



POLI SCI 356- Principles of International Law (Spring 2024)

Instructor

Joorahm Kim (he/him)

Office hours: Peet's Coffee at Memorial Union: T 12 -2pm

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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

Requisites

Sophomore standing

Meeting Time and Location

T/R 2:30-3:45pm

Science 360

Instructional Modality

In-person

How Credit Hours are Met by the Course

This class meets for two, 75-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 3 hours out of the classroom for every class period. The syllabus includes more 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.

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, with an emphasis on contemporary problems of international law. We will conclude with an in-class simulation involving environmental law.

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

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: There will be one midterm exam covering the first two course modules (foundations and international security).

Simulation Participation: The course’s capstone simulation will require active participation during the three lecture periods designated for deliberations. Grades will be determined by a combination of observation and submitted short reports on diplomatic goals and completed actions.

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 5/12/2023, Friday from 2:45pm-4:45pm. Mark your calendars now. Location TBD.

Your class performance will be based on the following:

- Legal defenses- 45% (15% each)
- Midterm- 20%
- Simulation participation- 5%
- Final- 30%

The grade scale is set at: 93+ = A; 87-92 = AB; 83-86 = B; 77-82 = 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.

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 [HelioCampus AC](#). 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 accommodation 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](#))

[Academic Calendar & Religious Observances](#)

See the above link for more information on these dates.

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, January 23: Syllabus and course introduction

- No assigned readings

Module 1- Foundations of International Law

Lecture 2, January 25: 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, January 29: 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, February 1: Dispute settlement and enforcement

- Von Stein, Jana. 2017. "Compliance with International Law." *Oxford Research Encyclopedia of International Studies*.
- 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:

- 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, February 6: 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, February 8: Jus ad bellum (the use of force)

- Gibney, chapter 4

Lecture 7, February 13: Collective security

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

Lecture 8, February 15: 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, February 20: 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, February 22: 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 February 27 (Tuesday) at 11:59pm

Lecture 11, February 27: Torture, detaining enemy combatants, and extraordinary rendition

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

Lecture 12, February 29: Arms control

- No readings, prepare for midterm

March 5- Midterm exam

Module 3- International Law and Individuals

Lecture 13, March 7: 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, March 12: 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, March 14: 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, March 19: 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, March 21: 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>

No Class March 26 & 28, Spring Break

Module 4- Problems of the Global Commons

Lecture 18, April 2: Territory

- 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*.

Lecture 19, April 4: Law of the Sea

- Gupta, Sourabh. 2021 “The South China Sea Arbitration Award Five Years Later.” *Lawfare*, available at <https://www.lawfareblog.com/south-china-sea-arbitration-award-five-years-later>.
- Kostin, Alex. 2022. “A Case Study of Russia’s Arctic Posture.” *Lawfare*, available at <https://www.lawfareblog.com/case-study-russias-arctic-posture>.

Second legal defense due by April 9 (Tuesday) at 11:59pm

Lecture 20, April 9: 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 21, April 11: Environmental law: Part 2

- UNFCCC. “COP28: What Was Achieved and What Happens Next?” available at <https://unfccc.int/cop28/5-key-takeaways>.

Lecture 22, April 16: Air space and outer space

- Ortega, Almudena Azcárate. 2021. “Placement of Weapons in Outer Space: The Dichotomy Between Word and Deed.” *Lawfare*, available at <https://www.lawfaremedia.org/article/placement-weapons-outer-space-dichotomy-between-word-and-deed#:~:text=Placement%20of%20Weapons%20in%20Outer%20Space%3A%20The%20Dichotomy%20Between%20Word%20and%20Deed,->

[Almudena%20Azc%C3%A1rate%20Ortega&text=Spacefaring%20states%20have%20claimed%20to,the%20weaponization%20of%20outer%20space.](https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html)

- Outer Space Treaty. 1967, available at <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html>.

Recommended:

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

Module 5- Simulation and Course Wrap-up

Lecture 23, April 18: Environmental Deliberations

Lecture 24, April 23: Environmental Deliberations

Lecture 25, April 25: Environmental Deliberations

Third legal defense due by April 30 (Tuesday) at 11:59pm

Lecture 26, April 30: Simulation debrief and course conclusion

Lecture 27, May 2: Extra Day

May 4- Study Day

May 10, 2:45-4:45pm: FINAL EXAM