

University of Washington School of Law
Spring Quarter 2020
5 April 2020 DRAFT SYLLABUS SUBJECT TO FURTHER REVISION

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Transnational Law – Law A508 C

Class meets Tues/Thurs 1:30-3:00 pm

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COVID-19 National Emergency

We are all in the process of adjusting our expectations as a result of the COVID-19 National Emergency. I hope to keep the administration of the course flexible for the first week or two so that we can figure out what works and what doesn't work. I have created a discussion called "Anything you think I should know?" in Canvas that you can use to tell me about issues that arise that would be relevant to the whole class: https://canvas.uw.edu/courses/1373300/discussion_topics This will permit other students to contribute to the discussion and for me to respond to everyone at once. For individual concerns, you can reach me via email at jkwinn1@uw.edu and I will do my best to respond in a timely fashion.

Course Delivery

This course will be taught using a combination of materials posted to Canvas, Zoom meetings, Canvas assignments and other remote learning technologies.

Canvas: <https://canvas.uw.edu/courses/1378379>

Email listserv: lawa508c_sp20@uw.edu

Zoom Meeting ID 327-504-159 Login with UW NetID + Password 551621

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 Outcomes

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 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.

Textbook

Students are required to be familiar with all materials posted on the Canvas site for this course or distributed using the official email listserv.

The textbooks for this course are:

Childress, Ramsey & Whytock, *Transnational Law and Practice* (First Edition, 2015).

Childress, et al., *Fall 2019 Supplement*

In addition, there are some required readings posted the Canvas site. There may also be optional readings. The difference between required readings and optional readings will be clearly indicated.

Because some students may have trouble obtaining copies in a timely fashion, the law librarians have graciously made copies of the reading assignments for the first weeks of class and provided them to the faculty. These can be accessed in a folder named "00 Scans Childress Transnational Law" accessible in Canvas Files.

This textbook should be available from UW bookstore (information about free shipping while bookstore is closed: <https://www.ubookstore.com/covid19updates>).

Electronic copies are also available:

<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)

You may find some of the CALI lessons on International Law helpful: <https://www.cali.org/category/2l-3l-upper-level-topics/international-law>

Class Meeting Policies

Attendance: Regular class attendance is expected.

Class Participation: I encourage you to engage actively in class discussion. I will also call on students, usually in reverse alphabetical order. You may also be asked to work Zoom “breakout rooms” with other students on in-class assignments, based on problems or hypotheticals.

I may ask students to participate in Poll Everywhere interaction tool. If I ask you to participate, you need to sign into <https://pollev.com/janekwinn372> using your UW Net ID

Zoom Meeting Guidelines:

I have set Zoom to record all class meetings and store them in the cloud. Class recordings are only for the use of individuals enrolled in the class.

When you join the class, please join with “computer audio,” not telephone audio if possible (This is to reduce the risk of creating an audio “feedback” loop.) If you cannot join a class by computer but need to join by telephone, please let me know in advance so I can provide you with a call-in phone number.

Please remember to always mute your audio when you aren’t speaking.

Please click the “Raise Hands” button if you would like to speak. I will do my best to call on students as soon as possible. I encourage students to speak and to ask questions, so don’t hesitate to push the “Raise hands” button.

If you have technical problems, contact UW IT (help@uw.edu). You are welcome to let me know if you’re having problems, but I probably won’t be able to solve anything too technical because I’m learning along with everyone else!

Zoom has a function called “breakout rooms” that allow an instructor to divide students into smaller discussion groups temporarily. Once I’ve figured out how to use it, we can try that to see how it works.

I plan to post all class recordings, both when we’re on Zoom and when we’re meeting live. I’ll use more PowerPoints than I have used previously in this specific course, and I’ll post all PowerPoints on the Canvas course website. The PowerPoint for the first day of class is already posted.

Grades

Final course grades will be based on three components:

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 and Assignments: 30%. I will create quizzes in Canvas designed to help you assess your progress in the course. These questions may reinforce important topics covered in class. After everyone has taken a quiz, then I will distribute an answer key which you will be free to discuss with me. In addition, I will assign one practice exam question in Canvas and provide you with feedback before the final exam to help you understand how the final exam will be organized.

Final exam: 60%. The final exam will be four hours long.

I reserve the right to modestly adjust these percentages.

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 the exams. 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. Absent special circumstances, a grade below what would be a "C+" (or 2.7 for graduate students) under the traditional curved grading system will be a "No Credit" grade.

Disability-Related Needs

The University of Washington is committed to providing access, equal opportunity and reasonable accommodation in its services, programs, activities, education and employment for individuals with disabilities. To request academic accommodations due to a disability, please contact Disability Resources for Students, Mary Gates Hall, Room 011 at (206) 543-8924. If you have a letter from Disability Resources, please present the letter to me so that we can discuss what accommodations you might need to succeed in this course.

Communications Protocols

I believe that email communications should be treated like written communications, not spoken communications. I try to respond to email communications from students with regard to class matters in a timely and effective way. I regret that sometimes I cannot respond as quickly as I would like, and that sometimes I lose track of emails altogether. If you suspect that I have lost track of a message that you have sent and you still need a reply, please resend the message noting that it is a second attempt. To assist me in keeping up with my emails, I ask that students emailing me with questions related to class take the time to organize their thoughts before composing and sending the message, and to be concise. I also ask that you acknowledge receipt of my reply, even if it is only to say "thanks."

Tentative Reading Assignments & Discussion Questions (SUBJECT TO CHANGE)

2020-03-31 Tues Class 1 Introduction

Childress xxix – xliv

Summary of Aguinda v. Texaco (2nd Cir. 2002) on Canvas

Childress Supp. 1-2

Discussion Questions on Canvas

2020-04-02 Thurs Class 2 Choice of Law: Torts

Childress 72-100

Discussion Questions on Canvas

2020-04-07 Tues Class 3 Choice of Law: Contracts I

Childress 100-109; 112-124; 139-140

Supp. 17-19

Discussion Questions on Canvas

2020-04-09 Thurs Class 4 Choice of Law: Contracts II

Childress 1-34

Supp. 2-19 RJR Nabisco v. European Community

Walton v. Arabian Am. Oil Co. (1956) on Canvas

Discussion Questions on Canvas

2020-04-14 Tues Class 5 International Law and Domestic Statutes

Childress 42-51; 71-72

2020-04-16 Thurs Class 6 Civil Law Tradition I

[Joint session with other sections]

Common & Civil Law Tradition on Canvas

Dainow, Civil Law and the Common Law: Some Points of Comparison on Canvas

2020-04-21 Tues Class 7 Civil Law Tradition II

Primer on the Civil Law on Canvas 23-29 plus appendices esp. Appendix D on Canvas

Jand'heur v. Aux Galeries Belfortaise on canvas

Excerpts from the German and Civil Codes & Restatement of Contracts on Canvas

Pates Gift Hypothetical on Canvas

2020-04-23 Thurs Class 8 Nature and Role of International Law

Paquete Habana on Canvas

Optional: Koh, Why Do Nations Obey International Law? (1997) on Canvas

2020-04-28 Tues Class 9 Treaties I

Childress 159-90

2020-04-30 Thurs Class 10 Treaties II

Childress 190-215; 229-230

Missouri v. Holland on Canvas

2020-05-05 Tues Class 11 Treaties Part III:

Childress 241-250

Hague Convention on Child Abduction on Canvas

Muhlenkamp v. Blizzard on Canvas

Extradition Treaty with Canada on Canvas

News Stories about Meng Wanshou & Huawei

2020-05-07 Thurs Class 12 Litigation in National Courts

Childress 367-384; 481-492; 500; omit notes 3-6; 502-511

Pinsent Masons Memo on Litigation in US and Germany

2020-05-12 Tues Class 13 Litigation in Specialized Courts

Childress 511-543; Supp. 58-61

Global Proliferation of International Commercial Courts on Canvas

2020-05-14 Thurs Class 14 Private Ordering and Customary Law

Childress 325-330; omit Sanchez-Llamas v. Oregon; 337-366

Abbott & Snidal, Hard and Soft Law in International Governance (2000) excerpt on Canvas

Weiner & Richman Mechanism Choice (2009) excerpt on Canvas

Ostrom's 8 Rules for Managing the Commons on Canvas

2020-05-19 Tues Class 15 Arbitration

Childress 545-70; 591-98; Supp. 61

Chevron Corp. v. Ecuador, 795 F.3d 200, 202-203 (D.C. Cir. 2015)

2020-05-21 Thurs Class 16 Enforcing Foreign Judgments I

Childress 601-618; Supp. 62

2020-05-26 Tues Class 17 Enforcing Foreign Judgments Part II

Childress 619-630; Supp. 62-64; 639-646

[Guest speaker TBD]

2020-05-28 Thurs Class 18 Transnational Law in Practice: International Commercial Arbitration

Guest Speaker Sara P. Sandford, Pricipal, Garvery Schubert & Barer

Zoom at 1:30 pm, no assigned readings, joint session with other sections

2020-06-02 Tues Class 19 Finish & Exam Review

Catch up, exam review