



UNSW
SYDNEY

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University



POLS5125

The Politics of International Law

Term Two // 2019

Course Overview

Staff Contact Details

Convenors

| Name | Email | Availability | Location | Phone |
|---------------|--|----------------|----------|----------|
| Helen Pringle | h.pringle@unsw.edu.au | By appointment | MB 145 | 93852346 |

School Contact Information

School of Social Sciences

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Course Details

Credit Points 6

Summary of the Course

International law plays an integral role in the system of international politics. This course challenges you to analyse that role and the major interpretations of that role. The content covered includes topics such as: the core principles and concepts of international law; distinguishing a political from a legal interpretation of a multilateral treaty, consent and verification; the operation of the International Court of Justice and the relationship between foreign policy formulation and international law. This is an International Relations course focussing on the interaction of law and politics. It is not a Law course. No prior knowledge of international law is required.

Course Learning Outcomes

1. Understand some of the key concepts and principles of international law and some of the more important aspects of the contemporary system of international law
2. Identify the various ways in which politics and law are related at the international level and explain how this relationship operates and why it matters
3. Research a question pertaining to international law
4. Identify key actors in the international legal system and assess their role in shaping the system
5. Understand the central place of the United Nations Charter in the international legal and political systems
6. Read and analyse an international treaty or convention and appreciate the various elements that have gone into its development
7. Use and choose intelligently between different theoretical perspectives (e.g. realism, positivism and functionalism) to explain international political and legal developments
8. Demonstrate a solid understanding of the nature of international treaties and regimes and acquire a more detailed understanding of one chosen treaty regime

Teaching Strategies

The course will consist of a two-hour seminar each week.

Assessment

Assessment Tasks

| Assessment task | Weight | Due Date | Student Learning Outcomes Assessed |
|--------------------|--------|---------------------|------------------------------------|
| Test | 30% | 08/07/2019 11:59 PM | N/A |
| Research Essay | 35% | 09/08/2019 11:59 PM | N/A |
| Group presentation | 35% | 02/07/2019 04:00 PM | N/A |

Assessment Details

Assessment 1: Test

Start date: 01/07/2019 11:59 PM

Details: They will receive their papers back with corrections. They will received an accompanying marking sheet showing correct answers and explanations.

Additional details:

This test will be undertaken during Week 5. It will consist of short-answer questions, designed to assess your knowledge and understanding of the fundamentals of international law and treaty law as addressed in class and associated readings. You will not be asked to write an essay in the test.

Assessment 2: Research Essay

Start date:

Length: 2500 words

Details: Students will receive written feedback and a marking rubric.

Additional details:

Research Essay Question: Was the 2011 targeted killing of Osama bin Laden legal?

Criteria for Marking Essays

Student essays will be awarded a mark on the basis of the following criteria:

| | |
|---|---|
| 1 | Argument How well does the essay answer the question? Is the argument sustained? Does the essay demonstrate a knowledge and understanding of the relevant legal issues and points of law? |
|---|---|

| | |
|---|---|
| 2 | <p>Evidence and Resources</p> <p>Are relevant examples used to support arguments?</p> <p>Do conclusions flow from evidence?</p> <p>Are the sources scholarly?</p> <p>Does the essay say something meaningful regarding the relationship of international law to international politics, making some reference to theoretical literature?</p> |
| 3 | <p>Critical Analysis</p> <p>Is the argument analytical or simply descriptive?</p> <p>Does the essay engage with rival perspectives?</p> <p>Has the subject matter been fairly treated?</p> <p>Has the student formulated her or his own response to the set question?</p> |
| 4 | <p>Structure and Organisation</p> <p>Is the essay clearly, logically, and tightly structured?</p> <p>Do conclusions flow from the evidence presented?</p> |
| 5 | <p>Referencing</p> <p>Are there sufficient references?</p> <p>Is the referencing system accurate and consistent?</p> <p>Has the student plagiarised?</p> |
| 6 | <p>Expression and Style</p> <p>Are the syntax and grammar correct?</p> <p>Are there typographical and spelling errors?</p> <p>Is the expression clear?</p> |

Turnitin setting: This assignment is submitted through Turnitin and students do not see Turnitin similarity reports.

Assessment 3: Group presentation

Start date: 02/07/2019 04:00 PM

Details: Written feedback will be emailed to students after the class.

Additional details:

This mark will be based primarily on your Week 10 presentation. Further details will be provided in

weeks 8-9. Your participation throughout the course may also be taken into account. Also a record of attendance will be maintained. Feedback will be emailed to students.

Criteria for Marking Group Presentations

Students will be marked individually, not as a group, and whether the individual contribution to the presentation

| | |
|---|---|
| 1 | Contains factually accurate and up-to-date information on the subject matter, including some legal detail |
| 2 | Accurately reflects the position of the individual being represented. If in the role of the interviewer: introduces the issue and provides the context within which the audience can follow the discussion; clarifies any points that could seem unclear to a general audience, and succinctly draws the discussion to a close. |
| 3 | Links international law with the political context in which it functions. |
| 4 | Demonstrates research into scholarly sources of information/documents as well as internet/media sources as appropriate to the topic. |
| 5 | Keeps within the stipulated time constraints. If in the role of the interviewer: distributes the questions appropriately around the group ensuring roughly equivalent time to group members and manages the presentation within the specified time limits. |
| 6 | Presents the information in an engaging manner. |

Turnitin setting: This is not a Turnitin assignment

Attendance Requirements

Course Schedule

[View class timetable](#)

Timetable

| Date | Type | Content |
|---------------------------|------|--|
| Week 1: 3 June - 7 June | | General introduction: Orientation and questions. This seminar covers organisational matters including the course outline, objectives and organisation. Assessment requirements will be discussed in detail. Office hours will be announced. An introduction will be provided to the system of international law, sovereignty, and the sources of international law, with an overview of the United Nations system |
| Week 2: 10 June - 14 June | | This seminar covers: Brief class quiz on Week 1 essential reading The logical structure of international law The range of multilateral treaties The standard layout of a multilateral treaty and how to read it |
| Week 3: 17 June - 21 June | | Evolution of a multilateral treaty regime. Examination of the political process through which treaties are negotiated and what happens once the treaty is in place. Examples will be drawn from a range of multilateral treaty regimes. |
| Week 4: 24 June - 28 June | | Multilateral Treaties and International Dispute Resolution Case study: International Court of Justice, Whaling in the Antarctic (Australia v Japan, New Zealand intervening) Examination of the whaling case. |
| Week 5: 1 July - 5 July | | Evolution of the international law on the use of force and the current framework. |
| Week 6: 8 July - 12 July | | International law of self-defence and Security Council authorisation for the use of force. This seminar draws on the example of Afghanistan, and examines the legality of the 2003 |

| | | |
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| | | use of force in Iraq. |
| Week 7: 15 July - 19 July | | Humanitarian intervention and the Responsibility to Protect. |
| Week 8: 22 July - 26 July | | This seminar examines some contemporary issues in world politics which may include for example: tensions in the South China Sea, the possibility of Iran developing nuclear weapons, Crimea and Ukraine, the refugee crisis; and the extent to which international law is integral to the current political process. It consider the so-called US era in international law. |
| Week 9: 29 July - 2 August | | The rise and signifiicance of the international human rights regime. |
| Week 10: 5 August - 9 August | | Group presentation exercise |

Resources

Prescribed Resources

The **set readings** for each class are all contained in the set core textbooks, or available online through the *UNSW Library website*: <http://www.library.unsw.edu.au>. The set core textbooks is:

Shirley V. Scott, *International Law in World Politics: An Introduction* 3rd ed (Lynne Rienner, 2010)

A valuable reference work is:

Shirley V. Scott ed., *International Law and Politics: Key Documents* (Lynne Rienner, 2006)

Recommended Resources

Useful additional readings include

- **International law textbooks**

Anthony Aust, *Modern Treaty Law and Practice* (Cambridge: Cambridge University Press, 2000).

Anthony Aust, *Handbook of International Law* 2nd ed. (Cambridge: Cambridge University Press, 2010).

Sam Blay, Ryszard Piotrowicz and Martin Tsamenyi ed., *Public International Law: An Australian Perspective* 2nd ed. (Oxford: Oxford: University Press, 2008).

James Crawford. *Brownlie's Principles of Public International Law* 8th ed. (Oxford: Oxford: University Press, 2012).

A. Cassese, *International Law* 2nd ed. (Oxford: Oxford: University Press, 2005).

M.D. Evans, *International Law* 3rd ed. (Oxford: Oxford University Press, 2010).

D.J. Harris, *Cases and Materials on International Law* 8th ed. (London: Sweet & Maxwell, 2015).

Rosalyn Higgins, *Problems and Process: International Law and How to Use It* (Oxford: Oxford University Press, 1994).

P. Malanczuk, *Akehurst's Modern Introduction to International Law* 7th ed. (London: Routledge, 1997).

Brian R. Opeskin and Donald R. Rothwell ed., *International Law and Australian Federalism* Melbourne: Melbourne University Press, 1997).

Donald R. Rothwell, Kaye Stuart and Aktarkhavari Afshin, *International Law: Cases and Materials with Australian Perspectives* 2nd ed. (Cambridge: Cambridge University Press, 2014).

Gillian Triggs, *International Law: Contemporary Principles and Practices* (Sydney: LexisNexis Butterworths, 2006).

- **Periodical indexes**

These are used for finding articles in journals. Access via 'Find Databases' on the homepage of the UNSW Library website: <http://www.library.unsw.edu.au>. Useful databases include:

Index to legal periodicals

Index to foreign legal periodicals

International political science abstracts • LegalTrac

- **Literature on international legal theory, and the international law/international relations nexus**

K.W. Abbott, 'Elements of a Joint Discipline' *ASIL Proceedings* (1992) 167-172.

P. Alston, 'The Myopia of the Handmaidens: International Lawyers and Globalization' *European Journal of International Law* 8.3 (1997) 435-448.

A. D'Amato, *International Law: Process and Prospect* (New York: Transnational Publishers, 1987).

A.C. Arend, *Legal Rules and International Society* (New York; Oxford University Press, 1999).

D. Armstrong ed., *Routledge Handbook of International Law* (London, Routledge, 2009).

D. Armstrong, T. Farrell and H. Lambert, *International Law and International Relations (Themes in International Relations)* (Cambridge: Cambridge University Press, 2007).

J.C. Barker, *International Law and International Relations* (London & New York: Continuum, 2000).

R.J. Beck, A.C. Arend and R.D. Vander Lugt, *International Rules: Approaches from International Law and International Relations* (New York: Oxford University Press, 1996).

F.A. Boyle, 'The Irrelevance of International Law: The Schism between International Law and International Politics' *California Western International Law Journal* 10 (1980) 206-208.

F.A. Boyle, *World Politics and International Law* (Durham NC: Duke University Press, 1985).

A. Bradford and E.A. Posner, 'Universal Exceptionalism in International Law' *Harvard Journal of International Law* 52.1 (2011) 1-54.

'Bridging the Gap between Political Scientists and Lawyers', 1987 *Proceedings of the American Society of International Law* (1989) 381-394.

J. Brunée and S. Toope, *Legitimacy and Legality in International Law: An Interactional Account* (Cambridge: Cambridge University Press, 2010).

M. Byers, *The Role of International Law in International Politics: Essays in International Relations and International Law* (Oxford: Oxford University Press, 2000).

A. Carty, 'Critical International Law: Recent Trends in the Theory of International Law' *European Journal of International Law* 2 (1991) 66-96.

- Jeffrey L. Dunoff and Mark A. Pollack ed., *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art* (Cambridge: Cambridge University Press, 2013).
- R. Fisher, 'International Law: A Toolbox for the Statesman' *California Western International Law Journal* 9 (1979) 472-92.
- T.M. Franck, *The Power of Legitimacy among Nations* (New York, Oxford University Press, 1990).
- Jack Landman Goldsmith and Eric Posner, *The Limits of International Law* (Oxford: Oxford University Press, 2005).
- A.T. Guzman, 'A Compliance-Based Theory of International Law' *California Law Review* 90.6 (2002) 1823-1887.
- A.G. Guzman, *How International Law Works: A Rational Choice Theory of International Law* (2008).
- Emilie Hafner-Burton, David G. Victor and Yonatan Lupa, 'Political Science Research on International Law: The State of the Field' *American Journal of International Law* 106 (2012) 47-97.
- L. Henkin, *How Nations Behave: Law and Foreign Policy* 2nd ed. (New York: Columbia University Press, 1979).
- D. Kennedy, 'A New Stream of International Law Scholarship' *Wisconsin International Law Journal* 7 (1988) 1-49.
- Koskenniemi, M., *From Apology to Utopia: The Structure of International Legal Argument* (Helsinki: Finnish Lawyers Pub. Co., 1989).
- M Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (Cambridge: Cambridge University Press, 2002).
- M. Koskenniemi, 'The Politics of International Law' *European Journal of International Law* 1 (1990) 6-15.
- M.E. O'Connell, *The Power and Purpose of International Law: Insights from the Theory and Practice of Enforcement* (Oxford: Oxford University Press, 2008).
- N. Purvis, 'Critical Legal Studies in Public International Law' *Harvard International Law Journal* 32.1 (Winter 1991) 81-127.
- C. Reus-Smit ed., *The Politics of International Law*, Cambridge, Cambridge University Press, 2004.
- Simmons, B.A. *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009).
- B.A. Simmons and R.H. Steinberg ed., *International Law and International Relations: An International Organisations Reader* (Cambridge: Cambridge University Press, 2007).
- A. Slaughter, A.S. Tulmello and S. Wood, 'International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship' *American Journal of International Law* 92 (1998) 367-397.
- A. Slaughter Burley, 'International Law and International Relations Theory: A Dual Agenda' *American*

Society of International Law 87.2 (1993) 205-239.

R.H. Steinberg and J.M. Zasloff, 'Power and International Law' *American Journal of International Law* 100.1 (2006) 64-87.

- **Recommended online materials and other useful sources**

Wikipedia can be a useful resource, however it is **not an authority**. **References provided by** Wikipedia can be checked for authenticity and if ascertained as a primary source, can be used.

Google Scholar (<http://scholar.google.com>) is useful to locate relevant scholarly literature. You can set up the preferences to link to the UNSW Library even when you are not on campus. Go to Google Scholar> settings> library links, and enter 'University of New South Wales' in the box for 'Library': You can sign up for Table of Contents (TOC) Alerts from the homepages of relevant journals, to receive an email whenever new articles are published in that journal. Journal websites will often carry information on the most viewed and most cited articles; these are likely to be interesting and often influential contributions. Google Scholar will also point you to articles that have cited a particular article and hence will be related to the topic.

Other useful online resources include:

The 'Insights' on the website of the American Society of International Law provide useful international law background on topical events: <http://www.asil.org/insights>.

Online document collection of the American Society of International Law: <http://www.eisil.org>.

United Nations Audiovisual Library of International Law: <http://www.un.org/law/avl/>.

Opinio Juris – see its Weekly NewsWrap and blog: <http://opiniojuris.org>.

The Multilaterals Project: <http://www.tufts.edu/fletcher/multilaterals.html>.

ICJ website: www.icj-cij.org.

Course Evaluation and Development

At UNSW, student evaluative feedback is gathered periodically using, among other means, the myExperience process. Student feedback on this course is gathered through myExperience evaluations at the end of the course, and at any time students are welcome to email or speak to the Convenor about questions or problems. It is sometimes the case that students understand the significance of some of the problems considered only after the course is formally completed, and students are also always welcome to contact the seminar Convenor after classes have finished, even many years after the course has ended. All feedback is carefully considered, reflected upon, and used to evaluate and refine all aspects of the course.

Submission of Assessment Tasks

Submission of Assessment Tasks

Turnitin Submission

If you encounter a problem when attempting to submit your assignment through Turnitin, please telephone External Support on 9385 3331 or email them on externalteltsupport@unsw.edu.au . Support hours are 8:00am – 10:00pm on weekdays and 9:00am – 5:00pm on weekends (365 days a year). If you are unable to submit your assignment due to a fault with Turnitin you may apply for an extension, but you must retain your ticket number from External Support (along with any other relevant documents) to include as evidence to support your extension application. If you email External Support you will automatically receive a ticket number, but if you telephone you will need to specifically ask for one. Turnitin also provides updates on their system status on Twitter.

Generally, assessment tasks must be submitted electronically via either Turnitin or a Moodle assignment. In instances where this is not possible, it will be stated on your course's Moodle site with alternative submission details.

For information on how to submit assignments online via Moodle: <https://student.unsw.edu.au/how-submit-assignment-moodle>

Academic Honesty and Plagiarism

Plagiarism is using the words or ideas of others and presenting them as your own. It can take many forms, from deliberate cheating to accidentally copying from a source without acknowledgement.

UNSW groups plagiarism into the following categories:

Copying: using the same or very similar words to the original text or idea without acknowledging the source or using quotation marks. This also applies to images, art and design projects, as well as presentations where someone presents another's ideas or words without credit.

Inappropriate paraphrasing: Changing a few words and phrases while mostly retaining the original structure and/or progression of ideas of the original, and information without acknowledgement. This also applies in presentations where someone paraphrases another's ideas or words without credit and to piecing together quotes and paraphrases into a new whole, without appropriate referencing.

Collusion: working with others but passing off the work as a person's individual work. Collusion also includes providing your work to another student before the due date, or for the purpose of them plagiarising at any time, paying another person to perform an academic task, stealing or acquiring another person's academic work and copying it, offering to complete another person's work or seeking payment for completing academic work.

Inappropriate citation: Citing sources which have not been read, without acknowledging the "secondary" source from which knowledge of them has been obtained.

Duplication ("self-plagiarism"): submitting your own work, in whole or in part, where it has previously been prepared or submitted for another assessment or course at UNSW or another university.

Correct referencing practices:

- Paraphrasing, summarising, essay writing and time management
- Appropriate use of and attribution for a range of materials including text, images, formulae and concepts.

Individual assistance is available on request from The Learning Centre (<http://www.lc.unsw.edu.au/>). Students are also reminded that careful time management is an important part of study and one of the identified causes of plagiarism is poor time management. Students should allow sufficient time for research, drafting and proper referencing of sources in preparing all assessment items.

UNSW Library also has the ELISE tool available to assist you with your study at UNSW. ELISE is designed to introduce new students to studying at UNSW but it can also be a great refresher during your study.

Completing the ELISE tutorial and quiz will enable you to:

- analyse topics, plan responses and organise research for academic writing and other assessment tasks
- effectively and efficiently find appropriate information sources and evaluate relevance to your needs
- use and manage information effectively to accomplish a specific purpose
- better manage your time

- understand your rights and responsibilities as a student at UNSW
- be aware of plagiarism, copyright, UNSW Student Code of Conduct and Acceptable Use of UNSW ICT Resources Policy
- be aware of the standards of behaviour expected of everyone in the UNSW community
- locate services and information about UNSW and UNSW Library

Some of these areas will be familiar to you, others will be new. Gaining a solid understanding of all the related aspects of ELISE will help you make the most of your studies at UNSW.

<http://subjectguides.library.unsw.edu.au/elise/aboutelise>

Academic Information

For essential student information relating to:

- requests for extension;
- late submissions guidelines;
- review of marks;
- UNSW Health and Safety policies;
- examination procedures;
- special consideration in the event of illness or misadventure;
- student equity and disability;
- and other essential academic information, see

<https://www.arts.unsw.edu.au/current-students/academic-information/protocols-guidelines/>

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