

PS 4352: International Law
Fall 2019, Texas State University

<u>Time and Place:</u> Tuesday and Thursday, 2-3:20pm in UAC 406	<u>Instructor:</u> Dr. Franziska Boehme Newell
<u>Office hours:</u> Tue 3:45-5pm, Wed, 2:15-4pm, and by appointment in UAC 343	<u>email:</u> f_b93@txtstate.edu
	<u>Office phone:</u> 512.245.3277

Class Objectives

This class examines the nature, functions, sources, scope, practice, and development of public international law as both a legal and political process. Students will research contemporary international problems and participate in a Moot International Court of Justice. Corequisite: PS 3300 or PS 3301.

Some say that international law (IL) is merely words on paper, promises that states make, but that it has very little impact on how states ultimately behave. This course will subject this view to scrutiny by exploring the role that different actors play in the development, implementation, and enforcement of international law. We will look at different issue areas of international law, including the use of force, arms control, the environment, and human rights. The class will culminate in a mock trial activity in which students assume the roles of actors at the International Court of Justice. As a political science class on international law, we pay particular attention to the role that power plays in IL: To what extent do powerful states drive the development of international law? Can they simply get away with IL violations? How effective is IL in actually addressing the problems it is meant to solve? By examining these and other questions, the class will not only increase students' knowledge of international law but also hone their skills in understanding and critically discussing political science research on the topic.

Students should expect vigorous discussion and debate! This means that I place a premium emphasis on collegiality in class. We can engage in debates, but this needs to be constructive and without resorting to personal attacks. Rude and inappropriate comments or disruptive behavior can result in students being asked to leave the classroom or in a reduced grade.

Learning Outcomes

The class contributes to the following learning outcomes for the Department of Political Science's BA program:

1. Students will demonstrate the ability to ask relevant research questions pertaining to Political Science (moot court, lectures and class discussions)
2. Students will demonstrate the ability to recognize and evaluate assumptions and implications (book review, lectures and class discussions, IL briefs)
3. Students will demonstrate the ability to examine and evaluate different sides of an issue (lectures and class discussions, moot court, exam essay, IL briefs)
4. Students will demonstrate the ability to state and defend a thesis that is clear, direct, logical, and substantive in the area of Political Science (moot court, book review, exam essay)
5. Students will demonstrate the ability to find and use a variety of appropriately cited sources (IL briefs, moot court)
6. Students will demonstrate substantive knowledge of concepts and facts relevant to Political Science (moot court, exams, lectures and class discussions)

Requirements

Think about your final grade in terms of points: You can get up to 100 points for this class. The requirements for successful completion are:

- **Attendance and Participation: 20 points**

- Participation is an important part of your contribution to this class. The primary mode to gauge participation is your level of activity during class. This score includes attendance and participation in class discussions, staying up to date with international news related to IL, homework assignments, in-class group work, short writing prompts, etc.
- You can miss up to three classes a semester without consultation or explanation. Any absence beyond those will result in a lower score (unless you have an excused absence for a school trip, medical reason with a doctor's note, emergency), one point per missed class! Please note, that I expect you to be present for the day of your moot court case!
- Option for reluctant speakers: If you are very uncomfortable speaking in class, please feel free to email me analytical reflections on the class readings and questions it raised but please do so *consistently* and *before* class. Nevertheless, I highly encourage you to push yourself to participate in class discussions based on your emailed reflections. This should give you some comfort in your statements.

Possible points	Level of participation (assumes perfect attendance)
18-20 (A)	Contributes to class discussions frequently, critical thinking, shows respect for everyone. Frequent email reflections.
16-17.5 (B)	Occasional participation, some engagement with the material. Occasional email reflections.
14-15.5 (C)	Rare participation, some engagement with the material. Rare email reflections
12-13.5 (D)	No engagement or interest in the class, student is on phone, disrupts class etc. No email reflections.

- **Exams: 20 points**

- We will have 2 exams in this class, each worth 10 points and concluding a thematic unit.
- Your final exam will be on Tuesday, 10 December 2019, from 2-4:30pm. In addition to Part II material, the final exam will include one *cumulative* essay question: "To what extent are international legal norms/international law a powerful influence on states and individuals? Please support your argument with evidence and literature we discussed in class." Themes, theories, data and current events that we study over the semester and insights from the moot court activity will help you shape your answer to this question.

- **Book Reviews and Discussion Leadership: 20 points**

- To get to know some 'great works' of international law scholarship, you will sign up for a book review in Week 2.
- The assignment consists of two parts:
 - A written review of the book (10 points), which is due ONE WEEK BEFORE the presentation. This paper, which should be 5-7 pages, reflects your personal analysis of the book.
 - You will also collaborate with the other students who signed up for the same book to lead do a 40-minute presentation on the book and organize a discussion for the class (10 points). To prepare, coordinate with the others, i.e. which issues do you want to address, who will bring up what, how will you involve the class?
- For more details, please see the assignment sheet "Book Review" on TRACS.

- **International Law Briefs: 15 points**
 - Each student has to submit two IL briefs during the semester on a court decision of your choice. Each brief is worth 7.5 points.
 - For more details on the assignment and the cases you can choose, please see the assignment sheet “IL Brief” on TRACS.
- **Moot Court Exercise: 25 points**
 - The class will culminate in a mock trial exercise during the last weeks of the semester.
 - You will either act as a lawyer for one of the parties in a case or as a judge. This is primarily a group-based assignment where you work with other lawyers and judges on a case or for one side in a case. You can indicate your preference as to which of the three cases you want to be involved with and whether you want to be a judge or lawyer.
 - For more details, please see the assignment sheet “Mock Trial” on TRACS.

Grading

- “A range” (90-100) indicates an outstanding performance in which there has been distinguished achievement in all aspects of the course.
- “B range” (80-89.5) indicates a good performance in which there has been a high level of achievement in some aspects of the course.
- “C range” (70-79.5) indicates an adequate performance in which a basic understanding of the subject has been demonstrated.
- “D range” (60-69.5) indicates a minimal performance in which despite recognizable deficiencies there is enough to merit credit.

Electronic Etiquette Policy

Some of you won't like this, but I do not allow the use of computers or cell phones during class. The temptation to just check your email or look up something is just too strong! Studies have also consistently shown that students without computers perform better on tests. So please spare us the trouble and bring a nice notebook and pen/pencil. Please come talk to me if you feel like you absolutely need the computer for note-taking purposes.

Academic Honesty and Honor Code

As members of a community dedicated to learning, inquiry, and creation, the students, faculty, and administration of our university live by the principles in this Honor Code. These principles require all members of this community to be conscientious, respectful, and honest. 1. WE ARE CONSCIENTIOUS. We complete our work on time and make every effort to do it right. We come to class and meetings prepared and are willing to demonstrate it. We hold ourselves to doing what is required, embrace rigor, and shun mediocrity, special requests, and excuses. WE ARE RESPECTFUL. We act civilly toward one another and we cooperate with each other. We will strive to create an environment in which people respect and listen to one another, speaking when appropriate, and permitting other people to participate and express their views. WE ARE HONEST. We do our own work and are honest with one another in all matters. We understand how various acts of dishonesty, like plagiarizing, falsifying data, and giving or receiving assistance to which one is not entitled, conflict as much with academic achievement as with the values of honesty and integrity.

Readings and Late Work and Make-up Exams

In the course schedule (below), I have indicated the readings to be completed **ahead of each session**. The required textbook for the course is Shirley Scott, *International Law in World Politics* (3rd Edition, 2016) and may be purchased at the University bookstore. Additional course materials (journal articles and book chapters) will be available through TRACS. Please contact me if you have any problems.

Unless otherwise specified, assignments are due at the beginning of class on the date listed on the syllabus. **For the semester, you have ‘2 penalty-free late days’ which you can use for the book review and IL brief assignments.** Note that this does not apply to time-sensitive class requirements, i.e. the book presentation and mock trial components. Beyond this policy, any assignment not turned in at the specified time will be considered late except in the case of an extraordinary situation and will result in a lower grade (1/3 letter grade per day). Make-up examinations for the first exam will be granted only for documented medical or family emergencies.

Accommodations for Students with Disabilities

Students with learning or physical issues which may affect performance in the course should come and see me as soon as possible. If you are a student with a disability who will require an accommodation(s) to participate in this course, please contact me as soon as possible. You will be asked to provide documentation from the Office of Disability Services. Recommended accommodations may include extended time on exams, recording of class lectures, use of a laptop computer to take notes, assistance with locating a volunteer note taker, sign language/oral interpreting services and captioning services. As a prerequisite to establishing the need for accommodations, Texas State requires the student provide documentation of disability to the Office of Disability Services (ODS). This documentation should be from a medical professional qualified to diagnosis the disability. Professional ODS staff will review the documentation according to university criteria to determine the student’s eligibility for accommodations.

Religious Observances

Texas State University excuses a student from attending classes or other required activities, including examinations, for the observance of a religious holy day, including travel for that purpose. The student may not be penalized for that absence and shall be allowed to take an examination or complete an assignment from which the student is excused within a reasonable time after the absence, to be determined upon notification to the instructor of the absence. Students must provide written notification to the instructor of each class prior to the student’s absence for a religious holy day. Ideally, students should make every attempt to notify the faculty member at least two weeks in advance of the anticipated absence. An instructor will not penalize a student excused under this section for the absence. However, the instructor may respond appropriately if the student fails to complete any missed assignments or examinations within a reasonable time after the absence, to be determined upon notification to the instructor of the absence.

Mental Health

Mental health issues can diminish academic performance and may affect students’ ability to participate in activities. The Counseling Center at Texas State provides free and confidential mental health services on both its San Marcos and Round Rock campuses. For additional information, visit the Counseling Center’s website <https://www.counseling.txstate.edu/or> call 512.245.2208 or visit mindsmatter.vpsa.txstate.edu.

I will seek to keep information you share with me private to the greatest extent possible, but as a professor I have mandatory reporting responsibilities to share information regarding sexual misconduct that occurs on campus with the university’s Title IX Coordinator to help make our campus a safe place for all. For more information on Texas State University’s Sexual Misconduct Policy, including your rights to anonymity, confidentiality, and possible interim measures, please see <https://gato-docs.its.txstate.edu/jcr:61179aff-a7bf-4bcd-9186-831a6201fbed/2018%20TSUS%20Sexual%20Misconduct%20Policy.pdf>

Key Dates to Remember (check syllabus below for extra homework assignments):

- Tue, 9/3: Submit preferences for book review and for moot court activity (see TRACS for sheet)
- Tue, 9/24: IL brief 1 is due (via TRACS)
- Thu, 10/10: first exam
- Thu, 10/24: IL brief 2 is due (via TRACS)
- Tue, 11/12: memorials (lawyers) and background memos (judges) are due (via TRACS, paper copies in class)
- Thu, 11/14: countermemorials (lawyers) are due (via TRACS, paper copies in class)
- Week 13-14: oral arguments (attendance required)
- Tue, 12/3: Judges’ decisions are due (via TRACS, paper copies in class)
- Tue, 12/10: final exam

Part I: THEORETICAL FOUNDATIONS AND ACTORS

W	Day	Themes	Readings
1	Tue, 8/27	<u>Introduction</u>	Getting to know the content, one another, and the syllabus
	Thu, 8/29	<u>Basics of IL: Sources and enforcement</u>	<ul style="list-style-type: none"> • Textbook, Ch. 1 “Rules-based International Order” (14 pg.) • <u>Homework:</u> Bring a short essay (300-400 words): How powerful is IL? To what extent can it affect states’ behavior? Substantiate your argument with a couple of examples.
2	Tue, 9/3	<u>Basics of IL: treaties and regimes</u> Bring preferences for book review and moot court activity	<ul style="list-style-type: none"> • Textbook Ch. 8 on treaty reading (20 pg.), Ch. 9 treaty regimes (24 pg.) • Betts, “The Refugee Regime Complex” (2010) (25 pg.)
	Thu, 9/5	<u>Actors: States</u>	<ul style="list-style-type: none"> • Textbook, Ch. 2 (14 pg.) • Williams and Bellamy, “Principles, Politics, and Prudence: Libya, the Responsibility to Protect, and the Use of Military Force” (2012, 23 pg.)
3	Tue, 9/10	<u>Actors: Non state actors, NGOs</u>	<ul style="list-style-type: none"> • Textbook, Ch. 3 (12 pg.) • Anderson, “The Ottawa Convention banning landmines, the role of international non-governmental organizations and the idea of international civil society” (2000, 28 pg.)
	Thu, 9/12	<u>Actors: International governmental organizations (IGOs) – United Nations</u>	<ul style="list-style-type: none"> • Textbook, Ch. 4 (22 pg.) • Rashkow, “Immunity of the United Nations: Practice and Challenges” (2013, 15 pg.) • <u>Homework:</u> read 2 book reviews by Hillebrecht and Moses: What do we learn about the book from these reviews? What is each review’s structure?

4	Tue, 9/17	<u>Actors: IGOs – European Union, African Union</u>	<ul style="list-style-type: none"> Sweeney, “Margins of Appreciation: Cultural Relativity and the European Court of Human Rights in the post-Cold War Era” (2005, 15 pg.) Maluwa, “The Constitutive Act of the African Union and Institution-Building in Postcolonial Africa” (2003, 13 pg.)
	Thu, 9/19	<u>Actors: ICs and Tribunals</u>	<ul style="list-style-type: none"> Textbook Ch. 5 (32 pg.) Alter, “Agents or Trustees? International Courts in their Political Context” (2008, 30 pg.)
5	Tue, 9/24	<u>Actors: International Criminal Court</u>	<ul style="list-style-type: none"> Goodliffe et al., “Dependence Networks and the International Criminal Court” (2012, 16 pg.) Sandholtz, Bei and Caldwell, “Backlash and international human rights courts” (20 pg.)
	Thu, 9/26	<u>Actors: International Court of Justice</u>	<ul style="list-style-type: none"> Read Background on <i>Qatar v UAE</i> Watch 2 videos of ICJ 2018 oral arguments in <i>Qatar v UAE</i> (links on TRACS): pay attention to how they talk, how they begin and end statements (this is what you seek to emulate in your own mock trial activity)
6	Tue, 10/1	<u>International Relations Theory and IL</u>	<ul style="list-style-type: none"> Textbook, Ch. 6 (12 pg.) Adamson and Sriram, “Perspectives on international law in international relations” (19 pg.)
	Thu, 10/3	<u>Positivism and Critiques</u>	<ul style="list-style-type: none"> Textbook Ch. 7 (18 pg.) Anghie and Chimni, “Third World Approaches to International Law and Individual Responsibility in Internal Conflicts” (2002, 27 pg.)
7	Tue, 10/8	<u>Taking Stock of Part I</u>	<ul style="list-style-type: none"> <u>Book Review:</u> Goldsmith and Posner, <i>The Limits of International Law</i> (2005, ebook)
	Thu, 10/10	Exam	

Part II: INTERNATIONAL LAW ISSUES

W	Day	Themes	Readings
8	Tue, 10/15	<u>IHL: Initiation of Armed Conflict</u>	<ul style="list-style-type: none"> Textbook, Ch. 11 (26 pg.) <u>Book Review:</u> Peevers, <i>The Politics of Justifying Force</i> (2013, hardcover copy library reserve)
	Thu, 10/17	<u>IHL: Conduct of Armed Conflict</u>	<ul style="list-style-type: none"> Textbook, Ch. 12 (14 pg.) <u>Book Review:</u> Fazal, <i>Wars of Law: Unintended Consequences in the Regulation of Armed Conflict</i> (2018, ebook through library) Grut, “The Challenge of Autonomous Lethal Robotics to International Humanitarian Law” (2013, 18 pg.)
9	Tue, 10/22	<u>International Human Rights Law</u>	<ul style="list-style-type: none"> Textbook Ch. 13 (30 pg.) Neumayer, “Do International Human Rights Treaties Improve Respect for Human Rights?” (2005, 25 pg.)

	Thu, 10/24	<u>International Human Rights Law</u> IL Brief 2 due	<ul style="list-style-type: none"> • Risse and Ropp, “Introduction and Overview” (24 pg. spiral model) • Tang, “Combating Racial Discrimination: The Effectiveness of an International Legal Regime” (2003, 12 pg.)
10	Tue, 10/29	<u>Arms Control</u>	<ul style="list-style-type: none"> • Textbook, Ch. 12 (24 pg.) • Bolton and Nash, “The Role of Middle Power–NGO Coalitions in Global Policy: The Case of the Cluster Munitions Ban” 2010 (12 pg.)
	Thu, 10/31	<u>Arms Control</u>	<ul style="list-style-type: none"> • <u>Book review:</u> Bower, <i>Norms without the Great Powers: International Law and Changing Social Standards in World Politics</i> (2017, hardcopy) • Fuhrman and Lupu, “Do Arms Control Treaties Work? Assessing the Effectiveness of the Nuclear Nonproliferation Treaty” (2016, 9 pg.)
11	Tue, 11/5	<u>Maritime Law</u>	<ul style="list-style-type: none"> • <u>Book review:</u> Hong, <i>UNCLOS and Ocean Dispute Settlement: Law and Politics in the South China Sea</i> (ebook through library) • Beckman, “The UN Convention on the Law of the Sea and the maritime disputes in the South China Sea” (2013, 19 pg.) • Press Release, “The South China Sea Arbitration”
	Thu, 11/7	<u>NO CLASS – I’m at a conference: Work on your memorials!</u>	
12	Tue, 11/12	<u>IL Topic to choose:</u> <u>Trade or Environment?</u> Memorials and Judges’ Memos due!	<ul style="list-style-type: none"> • TBD
	Thu, 11/14	<u>Trial preparation</u> Counter memorials due at midnight!	<ul style="list-style-type: none"> • Work in groups on counter memorials and research
13	Tue, 11/19	<u>Trial I oral arguments</u>	
	Thu, 11/21	<u>Trial II oral arguments</u>	
14	Tue, 11/26	<u>Trial III oral arguments</u>	
	Thu, 11/28	THANKSGIVING DAY – NO CLASS	
15	Tue, 12/3	<u>Judges’ Decisions due and announced</u> <u>Homework:</u> bring a final short essay (400-500 words) to class: How has this class contributed to your understanding of international law? How has your assessment about the power of IL changed (if at all) from the start of the semester?	
	Thu, 12/5	Evaluations and Conclusion <u>Submit record of your teams and peer evaluations</u>	
	Tue, 12/10	Final Exam, 2-4:30pm	