**INTERNATIONAL LAW AND LITERATURE**

**(ILAL)**

****

**SYLLABUS**

**Fall 2022**

***Law 827-1000. Class Number 19010. 3 Credit Course.***

***Qualifies for the Certificate in International Trade and Finance***

***(“Comparative and Public International Law Course”)***

***Satisfies ABA and Law School Professional Writing Requirement.***

***Criteria Referenced Grading (No Curve).***

## Professor Raj Bhala

<https://en.wikipedia.org/wiki/Raj_Bhala>

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**All welcome!**

**SECTION I:**

**FULL COURSE DESCRIPTION**

*International Law and Literature* (*ILAL*) covers both law “as” literature and law “in” literature, plus legal rhetoric in a manner that is both creative and practical. Lectures, class discussions, readings, and assignments represent both the “legal” and the “literary” side, focusing on international legal issues.

In Part One, international legal texts, specifically treaties and statutes that implement treaties, are studied as a form of literature. They are analyzed using techniques of literary criticism, comparing and contrasting those methodologies with standard tools of treaty and statutory interpretation. These texts are looked at as narratives that tell a story, *i.e.*, legal narratives that speak of what should happen based on what has happened. Classic texts written by lawyers from the Law and Literature movement are used, such as those by Justice Benjamin Cardozo, Judge Richard Posner, Dean Roscoe Pound, and Professor Richard Weisberg. They are supplemented with helpful tools about how lawyers can improve the quality of their writing.

In Part Two, classic works of great fiction and poetry, such as Plato (Ancient Greece), William Shakespeare (England), Albert Camus (France), E.M. Forster (England), and Franz Kafka (Czechoslovakia), are studied to reveal enduring legal themes common across all countries. So, too, are works by the Nobel Prize winning poets, Seamus Heaney (Ireland) and Rabindranath Tagore (India). Those themes include justice and morality (and more specifically, the rule of law versus equity), obedience and rebellion (implicating custom, law, and the political order), wealth and poverty (and more generally, law, society, and power), fairness and prejudice (including implicit bias), and punishment and redemption (including retribution/revenge versus rehabilitation and forgiveness).

In Part Three, renowned historical speeches are studied (both in their written form and as presented orally or re-enacted) to reveal how they follow Aristotle’s five principles of Rhetoric, and thus what makes them famous. Illustrations include Winston Churchill (England), John F. Kennedy (United States), and Martin Luther King (United States).

Students draft 4 short documents that satisfy the Professional Writing Requirement: 1 treaty in connection with Part One; 1 legal memo and 1 media commentary in connection with Part Two; and 1 speech in connection with Part Three (which students also deliver orally). These documents are assessed according to specific criteria presented at the start of the course, with an emphasis on substantive and stylistic quality over style.

There is no final exam, nor any research paper.

There are no prerequisites for this course. No background in International Law or in English or World Literature is assumed. The necessary background will be provided through lectures, class discussions, and readings. The course is open to students in all degree programs (J.D., Two Year J.D., LL.M., and S.J.D.), as well as to non-law students and Overseas Visiting Scholars. The course qualifies for the Certificate in International Trade and Finance (namely, the “Comparative and Public International Law” element).

It has been remarked that the Humanities, which of course include Literature, is the academic pursuit devoted to understanding, exploring, and celebrating human creativity in all its forms. The Humanities is where we lay ourselves bare, where we cut to the heart of who we are, what we do, how we do what we do, and why we do what we do. These observations hold true of Law, too, and *a fortiori*, of Law and Literature. Together, they imbricate (overlap, cover) all of human existence. Through *ILAL*, we see that what we read and write take on a life beyond us. We study creation, invention, change, obsolescence, and destruction. We feel hope and joy. We differentiate the genuine from the illusory, the instinctive from the learned. Our imagination is our only boundary.

**SECTION II:**

**10 INNOVATIVE POINTS**

*ILAL* builds on a course KU Law previously offered, *Law and Literature* (*LAL*).[[1]](#footnote-1) However, rather than simply renew the earlier course, *ILAL* is innovative in 8 major respects.

**(1) *ILAL* covers both law “as” literature and law “in” literature:**

The “as” and “in” portions are Parts One and Two of *ILAL*, respectively. The earlier *LAL* course covered only the latter dimension of the field of Law and Literature.

In Part One, International legal texts are analyzed. That means legal texts are viewed as a form of literature, lawyers are viewed as authors, and those texts and their authors are critically analyzed using classical and contemporary methods from literary theory. Literary theory is rich in analytical techniques to interpret words and discover meanings. Knowing and applying those theoretical methodologies helps broaden and deepen interpretative skills, and foster creativity.

In Part Two, fiction is the basis for extracting legal themes. In particular, novels and poetry are rich in issues encountered in International Law and Human Rights Law. Each such work is a kind of “hypothetical,” or “evidentiary record.” Reading these works carefully bolsters critical reading skills and encourages synthetic thinking by spotting in them issues arising in the international legal arena. Doing so also provides a common discourse between lawyers and non-lawyers, and among lawyers across legal cultures, who at some point in their academic or professional career have read the same or similar works.[[2]](#footnote-2)

**(2) *ILAL* also covers Rhetoric:**

Part Three of *ILAL* emphasizes the role of lawyers in public speaking in the international arena – legal rhetoric drawn from law “as” literature and law “in” literature.

Specifically, interpreting International Law, and uncovering legal issues, often casts lawyers in the role of public speakers. They have to talk about an impending great decision, such as whether to continue with America’s May 2018 withdrawal from the July 2015 *Joint Comprehensive Plan of Action* (*JCPOA*, or *Iran Nuclear Deal*), and how to deal with China’s ongoing territorial claims in the South China Sea notwithstanding the July 2016 decision of the Permanent Court of Arbitration.

Studying key principles of Rhetoric, along with techniques of literary criticism and classic literary works, enhances the ability of lawyers to craft a brilliant speech and deliver it in a persuasive manner.

**(3) *ILAL* satisfies the Professional Writing Requirement:**

The Practical Writing Assignments – articulated below in Tables 1-4 – for all three Parts of *ILAL* foster excellence in legal writing. The top two ways to become a more excellent writer are to practice writing, and to read great writers. *ILAL* achieves both. So, students must prepare the following four practical documents, each of which involves application of theoretical knowledge learned in class and through reading assignments.

The 4 *ILAL* Professional Writing Assignments are spread across the fall semester, approximately 1 in September, 1 in October, and 2 in November. There is no final exam.

1 Treaty:

Drafting a new Free Trade Agreement (FTA) Chapter on the rights of women and LGBTQ+ community

1 Legal Memo:

Drafting a Legal Memo on reform of laws, legal institutions, and lawyers’ conduct in Burma

1 Media Commentary:

Drafting a Media Commentary on Leadership and the Law of War

1 Speech:

Drafting and delivering a speech on United States military action to counter Chinese territorial claims in the South China Sea

Each Professional Writing Assignment is 4 double-spaced pages (4 pages is the minimum, and 5 is the maximum), including any footnotes.

The required formatting is: Times New Roman 12-point font (text and footnotes), and Standard 1-inch margins (top/bottom and right/left), with proper pagination. Thus, students write 16 double-spaced pages (and no more than 20 pages) across the semester. Substantive and stylistic quality are emphasized over quantity.

Each Assignment must be turned in by hard copy, stapled, on one-sided paper, along with a blank Scoring Sheet and Criteria for that Assignment.

**Or**, in the event the course is offered online, each Assignment must be emailed to the teacher at bhala@ku.edu.

Each Assignment is equally weighted (all four assignments carry the same weight in the overall course grade). Each Assignment is graded on a 20-point scale using Criteria Referenced Grading (10 points for Substance, plus 10 points for Style).

As necessary, class time will be allocated for students to work on their Professional Writing Assignments, especially on the class day that is the day before an Assignment is due. That time can be used for individual work and/or group discussion about the Assignment, and assistance on the Assignment from me.

The emphasis of the Professional Writing Assignments on drafting treaty provisions, legal memos, media commentary, and preparing and presenting major speeches for domestic and foreign audiences, are exactly what is typical in contemporary international legal practice. It was what I experienced, indeed, was “drilled in,” in practice at the Federal Reserve in New York in the field of International Banking Law, and as a United States delegate to the United Nations Commission on International Trade Law (UNCITRAL) responsible for drafting a treaty on wire transfers. Treaties, memos, and public speeches also are the mainstay of my service as Special Advisor to Dentons, the world’s largest law firm, and my previous service as an International Legal Consultant for one of the world’s major international law firms, Blake, Cassels & Graydon, which is based in Toronto, and for which I worked especially closely with the Bahraini and Saudi Arabian offices. Finally, analysis of treaties and preparation of legal memos also reflects my engagement with various multinational corporations and organizations, including Cheniere Energy (Houston). And, it is familiar through my work as the “On Point” columnist for Bloomberg Quint / BQ Prime (Mumbai).

All roles students play through their Professional Writing Assignments are ones KU Law alumni from the KU Law International and Comparative Law (ICL) Program are playing, have played, or can reasonably be expected to play. In other words, the Assignments are “real world” among Jayhawk lawyers (including many of my own former students since joining KU Law in July 2003).

Accordingly, students may use their *ILAL* Professional Writing Assignments as writing samples when applying for jobs. Indeed, because employers often request short writing samples (with 8 pages being a typical maximum), the ILAL course will provide students with the opportunity to produce high-quality written work in conformity with such requests.

**(4) Students obtain individualized feedback through *ILAL*:**

As part of the Syllabus distributed at the start of the course, students receive the “Scoring Sheets” for each Professional Writing Assignment. So, they know exactly the substantive and stylistic criteria in advance of the due date for each Assignment. Through lecture and class discussion, students further their understanding of these criteria in relation to the readings.

Once an Assignment is handed in, it is graded using the Scoring Sheet. Both the Scoring Sheet and the Assignment itself will be returned to the student. The Scoring Sheet is completed, showing what the student did, and did not, do well on in the Assignment. The Assignment itself will have comments (handwritten or electronically entered, *e.g.*, via the Word Reviewing function) showing where in it the student met, and did not meet, the criteria.

Finally, each student is expected to meet individually with the teacher to go over the Scoring Sheet, the Assignment, and any other course-related matters.

**(5) *ILAL* qualifies for the “Comparative Law and Public International Law” Element of the Certificate in International Trade and Finance:**[[3]](#footnote-3)

Allowing this qualification expands the choices available to earn the Certificate, beyond (for example) *Islamic Law* and *Public International Law*. Much of the *ILAL* course content is aligned with the “broadening” type of knowledge, insight, and approaches that courses in this Element provide.

**(6) *ILAL* uses Criteria Referenced Grading:**

Specific metrics for both the substance and style of the Professional Writing Assignments have been developed for *ILAL*. They draw on Criteria Referenced grading schemes already approved and in operation at KU Law, particularly courses in *Appellate Advocacy*, *Complex Litigation*, and *Patent Practice*. They also draw on evaluation metrics used by leading English teaching professionals in the Modern Language Association (MLA).

The *ILAL* criteria are set out in the Scoring Sheets below based on the specific drafting tasks set out in Tables 1-4. Standard grade-curve based assessment is not appropriate for *ILAL*. A grade curve assumes a normal distribution of a random sample of 50 or more students. *ILAL* is almost sure to be a small course, probably of around 10 students. They are self-selected, with a substantive interest in International Law, and a creative interest in using great works of literature to advance their practical writing skills.

What *ILAL* asks of students, in terms of the Professional Writing Assignments, are specific drafting tasks, each one satisfying detailed – and different – criteria. Those criteria help ensure grading is based on objective metrics that are widely accepted. By eliminating as much as possible subjectivity in assessment, these criteria may be internalized by law students. That is, long after they have completed the *ILAL* course and graduated from KU Law, they can hold onto the criteria, and apply it to their own professional writing.

Finally, Criteria Referenced Grading reinforces the seminar-like atmosphere that *ILAL* seeks. That is important with respect to the 10th learning outcome (below), joy. There is no need in *ILAL* to pit students against one another in an unnecessarily competitive manner. To be sure, not every student in the *ILAL* class can or will get a high mark. Like long-distance running, legal writing is a race against oneself and there is no finish line. Like the runner, the lawyer always gets better, by staying focused to exert best efforts to meet objective criteria.

**(7) *ILAL* was constructed synthetically, drawing on syllabi and/or descriptions for *LAL* courses from 14 professional schools:**

In particular, the research underlying this Proposal included a review of *LAL* course syllabi and/or descriptions at:

Duke University;[[4]](#footnote-4)

George Mason;[[5]](#footnote-5)

George Washington;[[6]](#footnote-6)

McGeorge;[[7]](#footnote-7)

Mercer University;[[8]](#footnote-8)

Northwestern University;[[9]](#footnote-9)

Southwestern University;[[10]](#footnote-10)

University of Chicago;[[11]](#footnote-11)

University of Colorado;[[12]](#footnote-12)

University of Louisville;[[13]](#footnote-13)

University of Texas (Dallas);[[14]](#footnote-14)

University of Toronto;[[15]](#footnote-15)

University of Washington;[[16]](#footnote-16)

plus the City University of New York (CUNY) John Jay College of Criminal Justice.[[17]](#footnote-17)

The *ILAL* course also was constructed in consultation with colleagues at overseas law schools, including at the University of Auckland Faculty of Law. This Proposal has the express endorsement of Auckland’s Scott Optican, Associate Professor and former Associate Dean (and a former Visiting Professor at KU Law School). He agreed that if this proposal were presented to the Auckland Law Faculty, he would endorse it as being both practical and creative, and he would anticipate his colleagues would feel likewise.

The choice of reaching out to the Auckland Law Faculty was deliberate. I was honored and humbled to be appointed by the New Zealand Legal Research Foundation (LRF) as the 2017 LRF Visiting Scholar.[[18]](#footnote-18) The LRF and Auckland Law Faculty, and *New Zealand Law Review*, are interested in the subject of International Law and Literature, and while there, I was fortunate to learn more about the subject from Professor Optican and my New Zealand colleagues.

**(8) *ILAL* was constructed collaboratively, working with several KU Law School faculty colleagues:**

The initial draft of the *ILAL* Proposal was developed after consulting with several scholars in the *LAL* field, including Professor Mike Hoeflich, and faculty engaged in Professional Writing Requirement courses, especially Professors Joyce Rosenberg and Betsy Six. Subsequent revisions, incorporating the comments of the above colleagues, were reviewed by Dean Stephen Mazza, Associate Dean Lou Mulligan, and Associate Dean Elizabeth Kronk-Warner.

Additionally, the *ILAL* Proposal was reviewed by Eric Witmer (KU Law J.D. Class of 2017 and former Research Assistant, who has graduate level English training). This proposal incorporates comments and suggestions received on the initial draft. Finally, I spoke with Professor Webb Hecker, Chair, Academic Committee, on two occasions about the proposal, and have endeavored to incorporate his suggestions.

I am grateful for this help.

**(9) *ILAL* draws on empirical analyses of *LAL* courses, and can help promote KU Law**

 **School:**

The leading such study is Elizabeth Villiers Gemmette, *Law and Literature: Joining the Class Actio*n, 29 Valparaiso Law Review 665-859 (1995).[[19]](#footnote-19) Though this analysis is dated by 20 years, it reveals (*inter alia*) that “Of the 199 [law] schools surveyed, eighty-four reported offering some variation of a law and literature course, 111 reported that they do not offer such a course, one reported that the course has been approved but not yet taught, and three schools did not respond to either mail or telephone enquiries.

In other words, some form of *LAL* appears to be offered at about 42 percent (85 divided by 199) of American law schools accredited by the ABA. That figure is nearly double that from the previous survey, in 1987, which showed that among the 175 law schools, 38 – or 22 percent (38 divided by 175 reporting schools) – had an *LAL* course. The gap is about the same when schools that did not respond to the surveys are excluded: it was 43 percent in 1995 (85 divided by 196), and 28 percent (38 divided by 135 reporting schools) in 1987.

The empirical data from the Gemmette study indicate some *LAL* courses cover international and comparative legal issues and themes, but none has yet taken the next step of emphasizing the “I” (international). KU Law would be the first in the nation to do so, which would be a useful point to promote in marketing KU Law to prospective students, touting KU Law to other scholars and practitioners, and showing potential donors that KU Law is a leader in curricular innovation for the globalized world of the 21st century.

**(10) *ILAL* is “international” in an era in which dialogue is needed:**

*ILAL* emphasizes treaties and implementing legislation in Part One (law “as” literature), draws on the world’s greatest literary texts (not just American fiction) in Part Two (law “in” literature). In other words, the law “as” literature is International Law and Human Rights Law, and the law “in” literature addresses themes in those fields, and in all legal systems, using works from many countries.

Here, again, the dialogue across time and space, across civilizations, *i.e*., the appreciation of common issues of legal interpretation, and common themes in legal systems, is revealed. This kind of dialogue is essential in the current era of American and World History, which is characterized by bitter polarization and clashes among civilizations.

**SECTION III:**

**10 LEARNING OUTCOMES**

In keeping with ABA Standard 302, *ILAL* has 10 specifically defined learning outcomes. These outcomes are inspired by objectives from *LAL* courses around the country, as reported in the above-referenced Gemmette empirical study, and as developed further based on the research embodied in this Proposal.

The 10 goals of *ILAL* are

**(1) Writing:**

To expose students to grand literary style, and thereby develop storytelling techniques to aid in framing international legal problems and solutions in narrative terms.

**(2) Reading:**

To address the deficiency among law students in critical reading skills by exposing them to literature that sharpens their ability to read an international legal text carefully, and in turn to enhance their written and oral communication ability.

**(3) Issue Spotting:**

To present international legal issues through literature, justice, truth, morality, obedience, equality, discrimination, mercy, and punishment.

**(4) Interpretation:**

To teach law students to interpret complex legal and literary texts by revealing inherent difficulties in the language of international law and literature;

**(5) Analytical Frameworks:**

To develop facility with classical and contemporary methodologies for analyzing literary texts that can be used to shed light, unlock meanings, and foresee consequences or legal rules in treaties, statutes, and cases.

**(6) Wisdom:**

To prepare students to think deeply about the human condition, and human relations, by providing non-legal material that is not explicit in treaties, statutes, and judicial opinions, but which underlies and/or is impacted by those legal texts.

**(7) Creativity:**

To strengthen the Humanities in the law school curriculum, by studying authorship in all its forms, and thereby develop an appreciation for the “art” of law and the role of a lawyer as an artist, and ultimately produce well-read international lawyers who can think “outside-the-box.”

**(8) Ethics:**

To contemplate the role, power, and moral responsibility of lawyers, legislators, diplomats, negotiators, and legal policy makers by studying the portrayal of these actors, in these same roles, in literature.

**(9) Rebellion:**

To consider rebels in literature and compare and contrast them with real-life rebels who have challenged laws and legal institutions, and more generally to think about dystopian versus utopian legal rules and policies.

**(10) Joy:**

To have fun, particularly in view of the widely reported empirical data on clinical depression and suicide among law students and lawyers. Consider these grim facts revealed in 2015:[[20]](#footnote-20)

(1) American law students enter law school with the same rate of depression as the general public, namely, 8%. By the spring semester of their 1L year, 32% of them are clinically depressed. By the time they graduate from law school, 40% of them are clinically depressed. (The figure drops to 17% two years after graduation, but that still is double the average.)

(2) Suicide is the third leading cause of death among lawyers in the U.S. and Canada. It accounts for 10.8% of their deaths. Suicide among lawyers is 6 times the suicide rate in the general population (69.3 per 100,000, versus 10-14 per 100,000).

More recent data, from a 2018-2019 survey of depression, anxiety, and stress among First-Year students all ABA-accredited law schools, confirm and amplify these findings:[[21]](#footnote-21)

(1) 57% of 1Ls report some form of depression, with 10% in the “severe,” and 15% in the “extremely severe,” category. These figures far exceed those of the general U.S. population: annually, 16% of Americans qualify under the clinical standards for depression.

(2) When Second and Third Year (2L and 3L) student survey results are aggregated with those of 1Ls, depression is significantly higher at so-called “Tier One” schools as ranked by *U.S. News and World Report*. Law students at Tier One law schools also felt less supported, had a lower perception of learning, lower academic self-perception, and lower social self-perception, than those at lower Tier institutions.

(3) 10% of 1Ls say they suffer from “severe” anxiety, and 26% of them say they suffer from “extremely severe” anxiety. Here, too, these figures well exceed results from the general U.S. population: 18% suffer from some form of anxiety each year.

(4) 20% of 1Ls state they are under “severe” stress, and 10% under “extremely severe” stress. The four most significant sources of stress are: ineffective teaching (*e.g.*, heavy workloads, use of the Socratic method, lack of feedback from faculty before exams, disrespectful faculty, that is, professors who are nasty in class, and a need to self-educate owing to a lack of teaching); competition and isolation (*i.e.*, competition among students that results in a sense of alienation); ineffective assessments (*e.g.*, application of a curve, use of class rank, and final exams); and, institutional construction of success and failure (*i.e.*, how a law school defines success and failure for students and attorneys, and the link between its definitions and grades and class rank).

Notably, all of these figures are from surveys before the COVID-19 pandemic, which assuredly caused greater depression, anxiety, and stress.

 Economically, the grim facts bespeak a terrible waste of human capital. Morally, it is tragic that students pay good money (plus incur an opportunity cost) for the salaries of law professors, yet then go to law school only to become depressed (or worse), and thereafter join a profession that puts them at disproportionate risk of suicide. Morally, law professors who, through their acts or omissions, cause or contribute to the problem are at fault. Regrettably, nowhere in the process of faculty hiring, promotion, or tenure is account taken of the mental health of teachers; rather, dysfunctions typically are dealt with by cover up, excuse, or neglect. Faculty can avoid faculty, but students cannot avoid faculty. So, students pay the price.

 Thanks to the COVID-19 pandemic, the figures have worsened:

Of the coronavirus’s many side effects, perhaps the least appreciated are psychological. Those who’ve had a bad case and survived, like people who’ve been in war or accidents, may suffer post-traumatic stress for years. And even people in the as-yet-healthy majority are hurting. Young adults, in particular, are getting more depressed and anxious as SARS-CoV-2 uproots whatever budding life plans they’d been nursing.

It’s long been clear that Covid-19, like any major disaster, is causing an increase in mental-health disorders and their accompanying evils. Those range from alcoholism and drug addiction to wife beating and child abuse. In the Americas, the world’s most afflicted region with hotspots from the U.S. to Brazil, this psycho-social crisis has become its own epidemic….

In the U.S., the national rate of anxiety tripled in the second quarter [April-June 2020] compared to the same period in 2019 (from 8.1% to 25.5%), and depression almost quadrupled (from 6.5% to 24.3%). In Britain, which has also had a severe outbreak and a long lockdown, depression has roughly doubled, from 9.7% of adults before the pandemic to 19.2% in June [2020].

 …

[O]lder adults had already built their lives before the pandemic – with routines, structures, careers and relationships to fall back on. The young had not, and were just embarking on that adventure when Covid-19 struck. And what a mess it has made of all those hopes. Even in good times, adolescents and young adults aren’t exactly paragons of emotional stability. Many are unhappy with their own bodies or confused about their professional paths, their sexual options, and their friendships.

But in 2020 all these bugbears have grown. …

[R]eplacing in-person, tactile and pheromonal interactions with screens and apps just doesn’t cut it. Biologically, we’re still like other primates, who need to groom and be groomed to lower cortisol levels and feel well. One result, especially for the hormonal young, is isolation and loneliness, which can lead to listlessness and despair: in short, depression.[[22]](#footnote-22)

Fortunately, an Australian Nurse, Bronnie Ware, offers wise counsel in her book, *The Top Five Regrets of the Dying* (2013).[[23]](#footnote-23)

 Having served for many years in palliative care for patients in the last 12 weeks of their lives, Ms. Ware explains these patients gain clarity of vision at the end of their lives. Their top five regrets are:

(1) I wish I had had the courage to live a life true to myself, not the life others expected of me.

(2) I wish I had not worked so hard.

(3) I wish I had had the courage to express my feelings.

(4) I wish I had stayed in touch with my friends.

(5) I wish I had let myself be happier.

One inference from these studies is to consider what curricular innovations and learning outcomes might help educate a law student not only as a professional in the narrow sense, but also as a person in the whole sense.

**SECTION IV:**

**ADMINISTRATIVE ISSUES**

**(1) Prerequisites?**

None.

No prior study of International Law, or of English or Comparative Literature, is required.

*ILAL* is open to all upper level (2L/3L) students.

*ILAL* also is open to students in the Two-Year J.D., LL.M., and S.J.D. programs.

*ILAL* also is suitable for non-law students, such as in the Graduate or Journalism School, or ones in potential new Master’s degree programs KU Law School is developing. Finally, *ILAL* could be offered at an overseas summer program.

**(2) Attendance Policy?**

The American Bar Association (ABA) requires regular attendance in all courses. In this class, “regular” is defined narrowly. At most only a very small number of classes may be missed, and then only for good cause. (Please see ABA Rule 310 below.)

So, you are expected to attend all classes (whether they are conducted in person or online). If you absolutely must miss a class, please email me (bhala@ku.edu) in advance (if possible) and let me know so I can explain to you how to make up the material you missed. I will suggest ways you can do so, and be happy to help you.

Acceptable reasons, that is, “good cause,” for missing class are defined narrowly to mean: family births, marriages, or deaths; serious illness; emergency (but not pre-scheduled) medical or dental appointments; accidents; jury duty or other fixed legal obligations; and military service. “Good cause” does not include a job interview, outside job responsibilities, failure to make appropriate travel arrangements (*e.g.*, plane reservations), other course, paper, or law review or journal responsibilities, or other co-curricular or extra-curricular activities. In the event of a childcare scheduling conflict, you are welcome to bring your child to class (whether in person or online).

Not abiding by this Attendance Policy, and/or turning in your Professional Writing Assignments late (beyond the due dates/times listed below), may lead to an adverse effect on your final mark. I**f you have not followed this Policy, and/or turned in any Assignment late, then the teacher reserves the right to lower your mark on the relevant Assignment, and/or your final mark.**

**(3) Class Participation and ABA Rule 310?**

The standard Class Participation policy (namely, attendance is required at all classes, unless a justified excused absence is granted) would apply. ABA Rule 310 concerning minimum credit hours requires 42.5 hours per 1 credit hour per semester.[[24]](#footnote-24) *ILAL* satisfies this Rule as follows:

● *ILAL* will meet 28 times for 85-minute periods (possibly in unequal allotments), twice each week, which means the course has a substantial in class portion. Using a 60-minute conversion, that portion is 39.67 hours per credit, which results from multiplying 28 x 85, to get 2,380 minutes, and then dividing 2,380 by 60 minutes per hour to get 39.67 hours.

**●** However, the ABA allows for a 50-minute conversion, meaning that the 28 meeting *ILAL* class periods of 85 minutes period sums to 47.6 hours, which exceeds the ABA minimum.

● Rule 310 and the ABA Guidance to it at page 3 allow for writing and seminar courses to include in meeting the Rule out-of-class time, which in *ILAL* students will need to study the required readings and draft the five Professional Writing Assignments.

● *ILAL* students meet individually outside of normal class hours to get personalized feedback on their Professional Writing Assignments.

● The above two points easily make up the gap between 42.5 and 39.67 of 2.83 hours per week, assuming the 60- instead of the 50-minute conversion factor is used.

Certainly, if necessary, for compliance, additional classes (other than those listed in the Schedule below) may be scheduled to comply with ABA Rule 310.

**(4) Enrollment Limit?**

There is no limit on enrollment.

However, given the intensive nature of the course, the demands of grading Professional Writing Assignments, and the expectation of a seminar-like atmosphere, a cap may be imposed if necessary.

**(5) Justice, Equity, Diversity, and Inclusion (JEDI)!**

Demonstrations of systemic racism, protests over police brutality and heightened political tensions make addressing justice, equity, diversity, and inclusion (JEDI) in our classes, at all levels of education, more important than ever before.

Accordingly:

“The University of Kansas supports an inclusive learning environment in which diversity and individual differences are understood, respected, and appreciated. We believe that all students benefit from training and experiences that will help them to learn, lead, and serve in an increasingly diverse society. All members of our campus community must accept the responsibility to demonstrate civility and respect for the dignity of others. Expressions or actions that disparage a person’s or group’s race, ethnicity, nationality, culture, gender, gender identity / expression, religion, sexual orientation, age, veteran status, or disability are contrary to the mission of the University. We expect that KU students, faculty, and staff will promote an atmosphere of respect for all members of our KU community. This is an inclusive classroom. At KU, administrators, faculty, and staff are committed to the creation and maintenance of “inclusive learning” spaces. These are classrooms, labs, and other places of learning where you will be treated with respect and dignity and where all individuals are provided equitable opportunity to participate, contribute, and succeed.”

*Quoted from*: <https://flexteaching.ku.edu/syllabus-language>

**(6) Due Dates for, and Submission of, Professional Written Assignments**

 **(Method of Monitoring Student Effort)?**

Each Professional Writing Assignment is due at the start of the class of the day on which it is due (or as otherwise indicated or allowed by permission).

The due dates are:

**FTA Chapter: Tuesday, 14 September**

**Legal Memo: Tuesday, 5 October**

**Media Commentary: Tuesday, 9 November**

**Speech and Delivery: Monday, 29 November**

Each Assignment must be turned in by hard copy, stapled, on one-sided paper.

Please also hand in the blank Scoring Sheets (substance and style) for the Assignment, which are at the end of this syllabus, with the Assignment. Simply clip or staple the Scoring Sheet to your Assignment.

In addition, no later than the deadline, a copy should be emailed to the teacher at bhala@ku.edu, with the E-Mail Subject Heading “ILAL Professional Writing Assignment.”

Or, in the event the course is offered online, please turn in each Assignment no later than the deadline by email to the teacher at bhala@ku.edu, with the E-Mail Subject Heading “ILAL Professional Writing Assignment.”

Each Professional Writing Assignment is a maximum of **4** double-spaced pages, including any footnotes.

The required formatting is: Times New Roman 12-point font (text and footnotes), and Standard 1-inch margins (top/bottom and right/left), with proper pagination.

Thus, students write 16 double-spaced pages across the semester. Substantive and stylistic quality are emphasized over quantity.

**(7) Grading, Scoring Sheet, Individualized Feedback?**

Each Professional Writing Assignment is equally weighted (each assignment carries the same weight in the overall course grade). Each Assignment is graded on a 10-point scale using Criteria Referenced Grading.

Grading is done as soon as Professional Writing Assignments are turned in, and typically is completed within one week thereafter. For each Assignment, students receive a Scoring Sheet and comments based on the Criteria Referenced Grading (below).

In specific, students are given the Scoring Sheets for all Assignments at the start of the *ILAL* course, as part of this Syllabus, so they know exactly what the substantive and stylistic criteria are for each Assignment. We will refer regularly to that Sheet in lecture and class discussion, in relation to the readings.

Then, each Assignment is graded using the Scoring Sheet, thus showing what the student did, and did not, do well on in the Assignment. The Assignment itself will have comments (handwritten or electronically entered, *e.g.*, via the Word Reviewing function) showing where in it the student met, and did not meet, the criteria.

Finally, as appropriate and necessary, each student is expected to meet individually with the teacher to go over the Scoring Sheet, the Assignment, and any other course-related matter.

**(8) Honor Code!**

The KU Law School Honor Code is posted at:

<http://www.law.ku.edu/academics/honorcode.shtml>

By way of synopsis, an Honor Code governs matters of Law School student honesty and integrity in academic performance. Law School students write and administer this Code. This system of peer review has been in effect for more than half a century, and addresses issues such as plagiarism, cheating, and unauthorized collaboration in work assignments. Honor Code violations found to have occurred by the student committee, after notice and hearing, are referred to the Dean of the Law School, with recommended sanctions. Final disposition rests within the discretion of the Dean. The Honor Code governs law students in the same way the Code of Professional Responsibility governs members of the bar.

**(9) Accommodations?**

KU Law School works with the Academic Achievement and Access Center (AAAC) on the KU campus to coordinate accommodations and services for students with disabilities. If you have a disability for which you intend to request a classroom and/or exam accommodation, then you may contact KU Law Associate Dean for Administration Crystal Mai, cmai@ku.edu, or Leah Terranova (leaht@ku.edu), Assistant Dean, Academic and Student Affairs. You should notify someone at the beginning of the semester or as early as possible. The disability determination process can take time and accommodations may not be possible, if requests are made late in the semester. The accommodation process is a collaborative one among the student, AAAC, and Professor. More about the AAAC can be found at [www.achievement.ku.edu](http://www.achievement.ku.edu).

**(10) Expectations for Online Class Behavior?**

***Online Course Netiquette Guide***

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Just as there are common expectations for our interactions with others in face-to-face environments, commonly known as etiquette, online and virtual interactions have a code of conduct known as “netiquette.” This ***Netiquette Guide*** should inform your engagement with this course in all formats and on all platforms, as well as your communications with your professor and fellow students within the course. Remember, as law students you are developing your professional reputation as a future lawyer every time you engage with others.

*Guidelines for Participation in Online Virtual Meetings*

*Please:*

**●** Sign into virtual meetings at least a few minutes before the scheduled start time for the meeting, to ensure you are prepared for the meeting and can address any technical problems in advance.

**●** Be prepared to show yourself on video upon request. Make sure you are appropriately dressed for the meeting. You should dress in the same way you would dress for that meeting if it were held in person.

**●** Do not use distracting or unprofessional virtual backgrounds.

**●** Keep your microphone muted at all times unless asking or answering a question or contributing to class discussion.

**●** Do not use the chat feature as a private message system. Understand that the professor can usually retrieve a transcript of all chat messages after the session ends, and that transcript usually includes private chats.

**●** Pay close attention during the virtual meeting. Do not participate in a virtual meeting in a public location with many distractions for yourself or other meeting participants. Do not act in a manner while you are on camera that other participants in the meeting would find distracting.

**●** If you are using WiFi to access the virtual meeting, you can improve your WiFi connection by reducing the number of devices signed into your WiFi during the meeting. For example, you may want to not have cell phones connected to WiFi if you are using your computer to access an online virtual meeting at the same time.

**●** Respect your fellow students’ privacy. Do not take screen shots or otherwise publicly post information or photos related to this course.

**(11) Guidelines for Written Communications with Professors and Classmates?**

*Please:*

**●** Avoid abbreviations and emojis commonly used in texting, as not all people may understand those abbreviations.

**●** Avoid all caps. All caps can convey anger and signal that you are yelling at the recipient.

**●** Don’t overuse exclamation points. They can overemphasize a point you are making, signal yelling, or can sometimes signal immaturity as a writer.

**●** Watch tone in written communications. Because the reader cannot see your body language or expressions, sarcasm or humor can be misread if you are not careful.

**●** Strive to be professional in all communications with professors and classmates.

***Thank You for Your Cooperation.***

**SECTION V:**

**READINGS**

**Required Readings (Hard Copy)**:[[25]](#footnote-25)

***1 Textbook from the “Law” Side:***

(1) Posner, Richard A., Law & Literature

 (Harvard University Press, 3rd ed., 2009, 550 pages)

 ISBN: 978-0-674-03246-0 (paperback)

 $33.50

[https://www.amazon.com/Law-Literature-Third-Richard-Posner/dp/0674032462/ref=sr\_1\_1?crid=13AXRDKQ93AL9&keywords=posner+law+and+literature&qid=1651168939&s=books&sprefix=posner+la%2Cstripbooks%2C78&sr=1-1](https://www.amazon.com/Law-Literature-Third-Richard-Posner/dp/0674032462/ref%3Dsr_1_1?crid=13AXRDKQ93AL9&keywords=posner+law+and+literature&qid=1651168939&s=books&sprefix=posner+la%2Cstripbooks%2C78&sr=1-1)

Judge Posner is a “pioneer” and “giant” in the Law and Literature Movement, and endeavors to articulate opposing views on Law and Literature, as well as present his own.

***1 Textbook from the “Literature” Side:***

(1) Ryan, Michael, An Introduction to Criticism: Literature/Film/Culture

(Wiley-Blackwell, 2012, 193 pages)

 ISBN: 978-14051-8282-9 (paperback)

 $34.81

[https://www.amazon.com/Introduction-Criticism-Literature-Film-Culture/dp/1405182822/ref=sr\_1\_1?crid=1HASRXWRA97KR&keywords=michael+ryan+an+introduction+to+criticism&qid=1651168836&s=books&sprefix=michael+ryan+an+introduction+to+criticism%2Cstripbooks%2C61&sr=1-1](https://www.amazon.com/Introduction-Criticism-Literature-Film-Culture/dp/1405182822/ref%3Dsr_1_1?crid=1HASRXWRA97KR&keywords=michael+ryan+an+introduction+to+criticism&qid=1651168836&s=books&sprefix=michael+ryan+an+introduction+to+criticism%2Cstripbooks%2C61&sr=1-1)

This *Introduction* provides a clear overview of all the major schools of literary criticism.

***1 Collected Works of Shakespearean Drama, Plus 2 “International” Works of Fiction:***

(1) Shakespeare, William,

*The New Oxford Shakespeare: Modern Critical Edition: The Complete Works*

Oxford, United Kingdom: Oxford University Press, 2016

(Gary Taylor, John Jowett, Terri Bourus & Gabriel Egan, Editors)

ISBN: 978-0-19-959115-2 (hardcover)

$128.65

[https://www.amazon.com/New-Oxford-Shakespeare-Critical-Complete-dp-0199591156/dp/0199591156/ref=mt\_other?\_encoding=UTF8&me=&qid=1651167954](https://www.amazon.com/New-Oxford-Shakespeare-Critical-Complete-dp-0199591156/dp/0199591156/ref%3Dmt_other?_encoding=UTF8&me=&qid=1651167954)

Alternative compilations of Shakespeare’s works are acceptable. They include ones published by the Royal Shakespeare Company (RSC), Norton, Riverside, Everyman’s Library, and Pelican.

Especially recommended is the RSC compilation:

William Shakespeare,

*The Complete Works*

Houndmills, Basingstroke, Hampshire, England: Macmillan, Royal Shakespeare Company, 2nd ed., 2022

(Jonathan Bate & Eric Rasmussen, Editors)

ISBN: 9781350319967 (hardcover)

Approximately $43.55

<https://shop.rsc.org.uk/products/william-shakespeare-complete-works-second-edition-hb>

(2) Camus, Albert, *The Stranger* (1946)

 (Knopf, 1988, Matthew Ward, trans., 123 pages)

 ISBN: 0-679-72020-0 (paperback)

 $12.49

[https://www.amazon.com/Stranger-Albert-Camus/dp/0679720200/ref=sr\_1\_1?crid=IXBGZWEXBE8Q&keywords=camus%2C+the+stranger%2C+matthew+ward&qid=1651168557&s=books&sprefix=camus%2C+the+stranger%2C+matthew+ward%2Cstripbooks%2C62&sr=1-1](https://www.amazon.com/Stranger-Albert-Camus/dp/0679720200/ref%3Dsr_1_1?crid=IXBGZWEXBE8Q&keywords=camus%2C+the+stranger%2C+matthew+ward&qid=1651168557&s=books&sprefix=camus%2C+the+stranger%2C+matthew+ward%2Cstripbooks%2C62&sr=1-1)

(3) Kafka, Franz, *The Trial* (1925)

 (Oxford World Classics, 2009, Mike Mitchell, trans., 186 pages)

 ISBN:  978-0-19-923829-3

 $12.93

[https://www.amazon.com/Trial-Oxford-Worlds-Classics/dp/0199238294/ref=sr\_1\_1?crid=2REDXSMOX7G09&keywords=kafka+the+trial+oxford+world+classics&qid=1651168617&s=books&sprefix=kafka+the+trial+oxford+world+classics%2Cstripbooks%2C63&sr=1-1](https://www.amazon.com/Trial-Oxford-Worlds-Classics/dp/0199238294/ref%3Dsr_1_1?crid=2REDXSMOX7G09&keywords=kafka+the+trial+oxford+world+classics&qid=1651168617&s=books&sprefix=kafka+the+trial+oxford+world+classics%2Cstripbooks%2C63&sr=1-1)

Concerning Shakespeare’s works, we will be studying at least six plays, as well as the relevant background to and analyses of them. Those plays include two Tragedies, *The Merchant of Venice* and *Othello*, four Histories, *Richard II*, *Henry IV (Part One)*, *Henry IV (Part II)*, and *Henry V*, possibly an additional Tragedy, *Measure for Measure*, possibly one Comedy, *Much Ado About Nothing*, and possibly one Roman Play, *Julius Caesar*. It is more efficient to have a single compilation of Shakespeare’s works, akin to a law school casebook or textbook, than to have multiple versions of the different plays.

All the above-listed works provide the facts – the evidentiary basis and record – for the Professional Writing Assignments.

**Required Readings (Internet, Free)**

***9 International Trade Law Agreements (Freely Downloadable):***

Unless otherwise noted, the following international trade agreements are freely downloadable from the University of Kansas School of Law International Trade Law Study Guides Website:

<http://guides.law.ku.edu/intltrade>

Please access these documents directly on your own. We may also call them up using Information Technology resources (such as the Smart Podium) available in the classroom.

(1) General Agreement on Tariffs and Trade (GATT), Article VI, Interpretative Note *Ad Article VI*, and Article XI (2 pages)

<http://guides.law.ku.edu/GATTera>

(Scroll to 1947 GATT)

(2) GATT Article XX(a) (1 page)

<http://guides.law.ku.edu/GATTera>

(Scroll to 1947 GATT)

(3) GATT Articles XXXVI, XXXVII, and XXXVIII (6 pages)

<http://guides.law.ku.edu/GATTera>

(Scroll to 1947 GATT)

(4) World Trade Organization (WTO), *Agreement on Antidumping*, Article 2 (2 pages)

<http://guides.law.ku.edu/UruguayRound>

(Scroll to *Antidumping Agreement*)

(5) 1969 *Vienna Convention on the Law of Treaties*, Articles 31-32 (4 pages)

<http://guides.law.ku.edu/trade-related-treaties>

(Scroll to Multilateral: *Vienna Convention on the Law of Treaties*)

(6) *Trans Pacific Partnership* (*TPP*), Chapter 23 (Development) (5 pages)

<https://mfatgovtnz2020.cwp.govt.nz/assets/Trade-agreements/TPP/Text-ENGLISH/23.-Development-Chapter.pdf>

(7) U.S. Antidumping Statute, 19 U.S.C. Section 1673 (2 pages)

<http://guides.law.ku.edu/content.php?pid=352812&sid=2886285>

(Scroll to Overview and Compilation of U.S. Trade Statutes (Part II))

Alternatively:

<https://www.gpo.gov/fdsys/granule/USCODE-2010-title19/USCODE-2010-title19-chap4-subtitleIV-partII-sec1673>

(8) Six Criteria for “NME” Status and “Particular Market Situation,” 19 U.S.C. Section 1677 (2 pages)

Alternatively:

<https://www.gpo.gov/fdsys/granule/USCODE-2011-title19/USCODE-2011-title19-chap4-subtitleIV-partIV-sec1677>

(9) *Protocol of Accession to the WTO of the People’s Republic of China*, Article 15 (2 pages)

<https://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm>

(Scroll to China, Protocol of Accession, WT/L/432)

***6 Additional International Legal Materials (Freely Downloadable):***

The following documents are freely available on the websites listed below.

Please access these documents directly on your own. We may also call them up using Information Technology resources (such as the Smart Podium) available in the classroom.

(1) Abbott, Kenneth W. & Snidal, *Hard and Soft Law in International Governance*, 54 International Organization issue 3, pages 421-456 (summer 2000),

<https://www.jstor.org/stable/2601340?seq=1#page_scan_tab_contents>

(2) Clark, Katharine & Matthew Connolly, *A Guide to Reading, Interpreting, and Applying Statutes*, The Writing Center, Georgetown University Law Center (April 2006, March 2008, 2017),

<http://kacca.org/wp-content/uploads/2018/03/A-Guide-to-Reading-Interpreting-and-Applying-Statutes.pdf> (13-21 pages)

(3) July 2016 Permanent Court of Arbitration (The Hague, Netherlands), Press Release, The Republic of the Philippines versus The People’s Republic of China (South China Sea Dispute) (11 pages),

<https://docs.pca-cpa.org/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf>

(4) October 1962, President John F. Kennedy, Cuban Missile Crisis Speech (Text and Video) (5 pages),

<http://www.americanrhetoric.com/speeches/jfkcubanmissilecrisis.html>

***2 Additional Literary Materials (Freely Downloadable):***

The following documents are freely available on the websites listed below.

Please access these documents directly on your own. We may also call them up using Information Technology resources (such as the Smart Podium) available in the classroom.

(1) Heaney, Seamus *The Republic of Conscience* (Poem written for Amnesty International to commemorate International Human Rights Day) (4 pages),

<https://genius.com/Seamus-heaney-from-the-republic-of-conscience-annotated>

(2) Tagore, Rabindranath, *The Nobel Prize Acceptance Speech* (awarded 10 December 1913, delivered 26 May 1921), *in* The Essential Tagore, pages 182-186 (Belknap/Harvard University Press, 2011),

<https://books.google.com/books?id=EZOu04e1bNQC&pg=PA961&lpg=PA961&dq=rabindranath+tagore+nobel+prize+acceptance+speech+text&source=bl&ots=GhZsy9_2ZR&sig=No_2aru3xLmvgCPRVQ1gJfd1W70&hl=en&sa=X&ved=0ahUKEwiNmI6boPLTAhVC02MKHTmQCskQ6AEIXjAJ#v=onepage&q=rabindranath%20tagore%20nobel%20prize%20acceptance%20speech%20text&f=false>

Also available at:

[https://www.literatureworms.com/2012/06/nobel-prize-acceptance-speech-by-tagore.html#](https://www.literatureworms.com/2012/06/nobel-prize-acceptance-speech-by-tagore.html)

Note the 1913 Nobel Prize Presentation Award (different from Tagore’s own 1921 Acceptance Speech) is at:

 <http://www.nobelprize.org/nobel_prizes/literature/laureates/1913/press.html>

**Optional Additional Readings:**

***Optional Books:***

(1) Abrams, M.H. & Geoffrey Galt Harpham, A Glossary of Literary Terms (Cenage Learning, 11th 2015) (420 pages)

The *Glossary* is a handy tool more akin to an encyclopedia, with extended entries on all major literary terms to provide precision in the use of theoretical and analytical tools.

(2) Barry, Peter, Beginning Theory: An Introduction to Literary and Cultural Theory (3rd edition, 2009) (352 pages).

In non-technical language, this book sets out all the major schools of literary theory.

(3) Cross, Sir Rupert, Dr. John Bell, & Sir George Engle, Statutory Interpretation (Butterworths, London, 1987), selected excerpts (200 pages)

This British textbook covers in a succinct yet in-depth fashion the principle techniques used to interpret statutes by English judges and lawyers.

(4) Culler, Jonathan, Literary Theory: A Very Short Introduction (Oxford University Press, 2011) (165 pages)

ISBN: 978-0-19-969134-0

$8.12

The *Literary Theory* book is a scholarly overview of literary interpretation. It provides precision in the meaning of theoretical and analytical tools, and in turn, their application to international legal texts.

(5) Eagleton, Terry, Literary Theory: An Introduction (3rd ed., 2008) (240 pages).

This book, by a renowned University of Manchester Professor, covers all major schools of literary criticism, and is used in some graduate English programs. But, its style is recondite.

(6) Kennedy, John F., A Nation of Immigrants (1964) (2008 ed.) (81 pages) $11.89

JFK wrote this book in 1958, while a Senator from Massachusetts, and remained passionate about the issue of immigration throughout his life in public service. This book, published posthumously, chronicles why JFK believed immigration was important to America – to its tradition, to build new frontiers, to preserve its freedom, and to its prosperity.

(7) Kornstein, Daniel J., Kill All the Lawyers? – Shakespeare’s Legal Appeal (Princeton University Press, 1994) (245 pages)

A clearly written study of the legal aspects of Shakespeare’s plays from a leading New York lawyer and the President of the Law and Humanities Institute.

(8) Leitch, Vincent B., The Norton Anthology of Theory and Criticism (Norton, 2nd ed., 2010) (2,653 pages)

This excellent text contains extended excerpts from the primary sources for all the major schools of literary criticism. It is akin to a law school casebook for literary theory.

(9) Morawetz, Thomas, Literature and the Law (Kluwer, 2007 (588 pages)

This book is a compilation of excerpts from novels that raise legal issues, particularly with respect to crime, criminal intent, trials, and punishment.

(10) Parker, Robert Dale, How to Interpret Literature: Critical Theory for Literary and Cultural Studies (3rd ed., 2014) (416 pages)

This book emphasizes literary interpretation since the 1930s, including Post-Colonial, Race, and Queer Theory. Its style is quite accessible.

(11) Shakespeare, William, *Measure for Measure* (1623)

 (Folger Shakespeare Library, 1992, or other edition) (212 pages, including Commentary)

 ISBN: 978-074348-490-9, $4.96

(12) Venturino, Steven J., The Complete Idiot’s Guide to Literary Theory and Criticism (Alpha Books/Penguin Random House, 2013) (322 pages)

ISBN: 978-1-61564-241-0

$11.97

This *Guide* is a practical and amusing presentation of all the major literary terms and schools of literary criticism. Along with Culler’s *Literary Theory*, this *Guide* provides precision in the meaning of theoretical and analytical tools, and in turn, their application to international legal texts.

(13) Weisberg, Poethics – And Other Strategies of Law & Literature (Columbia University Press, 1992) (252 pages) $52.32

This book is a classic in the Law and Literature movement, and provides several responses (indeed, rebuttals) to the views of Judge Posner.

(14) White, James Boyd, The Legal Imagination (University of Chicago Press, Abridged Edition, 1985) (296 pages)

This scholarly monograph is seminal in part because it catalyzed the contemporary law and literature movement in American law schools.

(15) Wydick, Plain English for Lawyers (Carolina Academic Press, 5th ed., 2005) (107 pages)

This book is a best seller, explaining to lawyers how to simplify and clarify their written output.

***Optional Book Chapters and Essays:***

(1) Cardozo, Benjamin N., *Law and Literature*, *in* Law and Literature and Other Essays and Addresses, pages 3-41 (Harcourt, Brace and Company, 1931)

(2) Pound, Roscoe, *Introduction*, *in* Law in Action – An Anthology of the Law in Literature, pages ix-xiv (Amicus Curiae, 1947)

***Optional Freely Downloadable Materials:***

(1) July 2016 Permanent Court of Arbitration (The Hague, Netherlands), Decision, South China Sea Dispute, <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf> (501 pages)

(2) July 2015, Joint Comprehensive Plan of Action (Iran Nuclear Deal), <http://apps.washingtonpost.com/g/documents/world/full-text-of-the-iran-nuclear-deal/1651/> (159 pages)

Note again the above works are optional. The books should be available in the KU Library system, and can (if desired) be purchased on Amazon, and the other materials are free from the Internet.

***Optional Bloomberg Quint (India) / BQ Prime (Mumbai) “On Point” Columns:***

Bloomberg Quint, rebranded BQ Prime in Spring 2022, which is headquartered in Mumbai, publishes a non-partisan, non-*ad hominem* “On Point” column I am honored and humbled to write. The focus is on International Law, Economics, and Policy. Some of the columns may be of interest in your study and research.

Please visit <https://www.bqprime.com/search?q=raj+bhala>

The list of columns will appear in reverse chronological order. (The first was January 2017.) Scroll down for the list of columns, and click on the links to them. Several columns (starting with December 2017) also contain an embedded video presentation of their content.

The list of columns will appear in reverse chronological order. (The first was January 2017.) Scroll down for the list of columns, and click on the links to them. Several of the columns (starting with December 2017) also contain an embedded video presentation of their content.

If you have difficulty accessing the “On Point” columns, please use the following log in credentials:

Username:

readrajbhala@bloombergquint.com

Password:

onpoint

(Kindly log out when you are finished.)

Your comments are welcome!

**SECTION VI:**

**CLASS SCHEDULE AND PROFESSIONAL WRITING ASSIGNMENTS**

***Note:***

***The Schedule may be adjusted to meet the needs and interests of the class, and some class time may be set aside to work on Professional Writing Assignments.***

**PART ONE:**

**LAW “AS” LITERATURE**

**(1 PROFESSIONAL WRITING ASSIGNMENT – TREATY DRAFTING)**

**Week 1:**

**Monday and Tuesday,**

**29-30 August**

**Treaty Interpretation,**

**Conventional *Vienna Convention* Interpretative Methodology,**

**and “Morality” in International Law**

***Lecture and Class Discussion Topics:***

(1) Studying Law “As” Literature

 (International Legal Texts “As” Literature)

(2) Treaty Interpretation Methods

 (Conventional *Vienna Convention* Approach to Treaty Interpretation)

(3) Examples of “Bad” versus “Good” Treaty Drafting

 (The difference can mean war versus peace!)

(4) “Morality” Provisions in International Law

 (GATT Article XX(a))

(5) Satire and a Great Irish Writer:

 Jonathan Swift (1667-1745)

***Required Reading Assignments:***

(1) Posner, Preface, pages xi-xvi; and Critical Introduction; pages 1-17

(2) 1969 *Vienna Convention on the Law of Treaties*, Articles 31-32 (4 pages)

(3) Clark, Katharine & Matthew Connolly, *A Guide to Reading, Interpreting, and Applying Statutes*, The Writing Center, Georgetown University Law Center (April 2006-March 2018) (13-21 pages)

(4) GATT Article XX(a) (1 page)

***Optional Reading Assignments:***

(1) Cross, Chapter 1 (Historical), pages 9-19; Chapter 2 (Jurisprudential), pages 20-45; Chapter 3 (The Basic Rules States), pages 46-67; Chapter 4 (The Basic Rules Illustrated), pages 68-111

**Week 2:**

**Monday and Tuesday,**

**5-6 September**

**(NO CLASS, LABOR DAY, MONDAY, 5 SEPTEMBER)**

**Implementing Statutes,**

**Textualist, Intentionalist, and Pragmatic Statutory Interpretative Methods,**

**and “Fairness” in International Law**

***Lecture and Class Discussion Topics:***

(1) Constitutional “versus” Statutory Interpretation

(2) Conventional Statutory Interpretation

 (Textualism, Contextualism, and Pragmatism, plus Intentionalism)

(3) American Legal Realism and its Effect on Interpretation

(4) Need for and Use of Statutes to Implement Treaty Obligations

(5) More Examples of “Bad” versus “Good” Treaty Drafting

 (The difference can mean war versus peace!)

(6) “Fairness” Provisions in International Law

 (GATT Article VI and WTO Antidumping Agreement “less than fair value” and “fair comparisons”)

***Required Reading Assignments:***

(1) Posner, Chapter 8 (Interpreting Contracts, Statutes, and Constitutions), pages 273-328

(2) Clark, Katharine & Matthew Connolly, *A Guide to Reading, Interpreting, and Applying Statutes*, The Writing Center, Georgetown University Law Center (April 2006) (21 pages)

(3) GATT Article VI and Interpretative Note, *Ad Article VI* (2 pages)

(4) Article 2 of the 1995 World Trade Organization *Agreement on Antidumping* (1 page)

(5) U.S. Antidumping Law, 19 U.S.C. Section 1673 (1 page)

***Optional Reading Assignments:***

(1) Cross, Chapter 5 (Internal Aids to Construction), pages 112-140; Chapter 6 (External Aids to Construction), pages 140-165

**Week 3:**

**Monday and Tuesday,**

**12-13 September**

***Monday, 13 September***

***Special Guest Professor***

***Eric Witmer, J.D.***

***Research Attorney II***

***Kansas Court of Appeals,***

***KU Law School J.D. Class of 2017***

**Formalism, Structuralism, Historical Criticism, Ethnic, Post-Colonial, and Transnational Criticism Literary Interpretative Methods,**

**English Grammar,**

**“Hard” versus “Soft” International Law,**

**and Poor Countries**

***Lecture and Class Discussion Topics:***

(1) Continuation of Week 2 (if necessary)

(2) Formalism, Structuralism, and Historical Criticism Literary Interpretation

 (Classical, Medieval, Renaissance, Enlightenment, Romantic, and Victorian Literary Methods)

(3) Ethnic, Post-Colonial, and Transnational Criticism Literary Interpretative Methods

(4) English Grammar techniques to create “Hard” versus “Soft” obligations in International Law, and Examples of the Difference

(5) Costs, benefits, and practical implications of “Hard” versus “Soft” International Law

(6) Modernism and Two Great Irish Writers:

 James Joyce (1882-1941) and William Butler Yeats (1865-1939)

***Required Reading Assignments:***

(1) Ryan, Chapter 1 (Formalism), pages 1-18; Chapter 2 (Structuralism), pages 19-31; and Chapter 3 (Historical Criticism), pages 32-42

(2) Ryan, Chapter 8 (Ethnic, Post-Colonial, and Transnational Criticism), pages 109-123

(3) Abbott-Snidal article on *Hard and Soft Law in International Governance*, pages 421-456

(4) GATT Articles XXXVI, XXXVII, and XXXVIII (6 pages)

***Optional Reading Assignments:***

(1) Cross, Chapter 7 (Presumptions), pages 166-187; Chapter 8 (Concluding Questions), pages 188-200

***Professional Writing Assignment:***

**Due Tuesday, 13 September, start of class.**

As per Table 1, one Treaty, specifically, a Free Trade Agreement (FTA) Chapter, on women’s and LGBTQ+ rights, applying Feminist and LGBTQ+ literary interpretative methods to the most significant FTA document on such rights, namely *TPP* Chapter 23.

Please also hand in the blank Scoring Sheets (substance and style) for the Assignment, which are at the end of this syllabus, with the Assignment. Simply clip or staple the Scoring Sheet to your Assignment.

Or, in the event the course is offered online please email the Scoring Sheet, along with your Assignment, to the teacher at bhala@ku.edu.

**Table 1:**

**Treaty Drafting #1:**

**FTA Chapter on Women’s and LGBTQ+ Rights and Feminist and LGBTQ+ Literary**

**Interpretative Methods**

|  |  |
| --- | --- |
| Issue | Parameters |
| What is your role? | You are a lawyer for the United States Trade Representative (USTR) responsible for negotiating a Chapter in a new Free Trade Agreement (FTA). The Chapter is on the Rights of Women and LGBTQ+ communities in the context of international trade, finance, and investment. |
| What type of written work product is expected? | Treaty (FTA) Chapter on “Economic Development, and Women’s and LGBTQ+ Rights” |
| What is the minimum-maximum length of the written work product? | 4 double spaced pages (including any footnotes),Times New Roman 12-point font (text and footnotes),Standard 1-inch margins (top/bottom and right/left),Proper pagination. |
| What issue does your written work product address? | The advancement of the rights of women and LGBTQ+ communities through an FTA. |
| Facts of the case? | Not applicable(Assignment does not call for application of law to facts, but rather treaty drafting) |
| Law to be applied to the case? | Text of *TPP* Chapter 23. |
| Other Essential Background? | *TPP* is the first FTA in world history to address directly the challenges women face in economic development. Chapter 23 contains “Soft Law” obligations. It does not address problems encountered by the LGBTQ+ communities.  |
| By what analytical method(s) does your written work product address the issue? | Please use the literary interpretative methodologies from Feminist Theory, and Gay, Lesbian, and Queer Theory, to identify what challenges women and the LGBTQ+ communities face in foreign countries with respect to economic empowerment in the global economy. Then draft an FTA Chapter the provisions of which aim to deal with those challenges. Please also pay attention to whether the rules of your Chapter create “Hard” and/or “Soft” obligations, and whether and how the protections the Chapter affords women and LGBTQ+ persons may be enforced. |

**Week 4:**

**Monday and Tuesday, 19-20 September**

**Feminist and LGBTQ+, Literary Interpretative Methods,**

**and Women’s and LGBTQ+ Rights in International Law**

***Lecture and Class Discussion Topics:***

(1) Feminist Literary Interpretation

(2) Gay, Lesbian, and Queer Literary Interpretation

(3) Women’s and LGBTQ+ under International Law and Human Rights

(4) Celebrity Authors, Homosexuality, and Another Great Irish Writer:

 Oscar Wilde (1854-1900)

(5) The English Class System, Women’s Rights, and Another Great Irish Writer:

 George Bernard Shaw (1856-1950)

***Required Reading Assignments:***

(1) Ryan, Chapter 7 (Gender Criticism), pages 87-108

(2) *TPP*, Chapter 23 (Development) (5 pages)

**MAKE UP CLASS #1**

***Monday, 19 September***

***12:30-1:25 PM***

***Court Room (201)***

***Special Guest Professor***

***Dr. Kara Tan Bhala,***

***President,***

***Seven Pillars Institute for Global Finance and Ethics,***

***KU Ph.D. (Philosophy, Dissertation on Aristotle and Virtue Ethics), Class of 2009***

Topic:

“Financial Ethics, Women, and Wall Street”

(Make Up combined with *International Trade Law* class)

Author of:

*Ethics in Finance: Case Studies from a Woman’s Life on Wall Street*

1st edition, 2021, Palgrave Macmillan

ISBN 978-3-030-73753-5

e-book ISBN 978-3-030-73754-2

<https://www.palgrave.com/gp/book/9783030737535>

Winner, Best Book in the World in International Business

Business Book Awards (U.K.), May 2022

<https://www.youtube.com/watch?v=WiYjOAMU9rg>

Winner, Bronze Medal, Third Best Book in the World in Ethics

Axiom Awards (U.S.), March 2022

<https://axiomawards.com/92/2022-medalists>

Finalist (1 of 7 Finalists), International Book Awards,

Award-Winning Finalist, Nonfiction: Narrative Category

American Book Fest (1 of 7 Finalists), June 2022

<http://www.internationalbookawards.com/2022awardannouncement.html>

Assignment (Optional):

(1) Seven Pillars Institute Website Posting:

<https://sevenpillarsinstitute.org/ethics-in-finance-wins-business-book-award/?utm_source=mailpoet&utm_medium=email&utm_campaign=test-email-for-mailpoet-3_2>

(2) Book Review:

Bill Tammeus (Former Faith Section Columnist, *The Kansas City Star*, *National Catholic Register*, and *The Presbyterian Outlook*, and member of the *Star* staff that won the 1982 Pulitzer Prize for local reporting), *Here’s A Concept: Let’s Operate Business Ethically*, Bill’s Faith Blog, 7 July 2021, <https://billtammeus.typepad.com/my_weblog/2021/07/1-7-21.html>

(3) Interview:

Mario Schulzke, *Kara Tan Bhala – Founder of Seven Pillars Institute for Global Finance and Ethics*, IdeaMensch, 23 July 2021, <https://ideamensch.com/kara-tan-bhala/>

**Week 5:**

**Monday and Tuesday,**

**26-27 September**

**Post-Structuralism and Deconstructionism,**

**Marxist, and Political Criticism Interpretative Methods, China,**

**and Non-Market Economy Rules in International Law**

***Lecture and Class Discussion Topics:***

(1) Post-Structuralism

(2) Deconstruction

(3) Marxist Literary Interpretation

(4) Political Criticism

(5) China, Transition Economics, and Non-Market Economy (NME) Status

***Required Assignments:***

(1) Ryan, Chapter 6 (Post-Structuralism and Deconstruction), pages 75-86

(2) Ryan, Chapter 5 (Marxism and Political Criticism), pages 59-74

(3) GATT Article VI, Interpretative Note, *Ad Article VI*

(4) *Protocol of Accession of China of the WTO*, Article 15

(5) 19 U.S.C. Section 1677, Six Criteria for “NME” Status and “Particular Market Situation”

**PART TWO:**

**LAW “IN” LITERATURE**

**(2 PROFESSIONAL WRITING ASSIGNMENTS –**

**LEGAL MEMO AND MEDIA COMMENTARY)**

**MAKE UP CLASS #2**

***Monday, 26 September***

***12:30-1:25 PM***

***Court Room (201)***

Topic:

Catch Up, Review, Open Forum

No assignment

(Make Up combined with *International Trade Law* class)

**Week 6:**

**Monday and Tuesday,**

**3-4 October**

**Themes of Justice in English Literature**

***Lecture and Class Discussion Topics:***

(1) Studying Law “In” Literature

(2) Natural Law versus Positive Law

(3) Historical Overview of Themes of Justice in English Literature

***Required Reading Assignments:***

(1) Posner, Chapter 1 (Reflections of Law in Literature), pages 21-75; Chapter 2 (Law’s Beginnings: Revenge as Leal Prototype and Literary Genre), pages 75-123; Chapter 9 (Judicial Opinions as Literature), pages 329-388

(2) Shakespeare, *The Merchant of Venice* (1600)

 Introduction, pages 1-32

(3) Shakespeare, *The Merchant of Venice* (1600)

 Entire Play, pages 33-174

***Optional Reading Assignments:***

(1) Cardozo, Benjamin N., *Law and Literature*, *in* Law and Literature and Other Essays and Addresses, pages 3-41 (Harcourt, Brace and Company, 1931)

(2) Pound, Roscoe, *Introduction*, *in* Law in Action – An Anthology of the Law in Literature, pages ix-xiv (Amicus Curiae, 1947)

***Professional Writing Assignment:***

**Due Tuesday, 4 October, start of class**.

As per Table 2, one Legal Memo on reform of legal institutions, rules, and ethics based on the problems Shakespeare identifies in *The Merchant of Venice*.

Please also hand in the blank Scoring Sheets (substance and style) for the Assignment, which are at the end of this syllabus, with the Assignment. Simply clip or staple the Scoring Sheet to your Assignment.

Or, in the event the course is offered online please email the Scoring Sheet, along with your Assignment, to the teacher at bhala@ku.edu.

**Table 2:**

**Legal Memorandum:**

**Memo on Burmese Legal Reform**

|  |  |
| --- | --- |
| Issue | Parameters |
| What is your role? | You are a Lawyer for the World Bank. You specialize in Legal Reform in Developing and Least Developed Countries.Assume Shakespeare has chronicled problems in one such poor country, Burma. That is, assume all matters about legal institutions, rules, and ethics in *The Merchant of Venice* exist in Burma.Nobel Peace Prize winner Aung Sung Suu Kyi, the Leader of the National League for Democracy (NLD) and former *de facto* President of Burma (until the 1 February 2021 military *coup d’état*), has asked you to prepare a Policy Brief for the NLD and Burmese government on legal reform. |
| What type of written work product is expected? | Legal Memo for Aung Sung Suu Kyi, NLD Leader |
| What is the minimum-maximum length of the written work product? | 4 double spaced pages (including any footnotes),Times New Roman 12-point font (text and footnotes),Standard 1-inch margins (top/bottom and right/left),Proper pagination. |
| What issue does your written work product address? | What are the most serious problems facing Burma’s legal institutions, what are its legal rules most in need of change, and what unethical practices by its lawyers must be stopped? |
| Facts of the case? | Assume all relevant facts are in *The Merchant of Venice*. |
| Law to be applied to the case? | Not applicable(Assignment calls for identifying legal problems from an assumed set of facts, not for applying law to those facts) |
| Other Essential Background? | *The Merchant of Venice* presents one of Shakespeare’s most biting critique of law and lawyers. |
| By what analytical method(s) does your written work product address the issue? | Please read closely *The Merchant of Venice* to identify the explicit and implicit problems in legal institutions, legal rules, and the behavior of lawyers that Shakespeare identifies, and which (by assumption) exist in Burma.You are not responsible (yet!) for drafting a new Burmese legal code. (That project may come next!) Rather, your task is to let Aung Sung Suu Kyi and her NLD know what laws they must get passed if they are to move from the brutal military dictatorship (rule of man) in power since 1962 to a democracy (rule of law). |

**NO CLASS,**

**FALL BREAK,**

**10-11 OCTOBER**

**MAKE UP CLASS #3**

***Monday, 17 October,***

***12:30-1:25 PM***

***Moot Court Room***

***VIA ZOOM***

***(Invitation to be emailed)***

***Special Guest Professor***

***Mr. Kaushik Vaidya,***

***Editor, Views and Special Projects***

***Bloomberg Quint***

***Mumbai, India***

Topic:

“Contemporary Controversies in India and the Indo-Pacific Region, and the Craft of Writing”

No assignment

(Make Up combined with *International Trade Law* class)

**Week 7:**

**Monday and Tuesday, 17-18 October**

**Legal Reform in Foreign Countries**

***Lecture and Class Discussion Topics:***

(1) The Art of Reading Novels

 (Methods for Analyzing Novels)

(2) William Shakespeare (1564-1616)

(3) Understanding Shakespeare’s Plays

***Required Reading Assignments:***

(1) Same as (2) above for Previous Week –

 Shakespeare, *The Merchant of Venice* (1600)

 Introduction, pages 1-32

(2) Same as (3) above for Previous Week –

 Shakespeare, *The Merchant of Venice* (1600)

 Entire Play, pages 33-174

**Week 8:**

**Monday and Tuesday,**

**24-25 October**

**Religious Discrimination, Racism, and International Law**

***Lecture and Class Discussion Topics:***

(1) Religious Discrimination and Racism

(2) War and Peace, Honor and Pride, Loyalty and Betrayal, Innocence, and Cunning

(3) British Colonialism in, and Partition of, India

(4) E.M. Forster (1879-1970) and the Bloomsbury Group

***Required Reading Assignments:***

(1) Posner, Chapter 3, Pages 124-169 (Antinomies of Legal Theory), Chapter 5 (Literary Indictments of Legal Injustice), Pages 195-228

(2) Shakespeare, *Othello* (112 pages)

***Optional Reading Assignments:***

(1) E.M. Forster, *A Passage to India* (368 pages)

**Week 9:**

**Monday and Tuesday,**

**31 October-1 November**

**Leadership and the Law of War**

***Lecture and Class Discussion Topics:***

(1) Theory and practice of leadership

(2) Law of War

(3) Wars of the Roses and Battle of Agincourt

***Required Reading Assignments:***

(1) Same as (1) above for Previous Week –

 Posner, Chapter 3, Pages 124-169 (Antinomies of Legal Theory), Chapter 5 (Literary Indictments of Legal Injustice), Pages 195-228

(2) Shakespeare, *Richard II* and *Henry IV (Part One)* (approximately 120 pages)

**Week 10:**

**Monday and Tuesday,**

**7-8 November**

***Special Guest Professor,***

***Monday, 7 November:***

***Eric Witmer, J.D.***

***Research Attorney II,***

***Kansas Court of Appeals,***

***KU Law School J.D. Class of 2017***

**Leadership and the Law or War**

**(Same as Week 9)**

***Lecture and Class Discussion Topics:***

(1) Theory and practice of leadership

(2) Law of War

(3) Wars of the Roses and Battle of Agincourt

***Required Reading Assignments:***

(1) Same as (1) above for Previous Week –

 Posner, Chapter 3, Pages 124-169 (Antinomies of Legal Theory), Chapter 5 (Literary Indictments of Legal Injustice), Pages 195-228

(2) Shakespeare, *Henry IV (Part Two)* and *Henry V* (approximately 120 pages)

***Professional Writing Assignment:***

**Due Tuesday, 8 November, start of class.**

As per Table 3, one Media Commentary on Leadership and the Law of War, in connection with four of Shakespeare’s History plays, *Richard II*, *Henry IV (Part One)*, *Henry IV (Part Two)*, and *Henry V*.

Please also hand in the blank Scoring Sheets (substance and style) for the Assignment, which are at the end of this syllabus, with the Assignment. Simply clip or staple the Scoring Sheet to your Assignment.

Or, in the event the course is offered online please email the Scoring Sheet, along with your Assignment, to the teacher at bhala@ku.edu.

**Table 3:**

**Media Commentary:**

**Leadership and the Law of War**

|  |  |
| --- | --- |
| Issue | Parameters |
| What is your role? | You are a Senior Fellow at the Council of Foreign Relations (CFR) in New York ([www.cfr.org](http://www.cfr.org)) Like all CFR Senior Fellows, you are expected to publish a thoughtful, well-written Media Commentary (opinion-editorial) in your area of expertise. That area is leadership in the context of war.So, you are tasked with preparing a Media Commentary on different styles of leadership in the context of war (both civil war and international war). You are to identify those styles, and critically analyze them in relation to problems that arise during violent conflict. |
| What type of written work product is expected? | Media Commentary |
| What is the minimum-maximum length of the written work product? | 4 double spaced pages (including any footnotes),Times New Roman 12-point font (text and footnotes),Standard 1-inch margins (top/bottom and right/left),Proper pagination. |
| What issue does your written work product address? | In the personages of Richard II, King Henry IV, Prince Henry (later King Henry V), Prince John of Lancaster, Sir John Falstaff, Henry Percy (Earl of Northumberland), Prince Hal (Hotspur), and the Archbishops of York and Canterbury, please identify the different styles of leadership you notice and evaluate the strengths and weaknesses of these styles.Please show how those different styles play out, for better or worse, and why, in the context of war-time decisions (that is, decisions concerning starting, prosecuting, and ending war). |
| Facts of the case? | Assume all relevant facts four of Shakespeare’s History plays, *Richard II*, *Henry IV (Part One)*, *Henry IV (Part Two)*, and *Henry V*. |
| Law to be applied to the case? | Not applicable.Law of War as discussed in class, plus your own general knowledge as an International Lawyer. You are not responsible for considering every detail of the Law of War, but your Media Commentary should spot obvious issues arising thereunder. |
| Other Essential Background? | The four Shakespeare History plays, *Richard II*, *Henry IV (Part One)*, *Henry IV (Part Two)*, and *Henry V*, are also called collectively the “First Henriad,” or the “Second Tetralogy.” They are considered among Shakespeare’s greatest works (along with *The Merchant of Venice* and *Othello*, which you have read previously). |
| By what analytical method(s) does your written work product to address the issue? | Please analyze carefully the four Shakespeare’History plays, *Richard II*, *Henry IV (Part One)*, *Henry IV (Part Two)*, and *Henry V*.Please pay attention to the key characters, Richard II, King Henry IV, Prince Henry (later King Henry V), Prince John of Lancaster, Sir John Falstaff, and the Archbishops of York and Canterbury. How do they act, and why? What choices do they make, and why? What are the implications of their actions and choices? |

**Week 11:**

**Monday and Tuesday,**

**14-15 November**

**International Criminal Law, Legitimacy, Due Process, Mercy, and Judgment**

***Lecture and Discussion Topics:***

(1) Legitimacy of international adjudicatory tribunals

(2) Due process in International Law

(3) Tension between Mercy and Justice in International Law and Human Rights

(4) Psychology, Alienation, Law, and Lawyers

(5) Albert Camus (1913-1960) and Existentialism

***Required Reading Assignments:***

(1) Posner, Chapter 4 (The Limits of Literary Jurisprudence), Pages 170-194; Chapter 6 (Two Legal Perspectives on Kafka), Pages 229-250

(2) Ryan, Chapter 4 (Psychoanalysis and Psychology), pages 43-58

(3) Albert Camus, *The Stranger* (1946) (123 pages)

(4) Franz Kafka, *The Trial* (186 pages)

**PART THREE:**

**LEGAL RHETORIC**

**(1 PROFESSIONAL WRITING ASSIGNMENT, WITH PRESENTATION)**

**Week 12:**

**Monday and Tuesday,**

**21-22 November**

**National Security and International Legal Crises**

***Lecture and Class Discussion Topics:***

(1) Studying Rhetoric in Legal Literature

(2) Aristotle’s Five Principles of Rhetoric

(3) Appeals to *Logos* (Reason), *Pathos* (Emotion) and *Ethos* (Personality)

(4) Lessons from the greatest speeches in history, particularly Demosthenes of Athens, Elizabeth I, Winston Churchill, and Martin Luther King (including actual video clips, or professional re-enactments)

***Required Reading Assignments:***

(1) July 2016 Permanent Court of Arbitration (The Hague, Netherlands), Press Release, The Republic of the Philippines versus The People’s Republic of China (South China Sea Dispute), <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf> (11 pages)

(2) October 1962, President John F. Kennedy, Cuban Missile Crisis Speech (Text and Video), <http://www.americanrhetoric.com/speeches/jfkcubanmissilecrisis.html> (5 pages) (please watch as well as read this speech)

**Week 13:**

**Monday and Tuesday,**

**28-29 November**

**National Security and International Legal Crises, continued**

**(Same as Previous Week)**

Presentation of Speeches in front of class

End of course. (No final examination.)

***Practical Writing Assignment:***

**Due Monday, 28 November, start of class.**

As per Table 4, one speech (both written and presented) on announcing and justifying U.S. military action to counter China’s territorial claims in the South China Sea dispute, in connection with reading and watching President John F. Kennedy’s Cuban Missile Crisis speech.

Please also hand in the blank Scoring Sheets (substance and style) for the Assignment, which are at the end of this syllabus, with the Assignment. Simply clip or staple the Scoring Sheet to your Assignment.

**Or, in the event the course is offered online please email the Scoring Sheet, along with your Assignment, to the teacher at** **bhala@ku.edu****.**

**Table 4:**

**Speech on U.S. Military Action Against China**

|  |  |
| --- | --- |
| Issue | Parameters |
| What is your role? | You are the President.Recall that several prominent Kansans have run for, and even come close to, the Presidency, including Governor Alf Landon and Senator Bob Dole. You might be next! |
| What type of written work product is expected? | Speech (written and orally presented) |
| What is the minimum-maximum length of the written work product? | 4 double spaced pages (including any footnotes),Times New Roman 12-point font (text and footnotes),Standard 1-inch margins (top/bottom and right/left),Proper pagination. |
| What issue does your written work product address? | Identifying precisely what Chinese territorial claims in the South China Sea are objectionable under International Law, listing specific U.S. military measures designed to counter those claims, explaining why those measures are likely to be effective, conceding what risks are involved, and noting what would happen if America “did nothing.” |
| Facts of the case? | Assume all relevant facts are in the July 2016 Permanent Court of Arbitration Press Release. |
| Law to be applied to the case? | Not applicable.You are not responsible for researching the Law of the Sea. |
| Other Essential Background? | Over half of world trade passes through the South China Sea, and Chinese territorial claims give the Chinese Communist Party a “choke hold” on navigation lanes through the Sea. America’s allies, many of which are *TPP* Parties, are pressing the U.S. to act to counter Chinese militarization of the Spratly Islands and other parts of the Sea. The brewing confrontation is redolent of the October 1962 Cuban Missile Crisis, the closest the world ever came to nuclear war. |
| By what analytical method(s) does your written work product to address the issue? | Please draft and present a speech, for the American public, the Chinese public, and the rest of the world, explaining the military action you are ordering, and why you are ordering it, and what you hope to achieve through this action. |

**SECTION VII:**

**CRITERIA REFERENCED GRADING**

*ILAL* uses Criteria-Referenced Grading. Each of the Professional Writing Assignments is equally weighted. The translation of accumulated points from all Assignments to a final grade is as follows.

Please note that adjustments are made (typically **upward**, as appropriate) to raw scores earned on the Assignments. So, please **do not worry** about final grades based on raw scores.

**Table 5:**

**Translation of Numerical Point Accumulations into Letter Grades**

|  |  |
| --- | --- |
| Accumulated Points(Sum of Points from All Professional Writing Assignments) | Final Letter Grade |
| A Range(10 points) | 93-100 | A |
| 90-92 | A- |
| B Range(10 points) | 87-89 | B+ |
| 84-86 | B |
| 80-83 | B- |
| C Range(10 points) | 77-79 | C+ |
| 74-76 | C |
| 70-73 | C- |
| D Range(10 points) | 67-69 | D+ |
| 64-66 | D |
| 60-63 | D- |
| F Range(4 points) | 0-59 | F |

**SECTION VIII:**

**SCORING SHEETS AND INDIVIDUALIZED EVALUATION**

As explained earlier, as part of the Syllabus distributed at the start of the course, students receive “Scoring Sheets” for each Professional Writing Assignment. All of the Scoring Sheets are below.

With Scoring Sheets, students know exactly the substantive and stylistic criteria in advance of the due date for each Assignment. Through lecture and class discussion, students further their understanding of these criteria in relation to the readings.

Once an Assignment is handed in, it is graded using the Scoring Sheet. Both the Scoring Sheet and the Assignment itself will be returned to the student. The Scoring Sheet is completed, showing what the student did, and did not, do well on in the Assignment. The Assignment itself will have comments (handwritten or electronically entered, *e.g.*, via the Word Reviewing function) showing where in it the student met, and did not meet, the criteria.

Finally, as appropriate and necessary, each student is expected to meet individually (in person, via videoconferencing, *e.g.*, Zoom, or by phone) with the teacher to go over the Scoring Sheet, the Assignment, and any other course-related matters.

The Scoring Sheets are based on the following generic model developed that draws on existing criteria from KU Law School courses that already have been approved for the Professional Writing Requirement. They are tailored in two respects: first, to meet the unique content of *ILAL*; and, second, to meet the needs of each *ILAL* Professional Writing Assignment.

For each Assignment, there are two Scoring Sheets, one for “Substantive” content, and one for “Stylistic” expression. Note the continuity of the basic (generic criteria), tailored specifically to the Assignment at hand.

As to the first tailoring, the Scoring Sheets adhere to the general pattern, as follows:

**Generic *ILAL* Criteria to Evaluate the Substance of Each Professional Writing Assignment**

|  |  |  |
| --- | --- | --- |
| Metric | Specific Guidelines | Point Allocation |
| Issue | Clear listing of relevant issues and (if any) sub-issues in a logical order of importance.Clear identification of relationships (if any) between or among issues.Clear distinctions among issues of (1) technical legal rules, (2) legal policy, and (3) economics, politics, religion, or culture. | 2 points if:All Specific Guidelines are met.1 point if:One or more issues is missing, or important sub-issues are not spotted.0 points if:None of the Specific Guidelines is met. |
| Evidence | Relevant facts and/or legal points are marshalled from text and arranged properly to support or rebut arguments.Relevant Literary Methods are referenced in marshalling and arranging the facts and/or legal points.Overall, a close reading and sophisticated understanding of the literary text and Literary Methods is apparent from the gathering of evidence. | 2 points if:All Specific Guidelines are met.1 point if:One or more legal points or key facts are missing, or not used to support or rebut arguments. There is doubt as to whether the applicable literary theory is understood, or the literary text was read carefully.0 points if:None of the Specific Guidelines is met. |
| Analysis | Critical analytical methods, particularly relevant Literary Methods, are applied to relevant facts in a robust, persuasive manner to give supporting reasons for or against a legal point.Careful mapping (linking) of facts and/or legal points to analytical methods. | 2 points if:All Specific Guidelines are met.1 point if:One or more critical analytical methods are not applied correctly, or at all, or important facts that should have been seen in or extracted from the text are missing.0 points if:None of the Specific Guidelines is met. |
| Empathy | Opposing arguments and/or conflicting facts are anticipated, explained, and (to the extent possible) rebutted. | 2 points if:All Specific Guidelines are met.1 point if:One or more counter-arguments or adverse facts are not acknowledged, or (where possible) not rebutted. The matter at hand is “left hanging.”0 points if:None of the Specific Guidelines is met. |
| Logic | Reasoned argumentation supports a conclusion, yielding an overall cogent synthesis.Ambiguities or weaknesses are honestly admitted. | 2 points if:All of the Specific Guidelines are met.1 point if:There are one or more *non sequiturs*, so the argumentation is not entirely cogent.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |  |

**Generic *ILAL* Criteria to Evaluate the Style of Each Professional Writing Assignment**

|  |  |  |
| --- | --- | --- |
| Metric | Specific Guidelines | Point Allocation |
| Thesis | Thesis statement is presented at start and end, and is neither excessively long nor convoluted. | 2 points if:All Specific Guidelines are met.1 point if:Thesis statement is missing at beginning or end, is excessively long, or is convoluted. 0 points if:None of the Specific Guidelines is met. |
| Paragraphs | Each paragraph begins with a topic sentence and ends with a transition sentence to the next paragraph.There is no more than one major idea per paragraph. | 2 points if:All Specific Guidelines are met.½ point if:One or more paragraphs lacks a topic or transition sentence, or contains two or more major ideas.0 points if:None of the Specific Guidelines is met. |
| Organization | Structure is logical, with an introduction, body, and conclusion, or other flow appropriate to the Assignment. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs is out of order.0 points if:None of the Specific Guidelines is met. |
| Diction | Sophisticated, creative, elegant vocabulary is used.Repetition of stock terms and phrases is avoided. | 2 points if:All Specific Guidelines are met.½ point if:Vocabulary is repetitive in an unnecessary way, or the overall tone is boring.0 points if:None of the Specific Guidelines is met. |
| Precision | Terms are defined and used correctly and with specificity.Vagueness and ambiguity, where required or inevitable, is acknowledged and explained to the extent possible. | 2 points if:All Specific Guidelines are met.1 point if:One or more terms in need of definition is undefined, or is used incorrectly, or one or more terms that necessarily are vague or ambiguous are not identified and explained to the extent possible.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |
| TOTAL POINTS FOR ASSIGNMENT(Substance plus Style points, out of 20 Maximum): |  |

***4 Scoring Sheets for Each of the 4 Professional Writing Assignments:***

**SCORING SHEET #1 for Substance of Professional Writing Assignment #1**

**Treaty Drafting #1:**

**Writing a New FTA Chapter on Women’s and LGBTQ+ Rights Applying Feminist and LGBTQ+ Literary Interpretative Methods**

|  |  |  |
| --- | --- | --- |
| Metric | Specific Guidelines | Point Allocation |
| Issue | Clear listing of relevant issues and (if any) sub-issues in a logical order of importance.Clear identification of relationships (if any) between or among issues.Clear distinctions among issues of (1) technical legal rules, (2) legal policy, and (3) economics, politics, religion, or culture:The issue of advancing women’s and LGBTQ+ rights through an FTA is clearly stated, *i.e.*, the potential of using an FTA in this manner is clearly identified.The problems women face in international law are clearly identified.The problems LGBTQ+ individuals face under international law are clearly identified. | 2 points if:All Specific Guidelines are met.1 point if:One or more issues is missing, or important sub-issues are not spotted.0 points if:None of the Specific Guidelines is met. |
| Evidence | Relevant facts and/or legal points are marshalled from text and arranged properly to support or rebut arguments;Relevant Literary Methods are referenced in marshalling and arranging the facts and/or legal points.Overall, a close reading and sophisticated understanding of the literary text and Literary Methods is apparent from the gathering of evidence.The lack of enforceable protections for women under *TPP* Chapter 23 is highlighted.The lack of protections for LGBTQ+ individuals in *TPP* Chapter 23 is highlighted.Attention is given to “Hard” versus “Soft” Law obligations in *TPP* Chapter 23. | 2 points if:All Specific Guidelines are met.1 point if:One or more legal points or key facts are missing, or not used to support or rebut arguments. There is doubt as to whether the applicable literary theory is understood, or the literary text was read carefully.0 points if:None of the Specific Guidelines is met. |
| Analysis | Critical analytical methods, particularly relevant Literary Methods, are applied to relevant facts in a robust, persuasive manner to give supporting reasons for or against a legal point.Careful mapping (linking) of facts and/or legal points to analytical methods.Feminist and LGBTQ+ Literary Interpretative Methods are used to show the shortcomings of *TPP* Chapter 23.Feminist and LGBTQ+ Literary Interpretative Methods are used to draft new FTA provisions to protect women and LGBTQ+ individuals, and empower them economically. | 2 points if:All Specific Guidelines are met.1 point if:One or more critical analytical methods are not applied correctly, or at all, or important facts that should have been seen in or extracted from the text are missing.0 points if:None of the Specific Guidelines is met. |
| Empathy | Opposing arguments and/or conflicting facts are anticipated and explained in a fair, accurate manner.Opposing arguments and/or conflicting facts are (to the extent possible) rebutted.Appropriate language is drafted to incorporate concerns of countries that are not yet prepared to grant full, equal rights to women and/or LGBTQ+ individuals.Appropriate language is drafted to encourage such countries to grant such rights within a defined period of time. | 2 points if:All Specific Guidelines are met.1 point if:One or more counter-arguments or adverse facts are not acknowledged, or (where possible) not rebutted. The matter at hand is “left hanging.”0 points if:None of the Specific Guidelines is met. |
| Logic | Reasoned argumentation supports a conclusion, yielding an overall cogent synthesis.Ambiguities or weaknesses are honestly admitted:The new FTA Chapter defines specific indicators (benchmarks) for women’s and LGBTQ+ rights, requires countries to collect and share data on those indicators, defines what constitutes failure to provide such rights, and contains enforcement mechanisms in the event of a failure to provide such rights.  | 2 points if:All Specific Guidelines are met.1 point if:There are one or more *non sequiturs*, so the argumentation is not entirely cogent.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |  |

**SCORING SHEET #1 for Style of Professional Writing Assignment #1**

**Treaty Drafting #1:**

**Writing a New FTA Chapter on Women’s and LGBTQ+ Rights Applying Feminist and LGBTQ+ Literary Interpretative Methods**

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| Metric | Specific Guidelines | Point Allocation |
| Thesis | Thesis statement is presented at start and end, and is neither excessively long nor convoluted.A Preamble presents the purpose or purposes of the treaty.Specific Articles in the treaty relate to the purpose or purposes of the treaty, so that the treaty language is goal-oriented. | 2 point if:All Specific Guidelines are met.1 point if:Thesis statement is missing at beginning or end, is excessively long, or is convoluted. 0 points if:None of the Specific Guidelines is met. |
| Paragraphs | Each paragraph begins with a topic sentence and ends with a transition sentence to the next paragraph.There is no more than one major idea per paragraph.Preambular paragraphs and treaty Articles move from the general to the specific, and contain one idea per provision, and the treaty language is efficient. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs lacks a topic or transition sentence, or contains two or more major ideas.0 points if:None of the Specific Guidelines is met. |
| Organization | Structure is logical, with an introduction, body, and conclusion, or other flow appropriate to the Assignment.The treaty is carefully constructed in a common-sense sequence of provisions.Preambular paragraphs and treaty articles flow in accordance with transactional realities (*i.e.*, the order in which events typically happen), if appropriate. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs is out of order.0 points if:None of the Specific Guidelines is met. |
| Diction | Sophisticated, creative, elegant vocabulary is used.Repetition of stock terms and phrases is avoided.The treaty language is clear to the maximum extent possible and reflect mature and cosmopolitan usages appealing to multiple legal cultures. | 2 points if:All Specific Guidelines are met.1 point if:Vocabulary is repetitive in an unnecessary way, or the overall tone is boring.0 points if:None of the Specific Guidelines is met. |
| Precision | Terms are defined and used correctly and with specificity.Vagueness and ambiguity, where required or inevitable, is acknowledged and explained to the extent possible.Key terms in the treaty are clearly defined in a way that is not circuitous.If vagueness and/or ambiguity are needed, then such usage reflects an intentional choice to create flexibility. | 2 points if:All Specific Guidelines are met.1 point if:One or more terms in need of definition is undefined, or is used incorrectly, or one or more terms that necessarily are vague or ambiguous are not identified and explained to the extent possible.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |
| TOTAL POINTS FOR ASSIGNMENT(Substance plus Style points, out of 20 Maximum): |  |

**SCORING SHEET #2 for Substance of Professional Writing Assignment #2**

**Legal Memorandum:**

**Burmese Legal Reform**

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| Metric | Specific Guidelines | Point Allocation |
| Issue | Clear listing of relevant issues and (if any) sub-issues in a logical order of importance.Clear identification of relationships (if any) between or among issues.Clear distinctions among issues of (1) technical legal rules, (2) legal policy, and (3) economics, politics, religion, or culture:The most serious problems facing Burma’s legal institutions are clearly identified.The most egregious rules in Burma’s legal system are clearly identified.The unethical practices of Burmese lawyers most in need of change are clearly identified. | 2 points if:All Specific Guidelines are met.1 point if:One or more issues is missing, or important sub-issues are not spotted.0 points if:None of the Specific Guidelines is met. |
| Evidence | Relevant facts and/or legal points are marshalled from text and arranged properly to support or rebut arguments.Relevant Literary Methods are referenced in marshalling and arranging the facts and/or legal points.Overall, a close reading and sophisticated understanding of the literary text and Literary Methods is apparent from the gathering of evidence:Facts from *The Merchant of Venice* (and *Measure for Measure*, if required reading) about explicit and implicit problems in legal institutions, legal rules, and the behavior of lawyers that Shakespeare identifies, and which (by assumption) exist in Burma, are clearly laid out. | 2 points if:All Specific Guidelines are met.1 point if:One or more legal points or key facts are missing, or not used to support or rebut arguments. There is doubt as to whether the applicable literary theory is understood, or the literary text was read carefully.0 points if:None of the Specific Guidelines is met. |
| Analysis | Critical analytical methods, particularly relevant Literary Methods, are applied to relevant facts in a robust, persuasive manner to give supporting reasons for or against a legal point.Careful mapping (linking) of facts and/or legal points to analytical methods.Shakespeare’s explicit and implicit criticisms in *The Merchant of Venice* (and *Measure for Measure*, if required reading) legal institutions, legal rules, and the behavior of lawyers which (by assumption) exist in Burma, are explained.The reasons they are “criticisms” of, not “praise” for, the legal regime are analyzed. | 2 points if:All Specific Guidelines are met.1 point if:One or more critical analytical methods are not applied correctly, or at all, or important facts that should have been seen in or extracted from the text are missing.0 points if:None of the Specific Guidelines is met. |
| Empathy | Opposing arguments and/or conflicting facts are anticipated and explained in a fair, accurate manner.Opposing arguments and/or conflicting facts are (to the extent possible) rebutted.Justifications for existing legal institutions, rules, and ethics are articulated and met with appropriate counter-arguments based on the text of *The Merchant of Venice* (and *Measure for Measure*, if required reading) | 2 points if:All Specific Guidelines are met.1 point if:One or more counter-arguments or adverse facts are not acknowledged, or (where possible) not rebutted. The matter at hand is “left hanging.”0 points if:None of the Specific Guidelines is met. |
| Logic | Reasoned argumentation supports a conclusion, yielding an overall cogent synthesis.Ambiguities or weaknesses are honestly admitted.The Legal Memo sets out the specific reforms necessary for Burmese legal institutions, laws, and lawyer conduct, to address the criticisms of Shakespeare, and thereby help Aung Sung Suu Kyi and the NLD bring Burma into the family of modern, rule-of-law nations. | 2 points if:All Specific Guidelines are met.1 point if:There are one or more *non sequiturs*, so the argumentation is not entirely cogent.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |  |

**SCORING SHEET #2 for Style of Professional Writing Assignment #2**

**Legal Memorandum:**

**Burmese Legal Reform**

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| Metric | Specific Guidelines | Point Allocation |
| Thesis | Thesis statement is presented at start and end, and is neither excessively long nor convoluted.The central argument of the Memo is stated clearly, concisely, and at the beginning and conclusion of the Memo. | 2 point if:All Specific Guidelines are met.1 point if:Thesis statement is missing at beginning or end, is excessively long, or is convoluted. 0 points if:None of the Specific Guidelines is met. |
| Paragraphs | Each paragraph begins with a topic sentence and ends with a transition sentence to the next paragraph.There is no more than one major idea per paragraph.Long paragraphs containing multiple ideas are avoided. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs lacks a topic or transition sentence, or contains two or more major ideas.0 points if:None of the Specific Guidelines is met. |
| Organization | Structure is logical, with an introduction, body, and conclusion, or other flow appropriate to the Assignment.The ideas of the Memo follow a logical sequence.The Memo contains section headings and sub-headings to delineate its logical sequence of ideas. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs is out of order.0 points if:None of the Specific Guidelines is met. |
| Diction | Sophisticated, creative, elegant vocabulary is used.Repetition of stock terms and phrases is avoided.The Memo demonstrates a mature command of both legal and literary style. | 2 points if:All Specific Guidelines are met.1 point if:Vocabulary is repetitive in an unnecessary way, or the overall tone is boring.0 points if:None of the Specific Guidelines is met. |
| Precision | Terms are defined and used correctly and with specificity.Vagueness and ambiguity, where required or inevitable, is acknowledged and explained to the extent possible.Key legal terms used in the Memo are defined in a manner that is not circular.Where vagueness and/or ambiguity are necessary, the Memo highlights such points, and explain why they are necessary. That is, “gray areas” are identified, and a legally incorrect sense of certainty is not be conveyed. | 2 points if:All Specific Guidelines are met.1 point if:One or more terms in need of definition is undefined, or is used incorrectly, or one or more terms that necessarily are vague or ambiguous are not identified and explained to the extent possible.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |
| TOTAL POINTS FOR ASSIGNMENT(Substance plus Style points, out of 20 Maximum): |  |

**SCORING SHEET #3 for Substance of Professional Writing Assignment #3**

**Media Commentary:**

**Leadership and the Law of War**

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| Metric | Specific Guidelines | Point Allocation |
| Issue | Clear listing of relevant issues and (if any) sub-issues in a logical order of importance.Clear identification of relationships (if any) between or among issues.Clear distinctions among issues of (1) leadership, including different styles of leadership, and (2) wartime decision-making, including decisions about whether to start conflict, how to conduct war, and how to end war.The actions and decisions of leaders, and the effects of the choices leaders make, are clearly explained and critically evaluated. | 2 points if:All Specific Guidelines are met.1 point if:One or more issues is missing, or important sub-issues are not spotted.0 points if:None of the Specific Guidelines is met. |
| Evidence | Relevant facts and/or legal points are marshalled from text and arranged properly to support or rebut arguments.Relevant Literary Methods are referenced in marshalling and arranging the facts and/or legal points.Overall, a close reading and sophisticated understanding of the literary text and Literary Methods is apparent from the gathering of evidence:Relevant facts from *Richard II*, *Henry IV (Part One)*, *Henry IV (Part Two)*, and *Henry V* are identified and organized, and linked to the moral choices amidst violent conflict, and to issues arising under the Law of War.Linkages are drawn between the relevant facts to relevant Literary Methods.Evidence covers each of the distinct activities involving war: starting conflict, attempting to win, and ending conflict. | 2 points if:All Specific Guidelines are met.1 point if:One or more legal points or key facts are missing, or not used to support or rebut arguments. There is doubt as to whether the applicable literary theory is understood, or the literary text was read carefully.0 points if:None of the Specific Guidelines is met. |
| Analysis | Critical analytical methods, particularly relevant Literary Methods, are applied to relevant facts in a robust, persuasive manner to give supporting reasons for or against a legal point,Careful mapping (linking) of facts and/or legal points to analytical methods.Shakespeare’s explicit and implicit criticisms, manifest in his key characters, are explained.Shakespeare’s explicit and implicit reasons, manifest in his key characters, for decisions made before, during, and after war are analyzed.Analysis covers each of the distinct activities during wartime (whether civil or international). | 2 points if:All Specific Guidelines are met.1 point if:One or more critical analytical methods are not applied correctly, or at all, or important facts that should have been seen in or extracted from the text are missing.0 points if:None of the Specific Guidelines is met. |
| Empathy | Opposing arguments and/or conflicting facts are anticipated and explained in a fair, accurate manner.Opposing arguments and/or conflicting facts are (to the extent possible) rebutted.Justifications for retaining or changing the *status quo* before, during, and after conflict are articulated and met with appropriate counter-arguments based on the four Shakespeare History plays, *Richard II*, *Henry IV (Part One)*, *Henry IV (Part Two)*, and *Henry V*. | 2 points if:All Specific Guidelines are met.1 point if:One or more counter-arguments or adverse facts are not acknowledged, or (where possible) not rebutted. The matter at hand is “left hanging.”0 points if:None of the Specific Guidelines is met. |
| Logic | Reasoned argumentation supports a conclusion, yielding an overall cogent synthesis.Ambiguities or weaknesses are honestly admitted.The Commentary critically evaluates leadership and its implications for the Law of War. | 2 points if:All Specific Guidelines are met.1 point if:There are one or more *non sequiturs*, so the argumentation is not entirely cogent.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |  |

**SCORING SHEET #3 for Style of Professional Writing Assignment #3**

**Media Commentary:**

**Leadership and the Law of War**

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| Metric | Specific Guidelines | Point Allocation |
| Thesis | Thesis statement is presented at start and end, and is neither excessively long nor convoluted.The central argument of the Commentary is stated clearly, concisely, and at the beginning and conclusion of the Commentary. | 2 point if:All Specific Guidelines are met.1 point if:Thesis statement is missing at beginning or end, is excessively long, or is convoluted. 0 points if:None of the Specific Guidelines is met. |
| Paragraphs | Each paragraph begins with a topic sentence and ends with a transition sentence to the next paragraph.There is no more than one major idea per paragraph.Long paragraphs containing multiple ideas are avoided. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs lacks a topic or transition sentence, or contains two or more major ideas.0 points if:None of the Specific Guidelines is met. |
| Organization | Structure is logical, with an introduction, body, and conclusion, or other flow appropriate to the Assignment:The ideas of the Commentary follows a logical sequence.The Commentary contains section headings and sub-headings to delineate its logical sequence of ideas. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs is out of order.0 points if:None of the Specific Guidelines is met. |
| Diction | Sophisticated, creative, elegant vocabulary is used.Repetition of stock terms and phrases is avoided.The Commentary demonstrates a mature command of both legal and literary style. | 2 points if:All Specific Guidelines are met.1 point if:Vocabulary is repetitive in an unnecessary way, or the overall tone is boring.0 points if:None of the Specific Guidelines is met. |
| Precision | Terms are defined and used correctly and with specificity.Vagueness and ambiguity, where required or inevitable, is acknowledged and explained to the extent possible:Key legal terms used in the Commentary are defined in a manner that is not circular.Where vagueness and/or ambiguity are necessary, the Commentary highlights such points, and explain why they are necessary. That is, “gray areas” are identified, and a legally incorrect sense of certainty is not be conveyed. | 2 points if:All Specific Guidelines are met.1 point if:One or more terms in need of definition is undefined, or is used incorrectly, or one or more terms that necessarily are vague or ambiguous are not identified and explained to the extent possible.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |
| TOTAL POINTS FOR ASSIGNMENT(Substance plus Style points, out of 20 Maximum): |  |

**SCORING SHEET #4 for Substance of Professional Writing Assignment #4**

**Speech #1:**

**United States Military Measures against China**

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| Metric | Specific Guidelines | Point Allocation |
| Issue | Clear listing of relevant issues and (if any) sub-issues in a logical order of importance.Clear identification of relationships (if any) between or among issues.Clear distinctions among issues of (1) technical legal rules, (2) legal policy, and (3) economics, politics, religion, or culture:The issues of territorial sovereignty and freedom of navigation are clearly identified. | 2 points if:All Specific Guidelines are met.1 point if:One or more issues is missing, or important sub-issues are not spotted.0 points if:None of the Specific Guidelines is met. |
| Evidence | Relevant facts and/or legal points are marshalled from text and arranged properly to support or rebut arguments.Relevant Literary Methods are referenced in marshalling and arranging the facts and/or legal points.Overall, a close reading and sophisticated understanding of the literary text and Literary Methods is apparent from the gathering of evidence:Relevant facts about the Chinese military build-up in the South China Sea are laid out in a clear, chronological order.Military, civilian, and dual-use facilities, and offensive versus defensive weapons systems, are carefully distinguished. | 2 points if:All Specific Guidelines are met.1 point if:One or more legal points or key facts are missing, or not used to support or rebut arguments. There is doubt as to whether the applicable literary theory is understood, or the literary text was read carefully.0 points if:None of the Specific Guidelines is met. |
| Analysis | Critical analytical methods, particularly relevant Literary Methods, are applied to relevant facts in a robust, persuasive manner to give supporting reasons for or against a legal point.Careful mapping (linking) of facts and/or legal points to analytical methods.Inferences about Chinese intentions are spelled out clearly.The texts of Chinese public pronouncements and rhetoric are examined using pertinent Literary Methods. | 2 points if:All of the Specific Guidelines are met.1 point if:One or more critical analytical methods are not applied correctly, or at all, or important facts that should have been seen in or extracted from the text are missing.0 points if:None of the Specific Guidelines is met. |
| Empathy | Opposing arguments and/or conflicting facts are anticipated and explained in a fair, accurate manner;Opposing arguments and/or conflicting facts are (to the extent possible) rebutted.The territorial claims of China in the South China Sea are clearly explained.The basic rebuttals to those claims in the July 2016 decision of the Permanent Court of Arbitration decision are presented.The concerns of Cambodia and Laos, both supporters of China, are explained.Those concerns are rebutted by the interests at stake for Cambodia and Laos, vis-à-vis the interests of America’s allies in the Pacific (including all other 11 *TPP* countries).The need for China to “save face” is understood. | 2 points if:All Specific Guidelines are met.1 point if:One or more counter-arguments or adverse facts are not acknowledged, or (where possible) not rebutted. The matter at hand is “left hanging.”0 points if:None of the Specific Guidelines is met. |
| Logic | Reasoned argumentation supports a conclusion, yielding an overall cogent synthesis.Ambiguities or weaknesses are honestly admitted.The risks of significant armed confrontation, and even nuclear war are identified.These risks are weighed against the costs of doing nothing.The military action called for is a measured response to the threat identified, with room to escalate or de-escalate the measures depending on Chinese responses, and with room to give China a “face-saving” solution. | 2 points if:All Specific Guidelines are met.1 point if:There are one or more *non sequiturs*, so the argumentation is not entirely cogent.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |  |

**SCORING SHEET #4 for Style of Professional Writing Assignment #4**

**Speech #1:**

**United States Military Measures against China**

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| Metric | Specific Guidelines | Point Allocation |
| Thesis | Thesis statement is presented at start and end, and is neither excessively long nor convoluted:What military measures are to be taken, and why, are stated clearly at the beginning and end of the speech. | 2 points if:All Specific Guidelines are met.1 point if:Thesis statement is missing at beginning or end, is excessively long, or is convoluted. 0 points if:None of the Specific Guidelines is met. |
| Paragraphs | Each paragraph begins with a topic sentence and ends with a transition sentence to the next paragraph.There is no more than one major idea per paragraph.Paragraphs are short and digestible so that the speech is comprehensible to listeners who might not have access to the written text. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs lacks a topic or transition sentence, or contains two or more major ideas.0 points if:None of the Specific Guidelines is met. |
| Organization | Structure is logical, with an introduction, body, and conclusion, or other flow appropriate to the Assignment:The paragraphs of the speech builds the case, step-by-step, for why military action is necessary in a persuasive sequence. | 2 points if:All Specific Guidelines are met.1 point if:One or more paragraphs is out of order.0 points if:None of the Specific Guidelines is met. |
| Diction | Sophisticated, creative, elegant vocabulary is used.Repetition of stock terms and phrases is avoided.The words chosen in the speech must convey a sense of courage and inspiration in the face of a grave international crisis that could lead to war. | 2 points if:All Specific Guidelines are met.1 point if:Vocabulary is repetitive in an unnecessary way, or the overall tone is boring.0 points if:None of the Specific Guidelines is met. |
| Precision | Terms are defined and used correctly and with specificity.Vagueness and ambiguity, where required or inevitable, is acknowledged and explained to the extent possible.Miscalculation of motives, intentions, or reasons is avoided through precise language.Vagueness and ambiguity may be permissible, but such choice serves the strategic interests of the United States and lessen the risk of war. | 2 points if:All Specific Guidelines are met.1 point if:One or more terms in need of definition is undefined, or is used incorrectly, or one or more terms that necessarily are vague or ambiguous are not identified and explained to the extent possible.0 points if:None of the Specific Guidelines is met. |
| TOTAL POINTS(out of 10 Maximum): |  |
| INDIVIDUALIZED COMMENTS(in addition to comments on Assignment): |  |
| TOTAL POINTS FOR ASSIGNMENT(Substance plus Style points, out of 20 Maximum): |  |

1. The *LAL* course was removed from the KU Law course catalogue in compliance with ABA regulations, as it had not been offered within two years, following the departure from KU Law of its instructor (Professor Joyce McCray-Pearson). [↑](#footnote-ref-1)
2. Indeed, this kind of discourse is what animates a “Core Curriculum,” as offered by Columbia University. [↑](#footnote-ref-2)
3. The current Certificate requirements are at <http://law.ku.edu/international-trade-certificate>. [↑](#footnote-ref-3)
4. *See* <https://law.duke.edu/academics/course/339/>. [↑](#footnote-ref-4)
5. *See* <http://www.law.gmu.edu/assets/files/academics/schedule/2016/spring/Cowen_239-S.pdf>. [↑](#footnote-ref-5)
6. *See* <https://www.danielsolove.com/wp-content/uploads/2015/09/Law-Literature-Syllabus-2010.pdf>. [↑](#footnote-ref-6)
7. *See* <http://www.mcgeorge.edu/Students/Academics/Courses/Course_Descriptions.htm?course_number=506>. [↑](#footnote-ref-7)
8. *See* <http://www.stetson.edu/law/studyabroad/netherlands/media/Week1-Gerwig-Moore-Syllabus-Law-and-Literature-2016.pdf>. [↑](#footnote-ref-8)
9. *See* <http://www.law.northwestern.edu/academics/curricular-offerings/coursecatalog/details.cfm?CourseID=968>. [↑](#footnote-ref-9)
10. *See* <http://www.swlaw.edu/pdfs/Syllabi/spring/atfil.7h5MsbOX4J>. [↑](#footnote-ref-10)
11. *See* <http://www.law.uchicago.edu/node/470/courses>. [↑](#footnote-ref-11)
12. *See* [http://lawweb.colorado.edu/profiles/syllabi/wesson/course description and syllabus fall 08.pdf](http://lawweb.colorado.edu/profiles/syllabi/wesson/course%20description%20%20and%20syllabus%20fall%2008.pdf). [↑](#footnote-ref-12)
13. *See* <http://danzigusa.blogspot.com/2009/12/syllabus-law-literature-brandeis-school.html>. [↑](#footnote-ref-13)
14. *See* <http://dox.utdallas.edu/syl3116>. [↑](#footnote-ref-14)
15. *See* <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1297690>. [↑](#footnote-ref-15)
16. *See* [http://www.law.washington.edu/coursecatalog/Syllabi/2012-Spring\_O'NeillKa\_B577\_\_Law,\_Literature,\_And\_Film\_Seminar.pdf](http://www.law.washington.edu/coursecatalog/Syllabi/2012-Spring_O%27NeillKa_B577__Law%2C_Literature%2C_And_Film_Seminar.pdf). [↑](#footnote-ref-16)
17. *See* [http://www.jjay.cuny.edu/sites/default/files/contentgroups/english/LIT 305 - Foundations of Lit and Law.pdf](http://www.jjay.cuny.edu/sites/default/files/contentgroups/english/LIT%20305%20-%20Foundations%20of%20Lit%20and%20Law.pdf). [↑](#footnote-ref-17)
18. Only one LRF Scholar is chosen per year following an extensive, world-wide search across a pool of candidates from all legal specialties. I did not know I had been nominated. Previous holders of this position include:

(1) The Right Honorable Sir Robin Jacob, Lord Justice of Appeal, of University College London (2015)

(2) Professor Trevor Hartley (2013) from the London School of Economics

(3) Professor Ted White of the University of Virginia (2012)

(4) Several other leading scholars, such as Jack Greenberg of Columbia.

The LRF ([http://www.legalresearch.org.nz](http://www.legalresearch.org.nz/)) holds a high status in New Zealand. The LRF sponsors major public presentations, and the *New Zealand Law Review*. The LRF is linked to, but separate from, the University of Auckland Faculty of Law (<http://www.law.auckland.ac.nz/en.html>), which is a top law school in the Asia-Pacific region, highly ranked generally, and number one in New Zealand. [↑](#footnote-ref-18)
19. *See* <http://scholar.valpo.edu/cgi/viewcontent.cgi?article=1966&context=vulr>. [↑](#footnote-ref-19)
20. *See* Brian S. Clarke, *Coming Out in the Classroom: Law Professors, Law Students and Depression*, 64 Journal of Legal Education 403, 405 (February 2015). [↑](#footnote-ref-20)
21. *See* Amanda Carey, J.D., Ed.D, *The Fog of Blackacre: Exploring Depression, Anxiety, and Stress of the American Law Student*, Doctoral Dissertation, Northern Illinois University (Executive Summary) (2020), ProQuest Dissertation Publications, <https://search.proquest.com/openview/9e6c077b911ea455e784f082852f5557/1?pq-origsite=gscholar&cbl=18750&diss=y> (also observing a 2014 Yale Mental Health Alliance study indicated as many as 70% of law school students experience mental health distress, and the WHO reported over 300 million people globally suffer from depression). [↑](#footnote-ref-21)
22. Andreas Kluth, *An Epidemic of Depression and Anxiety Among Young Adults*, Bloomberg Quint (Mumbai), 22 August 2020, [www.bloombergquint.com/gadfly/coronavirus-millennials-are-suffering-an-epidemic-of-depression](http://www.bloombergquint.com/gadfly/coronavirus-millennials-are-suffering-an-epidemic-of-depression). [↑](#footnote-ref-22)
23. *See* Susie Steiner, *Top Five Regrets of the Dying*, The Guardian, 1 February 2013, [www.guardian.co.uk/lifeandstyle/2012/feb/01/top-five-regrets-of-the-dying/print](http://www.guardian.co.uk/lifeandstyle/2012/feb/01/top-five-regrets-of-the-dying/print). [↑](#footnote-ref-23)
24. *See* [www.americanbar.org/content/dam/aba/administrative/legal\_education\_and\_admissions\_to\_the\_bar/governancedocuments/2016\_standard\_310\_guidance\_memorandum.authcheckdam.pdf.](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/governancedocuments/2016_standard_310_guidance_memorandum.authcheckdam.pdf.)

 With respect to in-class time, the ABA requires 750 minutes in class per 1 credit hour, total, including one 3-hour (180 minute) exam (or equivalent assessment). The ABA also counts 50 minutes as a full 60 minutes (1 hour). That brings the total to 2,250 minutes for a 3-credit class (750 in-class minutes times 3 credits). Subtracting the 180 minutes for the final exam (or equivalent assessment), that yields 2,070 minutes, which translates to 34½ in-class hours (dividing by 60 minutes), or about 2.65 hours per week, or 41.4 in-class hours (dividing by 50 minutes), or about 3.19 hours per week, across a 13-week semester. The course is scheduled to satisfy the in-class time requirement. [↑](#footnote-ref-24)
25. U.S. dollar prices for each required book are presented above, based on the lowest cost price for a brand new (not used) hard copy edition (not e-book) from Amazon.com as of September 2016. The total cost for the required books (as of April 2017) is approximately $103.26. [↑](#footnote-ref-25)