

Fordham Law School-Sungkyunkwan University Law School
Summer Institute in International Law 2020

June 29, 2020-July 11, 2020 (in Korea)
June 28, 2020-July 10, 2020 (in U.S.A.)

International White Collar Crime

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Description

The focus of this course is on criminal laws that regulate cross-border or overseas conduct especially those that take the form of business transactions, such as bribery, export controls, arms and drug trafficking, money laundering, securities fraud, and antitrust violations; the principles of jurisdiction that may be used to prescribe, adjudicate and enforce these crimes; enforcement mechanisms of these crimes (including transnational prosecutions); and the logistical and procedural challenges involved in the prosecution of these crimes.

Date and Time of Class

The course will meet at 8:00 p.m. – 11:59 p.m., EST, via Zoom, starting on Sunday, June 28 in the United States (or 9:00 a.m.-11:59 a.m., Monday, June 29, in Korea). The class will meet for nine days, Sunday through Thursday (or Monday through Friday in Korea) in the first week, and Sunday through Wednesday (or Monday through Thursday) in the second week.

There will, in addition, be two guest lecture classes, each lasting two hours, times to be announced.

Required Text

- Ellen S. Podgor & Roger S. Clark, *Understanding International Criminal Law* (3d ed. 2013) (PC)
- Additional Materials to be distributed as Course Reader (CR), available on Blackboard.

Exam

- The final grade will be based primarily on your performance on the final exam to take place on Friday, July 10, at 8:00 p.m. (or 9 a.m., Saturday, July 11, in Korea).
- The exam will be 3 hours long and open-book. You will be allowed to use whatever written/printed materials, you wish to consult during the exam (for example, your textbook, class notes, student outlines, commercial outlines, etc.).

Readings

The following lists the reading assignments for this course. It is organized in the order in which the topics will be covered and is broken down by assignment numbers. Assume, unless I announce otherwise, that each reading assignment refers to one class session. While the broad outline of the course will not change, we may add/drop a topic or two, depending on the pace of the course and class interest.

ASSIGNMENT 1

Scope of Transnational Criminal Law

- PC 1-15
- Henry M. Hart, Jr., *The Aims of the Criminal Law*, 23 *Law and Contemporary Problems* 401 (1958) (CR 1-3)
- Restatement (Third) of the Foreign Relations Law of the United States §102 (1987) (CR 4)
- *The Case of the S.S. "Lotus" (France v. Turkey)*, 1927 P.C.I.J. (ser. A) No. 10 (Sept. 7) (CR 5-13)
- *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980) (CR 14-26)
- *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004) (CR 27-34)
- *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, 2002 I.C.J. Rep. 3 (CR 35-45)

ASSIGNMENT 2

Jurisdiction

- PC 17-38 (through § 2.06)
- *United States v. Bowman*, 260 U.S. 94 (1922) (CR 46-50)
- *Kiobel v. Royal Dutch Petroleum Company*, 569 U.S. 108 (2013) (CR 51-60)
- Restatement (Third) of the Foreign Relations Law of the United States §401-403 (1987) (CR 61-63)
- *Chua Han Mow v. United States*, 730 F.2d 1308 (9th Cir. 1984) (CR 64-68)
- *United States v. Walczak*, 783 F.2d 852 (9th Cir. 1986) (CR 69-72)
- *United States v. Gonzalez*, 776 F.2d 931 (11th Cir. 1985) (CR 73-82)
- *United States v. Roberts*, 1 F. Supp. 2d 601 (E.D. La. 1998) (CR 83-90)
- *United States v. Yunis*, 924 F.2d 1086 (D.C. Cir. 1991) (CR 91-96)

ASSIGNMENT 3

Corruption/Bribery

- PC 49-55
- Brendan Pierson, Ex-U.N. Chief Ban's Nephew Sentenced to Prison in U.S. for Bribe Scheme, Reuters, September 6, 2018 (CR 97)
- Foreign Corrupt Practices Act, 15 U.S.C. §78dd-1 to §78dd-3 (CR 98-107)
- United States v. Kay, 359 F.3d 738 (5th Cir. 2004) (CR 108-123)
- United States v. Esquinazi, 752 F.3d 912 (11th Cir. 2014) (CR 124-135)
- United States v. Castle, 925 F.2d 831 (5th Cir. 1991) (CR 136-141)
- United States v. Liebo, 923 F.2d 1308 (8th Cir. 1991) (CR 142-146)

Antitrust

- PC 55-56
- Sherman Antitrust Act, 15 U.S.C. §1 & §6a (CR 147-148)
- United States v. Nippon Paper Industries Co., Ltd., 109 F.3d 1 (1st Cir. 1997) (CR 149-159)
- F. Hoffmann-La Roche Ltd. v. Empagran, S.A., 542 U.S. 155 (2004) (CR 160-166)
- United States v. Anderson, 326 F.3d 1319 (11th Cir. 2003) (CR 167-171)

Securities Regulation

- PC 56-57
- Securities Exchange Act of 1934 (as amended by, inter alia, Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)), 15 U.S.C. §78j(b) & §78aa(b) (CR 172-174)
- Morrison v. National Australia Bank, 561 U.S. 247 (2010) (CR 175-188)

ASSIGNMENT 4

Export Controls

- PC 59-62
- Export Administration Act of 1979, 50 U.S.C. App. §2402, §2403(a) & (b), §2410(a) & (b) (CR 189-192)
- Export Administration Regulations, 15 C.F.R. §§730.1-730.7 & §774.1(a) (CR 193-197)
- Brian Egan & Peter Jeydel, We Finally Have an Export Control Statute – What Does It Mean for the Industry?, The Government Contractor, April 10, 2019 (CR 198)
- United States v. Shetterly, 971 F.2d 67 (7th Cir. 1992) (CR 199-203)
- United States v. Lachman, 521 F.3d 12 (1st Cir. 2008) (CR 204-209)

Arms Trafficking

- PC 62-64
- Arms Export Control Act, 22 U.S.C. §2778(a)(1)-(2), 22 U.S.C. §2778(b)(2) & 22 U.S.C. 2778(c) (CR 210-211)
- International Traffic in Arms Regulations, 22 C.F.R. §120.1(a), §120.2 & §121.1(a) (CR 212-215)
- United States v. Hsu, 364 F.3d 192 (2004) (CR 216-223)
- Justin Rohrlich, Air Force Scientist Spilled No Secrets. He Still Went to Prison, Daily Beast, May 27, 2018 (CR 224-232)
- International Emergency Economic Powers Act, 50 U.S.C. §1701, §1702(a)(1), §1702(b), §1704 & §1705 (CR 233-236)
- Executive Order No. 13,466 (2008), Continuing Certain Restrictions with Respect to North Korea and North Korea Nationals (CR 237-238)
- Executive Order No. 13,810 (2017), Imposing Additional Sanctions with Respect to North Korea (excerpt) (CR 239-240)
- North Korea Sanctions Regulations, 31 C.F.R. §§510.205-510.206 (CR 241-242)
- Julian Borger, Trump Issues New Sanctions on North Korea and Claims China is Following, Guardian, September 21, 2017 (CR 243-245)
- Alex Ward, It's Been 4 Days Since Trump's Confusing North Korea Tweet, and We're Still Confused, Vox, March 26, 2019 (CR 246-247)

ASSIGNMENT 5

Drug Trafficking

- PC 71-77
- 21 U.S.C. §841(a)(1) (CR 248)
- United States v. Larsen, 952 F.2d 1099 (9th Cir. 1991) (CR 249-251)
- United States v. Lopez-Vanegas, 493 F.3d 1305 (11th Cir. 2007) (CR 252-260)
- United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (CR 261-269)
- Maritime Drug Law Enforcement Act, 46 U.S.C. §§70501-70506 (CR 270-273)
- United States v. Suerte, 291 F.3d 366 (5th Cir. 2002) (CR 274-283)
- United States v. Clark, 266 F.Supp.3d 573 (D. Puerto Rico 2017) (CR 284-289)
- Eugene Kontorovich, Beyond the Article I Horizon: Congress's Enumerated Powers and Universal Jurisdiction over Drug Crimes, 93 Minnesota Law Review 1191 (2009) (CR 290-295)

Money Laundering

- PC 77-80
- 18 U.S.C. §§1956-1957 (CR 296-302)
- United States v. Campbell, 977 F.2d 854 (4th Cir. 1992) (CR 303-309)
- Cuellar v. United States, 553 U.S. 550 (2008) (CR 310-318)
- Alene Tchekmedyan, Former Head of South Korean Geoscience Center Convicted of Laundering \$1 Million in Bribes, Los Angeles Times, July 19, 2017 (CR 319-320)

ASSIGNMENT 6

Extraterritorial Application of the United States Constitution

- PC 119-124
- Rochin v. California, 342 U.S. 165 (1952) (CR 321-324)
- United States v. Verdugo-Urquidez, 494 U.S. 259 (1990) (CR 325-340)
- United States v. Barona, 56 F.3d 1087 (9th Cir. 1995) (CR 341-348)
- Boumediene v. Bush, 553 U.S. 723 (2008) (CR 349-365)
- United States v. Balsys, 524 U.S. 666 (1998) (CR 366-375)
- United States v. Jeong, 624 F.3d 706 (5th Cir. 2010) (CR 376-383)

ASSIGNMENT 7

Obtaining Evidence from Abroad

- PC 141-148
- 28 U.S.C. §§1781-1784 (CR 384-386)
- Restatement (Second) of the Foreign Relations Law of the United States §§39-40 (1965) (CR 387)
- Restatement (Third) of the Foreign Relations Law of the United States §442 (1987) (CR 388)
- United States v. First National Bank of Chicago, 699 F.2d 341 (1983) (CR 389-393)
- In re Grand Jury Proceedings Bank of Nova Scotia, 740 F.2d 817 (11th Cir. 1984) (CR 394-403)
- In re Sealed Case, 825 F.2d 494 (D.C. Cir. 1987) (CR 404-409)
- In re Grand Jury Subpoena Dated August 9, 2000, 218 F.Supp.2d 544 (S.D.N.Y. 2002) (CR 410-420)
- In re Request for Judicial Assistance from the Seoul District Criminal Court, Seoul, Korea, 555 F.2d 720 (9th Cir. 1977) (CR 421-424)
- Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241 (2004) (CR 425-435)
- In re Super Vitaminas, S.A. (N.D. Cal. November, 20, 2017) (CR 436-439)
- Treaty Between the United States of America and the Republic of Korea on Mutual Legal Assistance in Criminal Matters, November 23, 1993 (CR 440-456)
- In re the Matter of the Search of the Premises Located at 840 140th Avenue, N.E., Bellevue, Washington, 634 F.3d 557 (9th Cir. 2011) (CR 457-469)

ASSIGNMENT 8

Extradition and Its Alternatives

- PC 149-162
- Extradition Treaty Between the Government of the United States of America and the Republic of Korea, June 9, 1998 (CR 470-483)
- 18 U.S.C. §§3181, 3184 & 3196 (CR 484-489)
- Patterson v. Wagner, 785 F.3d 1277 (9th Cir. 2015) (CR 490-494)
- Choe Sang-Hun, South Korea Sentences American to 20 Years in 1997 Murder, New York Times, January 29, 2016 (CR 495-497)
- In the Matter of Extradition of Fordham, 281 F. Supp. 3d 789 (D. Alaska 2017) (CR 498-512)
- United States v. LeBaron, 156 F.3d 621 (5th Cir. 1998) (CR 513-518)
- United States v. Baez, 349 F.3d 90 (2nd Cir. 2003) (CR 519-522)
- Hilton v. Kerry, 754 F.3d 79 (1st Cir. 2014) (CR 523-530)
- Trinidad y Garcia v. Thomas, 683 F.3d 952 (9th Cir. 2012) (CR 531-549)
- Trabelsi v. Belgium, no. 140/10, ECHR 2014 (CR 550-569)

ASSIGNMENT 9

Extradition and Its Alternative Cont'd.

- PC 162-171
- *Quinn v. Robinson*, 783 F.2d 776 (9th Cir. 1986) (CR 570-593)
- *Vo v. Benov*, 447 F.3d 1235 (9th Cir. 2006) (CR 594-604)
- 8 U.S.C. §1227(a)(4)(C) (CR 606-606)
- *United States v. Alvarez-Machain*, 504 U.S. 655 (1992) (CR 607-614)
- *United States v. Toscanino*, 500 F.2d 267 (1974) (CR 615-626)
- *United States v. Yunis*, 924 F.2d 1086 (D.C. Cir. 1991) (CR 627-632)