

POL340Y1Y – International Law

Course Syllabus Spring/Summer 2020

**Department of Political Science
University of Toronto**

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Course Description and Objectives

This course will examine the historical context, theory and practice of international law. In addition, the course will examine the intersection of international law and politics, and tackle the question of whether international law is really law or merely politics cloaked in the language of law.

This course will explore a number of foundational concepts of international law, including the sources of law and how international law interacts with domestic/municipal law. We will also examine the legal construct of the core actor in international law: the state. We will look at the extent of a state's power both legal and physical. Building on these core concepts, we will then study how states resolve their disputes, engage in the use of armed force, and regulate human rights. Throughout, we will also study other actors (i.e., the individual, corporations, and international organizations) and the role they play in the international legal order.

The primary objective of this course is to expose students to the core concepts of international law and to develop familiarity and fluency with the vocabulary of international law. Through the course, students will become familiar with the actors in the international legal system, how the international legal order functions, and the limits of international law.

Students will also develop their analytical and writing skills through assessments, assignments and written examinations. At the core of legal analysis is the ability to spot issues, identify applicable rules and apply those rules.

Textbooks and Readings

The textbook for this course will be Alexander Orakhelashvili, *Akehurst's Modern Introduction to International Law* 8th ed (New York: Routledge, 2019). [It is available electronically](#) through the Robarts Library. Additionally, the textbook can be ordered through the Bookstore and online through Amazon.

There are two additional books I recommend consulting throughout the course:

- Malcolm Evans, ed., *International Law*, 5th ed (Oxford University Press, 2018). This is an excellent edited volume that will be a useful reference for those students interested in pursuing a deeper understanding of international law. This book can be purchased through Amazon.ca [it is not presently available electronically though Robarts]
- James Crawford, *Brownlie's Principles of Public International Law*, 9th ed (Oxford University Press, 2019). This is probably the leading text in the field. It is [available digitally](#) through Robarts Library. Though geared to lawyers, this book provides an excellent summary and analysis of international legal principles.

Each week's learning will be based on a mixture of textbook readings, as well as primary and secondary source materials related to each topic. This syllabus lists the readings that are anticipated. However, new readings are occasionally added to supplement or assist in exploring a particular topic.

Students will be required to monitor Quercus and their emails for updates on reading lists

Meet-Ups / Office Hours / Email Communication

This is an online course. Online course materials will be delivered asynchronously (meaning there is no set lecture schedule). However, there will be optional online meet-ups on Mondays and Wednesdays from 6:30pm – 8:00pm EST. These meetups will take place through BB Collaborate Ultra on Quercus. During these online meet-ups, we will discuss questions that will be circulated about the prior week's material. Students will also be able to ask questions on course materials.

In addition to the online meet-ups, students are free to contact the instructor to schedule one-on-one meeting to discuss any questions or concerns. These meetings will be scheduled at a mutually convenient time.

Students are free to communicate with the instructor about the course via email. However, an email response may not always be appropriate. Where an email response is not appropriate, the instructor may propose an online meeting with a student, or address the question through an announcement on Quercus.

Students need not have video capabilities in order to participate in online meetups or to speak to the instructor for office hours. The ability to access Quercus is essential.

Marking Scheme

The following is a breakdown of the marking scheme for the course. Detailed descriptions follow:

- 10% - Assessment #1 (To be completed by May 25, 2020)
- 10% - Assessment #2 (To be completed by June 2, 2020)
- 20% - Midterm (Mid-term Period: June 16 – 27, 2020)
- 15% - Case Comment Assignment (July 10, 2020)

- 10% - Assessment #3 (To be completed by July 22, 2020)
- 10% - Assessment #4 (To be completed by August 5, 2020)
- 25% - Final Assessment (Exam Period: August 19 – 27, 2020)

Assessments

Students will need to complete four written assessments during the course. Students will have 24 hours to complete the assessment. Students will have the ability to determine when they start/complete each assessment, but each assessment will have a fixed deadline by which all students must complete it.

Assessments will challenge students to take concepts learned in the course and apply them to scenarios or real-world legal problems. The assessments are designed for students to demonstrate an understanding of the materials presented in the course. Assessments will, generally speaking, require students to submit 500 – 750 words in response to one or more questions.

Instructions for each assessment will be provided through Quercus.

Case Comment Assignment

Developing a fluency in the language of international law and a facility with the decisions of international courts and tribunals is essential to studying international law. For this this assignment, you will be required to read and summarize a case decided by the International Court of Justice.

Instructions for this assignment will be posted on Quercus. In summary, the Case Comment must be no less than 1,000 words and no more than 1,500 words (inclusive of all requirements).

Mid-Term and Final Assessments

The mid-term and final assessments will both be take-home exams. Students will have 36-hours to complete the exam. Scheduling during the exam periods will be addressed during the course.

Other Class Policies

Plagiarism

Plagiarism is a serious academic offence and will be dealt with accordingly. For further clarification and information on plagiarism please see Writing at the University of Toronto: <http://www.writing.utoronto.ca/advice/using-sources>.

Submission of Course Work / Turnitin.com

All course work will be submitted online through Quercus. The Case Comment assignment and exams will be processed by Turnitin.com for a review of textual similarity and detection of possible plagiarism. By submitting the Case Comment and exams

through Quercus, students allow their work to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service is described on the Turnitin.com web site. The use of Turnitin.com is voluntary. If you do not wish to use Turnitin.com, you must send an email to the instructor by May 15, 2020 so that alternative arrangements to assess academic integrity can be implemented.

Students are strongly advised to keep rough and draft work and hard copies of their paper before submitting them. These should be kept until the marked assignments have been returned and the grades posted on ROSI.

Penalty for Late Submission of Course Work

No extensions for the submission of any course work will be granted without proof of medical or other emergency. Late written assignments will be assessed a penalty of **1.25 % per day**, including weekend days.

Barring medical or other emergency, the Case Comment will not be accepted after July 30, 2020.

For the mid-term and final assessments, materials submitted late without proof of a major emergency, will not be graded.

Re-Grading

If you wish to have course work re-graded, the following procedure must be followed:

1. You must wait for one week until after the marked work has been returned and/or the grade posted to allow for a "cooling off" period.
2. You must write a well-written paragraph to the instructor as to why you believe the grade was wrong. It is not enough to argue that one could have weighed factors differently and arrived at a different grade – an error in principle must be identified or the grade must otherwise be plainly wrong.
3. The instructor will assess whether a re-grading is warranted and, if so, the result of the re-grading.

Accessibility Services and Religious Accommodations

If you are registered with Accessibility Services and require reasonable accommodation, please have Accessibility Services contact the instructor so that necessary reasonable accommodations can be made.

If you require reasonable accommodation for religious reasons, please speak to the instructor and so that reasonable accommodations can be made.

In either case, you must speak to the instructor as far in advance of the relevant coursework date as possible. Accommodation after-the-fact may not be possible if accommodation could have been sought before-the-fact.

COURSE OUTLINE

Week 1: (Week of May 4th) – International Law and International Relations

This introductory week will have two broad objectives. The first will be to situate students to the class, how instruction will be delivered and how student will be evaluated. Particular attention will be given familiarizing students with the online environment in which the course will be delivered.

The second objective will to set the stage for the course by exploring the interplay between international law and international relations. The course materials will tie the historical development of international law to current interdisciplinary issues between international law and international relations. This week will launch what will be a common theme in the course: is international law is really law or is it politics cloaked in the language of law.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook, Chapters 1 and 2 - pp. 1 – 29
- Beth Simmons, “International Law and International Relations” in Gregory A. Caldeira et. al., eds, *The Oxford Handbook of Law and Politics* (Oxford University Press, 2018)
- Sir Arthur Watts QC, “The Importance of International Law” in Michael Byers, ed., *The Role of Law in International Politics* (Oxford University Press, 2000), 5 - 16.

Week 2: (Week of May 11th) – Treaties

Treaties are a central source of international law. We will examine the basic framework for the creation of treaties, how they come into force, and how states try to limit their obligations through what are known as “reservations”. We will also consider how, to whom, where, and when treaties apply. Finally, we will learn about how treaties are interpreted and terminated.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook – Chapter 3 (Sources), pp. 31 – 33; Chapter 12 (Treaties), pp. 251 – 276.
- [Vienna Convention on the Law of Treaties, 23 May 1969, UN Doc. A/Conf 39/29](#)
- [Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, 78 UNTS 277](#)
- Court cases / excerpts:
 - [Anglo-Iranian Oil Company Case \(UK v. Iran\) \(Preliminary Objections\), \[1952\] ICJ Rep 93](#)
 - [Case Concerning Maritime Delimitation and Territorial Questions \(Qatar v. Bahrain\) \(Decision on Jurisdiction\), \[1994\] ICJ Rep 112](#)
 - [Jadhav Case \(India v. Pakistan\), \[2019\] ICJ Rep](#)
 - *Dispute Regarding Navigational and Related Navigational and Related Rights (Costa Rica v. Nicaragua)* [Excerpts to be posted on Quercus]

- Handout – Analysis of US Reservations to the *Genocide Convention* (To be posted on Quercus]

Week 3: (Week of May 18th) – Customary International Law and Other Sources of International Law

Customary international law is the second major source of international law. The core objectives of the week will be to understand how customary international law is created and becomes binding. We will also study the interplay between treaties and customary international law.

In addition to customary international law, we will explore other sources of international law, including general principles and the opinion of learned scholars as well as the hierarchy of sources in international law. We will also explore how international law interacts with the domestic or municipal law of states and how international law becomes part of domestic law.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook – Chapter 3.3 (Sources), pp. 33 – 55; Chapter 4 (International Law and Municipal Law). pp. 57 – 71
- Court cases / excerpts:
 - [Nevsun Resources Ltd. v. Araya, 2020 SCC 5](#), paras.1 – 26; 60 – 133
 - [North Sea Continental Shelf \(Norway v. Germany\), \[1969\] ICJ Rep 3](#)

Week 4: (Week of May 25th) – States: Cradle to Grave

What is a state? How does the international law definition of a “state” compare to definitions in other contexts? During this week, we will explore the creation, recognition and death(?) of states. We will also explore the concept self-determination and how it interacts with sovereignty.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook – Chapter 5 (Creation and recognition of States) pp. 72 – 110; Chapter 14 (State succession) pp. 299 – 326
- Court cases / excerpts:
 - [Reference re Secession of Quebec, \[1998\] 2 S.C.R. 217](#), paras. 1-2, 19-23, 109-156
 -

Week 5: (Week of June 1st) – The Land and the Sea

Territory is an indispensable component of being a sovereign state. While our digital world may be eroding borders, humans still need space to live, grow food, breathe clean air and live. And approximately 71% of the earth is covered by water, including the oceans. During this week, we will explore international law governing the acquisition and loss of territory as well as international law regulating the oceans.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook – Chapter 7 (Territory) pp. 122 – 156; Chapter 8 (The Law of the Sea) pp. 157 – 195.

Week 6: (Weeks of June 8th / June 15th) – International Organizations and International Dispute Settlement

States are not the only actor in the international legal system. During this week, we will examine the legal personality of international organizations, and in particular the legal structure of the United Nations. We will also study how international dispute are resolved.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook – Chapter 6 (Legal personality of non-state actors) pp. 111 – 115; Chapter 22 (The United Nations and Peace and Security) pp. 504 – 515; Chapter 23 (Settlement of disputes) pp. 537 – 566.
- Court cases / excerpts:
 - [Reparation for Injuries Suffered in the Service of the United Nations \(Advisory Opinion\), \[1949\] ICJ Rep 184](#)
 - [Fisheries Jurisdiction Case \(Spain v. Canada\) \(Jurisdiction\), \[1998\] ICJ Rep 432](#)
 - [Legality of Use of Force \(Serbia and Montenegro v. Canada\) \(Preliminary Objections\), \[2004\] ICJ Rep 429](#)

June 16 – July 5 – Midterm Period / Break

Week 7: (Week of July 6th) – State Power: Jurisdiction and Immunity

Accepting that states are the primary actors in the international legal order, what are the limits of a state's power? What authority do states have to regulate activities on their own territories or on the territories of other states? During this week, we will examine the concept of jurisdiction, and the bases upon which states can regulate and enforce laws.

We will also study an important exception to the concept of jurisdiction: immunity. We will explore the concepts of state and diplomatic immunity.

Required Materials For this Week:

- Lectures Available Through Quercus
- Textbook – Chapter 10 (State jurisdiction) pp. 213 – 227; Chapter 11 (Immunity from jurisdiction) pp. 230 – 249.
- Court cases / excerpts:
 - [Jurisdictional Immunities of the State \(Germany v. Italy\), \[2012\] ICJ Rep. 99](#)
 - [Kazemi Estate v. Islamic Republic of Iran, 2014 SCC 62](#)

Week 8: (Week of July 13th) – Breaches of International Law and Remedies (Short of Force)

What constitutes a breach of international law and what remedies are available for such breaches (short of resorting to military force)? During this week we will examine how liability for a breach is ascribed to state actors, when are states liable for the conduct of non-state actors, and remedies for breaches that are ascribed to a state.

Required Materials For this Week:

- Lectures Available Through Quercus.
- Textbook – Chapter 13 (State responsibility) pp. 276 – 299.
- [Responsibility of States for Internationally Wrongful Acts, 12 December 2001, A/56/49\(Vol. I\)/Corr.4](#)
- Court cases / excerpts:
 - [Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights \(Islamic Republic of Iran v. United States of America\) \(Provisional Measures\), \[2018\] ICJ Rep. 623](#)

Week 9: (Week of July 20th) – The Use of Armed Force

When is it legally permissible for states to use armed force against other states or entities? What constitutes “armed force”? During this week, we will explore the general prohibitions on the use of force and the law of self-defence. We will explore these issues both as a matter of customary law and treaty law (i.e., the UN Charter)

Required Materials For this Week:

- Lectures Available Through Quercus.
- Textbook – Chapter 20 (Use of force) pp. 450 – 471.
- Court Cases / excerpts:
 - *Charter of the United Nations* [selected excerpts].
 - [Legality of the Threat or Use of Nuclear Weapons Threat of Nuclear Weapons \(Advisory Opinion\), \[1997\] ICJ Rep 226](#)

Weeks 10/11: (Week of July 27th and August 3) – Law of Armed Conflict / International Humanitarian Law and International Criminal Law

The regulation of armed conflict has been a major preoccupation of international law for over a century. During this week we will study the evolution of the regulation of armed conflict, the types of armed conflict, and the challenges posed by modern armed conflict to international humanitarian law.

We will also explore the related topic of international criminal law. International criminal law springs (in part) out of the regulation of armed conflict. We will examine the efforts to hold individuals liable for their activities connected to armed conflict.

Required Materials For this Week:

- Lectures Available Through Quercus.

- Textbook – Chapter 21 (Laws applicable to armed conflict) pp. 471 – 504; Chapter 19 (International criminal justice) pp. 433 – 449.
- [Geneva Conventions, Common Articles 2 and 3 \(1949\)](#) (including the commentaries to those Articles as provided by the International Committee for the Red Cross).

Week 12: (Week of August 10th) – International Human Rights Law

While states are the dominant actor in international law, a number of international treaties have been adopted that articulate specific individual rights. During this week, we will examine the historical evolution of international human rights law and review some of the major international treaties in the area.

Required Materials For this Week:

- Lectures Available Through Quercus.
- Textbook – Chapter 16 (Protected persons and entitles: human rights, group rights and self determination) pp. 351 – 373.
- [Universal Declaration on Human Rights, 10 December 1948, G.A. Res. 217 A \(III\)](#)
- [International Covenant on Civil and Political Rights, 19 December 1966, 999 UNTS 171](#)
- [International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3](#)
- [ICCPR – General Comment No. 29, 31 August 2001, CCPR/C/21/Rev.1/Add.11](#)
- [ICCPR – General Comment No. 31, 26 May 2004, CCPR/C/21/Rev.1/Add.13](#)
- Court cases / excerpts:
 - [S.A.S. v. France \[GC\], no. 43835/11, ECHR 2014](#) (paras. 3, 10-14, 35-39, 75-85, 106-159)

August 19 – 27 – Final Assessment Period