

Course Outline for “*The Law and Practice of the United Nations*”

Lecturer: Ms. Alexandra Ivanovic (ivanovic@unu.edu)

TIMING: 5 April 2016 to 21 June 2016 There will be a total of fifteen sessions of 1.5 hours per session 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). Available for purchase through Amazon and other online retailers.

Relevant excerpts will also be provided from Chesterman, Johnstone, Malone, *Law and Practice of the United Nations*, 2nd ed. (Oxford University Press, 2016) to be available for purchase from May, 2016.

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: two credits

COURSE REQUIREMENTS

There is no exam in this course which emphasizes broad participation by the students and not the instructor (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 five 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 (35%).
Reaction papers will be due by e-mail by **12.00pm on Monday 11 April, Monday 18 April, Thursday 12 May, Thursday 26 May, and Thursday 16 June, 2016.** 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.
- In-class participation which will account for 30% of the grade.
- A final paper of 10 pages (double spaced) on a topic agreed with the instructor will account for 35% of the grade. A 1-page outline will need to be cleared with the instructor before drafting proceeds. The

final paper will require a minimum of 30 hours of preparation. **The final paper should be submitted to the Degree Administration Office (Room 606 6F) by 17:00 hours on Thursday 7th July 2016.**

Depending on how conversation in the course 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 course.

SCHEDULE

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.

Class 2 – The UN Charter

Required Reading

- Chesterman, Franck and Malone – Introduction and Chapter 1

Class 3 – Hard Cases (*Reaction Paper 1 due*)

Required Reading

- Chesterman, Franck, and Malone, Chapter 2,
- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 2: 2.3 Libya to 2.5 Ukraine (pp 50-67)
- Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, December 2001, "Synopsis"

- “A More Secure World: Our Shared Responsibility”, Report of the Secretary-General’s High Level Panel on Threats, Challenges and Change, paras. 199-209
- Resolution of the General Assembly, 2005 World Summit Outcome, A/RES/60/1, 24 October 2005, paras. 138-40

Recommended Reading

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

Class 4 – Hard Choices

Required Reading

Development Goals:

- Chesterman, Franck and Malone, Chapter 11, pp 372-389
- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 3, pp. 69-78
- General Assembly, Report of the Secretary General: Road Map Towards the implementation of the UN Millennium Declaration, A/56/326 of 6 September 2001, Annex 1: the Millennium Development Goals
- *The Future We Want*, Resolution Adopted by the General Assembly on 27 July 2012, A/RES/66/288, paragraphs 245 - 250
- *Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda - Executive Summary and Goals on pages 30-31*
- *Report of the Open Working Group of the General Assembly on Sustainable Development Goals*, A/68/970, 12 August 2014
- *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet*
- *Synthesis Report of the Secretary-General on the Post-2015 Agenda*, December 2014
- *Transforming our world: the 2030 Agenda for Sustainable Development*, General Assembly Resolution A/RES/70/1, 21 October, 2015, paras 54-59

Sri Lanka:

- United Nations, *The Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka*, 31 March 2011, Executive Summary
- United Nations, *Report of the Secretary-General’s Internal Review Panel on United Nations action in Sri Lanka*, November 2012 paragraphs 75-80, 86 -87 (Recommendations)

Recommended Reading

- Bruce Currie-Alder, Ravi Kanbur, David Malone, and Rohinton Medhora, '*The State of Development Thought*', Connell Working Paper, March 8, 2013

Class 5 – Legal Status (*Reaction Paper 2*)

Required Reading

- Chesterman, Franck and Malone, Chapter 3
- Security Council Resolution 2178 (2014)
- 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 6 – The Secretary-General and the Secretariat (*Reaction Paper 3*)

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 7 – Membership & Financing

Required Reading

- Chesterman, Franck and Malone, Chapters 5 and 6
- United Nations, Joint Inspection Unit, "*Staff Mobility in the United Nations*," JIU/REP/2006/7, Geneva, 2006, Executive Summary
- *Report of the Secretary-General: Overview of Human Resource Management Reform: Towards A Global, Dynamic and Adaptable Workforce—Mobility*, UN Doc A/67/324/Add.1. 21 August 2012, paras 1-2, 11-14, 17-21

Class 8 – Terrorism and Proliferation of Weapons of Mass Destruction

Required Reading

Defining Terrorism:

- *World Summit Outcome Document*, GA RES. 60/1 (2005), paras. 81-85
- Report of the Secretary-General, "*Uniting against terrorism: recommendations for a global-counter-terrorism strategy.*" A/60/825, 27 April 2006.

- United Nations General Assembly, *“The United Nations Global Counter-Terrorism Strategy”*, 20 September 2006, GA Res 60/288

Security Council Sanctions and Quasi-legislation:

- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 8: pp: 288-289
- Security Council Resolutions 1673 (2006), 1977 (2011), 2178 (2014)

Military Action against Terrorism:

- 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, 2004 paras. 157-164, 185-198.

The Nuclear Non-Proliferation Regime:

- Nuclear Non-Proliferation Treaty
- 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).

Non-Proliferation and Iraq:

- David M. Malone, *The International Struggle Over Iraq* (2006), Chapter 6.
- Security Council Resolutions 687 (1991) paras 8-13, 1284 (1999) paras 2-6, 1441 (2002) paras 5-7

Non-Proliferation, Iran, and North Korea/The Future of Non-Proliferation

- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 8: pp: 311-314

Class 9 – Sanctions

Required Reading

- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 10

The Kadi Case:

- 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.

- Court of Justice of the European Union, Press Release No. 93/13, “The Court dismisses the appeals against the General Court’s ‘Kadi II’ judgment.” Luxembourg, 18 July, 2013

Class 10 – Peace Operations (*Reaction paper 4*)

Required Reading

- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 9

Class 11 – Sustainable Development

Required Reading

- Chesterman, Franck and Malone, Chapter 11, 11.2 The Right to Development pp 389-394, 11.4 Sustainable Development pp 402-408
- *Chapter 1: Declaration of the United Nations Conference on the Human Environment* paras 1-3, II Principles, 1-7, A/CONF.48/14/Rev.1, Report of the United Nations Conference on the Human Environment, Stockholm, 5–16 June 1972, United Nations
- *Report of the World Commission on Environment and Development: Our Common Future* (1987), IV A Call for Action, page 11
- *United Nations Conference on Environment and Development, Rio de Janeiro (1992), Agenda 21*, Paras 2.1-2.2
- John Drexhage and Deborah Murphy, *Sustainable Development: From Brundtland to Rio 2012*, Background Paper prepared for consideration by the High Level Panel on Global Sustainability at its first meeting, 19 September 2010. International Institute for Sustainable Development (IISD), 2010.
- *The Future We Want*, GA Res. 68/288 (2012), I. Our Common Vision, paras 1-20, 190-192
- Ban Ki-Moon Opening Remarks at 2014 Climate Summit
- US-China Joint Announcement on Climate Change, Beijing China, 12 November, 2014
- Adoption of the Paris Agreement, FCCC/CP/2015/L.9, Annex A

Class 12 – Human Rights and International Criminal Justice

Required Reading

Human Rights:

- Chesterman, Franck and Malone, Chapter 13

- Remarks by Ms. Navi Pillay, UN High Commissioner for Human Rights: “*How to Safeguard the Right to Privacy in the Digital Age,*” 20 September, 2013
- The Right to Privacy in the Digital Age, GA Resolution 68/167 (2013)

International Criminal Justice:

- William Schabas, *An Introduction to the International Criminal Court* (2007), Chapter 2 (34 pages)
- Article 16 of the Statute of the International Criminal Court
- 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
- *International Criminal Court Issues a Warrant for Arrest of Omar Al-Bashir, President of Sudan.*

Class 13 – Immunity

Required Reading

- Chesterman, Franck and Malone, Chapter 15, pp.513-535

Immunity of Peacekeepers in Haiti:

- *Letter from the Under Secretary-General for Legal Affairs to Brian Concannon, Director of the Institute for Justice and Democracy in Haiti* (21 February 2013)
- *Delama Georges V. United Nations* (U.S. District Court, Southern District of New York, Judgement of 9 January 2015)

Responsibility of International Organisations:

- International Law Commission, *Draft Articles on Responsibility of International Organizations* (2011), Articles 1-7, 48
- International Law Commission, *Commentaries on the Draft Articles on the Responsibility of International Organizations* (2011), Commentary on Article 7, pp 19-26
- *Al-Jedda v United Kingdom* (2011) 35 EHRR 23, paras 76-85

Class 14 – Accountability in Practice (Reaction paper 5)

Required Reading

- Chesterman, Franck and Malone, Chapter 16
- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 16, pp. 592-599 Sri Lanka

Recommended Reading

- Report of the Secretary-General, *Special measures for protection from sexual exploitation and sexual abuse*, A/69/779, 13 February, 2015
- Office of Internal Oversight Services, *Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations*, Assignment No.: IED-15-001, 15 May 2015

Class 15 – Reform

Required Reading

- Chesterman, Franck and Malone, Chapter 17
- Chesterman, Johnstone, and Malone, 2nd ed. Chapter 17, 17.2 Individual Rights at the UN, pp. 636-640,
- 17.3 How the UN approaches conflict, pp. 640-642, 17.8 Security and Justice, pp. 658-660

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 (35%).
3. Final paper (35%)