

State University - Higher School of Economics
Department of Law
Chair of Theory of Law and Comparative Law

**U.S.-RUSSIAN RELATIONS:
LEGAL AND POLITICAL ASPECTS**
(in English)

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Description

The purpose of special course “U.S.-Russian Relations: Legal and Political Aspects” (in English) is to provide insight into legal and political aspects of contemporary relations between Russia and the United States, its complexities and contradictions.

At the heart of this special course is the study of basic legislation of the United States and decisions of American courts regarding the Russian Federation as a whole and its individual citizens.

Among other aspects, students will explore the following topics: American methodology of comparative legal research; foundations of the U.S. foreign relations law, its origins and peculiarities; contemporary American interpretation of international law and its basic principles: sovereign equality of states, the right of peoples to self-determination, non-intervention (non-interference in domestic affairs), humanitarian law, extraterritoriality, etc.; ratification, interpretation and termination of international treaties in the U.S.; activities of the U.S. Agency for International Development (US AID) in Russia (1992-2012); latest cases against Russian citizens in the U.S. (Victor Bout, Konstantin Yaroshenko and Roman Seleznev).

Topics and structure of the course

№	Topics	Hours	Class work (hours)		Home work
			Lectures	Seminars and practical tasks	
1.	Introduction to the course. American methodology of international law and comparative law research	2	1	1	1
2.	Foundations of the U.S. foreign relations law	4	2	2	2
3.	Contemporary American interpretation of international law and its basic principles	3	2	1	1

	(Part 1)				
4.	Contemporary American interpretation of international law and its basic principles (Part 2)	3	2	1	1
5.	American interpretation of the principles of sovereign equality of states and right of peoples to self-determination. <u>Case study: Captive Nations Week Resolution (Public Law 86-90) of 1959</u>	2	1	1	1
6.	Ratification, interpretation and termination of international treaties. <u>Case study: USSR-USA Treaty on the Limitation of Anti-Ballistic Missiles System (ABM Treaty) of 1972</u>	4	2	2	2
7	U.S. Agency for International Development (US AID) and its activities in Russia (1992-2012)	2	1	1	1
8.	American interpretation of the principles of non-intervention (non-interference in domestic affairs) and extraterritoriality. <u>Case study: Russian</u>	4	2	2	2

	<u>Democracy Act of 2002; Belarus</u> <u>Democracy Act of 2004; Belarus</u> <u>Democracy and Human Rights Act of 2011;</u> <u>Russian Aggression Prevention Act of 2014</u>				
9.	American interpretation of humanitarian law. <u>Case study: the Jackson-Vanik Amendment to the Trade Act of 1974;</u> <u>Frolova v USSR of 1985; Sergei Magnitsky Rule of Law Accountability Act (the Magnitsky Act) of 2012</u>	4	2	2	2
10.	Foreign Agents Registration Act (FARA) of 1938 and adoption of its analogue in Russia. Other repressive legislation in the U.S.	2	1	1	1
11.	Corruption in the name of “democracy”. <u>Case study: Bank of New York (BONY) scandal; Harvard Institute for International Development (HIID) scandal in Russia; USA v Pavel Lazarenko of 2008</u>	4	2	2	2
12.	Latest cases against Russian citizens in the U.S.: Victor Bout,	2	1	1	1

	Konstantin Yaroshenko and Roman Seleznev. Conclusion of the course				
	Total:	36	20	16	16

Forms of control and evaluation of knowledge of students

Types of Control	Forms of Control	Notes
Current	Home tasks, discussions, reports, short essays	Mainly oral; short essays - written
Final	Exam	Oral

Elaborated topics

Topic 1.

Introduction to the course.

American methodology of international law and comparative law research

Introduction to the course.

American methodology of international law and comparative law research.

Discussion of article "How to Do Comparative Law" by John Reitz.

Discussion of article "The Comparison of Soviet and American Law" by Harold J. Berman.

Topic 2.

Foundations of the U.S. foreign relations law.

Definition and sources of the U.S. foreign relations law.

Origins of the U.S. foreign relations law.

Organs of foreign relations in the U.S.

Topic 3.

**Contemporary American interpretation
of international law and its basic principles (Part 1)**

Correlation between international and domestic law in the USA.

American interpretation of “international treaties” (Article II Treaties).

American interpretation of the principle of good faith compliance with international obligations.

American interpretation of the principle of respect for human rights and fundamental freedoms.

Topic 4.

**Contemporary American interpretation
of international law and its basic principles (Part 2)**

American interpretation of the principle of non-use or threat of force.

American interpretation of the principle of peaceful settlement of disputes.

American interpretation of the principle of inviolability of borders.

American interpretation of the principle of territorial integrity of states.

Topic 5.

**American interpretation of the principles
of sovereign equality of states
and right of peoples to self-determination.**

Case study: Captive Nations Week Resolution (Public Law 86-90)

American interpretation of the principle of sovereign equality of states.

American interpretation of the principle of right of peoples to self-determination.

Captive Nations Week Resolution (Public Law 86-90) of 1959; peculiarities of its adoption and implementation; its criticism by the Congress of Russian Americans.

Guest speaker: Vladislav Krasnov, President of the Russia and America Good Will Association (RAGA), author of article «Закон о поработанных народах как реликт Холодной войны. Целились в коммунизм, попали в русских» (Представительная власть, 2009, No.8).

Topic 6.

**Ratification, interpretation and termination of international treaties.
Case study: USSR-USA Treaty on the Limitation of Anti-Ballistic Missiles
System (ABM Treaty) of 1972**

USSR-USA Treaty on the Limitation of Anti-Ballistic Missiles System (ABM Treaty) of 1972; its contents and circumstances of its adoption.

American interpretation of “reservations” (RUD = reservations, understandings, declarations) during ratification of treaties.

“Strategic Defence Initiative” (“star wars”) and President Reagan’s attempt to unilaterally “reinterpret” the ABM Treaty in 1982.

Termination of the ABM Treaty by President Bush 2002; its pretexts and consequences.

Topic 7.

**U.S. Agency for International Development (US AID)
and its activities in Russia (1992-2012)**

Adoption of the Foreign Assistance Act and creation of the U.S. Agency for International Development (US AID) by President Kennedy in 1961.

Non-governmental organizations (NGOs) in the U.S. and their activities abroad.

Activities of the U.S. Agency for International Development (US AID) and its programs in Russia (1992-2012).

Topic 8.

American interpretation of the principles of non-intervention (non-interference in domestic affairs) and extraterritoriality.

Case study: Russian Democracy Act of 2002; Belarus Democracy Act of 2004; Belarus Democracy and Human Rights Act of 2011; Russian Aggression Prevention Act of 2014

American interpretation of the principle of non-intervention (non-interference in domestic affairs) and extraterritoriality.

American interpretation of the principle of extraterritoriality, and extraterritorial use of American law.

Russian Democracy Act of 2002; its contents, early drafts of the bill and circumstances of its adoption.

Belarus Democracy Act of 2004; its contents and circumstances of its adoption.

Belarus Democracy and Human Rights Act of 2011; its contents and circumstances of its adoption.

Russian Aggression Prevention Act of 2014; its contents and circumstances of its introduction.

Topic 9.

American interpretation of humanitarian law.

Case study: the Jackson-Vanik Amendment to the Trade Act of 1974; *Frolova v USSR* of 1985; Sergei Magnitsky Rule of Law Accountability Act of 2012

American interpretation of humanitarian law.

The Jackson-Vanik Amendment to the Trade Act of 1974; its contents and circumstances of its adoption.

Case *Frolova v USSR* of 1985; its circumstances and the decision.

Sergei Magnitsky Rule of Law Accountability Act of 2012 (the Magnitsky Act); its contents and circumstances of its adoption. “The Magnitsky List”.

Topic 10.

Foreign Agents Registration Act (FARA) of 1938 and adoption of its analogue in Russia. Other repressive legislation in the U.S.

Foreign Agents Registration Act (FARA) of 1938; its contents and circumstances of its adoption and implementation.

Activities of U.S.-funded NGOs in Russia and adoption of the FARA analogue in Russia.

Other repressive legislation in the U.S.: the Logan Act of 1799, the Espionage Act of 1917, the Voorhis Act of 1940, Antiterrorism and Effective Death Penalty Act of 1996, the Federal Restricted Buildings and Grounds Improvement Act of 2011, etc.

Topic 11.

Corruption in the name of “democracy”.

Case study: Bank of New York (BONY) scandal;

Harvard Institute for International Development (HIID) scandal in Russia;

USA v Pavel Lazarenko of 2008

The Foreign Corrupt Practices Act of 1977.

American law on “money laundering”.

Bank of New York (BONY) scandal.

Harvard Institute for International Development (HIID) scandal in Russia, and a case against *President and Fellows of Harvard College, Jonathan R. Hay and Andrei N. Shleifer*.

Case *USA v Pavel Lazarenko* of 2008 (CR-00-0284); its contents and decision.

Topic 12.

Latest cases against Russian citizens in the U.S.: Victor Bout, Konstantin Yaroshenko and Roman Seleznev. Conclusion of the course

American interpretation of extradition.

Latest cases against Russian citizens in the U.S.: Victor Bout, Konstantin Yaroshenko and Roman Seleznev.

Guest speaker: Alexei Tarasov (Texas), attorney of Victor Bout and Konstantin Yaroshenko [to be confirmed].

Conclusion of the course.

Model questions for exam preparations

1. American methodology of international law and comparative law research.
2. Definition and sources of the U.S. foreign relations law.
3. Origins of the U.S. foreign relations law.
4. Organs of foreign relations in the U.S.
5. Correlation between international and domestic law in the USA.
6. American interpretation of “international treaties” (Article II Treaties).
7. American interpretation of the principle of good faith compliance with international obligations.
8. American interpretation of the principle of respect for human rights and fundamental freedoms.
9. American interpretation of the principle of non-use or threat of force.
10. American interpretation of the principle of peaceful settlement of disputes.
11. American interpretation of the principle of inviolability of borders.
12. American interpretation of the principle of territorial integrity of states.
13. American interpretation of the principle of sovereign equality of states.
14. American interpretation of the principle of right of peoples to self-determination.
15. Captive Nations Week Resolution (Public Law 86-90) of 1959; peculiarities of its adoption and implementation; its criticism by the Congress of Russian Americans.
16. USSR-USA Treaty on the Limitation of Anti-Ballistic Missiles System (ABM Treaty) of 1972; its contents and circumstances of its adoption.
17. American interpretation of “reservations” (RUD = reservations, understandings, declarations) during ratification of treaties.
18. “Strategic Defence Initiative” (“star wars”) and President Reagan’s attempt to unilaterally “reinterpret” the ABM Treaty in 1982.
19. Termination of the ABM Treaty by President Bush 2002; its pretexts and consequences.
20. Adoption of the Foreign Assistance Act and creation of the U.S. Agency for International Development (US AID) by President Kennedy in 1961.
21. Non-governmental organizations (NGOs) in the U.S. and their activities abroad.
- 22.** Activities of the U.S. Agency for International Development (US AID) and its programs in Russia (1992-2012).
23. American interpretation of the principle of non-intervention (non-interference in domestic affairs) and extraterritoriality.

24. American interpretation of the principle of extraterritoriality, and extraterritorial use of American law.
25. Russian Democracy Act of 2002; its contents, early drafts of the bill and circumstances of its adoption.
26. Belarus Democracy Act of 2004; its contents and circumstances of its adoption.
27. Belarus Democracy and Human Rights Act of 2011; its contents and circumstances of its adoption.
28. Russian Aggression Prevention Act of 2014; its contents and circumstances of its introduction.
29. American interpretation of humanitarian law.
30. The Jackson-Vanik Amendment to the Trade Act of 1974; its contents and circumstances of its adoption.
31. Case *Frolova v USSR* of 1985; its circumstances and the decision.
32. Sergei Magnitsky Rule of Law Accountability Act of 2012 (the Magnitsky Act); its contents and circumstances of its adoption. “The Magnitsky List”.
33. Foreign Agents Registration Act (FARA) of 1938; its contents and circumstances of its adoption and implementation.
34. Activities of U.S.-funded NGOs in Russia and adoption of the FARA analogue in Russia.
35. Other repressive legislation in the U.S.: the Logan Act of 1799, the Espionage Act of 1917, the Voorhis Act of 1940, Antiterrorism and Effective Death Penalty Act of 1996, the Federal Restricted Buildings and Grounds Improvement Act of 2011, etc.
36. The Foreign Corrupt Practices Act of 1977.
37. American law on “money laundering”.
38. Bank of New York (BONY) scandal.
39. Harvard Institute for International Development (HIID) scandal in Russia, and a case against *President and Fellows of Harvard College, Jonathan R. Hay and Andrei N. Shleifer*.
40. Case *USA v Pavel Lazarenko* of 2008 (CR-00-0284); its contents and decision.
41. American interpretation of extradition.
42. Latest cases against Russian citizens in the U.S.: Victor Bout, Konstantin Yaroshenko and Roman Seleznev.

Estimation procedure of the final grade

The final grade in the special course “U.S.-Russian Relations: Legal and Political Aspects” (in English) is estimated according to the following formula:

The final grade = O (accumulated) + O (exam).

The share of the relative importance of the controls:
Accumulated score - 0.5
Exam - 0.5

Cumulative score is calculated using a weighted sum of estimates for certain forms of monitoring (current performance at seminars - 0.5; abstract - 0.5).

Rounding method and the resulting cumulative count: 0.4 and up - in favor of the student.

Documents and basic sources

Documents

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2. Раздел 22 Свода законов США, регулирующий право внешних сношений США. См.: http://en.wikipedia.org/wiki/Title_22_of_the_United_States_Code
3. Captive Nations Week Resolution (Public Law 86-90). Presidential Proclamation--Captive Nations Week, 2010. См.: <http://www.whitehouse.gov/the-press-office/presidential-proclamation-captive-nations-week>
4. Договор между Союзом Советских Социалистических Республик и Соединенными Штатами Америки об ограничении систем противоракетной обороны 26 мая 1972 г. См.: <http://www.armscontrol.ru/start/rus/docs/abm-treaty.htm>;
<http://www.nti.org/treaties-and-regimes/treaty-limitation-anti-ballistic-missile-systems-abm-treaty/>
5. Russian Democracy Act of 2002 (H.R. 2121; Public Law 107-246). См.: <http://www.govtrack.us/congress/bills/107/hr2121>;
<https://bulk.resource.org/gpo.gov/laws/107/publ246.107.pdf>
6. Belarus Democracy Act of 2004 (H.R. 854; Public Law 108-347). См.: <http://chrissmith.house.gov/uploadedfiles/pl108347.pdf>
7. Belarus Democracy and Human Rights Act of 2011 (H.R. 515). См.: <http://www.govtrack.us/congress/bills/112/hr515>;
http://chrissmith.house.gov/uploadedfiles/hr_515_final_text_on_passage.pdf
Также см.: <http://www.infowars.com/ron-paul-statement-on-belarus-democracy-reauthorization-act/>
8. Russian Aggression Prevention Act of 2014 (S. 2277). См.: <https://beta.congress.gov/bill/113th-congress/senate-bill/2277>
9. 19 U.S. Code, Chapter 12 – Trade Act of 1974. См.: <http://uscode.house.gov/download/pls/19C12.txt>

10. Foreign Agents Registration Act of 1938. CM.: <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title22/pdf/USCODE-2009-title22-chap11-subchapII.pdf>
11. 761 F.2d 370 Lois Frolova, Plaintiff-Appellant, v. Union of Soviet Socialist Republics, Defendant-Appellee. No. 83-1451. United States Court of Appeals, Seventh Circuit. Submitted April 10, 1985. Decided May 1, 1985. CM.: <http://openjurist.org/761/f2d/370/frolova-v-union-of-soviet-socialist-republics>;
<http://www.jstor.org/discover/10.2307/2201841?uid=3738936&uid=2129&uid=2&uid=70&uid=4&sid=21102098838603>
12. The Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§ 78dd-1, et seq.) CM.: <http://www.justice.gov/criminal/fraud/fcpa/statutes/regulations.html>
13. Civil No. 00-306-P-C. UNITED STATES DISTRICT COURT, DISTRICT OF MAINE. FORUM FINANCIAL GROUP, LIMITED LIABILITY COMPANY and JOHN Y. KEFFER, Plaintiffs v. PRESIDENT and FELLOWS OF HARVARD COLLEGE, JONATHAN R. HAY and ANDREI N. SHLEIFER, Defendants. CM.: http://www.med.uscourts.gov/Opinions/Carter/2001/GC_11192001_2-00cv306_ForumFinan_v_Harvard.pdf
14. No. CR-00-0284 MJJ. 555 F.Supp.2d 1029 (2008). UNITED STATES of America, Plaintiff, v. Pavel LAZARENKO, Defendant. United States District Court, N.D. California. CM.: http://www.leagle.com/decision-result/?xmldoc/20081584555FSupp2d1029_11492.xml/docbase/CSLWAR3-2007-CURR. Также см.: <http://openjurist.org/476/f3d/642/united-states-v-lazarenko>
15. H.R. 4405 (112th): Sergei Magnitsky Rule of Law Accountability Act of 2012. CM.: <http://www.govtrack.us/congress/bills/112/hr4405/text>

Basic sources

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3. Stephen Dycus, Arthur L. Berney, William C. Banks, Peter Raven-Hansen. National Security Law. (Fifth Edition). - Wolters Kluwer, 2011.
4. Доклад Конгресса США "Russia's Road to Corruption. How the Clinton Administration Exported Government Instead of Free Enterprise and Failed the Russian People" 2000 г. CM.: <http://www.fas.org/news/russia/2000/russia/>

Supplementary Reading Materials

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2. Harold J. Berman, "The Comparison of Soviet and American Law", 34 Indiana Law Journal (1959), pp.559-570. См.: [http://www.repository.law.indiana.edu/ilj/vol34/iss4/4/;](http://www.repository.law.indiana.edu/ilj/vol34/iss4/4/)
<http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2979&context=ilj>
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4. Dobriansky Lew E. Another Captive Nations Week // The Ukrainian Weekly, December 30, 1979, No. 296, Vol. LXXXVI. См.: <http://www.ukrweekly.com/old/archive/1979/2967911.shtml>
5. Fighting the "Captive Nations Week Resolution". См.: <http://www.russian-americans.org/Articles/Captive.html>
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7. Малышко О. Американский закон 60-летней давности: срок годности неограничен? Кто кого поработил, или что мешает российско-американскому сотрудничеству // Peacekeeper.ru (<http://peacekeeper.ru/?module=news&action=view&id=13267>)
8. Розанов А. США и проблема ПРО // Белорусский журнал международного права и международных отношений. 2001, No. 2. См.: http://elib.org.ua/politics/ua_readme.php?subaction=showfull&id=1096450852&archive=&start_from=&ucat=3&
9. Стенограмма выступления Министра иностранных дел России И.С.Иванова в программе Ю.Семенова «Народ и Власть» радиостанции «Маяк» 16 марта 2002 года. См.: <http://www.mid.ru/bl.nsf/218603db65cac2d343256ac50038d63e/d14bcb586f19148443256b800030c206>
10. Домрин А.Н. Новый американский закон «О демократии в России» (Russian Democracy Act of 2002, H.R. 2121) // Представительная власть - XXI век: законодательство, комментарии, проблемы. 2002, No.5-6. См.: <http://www.pvlast.ru/archive/index.48.php>
11. Новый американский закон о строительстве демократии в России // Промышленные ведомости (Москва), октябрь 2004, No.15. См.: <http://www.pv.derrick.ru/articles/article.phtml?id=204&nomer=10;>

- <http://perevodika.ru/articles/12240.html>;
<http://www.memo.ru/hr/hotpoints/caucas1/msg/2004/10/m39736.htm>
12. Домрин А.Н. Грустная история американской помощи Москве. Администрация США оказывала содействие не вообще России, а "агентам перемен" // Независимая газета (НГ-Дипкурьер), 22.03.2001. См.:
http://web.archive.org/web/20070523185726/http://world.ng.ru/dipcorpus/2001-03-22/4_help.html; <http://perevodika.ru/articles/11861.html>
 13. Домрин А.Н. Напёрсточник из Фонда Карнеги. К вопросу об адекватности западной помощи России // Представительная власть - XXI век: законодательство, комментарии, проблемы, 2002, No.4; Домрин А.Н. Напёрсточник из Фонда Карнеги // Промышленные ведомости (Москва), сентябрь 2002, No.11-13. См.:
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 17. Alexander Domrin. Counter-Effects and Deficiencies of U.S. 'Aid' to Russia: Constitutional and Parliamentary Aspects". – In: What Role for the West? Promoting Legal Reform in the Former Soviet Union. Panelist Abstracts. - New Haven, CT: Russia and Eastern Europe Law Forum, Yale Law School, April 23-24, 1999.
 18. Alexander Domrin. 'Something Wicked Comes This Way': A Sad Story of American 'Aid' to Russian 'Reformers' // Johnson's Russia List. (Washington). #5180, April 1, 2001. См.:
<http://www.uiowa.edu/~cyberlaw/domrin/sadusaid.html>;
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 19. Alexander Domrin. Ten Years Later: Society, 'Civil Society', and the Russian State // The Russian Review. An American Quarterly Devoted to Russia Past and Present, Vol.62, No.2 (April 2003). P.193-211. См.:
<http://www.uiowa.edu/~cyberlaw/domrin/civsocrs.pdf>;
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 31. Л.Фридмэн. Введение в американское право. - М., Прогресс, 1992.
 32. У.Бернам. Правовая система Соединенных Штатов Америки / 3-й выпуск. Научный редактор В.А.Власихин. - М., РИО «Новая юстиция», 2006.

Electronic resources of the HSE

Electronic library system “Znaniium”: <http://znaniium.com/>

Scientific electronic library (NEB): <http://elibrary.ru/defaultx.asp>

Universal encyclopedia “Rubricon”: <http://www.rubricon.com/default.asp>

Material and technical support

Notebook computer, video projector, PowerPoint presentations, internet access for the instructor and students.