

TOPICS IN INTERNATIONAL POLITICS I: INTERNATIONAL LAW

POL486H1S/POL2205H1S

University of Toronto

Winter 2021

Instructor: Elizabeth Acorn

Email: elizabeth.acorn@utoronto.ca

Office hours:

- Wednesdays 12:10 – 1:00 p.m. or by appointment
- See Zoom link on Quercus

Class Time:

- Wednesdays 10:10 a.m. – 12:00 p.m.

Class Delivery: online

- Class meetings take place **synchronously** on Zoom (see link on Quercus)

I. WINTER 2021: GUIDING PRINCIPLES

Welcome to POL486/2205 Topics in International Politics I: International Law. This is an exciting time to study international law, but it is also a challenging and unprecedented time. This class will be conducted entirely online and during a global pandemic that no one can predict. With that in mind, I propose the following “three Cs” as guiding principles for us all in navigating the semester.

- **Communication:**
 - Everyone should regularly check Quercus and their university email; this is good practice in general, but absolutely crucial this year.
 - Communication is a two-way street: if there’s something that I might be overlooking or could do differently to help improve the course, let me know!
- **Compassion & curiosity:**
 - We are all facing unique challenges during this time and it is an important reminder that we should always approach learning and class discussion with a spirit of kindness and intellectual curiosity. While our discussions will be online, treat everyone with the respect that would be expected in an in-person discussion.
- **Commitment with flexibility:**
 - Online learning has a different structure than what many of us are used to. I will keep you updated over Quercus and email of deadlines and other important information. Students also need to make a commitment to manage their learning: read the syllabus carefully in Week 1, note dates and deadlines, and make a plan for how you will manage the semester.
 - None of us have a playbook for the next 12 weeks. If something unexpected comes up that interferes with your learning, reach out. We may need to make adjustments as we go, and I will consult and update students on any substantive changes to the course.

Finally, and most importantly, **take care of yourself!** If at any point you are feeling unwell, overwhelmed, or in need of help, reach out to university resources (see section IX) or contact the instructor if you need assistance in navigating the available resources.

II. COURSE OVERVIEW

The purpose of this course is to examine the role of international law in international relations and governance by focusing on selected issues and debates in contemporary international law. It reviews foundational principles of international law and debates over the role of international law in international politics. The bulk of the course is devoted to the analysis of several pressing issues in international law, including in international criminal law, international law and war, and international trade law.

III. LEARNING GOALS & OBJECTIVES

Students in this course will learn to:

- Analyze the foundational principles of international law
- Understand and evaluate critiques of the traditional histories and approaches to international law
- Analyze current issues in international law and their connection to international relations and governance
- Research and examine an area of international law in depth
- Present their research in writing and in-class presentations

IV. PREREQUISITES

Undergraduate students in the course are required to have completed POL208Y1 or POL208Y5 (or POLB80H3 and POLB81H3).

V. COURSE REQUIREMENTS & ASSESSMENT

The requirements for the class are set out below. Further information about the requirements and for the papers will be provided throughout the semester.

A. Overview of Assessment and Due Dates:

- Class participation: 20% (ongoing)
- Key concepts quiz: 10% (in-class, February 3rd)
- Reading responses and discussion leader: 20% (see sign-up sheet)
- Short paper: 20% (due: Friday, February 26th at 11:59 p.m.)
- Presentation of final paper: 5% (in-class March 31st or April 7th)
- Final paper: 25% (due: April 9th at 11:59 p.m.)

B. Description of Assessment

- ***Class Participation:*** This course is intended to create an active intellectual atmosphere that promotes participatory learning. Students are expected to have engaged with the readings

in advance and participate in class by making comments, asking questions and sharing ideas. Students are always required to interact respectfully with each other.

Student participation grades are based on a combination of attendance, in-class discussions and activities, and an online discussion forum.

- *Online discussion forums:* during several weeks of the semester, a discussion forum will be held on Quercus for students to discuss in writing the materials addressed that week and/or share ideas to develop their course assignments. Students will be graded on their own submissions to the discussion forum and their engagement with their peers.
- *Discussion forum logistics:*
 - The forum will open during class and close 48-hours later
 - Students should submit their own submission that respond to the discussion question or prompt within 24 hours; the discussion forum will remain open for another 24 hours for students to engage with and respond to each other's submissions
 - No extensions will be granted for the discussion forum
- ***Reading Responses and Discussion Leader:***
 - *Reading Responses:* students are required to submit two reading responses over the semester that reflect on the readings assigned for class that week (note: one reading response is for the week that each student is discussion leader).
 - In the reading responses, students should engage critically with the readings. While this requires that students understand and convey the main points of the readings, the reading responses should not primarily be a summary of the readings. Instead, the responses should put the readings in conversation with each other (or other readings or class discussions) to: address an important theme or issue in international law; compare, contrast, and evaluate the arguments presented; and/or identify and discuss areas that invite further research.
 - Reading responses must be posted on Quercus by at least 12 p.m. (noon) on the day before class. Graduate students should be sure to address at least one of the additional readings in their responses (or another relevant reading they are interested in, if approved by the instructor).
 - The reading responses should each be a maximum of 2 pages double-spaced and include short in-text citations (e.g. author last name and page number) where appropriate.
 - *Discussion Leader:* each student will be tasked with leading class discussion once during the course and will work in a small group with other students serving as discussion leader for a particular week. The students serving as discussion leader students for a particular week will start class with a short summary of the readings and present topics/questions/issues to lead the class discussion.

- Discussion leaders are required to submit to the instructor a short outline of their opening remarks and plans for class discussion. The discussion leaders for a particular week should work together to create the outline. Outlines should be approximately one page (can be bullet points) and must be emailed to the instructor by at least 12 p.m. (noon) on the day before class.
 - For the week that students are a discussion leader, they are also required to write a reading response (this counts as one of the two reading responses required for each student).
- Student grades will be based primarily on the reading responses; however, a strong contribution as a discussion leader can increase a student's grade for this portion of the assessment.
- **Short Paper:** each student is required to complete a short paper that examines a current issue, decision, or event in international law. The short paper should be modelled after a blog post for *EJIL Talk!* or *Opinio Juris*, several of which we will read over the semester.
 - **Final Paper:** the final paper for the course can take the form of either a review essay or an empirical research proposal examining an area of international law. For undergraduate students, the final paper should be approximately 2,500 words. For graduate students, the final paper should be at least 3,000 words. More information on the final paper will be provided over the semester. Students are required to present their final paper to the class and are strongly encouraged to meet with the instructor to discuss the final paper well in advance of the deadlines.

V. SUBMITTING ASSIGNMENTS, LATE PENALTIES & EXTENSIONS

Submitting Assignments:

- All assignments should be submitted electronically via Quercus
- All assignments should be kept by the student until the marked assignments have been released to them and the grades are posted on ACORN

Late Penalties:

- Any assignment that is submitted after it is due is subject to a late penalty of a 5-point reduction per day
- There are no late penalties or extension for the discussion forum

Extensions: all students should carefully review the syllabus early in the semester to note important deadlines and plan accordingly. If an emergency arises and you need to seek an extension, contact the instructor as soon as possible.

VI. COMMUNICATION AND OFFICE HOURS

Students are welcome to contact me outside of class and I encourage you to make use of office hours. I am happy to discuss the course and course materials or your more general interests in law and political science and academic and professional goals.

- Email is the best way to contact me (and I prefer this over Quercus messages). I will generally respond within 24 hours (except on weekends, where it may take longer).
- Office hours will be held on Zoom or by appointment (see link in Quercus).

A few further notes on email:

- Send email from your university email address
- Be sure to write emails professionally and include all relevant information when emailing. If you want to set up a meeting, please include several proposed meeting times.
- It's fine with me for students to use my first name in email or otherwise (I go by Liz); if you prefer to be more formal, or if it's the first time we are communicating directly, please address me as Professor Acorn or Dr. Acorn.

VII. NETIQUETTE

These are a few principles to guide us in our online interactions. We will all learn as we go, and we may need to update our Netiquette policies over the semester.

Class Meetings on Zoom:

- *Microphones:* As a general rule, please keep your microphones muted in Zoom until you are asking a question or making a comment. In break-out rooms, you can un-mute your microphone, but be mindful of if it causes feedback and mute if needed.
- *Videos:* students are encouraged to turn on their videos during class, and are particularly encouraged to do so when asking questions and making comments. Students are even more encouraged to use their videos while in break-out rooms and interacting with each other.
- *Recording:* As a general rule, I will not record the class sessions. If this changes and I do plan to record a particular portion of a class, I will let students know in advance. If portions of class are recorded, they will be shared only with other members of the course.

VIII. ADDITIONAL COURSE POLICIES

Equity, Diversity and Inclusion: The University of Toronto is committed to equity, human rights and respect for diversity. All members of the learning environment in this course should strive to create an atmosphere of mutual respect where all members of our community can express themselves, engage with each other, and respect one another's differences. U of T does not condone discrimination or harassment against any persons or communities.

An inclusive learning environment is critical to the goals and objectives of this course, and it is of great importance to me that students from all backgrounds and experiences feel welcome, participate actively, and have the opportunity to excel in this course. Your reflections or suggestions on how to ensure an inclusive learning environment for you individually or for other students are always welcome.

Academic Integrity: The work that you submit in this course must be your own. All source material that you rely on must be appropriately acknowledged and cited. All students should review the University of Toronto's *Code of Behaviour on Academic Matters*, which outlines the behaviours that constitute academic dishonesty and the processes for addressing academic offences: <https://governingcouncil.utoronto.ca/secretariat/policies/code-behaviour-academic-matters-july-1-2019>

Violations of academic integrity include:

- Using someone else's ideas or words without appropriate acknowledgement
- Submitting someone's else work as your own
- Sharing answers or working with other students during a quiz, test or exam

If you have questions about academic integrity, don't hesitate to ask the instructor. There are also many resources available to consult on using sources, for instance: <http://www.writing.utoronto.ca/advice/using-sources>

Use of Turnitin: Normally, students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays 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 are described on the Turnitin.com web site.

Privacy & Copyright: Course videos and materials belong to the instructor, the University, and/or other sources depending on the specific facts of each situation and are protected by copyright. Do not copy or share any course or student materials or videos without the explicit permission of the instructor. As noted above, class will not regularly be recorded. In the event that a portion of a class is recorded that includes student participation, students will be notified by the instructor. For questions about the recording and use of videos in which you appear, please contact the instructor.

IX. ACCOMMODATIONS & STUDENT WELL-BEING

Accommodations: Students with diverse learning styles and needs are welcome in this course. If you have a disability or health consideration that may require accommodations, contact Accessibility Services as soon as possible. Accessibility Services staff are available by appointment to assess specific needs, provide referrals and arrange appropriate accommodations Accessibility Services (<http://www.studentlife.utoronto.ca/as>).

There are many resources available on campus to support you during the semester. The University's **Writing Center** (<http://www.writing.utoronto.ca>) and **Academic Support** services (<https://www.artsci.utoronto.ca/current/academic-advising-and-support>) can help with academic planning and more general learning strategies.

Being a college student can be a stressful and challenging time. Take care of yourself and reach out if you could use more support. Consult the University's mental health resources page for all kinds of useful information and contacts: <https://mentalhealth.utoronto.ca/>

X. READINGS AND SCHEDULE

All students are expected to have completed the required readings for the course in advance of class. Readings are available on the Library Course Reserves link on Quercus.

Additional readings: the first additional reading for each week provides important background on the topic and is marked with an asterisk. Students without a prior course in international law or who are unfamiliar with the particular area should complete this additional reading. All students are encouraged to complete the additional readings. Graduate students must, at a minimum, consult the additional readings on the week in which they complete their reading responses.

PART I: COURSE INTRODUCTION AND KEY CONCEPTS

Week 1 (January 13): Introduction to the Course

- Syllabus

Week 2 (January 20): What and Where is International Law?

- Jan Klabbers, "The Making of International Law," *International Law* (Cambridge University Press, 2013). p. 21-40
- Shirley Scott, "The Rules-Based International Order," and "International Courts and Tribunals," in *International Law in World Politics: An Introduction* (Lynne Rienner, 2017) 3rd edition, p. 1-18 and 67-97
- Peter Tzeng, "Taking China to the International Court of Justice over COVID-19," *EJIL Talk!* (2020)

Additional:

- *Malcolm Shaw, "Sources," in *International Law*, 8th edition (Cambridge University Press, 2018), pp. 65-119
- José E. Alvarez, "Legal Positivism and its Discontents," in *The Impact of International Organizations on International Law* (Brill, 2016), pp. 1-52
- Shirley Scott, "Reading a Multilateral Treaty," *International Law in World Politics: An Introduction* (Lynne Rienner, 2017), p. 129-138

Week 3 (January 27): International Law in International Politics: The Big Questions

- Harold Hongju Koh, "Why Do Nations Obey International Law?" *The Yale Law Journal* 106, no. 8 (June 1997): 2599 – 2659
- Goldsmith, Jack L., and Eric A. Posner, "Introduction," *The Limits of International Law*. Oxford: Oxford University Press, 2006, p. 3-17

- Christopher A. Whytock, “From International Law and International Relations to Law and World Politics,” in *Oxford Research Encyclopedia* (Oxford University, 2018)
- Angela Mudukuti, “The Mighty Apple, Google, Tesla, Dell and Microsoft in “The Dock” – A Look At the Child Labour Lawsuit” *Opinio Juris* (2020)

Additional:

- *Jeffrey Dunoff and Mark A. Pollack, “Introduction,” in *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art* (Cambridge: Cambridge University Press, 2012), p 3-21
- Goldstein, J., M. Kahler, R. O. Keohane, and A. M. Slaughter. “Introduction: Legalization and World Politics.” *International Organization* 54, no. 3 (2000): 385–99
- Guzman, Andrew T. “The Promise of International Law.” *Virginia Law Review* 92 (2006): 533–64

Week 4 (February 3): Critical International Law and Key Concepts Quiz

- James Thuo Gathii, “The Promise of International Law: A Third World View,” Grotius Lecture Presented at the 2020 Virtual Annual Meeting of the American Society of International Law 2020, pp. 1-27 (and skim bibliography), available at: <https://ssrn.com/abstract=3635509>
- Gurminder K. Bhabra et al., “Why Is Mainstream International Relations Blind to Racism?” *Foreign Policy* (July 3, 2020)
- Preview/organizing for Part II of the course
- **Key Concepts Quiz** (complete on Quercus during second half of class period)

Additional:

- Anthony Anghie, “Introduction,” in *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2005), pp. 1-12

PART II: CURRENT ISSUES IN INTERNATIONAL LAW

Week 5 (February 10): Can International Law fill the Governance Gap for Transnational Business?

- Penelope Simons and Audrey Macklin, “Introduction,” in *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage* (Routledge, 2014), pp. 1–21
- David Bilchitz, “Introduction: Putting Flesh on the Bone,” in *Building a Treaty on Business and Human Rights: Context and Contours*, edited by Surya Deva and David Bilchitz (Cambridge University Press, 2017), pp. 1–24
- Shin Imai et al., *The ‘Canada Brand’: Violence and Canadian Mining Companies in Latin America* (Justice and Corporate Accountability Project, 2017), available at: https://digitalcommons.osgoode.yorku.ca/all_papers/273/
- Julianne Hughes-Jennett and Marjun Parcasio, “Corporate Civil Liability for Breaches of Customary International Law: Supreme Court of Canada Opens Door to Common Law Claims in *Nevsun v Araya*,” *EJIL Talk!* (March 29, 2020)

Additional:

- *Wolfgang Kaleck and Miriam Saage-Maass, "Corporate Accountability for Human Rights Violations Amounting to International Crimes: The Status Quo and Its Challenges," *Journal of International Criminal Justice* 8(3) (2010): 699-724
- José E. Alvarez, "Are Corporations 'Subjects' of International Law?" *Santa Clara Journal of International Law* 9 (2011): 1-35
- James E. Hickey Jr., "The Source of International Legal Personality in the 21st Century," *Hofstra Law & Policy Symposium* 2 (1997): 1-18
- James G. Stewart, "The Turn to Corporate Criminal Liability for International Crimes: Transcending the Alien Tort Statute," *New York University Journal of International Law and Politics* 47 (2014): 121-206
- International Commission of Jurists, *Corporate Complicity & Legal Accountability: Facing the Facts and Charting a Legal Path* (2008), pp. 1-31

***READING WEEK* (No class February 17th)**

Week 6 (February 24): An Old Question Reconsidered: Does Law Circumscribe War?

- Discussion Leaders 1
- UN Charter, (skim and focus on preamble, Article 2, and Chapter VII), available at: <https://www.un.org/en/charter-united-nations/>
- Oona Hathaway and Scott Shapiro, "Introduction," "The End of Conquest," and "War No Longer Makes States" in *The Internationalists: How a Radical Plan to Outlaw War Remade the World* (Simon & Schuster, 2017), ix-xxii, 309-335, and 336-351
- Stephen Walt, "There's Still No Reason to Think the Kellogg-Briand Pact Accomplished Anything," *Foreign Policy* (September 29, 2017)
- Nina Tannenwald, "Assessing the Effects and Effectiveness of the Geneva Conventions," in *Do the Geneva Conventions Matter?* eds. Matthew Evangelista and Nina Tannenwald (Oxford University Press, 2017), pp. 1-34
- **Short paper due: Friday, February 26 at 11:59 p.m.**

Additional:

- *Giovanni Distefano, "Use of Force," in *The Oxford Handbook of International Law in Armed Conflict* (Oxford University Press, 2014), pp. 545-573
- Oona Hathaway and Scott Shapiro, "What Realists Don't Understand About Law," *Foreign Policy* (October 9, 2017)
- Elizabeth Grimm Arsenault, "Geneva Convention Compliance in Iraq and Afghanistan," in *Do the Geneva Conventions Matter?* eds. Matthew Evangelista and Nina Tannenwald (Oxford University Press, 2017), pp. 137-160

Week 7 (March 3): International Law, The War on Terror, and Targeted Killings

- Discussion Leaders 2
- Mary Ellen O’Connell, “Game of Drones.” *American Journal of International Law* 109, no. 4 (2015): 889–900
- Rosa Brooks, “Drones and the International Rule of Law,” *Ethics & International Affairs* 28(1) (2014): 85-103
- Al Jazeera, “The Soleimani Assassination” (January 7, 2020), (approx. 6 minutes), watch [here](#)
- Mary Ellen O’Connell, “The Killing of Soleimani and International Law,” *EJIL Talk* (January 6, 2020)
- Michael J. Glennon, “The Irrelevance of Imminence,” *Lawfare* (January 15, 2020)

Additional:

- *Barack Obama, “Speech on Drone Policy,” *New York Times* (May 23, 2013), <https://www.nytimes.com/2013/05/24/us/politics/transcript-of-obamas-speech-on-drone-policy.html>

Week 8 (March 10): Crisis at the International Criminal Court

- Discussion Leaders 3
- Rome Statute of the International Criminal Court (skim Parts 2 and 5), available at: <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>
- David Bosco, “Introduction,” and “A Constrained Court,” in *Rough Justice: The International Criminal Court in a World of Power Politics* (Oxford University Press, 2014), pp. 1-10, 177-190
- Stuart Ford, “Can the International Criminal Court Succeed?: An Analysis of the Empirical Evidence of Violence Prevention,” 43 *Loyola of Los Angeles International and Comparative Law Review* 101 (2020)
- Cronin-Furman, Kate, and Stephanie Schwartz, “Is This the End of the International Criminal Court?” *Washington Post, Monkey Cage* (October 21, 2016)
- William Burke-White, “The Trump Administration Misplayed the International Criminal Court and Americans May Now Face Justice for Crimes in Afghanistan,” *Brookings* (March 11, 2020), available at: <https://www.brookings.edu/blog/order-from-chaos/2020/03/11/the-trump-administration-misplayed-the-international-criminal-court-and-americans-may-now-face-justice-for-crimes-in-afghanistan/>

Additional:

- *Jose E. Alvarez, “Alternatives to International Criminal Justice,” in *The Oxford Companion to International Criminal Justice*, ed. Antonio Cassese (Oxford University Press, 2009), pp. 25-40.
- Phil Clarke, “Introduction: The Warlord in the Forecourt,” in *Distant Justice: The Impact of the International Criminal Court on African Politics* (Cambridge University Press, 2019), pp. 1-21.

- Judith Kelley, "Who Keeps International Commitments and Why? The International Criminal Court and Bilateral Nonsurrender Agreements," *American Political Science Review* 101, no. 3 (2007): 573–89
- David Wipman, "The International Criminal Court," in *The Politics of International Law*, edited by Christian Reus-Smit (Cambridge University Press, 2009), 151-188
- Stephen Pomper, "USG Statement on International Criminal Court Probes into Alleged US War Crimes is Missing Some Things," *Just Security* (December 14, 2017), available [here](#)
- EJIL: The Podcast! Episode 4: Court Between a Rock and a Hard Place
- Noah Weisbord, *The Crime of Aggression: The Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats* (Princeton University Press, 2019)

Week 9 (March 17): International Trade and Investment Law

- Discussion Leaders 4
- Michael Trebilcock, Robert Howse and Antonia Eliason, "An Institutional History of International Trade Policy," (section in Chapter 1) (Routledge, 2013), pp. 20-41
- Gregory Shaffer, "A Tragedy in the Making? The Decline of Law and the Return of Power in International Trade Relations," *Yale Journal of International Law Online* (2018): 1-17.
- Claire Provost and Matt Kennard, "The Obscure Legal System That Lets Corporations Sue Countries," *The Guardian* (June 10, 2015)
- Nathalie Bernasconi-Osterwalder, Sarah Brewin, Nyaguthii Maina, *Protecting Against Investor-State Claims Amidst COVID-19: A Call to Action for Governments* (International Institute for Sustainable Development, 2020), available at: <https://www.iisd.org/system/files/publications/investor-state-claims-covid-19.pdf>

Additional:

- *John H. Jackson, "The Evolution of the World Trading System: The Legal and Institutional Context," in *Oxford Handbook of International Trade Law*, eds. Daniel Bethlehem et al. (Oxford University Press, 2009), pp. 3-53
- David Trubek, Alvaro Santos & Chantal Thomas, "Introduction," in *World Trade and Investment Law Reimagined: A Progressive Agenda for an Inclusive Globalization* (Anthem, 2019), pp. 1-28
- Marc Busch and Krzysztof Pelc, "Dispute Settlement in the WTO," in *The Oxford Handbook of the Political Economy of International Trade*, ed. Lisa Martin (Oxford University Press, 2015), pp. 1-19
- Judith L. Goldstein, Douglas Rivers, and Michael Tomz, "Institutions in International Relations: Understanding the Effects of the GATT and the WTO," *International Organization* 61 (2007): 37-67

Week 10 (March 24): Climate Change and International Law: A New Governance Model?

- Discussion Leaders 5
- United Nations Paris Agreement (skim, focus on Articles 2, 4, 14), available at: https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf
- Daniel Bodansky, “The Paris Climate Change Agreement: A New Hope?” *American Journal of International Law* 110, no. 2 (2016): 288–319.
- Steven Bernstein and Matthew Hoffmann, “The Politics of Decarbonization and the Catalytic Impact of Subnational Climate Experiments,” *Policy Sciences* 51, no. 2 (2018): 189–211
- Brad Plumer and Nadja Popovich, “The World Still Isn’t Meeting Its Climate Goals,” *New York Times* (December 7, 2018), available at: <https://www.nytimes.com/interactive/2018/12/07/climate/world-emissions-paris-goals-not-on-track.html>
- Daniel Esty and Peter Boyd, “To Move Paris Accord Forward, Bring Cities and Companies On Board,” *Yale Environment360* (March 20, 2018), available at: <https://e360.yale.edu/features/to-move-paris-accord-forward-bring-cities-and-companies-on-board>

Week 11 (March 31): Student Final Paper Presentations

Week 12 (April 7): Students Final Paper Presentations

FINAL PAPER DUE FRIDAY, APRIL 9th (submit via Quercus by 11:59 p.m.)