International law is virtually an oxymoron. Law without a sword is mere words: lacking an enforcement mechanism . . . [it is] merely admonition or aspiration [to be effective it] must be backed by coercion legitimized by the political process. The ‘international community’ has no such process. (George Will)

To deny that international law exists as a system of binding legal rules flies in the face of all the evidence. (Hans Morgenthau)

International Law is the law which the wicked do not obey and which the righteous do not enforce. (Abba Eban)

We who are citizens of the United States have a special responsibility to make our leaders accountable to international law and the authority of the United Nations for our own sake and for the sake of others around the world currently victimized by American lawlessness. (Richard Falk)

As the above quotations indicate, opinions about the significance and merits of international law are all over the map. There are two main trajectories of debate. One, concerns how much international law constrains and influences the behavior of states and nonstate actors. This first trajectory invites the question of the similarities and differences between international law and municipal law.¹ Two, concerns whether the international legal system operates in a way beneficial to global justice. Here, people may agree that international law is quite effective but insist that it either furthers a highly unequal global order or, conversely, places too many constraints on needed hegemons, like the United States. Similarly, this second trajectory raises the issue of whether international law serves to maintain and further hierarchies between the well-off, long-established states in the West and the poorer states of Africa, Asia, the Middle East and Latin America (many of whom, outside of Latin America, only attained independence as a modern state in the middle of the 20th century).

This class aims to help you think through these debates and formulate your own viewpoints. The first part of the class will cover the fundamentals of international law and examine a range of perspectives on international law, from liberal-cosmopolitan, realist, and anti-imperialist lenses. In the middle part of the class you will sharpen your legal skills by assessing the legality of the Israeli government and Hamas in the most recent onslaught, labeled by Israel as “Operation Protective Edge” (still ongoing as of the time of this writing). Besides doing a legal analysis, you will also be asked to perform a broader moral and political analysis of the merits of international humanitarian law when it comes to situations like Israel-Gaza. In this part, you are expected to conduct

¹ In international law discourse, “Municipal law” means the law within countries.
independent research. The latter part of the class will address the so-called humanitarian
turn in international law, with the emergence of global criminal tribunals and the
responsibility to protect doctrine and the heightened rhetorical emphasis devoted to
protecting fundamental human rights. Some readings will argue that this humanitarian
turn is genuine and indicative of a more cohesive global community. Others will take a
much more skeptical-critical approach.

Because this is a capstone, 500-level course, the demands are heavy. Readings average
90-100 pages a week with independent research required for some sections. Moreover,
there are written assignments due almost every week. Active class discussion is required.
Attendance is mandatory with students expected to have read the assignment for that
week prior to the class meeting. Specific references to the readings will be expected in all
written assignments. The upside of these demands is that you will find the course quite
rewarding and will come away with a rich, complex understanding of the intersection of
international law and international politics.

**Student Learning Outcomes:**

- Learn the fundamentals of international law, such as the sources of international
  law and the nature of legal reasoning.
- Appreciate how international law is similar to and distinct from municipal law:
  this includes distinguishing legal approaches and reasoning from political or
  moral ones (while recognizing that law is not hermetically sealed).
- Describe and explain underlying theoretical perspectives on the nature and
  significance of international law, drawing from legal and international relations
  approaches.
- Describe and explain competing normative perspectives on the merits of
  international law for advancing order and global justice, drawing from legal and
  international relations approaches.
- Compare and contrast the relationship of international law across distinct parts
  of the globe (e.g., the West and the global South).
- Assess the evolution of international law across distinct historical and structural
  settings.
- Develop your own theoretical synthesis for understanding and evaluating the
  significance of international law.
- Develop your own normative approach on the merits of international law for
  advancing order and global justice.
- Engage in close reading of the material to identify main arguments and themes.
- Participate in classroom discussion. You should come to class with prepared notes
  of the reading material and a list of discussion questions.
- Express sophisticated, clear ideas in writing.
Required Readings:

- Collection of articles and book chapters. Available at no charge on either the Web or the Blackboard page for this class. Click on “Course Documents”.

All books have been ordered through KB Books at 5187 College Avenue. I have chosen books that are reasonably priced, provide a range of perspectives, and are well written and highly regarded (and, thus, worth keeping long after this course ends):

Assignments: Specifics will be discussed in class and on Blackboard. Late assignments will be deducted unless there are documented emergencies or SDSU-approved exceptions.

- **Take-Home Midterm (5-7 pages):** September 25, 25%
- **Paper on Law and Use of Force:** October 21: 20%
- **Take-home Final:** December 16: 40%
- **Participation, Reaction Papers:** 15%

Because this is a capstone class, attendance and participation are vital. Anyone who misses more than two classes will lose valuable points on their participation grade. Anyone who misses more than four classes will receive a 50% deduction.

If you are a student with a disability and believe you will need accommodations for this class, it is your responsibility to contact Student Disability Services at (619) 594-6473. To avoid any delay in the receipt of your accommodations, you should contact Student Disability Services as soon as possible. Please note that accommodations are not retroactive, and that accommodations based upon disability cannot be provided until you have presented your instructor with an accommodation letter from Student Disability Services. Your cooperation is appreciated.

Part of participation involves preparing one-page (single-spaced) reaction papers based on the week’s readings. **Reaction papers should comment on all of the readings for that week (meaning all chapters).** It should briefly cover the following points:

- What is the author’s main argument in that article or book chapter?
- How does s/he make the argument (what type of evidence does s/he bring in)?
- How effective a job does the author do in making her argument (regardless of whether you actually agree)?
- Do you agree with the author?

I will not formally grade these but will expect a good faith effort. Those showing little sign of having done the readings will receive no credit. As these are meant for preparation for the class, **late papers will not be accepted. Nor will I accept reaction papers if you missed the class for that week.** You are allowed to miss one reaction
paper with no deductions on participation. Reaction papers are not expected on weeks when another writing assignment is due.

**Grading Rubric for Formal Assignments:** The specific substance will vary for each performance as well as the length and depth of material expected:

- **Defining and Applying Theoretical Perspectives:** This includes identifying the core premises and applying them to the distinct scenarios set forth in the prompt.
- **Assessing Strengths and Weaknesses of Theoretical Perspectives:** This includes comparing and contrasting distinct theoretical perspectives and giving empirically informed justifications for your assessment.
- **Giving Adequate Attention to Substance:** This involves providing adequate legal analysis and historical context.
- **Articulating Your View:** This includes setting forth your preferred theoretical approach, which could be a synthesis of distinct perspectives presented in class, an alternative perspective, or one of the perspectives presented in class. Be sure to illustrate your perspective with reference to specific factual patterns and to justify your perspective through a contrast with other perspectives.
- **Range:** This means drawing with specificity from multiple classes and readings.
- **Organization:** This includes a thesis statement, clear transitions, avoidance of repetition, and avoidance of packing multiple points in the same paragraph.
- **Writing:** This includes an active voice, good prose, grammar, and sentence structure, and proofreading. I will provide writing guidelines.

**Schedule of Readings:** Books are referred to by title. Items available under Course Documents in Blackboard are marked with an *. Other readings are available on the web. Simply follow the link, if it does not work, try a Google search or consult me. I may revise particular readings depending on changing circumstances.

I. Overview of International Law: What is it and how does it relate to international politics and global justice?

Aug. 28:
- *E.H. Carr, the Twenty Years’ Crisis, 1919-1939*, chs 10-11 (pp. 170-192) (provides an influential realist analysis at the onset of WWII).


Sept. 9: *Antony Anghie, Imperialism, Sovereignty and the Making of International Law*, pp. 196-244 (for a post-colonial, anti-imperialist analysis).

Sept. 16-18: *Jus Ad Bellum*


**Sept. 25: Take-Home Due, 2 pm, no formal class/**

II. Applying Laws of War to Gaza, summer 2014:

Sept. 30:

Oct. 2: Begin research on laws of force regarding "Operation Protective Edge." One-two page outline due of sources.

Oct. 7: Discuss research, provide summaries, and prepare for debates.

Oct. 9, 14: Legal, Political, and Moral debates on "Operation Protective Edge."

Oct. 16: Discuss Papers: Bring Opening Paragraph and Outline.

**Oct. 21: Paper Due, No Formal Class.**
III. Law and Global Justice: Friends, Acquaintances or Enemies?

Part One: Is There a Humanity's Law?

Oct. 23:
- *Humanity's Law*, pp. 3-14, 19-33.

Oct. 28-30:
- *Humanity's Law*, pp. 34-104.

Nov. 4-6:

Nov. 11-13: Class only meets Nov. 13. Nov. 11 is Veteran's Day.

Part Two: Law, Politics, and War Crimes Trials

Nov. 18-20:

Nov. 25:

Dec. 2-4:
Dec. 9: Discuss Final Assignment.


FINAL DUE DEC. 16, 4 PM