The American University in Cairo
Department of Political Science

Introduction to Public International Law (POLS 4371)
Fall 2018

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Ext: 1898, HUSS, Rm. 2013
Classes Held: UW 8:30-9:45, Waleed C150
Office Hours: **MR 10:00-11:00 (but you need to book an appointment 24 hours in advance)**

Course Description

The course offers an introductory survey of public international law. The primary objective of the course is to provide non-lawyers the ability to understand how international law influences/is influenced by international relations. It offers a detailed understanding of the sources of international law, then moves on to examine different themes in international law, such as the use of force, self-determination and laws of armed conflict.

This course is premised on the idea of student-led learning: in this class your views (informed, of course, by your reading, thinking, discussion and independent research) are considered both legitimate and important. Therefore, as one of its members, you are not only encouraged, but expected, to participate.

COURSE ASSESSMENT

Midterm	*25%*
Exam	30%
Attendance and Participation	10%
(including active participation in the case analysis)	
Quizzes	10%
Case Analysis	15%
Case Presentation	10%

Case analysis:
Each student will be asked to submit three written case analyses – that is an examination of three of the hypothetical cases discussed in class. The case analysis is due, in both hard and soft copy, **before the the case presentation designated session**. ***There are no excuses for failing to submit the required number of case analyses by the end of the semester (including sickness, car accidents and any other reasons)***

Cases listed in the syllabus reading material are not for case analysis but for reference/further reading. You must consult those cases if you are presenting on a case or submitting a case analysis.

Examination:
It is not possible to take an exam at any other time: you must arrange your schedule so that you can participate.

Attendance and participation:
University attendance policy applies. If you miss a class, you are responsible for doing the work assigned, and for catching up on what you missed with the help of your classmates. Absence is not an excuse for failure to submit a case analysis (which must be emailed in any case) or for late submission. Students are expected to participate actively in every class, especially the session designated to discussion of the case. If you are not present, or if you are unprepared, you will receive no credit towards your participation grade.

Case Presentation:
You will represent one of the parties to the conflict in the hypothetical cases. You cannot write a case analysis of the case you presented.

Pop Quizzes
You will be given seven pop quizzes and receive grades for the top five. ***There are no excuses for missing pop quizzes, (including sickness, car accidents and any other reasons).***

GRADING POLICY

A 93-100	B+ 87-89	C+ 77-79	D+ 63-67	F <50
A- 90-92	B 83-86	C 70-76	D 50-62	
	B- 80-82	C- 67-70		

READING MATERIALS

Note: Sessions and Reading Material may change during the course of the semester. You need to check your email for course announcements.

The single most essential reading for this course is the United Nations Charter. All students are expected to read this during the first week of term, and to keep a copy available for reference at all times. You can find the Charter in Harris (see below), pp. 885-907, or view it online/download it at http://www.un.org/en/documents/charter/index.shtml.

There are two textbooks for this course: **Malcolm D. Evans (ed.), *International Law*, 4th Ed. (Oxford: Oxford University Press, 2014)** and **David Harris (ed.), *Cases and Materials on***

***International Law*, 7th Ed. (London: Sweet & Maxwell, 2010)**. The first (referred to throughout the syllabus as "Evans") contains chapters on all of the key areas of international law that we will cover during the course – and others for further reading – written by many different scholars. The second (referred to as "Harris") contains extracts from key international legal materials (such as treaties, cases, declarations and so on), along with very clear and useful commentary on these materials. You are advised to buy both texts if possible, but if you have to choose, then choose Evans, as all the materials collected together in Harris are available elsewhere.

The "core reading" texts are compulsory. You must read and reflect on all of these before coming to class, using the list of "discussion points" for each topic to guide you. The list of "further readings" for any topic is by no means comprehensive; on the contrary, these materials constitute a very small selection of what is available, designed to broaden your knowledge and spark your imagination with regard to a particular topic.

ELECTRONIC RESOURCES

HeinOnline (database of legal journal articles, among other things):
Go to AUC Library >> Find Articles [With Databases] >> See All Databases >> HeinOnline Core Collection >> Law Journal Library [from where you can either look up a journal article via the alphabetical list of law journals; or click on the SEARCH tab >> Field Search >> and search for what you want].

Avalon Project (Documents in Law, History and Diplomacy): http://avalon.law.yale.edu/
United Nations www.un.org
Security Council Resolutions Archive
www.un.org/documents/scres.htm
General Assembly Resolutions Archive
www.un.org/documents/resga.htm
UN Treaty Collection http://treaties.un.org/
International Court of Justice www.icj-cij.org
International Criminal Tribunal for the Former Yugoslavia www.icty.org
International Criminal Tribunal for Rwanda www.un.org/ictr/
International Criminal Court www.icc-cpi.int
UN High Commissioner for Human Rights www.ohchr.org
European Court of Human Rights www.echr.coe.int/echr
Inter-American Court of Human Rights www.corteidh.or.cr
United Nations Peacebuilding Commission
http://www.un.org/peace/peacebuilding/
International Coalition for the Responsibility to Protect www.responsibilitytoprotect.org/
International Committee of the Red Cross www.icrc.org/
Amnesty International www.amnesty.org/
Human Rights Watch www.hrw.org/ar
Jadaliyya (ezine produced by the Arab Studies Institute) www.jadaliyya.com/
Al Jazeera English ("In Depth") www.english.aljazeera.net/indepth/
Inner City Press www.innercitypress.com/index.html

Law and Disorder (blog) http://pashukanis.blogspot.com/
Inside Justice (blog) http://insidejustice.com/ ***For links to other useful websites for international legal materials, see:***

American Society of International Law (ASIL) www.asil.org/electronic-resources.cfm
>> see also ASIL Insights ("international law behind the headlines," provide brief, balanced accounts of the international law issues raised by newsworthy late-breaking events) www.asil.org/insights.cfm
European Journal of International Law (EJIL), archived online at http://www.ejil.org/archives.php
>> see also EJIL links: http://www.ejil.org/links/index.php
University of Chicago www.lib.uchicago.edu/~llou/forintlaw.html
Lauterpacht Centre for International Law www.lcil.cam.ac.uk/

CLASSROOM POLICIES

Behaviour:
Students are expected to abide by the *Student Academic Conduct Code* and assist in creating an environment that is conducive to learning and that protects the rights of all members of the University community.

ACADEMIC INTEGRITY AND PLAGIARISM:
Students are expected to commit to the principles of academic integrity. Academic integrity includes a commitment to not engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty include cheating or copying, plagiarizing, submitting another persons' work as one's own, using Internet or other sources without citation, fabricating field data or citations, stealing examinations, tampering with the academic work of another student, facilitating other students' acts of academic dishonesty, etc. Plagiarism for assignments and/or reports may result in a zero grade for the assignment and/or the report in question. Cheating during an examination may result in a zero grade for this examination. Further action, according to university regulations, would also be implemented. You should be aware that all written work might be submitted to "Turnitin.com", the detection prevention software. By signing this syllabus, you will acknowledge that you have understood that any detected plagiarism will have to be reported. The University's statement on academic integrity, from which the above statement is drawn, is available at http://www.aucegypt.edu/academics/integrity/Pages/default.aspx.

S Y L L A B U S

Please note that the reading/sessions for the course may be altered during the course of the semester. You need to regularly attend class and check your auc email account for updates

Session 1 (05/09/18): Introduction to the Course

Session 2 (09/09/18): Legal Reasoning and Writing a Case Analysis

Session 3 (12/09/18): Basic Principles and Institutions of International Law + Sources Doctrine 1: Focus on Treaty Law

CORE READING:

- Hugh Thirlway, "The Sources of International Law" in Evans, Ch. 4

FURTHER READING:

- *Vienna Convention on the Law of Treaties*, 1969, available at http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf Harris, pp. 34-60.
- Jan Klabbers, "On Rationalism in Politics: Interpretation of Treaties and the WTO," *Nordic Journal of International Law* 74 (2005), 405-428.
- Matthew Craven, "What Happened to Unequal Treaties? The Continuities of Informal Empire," *Nordic Journal of International Law* 74 (2005), 335-382.

Session 4 (16/09/18): Treaties "Definition-Ratification-Entry into Force-Reservation-Interpretation"

CORE READING:

- Malgosia Fitzmaurice, "The Practical Working of the Law of Treaties", in Evans, Ch. 7.
- Vienna Convention on the Law of Treaties [VCLT] arts 2, 7, 18 - 24, 26, 27 & 46.
- Ryan Goodman, "Human Rights Treaties, Invalid Reservations and State Consent," *American Journal of International Law* 96 (2002), 531.
- VCLT arts 31, 32, 48, 49, 51 - 4, 56, 59 - 62

Session 5 (19/09/18): Treaties: Invalidity, Termination & Suspension/Succession.

CORE READING:

- Gabcikovo-Nagymaros Project (Hungary v Slovakia) [1997] ICJ . 7
- Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia-Herzegovina v. Yugoslavia), [1996] ICJ

Session 6 (23/09/18): Treaties (Class Case)

- Reservations to the Genocide Convention, ICJ, Advisory Opinion, [1951] I.C.J. 15

Session 7 (26/09/18): Customary International Law

CORE READING:

- Harris, **pp. 17-36** and **pp. 727-730**

FURTHER READING:

- Evans, Ch. 20, pp. 586-614 ("The International Court of Justice")
- Harris, pp. 52-60 (GA Resolutions; Soft Law, Codification and Progressive Development)
- Alan Boyle, 'Soft Law', in Evans, Ch. 5.
- For two examples of how sources doctrine is used to determine whether or not a new norm of international has developed (or is developing) see e.g.
    - James T. Gathii, "Assessing Claims of a New Doctrine of Pre-Emptive War under the Doctrine of Sources," *Osgoode Hall Law Journal* 43 (2005), 67-103.
    - Thomas M. Franck, "The Emerging Right to Democratic Governance." *American Journal of International Law* 86 (1991), 46-91.

Session 8 (30/09/18): Customary International Law Class Case

- North Sea Continental Shelf (F.R.G. v. Den.; F.R.G. v. Neth.), 1969 I.C.J. 3

Session 9 (03/10/18): Statehood, International Personality and Recognition

CORE READING:

- Colin Warbrick, "States and Recognition in International Law," in Malcolm Evans, *International Law*, 2nd Ed. (Oxford: Oxford University Press, 2006), 217-70 **(NB this chapter is from an earlier edition of Evans and will be made available to you)**
- *Convention on the Rights and Duties of States (inter-American)*, Montevideo, 26 Dec. 1933, *LNTS* 165 (1934) 19 ["Montevideo Convention"], in **Harris, pp. 91-96** (inc. Notes), or available at http://en.wikisource.org/wiki/Montevideo_Convention.
- *Austro-German Customs Union Case* (1931), PCIJ Rep., Series A/B, No. 41, Separate Opinion of Judge Anzilotti, extracts, in **Harris, pp. 96-99**, or available at http://www.worldcourts.com/pcij/eng/decisions/1931.09.05_customs.htm, **paras. 81-85.**

SECONDARY READING:

- Guy Goodwin-Gill, *Opinion Re The Palestinian Liberation Organisation, the Future State of Palestine, and the Question of Popular Representation*, 10 Aug. 2011, available at http://www.documentcloud.org/documents/238962-final-pdf-plo-statehood-opinionr-arb.html
- Matthew Craven, "Statehood, Self-determination and Recognition," in Evans, Ch. 8.
- Harris, Ch. 4.
- Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford: Clarendon Press, 1994), Ch. 1.
- James Crawford, *The Creation of States in International Law*, 2nd Ed. (Oxford: Clarendon Press, 2006), Part I ("The Concept of Statehood in International Law").

Session 10 (07/10/18): Statehood, Personality and Recognition (Class Case)

- Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, [2010] ICJ 141.

Session 11 (10/10/18): State Responsibility

CORE READING:

- *Responsibility of States for Internationally Wrongful Acts*, ILC Draft Articles (2001), available (with commentary) at http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/9_6_2001.pdf
- Crawford and Olleson, 'The Nature and Forms of International Responsibility', Evans, Ch. 15.

FURTHER READING:

- Jillian Button, "Spirited Away (Into a Legal Black Hole?): the Challenge of Invoking State Responsibility for Extraordinary Rendition," *Florida Journal of International Law* 19 (2007), 531-568.

Session 12 (14/10/218): State Responsibility (Class Case)

- Case Concerning US Diplomatic and Consular Staff in Tehran Case, [1981] ICJ 64.
- Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v US), [1986] ICJ 14

(17/10/18): Midterm

Session 13 (21/10/18): International Organizations

CORE READING:

- Dapo Akande, "International Organizations," in Evans, Chapter 9.

SUGGESTED READING:

- Bruno Simma, *The Charter of the United Nations: A Commentary,* 3rd edn, Oxford: Oxford University Press, 2012.
- M. Wood, "Do International Organizations Enjoy Immunity under Cusomary International Law," 10 International Organizations Law Review, 2014.
- LE Alvarez, *International Organizations as Law Makers,* Oxford: Oxford University Press, 2005.

Session 14 (24/10/18): Jurisdiction

JURISDICTION CORE READING:

- Vaughn Lowe and Christopher Staker, "Jurisdiction", in Evans, Ch. 11

- Extracts from *Attorney-General of the Government of Israel v Eichmann* (1961), 36 ILR 5, District Court of Jerusalem, extracts, in **Harris, pp. 241-250** (see also Notes),
- *Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v Belgium*), ICJ Rep. (2002), p. 3[ff], **Joint Separate Opinion of Judges Higgins, Kooijmans and Buergenthal, paras. 21-69**, and **Separate Opinion of President Guillaume, paras. 12-16**, in Harris, pp. 250-257 (plus Notes); or available at http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=36&case=121&code=cobe&p3=4&PHPSESSID=c5709ff4e14fa0468ebbb9a874a35663

Session 15 (28/10/18): Immunities from Jurisdiction

CORE READING:

- Antonio Cassese, *International Law*, 2nd Ed. (Oxford: Oxford University Press, 2005), Ch. 6, pp. 98-123.
- *R v Bow Street Magistrates Ex P Pinochet*, [2000] 1 A.C. 147. House of Lords, extracts, in **Harris, pp. 279-284** (see also Notes)
- *Arrest Warrant Case* (see above), Judgement of the Court, **paras. 51-76**, in **Harris, pp. 292-296** (inc. Notes), or available at http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=36&case=121&code=cobe&p3=4&PHPSESSID=c5709ff4e14fa0468ebbb9a874a35663

FURTHER READING:

- Chanaka Wickremasinghe, "Immunities Enjoyed by Officials of States and International Organisations," in Evans (chapter 13)
- Amnesty International, 'Universal Jurisdiction: 14 Principles of the Effective Exercise of Universal Jurisdiction', available at: http://web.amnesty.org/library/index/engior530011999
- Antonio Cassese, "When May Senior State Officials be Tried for International Crimes? Some Comments on the Congo v Belgium Case", *European Journal of International Law* (2002), 853-875.
- Steffen Wirth, "Immunity for Core Crimes? The ICJ's Judgement in the Congo v Belgium Case", *European Journal of International Law* (2002P, 877-893.
- Steven R. Ratner, "Belgium's War Crimes Statute: a Postmortem", *American Journal of International Law* (2003), 888-897.

Session 16 (31/10/18): Jurisdiction and Immunities (Class Case)

- Case Concerning the Arrest Warrant of 11 April 2000 (DRC v Belgium), [2002] I.C.J. 3

Session 17 (04/11/18): The Acquisition of Territory

CORE READING:

- Harris, Ch. 5, **pp. 161-197 (i.e. not the entire chapter – just the part on "Title to Territory")**

FURTHER READING:

- J. G. Starke, "The Acquisition of Title to Territory by Newly Emerged States," *British Yearbook of International Law* 41 (1965-66), 411-416.
- Sharon Korman, *The Right of Conquest: The Acquisition of Territory by Force in International Law and Practice* (Oxford: Clarendon Press, 1996), Chs. 1 & 2.

Session 18 (07/11/18): **Acquisition of Territory (Class Case)**

- Island of Palmas Case, (Scott, Hague Court Reports 2d 83 (1932), (Perm. Ct. Arb. 1928), 2 U.N. Rep. Intl. Arb. Awards 829)
- Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore), Judgment, I.C.J. Reports 2008, p. 12

Session 19 (10/11/18): Self Determination of Peoples

CORE READING:

- James Crawford, 'The Right of Self-Determination in International Law: Its Development and Future' in Philip Alston, ed., *Peoples' Rights* (OUP, 2001) pp. 7-67.
- *Declaration on the Granting of Independence to Colonial Territories and Peoples*. UN General Assembly, Res. 1514 (XV), 14 Dec. 1960, GAOR 15th Session, Supp. 16, p. 66 [Colonial Declaration], http://www.un.org/documents/ga/res/15/ares15.htm
- *Declaration on Principles of International Law Concerning Friendly Relations Among States in Accordance with the Charter of the United Nations*, GA Res. 2625 (XXV), 24 Oct. 1970, available at http://www.un.org/documents/ga/res/25/ares25.htm (**section on "self-determination of peoples"**).
- *Reference Re. Secession of Quebec*, Supreme Court of Canada Advisory Opinion, 1998, 37 ILM 1340, available at http://www.canlii.org/en/ca/scc/doc/1998/1998canlii793/1998canlii793.pdf [or see Harris for extracts], **paras. 109-146** (pp. 64-80).

Session 20 (14/11/18): Self-Determination of Peoples (Class Case)

- Western Sahara, Advisory Opinion, 1.C.J. Reports 1975, p. 12.

Session 21 (18/11/18): Use of Force

CORE READING:

- Christine Gray, "The Use of Force and the International Legal Order," in Evans, Ch. 21
- *UN Charter*, **Arts. 2(4), and 33-51**, in Harris (Appendix I), or available at http://www.un.org/en/documents/charter/index.shtml
- *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States of America) (Merits)*, ICJ Rep. 1986, p. 14, **paras. 191-268**, in Harris, pp. 730-736; or available at http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=nus&case=70&k=66

FURTHER READING:

- *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, ICJ Rep. 2005, Separate Opinions of Judge Simma, **paras. 4-15** and Judge Koijmanns, **paras. 1-35**, available at http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=co&case=116&k=51
- Christopher Greenwood, "The Concept of War in Modern International Law," *International and Comparative Law Quarterly* 36 (1987), 284
- Michael Reisman and Andrea Armstrong, "The Past and Future of the Claim of Pre-emptive Self-defence," *American Journal of International Law* 100 (2006), 525.
- *Treaty between the United States and other Powers providing for the Renunciation of War as an Instrument of National Policy* ("Kellogg-Briand Pact"/"Pact of Paris"), Paris, 27 Aug. 1928, available at http://www.yale.edu/lawweb/avalon/imt/kbpact.htm
- *Covenant of the League of Nations,* 28 Jun. 1919, 27 LNTS 350; 13 AJIL Supp. 128, 361, **Arts. 15-17**, available at http://avalon.law.yale.edu/20th_century/leagcov.asp

Session 22 (22/11/18): Use of Force Class Case

- *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, ICJ Rep. 2005

- Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1. C.J. Reports 1996, p. 226

Session 23 (25/11/18): IHL I

CORE READING:

- Christopher Greenwood, "The Law of War (International Humanitarian Law)," in Evans, Ch. 26. (2nd edition
- Christopher Greenwood, "International Humanitarian Law and the *Tadić Case*," *European Journal of International Law* 7 (1996), 265-283

FURTHER READING:

- *[Geneva] Convention (IV) Relative to the Protection of Civilian Persons in Time of War*, Geneva, 12 Aug.1949, available at http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument
- *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II)*, 8 June 1977, available at http://www.icrc.org/ihl.nsf/FULL/475?OpenDocument

- *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land*, The Hague, 18 Oct. 1907 ["Hague Regulations"], at http://www.icrc.org/ihl.nsf/FULL/195?OpenDocument, **esp. paras. 42-43**.
- *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I)*, 8 June 1977, available at http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument
- *[Geneva] Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Geneva, 12 August 1949, available at http://www.icrc.org/ihl.nsf/FULL/365?OpenDocument
- *[Geneva] Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, Geneva, 12 August 1949, available at http://www.icrc.org/ihl.nsf/FULL/370?OpenDocument
- *[Geneva] Convention (III) relative to the Treatment of Prisoners of War*, Geneva, 12 August 1949, available at http://www.icrc.org/ihl.nsf/FULL/375?OpenDocument
- See generally, website of the International Committee of the Red Cross for news and commentary about the LOAC, at *http://www.icrc.org/eng/*
- "Libya: Humanitarian Challenges Six Months On," interview with Boris Michel, the ICRC's head of operations for North and West Africa, 12 Aug. 2011, available at http://www.icrc.org/eng/resources/documents/interview/2011/libya-interview-2011-08-12.htm

Session 24 (28/11/18): IHL II

Same Readings as above session

Session 25 (02/12/18): IHL Class Case

Session 26 (05/12/18): International Criminal Law

Core Reading:

- Robert Cryer, International Criminal Law, Evans

Session 27 (09/12/18): International Criminal Law Case

Session 28 (12/12/18): Revision