

International Law

Political Science 363

College of Charleston

Spring 2022

Day/Time: T/H 9:25-10:40a

Location: Maybank 111

Course Website: OAKS

Instructor: P. Brian Fisher

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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 seven modules:

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. Extraterritorial Jurisdiction and Alien Tort Statute: In the second section, we will examine how the nation-state can exert jurisdiction beyond its borders to adjudicate issues of global and national importance. The Alien Tort Statute will be examined and its lineage of caselaw through the US Supreme Court.

III. Treaties and Territory: In this third module, we will explore treaties as a primary source of international law, their contractual nature and the ways it can be legally employed between states.

IV. Jurisdiction: In the fourth module, we will explore international jurisdiction, or the primary power to adjudicate international legal issues. The focus here will be on holding the proliferation of international actors accountable.

V. Law of the Sea and Drug Trafficking: In this module, we will explore the Law of the Sea and drug trafficking on the high seas while employing jurisdiction and treaty law.

VI. Human Rights and Human Security: In this sixth module, we will examine the use of force in a context of human rights. This module will culminate with a deeper examination of the responsibility to protect in a human security context.

VII. International Environmental Law: In the final module we will explore the various ways to protect the environment through international law. The focus will be on the rapid development of climate change law in a sustainable development context.

Grading & Class Assessment

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

COURSEWORK	VALUE
Case Briefs (22)	30 %
Case Analysis Papers (2)	17 %
Midterm	25 %
Final Exam	25 %
Participation/Class Prep	3%

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

Course Materials: The following required texts are available in the CofC Bookstore:

- IL = Epps, Cerone, and Roth (2019). *International Law (6d)*. Carolina 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).

Attendance: Attendance will be tracked on zoom; however, more importantly, success within the course requires it. There will be assignments due for every class and missing a class does not excuse late or missing work for the class date. The best way to be successful in this course is to attend regularly and stay on top of the required work.

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 (23) 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. The Two (2) lowest briefs will be DROPPED.

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 and law 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).

Course Format & Process

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.

Online Chatting: You can use the chat feature in OAKS, which is an Instant Messaging tool that allows you to get in touch with your classmates or the instructor. When you click on the "Classlist" tab in the top toolbar, you'll get a list of names. Anyone with a green dot next to his or her name is currently signed in. Check the box next to their name and press the "Page User" button at the top of the classlist. Feel free to hit me up for a real-time answer.

Turning in Assignments: All assignment should be turned in via dropbox on the OAKS coursepage by the assigned deadline. Formats for the assignments can be MS Word, rich text, or pdf.

COVID and Attendance: A couple aspects of the course to take note of given the Pandemic:

1. Masks must be worn in class at all times (until the Provost changes the policy)
2. We MAY switch to a ZOOM mode for some classes as needed or desired to accommodate students who are out with Covid or to limit its transmission.
3. You are still required to attend class regardless of modality and responsible for the material covered in that class.

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>.

Student Resources and Accommodations

Material and Technological Resources: Students are required to have basic access to technology, including regular internet service and a computer with requisite software to take this online course. If you do not have access to sufficient material or technological resources for this purpose, please let me know. Resources are available to provide students with or access to these essential tools.

Accommodations: Any students who have special learning needs or concerns are encouraged to speak with me directly. If accommodations are needed, please let me know as soon as possible. Finally, the Center for Disability Services provides a comprehensive list of accessibility resources available at: <http://disabilityservices.cofc.edu/>

Financial Security: If your performance in the course is affected by significant financial difficulties (e.g., affording groceries, textbooks, or sufficient food to eat each day; securing a safe and stable place to live), consider contacting the Dean of Students for support (Food/Temporary Housing Assistance), and please notify me, if you are comfortable doing so.

<http://deanofstudents.cofc.edu/student-food-temp-housing-asst/index.php>

Mental Health and Wellbeing: These are challenging times on many fronts, and our mental and physical wellbeing can be compromised with additional stress. If you experience mental health challenges such as depression, heightened anxiety, sleep deprivation, etc. please consider contacting CofC's Counseling Center at <http://counseling.cofc.edu> or 843.953.5640 or the Students 4 Support (certified volunteers through texting "4support" to 839863, visit <http://counseling.cofc.edu/cct/index.php>, or meet with them in person 3rd Floor Stern Center).

Course Schedule

Class	Date	Topic	Readings	Due
1	1-11 (t)	Intro		
2	1-13 (h)	Briefing & Law	* How to Write a Legal Brief * IO, Chapter 1, pp. 3-33 * Marbury v. Madison 5 U.S. 137	* Marbury v Madison Pre-Brief
3	1-18 (t)	Global System	*IO, Chapter 4, pp. 95-114. * IL, Chapter 1, pp. 3-13.	Brief 1: The Paquete Habana , 175 U.S. 677 (1900).
4	1-20 (h)	Intro to IL	Filartiga v. Pena-Irala , 630 F.2d 876 (Appeals Ct)	Brief 2: Filártiga v. Peña-Irala (on jurisdiction)
5	1-25 (t)	Sources of IL	* IO, Chapter 3, pp. 63-92 * IL, Chapter 1, pp. 25-38 * North Sea Continental Shelf Case (in book) * Donahoe, Civil Liability, pp. 93-118 (PDF) * Sosa v Alvarez-Machain 542 U.S. 692	Brief 3: Sosa v. Alvarez-Machain
6	1-27 (h)	ATS I	* IL, Chapter 1, pp. 14-25. * IO, Chapter 4, pp. 114-131, 141-142. * Wiwa v. Royal Dutch Oil (2000).	Brief 4: <i>Abdullahi v. Pfizer, Inc.</i> 562 F.3d 163 (2d Cir. 2009).
7	2-1 (t)	ATS II	* <i>Kiobel v. RD Shell</i> , 133 SCt 1659 * In Re South African Apartheid, USDC, SDNY, 2014) * <i>RJ Nabisco v. Euro Community</i>	Brief 5: <i>Kiobel v RD Shell</i> , 133 S.Ct. 1659 (2013)
8	2-3 (h)	ATS III	* <i>Doe v. Nestle</i> 592 U.S. ____ (2021) * <i>Daimler v. Bauman</i> 571 U.S. 310 (2014)	Brief 6: <i>Doe v Nestle</i> (2021)
9	2-8 (t)	Int'l Corp Liability	* <i>Vedanta Resources v. Lungowe</i> (UK SC 2019) * <i>Nevsun Resources v Araya</i> (Canada SC 2020) * <i>Okpabi v Royal Dutch Shell</i> (UK Sup Ct 2021)	Brief 7: <i>Vadanta v Lungowe</i> (2021)
10	2-10 (h)	Territory	* IL, Chapter 2, pp. 39-69. * Separation of the Chagos Archipelago (ICJ 2019) (https://www.icj-cij.org/en/case/169)	Brief 8 (either): <i>Island of Palmas or Sovereignty over Pedra Branca</i> etc (Malaysia v. Singapore 2008 ICJ).
11	2-15 (t)	Law of Treaties	* IL, Chapter 3, pp. 71-104. * Crook, " Contemporary Practice of the US relating to IL. " <i>The American Journal of International Law</i> , 102:4 (Oct., 2008), pp. 860-863.	Brief 9: Mexico v. US , 2004 ICJ 12.
12	2-17 (h)	Non-State Actors	* IO, Chapter 6, Nonstate Actors, pp. 219-253. * IL, Chapter 3, pp. 104-127. * IL, Chapter 9, Arbitration and Int'l Courts, pp. 473-502.	Brief 10: Bosnia-Herzegovina v. Yugoslavia , 1996 ICJ 595.
13	2-22 (t)	Int'l Legal Personality	IL, Chapter 7, Int'l Legal Personality, pp. 271-308.	Brief 11: Nottebohm Case (Liechtenstein v. Guatemala) 1955 ICJ 9.
14	2-24 (h)	Jurisdiction	* IL, Chapter 4, Jurisdiction, pp. 129-160. * Kadic v. Karadzic 70 F.3d 232 (1995) * Roth (July/August 2001), " The Case for Universal Jurisdiction ," <i>Foreign Affairs</i> .	Brief 12: <i>Attorney General of the Gov't of Israel v. Eichmann</i> , Israel Sup Ct (1962).

			* See, " Princeton Principles for Universal Jurisdiction ," (2001).	
15	3-1 (t)	Jurisdiction	* IL, Chapter 4, Jurisdiction, pp. 160-215.	Brief 13: US v. Humberto Alvarez-Machain , 504 US 655 (1992).
16	3-3 (h)	MIDTERM		Analysis Paper 1: Juris
	3-8 (t)	NO CLASS		
	3-10 (h)	NO CLASS		
17	3-15 (t)	Law of the Sea	* IL, Chapter 5, Law of the Sea, pp. 191-213	Brief 14: US v. Conroy , 589 F.2d 1258 (5th Cir. 1979).
18	3-17 (h)	High Seas	* IL, Chapter 5, Law of the Sea, pp. 213-249	Brief 15: Saiga Case (St. Vincent & Grenadines v. Guinea, 1999).
19	3-22 (t)	Drug Trafficking	US v. Garcia and other cases (in book pp. 211-236). * US v. Juda , 46 F.3d 961 (1995). * US v. Medjuck , 48 F.3d 1107 (1995). * US v. Caicedo , 47 F.3d 1111 (1995). * DTVl of 2008 (US Congress)	Brief 16: US v. Perlaza , 439 F.3d 1149 (2006).
20	3-24 (h)	Drug Trafficking Analysis	See COMMENT: ELIMINATING THE NEXUS OBSTACLE TO THE PROSECUTION OF INTERNATIONAL DRUG TRAFFICKERS ON THE HIGH SEAS , 77 U. Cin. L. Rev. 267.	Analysis Paper 2: Drug Trafficking--Nexus Requirement.
21	3-29 (t)	Human Rights	* IL, Chapter 8, p. 381-406 * <i>El Hagog v Libya</i> , HRC 2012 * <i>LLantoy Huaman v. Peru</i> , HRC 2005	Brief 17: El Hagog OR Llantoy Huaman
22	3-31 (h)		* IL, Chapter 8, p. 437-458; 464-472 * <i>Case of Atala Riffo and Daughters v Chile</i> , IACHR 2012. * <i>Neguisie v Holder</i>	Brief 18: Negusie v. Holder 129 S.Ct. 1159 (2009)
23	4-5 (t)	Peace & Security	* IL, Chapter 10, Use of Force, pp. 503-531 * <i>Iran v US</i> 2003 ICJ 161	Brief 19: <i>US v. Nicaragua</i> 1984 ICJ 14 (self-defense).
24	4-7 (h)	Use of Force	* IL, Chapter 10, Use of Force, pp. 532-550	Brief 20: <i>US v. Nicaragua</i> 1984 ICJ 14 (non-intervention).
25	4-12 (t)		* IL, Chapter 10, Use of Force, pp. 550-586. * <i>Prosecutor v Al Mahdi</i> , ICC 2016 (p.572) * <i>Prosecutor v Aloys Simba</i> , ICTR 2005 (p.578)	Brief 21: The Prosecutor v. Drazen Erdemovic , ICTFY IT-96-22-A (1997).
26	4-14 (h)	R2P	See: PREVENTION: ATROCITY CRIMES FRAMING THE RESPONSIBILITY TO PROTECT , 40 Case W. Res. J. Int'l L. 111 Badescu & Bergholm, " The Responsibility to Protect and the Conflict in Darfur: The Big Let Down " <i>Security Dialogue</i> 40:3.	Analysis Paper 3: Use of Force (R2P).
27	4-19 (t)	IEL	* IL, Chapter 6, IEL, pp. 311-334 * <i>Corfu Channel Case (UK v Albania)</i> 1949 ICJ 4	Brief 22: Trail Smelter Case (US v. Canada) (1938).
28	4-21 (h)	Climate & Sustainable Development Law	* General Principles of IEL * <i>Massachusetts v. EPA</i> , 549 US 497 * UNFCCC & Paris Accord * <i>Gabcikovo-Nagymaros Project Case</i> * <i>Beanal v Freeport-Mcmoran</i> 969 F.Supp. 362 (1997) * <i>Sarei v Rio Tinto</i> , 487 F.3D 1993	Brief 23: <i>Massachusetts v. EPA</i> 549 U.S. 497 (2008). Bonus Brief: Sarei v. Rio Tinto, PLC , 487 F. 3d 1193 (9th Cir 2007).
	4-30 (sat)	Final Exam: Saturday, April 30, 10:30-12:30		