

University of Western Ontario - Department of Political Science
Winter 2012: Political Science 3201G – International Lawⁱ

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Class: Wednesday 1:30-3:30

Introduction:

This course will help you critically assess the political perspectives on contemporary issues in international law. This course will help you explore the theoretical perspectives on international law, as well as key issues, debates and topics. We will address a range of issues in international law including dispute settlement, terrorism, and international impunity, the law of the sea, environmental protection and human rights. Drawing on insights of international relations, this course will explore both theories and issues of international law in the contemporary world.

Objectives:

This course has three main objectives. First, this course is designed to outline and allow you to assess the major debates that have taken place on the politics of international law. This will provide a foundation for any future interests in international relations, international law, and global politics. Second, the assignments in this course are designed to help you develop your critical thinking in ways that relate to specific issues and events in international law. While we will cover a range of debates and issues, you need to decide which you find most interesting and which you will focus on in your work. Third, by the conclusion of this course you should be able to provide a critical and original argument about international law. Your ability to accomplish these objectives will be assessed using the assignments and work outlined below.

Readings:

All readings are available on-line, on 2-hour reserve, or in the periodical section at the Weldon or Law Libraries.

Evaluation:

Attendance and Participation: 20% of final course grade.

Students are expected to attend and participate consistently and effectively in the work of their respective groups. Class discussions are an opportunity to engage with the ideas and concepts presented in the course through discussion and presentation. (See 'Guidelines for Success' below).

Debate: 15% of final grade

In teams of two, students should pick a specific case related to their area of interest from the legal briefs provided on week one. The debate should outline the key issues and points of contention and present each side coherently and convincingly to the class. Each team of students will have a maximum of 10 minutes to present both sides and any ensuing debate planned by the presenters. Students are encouraged to think creatively about how they will present the debate and presentations may take alternative formats as long as they accomplish the requirements outlined above.

Essay : 40% of final grade due in class March 21, 2012.

Length: 3,000 words, typed and double spaced. Pages should be numbered and the type font should be no smaller than 12 characters per inch (e.g. Arial 12).

Topics: Students choose their own essay topics but such choices must be approved by the instructor. The essay

must have, as part of its introduction, a statement of its thesis (central argument). This thesis must be supported by a careful analysis of relevant data and arguments in the body of the paper.

Notes: The Department's rules regarding plagiarism and the submission of similar essays to two or more different instructors are appended to this course outline and should be noted. (See 'Criteria for Evaluation of Written Assignments' below). Please note that papers must be submitted in hard copy in class and cannot be accepted electronically or by fax.

Final Exam: 25% of final course grade. To be held during the scheduled exam period.

The final exam will be cumulative (i.e., will be based on the material covered in lectures, assigned readings, and discussions throughout the whole of the course). The exam may include both a short answer/identification component and questions requiring longer, essay-style responses. Choice of answers and an exam preparation guide may be given.

Guidelines for Success in Class

Since there seldom are definitive answers to the questions we will be asking about Canadian-US relations, and much of what you will learn in this course will be enhanced by the ideas and perspectives of your colleagues. But for this to work, everyone must participate fully and constructively. Be mindful of the following points, and you will be successful:

- Come to all classes having read the assigned readings for that week and prepared to participate in discussion. It is useful to remember that some week's readings may be more relevant to your research interests than others, and focusing on readings that are most salient to your interests will ensure maximum usefulness in the course.
- Participate in discussions, but do not over-participate. Everyone must be given an opportunity to take part in discussions. Constructive participation involves the raising of *relevant* points and ideas. Online participation will be considered as well in participation marks.
- Demonstrate respect for the ideas presented by others at all times. This is essential to open discussion and the free exchange of ideas. This does not mean that you must agree with others. Informal debate will teach you even more about your own position while simultaneously exposing you to different viewpoints. Make use of such opportunities, but no disrespectful behavior will be tolerated.
- Raise questions when you have them. Raising useful questions counts as participation. You can use minute papers, online forums, e-mail, facebook or in class lecture to raise questions you encounter throughout the course. Uncertainties are usually shared by others – when you raise your questions in class everyone learns while you build your own participation grade.

Criteria for Evaluation of Written Assignments

These criteria will be used in evaluation of written work and possibly in combination with the checklist below. Please be sure to read them carefully:

Analytical Content: Higher grades will be given to work that demonstrates the ability to interpret, critically assess and develop insights of the material. To determine whether or not your argument is analytical, ask yourself "Am I demonstrating to the reader my insights in an academic way?" If you are simply summarizing or describing in detail phenomena, your work is unlikely to have high analytical content.

Helpful signs you are not developing analytical content: Excessive quotes; beginning or ending a paragraph with a quote; short (fewer than 4 sentences) paragraphs; no sources in a long paragraph; lack of similar argument in introduction and conclusion.

Development of an Argument: Higher grades will be given to work that has a clearly stated argument and a set of logically developed and reasonably comprehensive points in support of that argument. Academic arguments need not be personal (though in certain instances they can be – check with the instructor), rather they demonstrate the logical progression of the position you are developing. The key here is to attempt to convince your reader of the soundness or feasibility of your argument. Nuanced arguments recognize obvious criticisms and seek to address

them logically. Consistency of an argument throughout a paper is important.

Helpful signs your argument may be in trouble: Using the same author or quote more than a few times in successive paragraphs; your introduction and conclusion are not similar; you introduce material in the introduction and the conclusion that cannot be found elsewhere; you have quotes in your conclusion; your attempt to address obvious criticisms contradicts your thesis, you adopt multiple theoretical frameworks; you cannot find any sources that agree with your central claims.

Grammar, Spelling, and Style: Higher grades will be given to written work that is grammatically correct and is clearly and accurately written, while lower grades will be given to work that is difficult to read or understand due to excessive grammatical and/or spelling errors.

While different approaches work for different people, it is recommended that you try the following every time you have a written assignment: after completing your assignment, put it away for a while (ideally, for a few days); when you pick it up again, read it carefully, slowly, and aloud (when we are familiar with a paper we tend to skim it during proof-reading, thereby missing errors – so make sure you are reading it word for word). Mistakes in grammar may not always look wrong, but they usually sound wrong. If you need some help with writing style or grammar, there are many resources available on campus.

Meeting the Requirements of the Assignment: All written work must be submitted on time, must be of the appropriate length, must use the required number and type of resources, and, most importantly, must address the issues or questions posed in the assignment.

Important Notices

General

All students must complete all course requirements. Failure to do so (e.g., by not handing-in an assignment or by missing an examination without due cause) will subject the student to the appropriate University regulations. Students must also keep a duplicate copy of their assignments.

Late Assignments - Formal Guidelines

Late papers will be accepted, but will be subject to a late penalty of 5 per cent per weekday to a maximum of 5 days, after which they will not be accepted and a mark of 0 will be recorded. In the interest of fairness to all students, there will be no exceptions to this unless you have arranged in advance for an extension. All extensions must be arranged in advance of the day on which a paper is due. **Papers submitted after deadlines (including excused late papers) will be marked, but comments will not be provided.**

Plagiarism

Students must also note that it is a serious academic offense to hand in the same assignment to two or more courses or to pass off another person's work as their own (i.e., plagiarism). The University of Western Ontario "Handbook of Academic and Scholarship Policy" defines plagiarism as follows:

Students must write their essays and assignments in their own words. Whenever students take an idea, or a passage from another author, they must acknowledge their debt both by using quotation marks where appropriate and by proper referencing such as footnotes or citations. Plagiarism is a major academic offence (see Scholastic Offence Policy in the Western Academic Calendar).

At the discretion of the instructor, students may be required: (i) to pass a brief oral examination on their assignment before a final grade is assigned and/or (ii) provide an electronic copy of their assignment so that their work can be checked using plagiarism-checking software (e.g., Turnitin.com). As stated in the University of Western Ontario "Handbook of Academic and Scholarship Policy:"

All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All

papers submitted will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>).

Examinations

The final course examinations will be held during the regular examination periods. No substitute examinations will be given; therefore students should not make their travel plans until they know their examination schedules

3201 SEMINAR TOPICS AND READINGS

Note: The schedule below is subject to change in the event of extenuating circumstances or by mutual agreement between the instructor and the students.

January 11 - Intro, objectives, requirements and background

Suggested: John Burrows, Chapters 1 ("living legal traditions") and 2 (Sources and Scope of Indigenous Legal Traditions) *Canada's Indigenous Constitution*, University of Toronto Press: Toronto, 2010.

January 18 - Introduction to International Law

Peter Malanczuk, *Akehurst's Modern International to International Law*, Chapter 3
Louis Henkin, *How Nations Behave*, p.39-87.

January 25 - The role of theory in the law

Ian Scobbie, "Wicked Heresies or Legitimate Perspectives? Theory and International Law" in Evans, *International Law*.

Sir Gerald Fitzmaurice, "Foundations of Authority in International law and the Problems of Enforcement" 19 *Modern Law Review*, pp. 1-13.

Lung-Chu Chen, *An Introduction to Contemporary International Law: A Policy-Oriented Perceptive*, chapter 1, pp. 3-24.

Feb 1 - Gendered Perspectives

Alona Hagay-Frey, *Sex and Gender Crimes in the New International Law*, Martinus Nijhoff Publishers Chapter 2. Boston: 2011. Chapter 2.

Diane Otto, "Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade" 10 *Melbourne Journal of International Law* 11 (2009)

Case: San Cook "Security Council Resolution 1820: On Militarism, Flashlights, Raincoats, and Rooms with Doors - A Political Perspective on Where it Came from and What it Adds" 3 *Emory International Law Review* 125 (2009).

Feb 8 - Rising Constitutionalism

Hirschl, Ran "The New Constitutionalism and the Judicialization of Pure Politics Worldwide" 75 *Fordham L. Rev.* 721 (2006-2007)

Upendra Baxi "Public and Insurgent reason: adjudicatory leadership in a hyper-globalizing world" in Stephen Gill *Global Crises and the Crisis of Global Leadership*, 2012.

Case: Hirschl, Ran "The Rise of Constitutional Theocracy" in *Constitutional Theocracy*, Harvard University Press, 2010.

Feb 15 - The International Court of Justice

Hugh Thirlway, "The International Court of Justice" in Malcolm D. Evans, *International Law* (2nd Ed.), pp. 561-588.

Orakhelashvili, Alexander, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory: Opinion and Reaction" *Journal of Conflict and Security Law* 11(1)(2006): 119-139.

Feb 29 - Law of the Sea

Gerhard von Glahn and James Larry Taulbee "Law of the Sea" in *Law Among Nations: An Introduction to International Law*, Longman/Pearson 2010.

Bernard H. Oxman, "Law of the Sea" in Christopher C. Joyner (Ed.) *The United Nations and International Law*, pp. 309-335.

Case: TBA.

March 7 - The Northwest Passage: International Strait or Internal Waterway?

Gerhardt et al. "Contested Sovereignty in a Changing Arctic" *Annals of the Association of American Geographers* 100 (4) 2010.

Rob Hubert, "Climate Change and Canadian Sovereignty in the Northwest Passage" *Calgary Papers in Military and Strategic Studies*, Occasional Paper Number 4, 2011.

Klaus Dodds "Flag planting and finger pointing: The Law of the Sea, the Arctic and the political geographies of the outer continental shelf" *Political Geography*, Volume 29, Issue 2.

March 14 - Human Rights

Karen A. Mingst and Margaret P. Karns, *The United Nations in the 21st Century* 3rd Ed., chapter 6, pp. 167-209.

Nico Schrijver, "The UN Human Rights Council: A New 'Society of the Committed' or Just Old Wine in New Bottles?" *Leiden Journal of International Law* 20(2007): 809-823.

Joanna Harrington "Canada, the United Nations Human Rights Council, and Universal Periodic Review" *Constitutional Forum*, Volume 18, Number 2, 2009.

March 21 - The Child and International Law

Readings:

Franziska Humbert, *The Problem of Child Labour in International Law*, Cambridge University Press 2009. Pages 1-53.

Cecile Van de Voorde and Rosemary Barberet "Children and International Criminal Justice" in *International Crime and Justice* Cambridge University Press, 2011.

Jessica Foran "Childhood Militarization and Race Relations: The Case of Omar Khadr and the Canadian State" in *The Militarization of Childhood*, Beier ed, 2011.

March 28 - Addressing International Impunity: The International Criminal Court

Readings:

William A Schabas "Creation of the Court" in *An Introduction to the International Criminal Court*, Cambridge: 2011.

"International Criminal Justice: Just an Expensive Mirage? *International Journal* 63(3)(2008): 729-741.

Claus Krieb and Leonie van Holtendorff "The Kampala Compromise on the Crime of Aggression" *Journal of International Criminal Justice* 8, 2010.

April 4 - Conference Week - Space: Air, Outer, Cyber

Readings:

Shabtai Rosenne, *The Perplexities of Modern International Law*. Martinus Nijhoff Publishers, 2004. Chapter 9.

Schaap, Arie J. *Cyber Warfare Operations: Development and Use under International Law*; 64 *A.F. L. Rev.* 121 (2009)

Jonathan A. Ophardt, "Cyber Warfare and the crime of aggression: the need for individual accountability on tomorrow's battlefield" 2010 *Duke L. & Tech. Rev.* 003

¹ Parts of this course outline draw on Dr. E. Riddell-Dixon's outline for POLS 3390G and J. Marshall Beier's course outlines.

**APPENDIX TO UNDERGRADUATE COURSE OUTLINES
DEPARTMENT OF POLITICAL SCIENCE**

Prerequisite checking - the student's responsibility

"Unless you have either the requisites for this course or written special permission from your Dean to enroll in it, you may be removed from this course and it will be deleted from your record. This decision may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites."

Essay course requirements

With the exception of 1000-level courses, most courses in the Department of Political Science are essay courses. Total written assignments (excluding examinations) will be at least 3,000 words in Politics 1020E, at least 5,000 words in a full course numbered 2000 or above, and at least 2,500 words in a half course numbered 2000 or above.

Use of Personal Response Systems ("Clickers")

"Personal Response Systems ("clickers") may be used in some classes. If clickers are to be used in a class, it is the responsibility of the student to ensure that the device is activated and functional. Students must see their instructor if they have any concerns about whether the clicker is malfunctioning.

Students must use only their own clicker. If clicker records are used to compute a portion of the course grade:

- the use of somebody else's clicker in class constitutes a scholastic offence,
- the possession of a clicker belonging to another student will be interpreted as an attempt to commit a scholastic offence."

Security and Confidentiality of Student Work (refer to current *Western Academic Calendar* (<http://www.westerncalendar.uwo.ca/>))

"**Submitting or Returning Student Assignments, Tests and Exams** - All student assignments, tests and exams will be handled in a secure and confidential manner. Particularly in this respect, leaving student work unattended in public areas for pickup is not permitted."

Duplication of work

Undergraduate students who submit similar assignments on closely related topics in two different courses must obtain the consent of both instructors prior to the submission of the assignment. If prior approval is not obtained, each instructor reserves the right not to accept the assignment.

Grade adjustments

In order to ensure that comparable standards are applied in political science courses, the Department may require instructors to adjust final marks to conform to Departmental guidelines.

Academic Offences

"Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following Web site:

<http://www.uwo.ca/univsec/handbook/appeals/scholoff.pdf>."

Submission of Course Requirements

ESSAYS, ASSIGNMENTS, TAKE-HOME EXAMS **MUST** BE SUBMITTED ACCORDING TO PROCEDURES SPECIFIED BY YOUR INSTRUCTOR (I.E., IN CLASS, DURING OFFICE HOURS, TA'S OFFICE HOURS) OR UNDER THE INSTRUCTOR'S OFFICE DOOR.

THE MAIN OFFICE DOES NOT DATE-STAMP OR ACCEPT ANY OF THE ABOVE.

Note: Information excerpted and quoted above are Senate regulations from the Handbook of Scholarship and Academic Policy. <http://www.uwo.ca/univsec/handbook/>

Students registered in Social Science should refer to <http://counselling.ssc.uwo.ca/> <http://counselling.ssc.uwo.ca/procedures/havingproblems.asp> for information on Medical Policy, Term Tests, Final Examinations, Late Assignments, Short Absences, Extended Absences, Documentation and other Academic Concerns. Non-Social Science students should refer to their home faculty's academic counselling office.

Plagiarism

"Plagiarism: Students must write their essays and assignments in their own words. Whenever students take an idea, or a passage from another author, they must acknowledge their debt both by using quotation marks where appropriate and by proper referencing such as footnotes or citations. Plagiarism is a major academic offence." (see Scholastic Offence Policy in the Western Academic Calendar).

Plagiarism Checking: "All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>)."

Multiple-choice tests/exams: "Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating."

Note: Information excerpted and quoted above are Senate regulations from the Handbook of Scholarship and Academic Policy. <http://www.uwo.ca/univsec/handbook/>

PLAGIARISM*

In writing scholarly papers, you must keep firmly in mind the need to avoid plagiarism. Plagiarism is the unacknowledged borrowing of another writer's words or ideas. Different forms of writing require different types of acknowledgement. The following rules pertain to the acknowledgements necessary in academic papers.

A. In using another writer's words, you must both place the words in quotation marks and acknowledge that the words are those of another writer.

You are plagiarizing if you use a sequence of words, a sentence or a paragraph taken from other writers without acknowledging them to be theirs. Acknowledgement is indicated either by (1) mentioning the author and work from which the words are borrowed in the text of your paper; or by (2) placing a footnote number at the end of the quotation in your text, and including a correspondingly numbered footnote at the bottom of the page (or in a separate reference section at the end of your essay). This footnote should indicate author, title of the work, place and date of publication, and page number.

Method (2) given above is usually preferable for academic essays because it provides the reader with more information about your sources and leaves your text uncluttered with parenthetical and tangential references. In either case words taken from another author must be enclosed in quotation marks or set off from your text by single spacing and indentation in such a way that they cannot be mistaken for your own words. Note that you cannot avoid indicating quotation simply by changing a word or phrase in a sentence or paragraph which is not your own.

B. In adopting other writers' ideas, you must acknowledge that they are theirs.

You are plagiarizing if you adopt, summarize, or paraphrase other writers' trains of argument, ideas or sequences of ideas without acknowledging their authorship according to the method of acknowledgement given in 'A' above. Since the words are your own, they need not be enclosed in quotation marks. Be certain, however, that the words you use are entirely your own; where you must use words or phrases from your source, these should be enclosed in quotation marks, as in 'A' above.

Clearly, it is possible for you to formulate arguments or ideas independently of another writer who has expounded the same ideas, and whom you have not read. Where you got your ideas is the important consideration here. Do not be afraid to present an argument or idea without acknowledgement to another writer, if you have arrived at it entirely independently. Acknowledge it if you have derived it from a source outside your own thinking on the subject.

In short, use of acknowledgements and, when necessary, quotation marks is necessary to distinguish clearly between what is yours and what is not. Since the rules have been explained to you, if you fail to make this distinction your instructor very likely will do so for you, and they will be forced to regard your omission as intentional literary theft. Plagiarism is a serious offence which may result in a student's receiving an 'F' in a course or, in extreme cases in their suspension from the University.

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Accessibility at Western

Please contact poliscie@uwo.ca if you require any information in plain text format, or if any other accommodation can make the course material and/or physical space accessible to you.