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At its core international law is idea about how to use the tools of law to regulate relations in the world. This course explores how the international legal system works from a legal and political perspective, and how the international legal system shapes international relations today.

The course provides an introduction to some aspects of the method and substance of international law, learning some key legal concepts like sovereign immunity, jus cogens, general principles of international law, principles of jurisdiction etc.

But this is not a law course. We cover legal subjects to understand how politics and law interact in shaping international relations today. Substantively, the course examines international laws related to the oceans, the environment, human rights, trade and war. We read treaties, and use case studies to see how international law is made, why national governments and national courts at times contest international law, and why international law can be difficult to enforce. We explore the legal and political issues surrounding contemporary flashpoints in international relations: China's claims to the South China Seas, how civil conflict is fueling the poaching of elephants, the United States Supreme Court's ambivalence regarding international law, what do about Syria's use of chemical weapons, and what the ICC should do in the face of Kenya's election of indicted war criminals.

Reading Texts to Purchase

In-class discussions will draw on the readings, and you are expected to have done the readings before class. We refer to texts in class, so please bring relevant texts to class.

1. William Slomanson Fundamental Perspectives on International Law Sixth edition

This book links to a website that is different than what the book notes:

<http://www.tjssl.edu/slomansonb/txtcsesite.html>

2. **Casebook** (can be purchased on line as a case study book- (www.guisd.org search under Alter or cb422). There are two "Alter coursepacks" on this website, so make sure you have the right one The pdf sells for \$12.00; the paper version \$20.00 plus shipping includes the following case studies:

"The Negotiations Leading to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer." Goodman, Allan. Pew Case Studies in International Affairs, #447

"The Ivory Trade." Mingst, Karen. Pew Case Studies in International Affairs, #154

"The United States and the Law of the Sea Treaty" Steven, David & Peter Digeser. Pew Case Studies in International Affairs #418

"Establishing an International Criminal Court: The Emergence of a New Global Authority" Pew Case Studies in International Affairs #258

3. **Readings Packet** (indicated on the syllabus with a*) The reading packet is available at Quartet Copies. (I have a scanned version as well. For scanned versions, bring a flash drive to my office hours).

Assignments: All written assignments must reflect 100% your own work and writing

- 1) Attendance and Participation in Discussions + Panel briefing book (due **November 21**): (25%). This grade includes attendance, participation and your preparedness regarding cases and simulations. The *Panel briefing book* is a concrete manifestation of your participation as the class proceeds. See blackboard for a description of the briefing book, including how it will be graded.
- 2) One 5-7 Page Short Research Paper: (30%) I have listed a number of paper topics throughout the Quarter. I will ask you to sign up for the paper of your choice. A week before the paper is due, I will post support materials to help paper writers (this material constitutes your 'research' into the topic). The actual paper is due at the beginning of class on the Thursday following the assignment (meaning the next week- on Thursday).
- 3) Final Exam: (45%) The closed book final exam will be at the time posted by the University. I will provide a study guide that includes any question I might ask on the exam. The exam will draw from the study guide. Note that the questions are detailed, and you are expected to answer carefully and accurately. To give you a sense of what the final will be like, I have posted a past study guide on blackboard.

Managing the work load to do well and get the most from this course

You will learn a lot about international politics in this course—the material is relevant, topical, practical, and students who invest find this to be one of their favorite courses. That said, this is not a course you can dip in and out of, catching up at the end. The knowledge we build is cumulative. If you do the reading before class, the discussions will help you build upon this knowledge. If you stay on top of the material, the first half of the course will fit with the second half, allowing a much deeper understanding of the political questions we examine. The final requires you to pull together all of the pieces we have covered in the course. If you get behind, you will not get as much out of the class sessions and the final may feel overwhelming.

On panels (Also see the discussion regarding panel briefing books)

This course uses panels to bring different country perspectives in the room and to make sure that everyone actively participates in class conversations. You should sit with your panels on case study days, where we will have simulations and debates. You should always know your panel country's position on an issue we are discussing, and I will call on members of the panel to tell me if the country signed, ratified, or listed reservations on a treaty that appears on the syllabus. To prepare, and to improve your panel briefing book, I recommend a little internet research on your country's position before class. This cumulated work will go into your panel briefing book, which will be easy to compile if you are researching your panel's position as the term proceeds.

Late penalties, academic integrity and other administrative things

- Papers are due the Thursday following the assignment. The panel briefing book is due **November 26**. There will be a one third a grade per day penalty for late work (which begins immediately after the due time has passed). The penalty and rule that hard copies must be submitted is only waived in exceptional circumstances that could not have been seen in advance and that are conveyed before the due date.
- I do expect us to follow this schedule, but I always say that it is subject to change, with sufficient notice given in advance.

- University rules on academic integrity will be strictly enforced.
On shared work: You can make brief writing a collective/shared task, working with friends. You can discuss your panel positions with members of your panel. You can study for the final in groups, although I expect you to write every answer on your own.

On individual work: I expect that the take home paper will be written alone, and that it will draw on materials we have read and accurately discuss relevant details. For exams, expectations regarding the level of detail will be different, but the work should be entirely your own. The panel notebook must also be entirely your own work.

PART I: ATTRIBUTES OF THE INTERNATIONAL LEGAL SYSTEM

Week 1: The sources of international law

(Sept 24-26)

Where does international law come from? We begin with the legal answer to this question. Something to think about: Given that there is no international state, what do you think of this process of law-making? Do you worry that law is not being made by an elected body?

Tuesday: What is International Law?

How to Brief a Case (on Blackboard)

Slomanson *Fundamental Perspectives* 1.1 A, B, C

Note: Panel assignments will be emailed Wednesday morning. You might want to spend a little time this weekend researching your country and writing a brief for your briefing book.

Thursday:

Discussion question: Why rely on 'custom' as a source of law? What are the advantages and disadvantages of relying on custom? Does 'custom' as a source of law concern you?

Slomanson *Fundamental Perspectives* 1.2 sources of int'l law

[Slomanson on line- Chapter 1 1\)Pacquete Habana Decision; 2\) Flores. V. Peru Southern Copper](#)

Week 2: The politics of creating international law

(Oct 1-3)

We continue with the legal answer to where international law comes from, looking this week at the caveats states add to qualify their international legal obligations. We then consider the political question of how international conventions get made.

Note: (I will ask you to sign up for paper topics Thursday!)

Tuesday: Sources continued- intertwining of state and judge made law (Human Rights)

Slomanson on reservations: p. 568-571

[Genocide Convention](#) (esp. Articles I, V, VI)

[Reservations to Genocide Convention](#)

Developments in criminalizing torture (Part I- Customary law to hard law)

Slomanson: *Filartiga v Pena* (637-642) + *Excerpt of Filartiga (Carter et al, p. 242-249)

[Look at CONVENTION AGAINST TORTURE and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)

Figure out if your panel country signed this convention, what its obligations are under the convention, and if there are any reservations to the convention.

Then look at the US Torture Victim Protection Act (*Carter et al excerpt p. 249-252)

Briefing book assignment due in class: Look at the Genocide and Torture conventions (links below), and identify when your country signed, what your country's obligations are under the treaty, and if there are any reservations.

Thursday: States making international law (Environment)

Slomanson *Fundamental Perspectives* 11.2 (read through the end of the discussion on hard and soft law on p. 669)

*Montreal Protocol case preparation note. **Read this before reading the case!**

Pew Case Study: Goodman, Allan "The Negotiations Leading to the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer" *Pew Case Studies in International Affairs*, #447

Briefing book assignment due in class: Figure out your country's position on the Montreal Protocol—did it sign and support this treaty? Did it file any reservations? Why do you think it adopted the position it did?

Week 3: How international law binds a state (Oct 8-10)

This week we examine the proliferation of international courts, and investigate their varied jurisdiction. This focus evokes the legal questions of jurisdiction, standing and admissibility, because before judges will proceed to the merits of a case, adjudicators must first have jurisdiction and find the case admissible. We also start a discussion on how domestic judges approach international law.

Tuesday: Proliferation of international courts

Introduction to Hohfeldian terminology and the question of jurisdiction

*Alter *The New Terrain of International Law* Chapter 1 p. 3-19

The ICJ's jurisdiction: Slomanson 8.4C p. 402-410

The ICC's jurisdiction: Slomanson 8.5 D p.428-435

*Rome Statute Excerpts

The UNSC jurisdiction: [United Nations Charter Chapter 7](#) (For more on UNSC powers see: Slomanson 9.2 B)

*Alter *The New Terrain of International Law* Figures 3.1, 3.7-3.11.

Recommended reading- For a historical explanation of the proliferation of international courts, see: K. J. Alter. "The Evolving International Judiciary." *Annual Review of Law and Social Science* 7 (2011): 387-415. Available on blackboard.

Thursday- Extraterritorial jurisdiction from the perspective of domestic law

Slomanson *Fundamental* 5.2 (A-F only). Be sure to read Lotus, Alvarez Machaine and State v. Ebrahim cases

[Slomanson on line](#) - Blackmer (look under [chapter 5](#))

Bringing international and domestic legal mechanisms together

* Alter *New Terrain Case Study*: "Metalclad" ICSID investor dispute settlement systems to compensate for administrative "takings" (6.4)

*Alter *New Terrain Case Study*: Modern Day Slavery (7.3)

*Alter *New Terrain Case Study*: Indigenous Land Rights Case (8.5)

Week 4: How international law does not bind a state (Oct 15-17)

We continue with the relationship between international and domestic law, as it impacts the binding nature of international law. This week we look at international law developing in two directions—erosions of the norm of sovereign immunity and the recent United States Supreme Court retreat from international law.

Tuesday: Changing views on foreign sovereign immunity & universal jurisdiction

Slomanson *Fundamental Perspectives* 2.5 & 2.6. 2.7E [on state immunities]

[Slomanson on line](#)- Chapter 2 1) [Ex Parte Pinochet](#) and 2) [Arrest Warrant](#)

*Alter *New Terrain Case Study*: Charles Taylor Case study (7.4)

Thursday: Domestic effect of international legal rulings

*Alter *The New Terrain of International Law* On cultures of constitutional obedience p. 290-95

Differing respect for the ICJ's Avena ruling:

Slomanson on line: Avena Diplomatic Relations decision ([Chapter 2](#))

US reaction- *President Bush's order & Medillan v. Texas excerpt

German reaction- * Klaus Garditz summary of Germany's approach to the ICJ's Avena jurisprudence

Developments in criminalizing torture (Part II- The US Supreme Court and the Alien Tort Statute)

* Look back to week 1- excerpt of Filartiga (Carter et al, p. 242-249 & 249-252)

* [Slomanson on line](#)- Chapter 10 Alien tort cases (Sosa) and Shell Corporate Human Rights (Koibel)

US Upholds conviction of Chuckie Taylor (Charles Taylor Jr). Read the story [here](#).

If this topic hooks you, then you might be interested in the *Bond v. United States* case. The US Supreme Court asked to rehear this case, which usually portends a major ruling. The case will allow the US Supreme Court to limit Congress' power to implement international treaties and the domestic legal effect of ratified international treaties. The bizarre facts of *Bond* are recounted [here](#). The status of the rehearing is covered [here](#). An reading of the tea leaves of Robert's views on international law is covered [here](#).

Paper Topic 1: The Universal Jurisdiction Revolution- What does it mean?

There is no treaty that defines universal jurisdiction. What does the development of a universal jurisdiction doctrine tell us about how international law is made today?

Week 5: Encouraging Compliance with International Law

(Oct 22-24)

In most cases, the question of eliciting respect for international law is less about enforcement, and more about state capacity and will to comply. This week we focus on some hard cases involving building respect for international law.

Tuesday: The Challenge of Compliance- State Interest (Environment Case)

*Ivory Trade Case preparation note

Pew Case Study: Mingst, Karen “The Ivory Trade” *Pew Case Studies in International Affairs*, #154. See also part B in the coursepack.

*When CITES Works and Doesn’t Work

*Setting the Record Straight: The N v. S view of CITES is a Myth

*Do International Conventions Work? The CITES Debate Rages On

Briefing book assignment due in class: Write a brief that explains your country’s position regarding the Ivory Trade? This brief should explain why you country adopt its position.

Thursday: Pathways towards compliance and the question of democratic accountability

*Alter *The New Terrain of International Law: Courts Politics, Rights*: Chapter 1 p. 19-24

*Alter *New Terrain Case Study*: Bahrain v. Qatar territorial dispute (5.1)

*Alter *New Terrain Case Study*: Iran-US mass claims tribunal (5.3)

*Alter *The New Terrain of International Law: Courts Politics, Rights* Chapter 9

PART II. SUBSTANTIVE ISSUES IN INTERNATIONAL LAW (WITH A FOCUS ON THE US RELATIONSHIP TO INTERNATIONAL LAW)

Week 6: The Law of the Sea (Oct 29-31)

The Law of the Sea is the first truly global convention. It is the first major effort of developing countries to have international law address their concerns and interests. The convention is so successful that we tend to for granted its many achievements. This week we understand why the US has not joined this convention, and the contributions and limits of the UNLOS III convention.

Tuesday: The success and limits of the Law of the Sea treaty

Slomanson *Fundamental Perspectives* 6.3 (Law of Seas)

Slomanson on-line: [Camauco prompt release of vessels](#) , and Seabed Chambers [not hyperlinked [chapter 6](#)]

*Alter *New Terrain Case Study*: ITLOS “Japan v. Russia seizing of vessels” (5.2)

A stable fissure

*Australian-East Timor Maritime Boundaries: Finding an Equitable Solution + article about the settlement East Timor accepted. For an updated perspective, look [here](#). To see how this looks from the E. Timorian perspective, look [here](#).

Recommended: A more explosive fissure is China’s claims in the South Seas. For a discussion of this issue, look [here](#) and [here](#).

Thursday: The challenges in creating the Law of the Sea convention.

*Law of Seas Case preparation note + Appendix on instruments of LOS

Slomanson *Fundamental Perspectives* 12.4 (on New International Economic Order)

Pew Case study: “The United States and the Law of the Sea Treaty” Steven David and Peter



Digeser.

*“ Boleslaw Adam Boczek, *Ideology and the Law of the Sea: The Challenge of the New International Economic Order*, 7 B.C. Int'l & Comp. L. Rev. 1 (1984)

Briefing book assignment due in class: Figure out your country's position regarding the Law of the Seas. What does your country get from the convention? Does your country want the US to join the convention? Is your country willing to make any concessions to encourage US membership?

Paper Topic 2: The United States and the Law of the Seas

Using the case study of the Law of the Seas Treaty, assess the United States' ambivalence regarding international law and the implications of this ambivalence for the international system. There is a very strong security argument to make for ratifying the LOS, and widespread political support to join the LOS. Yet the US still can't manage to ratify this convention. What does the US' inability to ratify the Law of the Sea Convention tell us about the US and international law, and what does this ambivalence mean for the international legal system?

Weeks 7: Global Trade Regime

(Nov. 5-7)

Tuesday: The World Trade Organization

Slomanson *Fundamental Perspectives* 12.2 (A-C), 12.3

*Chapter 3: Settling Disputes (short description of the WTO dispute settlement system)

*Alter *New Terrain Case Study: Foreign Sales Corporation* (7.1), *Softwood Lumber* (6.3)

Thursday: Intellectual Property

Slomanson *Fundamental Perspectives* 12.2 (D)

*Helfer and Austin *Human Rights and Intellectual Property* (16-48)

*Cynthia Ho *Patent Breaking or Balancing*, Bird & Callhoy *The impact of compulsory licensing on FDI*, Vera Zolotaryova *Taking "TRIPS" to Brazil and Expanding Access to HIV/Aids Medications* excerpted in Helfer & Austin p.127-134

*Alter *New Terrain Case Study: Second Use Patent* (7.2)

Briefing book assignment due in class: Figure out your country's position regarding the WTO. Is your country a member? Who are its major trading partners, and is the WTO useful for dealing with these trade partners? What is your country's position on protecting international property rights? Has it ever used the WTO [dispute settlement system](#)?

Topic 3: International Law and Developing Countries

Considering the arguments made in support of the NIEO, and the reality of what happened with respect to the Montreal Protocol, the Law of the Seas and the WTO, do you think that international law can be a useful tool for developing countries?

Week 8: International Law on the Use of Force

(Nov 12-14)

This week we will look at how international law tries to regulate the use of force. Thursday we will have a debate about what international law allows with respect to Syria. One side will make the case that Syria violated international law and this violation warrants a response. The other will make the case against responding to Syria's violence against civilians. Panels will be collectively assigned a side in the debate..

Tuesday: The Substantive law on the Use of Force

Slomanson *Fundamental Perspectives* 9.1, 9.2 (A-E)

[Slomanson on line](#): British Iraq War legality & Armed Act Congo ([Chapter 9](#)- this is not a hyperlink) + ICJ decision in Military and Paramilitary Activities in and Against Nicaragua (in book), and

**Alter Case Study* “The ICJ, the US and the Mining of Nicaragua’s Harbors”

Thursday: Debate about what to do about Syria

[Slomanson on line](#) Chapter 9 UN Human Rights Council report on Syria (from 2011)

Excerpts from Chemical Weapons treaty, ICC statute on crimes against humanity.

Briefing book assignment due in class: Figure out your country’s position regarding the legality of the US retaliating against Syria for using chemical weapons against its people.

Paper Topic 4: How does International Law Regulate the Use of Force? A law in action analysis

How did international law shape international policy with respect to the civil war in Syria. Please consult the assignment on the web for more details about this topic.

Week 9 & 10: Human rights issues

(Nov 19-21)

Tuesday: Enforcing Human Rights- The Current International System

Slomanson *Fundamental Perspectives* Get a sense of the contours of the internat’l HR system by skimming 10.1, 10.2, 10.3. + 8.6.

[Slomanson on line](#): Chapter 10 [Velasquez Rodriguez Case](#)

[Slomanson on line](#): Chapter 10: Italian Crucifix case, Shell Corporate Human Rights

[Slomanson on line](#) Chapter 9 UN Human Rights Council report on Syria (from 2011) (review from week 7)

Thursday: *International Criminal Law- The Future of International Law*

“Establishing an International Criminal Court: The Emergence of a New Global Authority”

Pew Case Studies in International Affairs #258

Briefing book assignment due in class: Did your country support the creation of the ICC? Did it [ratify the Rome Statute](#)? Why did it ratify the Rome Statute? Has your country signed an [Article 98 agreement with the US](#)?

Week 10- International Criminal Court- Is it up to the task?

Nov 26.

Readings on the prosecution of Kenyan leaders

Check out the Council on Foreign Relations interactive [timeline of leaders facing international criminal prosecution](#).

* *Alter New Terrain Case Study*: Rape as a War Crime (8.6)

Look to blackboard for updates on the prosecution of Kenya’s current president, which will be a defining moment for the ICC.