

LAW A508A TRANSNATIONAL LAW • SPRING 2020

TTh 1:30 - 2:15 PM or at your convenience: Watch pre-recorded Panopto class lecture

TTh 2:15 - 3:00 PM: Live Zoom Class Discussions at [A508 A Sp20 Transnational Law \(Raigrodski\)](#) or Join URL: <https://washington.zoom.us/j/676826161>

Meeting ID: 676-826-161

Canvas: <https://canvas.uw.edu/courses/1378452>

Professor Dana Raigrodski

Office Hours: by Zoom TBD (& by email appointment: draigrod@uw.edu)

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Course Description

Legal systems today are highly interconnected. Lawyers practicing in many diverse areas of domestic law find it necessary to understand and manage interactions between domestic, international, and foreign law rules. You will encounter transnational legal problems whether you find yourself in a small family law office, a big corporate law firm, a prosecutor's or public defender's office, or in an international-law focused practice such as a human rights NGO, foreign ministry, or international organization. This course offers the basic rules every lawyer should know in order to manage the transnational legal interactions that arise in a globalized world.

Learning Objectives

The objective of this course is to equip you to identify and solve the types of transnational legal problems you are likely to encounter as a U.S. lawyer regardless of your field of practice. Specifically, this course will prepare you to answer the two questions at the heart of all transnational practice: (1) What are the applicable rules? And (2) how can the dispute be resolved?

After this class, students will be able to:

1. Describe some important substantive and procedural rules of law that can be used in transnational problem-solving.
2. Defend the choice of national law, international law or private ordering as the law that should apply to activities and interests that touch more than one country.
3. Compare different justifications for resolving disputes in a national court, international tribunal or alternative dispute resolution forum, or if more than one national court could claim jurisdiction over a dispute, for resolving the dispute in one of those national courts.

Reading Assignments

The casebook for this course is CHILDRESS, RAMSEY & WHYTOCK, TRANSNATIONAL LAW AND PRACTICE (First Edition, 2015). The casebook is available from the University bookstore. Please check the UW Bookstore information re free shipping during Covid-19: <https://www.ubookstore.com/covid19updates>

e-copies are available for purchase at:

<https://www.vitalsource.com/products/transnational-law-and-practice-donald-earl-childress-iii-v9781454860938>

<https://www.amazon.com/Transnational-Law-Practice-Aspen-Casebook-ebook/dp/B00UZCTZHW> (Kindle only)

Some of the readings are included in the Fall [2019 Cumulative Supplement for DONALD EARL CHILDRESS III, MICHAEL D. RAMSEY & CHRISTOPHER A. WHYTOCK, TRANSNATIONAL LAW AND PRACTICE](#) (2015). On CANVAS

We may also be using other limited supplemental materials, which you may download from Canvas.

All assignments refer to the casebook except where noted. Listed assignments may be supplemented, shortened, or otherwise changed. Please pay close attention to your email and to Canvas announcements regarding possible changes or additions.

Protocol for Class Meetings via Zoom

As a result of COVID-19, classes will not meet in person, but instead via and combination of pre-recorded lecture modules and class discussion via Zoom:

- TTh 1:30 - 2:15 PM or at your convenience: Watch pre-recorded Panopto class lectures on Canvas: <https://canvas.uw.edu/courses/1378452>
- TTh 2:15 - 3:00 PM: Live Zoom Class Discussions at [A508 A Sp20 Transnational Law \(Raigrodski\)](#) [Or Join URL: <https://washington.zoom.us/j/676826161> or use Meeting ID: 676-826-161]
- Please note that the last two classes on 5/28 [Guest Speaker] and 6/2 [Review] will run as live zoom session for the entire class time from 1:30-3:00

Students are expected to “attend” class via Zoom to the same degree that they would normally be expected to attend a live class (at least 80 percent of the class sessions). Unless a student lacks the technology to do so, they are expected to join the class using video as well as audio and not merely audio. Other expectations include:

- Muting your microphone upon entering the Zoom classroom;
- Keeping your video feed on (not a still picture or black screen) during class;
- Using the “raise hand” feature and/or raising your actual hand when you wish to speak;
- Unmuting your microphone when called upon, and muting it again once you are done speaking.

I understand that many of you may have distractions during class, such as children and others in the background. I understand that and so do not worry about it and do the best that you can to focus under the circumstances.

Course Participation and Grading

All students enrolled in this course are expected to attend class on a regular basis and to participate in class discussion of the assigned readings.

In accordance with the UW Law Faculty's recent decision, all students will receive a grade of "Credit" or "No Credit." Your grade in the course will be determined by your active attendance and participation, and by your performance on the quizzes and final assessment. My expectation is that all healthy students (and students with healthy family members) will be able to devote themselves to studying the materials with just as much time and dedication as they would in normal times. I will prepare numerical grades the way I usually do, and then those will be translated into Credit or No Credit. But I will provide additional, more detailed feedback to any student who desires it (*i.e.*, if you want to know what grade you would have received under the normal grading curve, and what you did well and not-so-well on your quizzes or exams, I'll be happy to provide that to you).

Course performance will be based on the following:

Participation: 10%. Your participation grade includes your contributions to class discussion—where the quality, rather than quantity, of your contributions will count—and participation in exercises, small-group discussions and assigned problems.

Quizzes: 30%. There are several multiple-choice quizzes on CANVAS

Final exam: 60%. The final exam will be two or two-and-a-half hours long, and is scheduled for 8:30 a.m. on Friday, June 12, but I might set it up as a take-home exam. I will explain ahead of time how the exam is structured and how I grade. Please pay attention to what I say about that.

I reserve the right to modestly adjust these percentages.

Podcasting and Recording of Lectures and Class Discussions

Lectures are provided for instructional purposes only and remain the intellectual property of the instructor. All other uses are prohibited.

Class Discussion sessions in this course will meet live, and you are expected to attend in person. As a courtesy to those who are unable to attend a class discussion session in person due to illness or for other reasons—or for those who want to review something that was said in class—the class will be recorded via Zoom and available to be reviewed by students enrolled in the class. **Continued enrollment in this course is considered consent to being audio- and video-recorded for this purpose.**

Disability-Related Needs

Your experience in this class is important to me. If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to me at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to: mental health, attention-related, learning, vision, hearing, physical or health impacts), you are

welcome to contact DRS at 011 Mary Gates Hall or 206-543- 8924 or uwdrs@uw.edu or disability.uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

Religious Accommodations

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Faculty Syllabus Guidelines and Resources. Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form available at <https://registrar.washington.edu/students/religious-accommodations-request/>.

Syllabus/Reading List

For each class you are expected to (in order): (1) Read the guiding reading and discussion questions for the class on CANVAS; (2) Read assigned readings below; (3) Watch pre-recorded class lecture; (4) Join Zoom class discussion at 2:15pm on TTh.

I. *Introduction to the course*

Class 1 Tue. Mar. 31: Introduction to the course

- Text xxix – xxxix

Class 2 Thu. Apr. 2: Introduction – The Chevron Ecuador Case

- Text xl – xliv
- Supplement 1-2

II. *What Legal Rules Apply?*

Class 3 Tue. Apr. 7: Choice of Law: Torts (*Which* nation’s law applies?)

- Text 72-100

Class 4 Thu. Apr. 9: Choice of Law: Contracts; How do you *Determine* What is the Foreign Law?

- Text 100-109, 120-124; 139-140
- Text 109-120
- Supplement 17 (bottom) -19
- Canvas: Walton v. Arabian Am. Oil Co., 233 F.2d 541 (2d Cir. 1956)

Class 5 Tue. Apr. 14: National Territorial Law: *Whether* U.S. federal law applies abroad – and the “Presumption Against Extraterritoriality”

- Text 1-34
- Supplement 2-15 - RJR Nabisco, Inc. v. European Community, 136 S. Ct. 2090 (2016)

Class 6 Thu. Apr. 16: National Territorial Law: The “Presumption Against Violating International Law”

- Text 42-51
- Supplement 16-17
- Text 71-72

Class 7 Tue. Apr. 21: Foreign Law: Common and Civil Law Traditions

- Canvas: *The Common Law and Civil Law Traditions*

- Canvas: *A Primer on the Civil-Law System*, pp. 1-39, and skim appendices. But read carefully Appendix D (“Comparison of an Issue”).
- Canvas: *Jand’heur v. Aux Galeries Belfortaises*
- Canvas: *Excerpts from the German and French Civil Codes and Restatement (Second) of Contracts*
- Canvas: *Pates Gift Hypothetical*

Class 8 Thu. Apr. 23: International Law: The Nature and Role of International Law

- Text 141-159
- Text 287-295: *Paquete Habana*

Class 9 Tue. Apr. 28: International Law: Treaties Part I

- Text 159-183, 192 (middle of page re Later in Time rule), 195-200

Class 10 Thu. Apr. 30: International Law: Treaties Part II

- Text 201-215
- Canvas: *Missouri v. Holland*

Class 11 Tue. May 5: International Law: Treaties Part III

- Text 229-230, 241-250
- Canvas: Materials on the *Hague Convention on Child Abduction & Muhlenkamp v. Blizzard*

Class 12 Thu. May 7: Non-binding Norms: International Norms and Private Norms

- Text 325-29; 337-366

III. *How Can Transnational Disputes be Resolved*

Class 13 Tue. May 12: Litigation: National and International Courts

- Text 367-75; 481-492; 500 (notes 1 & 2 only); 502-511
- Supplement 57-58
- Canvas: *Pinsent Masons Memo on Litigation in U.S. and German*

Class 14 Thu. May 14: Litigation: Specialized International Courts

- Text 511-543
- Supplement 58-61

Class 15 Tue. May 19: Arbitration: Transnational Commercial Arbitration, Investor-State

Arbitration, and State-State Arbitration

- Text 545-70; 591-98
- Supplement 61
- *Chevron Corp. v. Ecuador*, 795 F.3d 200, 202-203 (D.C. Cir. 2015) (Excerpt attached to Class Questions on Canvas)

IV. *Postscript on Enforcement*

Class 16 Thu. May 21: Enforcing Foreign Law Judgments; Enforcing International Law

- Text 601-630
- Supplement 62-64
- Text 639-646
- Canvas: *Materials on International Enforcement*

Class 17 Tue. May 26: Guest speakers - TBD

Class 18 Thu. May 28: Transnational Legal Practice in Action -- Guest Speaker: Sara P. Sandford, Principal, Garvey Schubert Barer [Zoom at 1:30; no assigned readings]

Class 19 Tue. June 2: Catchup & Review