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 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., individuals, 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 a 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.

Course Delivery

This course will be delivered entirely online. Lectures and readings will be posted through Quercus. The course will have an asynchronous component (students will review read assigned materials and watch lectures online but not at a set time) and a synchronous component (online meet-ups at a set time organized by the instructor to discuss the materials, answer questions, and discuss application of the course materials). While meet-ups are optional, they are strongly recommended.

Familiarly with the Quercus learning environment is essential to success in this class.
**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). The Textbook 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:

- 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.

- 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]

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 are required to monitor Quercus and their emails for updates on reading lists**

**Meet-Ups / Office Hours / Email Communication**

Online meet-ups will take place on Mondays from 6:00pm – 8:00pm EST. 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. Subject to student interest, additional meet-ups may be scheduled to try and reduce class sizes and/or facilitate more direct student participation.

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.
While students need not have video capabilities in order to participate in online meetups or to speak to the instructor for office hours, the use of audio/video participation is strongly encouraged.

**Marking Scheme**

The following is a breakdown of the marking scheme for the course. Detailed descriptions follow (all times are Toronto (EST)):

- 10% - Course Assessment #1 (To be completed by October 26, 2020 at 11:59pm)
- 10% - Course Assessment #2 (To be completed by November 30, 2020 at 11:59pm)
- 20% - Midterm Assessment (Mid-term Period: December 11 – 22, 2020)
- 15% - Case Comment Assignment (Due January 15, 2021 at 11:59pm)
- 10% - Course Assessment #3 (To be completed by February 1, 2021 at 11:59pm)
- 10% - Course Assessment #4 (To be completed by March 22, 2021 at 11:59pm)
- 25% - Final Assessment (Exam Period: April 7 – 30, 2021)

**Course Assessments**

Students will complete four written assessments during the course. The assessments will be made available at least 7 days before the due date through Quercus. Once the assessment is started, students will have 24-hours to complete their work. Students will have the ability to determine when they start/complete each assessment, but each assessment has a fixed deadline (see above). For example, for Assessment #1, in order to have the full 24-hour period to complete the assessment, a student must commence the assessment by no later than October 25, 2020 at 11:59pm.

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 750 – 1,250 words in response to one or more questions.

Instructions for each assessment will be provided through Quercus.

Assessments cannot be submitted late absent valid medical documentation or other major and unforeseen life event (i.e., death in the family). Assessments that are submitted late without excuse will not be graded.

**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
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).

**Midterm and Final Assessments**

The midterm and final assessments will both be take-home tests. Students will have 72-hours to complete both the midterm and final test. Scheduling of these take home exams 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](#).

**Submission of Course Work / Turnitin.com**

All course work will be submitted online through Quercus. 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 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 are 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 October 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 ACORN.

**Penalty for Late Submission of Work**

No extensions for the submission of any course work will be granted without proof of medical or other emergency. The following late penalties apply:

Late written assignments and course assessments will be assessed a penalty of **3% per day**, including weekend days.

Barring medical or other emergency, the Case Comment will not be accepted after January 31, 2021.
Assessments will not be graded if submitted after the deadline set absent medical or similar emergencies.

**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

Introduction to the Course

On September 14, 2020 at 6:00pm EST, I will host a meet-up to discuss objectives for the course, review the syllabus, grading, my approach to teaching, and an overview of key concepts that will be studied during the academic year. Before attending the meetup, you should review the following:

- Quercus – Videos from the “Course Overview” section.
- Textbook, Chapter 1 (Introduction) - pp. 1 – 16

1. Week of September 14th - International Law and International Relations

Why bother studying international law? How does international law relate to international relations? The readings and lectures this week will tie the historical development of international law to current interdisciplinary issues between international law and international relations. We will launch a discussion on what will be common theme throughout the course, namely whether international law is really “law” or whether it is politics cloaked in the language of law.

Materials:
- Lectures in Quercus
- Textbook, Chapter 2 (History) – pp. 17 - 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.
- Court cases/excerpts:
  - S.S. Lotus (France v. Turkey), 1927 PCIJ (ser. A) No. 10 (Sept. 7)

2. Weeks of September 21st and 28th – Treaties

These two weeks of materials will kick-off our study of the sources of international law. International treaties are the leading source of international law. We will examine the basic framework for the creation of treaties, how they come into force, and how states may try to limit their obligations through what are known as “reservations”. We will also explore how treaties change over time, and how they can be terminated.

Materials:
- Lectures in Quercus
- Textbook – Chapter 3 (Sources), pp. 31 – 33; Chapter 12 (Treaties), pp. 251 – 276

Markus Lotzur, “Intertemporal Law”, Max Planck Encyclopedias of International Law (Updated April 2008) [Oxford Public International Law]

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 1**
- **Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua), Judgment, ICJ Reports 2009**
- **Legal Status of Eastern Greenland (Den. v. Nor.), 1933 P.C.I.J. (ser. A/B) No. 53**

3. **Week of October 5th – Customary International Law**

What is customary international law? What is the difference between custom and habit? How widespread does the custom have to be in order to be legally binding on states? In this week’s materials, we explore how states can become subject to international obligations through their conduct.

Materials:
- Lectures in Quercus
- Textbook – Chapter 3.3 (Sources), pp. 33 – 45.
- Court cases/excerpts:
  - **North Sea Continental Shelf (Norway v. Germany), [1969] ICJ Rep 3**
  - **Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), 1986 ICJ 14**
  - **Anglo-Norwegian Fisheries, (U.K. v. Norway), 1951 ICJ 117**

4. **Week of October 12th – The Sources of International Law – The Grab Bag (Jus Cogens / General Principals) and the Interaction Between International Law and “Municipal” Law**

This week’s materials will explore the remaining sources of international law, including general principles and the opinions 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.

Materials:
- Lectures in Quercus
- Textbook – Chapter 3.3 and following (Sources), pp. 45 – 55; Chapter 4 (International law and municipal law), pp. 57 - 71.
• Court cases/excerpts:
  o *Nevsun Resources Ltd. v. Araya, 2020 SCC 5*, paras.1 – 26; 60 – 133

5. **Weeks of October 19th and 26th – The State: Cradle to Grave**

What is a state? How does the international law definition of a “state” compare to definitions in other contexts? And how does a state end? During these two weeks, we will explore the life cycle of states, and what obligations might survive the death of states.

Materials:
• Lectures in Quercus
• Textbook – Chapter 5 (Creation and recognition of States) pp. 72 – 110, Chapter 14 (State succession) pp. 299 – 326
• *UN Declaration of on Friendly Relations (UN Resolution 2625)*
• Court cases/excerpts:
  o *Territorial Dispute (Libya v. Chad)*, 1994 ICJ 7
  o *Frontier Dispute (Burk. Faso v. Mali)*, 1986 ICJ 554
  o *Gabcikovo-Nagymaros Project (Hung. v. Slovk.)*, 1997 ICJ 7

6. **Week of November 2nd – Territory**

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 life. This week’s material will explore international law governing the acquisition and loss of territory.

Materials:
• Lectures in Quercus
• Textbook – Chapter 7 (Territory) pp. 122 – 156
• Marcelo G Kohen and Mamadou Hébié, “Territory, Acquisition”, Max Planck Encyclopedias of International Law (Updated March 2011) [Oxford Public International Law]

7. **Week of November 16th - The Law of the Sea**

Approximately 71% of the earth is covered by water, including the oceans. What laws govern one of our planets more important resources (i.e., water)? In this week’s materials we examine the law of the sea, including its evolution and modern challenges.

Materials:
• Lectures in Quercus
• Textbook – Chapter 8 (The law of sea) pp. 157 – 195.
• Court cases/excerpts:
8. **Week of November 23rd – International Organizations / The United Nations**

States are not the only actor in the international legal system. This week’s materials will explore the legal personality of international organizations and the structure of the United Nations.

Materials:

- Lectures in 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
- Court cases/excerpts:

9. **Week of November 30th - Nationality**

Individuals, while not a core actor in the international legal system, nonetheless play a role. International law attaches significant importance to an individual’s nationality. This week’s materials explores the concept of nationality.

Materials:

- Lectures in Quercus
- Textbook – Chapter 15 – pp. 327 - 338
- Court cases/excerpts:
  - *Nottebohm (Liechtenstein v. Guatemala)*, 1955 ICJ Rep 4

10. **Week of January 4th – Dispute Settlement**

How do states resolve their disputes under international law? This week’s materials will hone in on the International Court of Justice as well as other tribunals where states litigate their grievances.

Materials:

- Lectures in Quercus
- Textbook - Chapter 23 (Settlement of disputes) pp. 537 – 566
- Court cases/excerpts:
  - *Fisheries Jurisdiction Case (Spain v. Canada) (Jurisdiction)*, [1998] ICJ Rep 432
  - *Questions relating to the Obligation to Prosecute or Extradite, Belgium v. Senegal, General List No. 144, Judgment (ICJ, Jul. 20, 2012)*
11. **Week of January 11th – State Jurisdiction**

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, on the territories of other states, or over their own nationals abroad? These topics will be explored this week.

Materials:

- Lectures in Quercus

12. **Week of January 18th – Diplomatic and State Immunity**

What are diplomatic and state immunity? What is the scope of diplomatic and state immunity? To what extent are states immune from the jurisdiction of other states? Can you sue one state in the courts of another state? This week’s materials will explore when and how state and their agents can be brought before the courts of other states.

Materials:

- Lectures in Quercus
- Textbook – Chapter 11 (Immunity from jurisdiction) pp. 230 – 249
- *Vienna Convention on Diplomatic Relations (1969)*
- Court cases/excerpts:
  - *Kazemi Estate v. Islamic Republic of Iran, 2014 SCC 62*

13. **Week of January 25th – State Responsibility for Breaches of International Law**

What constitutes a breach of international law? How is liability for a breach ascribed to state actors? When are states liable for the conduct of non-state actors? This week’s materials will examine how breaches of international law are established and attributed to state actors.

Materials:

- Lectures in Quercus
- Textbook – Chapter 13 (State responsibility) pp. 276 – 293
- *Articles on the Responsibility of States for Internationally Wrongful Acts*
- Court cases / excerpts:

This week’s materials explores what remedies, short of force, states may be able to obtain for breaches of international law. Sanctions as a tool of international law will also be examined.

Materials:

- Lectures in Quercus
- Textbook – Chapter 13 (State responsibility) pp. 293 – 299
- *Articles on the Responsibility of States for Internationally Wrongful Acts*

15. **Week of February 8th – 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”? In this lecture 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)

Materials:

- Lectures in Quercus
- Court cases/excerpts:
  - *Legality of the Threat or Use of Nuclear Weapons Threat of Nuclear Weapons (Advisory Opinion), [1997] ICJ Rep 226*

16. **Weeks of February 22nd and March 1st – International Humanitarian Law**

The regulation of armed conflict has been a major preoccupation of international law for over a century. Over the course of two weeks, we examine the evolution of the law of armed conflict (known as international humanitarian law) and the major legal instruments that regulate armed conflict. We will also look at the challenges posed be the evolution of armed conflict.

Readings:

- Textbook – Chapter 21 (Laws applicable to armed conflict) pp. 471 - 504
- *Geneva Conventions, Common Articles 2 and 3 (1949)* (including the commentaries to those Articles as provided by the International Committee for the Red Cross).

17. **Weeks of March 8th and March 15th – 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. This week’s materials will examine the historical evolution of international human rights law and review some of the major international law treaties in the area.
Readings:
- *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171
- 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)

18. **Week of March 22nd – International Criminal Law**

Although individuals are not the principal actors under international law, there have been increased efforts to hold individual liable for breaches of international law, notably for breaches of international humanitarian law. In this class we will examine the historical efforts to hold individuals to account and how those efforts have evolved, particularly since the end of the Cold War.

Readings:
- Court cases / excerpts:
  - *Prosecutor v. Al-Bashir* (Judgment in the Jordan Referall re: Al-Bashir Appeal), May 6, 2019 (ICC Appeal Chamber)
  - *The Situation in the Islamic Republic of Afghanistan*, March 5, 2020 (ICC Appeals Chamber)

19. **Week of March 29th – Wrap Up Week**

During this week we will wrap up the class and prepare for the final assessment.