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This course explores how the international legal system works from a legal and political perspective, shaping international relations today. At its core international law is an idea about how to use the tools of law and legal systems to facilitate peaceful and mutually beneficial relations in the world. The course introduces some aspects of the method and substance of international law, such as concepts like sovereign immunity, jus cogens, customary international law, 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, how international law regarding torture is and is not politically relevant.

Ours is a no-electronics classroom: Laptops, tablets and cell phones may be consulted for discussions about readings, but should otherwise be stowed. This paper syllabus provides a course overview, but please consult the weekly canvas page before doing the readings.

Assigned Readings:

The course uses Canvas extensively. Students should consult the weekly Canvas page for reading questions, guidelines, readings with *, updates and links to current events. In-class discussions will draw on the readings, and you are expected to have done the readings before class. Please bring cases to the class session where they will be discussed.

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/txtcsestite.html>. See Canvas for a note on saving money by buying the 5th edition.

2. Karen J. Alter *The New Terrain of International Law* (Princeton University Press, 2014)

3. **Case Studies** (purchased on line at http://casestudies.isd.georgetown.edu/#_ga=1.187333740.519308017.1458305449.) Please buy all four at once.

- Case 176 - The Negotiations Leading to The 1987 Montreal Protocol On Substances That Deplete The Ozone Layer (Goodman)
- Case 181 - The Ivory Trade (Mingst) -- Thank You For Calling This To Our Attention - We're Looking Into Whether The B Case Is Included In This Download
- Case 153 - The United States And The Law Of The Sea Treaty (Steven/Digeser)
- Case 314 - Establishing An International Criminal Court: The Emergence Of A New Global Authority? (Goodman)

4. **Online Readings**- Readings listed on the syllabus with a* are available on Canvas. They are most easily located by consulting the weekly Canvas page.

Course Assignments:

The three types of assignments have an intentional overlap.

- 1) **Attendance, Participation + Panel briefing book** (30%). This grade includes attendance, class participation and your preparations for cases discussion and simulations. The *Panel briefing book* is a concrete manifestation of your participation as the class proceeds. Students asked me to make each briefing book assignments due in real time. I will not grade these, but rather will wait until the end of the term when you assemble your briefing book. See Canvas page “Assignments in more detail” for a fuller description of the briefing book. **Briefing book due December 2.**
- 2) **Three Quizzes** (30%): In the past, the course had a cumulative final. I have substituted three quizzes interspersed in the term. Each week’s Canvas page lists the material that might appear on the quiz. The quiz study guide assembles the material located on the weekly course pages. The on-line quiz draws from these questions, which include I.D.s and short answers. The quiz is administered closed book, in section. You have 25 minutes to complete each quiz, thus you must study in advance. **Quiz dates: October 5, October 19, November 9.**
- 3) **Take-Home Final Exam** (40%) I will ask you to write on 3 assigned essay questions. Questions require you to draw on material covered during the entire course, comparing across weeks. **Submitted on Canvas and due at the time of the WCAS scheduled class final**

Managing the work load to get the most and do well in the course

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. Do your briefing book assignments in real time, and you will be ready to submit the whole when the time comes. The quizzes test your knowledge along the way. If you master the quiz concepts as we go, you will develop the deeper platform you need to understand the interaction between law and politics as the course proceeds. This deeper understanding will help you do well on the final exam.

The formula for success is easy and straight forward:

- 1) Look at weekly Canvas page as a guide to the reading and course material. Read the assigned reading and do the briefing book assignment in advance of the class session. Bring questions to class & section.
- 2) Download the ppt outline before class. Take handwritten notes on the printout. Handwritten notes enhance learning (see [this article](#))
- 3) Write out answers to each of the ‘quiz study guide’ questions during the week in which

the material is covered. If in doubt, ask questions

4) If you are not understanding something, come to office hours. Professor Alter is also a resource for you.

Late penalties, academic integrity and other administrative things

- I do expect us to follow this schedule, but I always say that it is subject to change, with sufficient notice given in advance.
- Quizzes are in section. They will only be deferred in exceptional circumstances. You may attend a different section session to take a quiz, but law school info sessions and job interviews are not exceptional, nor are meetings you ‘need’ to attend. A late penalty of one third of a grade per day will apply, beginning immediately after the due time has passed.
- University rules on [academic integrity](#) will be strictly enforced. You are welcome to work in groups, but I expect all quizzes, the briefing book, and the final to reflect your own efforts.

PART I: ATTRIBUTES OF THE INTERNATIONAL LEGAL SYSTEM

Weeks 1& 2: The sources of international law

(Sept 21-28)

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?

Wednesday: What is International Law?

Assigned readings:

1. Slomanson *Fundamental Perspectives* 1.1 A, B, C (skim) and contrast to Alter *New Terrain of International Law* (p. 1-10).
2. W.H. Auden Poem “What is Law” (link on Canvas)

Assigned video:

International Law and International Relations

Note: Sign-up for panels on Canvas. Spend time this weekend researching your country and writing a brief for your briefing book.

Monday: The sources of international law

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?

Assigned readings:

1. Slomanson *Fundamental Perspectives* 1.2 sources of int’l law.
2. [Slomanson on line- Chapter 1 1\) Paquete Habana Decision; 2\) Flores. V. Peru Southern Copper](#)
3. Also read Slomanson's discussion of Treaties p. 351-377.

Briefing book 1: Country Background (Sept 26): Submit your briefing page about your country that discusses its population, politics, and economic interests. The [CIA Factbook](#) is a good place to start. Eventually, this briefing book will include country positions regarding signing the Genocide Convention, the Torture Convention, signing Montreal Protocol, whether or not regulated trade in Ivory should be allowed, what to do about US opposition to the Law of the Sea, the WTO, and intervention in Syria. To this end, you might want to know if and when your country became a

democracy, what major industries and exports it might want to protect, and your country's major economic and political allies.

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

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

Assigned readings:

1. Slomanson *Fundamental Perspectives* 11.2 (read through the end of the discussion on hard and soft law on p. 669)
2. Slomanson on the Genocide Convention: p. 568-572;

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

3. Excerpt of *Filartiga* (Carter et al, p. 242-249)
4. Slomanson on Alien Tort Statute, Torture Victims Protection Act and Genocide Accountability Act 637-642

For Section:

1. [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.

2. [Genocide Convention](#) (esp. Articles I, V, VI)
3. [Reservations to Genocide Convention](#)

Briefing book 2: Torture & Genocide Conventions (Sept 28 5pm): Prepare a brief for a politician (no more than 1 page) on your country's position regarding the Genocide and Torture conventions. Identify when your country signed, what your country's obligations are under the treaty, and if there are any reservations, and any recent statements and positions concerning the convention. *Try to find this information before section. You will be able to update your brief.*

Section: Discuss any unclear concepts & short answer questions. Then, go around and discuss your country positions on the Torture & Genocide conventions.

Week 3: The politics of creating international law + beginning of jurisdiction (Oct 3 -Oct 5)

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.

Monday: States making international law (Environment)

Assigned readings:

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

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*, #176

Briefing book 3: Your Panel Country & Montreal Protocol (Oct 3): Figure out your country's position on the Montreal Protocol—did it sign and support this treaty? Did it file any reservations? Has it complied with the treaty? Why do you think it has adopted the position it did?

Write a 1 page brief that answer the following: What are your country's interests with respect to CFC and the Ozone hole. Was your country right to sign (or not sign) the Montreal Protocol? Should your country now change its mind and sign or unsign the Montreal Protocol? Does your

country comply with the Montreal Protocol? Should your country sign but violate the Montreal Protocol?

Wednesday- Introduction to the issue of Jurisdiction

Lotus is a domestic case involving jurisdiction. This is how it worked before there were international courts. The political world has changed because of: 1) the creation of international courts and 2) the growing willingness of domestic courts to assert extraterritorial jurisdiction.

Assigned readings:

1. Slomanson Chapter 5 on Jurisdiction p 239-244.
2. Introduction to domestic perspective: read Lotus case p. 246-249
3. *The ICJ's jurisdiction*: Slomanson 8.4C p. 402-410 (be ready to discuss Norwegian Loans case p.407-409)
4. In *The New Terrain*: Two cases that examine international law as operated before and after the intervention of international courts: Bahrain-Qatar case study (p. 172-178).

Optional: If you want to see where this idea of creating and using international courts emerged, read in *The New Terrain of International Law* p. 114-126. Starting on p. 127, the story starts to get more complicated. Feel free to read about the complications if you wish.

The first quiz will be held in section Wednesday October 5.

This is an early quiz so that we can trouble-shoot if you do not understand something.

Week 4: Jurisdiction continued + how international law binds states (October 10-12)

We continue with the relationship between international and domestic law, as it impacts the binding nature of international law. This week we consider domestic enforcement of international law. We then put the system in motion to understand how international law is developing in three simultaneous yet contradictory directions—erosions of the norm of sovereign immunity, international court enforcement, and the recent United States Supreme Court retreat from international law.

Monday: Extraterritoriality and Jurisdiction

Slomanson Domestic principles of International Law 5.2 (A-F only) p. 244-256.

Slomanson Extradition p. 260-268.

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

Alter *The New Terrain of International Law* 3-10,68-77, 81-7, 91-10.

Putnam on extraterritoriality from *Courts without Borders: Law, Politics and US Extraterritoriality* (CUP, 2016) p 1-15.

Wednesday: The system in motion—Growing extraterritoriality

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](#). Please also read the “Arrest Warrant” excerpt in Chapter 5, that links this issue more firmly to the question of the practice universal jurisdiction.

Alter *The New Terrain of International Law*. Changes in the post-Cold War era (p. 143-148)
Charles Taylor case (p. 267-273) & rape as a war crime (p 319-323).

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

Briefing Book 4: Your Country & International Courts (Oct 12) Does your country fall under the compulsory jurisdiction of any international courts? Alter *The New Terrain of International Law* p. 91-102 provides a guide. Find the institutions, and research what types of violations can be pursued (try googling your country and the institution). *Assignment 7 will focus on the ICC, so you can skip the ICC.*

Week 5: Beyond enforcement: Compliance with International Law

(Oct 17-19)

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. We also start to examine the ‘holes’ in the international legal system- how states escape legal accountability.

Monday: Law motion- Diminishing international accountability

1. Video [International Law Making a Difference](#)
2. Alter *The New Terrain of International Law* Chapter 8 On cultures of constitutional obedience p. 290-95
3. Slomanson 8.7: National Court Adjudication (restrictions) p. 446-450
Differing respect for the ICJ's Avena ruling:
4. Slomanson on line: Avena Diplomatic Relations decision ([Chapter 2](#))
5. US reaction- *President Bush's order & Medillan v. Texas excerpt
5. German reaction- * Klaus Garditz summary of Germany's approach to the ICJ's Avena jurisprudence

Wednesday: Beyond enforcement: Thinking about the Challenges of Eliciting Compliance (Environment Case)

- *Ivory Trade Case preparation note
- Pew Case Study:* Mingst, Karen “The Ivory Trade” Pew Case Studies in International Affairs, #181. 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 5: Your Country & CITES (Oct 19): Write a brief that explains your country's position regarding the Ivory Trade? This brief should explain why your country adopted its position, and whether or not your country generally complies with the CITES convention.

Second quiz will be October 19.

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 24-26)

The Law of the Sea is the first truly global convention. It is also 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.



Monday: 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 6: Your Country and the LOS (Oct 26): Figure out your country’s position regarding the Law of the Seas. What is at stake for your country? What matters most for you regarding this convention? If your country has a particular leverage for negotiations, identify it. 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?

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

Slomanson *Fundamental Perspectives* 6.3 (Law of Seas)

Slomanson on-line: Seabed Authority [not hyperlinked [chapter 6](#)]

Alter New Terrain Case Study: ITLOS “Japan v. Russia seizing of vessels” (178-182)

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](#). Note—I may update these links depending on developments.

South China Seas Case

Graham Allison “Of Course China, Like All Great Powers, Will Ignore an International Legal Verdict” *The Diplomat* July 11, 2016. Available [here](#).

Richard Javed Heydarian “Can China Really Ignore International Law?” *The National Interest* August 1, 2016. Available [here](#).

Week 7: International Law on the Use of Force

(Oct 31-Nov 2)

This week we will look at how international law tries to regulate the use of force. Monday we look at law on the books, investigating when using force is legal. Wednesday we study the decision to create the ICC. Was it a good idea?

Monday: 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

Wednesday: 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

Slomanson 8.5D

Alter New Terrain of International Law – Brief overview of prosecuting mass atrocities (p. 119-126, 144-146) + Charles Taylor Case Study p. 267-273

This [NGO page](#) explains the state of the "crime of aggression" which may eventually fall under the ICC's jurisdiction:

This [weblink](#) is an NGO explanation of the crime of aggression.

Briefing book 7: Your Country and the ICC (Nov. 2): State your country's position regarding the ICC. Did your country support the creation of the ICC? Can you find any newspaper articles that explain why your country supported the creation of the ICC? Did your country [ratify the Rome Statute](#)? Why did it ratify the Rome Statute? Has your country signed an [Article 98 agreement with the US](#)? What is your country's position regarding the ICC's jurisdiction for the crime of aggression? Follow the links to find the answers. Are there any "situations" being investigated with respect to your country, or situations that NGOs think should be investigated?

Weeks 8: The Global Trade Regime

(Nov. 7-9)

Monday: 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: review Foreign Sales Corporation (p. 253-257), and read Softwood Lumber (p. 222-228)

Wednesday: 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

WTO Case study: [Patents, Parallel Importation and Compulsory Licensing of HIV/AIDS Drugs: The Experience of Kenya](#)

Briefing book 8: Your Country and the WTO (Nov 9): 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?

Third quiz November 9

Week 9: Human Rights Issues

November 14-16

Monday: Enforcing Human Rights- The Current International System

Slomanson *Fundamental Perspectives* Get a sense of the contours of the international HR system by skimming 10.1, 10.2. Read. 10.3 & 10.4. You might find the historical material (A-C) worth skimming.

Alter *New Terrain Case Study* Modern Day Slavery (p. 260-267) and Indigenous land rights p. 315-319

Slomanson on line: Georgia v. Russia CERD judgment (under chapter 10)

Briefing book 9: Your Country and Human Rights Treaties (Nov. 16) Figure out your country's position (e.g. ratification + optional protocols) regarding the following human rights treaties (including Treaty Bodies/Optional Protocols): 1) [The International Convention on International Covenant on Civil and Political Rights](#); 2) [Convention on the Elimination of All Forms of Discrimination against Women](#).

Wednesday: A focus on Torture: Does international human rights law make a difference?

Today we look at how the human rights systems deal with legal violations. Although the European Court of Human Rights has sanctioned Italy for its complicity in the CIA's torture program, the US policy has not itself been reviewed by a US or an international court. We want to use this complicated story to assess whether and how international law matters, and how international law gets undermined.

Ohlin, Jens David. 2015. *The Assault on International Law*. Oxford: Oxford University Press.
Introduction

Look at the torture memos themselves (on blackboard)

Watch Jon Stewart debating Cliff May, from the Foundation for Defense of Democracies

Review the US report to the Committee on Torture

Read the Senate report on the use of torture

November 21-23: Current Debates about International Law

Debating National Autonomy versus International Law

Watch [International Law and International Relations: The Gap Between Hopes and Realities](#)

The New Terrain of International Law Chapter 9 p.335-344,351-365

Was it smart to drop the case against Kenyatta?

["The Trials and Tribulations of Prosecuting Heads of State: Kenyatta and the ICC" posted on The Monkey Cage, December 19, 2014](#)

Lets decide together if there is a current affairs issue we want to investigate for Wednesday.