

International Law

Fall 2023

Prof. Conley

anna.conley@mso.umt.edu

Office Hours: Monday 1:30-2:30 pm & Thursday 9:00-10:00 am

Office 207

Learning Goals

- Obtain holistic understanding of the public international law legal system, including its history, conceptual underpinnings, framework, sources, tribunals and subjects.
- Understand and analyze sources of international law, including treaties, customary international law, general principles of law, security council resolutions and works of courts and jurists
- Obtain understanding of dispute resolution mechanisms in international law, including international and regional tribunals
- Understand foundational human rights international law, including treaties and cases
- Understand foundational use of force international law, including UN Charter and treaties
- Develop international law legal research skills
- Developing writing skills in complex area of law
- Develop oral advocacy skills through multiple in-class presentations

READINGS: Sean D. Murphy, Principles of International Law, 3d. ed. (2018) and supplemental readings listed below. Readings state either moodle, in which case they are on moodle, or online, in which case you are expected to access them online.

GRADING:

Your grade will be determined as follows:

20% Reading Question Responses: Reading questions will be posted to moodle for each class. Answers must be posted in moodle prior to each class.

20% Roundtable and class participation: This includes contributions to roundtable presentations and contributions to class discussions, including your own questions and your ability to answer questions regarding the reading.

- **Roundtable expectations:** Each student's roundtable grade will be based on the student's ability to present complex international law materials in a precise, accurate, and accessible manner with due regard to the time allotted to each group. Please review the Roundtable and AWR presentation Criteria attached below to see specific presentation expectations and areas for growth and practice.
- **Class participation expectations:** All students are expected to come to class prepared to answer questions regarding the reading. Excessive absences (more than 2 absences for non-medical reasons) may negatively impact class participation grades.

60% Paper and Presentation: AWR credit is available for this course. Each student write a paper setting forth the current legal landscape of a legal norm under international

law by analyzing primary sources of international law and secondary sources, including law review articles and treatises, relating to the norm analyzed. In addition, each paper must set forth a research questions and engage in creative scholarship regarding some aspect of the norm analyzed. I have included some paper ideas at the end of the syllabus.

- Papers for which students seek AWRs must be 5,000 words and comply with all AWR requirements set forth in the student and faculty handbooks.
- Non-AWR papers must be 3,000 words.
- All papers, whether AWR or non-AWR will be required to comply with all paper deadlines as set forth below.
- Failure to comply with deadlines will negatively impact paper grades.
- The paper and presentation will be graded as provided in the grading rubric on moodle and attached hereto.

8/28 - Class 1: Introduction to international law, including history and sovereignty

- Murphy: Chapter 1A, 1B through International Legal Positivism, 1C
- Excerpts of Treaty of Westphalia (moodle)

8/30 - Class 2: International law as a legal system – compliance and enforcement

- Murphy: Chapter 5A and 5B

9/6 - Class 3: International legal rules: Introduction to Sources and Treaties

- Murphy: Chapter 3A through Making Treaties
- Vienna Convention on the Law of Treaties, Articles 6, 9, 10, 11, 14, 15, 16, 18, 24, 26, 27, 31, 32, 57, 60, 61, 62, 64 (moodle).

9/11 - Class 4: Treaties cont'd

- Murphy: Remainder of Chapter 3A
- Vienna Convention on the Law of Treaties, Articles 19-23 (moodle)

9/13 - Class 5: International Law Legal Research Workshop

- Review NYU Law International Law Research Guide available at <https://nyulaw.libguides.com/c.php?g=773832&p=5551578>

9/18 - Class 6: Treaties Roundtable

Treaties (each group will present on one of these)

1. Convention on the Elimination of All Forms of Discrimination Against Women
2. Convention on the Rights of the Child
3. Convention on the Elimination of Racial Discrimination
4. Convention on the Rights of Persons with Disabilities

For your assigned treaty, please analyze and present the following information:

1. When was it adopted
2. When did it enter into force
3. How many ratifying states
4. How many states signed but did not ratify
5. Obligations of ratifying parties
6. Dispute resolution provisions
7. Provision regarding reservations
8. Summary of reservations made by ratifying parties
9. Has the US signed and/or ratified?
10. If so, did the US enter reservations? If yes, describe the US' reservations
11. If not, what statements has the U.S. department of state or other executive branch and/or congress made regarding reasons for non-ratification?

9/20 - Class 7: International legal rules cont'd: Customary International Law

- Murphy Chapter 3B
- Paquette Habana (moodle)

9/25 - Class 8: International legal rules cont'd: General Principles of Law, Jus Cogens

- Murphy Chapter 3C and 3D
- Prosecutor v. Furundzija (moodle)

- 9/27 - Class 9: United Nations' and Security Council's role in creation of international law**
- Murphy Chapter 3E
 - UN Charter Chapter V, VI & VII (moodle)
 - UN Security Council Resolution 2253 (2015) pp. 1- 6 only (moodle)

10/2 - Class 10: Soft Law

- Murphy 3F
- UN Declaration on the Rights of Indigenous Peoples, 13 Sept. 2007 (moodle)

10/4 - Class 11: Tribunals and dispute resolution in international law: International Court of Justice

- Murphy 4D & E
- Summary of Avena ICJ case (moodle)

10/9 - Class 12: Tribunals and dispute resolution in international law, cont'd: International Criminal Court

- Murphy 13D & E

10/11 - Class 13: Dispute Resolution Round Table (each group will present on one of these)

1. Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (August 17, 2022) (Not including Appendixes)
2. Three documents
 - a. Statement of the Prosecutor of the International Criminal Court 8 April 2015
 - b. German Code of Crimes Against International Law, Section 1 Scope of Application and Section 7 Crimes Against Humanity
 - c. January 31, 2022 Judgment of German Regional Court Excerpt
3. Two Documents
 - a. French Code of Criminal Procedure 689-11
 - b. Cour de Cassation May 12 Ruling
4. Two documents
 - a. ICJ June 8 2023 Joint Application
 - b. ICJ Request for Provisional measures

10/16 - Class 14: International law as part of U.S. law

- Murphy 7A & B

10/18 - Class 15: International law as part of U.S. law cont'd

- Murphy 7C & D

10/23 - Class 16: Introduction to international human rights

- Murphy 10A & C
- UN Charter, Articles 1-2 (locate on UN website)
- Universal Declaration of Human Rights (moodle)

10/25 - Class 17: International human rights cont'd: International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights

- ICCPR, Articles 1 – 23 (locate online)
- ICESCR Articles 1 – 15 (locate online)

10/30 - Class 18: International human rights cont'd: Specialized human rights treaties

- Convention Against Torture, Arts. 1, 2, 3, 10, 11, 14, 15 and 16 (locate online)

11/1 - Class 19: Monitoring, compliance and dispute resolution of international human rights: UN treaty based monitoring, compliance and dispute resolution bodies

- Murphy p. 420-432
- Optional Protocol to ICCPR (locate online)

11/6 - Class 20: Regional human rights paradigms, including European Court of Human Rights, African Court of Human and Peoples' Rights and Organization of American States

- Murphy 10E

11/8 - Class 21: International Human Rights Roundtable

- Inter-American Court of Human Rights Advisory Opinion OC-24/17
- European Court of Human Rights Case of Maymulakhin and Markiv v. Ukraine
- African Court of Human and People's Rights Mwendesha v. Tanzania
- European Court of Human Rights Case of Dvorski v. Croatia

11/13 - Class 22: Use of force – Jus Ad Bellum

- Murphy 14A

11/15 - Class 23: Use of force, cont'd – Jus In Bello

- Murphy 14B

11/20 - Class 24: Russian invasion of Ukraine case study on use of force and humanitarian law

- Reading TBD

11/27 - Class 25: AWR paper presentations

11/29 - Class 26: AWR paper presentations

Paper Deadlines

Date	Deadline
9/25	Students will email paper proposals. Proposals should include an international law research question. The proposal must include applicable sources of international law related to the research question, including a treaty and international tribunal decision or pending case. AWR proposals should include the project's topic, working thesis, and the student's reasons for choosing the project.
10/3	Date by which students are required to meet with me during office hours regarding their proposal. Sign up sheet will be circulated
10/9	<p>Students must provide a bibliographic essay that includes all of the following:</p> <ul style="list-style-type: none"> • citations to the applicable treaty provision(s) and cases • summary of secondary sources read • formulation of the project's research question and working thesis • an indication of open or difficult questions which remain • further research that needs to be done with a detailed research plan • a one or two-page outline of the paper
10/16	I will provide written feedback by this date.
10/30	<p>Draft papers are due.</p> <ul style="list-style-type: none"> • Draft papers must include the following sections: <ul style="list-style-type: none"> ○ Introduction ○ Background ○ Analysis ○ Conclusion <p><u>Draft papers must include detailed discussion of sources and a majority of substantive analysis completed.</u></p>
11/6	I will provide written feedback by this date.
11/13	Students must exchange a revised draft of their paper with a classmate. Students should attach a list of three questions about the organization, analysis, or thesis of the draft to which they want their peer editor to respond. Student editors should also provide and additional comments that would be helpful.
11/20	Student editors must provide written feedback on the three questions and additional comments that would be helpful.
11/27	Final drafts are due.
11/27 & 11/29	AWR paper presentations in class. Sign-up sheet will be circulated.

Paper Topics

Students are welcome to select their own research paper topic for this course. To give students some ideas or for students who are struggling to identify a paper topic, here are some paper topics to consider

- Analyze a specific international law research question involving to the International Court of Justice decision(s) relating to Russia's invasion of Ukraine.
- Analyze a specific international law research questions involving the European Court of Human Rights decision(s) relating to Russia's invasion of Ukraine.
- Analyze a recent indictment from the International Criminal Court and assess potential outcomes based on the factual record and applicable Rome Statute provisions
- Identify a specific emerging international human right (i.e, transgender rights, indigenous peoples' rights, same sex marriage) and for that right, analyze
 - The applicable treaty/treat(ies) or declaration or other soft law relating or potentially relating to the right
 - International law tribunal decisions from one or more of the following courts:
 - International Court of Justice
 - African Court of Human Rights
 - Inter-American Court of Human Rights
 - European Court of Human Rights
 - European Court of Justice
 - Analyze how the right has developed and will continue to develop.
- Analyze the salient cases making up international tribunal precedent relating to a specific aspect of well-established human rights set forth in one of the following treaties:
 - International Convention on Civil and Political Rights (ICCPR)
 - International Convention on Economic, Social and Cultural Rights (ICESCR)
 - The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
 - Convention on the Rights of the Child (CRC), including both international tribunals and UN commission decisions.
- For example, examine how international tribunals have addressed one of the criminal defendants' rights set forth in Article 9 of the ICCPR or a regional treaty, such as the European Convention on Human Rights

Grading Rubric for Paper

Final Draft – 55 points

Introduction = 5 points

- Provides adequate introduction to the subject matter and actively captures the attention of the reader
- States an identifiable research question & thesis and provides a brief outline of the paper to follow

Background = 10 points

- Develops the understanding of the reader of all relevant background information necessary to follow research question & thesis
- Includes background on international law norm, including treaty and case(s).

Analysis =20 points

- Provides thorough and complete analysis.
- Includes analysis of secondary sources
- Includes analysis of international law norm in its current state
- Includes original creative scholarship analyzing aspect of international law norm
- Incorporate feedback and respond to substantive criticisms from peer review to strengthen arguments

Conclusion = 5 points

- Provides partial or complete answer to research question
- Addresses conclusions regarding thesis.

Overall organization = 5 points

- Utilizes persuasive organizational scheme
- Shows interrelationships of issues and uses appropriate transitions

Writing = 5 points

- Uses clear, assertive sentences and effective word choice
- Uses correct grammar, spelling and punctuation
- Cites to authority and uses proper citation format
- Overall well-written and thoroughly edited

Rigor, creativity, = 5 points

- Degree of difficulty/complexity of issue(s) addressed
- Novelty of issues, arguments
- Addresses issues raised in feedback on first draft

First Draft = 5 points

- First draft has required outline with all sections
- First draft has identified and analyzed primary sources relating to international law norm
- First draft has identified and analyzed secondary sources relating to research question

Roundtable and AWR Presentation Criteria

	N/A	Poor	Fair	Good	Excellent
Self-Introduction					
Professionalism: Appropriate dress, respectful manner					
Eye Contact					
Posture					
Respectfulness					
Diction and Delivery					
Pace, Timing & Pauses					
Voice Tone, Pitch, & Volume					
Avoiding Verbal Tics					
Speaking Style					
Gestures					
Confidence & Comfort					
Substance	N/A	Poor	Fair	Good	Excellent
Subject Background					
Theme					
Outline of Content of Argument					
Preparation (Slides)					
Organization and Structure					
Use of Authority					
Legal Reasoning					
Analytical Quality					
Responses to Questions					
Conclusion					

1. **APPROPRIATE DRESS:** The presenter is dressed to project a professional and credible image to the particular audience.
2. **EYE CONTACT:** The presenter maintains appropriate eye contact with the audience.
3. **POSTURE:** The presenter's posture does not distract and projects an appropriate image to the audience.
4. **RESPECTFULNESS:** The presenter's demeanor and conduct reflect respect for the audience.
5. **DICTION AND DELIVERY:** The presenter's diction and delivery are clear and demonstrate a deliberate and appropriate choice of words and phrases.
6. **PACE, TIMING AND PAUSES:** The presenter employs a proper pace to the presentation, varying speed to make certain points, and employs pauses where appropriate.
7. **VOICE TONE, PITCH AND VOLUME:** The presenter speaks in a clear, modulated voice with varying pitch and volume.

8. **AVOIDING VERBAL TICS:** The presenter avoids distracting verbal glitches such as "Auh," "Aah," and "you know."
9. **SPEAKING STYLE:** The presenter uses a style of speech that is appropriately formal for addressing the audience and avoids being inappropriately informal or colloquial.
10. **GESTURES:** The presenter's gestures are not distracting or artificial.
11. **CONFIDENT AND COMFORTABLE:** The presenter's demeanor displays that he or she is not overly nervous or uncomfortable and is confident of his or her position.
12. **SELF-INTRODUCTION:** The presenter introduces herself or himself to the audience in a comfortable and confident manner, providing the audience with as much of presenter's affiliations and background as necessary to understand the presenter's relationship to the subject.
13. **SUBJECT BACKGROUND:** The presenter educates the audience by providing appropriate basic background and subject information necessary to the audience's understanding and appreciation of the presentation.
14. **THEME:** The presentation is structured around an appropriate theme.
15. **OUTLINE OF CONTENT OF ARGUMENT:** In the beginning, the presenter gives a brief synopsis or summary of the main points that will be presented or the main subjects that will be covered.
16. **PREPARATION:** The presentation reflects that the presenter is well-prepared and that the argument is thorough and reasoned.
17. **ORGANIZATION AND STRUCTURE:** The presentation is organized in a logical progression to persuade. It contains an introduction, the body of the presentation and a conclusion.
18. **USE OF AUTHORITY:** The presenter relies on relevant legal or interdisciplinary authority and uses the authority in a meaningful way to persuade the audience of his or her position.
19. **LEGAL REASONING:** The presenter's interpretations, conclusions, inferences and deductions drawn from cited authority and from the facts are fair, reasonable and otherwise appropriate.
20. **ANALYTICAL QUALITY:** The presenter demonstrates that he or she has accurately and thoroughly analyzed facts pertinent to the subject and authorities and can present the analysis persuasively to the audience.
21. **CONCLUSION:** The presenter makes a short synopsis or summary of what he or she has established and closes with an appropriate conclusion.
22. **RESPONDS APPROPRIATELY TO QUESTIONS:** The presenter invites the audience's questions, is flexible enough to deal with questions during the presentation, and responds appropriately.