



POLI SCI 356- Principles of International Law (Fall 2022)

Credits

3-Credit Course

Course Designations and Attributes

Breadth - Social Science

Level - Intermediate

L&S Credit - Counts as Liberal Arts and Science credit in L&S

Grad 50% - Counts toward 50% graduate coursework requirement

Listed Course Description

A survey course that focuses on interactions among the primary entities in the international system; namely, states, inter-governmental and non-governmental organizations, and other international actors governed by international law. The study of international relations and international law is absolutely critical to understanding contemporary politics, both domestic and foreign. This course addresses both structural and substantive issues related to international law. In other words, it should provide basic tools for understanding the way in which international law works, as well as introduce substantive issues of interest to students of world politics. The course will place special emphasis on the role of international organizations in the international legal system, and special attention will be paid to the European Union as an international actor within this system of law. Enroll Info: Not open to students with credit for POLI SCI 316 prior to fall 2017.

Requisites

Sophomore standing

Meeting Time and Location

M/W 9:55am

Ingraham 22

Instructional Modality

In-person

How Credit Hours are Met by the Course

This class meets for three, 50-minute class periods each week over the fall/spring semester and carries the expectation that students will work on course learning activities (reading, writing, problem sets, studying, etc.) for about 2 hours out of the classroom for every class period. The syllabus includes additional information about meeting times and expectations for student work.

Regular and Substantive Student-Instructor Interaction

This course meets the regular and substantive student-instructor interaction requirement through direct instruction (lectures), providing feedback on student work (assignments), providing information about course content (lectures), and facilitating discussion of course content (discussion sections) in predictable and scheduled interactions.

Instructor

Andrew McWard (he/him)
Office hours: North Hall 411: M/W 11am-12pm
amcward@wisc.edu

Teaching Assistants

Sofia Nikolic (she/her)
Office Hours: Education Lobby: R: 8-10am
snikolic@wisc.edu

Nichole Springer (she/her)
Education Lobby: M: 12-1pm; T: 9:45-10:45am
nmspringer@wisc.edu

Course Description

This course provides an introduction to public international law and the corresponding institutions of global governance. Despite its title, this is not a “law” class in the traditional sense. While you will learn much about specific laws and states’ compliance with them, we will emphasize the *political* dynamics that underpin all international law. To that end, the course’s central question asks, “what stands to be gained from international law?” Following this, the course will examine which actors gain the most from these institutional arrangements and which actors are excluded from those benefits. In addressing this question, the course will cover both the law itself *and* the institutional regimes designed to enforce it. This latter portion requires a special emphasis on international organizations.

The course is separated into five “modules.” First, we will examine the foundational principles upon which international law rests. The second module outlines the law and institutions related to international security, where some of the oldest principles emerged. The third module investigates how international law can prosecute and protect individuals, with an emphasis on human rights issues. Fourth, we will examine how the law does and does not protect the global commons. The final module addresses international economic law, with a special emphasis on international organizations.

Course Learning Outcomes

By the end of the course, students will be expected to:

- Explain why international law exists in its various forms;
- Provide a clear explanation of the different sources of international law, the various means of resolving international legal disputes, and how US courts approach questions of international law;
- Explain why different types of international problems are best addressed by different types of legal structures, and how this accounts for variation in the shape of international law across issue areas;
- Demonstrate comfort engaging with a variety of different primary sources (e.g. judicial cases, treaties);
- Demonstrate the ability to identify the key facts in a case, identify relevant provisions of international law, and apply these legal principles to the facts to build a legal argument; and
- Make an argument about whether international law is successful at achieving its goals.

Assignments and Grading

Participation: Alongside lectures, there will be weekly discussion sections led by the TA. Engaged participation in these sections is crucial for critically engaging with the course content and understanding key legal briefs and historical cases. Your participation grade is determined by both the quality and quantity of your engagement. I will also work to make lecture as “active” as possible. Participation in lecture is not necessary but it is encouraged; participating in this way can help (but never hurt) your overall participation score.

Legal defenses: There will be three formal written assignments during the semester. For each you will be given a scenario and asked to construct a legal defense or recommendation based on the course content. The scenarios will be fictional and open to interpretation, meaning, there are not right or wrong answers, only *well-reasoned* answers. Assignments will be graded on the application and interpretation of course content and their connection to the argument, alongside writing quality. Three pages each.

Midterm Legal Brief: There will be one midterm exam covering the first two course modules (foundations and international security). This will not be a traditional midterm. You will be given a prominent legal case in international law and given one week to “brief” the case. On the day of the exam, you will receive a set of questions to answer related to the case and its application to the material covered in the course so far. The “exam” will be open note.

Final: There will be one cumulative final exam during the assigned final exam period (2 hours). The exam will be open note. The exam period is currently scheduled for 12/17/2022, Saturday from 7:45am-9:45am. Mark your calendars now. Location TBD.

Your class performance will be based on the following:

- Section participation- 20% (to include in-lecture environmental agreement deliberations)
- Legal defenses- 30% (10% each)
- Midterm- 20%
- Final- 30%

The grade scale is set at: 93+ = A; 87-92 = AB; 83-86= B; 77-83 = BC; etc.

Final grades will not be curved.

Course Website

Please refer frequently to the course Canvas page for announcements, assignment information and relevant readings. In addition, this is where detailed assignment information (i.e. specific instructions and prompts) can be found.

Discussion Sessions

Sofia Nikolic

303 Tuesday 2:25pm-3:15pm

304 Tuesday 1:20pm-2:10pm

307 Thursday 12:05pm- 12:55pm

Nichole Springer

302 Monday 11:00am-11:55am

305 Wednesday 11:00am-11:55am

306 Thursday 9:55am-10:45am

Required Textbook and Readings

Campus provides students with [technology guidelines and recommendations](#) for instruction. Students should consult these resources prior to the start of the semester.

The course schedule (see below) specifies required and recommended readings for each lecture. Required readings are mandatory and subject to course grading. They should be completed prior to the corresponding lecture. Recommended readings are not mandatory but are listed for students who are interested in learning more about certain topics. All non-textbook readings will be posted as PDFs on the course Canvas site under the “Readings” file folder and under the appropriate home page module.

There is one required textbook for the course.

- Mark Gibney, *International Law: Our Common Future*, 1st edition (ISBN: 9781138104464)

- The provided ISBN links to the paperback version of the textbook, which is available at the University Bookstore. There is also an eBook version (ISBN 9781315102238), which can be more cheaply rented for six months. Either option is fine for the course.

Privacy of Student Records & the Use of Audio Recorded Lectures Statement

Lecture materials and recordings for this course are protected intellectual property at UW-Madison. Students in this course may use the materials and recordings for their personal use related to participation in this class. Students may also take notes solely for their personal use. If a lecture is not already recorded, you are not authorized to record my lectures without my permission unless you are considered by the university to be a qualified student with a disability requiring accommodation. [Regent Policy Document 4-1] Students may not copy or have lecture materials and recordings outside of class, including posting on internet sites or selling to commercial entities. Students are also prohibited from providing or selling their personal notes to anyone else or being paid for taking notes by any person or commercial firm without the instructor's express written permission. Unauthorized use of these copyrighted lecture materials and recordings constitutes copyright infringement and may be addressed under the university's policies, UWS Chapters 14 and 17, governing student academic and non-academic misconduct.

How to Succeed in This Course

- [University Health Services](#)
- [Undergraduate Academic Advising and Career Services](#)
- [Office of the Registrar](#)
- [Office of Student Financial Aid](#)
- [Dean of Students Office](#)

Course Evaluations

UW-Madison uses a digital course evaluation survey tool called [AEFIS](#). For this course, you will receive an official email two weeks prior to the end of the semester, notifying you that your course evaluation is available. In the email you will receive a link to log into the course evaluation with your NetID. Evaluations are anonymous. Your participation is an integral component of this course, and your feedback is important to me. I strongly encourage you to participate in the course evaluation.

Students' Rules, [Rights & Responsibilities](#)

Diversity & Inclusion Statement

[Diversity](#) is a source of strength, creativity, and innovation for UW-Madison. We value the contributions of each person and respect the profound ways their identity, culture, background, experience, status, abilities, and opinion enrich the university community. We commit ourselves to the pursuit of excellence in teaching, research, outreach, and diversity as inextricably linked goals. The University of Wisconsin-Madison fulfills its public mission by creating a welcoming and inclusive community for people from every background – people who as students, faculty, and staff serve Wisconsin and the world.

Academic Integrity Statement

By virtue of enrollment, each student agrees to uphold the high academic standards of the University of Wisconsin-Madison; academic misconduct is behavior that negatively impacts the integrity of the institution. Cheating, fabrication, plagiarism, unauthorized collaboration, and helping others commit these previously listed acts are examples of misconduct which may result in disciplinary action. Examples of disciplinary action include, but are not limited to, failure on the assignment/course, written reprimand, disciplinary probation, suspension, or expulsion.

Accommodations for Students with Disabilities Statement

The University of Wisconsin-Madison supports the right of all enrolled students to a full and equal educational opportunity. The Americans with Disabilities Act (ADA), Wisconsin State Statute (36.12), and UW-Madison policy ([UW-855](#)) require the university to provide reasonable accommodations to students with disabilities to access and participate in its academic programs and educational services. Faculty and students share responsibility in the accommodation process. Students are expected to inform faculty [me] of their need for instructional accommodations during the beginning of the semester, or as soon as possible after being approved for accommodations. Faculty [I], will work either directly with the student [you] or in coordination with the McBurney Center to provide reasonable instructional and course-related accommodations. Disability information, including instructional accommodations as part of a student's educational record, is confidential and protected under FERPA. (See: [McBurney Disability Resource Center](#))

The Political Science department is located in North Hall, the oldest building on campus. Due to its age, this building is not accessible to individuals with mobility disabilities and does not have an elevator or accessible restroom. The department is committed to equal opportunity for all students to attend office hours, advising, and other department-related events. Please contact me if North Hall presents a disability-related barrier to you, and the department will gladly work to ensure access. If you require a disability-related accommodation for the academic requirements of this course unrelated to North Hall, please review the “Accommodations for Students with Disabilities information.

Laptops and other digital devices are allowed in class, provided they are used for course content.

Academic Calendar & Religious Observances

See the above link for more information on these dates.

COVID-19 Contingencies

The University no longer provides recommended language related to the COVID-19 pandemic (possibly because such recommendations are likely to change). Please visit <https://covidresponse.wisc.edu/> for the most recent and accurate University information.

Health and well-being

If you are struggling (with anything!) do not hesitate to reach out and let me know. That includes both course-related struggles *and* anything that happens in your life that affects your ability to succeed in the course. I am here to help however I can.

- As a student at this institution, you have access to free mental health counseling through University Health Services (UHS). Crisis services are available 24/7 at 608-265-5600 (option 9). If you feel comfortable speaking with me (or having your health care provider do so), I am happy to discuss ways to succeed in this course.
- You should know that I am a mandatory reporter under Title IX, the federal law prohibiting sex discrimination in U.S. schools. This means that if you disclose to me that you have experienced sexual harassment or assault, I am legally required to tell the Dean of Students office. UHS is a confidential reporting space should you ever need it; you can reach them atsurvivor.services@uhs.wisc.edu or via phone at 608-265-5600 (option 3).
- Your safety and well-being are more important than anything going on in this class. Any student facing challenges securing food or housing or personal safety is urged to contact the Dean of Students Office (<https://doso.students.wisc.edu/contact-us/>).

Course Outline

Lecture 1, September 7: Syllabus and course introduction

- No assigned readings

Module 1- Foundations of International Law

Lecture 2, September 12: Subjects of international law

- Gibney- Introduction
- Bradley, Anna Spain. 2019. "International Law's Racism Problem" *Opinio Juris*, available at <http://opiniojuris.org/2019/09/04/international-laws-racism-problem/>

Lecture 3, September 14: Sources of international law

- Chimni, B.S. 2018. "Customary International Law: A Third World Perspective." *American Journal of International Law* (pages 1-7; 20-27)

Recommended

- Spirling, Arthur. 2012. "US treaty making with American Indians: Institutional change and relative power, 1784–1911." *American Journal of Political Science* 56.1: 84-97.

Lecture 4, September 19: Dispute settlement and enforcement

- Von Stein, Jana. 2017. "Compliance with International Law." *Oxford Research Encyclopedia of International Studies*. **Only read through page 20.**
- Eilstrup-Sangiovanni, Mette and J.C. Sharman. 2021. "Enforcers beyond Borders: Transnational NGOs and the Enforcement of International Law." *Perspectives on Politics* 19 (1): 131-147.

Recommended

- Greenpeace New Zealand, "Rainbow Warrior" available at <https://www.greenpeace.org/new-zealand/about/our-history/bombing-of-the-rainbow-warrior/the-bombing-of-the-rainbow-warrior-fact-file/>.
- International Court of Justice- Basis of the Court's Decision, available at <https://www.icj-cij.org/en/basis-of-jurisdiction>
- International Court of Justice- Declarations recognizing the jurisdiction of the court as compulsory (Read through the reservations of at least five states, & note the types of disputes each state reserves), available at <https://www.icj-cij.org/en/declarations>

Lecture 5, September 21: International law and municipal law

- Liptak, Adam. 2019. "Conservatives, Often Wary of International Law, Embrace It in Census Case." *New York Times*
- Christophi, Helen. 2017. "Bid to Force US Out of Nuclear Arms Race Dies at 9th Circuit", *Courthouse News*, available at <https://www.courthousenews.com/bid-force-us-nuclear-arms-race-dies-9th-circuit/>

- Supreme Court of the United States, “Syllabus: *Medellin v. Texas* (March 25 2008)”, Legal Information Institute at Cornell Law School (2019), available at <https://www.law.cornell.edu/supct/html/06-984.ZS.html>.

Recommended

- Rakoff, Jed A. 2015. “A Fear of Foreign Law.” *The New York Review of Books*

Module 2- International Security

Lecture 6, September 26: *Jus ad bellum* (the use of force)

- Gibney, chapter 4
- Reed (formerly Rapp), Kyle. 2022. “Justifying Force: International Law, Foreign Policy Decision-Making, and the Use of Force.” *European Journal of International Relations*.

Lecture 7, September 28: Collective security

- Hathaway, Oona A. and Scott J. Shapiro. 2019. “International law and its transformation through the outlawry of war.” *International Affairs*. Volume 95, Issue 1. Pages 45–62.

Lecture 8, October 3: Intrastate conflict and nonstate actors

- Chachko, Elena and Ashley Deeks. 2016. “Which States Support the ‘Unwilling and Unable’ Test?” *Lawfare*, available at <https://www.lawfareblog.com/which-states-support-unwilling-and-unable-test>

Recommended:

- Cronin, Audrey Kurth. 2020. “The Age of Open Assassination.” *Lawfare*, available at <https://www.lawfareblog.com/age-open-assassination>

Lecture 9, October 5: Humanitarian intervention

- Powell, Catherine. 2012. “Libya: A Multilateral Constitutional Moment?” *American Journal of International Law* 106 (2): 298-316.
- Kuperman, Alan J. 2013. “A Model Humanitarian Intervention? Reassessing NATO’s Libya Campaign.” *International Security* 38 (1): 105-136.

Lecture 10, October 10: *Jus in bello* (International humanitarian law)

- Gibney- chapter 5
- McKinney, Katherine E. et al. 2020. “Why the Atomic Bombing of Hiroshima Would be Illegal Today.” *Bulletin of the Atomic Scientists* 76 (4): 157-165.

Recommended:

- Filkins, Dexter. 2021. “Did Making the Rules of War Better Make the World Worse?” *The New Yorker*

- Maresca, Louis G. 2016. “Nuclear weapons: 20 years since the ICJ advisory opinion and still difficult to reconcile with international humanitarian law”, available at <https://blogs.icrc.org/law-and-policy/2016/07/08/nuclear-weapons-20-years-icj-opinion/>

First legal defense due by October 12 (Wednesday) at 11:59pm

Lecture 11, October 12: Torture, detaining enemy combatants, and extraordinary rendition

- Gibney- chapters 2 & 3, pages 75-91; 113-123.

Lecture 12, October 17: Arms control

- No readings, prepare for midterm

October 19- Midterm exam (in class)

Module 3- International Law and Individuals

Lecture 13, October 24: Jurisdiction and international criminal law

- Gibney, chapters 7, pages 242-246; chapter 6, pages 207-210 (Israel v. Eichmann case).
- Evans, Hayley. “A Survey of Recent Developments and Trends in Universal Jurisdiction.” *Lawfare*, available at <https://www.lawfareblog.com/survey-recent-developments-and-trends-universal-jurisdiction>
- Johns, Leslie, Maximo Langer and Margaret E. Peters. 2022. “Germany convicted a Syrian man of war crimes in Syria. Can National Courts Prosecute injustices everywhere?” *Washington Post*
- US-UK Extradition Treaty, articles 1-7

Recommended:

- Gibney, chapter 10

Lecture 14, October 26: the International Criminal Court

- Prorok, Alyssa K. 2017. “The (In)compatibility of Peace and Justice? The International Criminal Court and Civil Conflict Termination.” *International Organization* 71 (2): 213-243.
- Bates, Genevieve. 2021. “Threats and Commitments: International Tribunals and Domestic Trials in Peace Negotiations.” *Working Paper*

Recommended:

- Hathaway, Oona. 2022. “A Crime in Search of a Court: How to Hold Russia Accountable.” *Foreign Affairs*.
- Gessen, Masha. 2022. “The Prosecution of Russian War Crimes in Ukraine.” *The New Yorker*.

Lecture 15, October 31: International human rights law

- Gibney, chapter 11, only read the last three cases (pages 360, 363 & 366)
- Comstock, Audrey L. 2022. "Negotiated rights: UN treaty negotiation, socialization, and human rights." *Journal of Human Rights*: 1-22.

Recommended:

- Búzás, Zoltán I. 2018. "Is the Good News About Law Compliance Good News About Norm Compliance? The Case of Racial Equality." *International Organization* 72.2: 351-385.

Lecture 16, November 2: State responsibility, vulnerable populations, and genocide

- Gibney, chapter 9, focus on the two cases Sergio Euben Lopez Burgos v. Uruguay (page 284) and Rantsev v. Cyprus and Russia (page 298).
- Beall, Catherine M. 2022. "The Global South and global human rights: international responsibility for the right to development." *Third World Quarterly*: 1-20.
- *Convention on the Prevention and Punishment of the Crime of Genocide*. 1948

Lecture 17, November 7: Asylum and refugee law

- Gibney, chapter 12, only read up until page 386.
- Baghdassarian, Anoush and Todd Carney. 2021. "Special Immigrant Visas for the United States' Afghan Allies: Lessons Learned from Promises Kept and Broken." *Lawfare*, available at <https://www.lawfareblog.com/special-immigrant-visas-united-states-afghan-allies-lessons-learned-promises-kept-and-broken>
- Chachko, Elena and Katerina Linos. 2022. "Sharing Responsibility for Ukrainian Refugees: An Unprecedented Response." *Lawfare*, available at <https://www.lawfareblog.com/sharing-responsibility-ukrainian-refugees-unprecedented-response>

Module 4- Problems of the Global Commons

Lecture 18, November 9: Territory and the law of the sea

- Altman, Dan. 2020. "The Evolution of Territorial Conquest After 1945 and the Limits of the Territory Integrity Norm." *International Organization* 74 (3): 490-522.
- Fazal, Tanisha M. 2022. "The Return of Conquest: Why the Future of Global Order Hinges on Ukraine." *Foreign Affairs*.

Recommended:

- Odom, Jonathan G. "Protecting the Rules-Based Order at the International Tribunal for the Law of the Sea." *Lawfare*, available at <https://www.lawfareblog.com/protecting-rules-based-order-international-tribunal-law-sea>

Second legal defense due by November 12 (Saturday) at 11:59pm

Lecture 19, November 14: Environmental law: Part 1

- Plumer, Brad. 2015. “Past Climate Treaties Failed. So the Paris Deal Will Try Something Radically Different.” *Vox*, available at <https://www.vox.com/2015/12/14/10105422/paris-climate-deal-history>
- Kemp, Luke. 2016. “US-Proofing the Paris Climate Agreement.” *Climate Policy* 17 (1): 86-101.

Recommended

- Bodansky, Daniel. 2016. “The Paris Climate Agreement: A New Hope?” *American Journal of International Law* 110 (2): 288-319.

Lecture 20, November 16: Environmental law: Part 2

- Prepare delegation strategy for November 29

Lecture 21, November 21: Air space and outer space

- Ortega, Almudena Azcárate. “Placement of Weapons in Outer Space: The Dichotomy Between Word and Deed. *Lawfare*, available at <https://www.lawfareblog.com/placement-weapons-outer-space-dichotomy-between-word-and-deed>
- *Outer Space Treaty*. 1967.

Recommended

- Pace, Scott. 2016. “Regulating Outer Space: Making Space Commerce a Priority.” *Foreign Affairs*

November 23- No class, day before Thanksgiving break

Lecture 22, November 28: International Environmental Negotiations

- No assigned readings, prepare delegation strategy

Recommended (where don't we see international law?):

- Roth, Kenneth. 2013. “What Rules Should Govern US Drone Attacks?” *The New York Review of Books*
- Posner, Eric A. 2020. “The Limits of the World Health Organization.” *Lawfare*, available at <https://www.lawfareblog.com/limits-world-health-organization>
- Fischerkeller, Michael P. “Current International Law Is Not an Adequate Regime for Cyberspace.” *Lawfare*, available at <https://www.lawfareblog.com/current-international-law-not-adequate-regime-cyberspace>

Module 5- International Economics

Lecture 23, November 30- Corporations and investor-state dispute settlement

- Gibney, chapter 8

Recommended:

- Simmons, Beth. 2014. "Bargaining Over BITs, Arbitrating Awards: The Regime for Protection and Promotion of International Investment." *World Politics* 66 (1): 12-46.

Lecture 24, December 5- International trade law and the WTO

- Teslik, Adam. 2021. "Is the WTO the Worst of Both Worlds for U.S.-China Tech Competition?" *Lawfare*, available at <https://www.lawfareblog.com/wto-worst-both-worlds-us-china-tech-competition>
- Kilcrease, Emily. 2021. "Taking Stock of the New U.S. Trade Policy on China." *Lawfare*, available at <https://www.lawfareblog.com/taking-stock-new-us-trade-policy-china>

Lecture 25, December 7- Bretton Woods and development

- Liao, Rebecca. 2015. "Out of Bretton Woods—How the AIIB is Different." *Foreign Affairs*
- Teshome, Roman Girma. 2022. "The Draft Convention on the Right to Development: A New Dawn to the Recognition of the Right to Development as a Human Right?" *Human Rights Law Review*: 1-24.

Third legal defense due by December 10 (Saturday) at 11:59pm

Lecture 26, December 12- the European Union

- Slaughter, Anne-Marie and William Burke-White. 2006. "The Future of International Law is Domestic (or, the European Way of Law)." *Harvard International Law Journal* 47 (2): 327-352.

Lecture 27, December 14- The future of international law

- Readings TBD

December 15- Study Day

December 17, 7:45-9:45am: FINAL EXAM