PS 356: PRINCIPLES OF INTERNATIONAL LAW

Tuesday / Thursday, 2:30pm – 3:45pm, Education L196

Lecturer: Ben Power
Email: bpower@wisc.edu
Office hours: Thursday 9:45am – 11:45am, ground floor, Wisconsin Institutes for Discovery

COURSE DESCRIPTION

This course provides an introduction to the content of public international law, and the principles which underpin this institutional architecture. Put simply, it asks: why does international law exist in the form that it does, and what explains variation in the structure of law across issue areas? In posing these questions, the course will explore how the law affects a diverse range of global policy areas and shapes international relations between states.

The course is broken into seven parts. In part I we go over the foundations of the international legal system: what the purpose of this legal structure is, and what “law” itself actually consists of. Part II outlines different ways in which international law attempts to deal with situations where bodies of law come into conflict, both at the global level and in domestic legal systems (with a particular focus on the treatment of international law in American law and jurisprudence).

The next four parts cover different substantive areas of international law, highlighting how the nature of different “problems to be solved” leads to different legal structures. Part III explores how laws around the use of force attempt to balance the realities of conflicting state interests with a general desire to minimize resort to armed conflict, as well as regulating the behavior of states while engaged in hostilities. Part IV introduces issue areas where self-interest encourages self-enforcing international agreements, and a corresponding emphasis on effective mechanisms of dispute settlement.

Part V focuses on International Human Rights Law, highlighting how the goal of upholding a set of normative values – rather than a realist perception of strict self-interest – creates a very different set of legal structures that cannot rely on conventional models of enforcement. Part VI turns to the challenge of managing shared resources like the environment or space, illustrating again how the distinct challenge of managing these common resources leads to legal institutions with weak enforcement mechanisms but some history of achieving positive outcomes.
Finally, part VII introduces two radically different ways of thinking about the set of laws and principles that we have outlined to this point, highlighting how the voices of women and indigenous peoples have been excluded from this legal architecture.

Note that this is not a “pre-law” course: though I hope many of you are interested in going to law school, this course does not explicitly aim to teach the skills you will need if you do go down that path. That said, I very much hope that taking this course gives you a better sense of what law school is like to help inform your future decisions.

This is a four-credit, face-to-face course. Each credit is made up of one hour (i.e. 50 minutes) of classroom or direct faculty/instructor instruction, and entails and a minimum of two hours of out of class student work each week.

LEARNING OUTCOMES

By the end of the course, students will be expected to:

• Explain why international law exists;
• Provide a clear explanation of the different sources of international law, the various means of resolving international legal disputes, and how US courts approach questions of international law;
• Explain why different types of international problems are best addressed by different types of legal structures, and how this accounts for variation in the shape of international law across issue areas;
• Demonstrate comfort engaging with a variety of different primary sources (e.g. judicial cases, treaties);
• Demonstrate the ability to identify the key facts in a given fact pattern, identify relevant provisions of international law, and apply these legal principles to these facts to build a legal argument; and
• Make an argument about whether international law is successful at achieving its goals.

ASSESSMENT

The assessment structure for this course is as follows:

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation</td>
<td>20%</td>
</tr>
<tr>
<td>Midterm 1</td>
<td>20%</td>
</tr>
<tr>
<td>Midterm 2 (take-home)</td>
<td>25%</td>
</tr>
<tr>
<td>Final Exam</td>
<td>35%</td>
</tr>
</tbody>
</table>
The first midterm will take place in-class on Thursday, October 3. The second midterm is a take-home assignment: it will be released at 8am on Friday, 1 November and due at 5pm on Monday, 4 November. The final exam will take place at the time assigned by the university, from 2:45–4:45 on Saturday, 14 December.

All assessment in this course will be open book: you may bring in any of the notes you take yourself over the course of the semester, whether hand-written or typed. Further information about each assessment task will be given closer to the date.

The dates of each assessment are firmly set, and extensions will only be granted in very limited circumstances for a) a genuine family emergency, b) illness or injury, or c) travel away from Madison for university-related (!) obligations. Extensions will only be granted if you contact your TA *before* the day an exam is due. If an exam is missed for a valid reason, you will receive a substitute assignment.

Participation is graded on both sections and lectures. It will be graded exactly as the name implies: not based on whether you give right or wrong answers, but on how fully you engage with the course material. Your TA will discuss expectations for attendance at sections at the start of the course.

**LECTURES**

Attendance at all lectures is required. This course has been carefully designed to ensure that lectures and readings do not duplicate each other: you cannot do the readings alone and expect to pass the course, nor will attending lectures obviate the need to do the readings.

If you cannot attend a given lecture, I strongly encourage you to see if you can gain access to the notes of a classmate afterwards (don’t be afraid to ask someone in your section, even if you do not know them well). I will make a PDF copy of the slides available online shortly after each lecture, but these will not be sufficient to learn the required course material on their own. You may want to use the slides to focus in on the essential elements of the optional readings, should you choose to make use of them: see the below section on Readings.

I encourage you not to use your laptop for taking notes if possible. An overwhelming majority of the research we have says that laptop use is detrimental to the learning not just of others around you (as they absent-mindedly watch your screen), but also hinders your own processing of the material (e.g. here and here). That said, I do understand that everybody learns in different ways, and you should feel free to use a laptop/tablet if that’s the best solution for you. **Please do not do anything other than take notes and/or look at the readings on your computer.** Doing so will affect your participation grade for the course.

You will probably find it useful to have the readings on hand in section (and possibly lecture), so if you don’t print them off, don’t hesitate to bring a laptop or tablet in for occasional use even if you hand-write notes.

**SECTIONS**

Sections have two goals: to consolidate your understanding of the material covered in lectures, and to explore how the architecture of international law shapes a wide range of political outcomes. Please make sure to come to section having read the assigned readings, since you will not be able to fully participate in discussion without them.
There are three Teaching Assistants (TAs) for this course:

**Ye June Jung**  
vjung74@wisc.edu  
Office hours: Friday 1pm-3pm, first floor, Education Building

**Andrew McWard**  
amcward@wisc.edu  
Office hours: Friday 10am-12pm, Colectivo Coffee, 583 State St

**Anna Meier**  
ameier5@wisc.edu  
Office hours: Monday 9am-11am, Fair Trade Coffee, 418 State St

Section times and locations are as follows:

<table>
<thead>
<tr>
<th>Time</th>
<th>Number</th>
<th>Location</th>
<th>TA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mon 11:00 – 11:50</td>
<td>306</td>
<td>6322 Sewell Social Sciences</td>
<td>June</td>
</tr>
<tr>
<td>Mon 1:20 – 2:10</td>
<td>305</td>
<td>6125 Sewell Social Sciences</td>
<td>Anna</td>
</tr>
<tr>
<td>Mon 2:25 – 3:15</td>
<td>308</td>
<td>345 Education</td>
<td>Anna</td>
</tr>
<tr>
<td>Tues 11:00 – 11:50</td>
<td>302</td>
<td>225 Ingraham</td>
<td>Anna</td>
</tr>
<tr>
<td>Tues 1:20 – 2:10</td>
<td>303</td>
<td>6113 Sewell Social Sciences</td>
<td>June</td>
</tr>
<tr>
<td>Wed 8:50 – 9:40</td>
<td>310</td>
<td>L185 Education</td>
<td>Andrew</td>
</tr>
<tr>
<td>Wed 9:55 – 10:45</td>
<td>307</td>
<td>6310 Sewell Social Sciences</td>
<td>June</td>
</tr>
<tr>
<td>Thu 9:55 – 10:45</td>
<td>309</td>
<td>225 Ingraham</td>
<td>Andrew</td>
</tr>
<tr>
<td>Thu 12:05 – 12:55</td>
<td>304</td>
<td>6109 Sewell Social Sciences</td>
<td>Andrew</td>
</tr>
</tbody>
</table>

If you cannot attend your usual section, first see if you can attend one of the other two sections run by your TA – that makes everybody’s life easier. If that is not possible, then do attend one of the other sections listed above. In this case, make sure to (i) email your usual TA letting them know which section you will attend instead of theirs, and (ii) introduce yourself to the “new” TA before section so they know what’s going on as well.

Sections and office hours will begin in the week of September 9. Note that there will be no sections on Thanksgiving week (i.e. the week beginning Monday, November 25), nor in the final week of class (i.e. the week beginning Monday, December 9). The final section of the semester will be held in the week beginning Monday, December 2.
**READINGS**

There are two types of readings for this course. Readings listed below that are preceded by the • symbol are required, and should be read before the relevant lecture or section. (These are just like regular readings in a typical poli sci course.) There is no required textbook: you will find all of these readings on Canvas or directly hyperlinked.

Unlike many other poli sci courses, there are assigned readings for sections as well as lectures. This helps keep discussions in section fresh, since you will not be trying to remember readings for a lecture that may have happened a week ago. (Don’t worry: the total amount of time you will have to spend reading per week is consistent with other courses that do not have assigned section reading.) Please do the readings in the order they are listed: often there is a general introduction to a given issue, followed by a more specific source.

Note that this list of required readings is non-exhaustive. From time to time over the course of the semester, we will send additional readings that you will be expected to complete prior to a specific lecture or section. These additional readings are a required part of the course, just like those listed below. Always check on Canvas for the most up-to-date readings, and look out for emails from your TA.

Readings which are italicized and preceded by the ❖ symbol are not required. In fact, I hope you never have to look at them at all. They are listed so that you can consult them in case the content of a specific lecture is not clear, or you are looking for additional study material. Please be aware that there is material covered in these readings which I will not cover in lecture and do not expect you to know. Similarly, there will be material covered in lecture that is not included in these optional readings. I urge you not to treat them as a substitute for lectures: doing so will significantly limit your ability to do well in the course. But they may serve as a useful supplement to lectures for some of you.

All of these optional readings are drawn from one of the following major International Law textbooks:


The Slomanson and von Glahn & Taulbee texts will be placed on course reserve at College Library. The Silverburg text is available online via the library website.
LECTURE SCHEDULE & READING LIST

PART I: WHAT AND WHY

Lecture 1, 5 September: What is the purpose of international law?

- No assigned readings

Section 1 (9-12 September)


Lecture 2, 10 September: Who does this apply to?


❖ Slomanson, p. 65-91.

Lecture 3, 12 September: What is international law, anyway?


❖ Slomanson, p. 10-29.

Section 2 (16-19 September)

PART II: CONFLICTS OF LAWS

Lecture 4, 17 September: Jurisdiction: Or, who gets to decide what


Lecture 5, 19 September: International enforcement & dispute settlement


  - (Read through the reservations of at least five states, & note the types of disputes each state reserves)

  ❖ von Glahn & Taulbee, p. 408-507.

Section 3 (23-26 September)


  OR


Lecture 6, 24 September: International law & domestic law


  ❖ von Glahn & Taulbee, p. 117-132.

Lecture 7, 26 September: Foreign states in domestic courts


  ❖ von Glahn & Taulbee, p. 185-204.

Section 4 (30 September – 3 October)


Lecture 8, 1 October: Private international law

- No readings

MIDTERM EXAM #1 (in-class on 3 October)
PART III: LAWS OF WAR AND PEACE

Section 5 (7-10 October)

- Readings TBD

Lecture 10, 8 October: *Jus ad bellum*


  - (These are extracts from the ICJ decision, organized as follows: facts ¶ 80-122; non-identical character of custom & treaty law ¶ 174-207; findings: ¶ 215-256)

  ❖ *von Glahn & Taulbee*, p. 576-611.

Lecture 11, 10 October: Responsibility to Protect & humanitarian intervention


  - (Read Part 3: Synopsis to ¶ 209 (p. 61-67))
Section 6 (14-17 October)

  - (An extract of the relevant section will be posted on Canvas)

Lecture 12, 15 October: *Jus in bello* (International Humanitarian Law)

  - *Kirchner, Stefan, “Modern International Humanitarian Law”, in Silverburg, p. 231-256.*

Lecture 13, 17 October: Torture & the war on terror

Section 7 (21-24 October)


  - (Read from start through section 1(B) (ending on page 6) – though I also encourage you to read section 1(C))

  - (Look through each album & scan accompanying text)


Optional:

  - (This article is not required reading, but is a very accessible deeper dive into the history of this period for those of you who are interested)

Lecture 14, 22 October: Arms control


PART IV: MUTUAL COSTS & SELF-ENFORCING LAWS

Lecture 15, 24 October: Trade law

  ❖ Slomanson, p. 621-659.

Section 8 (28-31 October)

- Readings TBD

Lecture 16, 29 October: Corporations under international law


Lecture 17, 31 October: EU law & Brexit

- No readings

MIDTERM EXAM #2
(Distributed at 8am on Friday 1 November, due at midnight on Monday 4 November)

Section 9 (4-7 November)

- Readings TBD
Lecture 18, 5 November: International Human Rights Law

  - von Glahn & Taulbee, p. 404-434.

Lecture 19, 7 November: International Human Rights Law, continued

  - (This podcast may also be downloaded from Canvas)

Section 10 (11-14 November)


Lecture 20, 12 November: International Criminal Law

- The Rome Statute, Articles 1-15 (excluding Article 15 *bis* and Article 15 *ter*).
  - (The whole judgment is interesting, but focus in particular on ¶ 11-16 & 35-36)
  - von Glahn & Taulbee, p. 436-476.
Lecture 21, 14 November: Asylum & refugee law

- Readings TBD

Section 11 (18-21 November)

  o (Read from ¶ 15 onward)

Lecture 22, 19 November: The Alien Tort Statute & domestic enforcement of IHRL


  o (Watch the whole short film)

PART VI: PROBLEMS OF THE GLOBAL COMMONS

Lecture 23, 21 November: Environmental law


  ❖ Slomanson, p. 591-614.

Lecture 24, 26 November: Models of success?

- The Antarctic Treaty.

** Thanksgiving **
Section 12 (2-5 December)

- Readings TBD

**PART VII: RETHINKING THE FOUNDATIONS OF INTERNATIONAL LAW**

**Lecture 25, 3 December: Gender in international law**


**Lecture 26, 5 December: Indigenous peoples under international law**

- Readings TBD

**Lecture 27, 10 December: Should we worry about this thing anyway?**

- Readings TBD

**Final Exam: 14 December**