

INTL 4210: International Law

University of Georgia, Department of International Affairs

Course Instructor Information:

Dr. Andrew Owsiak
Email: aowskiak@uga.edu
Office: 325 Candler Hall
Office Hours: [scheduled hours]
(or by appointment)

Course Meeting Information:

[Term]
[Day, Time of Course Meeting]
[Course Meeting Location]
<https://www.elc.uga.edu>

Description:

Although the international system lacks a world government, this does not imply that no order exists. Indeed, states *purposefully* create this order to achieve their goals. International law emerges and exists for this purpose: to create order within international relations. It stipulates how states should interact (i.e., rules/guidelines) and how their disagreements on a wide range of topics might be handled and/or resolved. In doing so, international law helps clarify what behavior states can expect from one another. These clear expectations, in turn, facilitate smoother (and, one hopes, more peaceful) inter-state relations.

This course analyzes the concepts and topics that constitute the field of public international law. We begin the course by discussing the foundations of international law – including what it is, how it originates, what purposes it might generally serve, and the form it often takes. Next, we examine the actors involved in international law, as well as the processes by which they purposely design international law. With this foundation in place, we turn our attention to international courts, addressing not only the courts' functions but also how and why domestic politics may constrain them. We then consider a series of prominent international legal issues – that is, the specific rules that guide state behavior within certain domains. Topics in this part of the course include: diplomatic relations, territorial sovereignty, maritime regulations, managing “the commons,” the use of force, the regulation of trade, and the protection of both human rights and the environment. Finally, we briefly address both the effectiveness of international law (i.e., whether states comply with it and why) and future issues that loom on the field's horizon.

Two additional points are worth noting about the course. First, this is not a “law course.” We will instead approach international law from a social scientific perspective, with a heavy focus on the *political processes* that underlie the creation of, evolution of, and compliance with international law. Despite this caveat, however, we *will* spend significant time dissecting legal cases to understand arguments and engage debates within the field. Second, although the course is on international law generally, we will give the United States special attention throughout the course. The United States' position in the international system affords it unparalleled opportunities both to advance and to flout international law, making it an important actor to investigate in greater detail. Nonetheless, cases used in the course derive from states around the world.

Objectives:

Upon completion of this course, students should be (better) able to:

- Discuss the characteristics, concepts, and topics that constitute the field of international law;
- Explain how politics affects international law and its development;
- Understand how to read and analyze international law cases;
- Identify, dissect, evaluate, and create logical and/or critical arguments;
- Apply international law precedent and logic to contemporary or hypothetical cases;
- Recognize and convey the limitations and/or counter-arguments to a given argument/position;
- Research international law topics (and find relevant material to their research efforts); and
- Express an informed opinion on international legal topics and debates;

Course Reading Material:

In order for the course to function smoothly, you should complete all assigned readings *before* the class meeting for which they are assigned. Completing these readings (and attending class consistently) will best help students be successful in the course. Students are responsible for all assigned readings, even if the material is not explicitly discussed in the classroom. Please note that the instructor reserves the right to replace part of the participation grade with unannounced quizzes if students are not completing the readings and contributing to class discussions.

The required textbooks for the course are:

- Mitchell, Sara McLaughlin, and Emilia J. Powell. (2011) *Domestic Law Goes Global: Legal Traditions and International Courts*. Cambridge: Cambridge University Press.
- Shaw, Malcolm N. (2008) *International Law*, 6th edn. Cambridge: Cambridge University Press. [Change to 7th edn. when released in October 2014]

All assigned readings beyond the required textbook will be made available electronically from the instructor. They can be accessed through the course eLearning Commons (eLC) website (log-in using UGA MyID at: <https://www.elc.uga.edu>).

Course Requirements:

The following are the requirements for this course:

1. Participation (20%): Participation grades will be calculated based upon the system outlined under the Course Guidelines section. Generally speaking, those wishing to do well on this component of the course should: a) attend, b) contribute meaningfully to class discussions (quality and quantity), and c) participate actively during in-class activities. Students should prepare for each class meeting by completing assigned readings, generating questions they have from those readings, and reviewing notes from previous meetings. Any quizzes (see above) fall within this category as well.
2. Midterm Exam (25%): This exam will include multiple choice, identification, and/or essays. Please bring blue books. The exam will be held during class on [Date].
3. Case Analysis (15%): Each student will complete an analysis of one case we cover in the course. The analysis should include: (a) the identification of each party's position, (b) an elaboration of each party's argument (in some detail), (c) (if applicable) how the case was resolved and why (e.g., the ruling and rationale for it), and (d) the (potential) implications of the case's resolution for other cases or international law more broadly. This analysis will be approximately 5-6 pages long (maximum) and is due on the day we cover it in class. Students will sign up for these cases during class on [Week 2/3].
4. Simulation (10%; see below for weighting): We will hold a simulation exercise near the end of the course. Students will be expected to:
 - a. Contribute actively to the exercise (part of participation). Evaluations will be based on instructor observation, supplemented by solicited feedback from simulation participants (to address contributions outside the classroom or within groups during the exercise).
 - b. Complete a simulation reflection (10%): After the simulation, students will reflect upon their experience, guided by questions distributed by the instructor. They will submit a paper (2-3 pages maximum) on [Date] that a) addresses the reflection question(s) given, and b) integrates their experience with the course readings.
5. Research Paper (30%, comprised of 10% for incremental process/progress, 20% for final product): In collaboration with the instructor, students will select a topic of their choice related to international law (broadly). This can be a general topic (e.g., the response to international terrorism) or a case not covered in the syllabus. The paper will then be an *analysis* of this topic – in the same vein as the analyses we will conduct on topics and cases within the course. The final research paper will be 12-15

pages (maximum). Deadlines for this project include:

- a. Selection of topic: Students will select a topic to research by [Week 3]. Only one student can study each topic, and topics will be assigned on a first come, first served basis.
- b. Annotated bibliography: This consists of a list of works (books and journal articles, not websites) that the student has found, read/skimmed, and determined should be included in the paper, along with a few sentences for each source on why it is relevant and how it might be used. This is due on [Week 5/6].
- c. Outline: Students should construct a short (1-2 page) outline in which they sketch the structure of their analysis and conclusions. Any history of the topic/case need not appear in this outline. The outline is due on [Week 10/11].
- d. Final paper: The final draft of the research paper is due by [Last Day of Classes] in hard-copy form to 325 Candler Hall.

Students are encouraged to consult the instructor on their research project throughout the semester.

[Note: Students who miss the above deadlines and/or invest minimal effort on the early deadlines will not earn full credit for the process component of the assignment.]

6. Extra credit: At times during the semester, there will be opportunities for extra credit – to augment unsatisfactory grades on exams or assignments or further bolster satisfactory grades. For example, students might complete a brief analysis of an optional reading and share their thoughts with the class. The instructor will announce extra credit opportunities as they arise.

Course Guidelines:

The following guidelines govern the requirements for this course:

1. Students are expected to attend all class meetings and participate actively within in-class activities and discussions.
2. The class will follow a seminar (i.e., discussion), rather than lecture-based format (though lecture will be used when appropriate). Each class will involve a discussion of the readings assigned for that day (or activities derived from them). Students can gain or lose points during these discussions. To gain points, you must make a positive contribution to the class – such as comments that *meaningfully* criticize or challenge, request clarification of, extend, or react to assigned readings. To lose points, you need only fail to be prepared to contribute. At the end of the semester, your participation grade will be calculated based on the total number of points you have earned; these convert to grades according to the following scheme – 14+ (A), 10-13 (B), 6-9 (C), 4-5 (D), and less than 4 (F).

I will always allow volunteers to contribute to discussion first, and I prefer to rely upon a voluntary system. If no volunteers are available, however, I will randomly call on people. Each person will be assigned a number during the first week of the course, and this number corresponds to a poker chip in a bowl. If your chip is drawn, you must answer the question raised. You may pass *once* (in total) in the event you are unprepared or absent for that specific question. After this free pass, I will deduct one point from your total participation score for each time that you are unprepared or absent to answer a question for which your chip is drawn. [Note: chips always return to the bowl after being drawn, so you may be called upon *more than once within a class period*.]

I use this system to incentivize you to complete the readings. Our discussions will rely upon them, as will the exams and paper assignments. It is therefore to your benefit to complete the readings.

3. Students who are unable to attend a class meeting are responsible for obtaining the notes for that meeting from another student. The instructor will not provide lecture slides or notes for class meetings.

4. Papers are due on the dates given at the *beginning* of the regular class period. A late paper will be penalized one full letter grade (10 percentage points) for the first day it is late, as well as an additional letter grade (10 percentage points) for each additional day it is late. After 5 days, assignments can be turned in for half-credit until the final day of class [Date]. Note that I will not accept excuses (for example, broken printers) to justify missing the deadlines. It is also not appropriate to come to class significantly late on the dates on which papers are due; papers turned in after the beginning of class may be penalized.
5. Failure to take an exam will result in a failing grade for the exam. Make-up exams *may* be offered, but only with the prior approval of the instructor (generally for documented, emergency situations). Students are therefore advised to attend all exams.
6. Students are advised to keep class notes, graded papers, and copies of submitted work until final grades are distributed. Every effort will be made to ensure that assignments and exams are graded timely, fairly, and objectively. If during the course of the semester, you believe that you received an inaccurate grade, you may submit a written memo to the instructor, along with the graded paper in question. This memo must be submitted within two weeks of receiving the graded assignment. The instructor will then read the memo, re-read the paper, and assign a new grade. The new grade may be lower, the same as, or higher than the original grade and will not be subject to additional appeal under this policy.
7. In order to foster a respectful learning environment, students are expected to:
 - a. use language that does not insult others or their point of view;
 - b. keep cell phones turned off *and* put away during class; and
 - c. use laptops brought to the classroom *for education purposes only* (e.g., no email, chat, games, etc.).
 Any student that does not follow these parameters may be asked to leave the class meeting so as not to affect other students' learning.
8. It is the policy and practice of the University of Georgia to create an inclusive learning environment. Students requiring accommodations (concerning the course meetings, material, exams, or assignments) should discuss such matters with the instructor at the *outset* of the course. Students are also encouraged to register with the Disability Resource Center (706-542-8719, <http://www.drc.uga.edu>).
9. Any exceptions or modifications to the above rules (or syllabus) are given at the instructor's discretion, only with prior approval and only under instances of extreme emergency or serious illness. Appropriate documentation must be supplied by the student in any event of exception.

Grade Distribution

A	93.00-100.00	C	73.00-76.99
A-	90.00-92.99	C-	70.00-72.99
B+	87.00-89.99	D+	67.00-69.99
B	83.00-86.99	D	63.00-66.99
B-	80.00-82.99	D-	60.00-62.99
C+	77.00-79.99	F	Below 60.00

NOTE WELL: Any student that withdraws from the course and is failing the course at the time of withdrawal will be assigned a withdrawal-failing (WF) grade. Any student that does not attend one of the first three days of the course (i.e., first week-and-a-half) may be administrative dropped from the course by the instructor.

Academic Dishonesty:

As a University of Georgia student, you have agreed to follow the University's academic honesty policy ("A Culture of Honesty") and the Student Honor Code. All academic work must meet the standards contained in "A Culture of Honesty" (including policies that cover plagiarism; for more information, see <http://www.uga.edu/honesty>). Students are responsible for informing themselves about these standards before performing any academic work and may direct specific questions they have regarding the policy (or its application to course assignments) to the instructor.

Schedule/Topics:

The following pages contain a general plan for the course; deviations announced to the class by the instructor may be necessary (in order to best meet the needs of the students and course). All readings are required unless otherwise noted. Students should read all required material by the date on which we discuss the related topic in class.

Note well:

- The instructor will announce in class the dates on which topics will be covered as the course progresses. The exact schedule depends upon the speed with which the course moves.
- The instructor may assign news articles or short articles from the American Society of International Law (<http://asil.org/>) that related to the course. Students are required to complete these readings.

I. Course Introduction

II. Foundations and Sources of International Law

A. What is International Law?

i. Historical Development

- a. Shaw, Chapters 1-2 ("Nature and Devlpmt. of Intl. Law" & "Intl. Law Today").
- b. Case: *The Paquete Habana, The Lola* (1900).

ii. International Origins

- a. Shaw, Chapter 3 ("Sources;" Chap. 17 on "State Succession" is optional).
- b. Case: *Whitney v. Robertson* (1888).

iii. Domestic Origins

- a. Mitchell and Powell, Chap. 2 ("Major Legal Traditions of the World").
- b. Case: *Missouri v. Holland* (1920).

B. Why Do States Want International Law?

- i. Stein, Arthur. (1982) "Coordination and Collaboration: Regimes in an Anarchic World." *International Organization* 36(2):294-324.
- ii. *Optional*: Keohane, Robert O. (1984) *After Hegemony*. Princeton: Princeton University Press, Chap. 6 ("A Functional Theory of International Regimes").

C. International Agreements

- i. Shaw, Chap. 16 ("The Law of Treaties").
- ii. Nielson, Daniel L., and Michael J. Tierney. (2003) Delegation to International Organizations: Agency Theory and World Bank Environmental Reform. *International Organization* 57(2):241-276.
- iii. Case: *Vienna Conventions on the Law of Treaties* (1969).

III. International Legal Actors

A. States

- i. Shaw, Chap. 5 (“The Subjects of International Law;” Chap. 9 on “Recognition” is optional).
- ii. ASIL. (2012) “Legal Impl. of the UN GA Vote to Accord Palestine the Status of Observer State.”
- iii. Case: *Great Britain v. Costa Rica* (1923).

B. Individuals, Non-Governmental Organizations, and Other Actors

- i. Charnovitz, Steve. (2006) “Nongovernmental Organizations and International Law.” *American Journal of International Law* 100(2):348-372.
- ii. *Optional*: Dai, Xinyuan. (2002) “Information Systems in Treaty Regimes.” *World Politics* 54(4):405-436.
- iii. Case: *Smith and Grady vs. the United Kingdom* (1999).

IV. The Design of International Law

A. Hegemonic Design [move to short lecture only if schedule requires]

- i. Koskeniemi, Martti. (2004) “International Law and Hegemony: A Reconfiguration.” *Cambridge Review of International Affairs* 17(2):197-218.
- ii. Paulsen, Michael S. (2009) “The Constitutional Power to Interpret International Law.” *The Yale Law Journal* 118(8):1762-1842.
- iii. *Optional*: Gruber, Lloyd. (2000) *Ruling the World*. Princeton: Princeton University Press, Chap. 3 (“Winners and Losers: The Case for Theoretical Reorientation”).

B. Rational Design

- i. Abbott, Kenneth W., and Duncan Snidal. (2002) “Values and Interests: International Legalization in the Fight against Corruption.” *Journal of Legal Studies* 31(S1): S141-S177.
- ii. Mitchell and Powell, Chap. 3 (“A Rational Legal Design Theory of International Adjudication”).
- iii. *Optional*: Keohane, Robert O. (2002) Rational Choice Theory and International Law: Insights and Limitations.” *Journal of Legal Studies* 31(S1):S307-S319.

C. Diffusion

- i. Alter, Karen J., and Laurence R. Helfer. (2010) “Nature or Nurture? Judicial Lawmaking in the European Court of Justice and the Andean Tribunal of Justice.” *International Organization* 64(4):563-592.
- ii. *Optional*: Spelliscy, Shane. (2001) “The Proliferation of International Tribunals: A Chink in the Armor.” *Columbia Journal of Transnational Law* 40:143-175.

V. International Courts

A. Background [move to short lecture only if schedule requires]

- i. Alter, Karen J. (2014) *The New Terrain of International Law: Courts, Rights and Politics*. Cambridge: Cambridge University Press, Chapter 2 (“International Courts Altering Politics”).
- ii. *Optional*: Mitchell & Powell, Chap. 1 (“The Creation and Expansion of International Courts”).

B. International Court of Justice

- i. Shaw, Chap. 19 (“The International Court of Justice”).
- ii. Mitchell & Powell, Chap. 5 (“Dom. Legal Traditions and State Support for the World Court”).
- iii. Case: Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons* (1996).

- C. International Criminal Court
 - i. Mitchell & Powell, Chap. 4 (“Dom. Legal Traditions and the Creation of the ICC”).
 - ii. Schabas, William A. (2004) “United States Hostility to the International Criminal Court: It’s All about the Security Council.” *European Journal of International Law* 15(4):701-720.
 - iii. Case: *The Prosecutor (ICC) v. Omar Hassan Ahmad al Bashir (Sudan)* (current).
- D. International Tribunals
 - i. Shaw, Chap. 8 (“Individual Criminal Responsibility in International Law”).
 - ii. Case: Mladić (currently on trial at the ICTY).

VI. Domestic Politics and International Law

- A. Jurisdiction of Courts
 - i. Shaw, Chap. 12 & 13 (“Jurisdiction” and “Immunities from Jurisdiction”).
 - ii. *Optional*: Princeton Project. (2001) *Princeton Principles on Universal Jurisdiction*. Princeton.
 - iii. Case: *Yugoslavia v. United States of America* (1999).
- B. (Im)partiality of Courts
 - i. Posner, Eric A., and Miguel F.P. de Figueiredo. (2005) “Is the International Court of Justice Biased?” *Journal of Legal Studies* 34(2):599-630.
 - ii. *Optional*: Shaw, Chap. 14 (“State Responsibility”).
- C. Design of Legal Commitments
 - i. Koremenos, Barbara. (2001) “Loosening the Ties that Bind: A Learning Model of Agreement Flexibility.” *International Organization* 55(2):289-325.
 - ii. Case: *Convention on the Elimination of All Forms of Discrimination against Women* (1979).

VII. International Legal Issues

- A. Diplomacy [combine with next topic is schedule requires]
 - i. *Vienna Conventions on Diplomatic Relations* (1961).
 - ii. Case: *Mallen v. United States* (1927).
 - iii. Case: *United States Diplomatic and Consular Staff in Tebran (United States v. Iran; 1979)*.
- B. Territory
 - i. Shaw, Chap. 10 (“Territory”).
 - ii. Case: *Right of Passage over Indian Territory (Portugal v. India; 1955)*.
- C. Maritime/Commons
 - i. Shaw, Chap. 11 (“The Law of the Sea”).
 - ii. *United Nations Convention on the Law of the Sea*, Articles 2-3, 8, 10-12, 17-28, 38-40, 45, 55-61, 69, 86-111, 116, 125, and 136-156.
 - iii. *Optional*: Treaty on Principles Governing the Activities of States in Exploration and Use of Outer Space.
 - iv. Case: *MOX Plant Case (Ireland v. United Kingdom; 2001)*.
- D. The Use of Force
 - i. Jus ad bello
 - a. Shaw, Chap. 20 (“International Law and the Use of Force by States”).

- b. *Optional*: Diehl, Paul F., and Shyam Kulkarni. (2011) “Worth a Pound of Cure? An Empirical Assessment of the Bush Doctrine and Preventive Military Action.” *University of Miami International Comparative Law Review* 19(1):57-97.
 - c. Case: *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. U.S.; 1984)*.
 - ii. Jus in bello
 - a. Shaw, Chap. 21 (“International Humanitarian Law”).
 - b. Case: *The (ICC) Prosecutor v. Thomas Lubanga Dyilo (DRC) (2006)*.
- E. Trade
 - i. Lamy, Pascal. (2006) “The Place of the WTO and Its Law in the International Legal Order.” *European Journal of International Law* 17:969-984.
 - ii. Case: *Measures Concerning Meat and Meat Products (United States v. EC; 1996-2009)*.
 - iii. *Optional*: Shaw, Chap. 18 (“The Settlement of Disputes by Peaceful Means”).
- F. Human Rights
 - i. Shaw, Chap. 6 & 7 (“The International/Regional Protection of Human Rights”).
 - ii. *Optional*: United Nations Declaration on Human Rights.
 - iii. *Optional*: Inter-American Convention on Forced Disappearance of Persons.
 - iv. Case: *Torres Millacura et al. v. Argentina (2010)*.
 - v. Case: *Romagoza Arce et al. v. Garcia and Video Casanova (1999)*.
- G. Protection of the Environment
 - i. Shaw, Chap. 15 (“International Environmental Law”).
 - ii. Case: *Pulp Mills on the River Uruguay (Argentina v. Uruguay; 2006)*.
- VIII. Effectiveness of International Law
 - i. Guzman, Andrew T. (2008) *How International Law Works*. Oxford: Oxford University Press, Chapter 3 (“Reputation”).
 - ii. Goldsmith, Jack L., and Eric A. Posner (2005) *The Limits of International Law*. Oxford: Oxford University Press, Chapter 7 (“International Law and Moral Obligation”).
 - iii. *Optional*: Simmons, Beth A. (1998) “Compliance with International Agreements.” *Annual Review of Political Science* 1:75-93.
 - iv. Case: *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile; 2013)*.
- IX. Future of International Law
 - i. Mitchell, Sara McLaughlin, and Paul F. Diehl. (2012) “Caution in What You Wish For: The Consequences of a Right to Democracy.” *Stanford Journal of International Law* 48(2):289-317.
 - ii. Trachtman, Joel P. (2013) *The Future of International Law*. Cambridge: Cambridge University Press, Chapter 5 (“Cyberspace and Cybersecurity”).