

INTERNATIONAL LAW

Fall 2024

Instructor:	Bree Bang-Jensen bri · bong-yensen she/her, Bree/Dr./Prof.	Time:	T/TH 9:35 - 10:50 am
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Course Description:

This is an introductory class in international law that will provide students with a foundational understanding of what international law is, what the sources of international law are, and what constitutes an actor under international law. While students will read several cases in this class, the class is overall more focused on treaties as a source of international law than international court decisions. This class will explore major theories of international law, and whether, when, and how international law is able to influence state behavior. We will begin by discussing the origins and sources of international law, and the process for statehood and actor recognition.

This is a political science/international affairs class, not a law school class, and thus discussion will focus as much on actor engagement with international law and perceptions of international law as the law itself. Students are encouraged to critically examine claims of bias in international law, as well as backlash to international law, and hypothesize about what we can learn from the successes and weaknesses of international law.

We will then spend several weeks on treaties, a major vehicle for international law. We will examine why states commit to treaties, and how variations in treaty design can affect their membership, effectiveness, and longevity. We will then discuss compliance, non-compliance, enforcement, and backlash to international law. Next, we will shift to examination of two very different important international courts, the ICC and ICJ, and then explore the role of regional courts. We conclude by discussing several applications and special topics in international law, including the use of force, international law and armed combat, human rights, privacy, trade, the environment, and whether authoritarian states engage differently with international law than do democracies.

Course Page:

The syllabus, all course reading files, and assignment submission links are available on the e-Learning Commons page for this class: <https://uga.view.usg.edu/d2l/home/3253950>

Office Hours: My office hours are *student hours*: Fridays 11-12 PM, Tuesdays 1PM-2PM. This is dedicated time I reserve for students, located in my office: Chandler 328. To be most efficient, please sign up at the link below. These are in 10 minute increments, and feel free to sign up for more if suitable.

<https://calendly.com/bree-bang-jensen/office-hours>

Logistics

The textbook for this class is *Politics and International Law: Making, Breaking and Upholding Global Rules* by Leslie Johns (2022). I have also assigned a number of readings from academic and popular journals which are available on the course page.

I will hold office hours once a week at the days and times specified above. If you need to make an appointment outside my office hours, please email me at least a week in advance and suggest multiple meeting time options. If you are struggling and need support, I am happy to help connect you to appropriate campus resources. If you are having trouble in the class, please contact me. I can only help if you communicate with me. Please reach out if there is anything going on that will interfere with your performance in class, including deadlines. I never need to know specifics about your health, personal circumstances, etc. The best way to get in touch with me outside of class sessions and office hours is to contact me via email. I aim to respond to your email within two business days. Your email should be clear and concise and state what course you are taking. You should always consult the syllabus and course materials on eLearning before emailing. The ability to write effective emails is an important job skill that will help you to succeed in your future career. Relatedly, I expect you to check your email routinely. I will use Announcements on the e-Learning Commons to communicate important reminders, course changes, etc. outside of class time.

Grading Criteria

- **Active participation** 15%

Course readings are to be read *before* the assigned class day. All readings are to be done before the indicated day's class.

Please come to class prepared to discuss the readings for that day. Please look ahead and prepare for that week's readings. Readings are not perfectly uniform each week, so be prepared to read slightly more or less depending on the assignments. Reading is heaviest in the first half of the course, whereas more assignment due dates occur in the second half. Active participation in class requires both attendance and having done the assigned readings/homework before class.

- **Quizzes** 20%

There will be five brief quizzes on course material in class, which take 10-15 minutes. The lowest quiz grade will be dropped. If you are absent on a quiz day, that will count as your lowest grade. Quiz topics and dates are listed below, although the dates are subject to change at least two weeks in advance.

- Quiz 1: Sources of International Law 8/27
- Quiz 2: Commitment and the Treaty Lifecycle 9/17
- Quiz 3: Breaking and Complying with International Law 10/1
- Quiz 4: Upholding International Law 10/8
- Quiz 5: Courts 10/29

- **Statehood simulation** 10% Due on 9/3, there will be an in-class simulation exercise where class members will work in small groups to make the argument for statehood for a would-be state of their choosing. The assignment will be explained on 8/27.

- **Treaty Design** 15% Due on 9/24, students will write a 4-5 page double spaced paper on the precision, delegation, obligation and flexibility of a recent treaty of their choosing.
- **Comparing the ICC and ICJ** 10% Due on 10/22, students will submit a physical or virtual poster comparing the ICC and ICJ courts on a variety of aspects.
- **Biases in International Law** 10% Due October 31 to November 19 (students will sign up for presentation slots), students will present a 5 minute presentation on a particular bias in international law and share evidence for or against that bias. They will ultimately argue for or against the existence of that bias.
- **Does International Law Work?** 20% Due 12/4, students must write a 7-8 page paper on whether and under what conditions (issues, type of state, number of states) international law "works" or "is real" using evidence from class and the readings. This is not a research paper, so outside evidence is welcome but not required.

Policies

Names and Pronouns Professional courtesy and sensitivity are especially important with respect to individuals and topics dealing with differences of race, culture, religion, politics, sexual orientation, gender, gender variance, and nationalities. Class rosters are provided to the instructor with the student's legal name. I am eager to address you by your preferred name and/or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records.

Recording Lectures In the absence of written authorization from the UGA Disability Resource Center, students may not make a visual or audio recording of any aspect of this course. Students who have a recording accommodation agree in writing that they:

- Will use the records only for personal academic use during the specific course.
- Understand that faculty members have copyright interest in their class lectures and that they agree not to infringe on this right in any way.
- Understand that the faculty member and students in the class have privacy rights and agree not to violate those rights by using recordings for any reason other than their own personal study.
- Will not release, digitally upload, broadcast, transcribe, or otherwise share all or any part of the recordings. They also agree that they will not profit financially and will not allow others to benefit personally or financially from lecture recordings or other course materials.
- Will erase/delete all recordings at the end of the semester.
- Understand that violation of these terms may subject them to discipline under the Student Code of Conduct or subject them to liability under copyright laws.

Deadlines This course is designed so you are assessed on concepts soon after they are covered in class, and so that your workload (and mine!) are balanced throughout the semester. Failing to meet deadlines compromises both these things. If you find you are unable to meet a deadline, please notify me as soon as possible. Please back up all your work to a "cloud" (Google cloud, icloud, OneDrive– which is free through UGA). If you do not know how to do so, please see me during office hours. File loss is very sad, very frustrating and very avoidable and will not be an excuse for missing deadlines in this class.

Academic Honesty Many students have questions as to what constitutes too much "help" on essays or homework. Of course, you may ask a friend if a certain phrase or sentence is correct. You may consult an online dictionary or translator for a word or phrase. BUT, the line between legitimate help and cheating is this: Are you able to reproduce the same information on a test or on your own? If the answer is yes - i.e., you learned something from getting the help and won't make the same mistake again - that's okay. If the answer is no – i.e., you can't identify the parts of speech in the phrase or you can't tell me what the word(s) mean on the spot) then you shouldn't turn in the assignment as your own work. You should, at the very least, indicate those parts of the assignment that are not your own work. In line with this, I am obligated to uphold the university's policy on academic honesty, and I take this responsibility very seriously. If you are unsure about your particular situation, please ask me for clarification BEFORE you turn in an assignment as your own work. I am more than happy to help you out.

Generative AI

You are welcome to explore the use of generative artificial intelligence (GAI) tools for your work, but use of GAI tools should be limited to providing support as you develop your thinking and knowledge base for an assignment. Specific assignments will include details about whether use of GAI tools is allowable or not, and why. If you are uncertain about using a particular tool to support your work, please consult with me before using it. Please note that you may not represent output generated by a GAI tool as your own work. Any such use of GAI output must be appropriately cited or disclosed, including quotation marks and in-line citations for direct quotes. Including anything you did not write in your assignment without proper citation will be treated as an academic misconduct case. Suspected unauthorized assistance, plagiarism, or other violations of UGA's "A Culture of Honesty," will be reported to the Office of Academic Honesty. For full details on how to properly cite AI-generated work, please see the APA Style article, How to Cite ChatGPT. If you are unsure where the line is between collaborating with GAI and copying from GAI, I recommend that you do not have your assignment and the GAI tool open on your device at the same time. Instead, take notes in your own words while you interact with the GAI tool, then use your notes to remind you of what you've learned and to inform your work. Never copy output from GAI tools into your assignment. Instead, use your interaction with the tool as a learning experience, then close the interaction down, open your assignment, and let your assignment reflect your improved understanding. (Sidenote: This advice extends to AI assistants that are directly integrated into a composition environment or grammar modulation tool.) Finally, GAI is highly vulnerable to inaccuracy and bias. You should assume GAI output is wrong unless you either know the answer or can verify it with another source. It is your responsibility to

assess the validity and applicability of any GAI output used.

Course Schedule

Section I: Fundamentals

1. 8/15: Introduction and Overview: Why should we care about International Law

- **Goals**

- What is international law?
- How does it shape our lives?
- Syllabus review and goals for the class

- **Responsibilities**

- PIL: Chapter 1, pages 3-31
- International Law: 100 Ways It Shapes Our Lives.
URL: <https://www.asil.org/resources/100Ways>.
As you browse through this website, are any of the areas where international law operates seem either surprising or controversial? Are there any areas where international law appears to be having more of an impact than others?

2. 8/20, 8/22: Making International Law - Sources: Treaties, Customary International Law and Other Factors

- **Goals**

- Understand sources of international law
- Overview of treaties
- Customary International Law
- Principles, declarations, and norms

- **Responsibilities**

- 8/20 PIL Chapter 2
- 8/22 International Court of Justice (ICJ). 1969. “Summary of Judgments and Orders: North Sea Continental Shelf (Federal Republic of Germany/Denmark).” (4 pages). Avoid getting bogged down too much in the legal technicalities; rather focus on how the ICJ determined whether or not customary law applied in this case.
- 8/22 Bekker, Pieter. 1996. “Advisory Opinions of the World Court on the Legality of Nuclear Weapons.” ASIL Insights 1 (5): (7 pages). Consider the extent to which international courts should play a role in questions that are central to national interests.

3. 8/27, 8/29, 9/3: Making International Law - Actors

- **Goals**

- What constitutes an actor in international law?
- What is a state?
- How does one become a state?
- How is international law exclusionary?
- Explain Assignment 1: Statehood Simulation

- **Responsibilities**

- 8/27: QUIZ 1: SOURCES OF INTERNATIONAL LAW
- 8/27: Henderson, Conway W. 2010. Ch.2 “A World of Actors: A Question of Legal Standing.” In *Understanding International Law*. Chichester, U.K.: Wiley-Blackwell. (27-55).
- 8/27: Newman, Edward, and Gëzim Visoka. 2018. “The Foreign Policy of State Recognition: Kosovo’s Diplomatic Strategy to Join International Society.” *Foreign Policy Analysis* 14(3):367-387.
- 8/29: Gaffield, Julia. ”The racialization of International Law after the Haitian Revolution: the Holy See and National Sovereignty”. *The American Historical Review*. Vol 125, Issue 3, June 2020, pages 841-868. OR
- 8/29: Axelrod, Josh. ”A century later: the Treaty of Versailles and its rejection of racial equality”. *Codeswitch*, NPR. July 11, 2019.
URL: <https://www.npr.org/sections/codeswitch/2019/08/11/742293305/a-century->
- 9/3: Assignment 1: Statehood Simulation

Section 2: Treaties

1. 9/5, 9/10: Commitment

- **Goals**

- What is the ”treaty life cycle”?
- Why do states commit to treaties?

- **Responsibilities**

- 9/5: PIL 185-200 (Law of the Sea)
- 9/5: PIL 208-215 (Trade)
- 9/5: Spaniel, William. ”Game Theory 101: the Prisoner’s Dilemma”. YouTube. 8 minutes. Skip if you have prior exposure to the Prisoner’s Dilemma and coordination games.
- 9/10: Moravcsik, Andrew. 2000. “The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe.” *International Organization* 54 (2): 217-252.

- 9/10: Simmons, Beth A., and Allison Danner. 2010. “Credible Commitments and the International Criminal Court.” *International Organization* 64 (2): 225-256.

2. 9/12, 9/17: Design

• Goals

- Why do treaties vary?
- What are the elements of treaty design?
- How can we make treaties more effective?
- Explain Assignment 2: Treaty Design

• Responsibilities

- 9/12: VIRTUAL ASYNCHRONOUS (PRERECORDED) LECTURE
- 9/12: Abbott, Kenneth W., Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal. 2000. “The Concept of Legalization.” *International Organization* 54 (3): 401-419.
- 9/12: Abbott, Kenneth W., and Duncan Snidal. 2000. “Hard and Soft Law in International Governance.” *International Organization* 54(3): (Excerpt: 421-450).
- 9/17: Quiz 2: Commitment and the treaty lifecycle
- 9/17: Kahler, Miles. 2000. “Legalization as Strategy: The Asia-Pacific Case.” *International Organization* 54 (3): 549-571.
- 9/17: Terman, Rochelle and Zoltán Búzás. 2021. “A House Divided: Norm Fragmentation in the International Human Rights Regime.” *International Studies Quarterly*, 65 (2).

3. 9/19, 9/24, 9/26: Breaking International Law

• Goals

- Why do states break international law?
- What are competing theories on breaking international law?
- Why do states exit treaties?

4. Responsibilities

- 9/19: PIL 103-134
- 9/24: Chayes, Abram, and Antonia H. Chayes. 1993. “On Compliance.” *International Organization* 47 (2): 175-205.
- 9/24: Downs, George W., David M. Rocke, and Peter N. Barsoom. 1996. “Is the Good News about Compliance Good News about Cooperation?” *International Organization* 50 (3): 379-406.

- 9/24: ASSIGNMENT 2: TREATY DESIGN DUE
- 9/26: To prepare for class, please use your search browser to find a state that has left a treaty. Spend a few minutes reading about it and theorize why the exit may have occurred.

5. 10/1, 10/3: Upholding International Law

- **Goals**

- What mechanisms exist for upholding international law?
- What domestic mechanisms of enforcement exist?
- What are the mechanisms for social enforcement?
- Transitional week to courts

- **Responsibilities**

- 10/1: Quiz 3: Breaking and Complying with International Law
- 10/1: PIL 138-172
- 10/3: Murdie, Amanda and David Davis. "Shaming and Blaming: Using events data to assess the impact of human rights NGOs". *International Studies Quarterly*. Vol 56, Issue 1. March 2012. pages 1-16.
- 10/3: Optional: Terman, Rochelle. "Why shaming other countries often backfires". Big Brains podcast, U Chicago. February 2024. 33 minutes.

Section 3: Courts

1. 10/8: International Courts

- **Goals**

- Introduction to international and regional courts
- Are international and regional courts precedent-setting? How do their decisions matter?

- **Responsibilities**

- 10/8: Quiz 4: Upholding International Law
- 10/8: Voeten, Erik. 2009. "The Politics of International Judicial Appointments." *Chicago Journal of International Law* 9 (2): 387-405.

2. 10/10, 10/15, 10/17: The ICC and the ICJ

- **Goals**

- Understand how the ICC and the ICJ differ in judicial appointment, role, membership, etc.

- Compare the scope and content from two recent ICJ and ICC decisions on Gaza
- Explain Assignment 3: Comparing the ICC and ICJ poster

- **Responsibilities**

- 10/10: Gómez-Robledo Verduzco, Juan Manuel, "The International Court of Justice: A Bright Light in Dark Times". Just Security, October 24, 2022.
URL: <https://www.justsecurity.org/83723/the-international-court-of-justice-a>
- 10/10: Case: United States Diplomatic and Consular Staff in Tehran. USA vs Iran. 1980.
- 10/10: Case: Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals. Mexico vs USA. 2009.
- 10/15: Bates, Genevieve, and Shauna N Gilloly, "Between negotiation and legitimization: The international criminal court and the political use of sovereignty challenges". Journal of Human Rights. Vol 22, Issue 1. November 2023. p. 47-61.
- 10/15: Skim pretrial materials on the Bashir case on the ICC web portal:
URL: https://www.icc-cpi.int/cases?f5B05D=state_of_3A13010/17 : Case : *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in*
- 10/17: Case: Alleged Breaches of Certain International Obligations in Respect of the Occupied Palestinian Territory. Nicaragua vs Germany. 2024.
- 10/17: "Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine". ICC. May 2024.
URL: <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc>

3. 10/22, 10/24: Regional Courts and Other Courts

- **Goals**

- Examine the role of regional courts and of other types of courts and dispute resolution mechanisms
- Explain Assignment 4: Presentation on bias in international law

- **Responsibilities**

- 10/22: Assignment 3: Poster Comparing the ICC and ICJ due
- 10/22: Helfer, Karen, James T. Gathii, and Laurence R. Helfer, "Backlash against International Courts in West, East and Southern Africa: Causes and Consequences", EJIL, Volume 27, Issue 2. 2016. Could alternately watch the video here:
URL: <https://www.ejiltalk.org/new-ejillive-interview-with-karen-alter-on-backlash-against-international-courts-in-west-east-and-southern-africa-causes-and-consequences/>
- 10/22: PIL 395-432

- 10/24: Allee, Todd L. and Paul K. Huth. 2006. “Legitimizing Dispute Settlement: International Legal Rulings as Domestic Political Cover.” *American Political Science Review* 100 (2): 219-234.
- 10/28: Sign up for presentation topics and times by midnight

Section 4: Special Topics

• Goals

- Understand how international law interacts with invasion, conflict, human rights, environmental protection, trade, global health, etc.
- Debate claims about bias in international law
- Examine the role of non-state actors in international relations
- Explain Assignment 5: Does International law matter

1. 10/29, 10/31, 11/5: The Use of Force, Invasion, and Armed Conflict

• Responsibilities

- 10/29: Quiz 5: Courts
- 10/29: PIL Use of Force 310-352
- 10/31: PIL Armed Conflict 352-392
- 10/31: Bangerter, Olivier. 2011. “Reasons Why Armed Groups Choose to Respect International Humanitarian Law or Not.” *International Red Cross Review* 93 (882): 353-384.
- 10/31: Presentations Day 1
- 11/5: Entous, Adam and Evan Osnos. “Qassem Suleimani and how nations decide to kill: a new frontier in the use of assassination”. *The New Yorker*. February 3, 2020.
- 11/5: Presentations Day 2

2. 11/7, 11/12: Human Rights, Privacy, Public Health

• Responsibilities

- 11/7: PIL Human Rights 263-309
- 11/7: Presentations Day 3
- 11/12: Eck, Kristine, and Sophia Hatz. “State surveillance and the Covid-19 crisis”. *Journal of Human Rights*. Volume 19, Issue 5. November 2020. Pages 603-612.
- 11/12: Connolly, Daniel, Seunghyum Nam and Kristy Goodman. “Solving Old Problems or Making New Ones? Blockchain Technology for the protection of refugees of migrants.” *Journal of Human Rights*. Vol 22, Issue 2. August 2022. Pages 109-134.

- 11/12: Explain Assignment 5: Does International Law Work? Due December 4th.

3. 11/14, 11/19: The Environmental, Trade, and Investment

- **Responsibilities**

- 11/14: PIL Environmental Protection 433-463
- 11/14: Presentations Day 4
- 11/19: PIL Trade 204-231 OR PIL Investment 232-260
- 11/19: Presentations Day 5

4. 11/21: Authoritarian International Law

- **Responsibilities**

- 11/21: Ginsburg, Tom. "Episode 20: Authoritarian International Law". ASIL podcast.
URL: <https://soundcloud.com/americansocietyofinternationallaw/episode-20-authoritarian-international-law>
23 minutes.
- 11/21: Wang, Jiangyu and Huaer Cheng. "China's Approach to International Law: From Traditional Westphalianism to Aggressive Instrumentalism in the Xi Jinping Era". *The Chinese Journal of Comparative Law*, Volume 10, Issue 1, April 2022, Pages 140–153.
- 11/21: Presentation makeup day if needed

5. 11/26: Wrapping Up/ So, Does International Law Work?

- **Responsibilities**

- 11/26: Fazal, Tanisha M. 2012. "Why States No Longer Declare War." *Security Studies* 21 (4): 557-593.