

The Law and Practice of the United Nations

United Nations University (UNU-IAS)

Fall 2020

Lecture Type: Online via Zoom

Time: Every Friday from 11:30am – 13:00 pm commencing 9 October 2020 – 5 February 2021 (14 classes) except Friday 11 December 2020 & 8 January 2021
Final class on Tuesday 9 February 2021 11:30am – 13:00pm (Class 15)

Lecturer: Ms. Alexandra Ivanovic

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1. Course Description

This course provides students with an introduction to the development of the United Nations as shown by interpretations of the UN Charter in practice. It addresses the most challenging issues confronting the United Nations and the global community today, from terrorism to climate change, from poverty to nuclear proliferation. The course will first examine the role, legitimacy and effectiveness of the United Nations through a review of case studies on peace and security issues, 'hard cases', in the UN Security Council and the 'hard choices' made in cases covering the development and human rights fields – these illustrate both the normative power of the United Nations and the challenges it faces in designing and implementing norms effectively. The course then examines the 'capacity' of the United Nations – its nature, status and legal powers. The course then explores how the United Nations has exercised its various powers in 'practice' in the areas of peace and security, sustainable development, and human rights. The final part of the course concludes with an analysis of responsibility and accountability of the UN and its agents, as well as current reform efforts.

The required text for this course is Chesterman, Johnstone, Malone, *Law and Practice of the United Nations, 2nd ed.* (Oxford University Press, 2016) – two copies are available in the Library and the text is also available for purchase online. (PLEASE NOTE: STUDENTS WILL BE WORKING FROM THE 2016 2ND EDITION NOT THE 2008 1ST EDITION). The edition contains author commentary, as well as primary materials. Such materials enable a realistic presentation of the work of international diplomacy: the negotiation, interpretation and application of such texts are an important part of what actually takes place at the United Nations and other international organisations. The accompanying commentary describes how the primary documents illustrate a set of legal, institutional, and political issues relevant to the conduct of international affairs and to the development of public international law through the United Nations. Guiding questions in selected chapters are intended to generate discussion and inspire reactions. There are also hypothetical fact scenarios included in the text which shall be used throughout the course to test understanding of the concepts covered in specific areas.

2. Course Objectives and Learning Goals

This course will provide students with an understanding of the development of the United Nations through interpretations of the UN Charter and case studies of implementation in practice. 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.

A background in law is NOT required for students to undertake this course. Graduate students lacking prior legal study are still able to learn to master and interpret primary material, and gain an understanding of the reasoning or ideas considered in negotiations and diplomacy. The course focuses on not only 'international law' but how this intersects with international relations and politics, as well as the challenges of public administration and policy development in the sphere of international organisations. By the end of the course, students should be able to not only understand the development of the United Nations and how the UN Charter is applied both in law and practice, but also for students to develop the ability to read the primary materials critically, parsing not only the meaning of the materials but also gaining insight into the politics behind such documents.

In this course, students will also be asked to develop their writing and presentation skills in addition to their research and interpretation of primary materials skills. Assignments throughout the semester will help students craft their writing, research and analytical abilities through a series of 'reaction papers', while short presentations of these papers will require students to succinctly convey their answers to guided questions selected for respective papers.

3. Requirements and Grading Policy

There is no final exam in this course, rather the emphasis is on broad participation by the students and not the instructor (who will not be lecturing on the topics assigned but will lead class discussions). **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:

- Reaction papers (35%)
- Active class participation (30%)
- Final paper (35%)

Reaction Papers

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. Reaction papers will be due by e-mail as per the course outline. Each of the reaction papers will need to focus on one question from the chapter 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. Reaction papers are then presented in the following class (5

minutes per presentation) to all students to encourage discussion, deliberation and critical analysis of the topic presented.

Class Participation

The course requires students to attend **all** classes, to arrive on time, to complete the readings and to participate actively in class discussions. As this course is not lecture based, but conducted in a round table discussion format, students are expected to speak in each and every class. At the discretion of the instructor, frequent late arrivals or absences may result in a lower grade. Please note that the first session is of particular importance and cannot be missed. Students are also strongly encouraged to regularly follow the news to keep up with international developments relevant to the United Nations, as these events will be reflected in the class discussions. Relevant news sites and reporting archives may be shared by the instructor during the class. A part of the grade for class participation will be based on how well reaction papers are presented in class.

Final Report:

A final paper of 10 pages (double spaced, 12 Font) on a topic agreed with the instructor. A 1-page outline will need to be cleared with the instructor before drafting proceeds. The final paper will require 30 hours of preparation and will be due on **Friday 19 March 2021 by midnight JST**.

4. Course Readings

The required textbook for this class is: **Chesterman, Johnstone, Malone, *Law and Practice of the United Nations*, 2nd ed.** (Oxford University Press, 2016). Chapter readings will need to be completed prior to each class, with an average reading load of approximately 40~50 pages per class. . Students are expected to actively contribute to class discussions based on the material provided. The lecturer may update the reading list throughout the course and will alert students to the changes in class. Two copies of the textbook are available at the UNU library and relevant chapters can be copied at the designated copy machines. Other required or recommended readings shall be uploaded to Moodle.

5. Course Outline

1. ***Introduction and the UN Charter***

Date: Friday, 9 October, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone and Malone – Introduction and Chapter 1

Recommended Readings:

- 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*
- 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.

2. ***Hard Cases - Reaction Paper 1 due***

Date: Friday, 16 October, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapter 2

Recommended Reading

- [Report of the Secretary-General, Implementing the Responsibility to Protect](#)

3. ***Hard Choices***

Date: Friday, 23 October, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapter 3

4. ***Legal Status - Reaction paper 2 due***

Date: Friday, 30 October, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapter 4

5. ***The Secretary-General and the Secretariat***

Date: Friday, 6 November, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapter 5

6. ***Membership and Finance - Reaction Paper 3 due***

Date: Friday, 13 November, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapters 6 & 7

7. ***Counter-terrorism and Non-proliferation of Nuclear Weapons***

Date: Friday, 20 November, 2020 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapter 8
- [Nuclear Non-Proliferation Treaty](#), available at:

Recommended Reading

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

8. ***Peace Operations***
Date: Friday, 27 November, 2020 11:30am – 13:00 pm
Readings:
- Chesterman, Johnstone, and Malone, Chapter 9

9. ***Sanctions:***
Date: Friday, 4 December, 2020 11:30am – 13:00 pm
Readings:
- Chesterman, Johnstone, and Malone, Chapter 10

Recommended Reading –

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,](#)
10. ***Sustainable Development – Reaction paper 4 due***
Date: Friday, 18 December, 2020 11:30am – 13:00 pm
Readings:
- Chesterman, Johnstone, and Malone, Chapter 11
11. ***Human Rights***
Date: Friday, 15 January, 2021 11:30am – 13:00 pm
Readings:
- Chesterman, Johnstone, and Malone, Chapter 13
12. ***International Criminal Justice***
Date: Friday, 22 January, 2021 11:30am – 13:00 pm
Readings:
- 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)
13. ***Immunity and Responsibility***
Date: Friday, 29 January, 2021 11:30am – 13:00 pm
Readings:
- Chesterman, Johnstone, and Malone, Chapter 15
14. ***Accountability in Practice – Reaction paper 5 due***
Date: Friday, 5 February, 2021 11:30am – 13:00 pm
Readings:
- Chesterman, Johnstone, and Malone, Chapter 16

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*](#)

15. **Reform**

Date: Tuesday, 9 February, 2021 11:30am – 13:00 pm

Readings:

- Chesterman, Johnstone, and Malone, Chapter 16

6. **Additional Information**

Class Conduct & Etiquette

Students are expected to arrive on time and not to engage in disruptive behavior during class. This includes, among other things, private side conversations, the use of cell-phones and other electronic devices, or the reading of newspapers. Cell-phones should be switched off and stored in the bag. We wish to create an atmosphere of open and tolerant discussion in the classroom, even during virtual lessons and request students to recognize every individual's right to have an opinion. The lecturer and other students should be treated with dignity and respect, in particular in discussions on contentious political issues where a diversity of opinion is likely to arise. However, we also recognize that there are limits to tolerance and the lecturer reserves the right to request disciplinary action against any student who violates this policy or repeatedly shows disruptive behavior in class.

Online Lessons and Computer Use in Class

For online classes, students must have access to a camera and audio and show their faces in class to ensure lessons are conducted in an interactive manner. In *The Law and Practice of the United Nations* course, students are expected to actively participate and engage in discussion during online lessons. Students are requested to turn off other notifications on their cell phones during class. Disruption of the class by cell phones, instant messaging programs or other communication devices will not be tolerated.

Plagiarism & Academic Misconduct

Please be aware that the consequences of plagiarism are severe and students found guilty of academic misconduct will be punished in accordance with UNU's academic honesty policies. The lecturer reserves the right to run all assignments through an anti-plagiarism software provided by the UNU. If evidence of academic misconduct on the assigned presentations, the mid-term exam or the final essay should be found, the assignment will receive a failing grade. In case of repeated violations of academic conduct, the student may receive a failing grade for the entire course and will be reported to the appropriate authorities for disciplinary action.