

INR 6933
International Law
Spring 2014

Instructor: Dr. Laura Sjoberg
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Office: 203 Anderson
Office Hours: M W 8-9 (period) and by appointment
Class Time: 6:15pm-9:10pm Tuesday
Class Location: AND 0219
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COURSE DESCRIPTION

This seminar introduces M.A. and Ph.D. students to key concepts and approaches in international law, approaching it from an interdisciplinary perspective that combines political science and law. No previous legal training is required. This course is designed to explore a number of current issues in international relations through a legal lens, and to supply the tools to study the existence, salience, and meaning of international law in those areas. As such, the aim is not just to study international legal issues, but to show that studying international law adds to the explanatory power of international relations theorizing across the subfields of IR.

Topics which include the sources of international law, the relationships between domestic and international law, the law of recognition, the law of territorial sovereignty, the law of the environment, the international law of business transactions, jurisdiction, nationality, responsibility, the protection of individuals and groups, disputes, and the law of war. We will alternate between reading texts, scholarly articles, policy documents, and case law in engaging these issues.

GRADING

The grade will be divided into three parts:

- 1) Contribution (15%)
- 2) Discussion Leadership (10%)
- 3) Midterm Exam (30%)
- 4) Final Exam or Final Paper (45%)

The Grade Scale is: 94-100: A; 90-93: A-; 87-89: B+; 83-86: B; 80-82: B-; 77-79: C+; 73-76: C; 70-72: C-; 67-69: D+; 63-67: D; 60-62: D-

The University of Florida assigns the following grade points:

A: 4.0, A-: 3.67, B+: 3.33, B: 3, B-: 2.67, C+: 2.33, C: 2.0, C-: 1.67, D+: 1.33, D: 1, D-: .67, E: 0, WF: 0, I: 0; NG: 0.

CONTRIBUTION

You are expected to attend all class meetings. Please note that a portion of your final grade relies on your participation and attendance. By “contribution,” I do not mean being the person who is most willing to talk in front of the class. Contribution grades are based on the *quality* of participation – students who offer engaging and critical perspectives on course readings *which reflect that they have read them*. Attendance will be checked, and preparedness will be expected. If for some reason you will be unprepared for class on a given day, be sure to email me beforehand. If you would like to contribute to our class discussions but prefer not to speak in front of your classmates, feel free to contribute by discussing the readings via email to the Professor, at sjoberg@ufl.edu. The professor may share your thoughts with the class without identifying you in the following class meeting.

DISCUSSION LEADERSHIP

Students will be charged with leading the discussion one week of the semester. Depending on the number of students, students may be asked to work in teams. Assignment of weeks will be first-come, first-serve. Discussion leaders will lead critical analysis of the readings for the first hour of class. The responsibility of the discussion leader is to engage in a critical discussion of the readings – highlighting their substance and bringing up questions that they raise. Discussion leaders *must* lead the class for an hour with little, if any, and preferably no, involvement of the instructors. Discussion leaders will not continue to lead the class after the first hour. When you lead the discussion, you will be expected to provide your colleagues with a handout summarizing what you see as the key points of the readings.

MID-TERM AND FINAL EXAMINATION

Both the midterm and final examinations are essay-based, and take-home. The midterm will be distributed in class on February 18 and will be due at the beginning of class February 25. The final will be distributed in class on April 22 and due by email by noon on April 29. Students can decide to forgo the final examination in favor of a journal article-length, journal article-quality, class-relevant research paper, which would also be due 4/29.

HONOR SYSTEM

All students are expected to follow the Honor Code at the University of Florida. “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honesty and integrity.” On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.” Any student found violating the Honor Code will be reported. Honor code violations include but are not limited to academic dishonesty, making a false or misleading statement for the purpose of procuring an academic advantage, prohibited collaboration, prohibited use of materials or resources, plagiarism, the use of false information, sabotage, bribery, unauthorized recording, and purchase of a paper. If you’re not sure whether its cheating, it probably is, but feel free to come to my office hours and ask.

LATE ASSIGNMENTS

In 23 years of school, the most late I was on an assignment was 15 minutes. I expect assignments to be on time. EACH EXAM IS GIVEN WHEN AND ONLY WHEN IT IS SCHEDULED, SO

PLAN ACCORDINGLY. My default setting is to fail a student who has not finished the requirements for the course. Incompletes are for use in special circumstances only. If you have a dean's excuse for missing a scheduled exam, we will find a mutually amenable time to schedule the makeup.

DISABILITIES

Any student requiring adaptations or accommodations because of any kind of disability (learning disability, attention deficit disorder, psychological, and physical, etc.) should contact the Disability Resource Center for information about their rights and responsibilities. I would also appreciate it if students requiring accommodation came to talk to me at my office hours as soon as possible, so that we can take appropriate steps to implement those accommodations and maximize the student's learning. No accommodations will be applied retroactively, so let me know *before* an assignment or test that we will need to plan to deal with your disability.

COUNSELING

The Counseling Center is located in P301 Peabody Hall. It is open Monday-Friday, 8:00AM-5:00PM. To schedule an appointment, stop by the Counseling Center, or call 352.392.1575. On evenings and weekends, services are available through the Alachua County Crisis Center by calling 352.264.6789. Students may also call the clinician on-call at Student Mental Health at 352.392.1171.

CLASS DISRUPTIONS

Cellular telephones will be on silent during the class period. Not vibrate, silent. Should your telephone ring during class, I will answer it. If you text during class, your phone will get to spend some quality time with me. Laptop computers are permitted in class for note-taking purposes only. If you are caught doing something other than class-related work on your laptop during class, you will not be allowed to have it open in class anymore. Professional and courteous demeanor is expected, both towards me as the professor and towards your fellow students.

REQUIRED TEXTS

Crawford, James. 2012. *Brownlie's Principles of Public International Law*. 8th Edition. ISBN 978-0-19-969969-8.

Walzer, Michael. *Just and Unjust Wars*. Any edition.

Other materials and cases will be posted on the course's elearning site.

COURSE OUTLINE

Week 1 - January 7 – Introduction: The Uneasy Relationship between International Relations and International Law

Anne-Marie Slaughter, "International Law and International Relations Theory: A Dual Agenda," *American Journal of International Law* 87(2) (1993), 205-239. ON ELEARNING.

Anne-Marie Slaughter, Andrew S. Tulumello, and Stepan Wood, "International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship," *American Journal of International Law* 92(3) (1998), 367-397. ON ELEARNING.

Robert Keohane, "International Law and International Relations: Two Optics," in *Power and Governance in a Partially Globalized World* London: Routledge, 2002 (original article 1996), ch.6, p.117-131. ON ELEARNING.

Adam Irish, Charlotte Ku, and Paul F. Diehl, "Bridging the International Law-International Relations Divide: Taking Stock of Progress," *Georgia Journal of International and Comparative Law*, 41 (2012), 357-388.

Thomas Moore, "International Relations as Juridical Life: Rethinking 'the International' in International Theory," *Global Society* 27(4) (2013), 421-437.

Week 2 - January 14 – What is International Law and Where Does it Come From?

Crawford, Part I – Preliminary Topics

Chapter 1: Introduction (the Development of the Law of Nations, International Law as Law, the Reality and Trajectory of International Law), p.3-19.

Chapter 2: The Sources of International Law (ICJ, Custom, Treaties, Principles, Decisions, Material Sources, Other Concerns), p.20-47.

Chapter 3: Relations of International and National Law (Overview, Common Law, Civil Law), 48-114.

Akayesu decision, 106-122, 167-170 (factual and legal findings on genocidal rape)

Claudius Messner, "'Living' Law: Performative, Not Discursive," *International Journal of Semiotic Law* 25(2) (2012), 537-552.

Week 3 - January 21 – Personality and Recognition (Statehood)

Crawford, Part II – Personality and Recognition (chs 4, 5, 6), Part VII State Jurisdiction (Ch 20)

Chapter 4: Subjects of International Law (Established Legal Persons, Special Types of Personality), p.115-126.

Chapter 5: Creation and Incidence of Statehood (Legal Criteria of Statehood, Issues of Statehood, Achieving Independence, Identity and Continuity), p.127-142.

Chapter 6: Recognition of States and Governments (Recognition as a Category, of States, of Governments, Non-Recognition, Courts), p.143-163.

Chapter 20: Sovereignty and Equality of States (Concept, Uses, Interaction), p.447-455.

Alexander Wendt, "The State as Person in International Relations Theory," *Review of International Studies* 30(2) (2004), 289-316.

Kevin C. Dunn, "There is No Such Thing as the State: Discourse, Effect, and Performativity," *Forum for Development Studies* 37(1) (2010), 79-92.

Week 4 - January 28 – Territorial Sovereignty

Crawford, Part II – Territorial Sovereignty

Chapter 8: Forms of Governmental Authority over Territory (Concept, Key Terms, Administration Separated from Sovereignty, Restrictions on Disposition), 203-214.

Chapter 9: Acquisition and Transfer of Territorial Sovereignty (Title, Modes of Acquisition,, Displacements, Disputes, Peremptory Norms), 215-243.

Chapter 10: Status of Territory: Further Problems (Disposition, Displaced Sovereignty): 245-254.

ICJ Decision: Frontier Dispute, Burkina Faso v. Republic of Mali, 22 December 1986, p.586-588.

Brian Taylor Summer, "Territorial Disputes at the International Court of Justice," *Duke Law Journal* 53 (2004), 1779-1812.

Douglas Gibling, "Bordering on Peace: Democracy, Territorial Issues, and Conflict," *International Studies Quarterly* 51(3) (2007), 509-532.

Joel Wainwright and Joe Bryan, "Cartography, Territory, Property: Postcolonial Reflections on Indigenous Counter-Mapping in Nicaragua and Belize," *Cultural Geographies* 16(2) (2009), 153-171.

Week 5 - February 4 - Personality and Recognition (IOs)

Crawford, Part II – Personality and Recognition (ch 7)

Chapter 7: IOs (Legal Personality, Privileges and Immunities, Performance of Acts, Constituent Instruments, Relations between, Law-Making in, Control of), 166-202.

The Charter of the United Nations and the Mandate of the International Court of Justice, especially p.1-20 (Charter of the United Nations)

Sara Mitchell and Paul Hensel, "International Institutions and Compliance with Agreements," *American Journal of Political Science* 51(4) (2007), 721-737.

Kenneth W. Abbott, Robert O. Keohane, Anne-Marie Slaughter, and Duncan Snidal, "The Concept of Legalization," *International Organization* 54(3) (2000), 401-419.

Laura J. Shepherd, "Sex, Security, and Superhero(in)es: From 1325 to 1820 and Beyond," *International Feminist Journal of Politics* 13(4) (2011), 504-521.

Week 6 - February 11 – International Transactions

Crawford, Part VI – International Transactions (chs 16, 17, 18, and 19)

Chapter 16: Law of Treaties (Conclusion, Reservations, Observance and Application, Modification, Invalidity, Termination), 367-94.

Chapter 17: Diplomatic and Consular Relations (Modalities, Legal Aspects, Missions, Diplomatic Agents, Other Matters), 395-414.

Chapter 18: Unilateral Acts, Estoppel, 415-22.

Chapter 19: Succession to Rights and Duties (Forms of Change, State Succession), 423-446.

Vienna Convention on Diplomatic Relations, p.1-20.

Fiona McConnell, Terri Moreau, and Jason Dittmer, "Mimicking State Diplomacy: The Legitimizing Strategies of Unofficial Diplomacies," *Geoforum* 43 (2010), 804-814.

The Treaty of Versailles, June 28, 1919, p.49-60.

Beth Simmons and Daniel J. Hopkins, "The Constraining Power of International Treaties: Theory and Methods," *American Political Science Review* 99(4) (2005), 623-631.

Robert Benson, "The Semiotics of International Law: Interpretation of the ABM Treaty," *International Journal for the Semiotics of Law* 11/6 (1989), 257-276.

Week 7 - February 18 – Jurisdiction and Claims

Crawford, Part VII, State Jurisdiction (chs 21 and 22), Part XI Disputes (chs 31 and 32)

Chapter 21: Jurisdictional Competence (Prescriptive, Civil Prescriptive, Separateness of Grounds, Enforcement), p.456-486.

Chapter 22: Privileges and Immunities of Foreign States (Evolution of the Law of Immunity, Modalities, Attachment and Seizure), p.487-508.

Chapter 31: The Claims Process (Jurisdiction and Admissibility, Requirement of a Dispute, Diplomatic Protection, Mixed Claims), p.693-717.

Chapter 32: Third-Party Settlement (Peaceful Settlement, Development of Settlement, ICJ, Other Courts), p.718-742.

Lori F Damsroch, "Challenges to the International Law of Sovereign Immunity through National Decisions," *Vanderbilt Journal of International Law* 44(4) (2011), 1185-1200.

Marc L. Busch, "Overlapping Institutions, Forum Shopping, and Dispute Settlement in International Trade," *International Organization* 61(4) (2007), p.735-761.

Nikolas M. Rajkovic, "'Global law' and Governmentality: Reconceptualizing the 'Rule of Law' as Rule 'Through' Law," *European Journal of International Relations* 18(1) (2012), 29-52.

Week 8 - February 25 (and Spring Break)

(midterm due)

We will discuss the mid-term in class, and have a conversation about the rest of the class.

March 4 – No class, spring break

Week 9 - March 11 – People, Movement, and the Environment

1) **The Law of the Sea** (Crawford, Part IV, 255-332), and

2) **The Environment and Natural Resources**

- a. Crawford, Part V, 333-367,
- b. David R. Downes et al, "International Environmental Law," *The International Lawyer*, 43(2) (2009), 838-860,
- c. Debashish Munshi and Priya Kurian, "Imperializing Spin Cycles," *Public Relations Review* 31 (2005), 513-520). Or

Week 10 - March 18 – Human Rights and Criminal Law

Crawford, Part X, Chapter 29 and 30

Chapter 29: Human Rights (History, Sources of Standards, Non-discrimination, Scope, Protection, Enforcement), 634-670

Chapter 30: International Criminal Justice (Development, Courts and Tribunals, in National Courts), 671-692.

Catherine A. MacKinnon, "Rape, Genocide, and Women's Human Rights," *Harvard Women's Law Journal* 17(1) (1994), 5-16

Stuart Casey-Maslan, "Pandora's Box? Drone Strikes Under *jus ad bellum*, *jus in bello*, and International Human Rights Law," *International Review of the Red Cross* 94(886) (2012), 597-625.

Payam Akhavan, "Self-Referrals Before the International Criminal Court: Are States the Villains or the Victims of Atrocities?" *Criminal Law Forum* 21(1) (2010), 103-120.

Kamari Clarke, "Rethinking Africa through its Exclusions: The Politics of Naming Criminal Responsibility," *Anthropological Quarterly* 83(3) (2010), 625-651.

March 25 – Cancelled

Class cancelled for the Annual Meeting of the International Studies Association. Don't worry, it just means there is twice as much reading for the next week.

Week 11 - April 1 – The Law of the Use of Force

Crawford, Part XI, Chapter 33

Chapter 33: The Use of Force (History, Charter Prohibition, Security Council, Sources of Controversy), p.744-774.

Michael Walzer, *Just and Unjust Wars*

The Geneva Conventions Relative to the Protect of Civilians in Time of War, August 12, 1949 (Geneva IV)

Richard John Erickson, "A Merging of the Hague and Geneva Law of Armed Conflict," *Virginia Journal of International Law* 19(3) (1978), 557-592.

Jordan J Paust, "War and Enemy Status after 9/11: Attacks on the Laws of War," *Yale Journal of International Law* 28(2) (2003), 325-331.

Week 12 - April 7 – The Law of Responsibility and the Responsibility of Law

Crawford, Part IX, the Law of Responsibility (Chapters 25, 26, 27)

Chapter 25: Conditions for Responsibility (Configuration, Basis and Character, Attribution, Breach, Circumstances Precluding Wrongfulness), 539-565.

Chapter 26: Consequences of an International Wrongful Act (Cessation, Reparation, Invocation, forms of Reparation and Invocation), 566-589.

Chapter 27: Multilateral Public Order (Content of Illegality, Objective Consequences, Emerging order), 590-606.

Alex J. Bellamy, "The Responsibility to Protect: Five Years On," *Ethics and International Affairs* 24(2) (2010), 143-169.

Tessa Davis, "Taking International Law at its Word and Spirit: Re-Envisioning Responsibility to Protect as a Binding Principle in International Law," *Florida State Law Review* 38(4) (2011), 883-909.

Jeremy Moses, Babak Bahador, and Tessa Wright, "The Iraq War and the Responsibility to Protect: Uses, Abuses, and Consequences for the Future of Humanitarian Intervention," *Journal of Humanitarian Intervention and Statebuilding* 5(4) (2011), 347-367.

Think about: who has the responsibility for bad international law? Or is there no such thing?

Week 13 - April 15 and Week 14- April 22

Final Exam Distributed in class April 22

Before Spring Break, we will pick 4 "big problems" in global politics today (two for each of these days) as a class, and then I will pick readings for them. We will think about how to apply what we have learned in this class to those problems, asking whether an international law lens really does teach us anything more about IR/global politics than neglecting it.

Final Exam Due April 29, Noon, in 203 Anderson