

# INTERNATIONAL LAW AND INTERNATIONAL RELATIONS LEGAL STUDIES (LS 157)

## *Syllabus*

*(Last change: July 22, 2018)*

Summer 2018

10am-12pm (M, Tu, W, Th), Davis Hall 534

Instructor: Dr. Ivana Stradner

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Office Hours: Wednesday 3-4 pm, 2040 Piedmont Avenue #212 (Legal Studies) and by appointment

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### **COURSE DESCRIPTION**

Much ink has been spilled over international law and international relations in the news recently. The Syrian Civil War, the territorial dispute in the South China Sea, the North Korea nuclear crisis, the war against the Islamic State, the conflict in Ukraine, the refugee crisis in the European Union and the issue of climate change are just a few of the events that demonstrate the tension in the relationship between international law and foreign affairs that will be explored during our course.

This introductory course in international law and international relations starts from the assumption that these two fields cannot be adequately understood in isolation. The central goal is to equip students with a wide range of analytical tools that will enable them to see foreign policy in a holistic way: to put forward arguments like international lawyers while developing the ability to view the bigger picture of world politics and to critically and strategically reason like political scientists interested in foreign policymaking.

In the absence of a centralized world government to make laws and settle disputes, a natural question arises as to what role international law has in world politics. This class will revolve around contemporary events in international politics in order to gain a richer understanding of the power relations and political interests involved in the development, implementation and enforcement of international legal rules and processes.

To that end, the course is structured into three parts. The first part of the course gives a general introduction to international law and focuses on the various theoretical perspectives in international law and international relations to show why and when states have incentives to comply with international law. The second part goes on to outline the general principles and sources of international law and follows this up by explaining the relationship between international and domestic law and politics, with a special emphasis on U.S. doctrine and practice. Finally, the third part explores the tension between international law and

international relations by examining a variety of specialized areas including international trade, human rights, environmental issues and armed conflict.

### **PREREQUISITES**

This is an introductory course and no previous course work in international relations and international law is necessary. As this class uses many examples and illustrative cases from real-world politics, students will find it helpful to brush-up on their history. An overview of some major historical events can be found in the following book chapter: Baylis, J., Smith, S., & Owens, P. *The Globalization of World politics: An introduction to international relations*, OUP, 2017, part one (historical overview). Please note that some of the readings will be challenging and I encourage you to meet your GSI and me should you have any questions.

### **MANDATORY AND RECOMMENDED READINGS**

Required textbook available at the Bookstore: SEAN D. MURPHY, *PRINCIPLES OF INTERNATIONAL LAW*, 2<sup>nd</sup> ed., 2012. (hereinafter: *Murphy's Principles*)

You will also be required to read cases but note that you will only have to read excerpts.

This book will be supplemented by a number of texts from other books as well as academic and newspaper articles. All other readings are posted or linked on the class site on bCourses. The recommended readings are only **optional** and they are posted for students who want to learn more about the subject (optional readings will not be tested on your exams). It is important to have read only the **required** readings before class to be able to participate in class discussions. You should visit bCourses regularly because the course content and readings may be edited slightly. Therefore, you need to check bCourses and your email frequently for updates on your readings and assignments. A small number of additional readings may be added during the course of the summer semester. Additionally, you are encouraged to follow news coverage of current international events, which will also be important for participation in class discussions and presentations.

### **ASSIGNMENTS AND GRADING**

Assignments for the course will be explained in greater detail on the first day of class. Final grades for the course are determined as follows:

- Mid-term Examination (30%): The midterm will take place during regular class time on Monday, July 23, 2018.
- Written assignment (25%): A short paper, due July 30, 2018 (an essay prompt is due on July 9, 2018). We shall discuss your paper requirements in more detail during our first week.
- Final exam (35%): The final exam is scheduled for Thursday, August 9, 2018.
- Class and section discussion, oral presentations, pop quizzes at discretion of your GSI (10%)

## SCHEDULE OF CLASSES:

### 1. INTRODUCTION: INTERNATIONAL LAW AND INTERNATIONAL RELATIONS, TWO DISCIPLINES OR ONE?

- Robert Keohane, *International Relations and International Law: Two Optics*, Harvard International Law Journal 38:2 (1997) pp. 487-502
- Whaling in the Antarctic (*Australia v. Japan: New Zealand intervening*), 2014 I.C.J. (March 31)

#### *Optional:*

- Eric Posner and Oona Hathaway, Is International Law Useful? Debate, 17 January, 2005 Available at [http://www.legalaffairs.org/webexclusive/debateclub\\_.msp](http://www.legalaffairs.org/webexclusive/debateclub_.msp)
- Stanley Hoffmann, *The Uses and Limits of International Law*, in Robert Art and Robert Jervis, eds. International Politics, pp. 127-131
- Stephen Krasner, *Realist Views of International Law, Proceedings of the Annual Meeting (American Society of International Law)*, vol. 96, 2002, pp. 265–268

### 2. SEEING REAL-WORLD POLITICS THROUGH THEORETICAL LENSES

- F.B. Adamson and C.L. Sriram, Perspectives on International Law and International Relations, Chapter 2, in B. Cali “International Law for International Relations”, Oxford University Press, 2010.
- *Murphy’s Principles* pp. 10-17

#### *Optional:*

- Beth Simmons, *International Law and International Relations*, in Keith E. Whittington, R. Daniel Kelemen, and Gregory A. Caldeira, eds. The Oxford Handbook of Law and Politics, 2008 pp. 187-204
- Thucydides, *History of the Peloponnesian War, The Melian Dialogue* (excerpts)
- Stephen M. Walt, *International Relations: One World, Many Theories*, Foreign Policy, No.110, Spring 1998, pp. 29-44

## WEDNESDAY JULY 4, 2018 NO CLASS

### 3. EXPLAINING LAW COMPLIANCE: WHY DO STATES SIGN INTERNATIONAL AGREEMENTS AND FOLLOW INTERNATIONAL RULES?

- *Murphy’s Principles*, Chapter 5
- Graham Allison, “Of Course China, Like All Great Powers, Will Ignore an International Legal Verdict”, the Diplomat, 2016  
<http://thediplomat.com/2016/07/of-course-china-like-all-great-powers-will-ignore-an-international-legal-verdict/>

- ASIL, Insight, Enforcing International Law, available at: <https://www.asil.org/insights/volume/1/issue/1/enforcing-international-law>

*Optional:*

- Abram Chayes and Antonia Chayes, *On Compliance*, International Organization Spring 1993, pp. 175-206
- George Downs et. al, *Is the Good News about Compliance Good News about Cooperation?*, International Organization 50(3), 1996
- Andrew T. Guzman, *Reputation and International Law*, 34 Ga. J. Int'l & Comp. L. 379, 2006

#### 4. THINKING ANALYTICALLY AND STRATEGICALLY ABOUT THE WORLD POLITICS

- Jeffrey A. Frieden, David A. Lake, and Kenneth A. Schultz, *World Politics: interests, interactions, institutions.*, W.W. Norton & Company, 2016, Chapter 2

#### 5. STATE AS INTERNATIONAL ACTOR IN INTERNATIONAL LAW

- *Murphy's Principles* pp. 33-40
- Cases:
  - i. Yugoslavia's Secession
  - ii. Kosovo's Declaration of Independence
  - iii. Crimea's Separation from Ukraine

Cases are posted on bCourses and they are from the following book: Dunoff, Ratner, and Wipman. 2015. *International Law: Norms, Actors, Process: A Problem-Oriented Approach*. Aspen Publishers. *The syllabus refers to this as DRW*

*Optional:*

- <http://foreignpolicy.com/2014/03/21/self-determination-in-the-age-of-putin/>
- <http://opiniojuris.org/2014/03/02/ukraine-russia-international-law-governing-use-force/>
- <https://www.ejiltalk.org/crimea-and-the-limits-of-international-law/>
- Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, 1999, pp. 14-20

#### 6. INTERNATIONAL ORGANIZATIONS AS ACTORS OF INTERNATIONAL LAW AND POLITICS

- Dapo Akande, *International Organizations*” (chapter 9), in M. Evans, *International Law*, fourth edition, Oxford University Press, 2014

*Optional:*

- John Mearsheimer, “The False Promise of International Institutions.” *International Security*, 19 no.3 (1994) read only pp. 5-26, 37-49

- Keohane, Robert O., and Lisa L. Martin. “The Promise of Institutional Theory.” *International Security*, vol. 20, no. 1, 1995, pp. 39–51

## 7. SOURCES OF INTERNATIONAL LAW – TREATIES

- *Murphy’s Principles* pp. 77-92

Cases:

- i. Whaling in the Antarctic (Australia v Japan: New Zealand Intervening) This case has been posted on bCourses and it is from the following book: Dunoff, Ratner, and Wippman. 2015. *International Law: Norms, Actors, Process: A Problem-Oriented Approach*. Aspen Publishers. *The syllabus refers to this as DRW*
- ii. Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, 1951 I.C.J. 15 (May 28) (advisory opinion)
- iii. Armed Activities on the Territory of the Congo (Dem. Rep. Congo v Rwanda), 2006 I.C.J. 126

## 8. SOURCES OF INTERNATIONAL LAW - CUSTOMARY LAW AND SOFT LAW

- *Murphy’s Principles* pp. 92-101
- A. Boyle “Soft Law in International Law making” (Chapter 5), in M. Evans, *International Law*, fourth edition, Oxford University Press, 2014, pp. 118-120

• Documents:

- i. United Nations International Law Commission, Identification of Customary International Law, 2016

• Cases:

- i. North Sea Continental Shelf, (*Germany v. Denmark*), *Merits, Judgment*, ICJ Rep 3, ICGJ 150 (ICJ 1969)
- ii. Military and Paramilitary Activities In and Against Nicaragua (*Nicaragua v. United States of America*); ICJ. 14, (ICJ 1986)
- iii. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, ICJ Rep 226, ICGJ 205 (ICJ 1996)
- iv. Jurisdictional Immunities of the State, (*Germany v. Italy*), *Judgment*, ICGJ 434 (ICJ 2012)

## 9. INTERNATIONAL COURTS AND TRIBUNALS

- *Murphy’s Principles* pp. 141-151
- Juan M. Amaya-Castro, *International Courts and Tribunals in International Law for International Lawyers*, (Chapter 8) in B. Cali “International Law for International Relations”, Oxford University Press, 2010

*Optional:*

- Eric A. Posner and John C. Yoo, *Judicial Independence in International Tribunals*, California Law review, Vol. 93 2005

## 10. INTERNATIONAL COURTS AND TRIBUNALS (CONTINUED)

## 11. MIDTERM PREP

## 12. MIDTERM

## 13. BRINGING INTERNATIONAL LAW HOME: THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND DOMESTIC LAW

- *Murphy's Principles* pp. 253-265
- Cases:
  - i. Medellin v. Texas, 552 U.S. 491(2008)

### *Optional:*

- Henry Kissinger, *The Pitfalls of Universal Jurisdiction*, Foreign Affairs, July/August, 2001
- Robert O. Keohane, *When Does International Law Come Home?* Houston Law Review, Vol. 35, No. 3, Fall 1998

## 14. WHY ARE THERE WARS?

- Jeffrey A Frieden; David A Lake; Kenneth A Schultz, *World Politics: Interests, Interactions, Institutions* (Third Edition), 2016, Chapter 3

### *Optional:*

- James D. Fearon, Rationalist Explanations for War, *International Organization* 49,1995

## 15. THE USE OF FORCE, HUMANITARIAN INTERVENTION AND R2P

- *Murphy's Principles*, pp. 491-514
- Cases (excerpts)
  - i. Case Concerning Military and Paramilitary Activities In and Against Nicaragua (*Nicaragua v. United States of America*), ICJ. 14, ICJ 1986

### ➤ In-Class Discussion: Humanitarian Intervention in Syria

*Optional:*

- Samantha Power, Bystanders to Genocide, the Atlantic, 2001 available at <https://www.theatlantic.com/magazine/archive/2001/09/bystanders-to-genocide/304571/>
- John Yoo, *International Law and the War in Iraq*, 97 Am. J. Int'l L. 563, (2003) pp. 563-575
- Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), ICJ
- Case Concerning Armed Activities on the Territory of the Congo (*Democratic Republic of Congo v. Uganda*), ICJ 2005

#### 16. INTERNATIONAL CRIMINAL LAW AND INTERNATIONAL CRIMINAL COURT

- *Murphy's Principles*, pp. 465-489

*Optional:*

- A Surprising Surrender, The Economist, March 19, 2013 available at <http://www.economist.com/blogs/baobab/2013/03/bosco-ntaganda>
- James Fearon, How the ICC is Supposed to Work, lecture on deterrence available at <http://iccforum.com/forum/deterrence-lecture>

#### 17. INTERNATIONAL HUMANITARIAN LAW

- D. Turns, *The Law of Armed Conflict (Chapter 27)* in M. Evans, International Law, fourth edition, Oxford University Press, 2014
  - **In-class discussion: The Legal and Strategic Drone Dilemma (U.S. intervention)**

*Optional:*

- Mary Ellen O'Connell, *Game of Drones*, 109 American Journal of International Law 889, 2015

#### 18. THE SECURITY AND LEGAL DILEMMA: ARMAMENT AND DISARMAMENT

- *Murphy's Principles*, pp. 529-537
- Cases:
  - i. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, ICJ Rep 226, ICGJ 205 (ICJ 1996)
  - ii. Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament, (ICJ 2016)

#### 19. INTERNATIONAL HUMAN RIGHTS

- *Murphy's Principles, Chapter 10* (read p. 333-369)

Cases:

- Case of *Leyla Sahin v. Turkey*, European Courts of Human Rights, App No 44774/98 (Application No), ECHR 2005-XI

*Optional:*

- Koh, H. H. 1999. "How is International Human Rights Law Enforced?" *Indiana Law Journal* 74 (4): 1397-1417.

## 20. INTERNATIONAL TRADE IN THE SHADOW OF LAW AND POWER

- [TBD]

*Optional:*

- Milton Friedman, "Free Trade and the Steel Industry" [http://www.youtube.com/watch?v=j0pl\\_FXt0eM](http://www.youtube.com/watch?v=j0pl_FXt0eM)
- There Are the Six Biggest WTO Disputes You Need to Care About, March 15, 2017 available at <https://www.bloomberg.com/news/articles/2017-03-15/these-are-the-six-biggest-wto-disputes-you-need-to-care-about>
- Richard Steinberg, *In the Shadow of Law or Power: Consensus Based Bargaining and Outcomes in the GATT/WTO*. International Organization 56, no.2, 2002
- Adam S. Chilton & Rachel Brewster, *Supplying Compliance: Why and When the US Complies with WTO Rulings*, 39 Yale Journal of International Law 201, 2014
- ASIL Insights, The WTO Appellate Body Outlaws Discrimination un U.S. Flavored Cigarette Ban, Available at <https://www.asil.org/insights/volume/16/issue/15/wto-appellate-body-outlaws-discrimination-us-flavored-cigarette-ban>

## 21. INTERNATIONAL ENVIRONMENTAL LAW

- *Murphy's Principles, Chapter 12* (p. 415-436)
- Jeffry A Frieden; David A Lake; Kenneth A Schultz, *World Politics: Interests, Interactions, Institutions* (Third Edition), 2016, pp. 444-475 (*only excerpts! I will send an email with what exactly you should read*)

Cases:

- Whaling in the Antarctic (*Australia v. Japan: New Zealand intervening*), 2014 I.C.J. (March 31)

*Optional:*

- "World court should rule on climate science to quash skeptics, says Philippe Sands" <https://www.theguardian.com/environment/2015/sep/18/world-court-should-rule-on-climate-science-quash-sceptics-philippe-sands>



- Robert Keohane and M. Oppenheimer, *Paris: Beyond the Climate Dead End through Pledge and Review*, *Politics and Governance* 4, no. 3 2016, pp.142-151
- Tim Stephens 'The development of international environmental law by the International Court of Justice' in Douglas Fisher (ed), *Research Handbook on Fundamental Concepts of Environmental Law* (Edward Elgar Publishing 2016).

## 22. FUTURE OR INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

- Anne-Marie Slaughter, *International Law and International Relations Theory: Twenty Years Later*, in Pollack and Dunoff, *Interdisciplinary Perspectives on International Law and International Relations*, 2013
- ***Bring questions for the exam review!***

## 23. FINAL EXAM