

**INTERNATIONAL LAW**  
Political Science 448/548  
Portland State University, Spring 2022

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In person or Zoom: [pdx.zoom.us/j/9162854315](https://pdx.zoom.us/j/9162854315)

### **Description**

This course is an introduction to international public law, generally understood as the set of rules that bind the international conduct of states and nonstate actors (or ought to). Until the twentieth century, international law was largely the law of nations, but today it also encompasses rights and duties of international and transnational organizations, and even individuals. Compared to most domestic legal systems, the international legal system is primitive; there is a close interplay between law and politics in the international system. The student of international law therefore confronts a host of normative and legal ambiguities—frustrating perhaps, but this is what makes the subject so interesting. Here we have a legal system that, although centuries old, is still in its formative stages of development. This, at least, is a view common among international legal theorists. Among international political theorists, on the other hand, such a view is often dismissed as utopian; any expectation that the international legal system will “mature” must confront the reality of an anarchical society of states where law will always derive from the exercise of power for political ends.

Both of these perspectives are represented in this course. Specific topics to be covered include the origins of the international legal order, the sources and subjects of international law, questions of jurisdiction and immunity, the use of force, the law of war (or what is now commonly called “international humanitarian law”), human rights, and rules for the management and preservation of the global commons.

This is a required course for the [international development track](#) in political science and an elective for the minor in [law and legal studies](#).

### **Learning Objectives**

The general objective of this course is to develop the student's grasp of the foundations of international law, its evolution during the twentieth century, and its role in world affairs today. By the end of the term, the student should be able to:

- demonstrate mastery of the main contours of international law;
- identify key historical developments and practices that have shaped the current international legal system; and
- provide a basic legal analysis of contemporary events and issues in world politics; and
- locate, evaluate, and utilize online information pertaining to international law.

## Requirements and Evaluation

Undergraduate course grades are based on a [midterm exam](#) (40%) and *either* a [final exam](#) or a [term paper](#) (60%). The exams consist of both multiple-choice questions and longer essay questions. The term paper requires a significant research effort and a 15- to 20-page analysis. Course grades for graduate students are based on a midterm exam and a term paper of 25-30 pages, as well as participation in separately scheduled seminar sessions to discuss, among other things, supplemental readings.

## Readings

One required course book is available for purchase at the [Portland State Bookstore](#):

- Anders Henriksen, [International Law](#), third edition (Oxford University Press, 2021).

Chapters assigned from the Henriksen text are required for both undergraduate and graduate students. The other type of assigned reading is a journal article or a chapter from a scholarly monograph. These are required for graduate students, but optional for undergraduates. Unless the reading includes a link to a file on the web or Canvas, it is available online from the PSU library. You must retrieve these readings by logging into the PSU [library website](#) and locating and downloading the article from one of the library's full-content subscription services.

In addition to the assigned readings, you should be reading, on a regular basis, the [New York Times](#), the [Washington Post](#), or some other newspaper with thorough international coverage. Your performance in the course will reflect your familiarity with current issues of international organization and governance, and not just an understanding of lecture material and course readings.

## Conduct and Courtesy

Students are responsible for being familiar with the PSU [Student Code of Conduct](#), especially the section concerning academic misconduct -- that is, plagiarism or other forms of academic dishonesty. If you are unsure of the definition or consequences of academic misconduct, feel free to consult with me.

Because they are distracting to others, cell phones (voice or text) and MP3 players may not be used during lecture and should be turned off at the start of class. Laptops and tablets may be used to take notes, but not for email, web browsing, or social media. Electronic devices may not be used to photograph, video, or stream course lectures or discussion, but lectures may be audio recorded with my permission.

## Student Resources

PSU's policies require faculty members to report any instance of sexual harassment, sexual violence, or other forms of prohibited discrimination. If you would rather share information about these experiences with an employee who does not have these reporting responsibilities and can keep the information confidential, please contact a confidential advocate (503.725.5672 or [online](#)) or another confidential employee listed on the [sexual misconduct resource webpage](#).

Because they are distracting to others, cell phones may not be used during lecture and should be silenced at the start of class. Laptops and tablets may be used to take notes, but not for email, web browsing, or social media. Electronic devices may not be used to photograph, video, or stream course lectures or discussion, but lectures may be audio recorded with permission of the instructor.

If you have, or think you may have, a disability that may affect your work in this class and feel you need accommodations, contact the [Disability Resource Center](#). to schedule an appointment and initiate a conversation about reasonable accommodations. The [CARE Team](#), hosted by the Dean of Student Life, is available to consult with you regarding any issues of students in distress, including sexual misconduct.

## **Blogs and Podcasts**

Students of international law will find a wealth of supplemental resources on the web, not least blog and podcasts, some of which are linked here. If you find a particular blog post or podcast episode particularly interesting, please share your thoughts with the class using the Canvas Discussion forum. I am happy to add other recommendations to this list.

### *Blogs*

[Opinio Juris](#)

[IntLawGrrls](#)

[International Law Observer](#)

[International Law Blog](#)

[Human Rights Now Blog](#)

[The Law of Nations](#)

[Articles of War](#)

[Center for International Environmental Law](#)

[Customs and International Trade Law](#)

[EJIL: Talk!](#)

### *Podcasts*

[International Law Behind the Headlines](#)

[Jus Cogens: The International Law Podcast](#)

[University of Oxford Podcasts: Public International Law](#)

[JIB/JAB: The Laws of War Podcast](#)

[EJIL: The Podcast!](#)

[The Matrix Law Pod](#)

## **CLASS SCHEDULE AND READING ASSIGNMENTS**

28 Mar - 1 Apr **Law in a Society of States**

We usually think of the rule of law as a feature of human society. But international law is a feature of, what, a "society of states"? Does it make sense to think of states as analogous to individuals in domestic society, and thus subject to rights and responsibilities as defined by law? If we are to take international law seriously, the answer to that question must be: yes.

- Henriksen, chap. 1.
- Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (Macmillan, 1977), chap. 1. ([Canvas](#))
- [slides](#)

#### 4-8 Apr           **Sources of the Law**

Where does international law come from? On what authority do certain norms of international behavior have the force of law? There are two broad views. One is that states themselves are this authority because of what they do or promise to do. The other is that this authority is grounded in a universal law of nature inherent in our ability to reason about what is right and wrong, whether in interpersonal or international conduct.

- Henriksen, chaps. 2-3.
- Olufemi Elias, "The Nature of the Subjective Element in Customary International Law." *International and Comparative Law Quarterly* 44, 3 (1995): 501-520.
- [slides](#)

#### 11-15 Apr       **Subjects of the Law**

International law is sometimes still referred to as the "law of nations," but that term is not as fitting as it once was. Nation-states are indeed the primary subjects of international law -- a.k.a. "legal persons" -- but other entities also have limited rights and responsibilities under the law, including international organizations and even individual people like you and me.

- Henriksen, chap. 4.
- Robert H. Jackson, *Quasi-states: Sovereignty, International Relations, and the Third World* (Cambridge University Press, 1990), chap. 1. ([Canvas](#))
- [slides](#)

#### 18-22 Apr       **Jurisdiction**

State sovereignty implies that the government exercises authority over what goes on within the country's territorial borders, including the conduct of its residents. But who has jurisdiction over the state's citizens when they are outside the state's territory? And can a state ever claim jurisdiction over those who are neither its citizens nor physically present within its territory? States have done precisely this.

- Henriksen, chap. 5.
- Xavier Philippe, "The Principles of Universal Jurisdiction and Complementarity: How Do the Two Principles Intermesh?" *International Review of the Red Cross* 88 (June 2006): 375-398.
- [slides](#)

#### 25-29 Apr       **Immunity and Responsibility**

States are not people, but the actions of states are necessarily orchestrated and conducted by individual persons acting as agents of the state. To facilitate interstate communication, states afford

the agents of other states wide latitude when present in their territory, including by granting them various immunities from prosecution in their courts.

- Henriksen, chap. 6-7.
- Derek Jinks, "State Responsibility for the Acts of Private Armed Groups." *Chicago Journal of International Law* 4, 1 (2003): 83-95. ([web](#))
- [slides](#)

2 May            **Midterm Exam**

4-6 May        **Law of the Sea**

The law of the sea defines different maritime zones in which the rights and responsibilities of states and nonstate actors differ. As one moves seaward from the coast, rules begin to fall away until maximum freedom enjoyed on the "high seas." Clashes often take place at sea because the boundaries of these maritime zones are in dispute and states attempt to clarify matters by flexing their military muscle.

- Henriksen, chap. 8.
- Tullio Treves, "Piracy, Law of the Sea, and Use of Force: Developments off the Coast of Somalia." *European Journal of International Law* 20, 2 (2009): 399-414.
- [slides](#)

9- 13 May      **Human Rights Law**

The very concept of human rights suggests that some of the individual rights we enjoy derive from our shared humanity and not simply our membership in this or that political community. What exactly those rights are has been the subject of much debate and often reflects philosophical differences between East and West, North and South.

- Henriksen, chap. 9.
- Suman Momin, "A Human Rights Based Approach to Refugees: A Look at the Syrian Refugees Crisis and the Responses from Germany and the United States." *Duke Forum for Law and Social Change* 9 (2017): 55-79.
- [slides](#)

16-20 May     **Environment and Trade**

States have volumes of rules to facilitate the flow of goods and services across their borders, but far fewer governing the flow of pollutants and other adverse effects of their economic activities. As we increasingly must contend with the environmental consequences of our collective production and consumption, this imbalance is mobilizing a new generation.

- Henriksen, chaps. 10-11.
- Benoit Mayer, "Obligations of Conduct in the International Law on Climate Change: A Defence." *Review of European, Comparative and International Environmental Law* 27,2 (2018): 130-140.
- [slides](#)

23-26 May      **Adjudication and Enforcement**

International society is anarchic in the sense that there no sovereign world government. But states have created some mechanisms to fulfill some of the functions of global governance, including the adjudication of disputes and the enforcement of law. The exercise of these functions is not perfect, but neither is it the anarchy it once was.

- Henriksen, chaps. 12-13.
- Carsten Stahn, "Between Law-breaking and Law-making: Syria, Humanitarian Intervention and 'What the Law Ought to Be'." *Journal of Conflict and Security Law* 19, 1 (2013): 25-48. ([Canvas](#))
- [slides](#)

1-3 Jun      **Use of Force and the Law of Armed Conflict**

Military conflict is the most primitive form of state interaction, but the rules for both the resort to armed force and the conduct of armies on the battlefield are some of the oldest in international law. We often become aware of these rules in their breach, but the laws of war are in fact widely observed and institutionalized in states' individual codes of military justice.

- Henriksen, chaps. 14-15.
- Milena Sterio, "The United States' Use of Drones in the War on Terror: The (Il)legality of Targeted Killings under International Law." *Case Western Reserve Journal of International Law* 45, 1/2 (2012): 197-214.
- [slides](#)

9 Jun, 12:30      **Final Exam** (undergraduate)

10 Jun      **Term papers due**

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This syllabus is available online at [web.pdx.edu/~kinsella/ps448s22.pdf](http://web.pdx.edu/~kinsella/ps448s22.pdf) and all course materials can be linked from this address. Last updated: 1 May 2022