

Example Syllabus: International Law
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Course Overview

International Law is supposed to create order among states. Does it, and how do we know? The topic of international law is a place to study the interaction of material, power and normative forces, and a place where one can employ many methods and approaches in political science. In this course we cover the basics of international law – states, treaties, primary and secondary rules – and then explore its strengths and growing challenges in the modern world. To provide an introduction to different theoretical and methodological approaches to these topics, this course is organized thematically. It begins with an overview of the legal principles concerning international legal personality, its sources in treaty and customary law, and the bounds of its jurisdiction. Then, it introduces questions of power politics, history, and the influence of state and non-state actors. The final set of topics are devoted to issue areas within international law: war and war crimes, international criminal law, human rights, and humanitarian intervention. We will explore both historical roots and current problems, recognizing along the way contestation over the sources, purposes, and interests associated with international law.

REQUIREMENTS AND GRADING:

Grades are based on the following criteria:

- **Class participation (20%):** You should complete the assigned readings and actively participate in class discussion. This portion of your grade is based on both quantity (how often you discuss the readings, ask questions, etc.) and quality (comments based on a careful reading of the material vs. unsubstantiated opinions).
- **Op-Ed Writing Assignments (40%):** You will compose 4 “op-ed” writing assignments in response to *an current event in international law that you care about* using theoretical and conceptual evidence from course readings. The papers should be 800 words (double-spaced, 12 point font, 1 inch margins). Take seriously the challenge of adding something new to the public conversation, something you would like to have people read.
- **Presentation (10%):** Working in assigned pairs, students will give one 15-20 minute presentation based on the week’s reading. The presentation should summarize central themes of the readings and raise questions for discussion.
- **Paper Précis (5%):** A précis of the paper (1-2 pp max) offering a rough sketch of your general themes/texts/arguments and on which I’ll provide comments and suggestions. You can also include your secondary sources in the précis, or some of them; but this isn’t a requirement.
- **Final Paper (25%):** Students are expected to write one 5,000-word essay (10-12 pages) that explores a question of relevance to the core themes and topics of the course. The essay is due at noon on XXX. Your paper may extend on themes from your op-eds.

Assigned Readings

Topic 1: What is International Law?

- Arend, Anthony C. *Legal Rules and International Society*. Oxford University Press, 1999. 13-40
- Scott, Shirley. "The Logical Structure of International Law," *International Law in World Politics* (Lynne Rienner, 2010 2nd ed.). Chap 5
- Damrosch, Lori et al. "Introduction to the Study of International Law." In *International Law: Cases and Materials*, edited by Damrosch, Henkin, Murphy, and Smitt. St. Paul: West Publishing, 2009. xv-xvii

Topic 2: Where does International Law come From?

- Charlesworth, Hilary. "Law-making and Sources." In *The Cambridge Companion to International Law*, pp.187-202.
- Klabbers, Jan. "The Law of Treaties." *International Law*, second edition. New York: Cambridge University Press, 2017. Ch. 3
- Byers, Michael. *Custom, Power, and the Power of Rules: International Relations and Customary International Law*. New York: Cambridge UP, 1999. 147-65
- Toope, Stephen. "Powerful But Unpersuasive: The Role of the United States in the Evolution of Customary International Law." In *United States Hegemony and the Foundations of International Law*, edited by Michael Byers and Georg Nolte. New York: Cambridge UP, 2003. 287-316

Topic 3: Jurisdiction, or Where is International Law?

- The Lotus Case, The Permanent Court of International Justice excerpt in *D. J. Harris Cases and Materials on International Law* 4th ed. (Sweet & Maxwell, 1991), 253-257.
- Trail Smelter Arbitration, excerpt in *D. J. Harris Cases and Materials on International Law* 4th ed. (Sweet & Maxwell, 1991), 243-246.
- Damrosch, Lori et al, "Bases of Jurisdiction." In *International Law: Cases and Materials*, edited by Damrosch, Henkin, Murphy, and Smit. 755-61
- Malley, Robert, Jean Manas, and Crystal Nix. "Constructing the State Extraterritorially: Jurisdictional Discourse, The National Interest, and Transnational Norms." *Harvard Law Review* 103 (1989-90): 1273-1305.

Topic 4: Power Politics and International Law

- Morgenthau, Hans J. "The Main Problems of International Law." In *Politics Among Nations: The Struggle for Power and Peace*. Brief edition. New York: McGraw-Hill, 1993. 253-68

Goldsmith, Jack L. and Eric A. Posner. Introduction. *The Limits of International Law*. New York: Oxford University Press, 2005. 3-17

Steven Krasner “The Persistence of State Sovereignty” in “The Evolution of International Law and Courts.” *Oxford Handbook of Historical Institutionalism*, Orfeo Fioretos, Tulia G. Falleti, and Adam Sheingate, eds (Oxford University Press, 2016). 590-610

Topic 5: International Law in Historical Perspective

Pitts, Jennifer. “International Relations and the Critical History of International Law.” *International Relations* 31, no. 3 (2017): 282-298.

Mutua, Makau and Antony Anghie. “What is TWAIL?” Proceedings of the Annual Meeting (American Society of International Law) 94 (2000): 31-40.

Chimni, B.S. “Legitimizing the International Rule of Law.” In *The Cambridge Companion to International Law*, ed. James Crawford, Martti Koskenniemi, and Surabhi Ranganathan, pp. 290-308

Topic 6: State and Non-State Actors

Brunée, Jutta and Toope, Stephen. *Legitimacy and Legality in International Law: An Interactional Account* (Cambridge University Press, 2010). “An Interactional Theory of International Legal Obligation” (Chapter 2)

Meierhenrich, Jens. “The Practice of International Law: A Theoretical Analysis” *Law and Contemporary Problems* 76 (1): 1-83.

Alter, Karen. *The New Terrain of International Law: Courts, Politics, Rights* (Princeton University Press, 2014) 42-67, 335-344

Topic 7: War and War Crimes

O’Connell, Mary Ellen. *The Power and Purpose of International Law: Insights from the Theory and Practice of Enforcement*. New York: Oxford University Press, 2008. 193-229

Kennedy, David. “Modern War and Modern Law.” *Minnesota Journal of International Law* 16, no. 2 (2007): 471-494.

Hurd, Ian. “The Permissive Power of The Ban on War.” *European Journal of International Security* 2, no. 1 (2016): 1-18.

Schabas, William A. “The Law and Genocide.” *The Oxford Handbook of Genocide Studies*, eds. Donald Bloxham and A. Dirk Moses. New York: Oxford University Press, 2013. 123-141

Topic 8: International Criminal Law

- O'Connell, Mary Ellen. *The Power and Purpose of International Law: Insights from the Theory and Practice of Enforcement*. New York: Oxford University Press, 2008. 295-327
- Sikkink, Kathryn. "The Streams of the Justice Cascade." Ch. 4 in *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics*. New York: W.W. Norton & Co., 2011. 96-125
- Kissinger, Henry A. "The Pitfalls of Universal Jurisdiction." *Foreign Affairs* 80, no. 4 (2001): 86-96.

Topic 9: Humanitarian Intervention

- Ruti Teitel, "Introduction," *Humanity's Law* (Oxford 2011). 3-18
- Beate Jahn, "Humanitarian Intervention - What's in a Name?" *International Politics*, 49(1), 2012.
- Robert Knox, "Civilizing Interventions? Race, War and International Law," *Cambridge Review of International Affairs*, 2013, 26(1).
- Hurd, Ian. "Is Humanitarian Intervention Legal? The Rule of Law in An Incoherent World." *Ethics & International Affairs* 25, no. 3 (2011): 293-313.

Topic 10: Human Rights

- Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/index.shtml>.
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, <http://www.hrweb.org/legal/cat.html>.
- Convention on the Prevention and Punishment of the Crime of Genocide, 1948.
- Simmons, Beth. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press. (chapter 4, "Theories of compliance")
- Hafner-Burton, Emilie M, and Kiyoteru Tsutsui. "Justice Lost! The Failure of International Human Rights Law To Matter Where Needed Most." *Journal of Peace Research* 44.4 (2007): 407-25.