

# International Law & Orgs

## Political Science 363

College of Charleston

Spring 2018

**Day/Time: T/H 3:05 – 4:20 pm**

**Location: Maybank 207**

**Course Website: OAKS**

**Instructor: P. Brian Fisher**

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**Office: 14 Green Way, Knox Lesesne Bldg #301 (Office of Sustainability)**

**Office Hours: by appt**

### Course Background

This course will introduce students to the conceptual foundation, essential principles and problems of international organization and public international law. Specifically, the course will examine basic concepts and principles of international law, as well as analyze the nature, political processes, and impact of international organizations. Essentially, this course is which is traditionally considered to encompass the binding normative rules and principles dealing with the conduct of states and of international organizations and with their relations inter se.

Through the course, we will examine general principles of international law, including the key actors, the creation and sources of international law, the interpretation of international law by courts and tribunals, the problem of enforcement, and the relationship between international and national (or “municipal” law). Within this examination we will focus on understanding the fundamental principles of international law and organization, including the nature of state sovereignty, jurisdiction, the role of nonstate actors, treaties, war, trade, and environment. This will be a case-driven approach to the study of international law and organizations, with a focus on how legal cases have shaped the international political realm and its implications for addressing key global issues, such as humanitarian intervention, war, the drug trade, climate change (and other global environmental issues), and the law of the sea. As a result, the core of the class will be upon reviewing and discussing international law cases decided by national and international tribunals, as well as certain treaties, resolutions and other international legal instruments.

### Course Goals and Learning Outcomes

The learning outcomes of this class are:

- (1) Demonstrate knowledge of political systems including their institutions, processes, laws and Constitutions through trans-national relations.
- (2) Challenge students through critical analysis and writing exercises with a focus on the mechanisms and drivers of international problems, and their potential resolution through law and norms.
- (3) Engage students through a case-driven approach to the study of international law and

organizations that helps students cultivate critical thinking, acute legal reasoning, and cogent writing.

(4) Apply theories and concepts in international law, both traditional topics such as the use of force, to contemporary issues such as drug trafficking, sustainable development, responsibility to protect, and climate change.

(5) Examine both the conceptual and pragmatic aspects of the “building blocks” of the international legal and political system, with significant attention to the UN, states and nonstate actors.

(6) Develop an understanding (and appreciation) for legal analysis through the Socratic method, including “issue” recognition and careful legal reasoning, to argue and defend various positions.

### Class Format

The class sessions will consist of two components:

**I. International Legal System and Governance:** In this section of the course, we will examine the global political and legal system(s), with a focus on sovereignty, jurisdiction, sources of international authority, general principles of law, the role of nonstate actors, norm building, and the limitations of the system.

**II. Issues and topics in International Law:** In the final section, we will examine various topics of international law, with a specific attention to the law of the sea, international environmental law, use of force, humanitarian intervention and rights, and drug trafficking.

### Grading

The following weight will be given to coursework in the determination of final grades:

**Grading Scale:** A 94-100; A-90-93; B+ 87-89; B 83-86; B-80-82; C+ 77-79; C 73-76; C-70-72; D+ 67-69; D 63-66; D-60-62; F <60

COURSEWORK	VALUE
Case Briefs (22)	25 %
Case Analysis Papers (2)	15 %
Participation/Class Prep	5 %
Midterm	25 %
Final Exam	25 %

### Course Materials

The following **required texts** are available in the CofC Bookstore:

- **IL** = Valerie and Epps (2014). *International Law* (4d). Carolina Press.
- **IO** = Karns and Mingst (2015). *International Organizations: The Politics and Processes of Global Governance*, Rienner Press.

## Submitting Work

All work prepared for class assignments should be turned in through OAKS and the dropbox (under the listed assignment). You can access OAKS through mycharleston (or my.cofc.edu).

## Assignments

The course will be driven in large part by case law and case analysis. To this end, you will write extensive case briefs of major cases in international law and analysis papers that will cover four fundamental topics in international law: jurisdiction, drug trade, responsibility to protect (R2P), and sustainable development/Climate Change.

## Announcements

Check the “news” section of the course (in OAKS) regularly to ensure that you have the most up to date information. Use this in conjunction with the course schedule to determine important deadlines and required assignments.

## Case Briefs

The student will be responsible for briefing twenty (20) major international law cases over the semester. These briefs will also serve as a preparatory tool for both the midterm and final exams and will be the basis for in-class discussion.

NOTE: Do NOT take a brief from online or any other source, as it will be considered plagiarism (see section below on plagiarism). If it is determined that any significant portion of a brief is from an outside source, you will receive a zero for the entire brief portion of your grade. If the plagiarism is extensive (e.g. the entire brief), the case will be turned into the honor board.

## Paper Analyses

There will be four (4) analyses that will require deep critical thought on a particular legal topic (Jurisdiction, Drug Trade, R2P, and Sustainable Development/CC). One analysis will be part of the midterm and other part of the final. These analyses will require knowledge of the global governance system in applying case law to a given topic. There will be an emphasis on logical analysis, critical thinking and cogent writing. Each paper will be 2-4 pages. Papers should be submitted via OAKS.

## Exams

The midterm and final exams will be composed of multiple choice, short answer (definitions), and essay(s). They will be comprehensive, designed to assess your depth and breadth of knowledge of international law and organizations. The multiple-choice questions will be challenging, pulling potential answers from various sources in one question. This design is similar to graduate school entrance exams, and the goal is to prepare students for these types of questions and format. There are NO make up exams, except for documented absences.

## Late Work

Without documentation, work submitted late will be accepted, but with a 10% per day penalty (started at the beginning of the class assigned).

## CofC Honor Code and Academic Integrity

Lying, cheating, attempted cheating, and plagiarism are violations of our Honor Code that, when identified, are investigated. Each incident will be examined to determine the degree of deception involved.

Incidents where the instructor determines the student's actions are related more to a misunderstanding will be handled by the instructor. A written intervention designed to help prevent the student from repeating the error will be given to the student. The intervention, submitted by form and signed both by the instructor and the student, will be forwarded to the Dean of Students and placed in the student's file.

Cases of suspected academic dishonesty will be reported directly by the instructor and/or others having knowledge of the incident to the Dean of Students. A student found responsible by the Honor Board for academic dishonesty will receive a XF in the course, indicating failure of the course due to academic dishonesty. This grade will appear on the student's transcript for two years after which the student may petition for the X to be expunged. The student may also be placed on disciplinary probation, suspended (temporary removal) or expelled (permanent removal) from the College by the Honor Board.

Students should be aware that unauthorized collaboration--working together without permission-- is a form of cheating. Unless the instructor specifies that students can work together on an assignment, quiz and/or test, no collaboration during the completion of the assignment is permitted. Other forms of cheating include possessing or using an unauthorized study aid (which could include accessing information via a cell phone or computer), copying from others' exams, fabricating data, and giving unauthorized assistance.

Research conducted and/or papers written for other classes cannot be used in whole or in part for any assignment in this class without obtaining prior permission from the instructor.

Students can find the complete Honor Code and all related processes in the Student Handbook at: <http://studentaffairs.cofc.edu/honor-system/studenthandbook/index.php>.

Class	Date	Topic	Readings	Due
1	1-9 (t)	Intro		
2	1-11 (h)	Legal Writing	* <i>Plain English</i> , Chapter 1, pp. 3-6; Ch 2, pp. 7-17; Chap 3, pp. 23-25;	Writing Assignment 1
3	1-16 (t)	Legal and Brief Writing	* <i>Plain English</i> , Chap 4, pp. 27-32; Chap 6, pp. 41-44; Chap 7, pp. 55-60. * How to Write a Legal Brief * IO, Chapter 1, pp. 3-33.	Writing Assignment 2
4	1-18 (h)	Global System & Alien Tort Statute	IO, Chapter 4, pp. 95-114. <a href="#">Filartiga v. Pena-Irala</a> , 630 F.2d 876 (Appeals Ct)	Brief 1: <a href="#">Filártiga v. Peña-Irala</a> (on jurisdiction)
5	1-23 (t)	GG & IL Fundamentals	* IO, Chapter 3, pp. 63-92. * IL, Chapter 1, pp. 3-12.	Brief 2: <a href="#">The Paquete Habana</a> , 175 U.S. 677 (1900).
6	1-25 (h)	Sources of IL & ATS	* IL, Chapter 1, pp. 12-32. * IO, Chapter 4, pp. 114-131, 141-142. * <a href="#">Wiwa v. Royal Dutch Oil</a> (2000).	Brief 3: <a href="#">Abdullahi v. Pfizer, Inc.</a> 562 F.3d 163 (2d Cir. 2009).
7	1-30 (t)	ATS	* <a href="#">Kiobel v. RD Shell</a> , 133 S.Ct 1659 * In Re South African Apartheid, USDC, SDNY, 2014) * <a href="#">Doe v Nestle</a> , 738 F.3d 1048 (9 <sup>th</sup> Cir 2013)	Brief 4: <a href="#">Kiobel v RD Shell</a> , 133 S.Ct. 1659 (2013)
8	2-1 (h)	Territory	* IL, Chapter 2, pp. 33-57.	Brief 4 (either): <i>Island of Palmas</i> or <i>Sovereignty over Pedra Branca</i> etc (Malaysia v. Singapore 2008 ICJ).
9	2-6 (t)	Law of Treaties	* IO, Chapter 7, pp. 255-271. * IL, Chapter 3, pp. 59-70. * Crook, " <a href="#">Contemporary Practice of the US relating to IL</a> ," <i>The American Journal of International Law</i> , 102:4 (Oct., 2008), pp. 860-863.	
10	2-8 (h)		* IO, Chapter 7, pp. 271-284. * IL, Chapter 3, pp. 70-98.	Brief 5: <a href="#">Mexico v. US</a> , 2004 ICJ 12.
11	2-13 (t)	Non-State Actors	IO, Chapter 6, Nonstate Actors, pp. 219-253. * IL, Chapter 3, pp. 98-106. * IL, Chapter 9, Arbitration and Int'l Courts, pp. 383-407.	Brief 6: <a href="#">Bosnia-Herzegovina v. Yugoslavia</a> , 1996 ICJ 595.
12	2-15 (h)	Int'l Legal Personality	IL, Chapter 7, Int'l Legal Personality, pp. 271-308.	Brief 7: <a href="#">Nottebohm Case</a> (Liechtenstein v. Guatemala) 1955 ICJ 9.
13	2-20 (t)	Jurisdiction	* IL, Chapter 4, Jurisdiction, pp. 107-134. * <a href="#">Kadic v. Karadzic</a> 70 F.3d 232 (1995) * Roth (July/August 2001), " <a href="#">The Case for Universal Jurisdiction</a> ," <i>Foreign Affairs</i> . * See, " <a href="#">Princeton Principles for Universal Jurisdiction</a> ," (2001).	Brief 8: <i>Attorney General of the Gov't of Israel v. Eichmann</i> , Israel Sup Ct (1962).
14	2-22 (h)	Jurisdiction	* IL, Chapter 4, Jurisdiction, pp. 134-189.	Brief 9: <a href="#">US v. Humberto Alvarez-Machain</a> , 504 US 655 (1992).
15	2-27 (t)	MIDTERM		
16	3-1 (h)	Jurisdiction Analysis	No Readings	Analysis Paper 1: International Jurisdiction
17	3-6 (t)	Law of the Sea	* IL, Chapter 5, Law of the Sea, pp. 191-213	Brief 10: <a href="#">US v. Conroy</a> , 589 F.2d 1258 (5th Cir. 1979).

18	3-8 (h)	High Seas	IL, Chapter 5, Law of the Sea, pp. 213-249	Brief 11: <i>Saiga Case</i> (St. Vincent & Grenadines v. Guinea, 1999).
19	3-13 (t)	Drug Trafficking	<i>US v. Garcia and other cases</i> (in book pp. 211-236). * <i>US v. Jada</i> , 46 F.3d 961 (1995). * <i>US v. Medjuck</i> , 48 F.3d 1107 (1995). * <i>US v. Caicedo</i> , 47 F.3d 1111 (1995). * <i>DTVI of 2008</i> (US Congress)	Brief 12: <i>US v. Perlaza</i> , 439 F.3d 1149 (2006).
20	3-15 (h)	Drug Trafficking Analysis	See <a href="#">COMMENT: ELIMINATING THE NEXUS OBSTACLE TO THE PROSECUTION OF INTERNATIONAL DRUG TRAFFICKERS ON THE HIGH SEAS</a> , 77 U. Cin. L. Rev. 267.	Analysis Paper 2: Drug Trafficking--Nexus Requirement.
	3-20 (t)		NO CLASS	
	3-22 (h)		NO CLASS	
21	3-27 (t)	Human Rights	IL, Chapter 8, p. 309-333; pp. 374-82. * <i>LLantoy Huaman v. Peru</i> , HRC 2005	Brief 13: <i>Negusie v. Holder</i> 129 S.Ct. 1159 (2009)
22	3-29 (h)	Peace & Security	* IO, Chapter 8, Peace & Security, pp. 289-302. * IL, Chapter 10, Use of Force, pp. 409-425	Brief 14: <i>US v. Nicaragua</i> 1984 ICJ 14 (self-defense).
23	4-3 (t)	Use of Force	* IO, Chapter 8, Peace and Security, pp. 311-325; 346-355. * IL, Chapter 10, Use of Force, pp. 425-445.	Brief 15: <i>US v. Nicaragua</i> 1984 ICJ 14 (non-intervention).
24	4-5 (h)		* IO, Chapter 8, Peace and Security, pp. 355-383. * IL, Chapter 10, Use of Force, pp. 445-464.	Brief 16: <i>The Prosecutor v. Drazen Erdemovic</i> , ICTFY IT-96-22-A (1997).
25	4-10 (t)	R2P	See: <a href="#">PREVENTION: ATROCITY CRIMES FRAMING THE RESPONSIBILITY TO PROTECT</a> , 40 Case W. Res. J. Int'l L. 111; Badescu & Bergholm, " <a href="#">The Responsibility to Protect and the Conflict in Darfur: The Big Let Down</a> " <i>Security Dialogue</i> 40:3.	Analysis Paper 3: Use of Force (R2P).
26	4-12 (h)	IEL	* IL, Chapter 6, IEL, pp. 251-270.	Brief 17: <i>Trail Smelter Case</i> (US v. Canada) (1938).
27	4-17 (t)	Climate & Sustainable Development Law	* <a href="#">General Principles of IEL</a> * Massachusetts v. EPA * <a href="#">American Clean Energy and Security Act</a> (Climate Bill) 2009 (wiki) * <a href="#">UNFCCC &amp; Paris Accord</a> * Gabcikovo-Nagymaros Project Case	Brief 18: <i>Beanal v. Freeport-McMoran</i> , 969 F. Supp. 362 (1997)
28	4-19 (h)	Conclusion	* "Creating the Law for Environmentally Sustainable Econ Development," <i>Pace Law Review</i> , 2011. * "Crimes Against Future Gens: the Potential of Individual Criminal Accountability for Global Sustainability," <i>Journal of SD Law</i> 7:2 (2011)	Bonus Brief: <i>Sarei v. Rio Tinto, PLC</i> , 487 F. 3d 1193 (9th Cir 2007).
	5-1 (t)	<b>Final Exam</b>		