

Political Science 4550-5550 – Online
INTERNATIONAL LAW
Spring 2023

Instructor: Dr. Andrew Ross <rossa@ohio.edu>
Office Hours: See Blackboard

Course Description

This course introduces students of politics to international law. We will explore historical roots and current problems, recognizing along the way persistent contestation over the participants, sources, purposes, and interests associated with international law. The course situates formal aspects of law—centered on international treaties, international organizations, the World Court (ICJ), and the International Criminal Court (ICC)—within a broader landscape of global governance populated by states and transnational actors, centralized and decentralized forms of legal authority. We will place special emphasis on the significance of international law to colonialism, decolonization, and contemporary forms of imperialism, keeping in mind that the law has been experienced differently in the Global South and by actors not recognized as sovereign.

Course Level Learning Outcomes

After completing this course, you will be able to:

1. identify and understand key concepts in the study of international law
2. connect contemporary problems in international law to their historical underpinnings
3. evaluate competing theoretical perspectives on the effectiveness of international law
4. assess the political significance of international law to the states and other actors involved in it
5. design and deliver short essays that are organized coherently and logically, and that employ relevant evidence and examples from course readings
6. cite and document appropriate sources to support an argument using a consistent and formal method of citation and format
7. design, plan, and present research projects organized coherently and logically, and employing evidence and examples (POLS 5550 and 4550 final project option)

Assignments – POLS 4550

Assignments are described in greater detail on Blackboard (hereafter “Bb”). All assignments will be completed and/or submitted via Bb.

Discussion board posts and comments (one for Week 2 plus 7 more): Regular participation in online discussions is an essential requirement for this course. You will be divided into discussion groups and will complete a series of regular contributions to Discussion Boards (DBs) during most weeks.

You will submit your first Original Post (OP) (300 word minimum) by **11:59pm Thursday, January 26;** after that, they are due 11:59pm on Thursday of the week for which they are assigned. There are eight weeks with regular DB assignments (weeks 4, 5, 6, 7, 9, 10, 11, and 13); you will complete a total of seven original posts (after Week 2), omitting one week of your choosing. OPs are worth 3% each; they will be graded on a check, check+, check- basis. I will treat check+ as an A/95, check as a B/85, and check- as a C/75. I will provide detailed feedback on your first post; if you would like additional feedback on a subsequent post, please let me know.

Students will also submit six follow-up posts (100 word minimum) by **11:59pm Sunday** that comment critically (but constructively) on an original post/thread from your group. To receive credit, follow-up/comment posts must offer more than a generic “thumbs up to what you said—well done.” When you do the six follow-up posts is up to you, but maximum one per week. Follow-up posts will count for **½ percent each** and will be graded CR/NC.

Short paper: A **1,000-1,200-word paper** on an assigned topic related to themes and readings from Weeks 2 and 3. The paper is due **11:59pm Sunday Week 4, so February 12**. This short paper is worth 15% of your course grade. I will organize an optional peer review process for this paper for those who want it.

Mid-term exam: There will be a mid-term exam on material covered between Weeks 1 and 7. You will complete it on Bb on **March 9 or 10** (it will be available 8am 3/9 to 11:59pm 3/10). The exam will consist of short, paragraph-length questions asking you to explain key concepts in international law using examples from the readings. It is worth 20% of your course grade.

Final project reviews: Each student will complete a brief review of two projects during the last week of classes. These are due **11:59pm Sunday Week 14 (April 30)** and are each worth 2% of your course grade.

Final exam: There will be a take-home exam covering readings and topics from the entire course, including one question that will require you to incorporate discussion of two of your peers’ final projects. The exam will require you to have completed assigned readings and thought about how they connect to the main themes and topics we have discussed. The exam will consist of **three essays of 800-900 words each**. I will post it on Bb by Wednesday of Week 14, and it will be **due one week later on Wednesday, May 3 by 11:59pm**. The final exam is worth 25% of your course grade.

Assignments – POLS 5550

Students enrolled in POLS 5550 will complete the **discussion board original posts, discussion board comment posts, short paper, and final project reviews** as described above. Then, *in place of* the mid-term and final exams, graduate students will complete a **final project**.

Final Project: In this assignment, you will research and report on a current problem in international law; some topics are posted on Bb, but you may also choose your own (with permission). Your project will consist of three graded components: (1) a 300-400-word **proposal**; (2) a 15-20-minute **visual presentation with voiceover**; and (3) a 3,500-4,000-word written research paper. All word counts exclude notes and references/bibliography. Additional details and guidelines are outlined on Blackboard. The visual presentation is worth **20% of your overall grade**, and the written report is worth **25%**. The two visual presentation reviews are worth **2% each**.

You will spend the last half of the semester completing your projects. The project requires these steps:

- **Weeks 6-7:** Complete a **planning assignment** on Blackboard based on your topic and your research plans. Due **Sunday, March 5, 11:59PM**
- **Week 8:** Meet with me to discuss your progress; I will circulate options for meeting times
- **Week 9:** Submit **Final Project Proposal** by **Sunday, March 26, 11:59PM**
- **Week 13:** Submit **Visual presentation with voiceover** by **Sunday, April 23, 11:59PM**
- **Weeks 14-15:** Submit **Written paper** by **Wednesday, May 3, 11:59PM**

Assignments – POLS 4550 Final Project Option

Undergraduates who submit strong discussion board posts during January and February and who receive 88 or higher on the first short paper may request to complete a final project in place of the mid-term and final exams. The written paper will be 2,700-3,000 words and the visual presentation 12-15 minutes, but otherwise the assignment will follow all the same requirements and due dates as the final project for POLS 5550. Undergraduates wishing to complete the final project **must request permission** via email no later than Monday, **February 27**. If you do not request permission, or I decide not to approve your request, you will default into the standard option for POLS 4550, which includes the mid-term exam in early March.

A word of caution: the research option leaves about half your course grade tied to one project. If you do not have experience with research projects or anticipate issues with your workload and/or stamina during the final portion of the semester (weather will be nicer, fatigue greater), I would urge you to stick with the standard assignments for 4550.

Grades

Overall grades will be calculated as follows:

POLS 4550		POLS 5550 (and 4550 research option)	
Assignment	%	Assignment	%
Initial DB Original Post (Wk 2)	3	Initial DB Original Post (Wk 2)	3
Discussion Board OPs (7)	21	Discussion Board OPs (7)	21
Discussion board comments (6)	3	Discussion board comments (6)	3
Short paper	19	Short paper	19
Mid-term exam	20	Final project proposal	5
Visual presentation reviews (2)	4	Visual presentation	20
Take-home final exam	30	Visual presentation reviews (2)	4
		Final research project	25
Total	100		100

Course Policies

Academic misconduct: Students in this course are expected to follow the University's standards of academic integrity and honesty and are responsible for understanding what constitutes plagiarism. One reference is here: <http://www.ohio.edu/communitystandards/academic/students.cfm>. If you are caught cheating or plagiarizing, you may receive a grade deduction on the assignment, a failing grade for the assignment, or a failing grade for the class. You may also be reported to the Office of Community Standards and Student Responsibility for additional sanctions. Students may appeal academic sanctions through the grade appeal process.

Blackboard (Bb): I expect you to use the Bb system for all aspects of this course (but I will not use it to calculate or communicate your overall grade in the class). If you encounter a broken link, a missing content item, or something else I need to fix, please let me know via email asap. If you are having general Bb problems, contact the Help Desk. All writing assignments will be submitted via discussion boards and assignment upload links. It is your responsibility to ensure that your documents are properly uploaded and open-able. Bb will always give you a confirmation that your document was uploaded. Uploading formats other than PDF or MS Word-created .docx may cause problems.

Covid accommodations: If you test positive or need to isolate or quarantine this semester, after you have taken care of yourself and followed all the steps in the [OHIO COVID-19 Protocol](#), please email me so that we can develop a plan for you to maintain continuity in your work for this course. COVID-related illness, quarantine, isolation, and remain-in-room directives are legitimate university absences, and I will work with you to manage your academic requirements and connect you to resources. If you feel that your class performance is being impacted by COVID-19, please talk with me and/or contact COVID Operations by phone (740.566.8445) or email (COVIDoperations@ohio.edu) Monday through Friday, 8 a.m. to 8 p.m., and noon to 5 p.m. on weekends. The University has resources available to help with quarantine and isolation support, as well as access to COVID-19 testing, counseling services, food assistance, and more.

Disability accommodations: Any student who suspects s/he may need an accommodation based on the impact of a disability should contact the class instructor privately to discuss the student's specific needs and provide written documentation from the Office of Student Accessibility Services (SAS). If the student is not yet registered as a student with a disability, s/he should contact SAS.

Email: Check your OU email regularly for announcements or other communications. You may contact me via email at any time, but please try first to answer your question using the syllabus and Bb. I do my best to reply to student emails same or next day M-F, and Monday for messages sent Friday. If you email me regarding a time-sensitive Bb problem on the weekend, I will make every effort to deal with the issue promptly, but please try to problem-solve yourself where possible.

Grading: I do not offer make-up assignments, extra credit assignments, or opportunities to revise and resubmit assignments for a higher grade. If you have concerns about your grade or questions about my expectations, please schedule a meeting with me as early as possible in the semester. I use the following grading scale for determining letter grades: A = 93 and above; A- = 90-92; B+ = 87-89; B = 83-86; B- = 80-82; C+ = 77-79; C = 73-76; C- = 70-72; D+ = 67-69; D = 63-66; D- = 60-62; F = <60. I consider 90, 91, and 92 to be excellent grades, 93 and above outstanding; I rarely award assignments grades above 95. I do not begin from 100 and deduct points, so achieving an A/95 (outstanding!) does not mean that you "lost five points." Check+ on critical response assignments will be converted to a grade of 95, check will be 85, and check- will be 75.

Late papers: Assignments will be penalized 6 points per day (e.g. a paper awarded an 88/B+ submitted one day late will receive an 82/B-), including weekend days, to a maximum of three days (after which the assignment will not be graded). No exceptions in cases of computer malfunction, loss of data, or incomplete Bb submission. Cases of serious illness (physical or mental) or family emergency should be brought to my attention, with documentation from the appropriate University office, prior to or immediately following the missed assignment. Late papers may not receive instructor feedback and will be graded when I have time; in some cases, this may not be until the end of the semester.

Participation: Students are expected to complete all required readings, access all supplementary materials (video lectures, video clips, etc.), and participate in discussion boards. If you are experiencing health problems (physical or mental) that are affecting your ability to complete assignments for this course, it is your responsibility to notify me at the earliest possible date.

Required texts: All course readings are available in digital format for free. The following book is recommended for this course, but you can access it as an e-book through the library:

O'Connell, Mary Ellen. *The Power and Purpose of International Law: Insights from the Theory and Practice of Enforcement*. New York: Oxford University Press, 2008.

Syllabus changes: In the event of further disruptions related to COVID-19 or other emergency beyond the instructor's control, course requirements, deadlines, and grading percentages are subject to change. Any changes will be communicated in class and/or via Bb/email.

The lectures, classroom activities, and all materials associated with this class and developed by the instructor are copyrighted in the name of Andrew Ross on January 16, 2023.

MODULES, TOPICS, AND READINGS

Additional information relating to weekly learning outcomes, audiovisual resources, and discussion board prompts are available on Bb.

MODULE 1: Introduction and Historical Context

Week 1. Introduction to International Law

This is a course in the politics of international law. We will become familiar with some basic concepts of international law, but the course does not aim to establish mastery in the technical details of the law. Instead, we use historical and contemporary cases to explore the social, cultural, and political complexity of international law, including the diverse actors and divergent interests involved.

Reading:

Read entire syllabus and Blackboard site carefully

Damrosch, Lori et al. "Introduction to the Study of International Law." In *International Law: Cases and Materials*, edited by Damrosch, Henkin, Murphy, and Smit, xv-xvii. St. Paul: West Publishing, 2009.

Begin reading for Week 2

Week 2. State Sovereignty and International Law

This week is really about getting our feet wet and building some familiarity with this 'thing' we call "international law." Readings offer a synthesis of key themes, including recognition, sovereign equality, and self-determination.

Questions to think about:

- What is "state sovereignty," and how does this principle give rise to a distinction between "domestic" and "international" law?
- Low states that "the idea of the sovereign State is one of the mythical principles that have underpinned political life for the past two or three centuries" (p. 6). Is state sovereignty a "myth"?
- Does the "myth" of state sovereignty obscure the importance of transnational actors in international law?
- How has international law historically differentiated among types of states and the degree of legal autonomy they can and should be given?
- What are "outlaw" states, and how can the distinction between outlaws and great powers be reconciled with the formal principle of "sovereign equality"?

- What residual impact, if any, might these distinctions have in the twenty-first century?

Required readings:

Lowe, Vaughan. "Nations under Law." Ch. 1 in *International Law: A Very Short Introduction*. New York: Oxford University Press, 2015.

Grovogui, Siba N'Zatioula. "Partial Recognition to the Barbarous." Ch. 2 in *Sovereigns, Quasi Sovereigns, and Africans: Race and Self-Determination in International Law*. Minneapolis: University of Minnesota Press, 1996. Pp. 43-76.

Simpson, Gerry. "Great Powers and Outlaw States." Ch. 1 in *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order*. New York: Cambridge University Press, 2004. pp. 3-18 only.

Discussion board reading:

Zunes, Stephen. "Trump's deal on Morocco's Western Sahara annexation risks more global conflict." *Washington Post*. 15 December 2020.

Baker, James. "Trump's recognition of Western Sahara is a serious blow to diplomacy and international law." *Washington Post*. 17 December 2020.

Discussion board question:

Why was the Trump Administration's recognition of Western Sahara so controversial? What does this case tell us about the importance of recognition in international law? Does the announcement "risk more global conflict"? What can be learned from the status of the case in early 2023?

Assignments:

Discussion Board first original posts due for all students

Week 3. Who Participates in International Law

This week digs deeper into the question of who participates in making, interpreting, and enforcing international law. Whereas Week 2 presupposes that states and aspiring sovereign states are central, this week we turn to non-state actors. There is no discussion board this week, since you will also be working on your first short paper assignment.

Questions to think about:

- In the twenty-first century, are states the primary protagonists of international law?
- How has international law functioned to advance the interests of European and other western states?
- What residual impact, if any, might these distinctions have in the twenty-first century?
- In the "international law of recognition," as described by Tourme-Jouannet, who are the primary actors?
- Tourme-Jouannet thinks international law involves more than just formal, legally binding treaty obligations; what does she regard as the 'currency' (my term, not hers) of international law in the era of recognition?
- What is Mégret telling us about the role of non-state actors on the high seas? How are they inserting themselves into international law, and what does their work tell us about who creates and enforces international law in the twenty-first century?

Required reading:

Tourme-Jouannet, Emmanuelle. "The International Law of Recognition." *European Journal of International Law* 24, no. 2 (2013): 667-90.

Mégret, Frédéric. "Activists on the High Seas: Reinventing International Law from the Mare Liberum?" *International Community Law Review* 23, no. 4 (2021): 367-402.

Assignments:

Submit short paper draft for peer review (optional)

MODULE 2: Basic Concepts of International Law**Week 4. Sources of IL**

Here, we examine a core debate within international law, concerning the origin or source of legal rules at the international level. Since rules do not derive from a centralized process of "legislation," international law has historically given rise to anxieties over how we know what is and is not required by law. Readings address the basic features of treaty law and the more vexing topic of customary international law. This week's discussion board asks students to apply these debates to a contemporary dispute over the Arctic waters.

Questions to think about:

- What shadow does state sovereignty cast on the practice of treaty making? How is it that states can at once bind themselves to treaty obligations and retain their autonomy?
- How are rules created in international law *without* a treaty?
- What are the elements or prerequisites for a rule to rise to the level of law in customary international law?
- How can a state resist the formation of a rule under customary international law?
- Is the consent of powerful states required for the creation of customary international law?

Required reading:

Charlesworth, Hilary. "Law-making and Sources." In *The Cambridge Companion to International Law*, ed. James Crawford, Martti Koskenniemi, and Surabhi Ranganathan, pp. 187-202. New York: Cambridge University Press.

Klabbers, Jan. Selections from "The Making of International Law" and "The Law of Treaties." Ch. 2 and 3 in *International Law*, second edition. New York: Cambridge University Press, 2017.

Toope, Stephen. "Powerful but Unpersuasive: The Role of the United States in the Evolution of Customary International Law." In *United States Hegemony and the Foundations of International Law*, edited by Michael Byers and Georg Nolte, 287-316. New York: Cambridge UP, 2003.

Discussion board reading:

Byers, Michael and Emma Lodge "China and the Northwest Passage." *Chinese Journal of International Law* (2019): 57-90.

Fife, Robert and Steven Chase. "China Tests Shipping Waters in Northwest Passage." *Global and Mail* (11 September 2017)

Byers, Michael. "Why Trudeau Should Move Now to Safeguard the Northwest Passage." *Globe and Mail* (12 August 2016)

Economist, "Who Owns the Northwest Passage?"

Discussion board question:

Who determines what is and is not legal in Arctic waters? Which state(s) have most influence over maritime law in the arctic--China? the United States? Russia? CANADA?!? What does the case of the Northwest Passage tell us about how states handle disputes in international law? What does it tell us about how states try to shape customary international law?

Assignments:

Discussion Board #2 due

Short Paper due

Week 5. Institutions

This week's readings look at the institutional context behind international law, with a focus on international organizations. Institutions of all kinds—international, regional, and domestic or national—are involved in creating and enforcing international law. Due to time constraints, we will look at intergovernmental bodies only, especially the United Nations Department of Peacekeeping Operations. Readings begin with an overview of international organizations (Hurd) and proceed to examine the specific controversy surrounding the conduct of UN peacekeepers (Pillinger et al.) and broader questions of local accountability (Campbell).

Questions to think about:

- How do international institutions differ from domestic or national-level institutions in terms of who wields authority and how rules are enforced?
- Why do Pillinger et al. believe that international law has hindered, not helped, efforts to hold the UN accountable for the cholera outbreak in Haiti?
- Why was Haiti unable to seek legal remedy for the outbreak?
- What is the "paradox" Campbell sees at the heart of UN peacekeeping and peacebuilding?
- Are *international or multilateral* mandates compatible with *local* accountability?

Required readings:

Hurd, Ian. "Introduction to International Organizations." Ch. 1 in *International Organizations: Politics, Law, Practice*, New York: Cambridge University Press, 2017. pp. 1-16.

Pillinger, Mara, Ian Hurd, and Michael N. Barnett, "How to Get Away with Cholera: The UN, Haiti, and International Law." *Perspectives on Politics* 14, no. 1 (2016): 70-86.

Campbell, Susanna P. "UN Peacekeeping and Peacebuilding: Progress and Paradox in Local Ownership." *Ethics & International Affairs* 34, no. 3 (2020): 319-28.

Discussion board reading:

Hathaway, Oona and Alasdair Philips-Robins, "COVID-19 and International Law Series: Reforming the World Health Organization." *Justsecurity.org*. 11 December 2020.

Quintana, Francisco-José and Justina Uriburu. "Modest International Law: COVID-19, International Legal Responses, and Depoliticization." *American Journal of International Law*, 114, no. 4 (2020): 687-697. OR ASIL Podcast, Episode 19: "Coronavirus and the International Law of Epidemics," <https://www.asil.org/resources/podcast/ep19>

Discussion board question:

Who should be held legally accountable for the global spread of the coronavirus? Should it be the World Health Organization, or should responsibility fall on its member states? Which ones and why?

Assignments:

Discussion Board #3 due

Week 6. Enforcement: International

This week confronts the question of how international law is enforced. A common criticism of IL is the idea that international law is a nice idea but suffers from a deficit of infrastructure and/or authority for enforcement. The readings for this week offer a much more nuanced (and granular) account of the ways in which IL is enforced in practice. To comprehend these practices, these authors adopt a different, more expansive conception of what qualifies as "enforcement." The final reading by Brewster offers an assessment of recent disputes over international trade, demonstrating the changing forms of enforcement used by the United States.

Questions to think about:

- What is the difference between "reprisals" and "countermeasures"?
- Is imposing countermeasures the same as exacting "revenge" on a rule-breaking state? Why/why not?
- In what ways can the practice of imposing unilateral countermeasures be considered a system of "enforcement" for international law?
- What are the various ways in which law matters to states?
- What definition of "enforcement" is needed to account for the dynamics of "outcasting" discussed by Hathaway and Shapiro?
- Which kind of "outcasting" (in Hathaway and Shapiro's typology) is the Trump Administration for and against in the case of trade with China?
- How vulnerable are powerful states (e.g. the United States and China) to outcasting in its various forms?

Required readings:

O'Connell, Ch. 6 and Ch. 7

Hathaway, Oona and Scott J. Shapiro. "Outcasting: Enforcement in Domestic and International Law." *Yale Law Journal* 121, no. 2 (2011): 252-469. [read pp. 255-260, 302-344.]

Discussion board reading:

Hathaway, Oona. "Reengaging on Treaties and Other International Agreements (Part I): President Donald Trump's Rejection of International Law." *Justsecurity.org*. 2 October 2020.

Kayem, Juliette. "Trump Turns the U.S. Into an Outcast." *The Atlantic*. 25 June 2020.

Discussion board question:

How significant are states' efforts at "outcasting" the United States in recent years (the readings highlight responses to Trump policies, but there is a long history of states responding in kind to U.S. policies that are seen to violate the spirit or letter of international law)? What does the case of the United States tell us about how outcasting works as a means of enforcing international law?

Assignments:

Discussion Board #4 due

Week 7. Enforcement: Domestic and Transnational

This week's materials focus in on the domestic level and consider the ways international law is enforced through legal practices within states. Readings refer specifically to the U.S. case, where an obscure statute from the eighteenth century was revived by human rights advocates during the 1970s and '80s, beginning with the landmark *Filartiga* case. Harold Koh offers a theory of "transnational legal process" that regards these and other domestic practices as integral to the incremental acceptance of international law.

Questions to think about:

- What do cases such as *Filartiga* tell us about the relationship between international and national law?
- What does Koh mean by "interaction, interpretation, and internalization" and why does he regard these processes as integral to transnational legal process?
- What do Koh's various cases and examples have in common in terms of the time-frame he wants us to consider relevant for assessing transnational legal process?
- Why is Curtis Bradley, a legal scholar with a more conservative perspective, resistant to the use of the Alien Tort Statute for human rights cases?

Required readings:

O'Connell, Ch. 9

Koh, Harold H. "Transnational Legal Process." *Nebraska Law Review* 75 (1996): 181-207.

Discussion board reading:

Jesner vs. Arab Bank summary. *Harvard Law Review* 132 (2018): 397-406.

Mann, Jindan-Karina, "[Re-reviving the Alien Tort Statute for Human Rights Claims.](#)" *Rethinking SLIC Blog*, 13 February, 2020.

Discussion board question:

What are the advantages and disadvantages of using the Alien Tort Statute as a way of enforcing international law in cases such as the family separations at the US border? Since these are civil cases only and, even if successful, unlikely to result in reparations paid by foreign actors, what purpose have they served?

Assignments:

Discussion Board #5 due

Week 8. Mid-term Exam

See review materials on Blackboard.

MODULE 3: War and Law

Week 9. Outlawing the Use of Force: Self-defense

Here, we move into the third module on laws relating to war. This week's readings concern self-defense, which is the only situation in which a state can legally use force on a unilateral basis. We read and evaluate critical perspectives suggesting that the UN Charter's provisions for using force in self-defense have effectively permitted, not constrained, states' use of force. The final reading takes a different approach and points to limits in the ability of even powerful states to bend the rules relating to self-defense.

Questions to think about:

- What is the relationship between the ban on force in the UN Charter Article 2(4) and the provisions for "inherent self-defense" in Article 51?
- What does the UN Charter mean by "armed attack" in Article 51?
- How did the ICJ interpret "armed attack" in its ruling in the Nicaragua case? (O'Connell reading and videos)
- What role did the A.51 provision play in the aftermath of 9/11 and has it given rise to a new doctrine of "self-defense against non-state actors"?
- What does Brunnée and Toope's analysis tell us about the influence of powerful states on the modification of international law?

Required readings:

O'Connell, Ch. 4

Hurd, Ian. "The Permissive Power of The Ban on War." *European Journal of International Security* 2, no. 1 (2016): 1-18.

Brunnée, Jutta and Stephen J. Toope. "Self-Defense against Non-state Actors: Are Powerful States Willing but Unable to Change International Law?" *International & Comparative Law Quarterly* 67, no. 2 (2018): 263-286.

Discussion board reading:

Kaplan, Fred. "Should the U.S. Retaliate for Russia's Big Hack?" *Slate.com*. 23 December 2020.

Nakashima, Ellen and David L. Stern. "U.S. sanctions Ukrainians involved in Russia-linked campaign promoted by Giuliani to smear Biden." *Washington Post*. 11 January 2021.

Schmitt, Michael. "Foreign Cyber Interference in Elections: An International Law Primer, Part I." *EJIL Talk*. 16 October 2020.

Discussion board question:

Is election interference illegal under international law? How can states (powerful ones and/or less powerful ones) use law to safeguard their electoral processes? Do cyber attacks against infrastructure,

including communications and voting technologies, qualify as "armed attacks"? If yes, what are the consequences (political and/or legal) of that designation?

Assignments:

Discussion Board #6 due

Week 10. Responsibility to Protect

This week's readings address recent efforts to make the use of force legal in situations of humanitarian necessity. The idea of "humanitarian intervention" became popular during the 2000s, in the wake of tragic crises in Bosnia and Rwanda during the 1990s. We look at legal scholars who argue that international law should formally incorporate a provision for using force to address humanitarian crises (Glennon), as well as others who are less sanguine about such an endeavor (Hurd). Cases discussed include Kosovo, Libya, and Syria.

Questions to think about:

- What does Glennon mean by "parallel universes" and why, for him, is this gap so troubling?
- What conditions or criteria should be satisfied for outside states to legally use force in humanitarian crises?
- How has the proposal for humanitarian intervention, often referred to as the "responsibility to protect," been affected by the war in Iraq?
- What is Hurd telling us about legal arguments for and against humanitarian intervention? What does he mean by the term "incoherent world"?

Required readings:

O'Connell, Ch. 5

Glennon, Michael. Introduction and Ch. 6 In *Limits of Law, Prerogatives of Power: Interventionism After Kosovo*. New York: Palgrave, 2001. [pp. 1-7, 177-205]

Hurd, Ian. "Is Humanitarian Intervention Legal? The Rule of Law in An Incoherent World." *Ethics & International Affairs* 25, no. 3 (2011): 293-313.

Discussion board reading:

Kersten, Mark. "The Responsibility to Protect Doctrine is Faltering. Here's Why." Monkey Cage Blog, *Washington Post*. 8 December 2015.

Paris, Roland. "Is it possible to meet the 'Responsibility to Protect'?" Monkey Cage Blog, *Washington Post*. 4 December 2014.

Discussion board question:

Given what we know in 2023, should the "responsibility to protect" doctrine be strengthened, shelved, or something else? If you argue that it should be preserved, use what you know about both political context and the legal context relating to the use of force, state sovereignty, and the law of countermeasures, to explain what specific rules you think a hypothetical "ICISS 2.0" in 2023 should adopt. If you argue that it should be discontinued, explain where and why it has proven to be a failure.

Assignments:

Discussion Board #7 due

MODULE 4: International Criminal Justice

Week 11. Jurisdiction over War Crimes

The first week of this module focuses on broad debates over jurisdiction in the area of international criminal justice. Without venturing into details about any one institution, we step back to consider the legal, social, and political consequences of efforts to hold individual leaders accountable for war crimes.

Questions to think about:

- How has the project of international criminal justice evolved since WWII? What are the “two streams” identified by Sikkink?
- What are the social, political, and legal objectives of holding individual leaders accountable for war crimes?
- Who should have jurisdiction over war crimes and why?
- What does “universal jurisdiction” mean, why is the idea so controversial in the context of war crimes, and what impact is the principle having on national courts?
- Are international courts inherently better venues for prosecuting war crimes? Why/why not?

Required readings:

Sikkink, Kathryn. “The Streams of the Justice Cascade.” Ch. 4 in *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics*. New York: W.W. Norton & Co., 2011. [pp. 96-125]

Alvarez, José. “Trying Hussein: Between Hubris and Hegemony.” *Journal of International Criminal Justice* 2, no. 2 (2004): 319-29.

Leblanc, Sandrine. “A Tale of Many Jurisdictions: How Universal Jurisdiction is Creating a Transnational Judicial Space.” *Journal of Law and Society* 48, no. 4 (2021): 573-94.

Discussion board reading:

Neistat, Anya. “Victims of war crimes in Ukraine have an unprecedented chance to seek justice.” *Guardian* 24 July 2022.

Watch short news clip “International Criminal Court prosecutor on the pursuit of justice for Russian war crimes”

Discussion board question:

Who should be able to exercise jurisdiction over war crimes in Ukraine? Are there benefits, and are there drawbacks, to prosecuting such crimes across various national jurisdictions, even before an international tribunal is established? How should war crimes prosecutions be prioritized in relation to diplomatic efforts to resolve the conflict?

Assignments:

Discussion Board #8 due

Week 12: The Politics of the International Criminal Court

This week we examine the institution that is now at the heart of international criminal justice, the International Criminal Court. Created to try individuals specifically for war crimes, crimes against humanity, and genocide, the ICC has attracted much controversy since its establishment by treaty in

1998. We will approach our study of the Court from the perspectives of both powerful and less powerful states. Bosco looks at how, after its first decade or so, the Court looked poised to hold even powerful states in check, while Ba investigates a peculiar adaptation that has allowed African states to instrumentalize the Court.

Questions to think about:

- Why are states, such as the U.S., that are not party to the Rome Statute concerned about being subject to the ICC's jurisdiction?
- How are great power status such as the U.S., Russia, and China constrained by the existence of the ICC, even if/when they individually stand opposed to it?
- Why did African states want to join the ICC?
- Why have some African states referred themselves to the ICC even if they did not have to do so?
- What does Ba think these self-referrals tell us about the role of international institutions such as the ICC?

Required readings:

Bosco, David. "Introduction" in *Rough Justice: The International Criminal Court in A World of Power Politics*. New York: Oxford University Press, 2014. [pp. 1-10]

Ba, Oumar. "Regimes of International Criminal Justice" and "International Justice in a World of States" from *States of Justice: The Politics of the International Criminal Court*. New York: Cambridge University Press, 2020.

Discussion board reading:

No Discussion Board due this week

Week 13: The Future of International Justice

Overview:

Here, we step back to think about whether international law—including treaties, courts, and tribunals—are well suited to achieving the broader objective of international justice. Readings examine the social and cultural context surrounding international courts to assess their ability to respond to public expectations surrounding justice.

Questions to think about:

- What is the difference between international law and international justice?
- Why has individual criminal responsibility become the primary means to achieving justice at the international level?
- What alternative imaginings of justice does Clarke want us to consider?
- How are open source technologies changing the field of international criminal justice?
- Are there unintended consequences to the crowdsourcing of forensic evidence gathering?

Required readings:

Clarke, Kamari. Ch. 1, *Affective Justice: The International Criminal Court and the Pan-Africanist Pushback*. Durham: Duke University Press, 2019.

Koenig, Alexa. "From 'Capture to Courtroom': Collaboration and the Digital Documentation of International Crimes in Ukraine." *Journal of International Criminal Justice* 20, no. ? (2022): 829-842.

Discussion board reading:

[no author] "A New Era of Transparent Warfare Beckons." *Economist* (14 February 2022).

Discussion board question:

What impact is popular evidence-gathering likely to have on the future international criminal justice? Are there downsides to this 'out-sourcing' of forensics to non-governmental organizations? What impact is this 'data availability' likely to have on the conduct of war, as states and non-state combatants become aware of these public evidence-gathering efforts?

Assignments:

Discussion Board #9 due

MODULE 5: Final Assignments

Week 14: Final Projects

Exam students will complete reviews on two student projects; final project students will continue work on written reports or revisions.

Week 15: Final exams, revised papers, and written reports due