PS 8330: The Politics of International Law

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Course Description:

This is an advanced and interdisciplinary research seminar on international law and politics. As we shall see, the study of international law has been dominated (with very few exceptions) by legal scholars in the post-World War II era, only to be rediscovered by political scientists over the past decade. PS 8330 will be genuinely interdisciplinary, drawing on seminal works from both international law and political science. The aim will be to explore the state of our knowledge about the making, interpretation, and enforcement of international law as understood from various theoretical and methodological perspectives and from both disciplines. Please note that this course will be offered alongside and will meet with a similar course taught by Prof. Jeffrey Dunoff in the Law School, thereby bringing together students from political science and law, as well as guest speakers from both disciplines.

The course is organized in three parts. The first part of the course offers a general introduction to international law, asking whether and to what extent international law is “really law,” examining international-relations approaches to IL in political science, and surveying theoretical approaches from legal scholarship, including a lively debate over the importation of rational choice methods into the study of international law. The second section of the course examines general principles of international law, including the creation and sources of international law, the interpretation of international law by courts and tribunals, the problem of enforcement, and the relationship between international and national (or “municipal”) law. In the third and final part of the course, we examine three selected specialized areas of international law: human rights law, economic law, and the laws of war.

Schedule of classes:

- Week 1: Introduction: What is International Law? (Sept 3)
- Week 2: International Law Theories and Approaches (Sept 10)
- Week 3: The Rational-Choice Debate in International Law (Sept 17)
- Week 4: International Relations RedisCOVERS International Law (Sept 24)
- Week 5: Sources of International Law I: States and Treaties (Oct 1)
- Week 6: Sources of International Law II: Customary Law, Soft Law, and Legal Pluralism (Oct 8)
- Week 7: Interpreting International Law I: Dispute Settlement (Oct 15)
- Week 8: Interpreting International Law II: International Courts and Tribunals (Oct 22)
• Week 9: Enforcing International Law: Compliance and Effectiveness (Oct 29)
• Week 10: International Law and Domestic Law (Nov 5)
• Week 11: Human Rights Law (Nov 19)
• Week 12: International Economic Law (Nov 24)
• Week 13: The Use of Force (Dec 3)

Required readings: The core international law texts for the course will be:

• Sean D. Murphy, Principles of International Law (St. Paul: Thomson/West, 2006), a very good, brief introduction to international law; and


In addition to these international law texts, we will also read extensively from several other political science and books, including the following, which are on order at the Temple University bookstore:


These books will be supplemented by a substantial number of selections from other books as well as articles from political science journals and law reviews. With the exception of the above textbooks, all of the required readings will be made available on electronic reserve – please print these readings and bring them to class, and be prepared to discuss specific points from the readings in class discussion.

By contrast with the required readings, the recommended readings are there only for students who wish to learn a bit more about topics that are not well covered in the required readings. Feel free to look up the recommended readings if you like, but it is not necessary to read any of the recommended readings to do well in the course!

Course Requirements: Students taking PS 8330 may satisfy the course requirements through one of two options: one option involving short papers and a final examination, and the second option featuring an independent research paper.

Option 1: Short Papers and Final Examination. There are three requirements for students taking this first option:

1. Class participation. Students are expected to participate actively in seminar discussions, having read carefully and thought about the week’s
readings. (Note that waiting until the last minute to do the readings is not conducive to synthesis and reflection before class. Best to read early and let the ideas bounce around in your head a few days before seminar.) Participation should always be cordial and constructive, not gladiatorial, and chatting about the readings with fellow students is encouraged. Participation will comprise 25% of the final grade.

2. **Two short (6-8 page) papers**, addressing specific topics arising out of the required readings for the course. Your paper need not tie together all of the readings for a given approach or question, which would be impossible, but should select one particular problem or puzzle that cuts across at least two of the readings, and analyze it in greater detail. Such a paper may, but need not, incorporate readings from outside the required readings for PS 8330, insofar as these are relevant to your chosen topic. Finally, make sure that your paper does not simply rip down what everyone else has written. Try to organize your critique in terms of a positive argument (which should be summarized in the first paragraph or two of the paper!), noting useful as well as poor work and suggesting ways in which future work (including possibly your own) might do better. At least one paper **must** be handed in by Week 7 of the course, and the other is due no later than December 3\(^{rd}\). Each paper will be worth 25% of the total grade for the course, for a total of 50%.

3. **A final take-home essay.** At some point during their first two years in the graduate program, most students in this course will take the Political Science Department’s MA examination in international relations. For this reason, the final requirement for the course will be a 7-10 page take-home essay in response to questions similar to those asked on the departmental exam. Questions will be handed out on December 3\(^{rd}\), and responses will be due back by 5:00 p.m. on December 10\(^{th}\). The take-home essay will be worth a total of 25% of the grade.

**Option 2: Independent Research Paper:** Students who feel comfortable doing so have the option of writing a 20-30 page research paper in place of the second and third requirements listed above. Such papers should examine an issue or an empirical case relevant to the course, and should be informed by the theoretical categories reviewed in our course readings. There is no single formula for a good seminar paper: Some will put forward an original theoretical argument at length with little or no empirical work, while others will take existing theories and test or apply them on an empirical case or cases using a careful research design and primary and secondary sources. In my experience, the latter type of paper, with a clear empirical focus, is the best preparation for dissertation research. Either way, this assignment should be completed in two steps:

- **A preliminary proposal** of approximately five pages, listing the research question, the relevant literature on the question (including a working bibliography), the preliminary hypotheses or argument of the
paper, and a summary of the empirical case or cases and the research
design and methodology to be followed (due no later than November 19th,
earlier if you’d like feedback sooner, 15% of the grade); and

• The final paper (due December 10th, 60% of the grade).

No student will be required to write a research paper for the course, but if you feel
confident about your grasp of international law and international relations, this is a good
opportunity to push beyond a careful reading of the literature and engage in original
research of your own.

**Academic Conduct:** Temple University has adopted standards on academic conduct,
and all students in PS 8330 are expected to comply fully with those standards, including
with reference to the important issue of plagiarism. All students should, in all
assignments, fully and unambiguously cite sources from which they are drawing
important ideas and/or sizable quotations (for example, more than eight consecutive
words or more than 50% of a given sentence or paragraph). Failure to do so constitutes
plagiarism, which is a serious act of academic misconduct and will result in a failing
grade for the course and notification of the infraction to the Dean of Students. Similarly,
cheating during exams, copying written assignments from other students, or providing
answers to others during exams are considered acts of academic misconduct. If you are
unfamiliar with policies about plagiarism or other types of academic misconduct, you
may wish to consult the useful handouts available at the Temple Writing Center
(http://www.temple.edu/writingctr/handouts/researchandplagiarism/index.html), or if you
still have remaining doubts or specific questions, raise them directly with me.

**Disability Statement:** This course is open to all students who met the academic
requirements for participation. Any student who has a need for accommodation based
on the impact of a disability should contact the instructor privately to discuss the specific
situation as soon as possible. Contact Disability Resources and Services at 215-204-1280
to coordinate reasonable accommodations for students with documented disabilities.
(Please use this text without modification.)

**Statement on Academic Freedom:** Freedom to teach and freedom to learn are
inseparable facets of academic freedom. The University has adopted a policy on Student
and Faculty Academic Rights and Responsibilities (Policy # 03.70.02) which can be
accessed through the following link: http://policies.temple.edu/getdoc.asp?policy_no=03.70.02.
SCHEDULE OF TOPICS AND READINGS

Part I: Introduction and Theoretical Perspectives

Week 1: Introduction: What is International Law? (Sept. 3)

Required Readings

* Murphy, Principles of International Law, Chapter 1, pp. 1-10.

DRW, pp 1-33.

Recommended Readings


Week 2: International Law Theories and Approaches (Sept. 10)

Required Reading

* Murphy, Principles of International Law, pp. 10-28.


Recommended Reading


Christine Chinkin and Hilary Charlesworth, the Boundaries of International Law: A Feminist Analysis (Juris Publishing, 2000).


**Week 3: The Rational-Choice Debate in International Law (Sept. 17)**

**Required Reading**


**Recommended Reading**


*Rational Choice and International Law*, special issue of the *Journal of Legal Studies*, Vol. 31, No. 1, Part 2 (January 2002), see especially introduction by the editors (pp. 104) and essays by Thompson (285-306) and Keohane (307-31).


**Week 4: International Relations RedisCOVERS on International Law (Sept. 24)**

**Required Readings**


**Recommended Readings**


Part II: Elements of the International Legal Order

Week 5: Sources of International Law I: States, Treaties, and Power (October 1)

Required Readings

* Murphy, Principles of International Law, Chapter 2, “Actors of International Law” (skim), and Chapter 3, “International Law Creation” (read) pp. 65-108.


Recommended Readings


Week 6: Sources of International Law II: Customary Law, Hard and Soft Law, and Legal Pluralism (October 8)

Required Reading


Recommended Reading

1. Customary International Law


Eyal Benvenisti, “Customary International Law as a Judicial Tool for Promoting

2. **IO’s as international law makers**

DRW, pp. 107-143 [on states], 171-197 (on IOs), and 201-234 (on NSAs).


3. **Soft law**


4. **Legal pluralism and regime complexes**


Levit, J. 2008. *Bottom-Up Lawmaking Through a Pluralist Lens: The ICC Banking Commission and the Transnational Regulation of Letters of Credit*, 57 Emory L.J. 1147-


Week 7: Interpreting International Law I: Dispute Settlement, and the Case of the European Court of Justice (October 15)

Required Readings


Recommended Readings


Week 8: Interpreting International Law II: International Courts and Tribunals (October 22)

Required Readings


Recommended Readings


Week 9: Enforcing International Law: Compliance and Effectiveness (October 29)

Required Reading


Recommended Reading


**Week 10: International Law and Domestic Law (November 5)**

**Required Reading**


**Recommended Reading**

DRW, Chapters 5 and 6.


Part III: Topics in International Law

Week 11: Human Rights Law (November 19)

Required Reading


Recommended Readings

DRW, Chapter 7.


Week 12.  International Economic Law (Nov. 24)

Required Reading

DRW, Chapter 12, read pp. 827-859 (on trade), skim 859-872 (on investment).


Recommended Reading


Week 13: The Use of Force: *Jus ad bellum* and *jus in bello* (Dec 3)

**Required Reading**

*Jus ad bellum*


DRW, Chapter 13, read pp. 875-915 (on the wars in Iraq) and skim pp. 932-957 (on UN peacekeeping, humanitarian intervention, and the case of Kosovo).


*Jus in bello*


**Recommended Reading**


*Jus ad bellum and the War in Iraq*


Michael Byers, *War Law*, Part II, Chapters 4-6, pp. 53-80.


**On Humanitarian Intervention and R2P**


**Terrorism and Counter-Terrorism**


**War Crimes, Tribunals, and the ICC**


