

# PSCI 4183 INTERNATIONAL LAW

FALL 2011

MWF 9:00-9:50am, HALE 230

**INSTRUCTOR:** Amber Curtis

**OFFICE:** KTCH 103

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**OFFICE HOURS:** MW 10:00-11:00am

**COURSE WEBSITE:** <http://culearn.colorado.edu>

& By Appointment

**CLASS ASSISTANT:** Alex Rapazzini **ASSISTANT EMAIL:** [alexandra.rapazzini@colorado.edu](mailto:alexandra.rapazzini@colorado.edu)

**\*\*\* Students must have successfully taken the prerequisite class: PSCI 2223 \*\*\***

**COURSE DESCRIPTION:** What is international law? How has it come about? Who and what does it govern? How effective is it? What obstacles does it face? How can it be improved? This course employs both a positive and normative approach to surveying issues and developments in international law. While not all inclusive, it introduces students to the main concepts, institutions, and methodology that serve as the foundation of current international legal practice. Through detailed analysis of international conventions, customs, cases, and current events, students will acquire an understanding of the sources of international law, the relationship between international and domestic law, principles of jurisdiction, international dispute resolution, state sovereignty and responsibility, human rights law, international criminal law, international organizations, the legal use of force, and international environmental law.

**OBJECTIVES:** Through active engagement in class, students will:

- Comprehend the basic principles, practices, and instruments of international law
- Develop practical, transferrable skills such as reading comprehension, critical thinking, analytical research, and persuasive writing
- Cooperate and communicate with one another to share knowledge and expertise
- Recognize where the course material fits into scholarly dialogue and analyze strengths/weaknesses within an argument
- Identify applicability of course material to personal interests and real-world events

**STUDENT RESPONSIBILITIES:** All assigned readings (including the introduction to each section and notes at the end of each case) and case briefings should be done before class to facilitate lecture and discussion. Please check CULearn and your CU email regularly for important updates and announcements, as you will be accountable for all information transmitted via these electronic resources.

**REQUIREMENTS:** The course is structured as follows:

***Quizzes (15%) & Exams (40%)***

There will be four short multiple choice quizzes (each worth 5% of your final grade), of which the lowest score will be dropped. iClickers will be used to submit quiz answers. The midterm and final exam (worth 20% each) will consist of a combination of multiple choice, short answer, matching, and essay questions. There are NO make-ups!

### ***Attendance, Participation, & iClickers (20%)***

Class format will vary between discussion, group activities, multimedia presentations, case studies, lecture, and simulation exercises. Preparation and participation are critical as the course builds cumulatively upon all earlier material. Though heavy, it's a good idea to bring your textbook to class. Note that this is an iClicker course; attendance will be tracked through iClicker engagement and a substantial portion of participation points will employ iClicker activities. Attendance is crucial for success: Students who miss more than 15 classes will automatically fail the course—regardless of whether absences are excused or unexcused. In sum, your grade is based on showing up, speaking up, clicking in, and turning in miscellaneous daily assignments.

### ***Research Paper (20%)***

Students are required to write a 5-7 page research paper on a topic of their choice related to an international legal issue that either applies class material to a new subject or was not directly covered in class. (See suggested topics on CULearn; first come first serve so sign up early!) All standard rules apply: 12-point font, double-spaced, 1-inch margins, proper citation, bibliography, etc. Students are strongly encouraged to meet with me ahead of time to discuss their paper ideas. A 1-2 page detailed proposal in outline form (worth 5%) is due in class on Wednesday, October 12<sup>th</sup>. Final drafts (worth 15%) are due in class on Wednesday, November 30<sup>th</sup>. Only hard copies will be accepted, though an electronic version must also be uploaded to <http://www.turnitin.com> (Class ID: 4224059; Password: PSCI4183) no later than 5pm that same day. Because students receive two free “Paper Work Days”, a 10% per day late penalty will be strictly enforced for both paper components. No grade will be given until final papers have been submitted to Turnitin.com.

### ***Class Debate (5%)***

Students will be randomly assigned to one of two sides for a structured class debate over whether international law is “effective” or not. Due to class size, students will be assigned to one of two debate days (Monday, December 5<sup>th</sup> or Wednesday, December 7<sup>th</sup>). One class period will be set aside prior the debate so that groups can discuss their positions and prepare formal arguments. On the day of their debate, students must also submit a 1 page typed, double-spaced reflection of their personal position on the issue and why.

### **REQUIRED TEXTS:**

- Janis, Mark W., and John E. Noyes. 2011. *International Law: Cases and Commentary*. Fourth Edition. St. Paul, MN: Thomson West Publishing.
- Selected treaties (accessible in book or online—see links below).
- Other assigned readings accessible through CULearn.

**OPTIONAL TEXTS:** For those who need more clarification or want to pursue the information in greater depth...

- Garner, Bryan A. 2006. *Black's Law Dictionary*. Pocket Edition. St. Paul, MN: Thomson West.
- Epps, Valerie. 2009. *International Law*. Fourth Edition. Durham, NC: Carolina Academic Press.
- Goldsmith, Jack L., and Eric A. Posner. 2005. *The Limits of International Law*. New York: Oxford University Press.
- O'Connell, Mary Ellen. 2008. *The Power and Purpose of International Law: Insights from the Theory & Practice of Enforcement*. New York: Oxford University Press.

## IMPORTANT UNIVERSITY POLICIES:

### *Academic Honesty*

Any violations of University of Colorado's academic integrity policy, including cheating, plagiarism, academic dishonesty, fabrication, lying, bribery, and threatening behavior is grounds for an automatic F, expulsion from the class, and referral to the Honor Code Council ([honor@colorado.edu](mailto:honor@colorado.edu); 303-725-2273). Students who are found to be in violation of the academic integrity policy will be subject to both academic sanctions from the faculty member and non-academic sanctions (including but not limited to university probation, suspension, or expulsion). **All students are required to sign and submit a consent form by the end of the first week of class agreeing not to commit any kind of academic dishonesty (including but not limited to cheating on exams, improper citation, self-plagiarism, submitting someone else's work, 'clicking in' for an absent friend, etc.) and acknowledging that they WILL be reported to the Honor Code Council if found to be in violation of any Honor Code Policy.**<sup>1</sup> If you have questions about what is or is not permissible, ask first. Other information on the Honor Code can be found at <http://www.colorado.edu/policies/honor.html> and at <http://www.colorado.edu/academics/honorcode/>. It is also highly recommended that all students thoroughly read the complete Honor Code Constitution: <http://www.colorado.edu/honorcode/files/honor%20code%20constitution.pdf>.

### *Students with Disabilities*

If you qualify for accommodations because of a disability, please submit to me a letter from Disability Services in a timely manner so that your needs be addressed. Disability Services determines accommodations based on documented disabilities. Contact: 303-492-8671, Willard 322, and [www.Colorado.EDU/disabilityservices](http://www.Colorado.EDU/disabilityservices).

### *Religious Observances*

Campus policy regarding religious observances requires that faculty make every effort to reasonably and fairly deal with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. If applicable, please let me know in a timely manner. [http://www.colorado.edu/policies/fac\\_relig.html](http://www.colorado.edu/policies/fac_relig.html).

### *Appropriate Learning Environment*

Students and faculty each have responsibility for maintaining an appropriate learning environment. Students who fail to adhere to such behavioral standards may be subject to discipline. Faculty have the professional responsibility to treat all students with understanding, dignity and respect, to guide classroom discussion and to set reasonable limits on the manner in which they and their students express opinions. 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 will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. See policies at <http://www.colorado.edu/policies/classbehavior.html> and at [http://www.colorado.edu/studentaffairs/judicialaffairs/code.html#student\\_code](http://www.colorado.edu/studentaffairs/judicialaffairs/code.html#student_code).

### *Discrimination and Harassment*

The University of Colorado at Boulder policy on Discrimination and Harassment, the University of Colorado policy on Sexual Harassment and the University of Colorado policy on Amorous Relationships apply to all students, staff and faculty. Any student, staff or faculty member who believes s/he has been the subject of discrimination or harassment based upon race, color, national origin, sex, age, disability, religion, sexual orientation, or veteran status should contact the Office of Discrimination and Harassment (ODH) at 303-492-2127 or the Office of Judicial Affairs at 303-492-5550. Information about the ODH, the above referenced policies and the campus resources available to assist individuals regarding discrimination or harassment can be obtained at <http://www.colorado.edu/odh>.

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<sup>1</sup> Students who do not return the contract by Monday, August 29<sup>th</sup> will be administratively dropped from the course.

## CLASS SCHEDULE & ASSIGNMENTS

(Subject to change. Please check CULearn regularly for important course resources and updates!  
All readings refer to Janis & Noyes unless otherwise noted.)

### Day 1: Monday, August 22<sup>nd</sup> – Introduction to International Law

- Review: Syllabus, CULearn, Plagiarism Packet
- Ponder: What is international law (IL)? How is it made? Who are the main subjects of international law? What are the differences between public and private IL?

### Day 2: Wednesday, August 24<sup>th</sup> – Sources of International Law

- Read:
  - “The History of Int’l Law” (p. 1-3)
  - McCann v. United Kingdom (p. 3-17)
- Review: ICJ Statute Art. 38(1)(a-d) (p. 986)
- Ponder: What are the main sources of international law? How many different kinds are there? Which are binding or not?

### Day 3: Friday, August 26<sup>th</sup> – Sources of International Law, Cont’d

- CASE BRIEF DUE (hard copy in class)
- Read:
  - Filartiga v. Pena-Irala (p. 17-27)

### Day 4: Monday, August 29<sup>th</sup> – Treaties

- ACADEMIC HONESTY CONTRACTS DUE
- Read:
  - “Treaties” (p. 28-30)
  - Reservations to Genocide Convention Case (p. 61-69)
- Review: Vienna Convention on the Law of Treaties (p. 1005)
- Ponder: How do treaties come about? What law/instrument governs treaties?

### Day 5: Wednesday, August 31<sup>st</sup> – Treaties, Cont’d

- Read:
  - Gabcikovo-Nagymaros Case (p. 80-89)
  - Eastern Greenland Case (p. 89-96)
- Ponder: How are treaties validly terminated? Must treaties be in written form? Who may conclude a treaty?

### Day 6: Friday, September 2<sup>nd</sup> – Customary International Law

- Read:
  - Paquete Habana (p. 97-108)
  - Asylum Case (p. 108-111)
- Ponder: How do we find evidence of an international “custom”? What different types/levels of custom are there?

### Day 7: Monday, September 5<sup>th</sup> – NO CLASS (Labor Day)

### Day 8: Wednesday, September 7<sup>th</sup> – Customary International Law, Cont’d

- Read:
  - Lotus Case (p. 111-123)

- Texaco/Libya Arbitration (p. 123-134)
- Review: *Jus Cogens* handout (on CULearn)
- Ponder: Are all customs equal, or are some more important than others?

**Day 9: Friday, September 9<sup>th</sup> – Customary International Law, Cont’d**

- QUIZ 1
- Read:
  - Prosecutor v. Furundzija (p. 156-157)
  - Michael Domingues Case (p. 158-163)
- Ponder: How many states must participate in a custom and for how long before it is considered binding? Can states ever opt out of CIL? How?

**Day 10: Monday, September 12<sup>th</sup> – General Principles of International Law**

- Read:
  - Meuse Case (p. 167-170)
- Ponder: Who’s considered a “civilized nation”? How do general principles differ from CIL? What are some established principles? What is equity?

**Day 11: Wednesday, September 14<sup>th</sup> – The Relationship between International & Domestic Law**

- Read:
  - Foster & Elam v. Neilson (p. 188-192)
  - Missouri v. Holland (p. 199-203)
- Ponder: Why does domestic law matter for IL? How can we categorize different states’ participation in and willingness to incorporate IL?

**Day 12: Friday, September 16<sup>th</sup> – International & Domestic Law, Cont’d**

- Read:
  - Whitney v. Robertson (p. 211-213)
  - United States v. Belmont (p. 213-216)
- Ponder: What is the United States’ relationship to IL? What happens when IL and domestic law conflict?

**Day 13: Monday, September 19<sup>th</sup> – Jurisdiction**

- Read:
  - “The Principles of Jurisdiction” (p. 836-837)
  - American Banana v. United Fruit Co. Case (p. 837-841)
- Ponder: What are the various bases or principles of jurisdiction? Are they mutually exclusive? When in conflict, which principle(s) prevail?

**Day 14: Wednesday, September 21<sup>st</sup> – Jurisdiction, Cont’d**

- Read:
  - Blackmer v. United States Case (p. 841-843)
  - US v. Aluminum Co. of America Case (p. 844-849)
- Ponder: Why does jurisdiction matter?

**Day 15: Friday, September 23<sup>rd</sup> – Jurisdiction, Cont’d**

- Read:
  - “Other Principles of Jurisdiction” (p. 849-850)
  - The Schooner Exchange v. McFaddon (p. 908-912)

- Underhill v. Hernandez (p. 938-941)
- Ponder: What are ‘foreign sovereign immunity’ and the ‘Act of State Doctrine’? Should they exist?

**Day 16: Monday, September 26<sup>th</sup> – International Dispute Resolution; State Responsibility**

- QUIZ 2
- Read:
  - “Public Int’l Arbitration” (p. 290-298)
  - Rainbow Warrior (p. 302-312)
- Review & Print: ILC’s Draft Articles on State Responsibility  
[http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/9\\_6\\_2001.pdf](http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/9_6_2001.pdf)
- Ponder: How can IL help states resolve their issues with one another? When and why will states choose one particular type of dispute resolution over others? Are states always responsible for the actions of their nationals and governments?

**Day 17: Wednesday, September 28<sup>th</sup> – State Sovereignty & Recognition**

- Read:
  - Diplomatic & Consular Staff Case (p. 325-342)
- Review: Montevideo Convention (p. 477-482)
- Ponder: How do we define a “state”? What are the different theories of statehood?

**Day 18: Friday, September 30<sup>th</sup> – State Sovereignty & Recognition, Cont’d**

- Read:
  - Tinoco Claims Arbitration (p. 482-493)
  - Kadic v. Karadzic (p. 503-508)
- Ponder: When a government is contested, is IL made by that government still legally valid and binding?

**Day 19: Monday, October 3<sup>rd</sup> – The International Court of Justice**

- Read:
  - “The International Court” (p. 312-314)
- Ponder: What does the ICJ do? How is it organized?

**Day 20: Wednesday, October 5<sup>th</sup> – The ICJ, Cont’d**

- Read:
  - “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory” (p. 345-362)
- Review: ICJ Website <http://www.icj-cij.org/homepage/index.php?lang=en>
- Ponder: What are advisory opinions? Are they effective? Why or why not?

**Day 21: Friday, October 7<sup>th</sup> – Human Rights Law**

- Read:
  - “International Human Rights Law” (p. 404-419)
  - Soering Case (p. 443-459)
- Review & Print: International Bill of Human Rights: <http://www.un-documents.net/a3r217.htm>
- Ponder: Why do we have human rights law? Which types of states protect human rights (HR)? What can IL do if a state violates its citizens’ HR?

**Day 22: Monday, October 10<sup>th</sup> – NO CLASS (Paper Work Day)**

**Day 23: Wednesday, October 12<sup>th</sup> – Individuals & International Law**

- RESEARCH PAPER OUTLINES DUE (hard copy in class)
- Read:
  - “Individuals as Objects of Int’l Law” (p. 373)
  - Nottebohm Case (p. 374-387)
  - “Individuals as Subjects of Int’l Law” (p. 400-404)
- Ponder: Where do individuals fit in IL? How has their position changed/evolved over time?

**Day 24: Friday, October 14<sup>th</sup> – Individuals & International Law, Cont’d; Review for Midterm**

- Read:
  - “Individuals as Subjects of Int’l Law” (p. 400-404)
- Ponder: Is current IL regarding individuals sufficient? Why or why not?

**Day 25: Monday, October 17<sup>th</sup> – MIDTERM (BRING BLUEBOOK)**

**Day 26: Wednesday, October 19<sup>th</sup> – International Criminal Law**

- Read:
  - “International Criminal Law” (p. 459-471)
- Review & Print: Rome Statute of the ICC:  
[http://untreaty.un.org/cod/icc/statute/english/rome\\_statute%28c%29.pdf](http://untreaty.un.org/cod/icc/statute/english/rome_statute%28c%29.pdf)
- Ponder: Why was the ICJ established? How is the ICC different from the ICJ? What cases have been referred to the ICC? Which cases is the ICC currently investigating?

**Day 27: Friday, October 21<sup>st</sup> – The International Criminal Court**

- IN-CLASS MOVIE
- Read:
  - “Situation in the Democratic Republic of the Congo in the Case of the Prosecutor v. Thomas Lubanga Dyilo” (p. 463-471)

**Day 28: Monday, October 24<sup>th</sup> – The ICC, Cont’d**

- Read:
  - Scheffer (1999): “The United States & the ICC” (p. 12-22 – on CULearn)
  - Goldsmith (2003): “The Self-Defeating ICC” (p. 89-104 – on CULearn)
- Review & Print: Rome Statute of the ICC:  
[http://untreaty.un.org/cod/icc/statute/english/rome\\_statute%28c%29.pdf](http://untreaty.un.org/cod/icc/statute/english/rome_statute%28c%29.pdf)
- Ponder: What objections does the United States have to the ICC? Should the US join?

**Day 29: Wednesday, October 26<sup>th</sup> – International Organizations & International Law**

- Read:
  - “International Organizations” (p. 530-539)
  - Reparations Case (p. 539-555)
  - “Nongovernmental Organizations” (p. 555-564)
- Review: <http://www.un.org> (see ‘Main Bodies’ section; also: UN Chart on CULearn)
- Ponder: Where do international organizations (IOs) fit in IL? Which IOs have international personality? What are the main differences between intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs)? Does IL apply equally to both? Should it?

**Day 30: Friday, October 28<sup>th</sup> – The European Union**

- Ponder: What is the purpose of the EU? In what way(s) is it a unique IGO?

**Day 31: Monday, October 31<sup>st</sup> – International Law & the Use of Force**

- QUIZ 3
- Read:
  - “International Law & the Use of Force” (p. 565-580)
  - Caroline Dispute (p. 604-608)
- Ponder: When is the use of force permitted in IL? Who may use force and when? What qualifications must be met to claim self-defense?

**Day 32: Wednesday, November 2<sup>nd</sup> – International Law & the Use of Force, Cont’d**

- Read:
  - Nicaragua Case (p. 620-626)
  - Hamdan v. Rumsfeld (p. 586-598)
- Ponder: What happens when states are *not* justified in using force? What are the differences between *jus ad bellum* and *jus in bello*?

**Day 33: Friday, November 4<sup>th</sup> – The UN & Use of Force**

- Read:
  - UN & Use of Force (p. 634-639)
  - Peacekeeping (p. 635-638)
  - The Certain Expenses Case (p. 639-644)
- Review: UN Charter Art. 2(4) and Chapter VII (p. 960); *Responsibility to Protect* (on CULearn)
- Ponder: When may and should the international community engage in peacekeeping? Who may authorize peacekeeping missions?

**Day 34: Monday, November 7<sup>th</sup> – Analyzing Recent Uses of Force**

- Read:
  - “The Security Council & Iraq’s 1990 Invasion of Kuwait” (p. 644-650)
  - “Security Council Resolution 687” (p. 650-653)
  - “The Security Council & the 2003 Invasion of Iraq” (p. 663-675)
- Ponder: In what way(s) was the 2003 war in Iraq justified under IL or not?

**Day 35: Wednesday, November 9<sup>th</sup> – Analyzing Recent Uses of Force, Cont’d**

- Read:
  - UNSC Proposals for Change (p. 676-688)
- Ponder: Should the UNSC be modified or changed to increase its ability to monitor global use of force? How?

**Day 36: Friday, November 11<sup>th</sup> – International Environmental Law**

- Read:
  - Trail Smelter Case (p. 689-699)
  - Shrimp Turtle Case (p. 726-740)
- Ponder: How has international environmental law (IEL) evolved over time? What areas does it predominantly cover? Is most IEL binding or not?

**Day 37: Monday, November 14<sup>th</sup> – Depletion of the Stratospheric Ozone Layer**

- Read:
  - “Stockholm Declaration” and “Rio Declaration” (p. 699-706)
- Review & Print:
  - Montreal Protocol: <http://ozone.unep.org/pdfs/Montreal-Protocol2000.pdf>

**Day 38: Wednesday, November 16<sup>th</sup> – Climate Change**

- QUIZ 4
- Review & Print:
  - UN Framework Convention on Climate Change:  
<http://unfccc.int/resource/docs/convkp/conveng.pdf>

**Day 39: Friday, November 18<sup>th</sup> – NO CLASS (Paper Work Day)**

**Days 40-42: Monday, November 21<sup>st</sup> – Friday, November 25<sup>th</sup> – NO CLASS (Fall Break)**

**Day 43: Monday, November 28<sup>th</sup> – Climate Change, Cont'd**

- Review & Print: Kyoto Protocol: <http://unfccc.int/resource/docs/convkp/kpeng.pdf>

**Day 44: Wednesday, November 30<sup>th</sup> – Guest Speaker**

- PAPERS DUE (hard copy in class; electronic version to <http://www.turnitin.com> by 5pm)
- Read:
  - Hufbauer & Kim (2010): “Reaching a Global Agreement on Climate Change: What are the Obstacles?” (p. 39-58 – on CULearn)

**Day 45: Friday, December 2<sup>nd</sup> – Group Preparation for Debate**

- Read:
  - Goldsmith & Posner (2005): *The Limits of International Law* (p. 3-17 – on CULearn)
  - O’Connell (2008): *The Power and Purpose of International Law* (p. 1-16 – on CULearn)
- Ponder: Does IL matter? When and why? Who abides by IL? What punishment(s) do states incur if they violate IL?

**Day 46: Monday, December 5<sup>th</sup> – Class Debate on Effectiveness of International Law (I)**

- PERSONAL OPINION STATEMENT DUE (hard copy in class)

**Day 47: Wednesday, December 7<sup>th</sup> – Class Debate on Effectiveness of International Law (II)**

**Day 48: Friday, December 9<sup>th</sup> – LAST DAY OF CLASS; Review for Final**

**FINAL EXAM: Wednesday, December 14<sup>th</sup> – 7:30-10:00pm (BRING BLUEBOOK)**