

University of Western Ontario - Department of Political Science
Winter 2014: Political Science 3201G – International Lawⁱ

Instructor: Dan Bousfield
Teaching Assistant: Jacob Skinner
Office: SSC-4084
Dan's Office Hours: Monday 9-11, @4:30. Wednesday 8-9am, @3:30.
E-mail: dbousfie@uwo.ca
Academic facebook: [dbousfie@uwo.ca](https://www.facebook.com/dbousfie@uwo.ca)
Class hashtag: #poli3201
Skype: dan.bousfield
Twitter: @dbousfie
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.

Learning Objectives:

Through this course all students will have the opportunity to:

- Identify the implicit assumptions and ideas of key international legal mechanisms
- Evaluate a specific international court ruling and explain its relevance
- Acquire a historical context of existing international legal decisions
- Identify a specific international legal dilemma and apply a critical framework to assess likely policy outcomes

Through this course some students will have the opportunity to:

- Participate in a community-engaged scholarship opportunity with real world actor dealing with a contemporary international legal issue.

Readings:

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

Evaluation:

Attendance 10% of final course grade.

Participation 10% of final course grade.

Students are expected to attend and participate consistently and effectively in the work of their respective groups. Presentation marks cannot be received without attendance marks. 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). Students have the option of receiving their participation mark for any individual class by writing a single page (250 word) response to one or all of the week's readings. The response should reflect on the content of the readings rather than summarize them, and discuss interesting points of contention or debate. To receive a participation grade for any one class (to a maximum of 10), students must email their summary to dboufie@uwo.ca on the exact day of the lecture. Only files received from 12:00am to 11:59pm on day of lecture will be marked (i.e. Jan 8,15,22,29, Feb 5, 12,26, Mar 5, 12, 19, 26 and April 2). The subject line of the email MUST read "POLS 3201 Response Paper –Student Name - Student Number" or the assignment will not be marked.

Debate (or CES; see below): 12.5% 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 pair should try to convey the perspective of the two sides as well as the actual outcome.

The presentation should highlight:

1. Key parties involved
2. Relevant context (or legal mechanisms) related to the issue
3. Arguments put forward on each side
4. Cases in support of each side
5. Resolution of the case and the implications

Only one group presentation will be allowed in-class per week. The remaining students will need to upload their presentation in an accessible and clear format (such as a goanimate, youtube or vimeo video) for each week they sign up. Students must present on the week they sign up or else they forfeit their grade. 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.

CES: 12.5% of final grade (maximum 8-10 students) A few students will have the option of participating in a community-engaged scholarship (CES) opportunity with an offsite organization involved in international legal issues. Students must submit an application in-class for the opportunity to participate and will be graded on their completion of the online-check in with the student success center, their successful completion of their placement and a short (1000 word) reflective summary that links their work with the CES to class content.

Essay: 40% of final grade due in class April 2, 2014.

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). Drafts may be reviewed by the instructor up to March 12, 2014. After that date, no drafts will be reviewed.

Topics: Students choose their own essay topics but such choices must be approved by the instructor either in-person or over e-mail. If you are thinking of pursuing further legal studies, try to choose a topic that is unique that will differentiate yourself from others. The essay topics should deal with some aspect of an international legal body, a specific incident (either historical or ongoing) and a clear perspective in the essay on why the topic matters given class discussion. The essay must have, as part of its introductory paragraph, a statement of its thesis (central argument) and a clear overview of the issues to be discussed in the paper. Moreover, the paper should reference at least one of the specific cases discussed in the student presentations, failure to do so may result in only partial marks provided.

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). Students may e-mail their final paper to dbousfie@uwo.ca with the heading "POLS 3201 FINAL Paper –Student Name - Student Number" and all papers may be processed by turnitin.

Final Exam: 27.5% 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 8th – No required readings

Optional: Borrows, John. Canada's indigenous constitution. University of Toronto Press, 2010, Chapter 1. (available free online).

For students interested in CES: 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.

January 15 - Introduction to International Law

Peter Malanczuk, *Akehurst's Modern International to International Law*, Chapter 3.

Louis Henkin, *How Nations Behave*, 1979, p.39-87.

For reference/background (not required reading): Koh, Harold Hongju. "Why Do Nations Obey International Law?." (1997).

January 22 - The role of theory in the law

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

Course file: "Impact of Westphalia "and "International Economic Law"

Not required: Cutler, Claire A. "Locating "Authority" in the Global Political Economy" *International Studies Quarterly*, March 1999 Volume. 43, Number. 1 p. 59-81.

January 29 - Gender and the Law

Knop, Karen. "Re/Statements: Feminism and State Sovereignty in International Law." *Transnat'l L. & Contemp. Probs.* 3 (1993): 293.

Jones, Adam. "Genocide and Mass Violence." *Gender Matters in Global Politics: A Feminist Introduction to International Relations* (2009): 127.

For reference (not required): Diane Otto, "Exile of Inclusion: Reflections on Gender Issues in International Law over the Last Decade" *10 Melbourne Journal of International Law* 11 (2009) **Or** Otto, Diane. "Power and Danger: Feminist Engagement with International Law through the UN Security Council." *Austl. Feminist LJ* 32 (2010): 97.

Feb 5 - Rising Constitutionalism

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

Course File "International Agreements"

If you have time: 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.

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

Feb 12 - The International Court of Justice

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

Course file "Rights and Duties"

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.

Gross, Aeyal M. "Human Proportions: Are Human Rights the Emperor's New Clothes of the International Law of Occupation?." *European Journal of International Law* 18.1 (2007): 1-35.]

Feb 26 - The International Criminal Court

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.

For Reference: Nerlich, Volker. "The International Criminal Court 2002-2010: a View From the Inside." *Criminal Law Forum* 22 (2011): 199-214.

March 5 - Law of the Sea and Arctic Sovereignty

Course file: "Law of the Sea"

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

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

For Reference: 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 12 - States of Exception - Black Sites and Guantanamo

Course file: "jurisdiction"

Ahmad, Muneer I. "Resisting Guantanamo: Rights at the brink of dehumanization." *Northwestern University Law Review* 103.4 (2009): 1683.

Sadat, Leila Nadya. "Ghost Prisoners and Black Sites: Extraordinary Rendition Under International Law." *Case W. Res. J. Int'l L.* 37 (2005): 309.

If you have time: Humphreys, Stephen. "Legalizing Lawlessness: On Giorgio Agamben's State of Exception." *European journal of international law* 17.3 (2006): 677-687.

For reference: Salter, Mark B. "When the exception becomes the rule: borders, sovereignty, and citizenship." *Citizenship studies* 12.4 (2008): 365-380.

Anghie, Antony. "Rethinking Sovereignty in International Law." *Annual Review of Law and Social Science* 5 (2009): 291-310.

March 19 – International Humanitarian law

Course file: "IHL", "HR"

"Human Rights and the Third World: constituting the discourse of resistance" Rajagopal, Balakrishnan in *International Law from Below: Development, Social Movements and Third World Resistance*. (2003).

Reference:

Fluri, Jennifer. "Capitalizing on bare life: Sovereignty, exception, and gender politics." *Antipode* 44.1 (2012): 31-50.

March 26 - Send in the Drones

Primer: <http://www.thenewatlantis.com/publications/the-tortured-logic-of-obamas-drone-war>

Henderson, Ian. "Civilian Intelligence Agencies and the Use of Armed Drones." *Yearbook of International Humanitarian Law-2010* (2011): 133-173.

Brunstetter, Daniel, and Megan Braun. "The Implications of Drones on the Just War Tradition." *Ethics & International Affairs* 25.03 (2011): 337-358.

For an entire journal discussion of drones see *Denver Journal of International Law and Policy* 2010-2011

April 2 - Exam Review

ⁱ 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.

*Reprinted by permission of the Department of History

Adopted by the council of the Faculty of Social Science, October, 1970; approved by the Dept. of History August 13, 1991

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.

SUPPORT SERVICES

Students who are in emotional/mental distress should refer to Mental Health@Western

<http://www.uwo.ca/uwocom/mentalhealth/> for a complete list of options about how to obtain help.