits of judicial dispute resolution? Should the ICJ have
avoided making a decision on the merits? What is lost, what is gained when the ICJ makes such a decision? Are there any dispute resolution mechanisms that would have been superior?

**Sessions 17 and 18**

Injuries to Aliens and Investment Protection:

1. Historical Context and Basic Issues (see 977-998)
2. Investor State Dispute Settlement: Focus on Tecmed v. Mexico (998-1015)

**Session 19**

International Law in National Law

Read 636-677. Class discussion will focus on Breard v. Greene and Medellin v. Texas.

**Session 20**

Jurisdiction and Immunity from Jurisdiction

The central principles concerning jurisdiction will be covered briefly by lecture (textbook pp. 801-88).

For the issue of immunities of states and immunities of state officials read 848-to 870. Focus on Italy v. Germany and the Pinochet case.

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**Session 21 & 22**

Use of Force I: Prohibition of the use of force and self-defense

We'll discuss the general prohibition of the use of force and then look at some central exceptions, beginning, in this session, with self-defense. Skim pp. 1059-1095, if you can, but the core points will be covered by lecture. We'll then focus on some central issues relating to self defense. Make sure to read 1094-1128, as well as pp. 1226-1228. Class discussion will focus a) on the Nicaragua case b) preemptive self defense and c) defense against non state actors d) cyberwarfare.
Session 23

The Use of Force II: Chapter VII authorization

Read 1140-1162. Our discussion will focus on some issues relating to the collective use of force under Chapter VII. Why was the Security Council not an effective institution during the Cold War? Discussion will focus on the materials relating to Korea, Iraq and Libya.

Session 24

Use of Force III:

In this session we'll discuss intervention on other grounds. Read pp. 1129-1140. on the responsibility to protect, humanitarian and democracy intervention. Are there any circumstances under which intervention for democracy is legally permissible? Should it be? Under what circumstances is humanitarian intervention permissible? Was the intervention in Kosovo legally permissible? Was it nonetheless legitimate or otherwise desirable?

Session 25

The Laws of War and the Control of Weapons

In this session we'll try to get a basic idea of the central concepts and rules governing the law of war as well as some basic issues relating to the control of weapons. Read pp. 1187-1225.

Session 26 & 27

International Criminal Law: The Rome Statute

For some general issues and historical background skim pp. 1252-1282, which will be covered by lecture. Class discussion will focus on the Statute of Rome, pp. 1283-1310. As you read the materials answer the following questions: What is the jurisdiction of the ICC? What is the relationship between national criminal prosecutions and prosecutions before the ICC?

The U.S. was widely regarded as the architect guardian of the Post WWII legal order. What has been its position with regard to the ICC? What are the concerns articulated by the US government? Are they serious? Should they be accommodated? If so, how?