

UNITED STATES INTERNATIONAL UNIVERSITY

IRL 4100: INTERNATIONAL LAW

CREDIT: 3 UNITS

COURSE DESCRIPTION:

This course seeks to introduce students to the basic concepts and understanding of the role and function of Public International Law. It introduces students to:

- the relevance of International Law to international relations
- the doctrines, concepts and rules of International Law
- the similarities and differences between International Law and domestic law
- the relationship between power and the use and abuse of International Law
- the limitations of International Law
- the relationship between International Law and the African continent

It is impossible to touch on all the topics of public International Law in 13 weeks. To address this, specific emphasis will be given to topics relevant to the wider study of International Relations inspired by the IR program's mission statement. These include the international judicial system processes (the ICC, ICJ, UN), the rights of the individual (humanitarian intervention and human rights), the rules of international transactions (diplomacy) and the law of natural resources (law of the sea, outer space and freshwaters).

LEARNING OUTCOMES:

Upon completion of this course, students will be able to:

- View International Law vis-à-vis international relations and domestic law;
- demonstrate an understanding of International Law to certain disputes
- analyze international disputes within the limitations of International Law
- demonstrate some ability to formulate arguments in International Law towards achieving certain outcomes
- interpret statutes
- understand the relationship between International Law and international reality
- view contemporary issues as regards International Law from an informed perspective

In addition to the aforementioned course-specific outcomes, the module will also promote the generic learning outcomes of the Department's undergraduate programs listed below:

- 1-Explain concepts and theories in International Relations
- 2-Explain and use research methodology in International Relations
- 4-Critically analyze the dynamics of world politics
- 6-Apply understanding of a global, multi-cultural and complex interconnected world to explain and predict issues in International Relations
- 7-Demonstrate diplomatic etiquette in the international context.

COURSE REQUIREMENTS

This course is designed for seniors. Students taking this course should have successfully completed ALL levels 1, 2 & 3 core courses and **especially, IRL 2150-Research Methodology**.

TEACHING METHODOLOGY

- **Readings** - students are expected to complete the required readings before class. A reading list will be provided. Individual students will often be assigned particular readings so as to lead class discussions. Additional readings offer a good and basic foundational basis for building up a bibliography.
- **Lectures** – Lectures offer an established basis for delivering core knowledge about the subject. Lectures will not necessarily reflect but rather complement the readings provided. Lectures will be held every Monday and Wednesday from 0900am-10.40am at the School of Business, lecture room B5.

- **Lecture guide sheets** – Guide sheets will be provided for each lecture at the beginning of every week. They will either be in point or in question form. These are meant to assist the student to focus on the material being lectured on. They will provide elucidation and focus on the topics.
- **Power Point** – The lecturer will use power point slides to deliver the contents of the lecture
- **Class presentations/Group Discussions-** This will encourage students to work together in researching, presenting and assessing their own work
- **Showing of ‘documovies’-** These will furnish documentary context for some of the topics studied
- **Guest Speakers** – Selected speakers will give talks on various course related issues
- **Office hours** – students are encouraged to utilize the office hours allotted to them. The lecturer will use these hours to address individual problems or difficulties.
- **Student participation** – Students are encouraged to interact in class. Student participation is very important. The students’ skills that will be developed include the development and presentation of oral skills directed towards International Law discourse.
- **Current affairs** – this is a **mandatory** exercise. Students are meant to familiarize themselves with news from around the world for further discussion in class. Students should demonstrate some background knowledge of the news they read.
- **WebCT** - WebCT will host lecture guide notes, PowerPoint slides, discussion pages, useful links, class attendance, further readings and other course related information

ASSESSMENT

The Evaluation Method will be as follows:

- | | |
|---------------------------------------|-----|
| • Attendance, Participation and WebCT | 10% |
| • Group Work | 10% |
| • Term Paper | 20% |
| • Mid-semester Exam | 30% |
| • Final Exam | 30% |

Term Paper

Students are expected to submit a researched term paper of between 3000 to 3500 words (excluding the cover page and bibliography). The format for the paper is 1.5 line-spacing with font pattern New Times Roman, size 12. Although USIU has general guidelines regarding writing researched papers, additional course-specific guidelines regarding term papers will be provided. The term paper will form 20% of the overall grade. The term paper is intended to encourage individual research into a topic of contemporary international concern. This assignment places particular emphasis upon the acquisition of relevant critical, analytical and evaluative skills.

Academic Integrity

USIU has introduced a software program to assist in the detection of plagiarism called Turnitin. Turnitin is a text-matching software which provides a report on whether a student's work is original in thought and deed. It is therefore prudent for all works to include full and correct referencing. To this end, all submitted works should be accompanied by an identical soft copy to check on plagiarism. Cases of suspected plagiarism will result in an automatic zero (0) mark.

Examination

There will be two examinations; the mid-semester and final exam. Each examination consists of a two-hour paper. Students will be given 10 questions. They will be expected to answer only three. The examinations form 60% (@ 30%) of the overall assessment. Although considerable choice is availed, the questions ensure that all students acquire a substantial grasp of the course content.

USIU GRADING SYSTEM

A	90-100	B	80-83	C	70-73
A-	87-89	B-	77-79	C-	67-69
B+	84-86	C+	74-76	D+	64-66

D	62-63	F	0-59 OR 5 MISSED
D-	60-61		CLASSES

READING LIST AND SOURCES OF INFORMATION:

Required Textbooks:

Students may use one or all of the following recommended texts:

- Brownlie, I Principles of Public International Law (Oxford 6th ed 2003)
- Dixon M. Textbook on International Law (Blackstone 5th ed 2005)
- Dixon, M., & McCorquodale, R. Cases & Materials on International Law, (Oxford 4th ed. 2003)-for detailed reading
- Evans (ed) International Law (Oxford 2003)
- Shaw M. International Law (Cambridge 5th ed., 2003)

Further Reading (books):

- Armstrong, David, Theo Farrel and Helene Lambert, *International Law and International Relations*, Cambridge: Cambridge University Press, 2007
- Bayliss, John, Steve Smith, Patricia Owen, *The Globalization of World Politics: an introduction to international relations*, Oxford: Oxford University Press, 2008
- Bull, Hedley, *The Anarchical Society: A Study of Order in World Politics*, London: Macmillan, 1977
- Goldsmith, Jack L., Erica A Poisner., *The Limits of International Law*, Oxford; Oxford University Press, 2005
- Schabas, William A., *An introduction to the International Criminal Court*, Cambridge: Cambridge University Press, 2004
- Wolfe, James H, *Modern International Law An introduction to the law of nations*, New York:Prentice, 2002

Legal instruments and/or Statutes

Kenyan

- The Constitution of Kenya (Rev. Ed.), Laws of Kenya, Nairobi: Government Printer, 2001
- The Judicature Act (Rev. Ed.), Laws of Kenya, Chapter 8, Nairobi: Government Printer, 2003

International

- The UN Charter 1945
- The Rome Statute, 1998
- The International Court of Justice Statute 1945
- The United Nations Convention on the Law of the Sea 1982
- The Vienna Convention on the Law of Treaties 1969

SOME JOURNALS

- African Journal of Comparative and International Law (AFJICL)
- Africa Journal Online (AJOL)
- American Journal of International Law (AJIL)
- European Journal of International Law (EJIL) – Free access to some materials
- International and Comparative Law Quarterly (ICLQ)

SOME ESSENTIAL WEBSITES

- American Society of International Law www.asil.org
- Amnesty International <http://www.amnesty.org>
- Association of Southeast Asian Nations (ASEAN) <http://www.aseansec.org>.
- Centre for International Human Rights Law (US) <http://www.rightsinternational.org/>
- Coalition for an International Criminal Court (CICC) <http://www.igc.org/icc/>
- European Court of Justice <http://www.europa.eu.int/cj/en/index.htm>
- European Union (EU) <http://www.europa.eu.int/index-en.htm>
- Greenpeace International <http://www.greenpeace.org/>
- Human Rights Server <http://www.humanrights.de>
- Inter-American Court of Human Rights <http://www1.umn.edu/humanrts/iachr/iachr.html>
- International Commission of Jurists (ICJ) <http://www3.itu.ch/MISSIONS/US/bb/icj.html>
- International Committee of the Red Cross/Crescent (ICRC) <http://www.icrc.org/eng>
- International Court of Justice (ICJ) <http://www.icj-cij.org/>

- International Criminal Court
- International Criminal Tribunal for Rwanda (ICTR) <http://www.ictt.org/>
- International Criminal Tribunal for the former Yugoslavia (ICTY) <http://www.un.org/icty/index.html>
- International Tribunal for the Law of the Sea: <http://www.un.org/Depts/los/>
- International Court of Justice (ICJ) <http://www.icj-cij.org/>
- International Federation of Red Cross and Red Crescent Societies: <http://www.ifrc.org>
- International Labor Organization (ILO): <http://www.ilo.org/public/english/index.htm>
- International Law Commission (ILC) <http://www.un.org/law/ilc/index.htm>
- Kenya Imagine: <http://www.kenyaimagine.com>
- Kenya Human Rights Commission (KHRC): <http://www.khrc.or.ke>
- Kenya Red Cross: <http://www.kenyaredcross.org>
- Lawyers Committee for Human Rights (LCHR) <http://www.lchr.org/home.htm>
- Organization for African Union (formerly Organization for African Unity) (OAU) <http://www.oau-oua.org/>
- Organization of American States (OAS) <http://www.oas.org>
- Redress Trust <http://www.redress.org>
- The World Organization Against Torture is at <http://www.omct.org>
- The South African Truth and Reconciliation Commission site is at <http://www.truth.org.za>
- United Nations <http://www.un.org>
- UN Conference on the Establishment of an International Criminal Court <http://www.un.org/icc/>
- United Nations Educational, Scientific & Cultural Organization (UNESCO) : <http://www.unesco.org/>
- United Nations Environment Programme (UNEP): <http://www.unep.org/>
- United Nations High Commissioner for Human Rights (UNHCR) <http://193.135.156.15/html/intlinst.htm>
- United Nations High Commissioner for Refugees: <http://www.unhcr.ch>
- United States International University (Africa): <http://www.usiu.ac.ke>
- World Health Organization (WHO): <http://www.who.int/>

SOME ESSENTIAL MEDIA SOURCES

- Al Jazeera
- Africa Journal
- BBC World (93.9 fm)
- New York Times
- Sky News

Library

The new USIU library has an impressive holding of books, journals and materials in International Relations. Journals on International Relations are particularly useful in that they offer insights into current debates on contemporary issues. Many journals are now available electronically through various accessible sites that the library has subscribed to. Understanding the basic functions of a computer is important for the learning process and especially when it comes to research. Students are expected to personally and individually organize sessions that would equip them with the basic know-how of computer functions. This is because most of the resources required for research are available through the net. Patricia Chebet, the reference and instruction librarian hosts training programs on the same. The library's mandate includes:

- Σ to equip the students to effectively find information for both academic work and their day to day information needs
- Σ to introduce students to a range of information sources at their disposal at USIU library
- Σ to make use of OPAC and E-resources at USIU to support their learning and research at USIU

CLASS ATTENDANCE:

Students are required to attend **ALL** lectures. In case of absence, please contact the lecturer in advance via sbiko@usiu.ac.ke. All reasons for non-attendance must be accompanied by official documentation.

STUDY HOURS

170 hours including contact hours.

COURSE SCHEDULE & READING GUIDE (Subject to Change)

NB/ Some of the preliminary and further readings e.g. texts and journal articles are posted on WebCT

Lecture 1: Introduction to the Course

Theme: Are you in the right class?

: Movie

Required Readings:

Course Outline

Registration

Lecture 2: Research & Knowledge

Theme: The USIU library resource.

Guest Speaker: Patricia Chebet

Theme: WebCT and Turnitin.com

Guest Speaker: Gladys Odino

Lecture 3: The history and development of International Law

Theme: Is International law “Eurocentric”?

Required Reading(s):

Armstrong, *International Law and International Relations*, Chapter 1

Baylis, Chapter 2 and 16

Dixon, pp. 1-20.

Dixon & McCorquodale pp. 1-55

Evans pp. 31-89

Shaw, pp. 1- 64

Some background knowledge of the following will be helpful:

1. IR theories i.e. Realism, Liberalism, Positivism & Behaviouralism (Refer to R. Jackson’s *International Relations: Theories & Approaches* and Baylis’ *Globalization of World Politics*)
2. Refresh your knowledge on the chronological history of international relations from the Peace of Westphalia of 1648 to the formation of the UN

Lecture 4: The nature, scope and structure of International law

Theme: Determining “true law”

Required Reading(s):

Keohane, R., “*International Relations and International Law: Two Optics*”, (1997) 38 Harvard International Law Journal, 487.

Further Reading

Koh, H., “Why Do Nations Obey International Law?”, (1997) 106 *Yale Law Journal* 2599.

Lecture 5: Peaceful Resolution of Disputes: The International Court of Justice

Theme: The International Court of Justice

Nicaragua v. United States of America (1984 and 1986)

Some background knowledge of the following will be helpful:

1. Organs of the UN i.e. the ICJ (Refer to Evans above) & the Security Council
2. Refresh your knowledge on the League of Nations

Lecture 6: Recognition & Statehood

Theme: Historical Evolution of Self-Determination and Sovereignty

Key enquiries: The attributes of a state. Constitutive and Declaratory theories of state recognition. Recognition and non-recognition of governments. Effects of recognition.

Required Readings:

Dixon, pp. 103-122

Dixon & McCorquodale pp.131-174

Evans pp 205 - 268

Shaw, pp 175 - 231

Lecture 7: International Law and the Use of Force

Theme: Chapter VII, UN Charter

Lecture 8: Humanitarian Intervention in International Law

Lecture 9: Sources of International Law

Theme: Article 38(1) of the ICJ

Key enquiries: This lecture will briefly trace the origin of the sources of International Law. It will acknowledge the proposals of Thomas Hobbes and thereafter revisit the initial sources as considered by Hugo Grotius. A more in depth analysis of Article 38(1) of the Statute of the ICJ will put the lecture into perspective. The lecture will then conclude by analyzing the complex issues arising from part (b) of the Article while trying to address the enquiry: Is customary International Law democratic?

Required Readings:

Texts

Dixon, pp. 103-121

Dixon & McCorquodale pp.131-174

Evans pp 205 - 268

Shaw

Journal Article

Roberts, A.E. 'Traditional and Modern Approaches to Customary International Law: A Reconciliation', *American Journal of International Law*, Volume 95, 757-791

Statutes

Article 38 of the Statute of the ICJ

Article 53 Vienna Convention on the Law of Treaties 1969

Cases

North Sea Continental Shelf Cases (FRG v Denmark; FRG v The Netherlands) ICJ Rep, 1969, 3 p.176

Nicaragua v United States ICJ Rep, 1986, p 98

Lecture 10: The Law of Treaties

This lecture will interrogate the Vienna Convention on the Law of Treaties 1969 to determine, amongst others, the definition of treaties and how they are formed and applied, reservations, limitations, interpretations of treaties. The class will conclude by looking into factors that invalidate or terminate treaties.

Required Readings:

Texts

Dixon & McCorquodale pp 56-102

Statutes

The Vienna Convention on the Law of Treaties 1969

Cases

The Nuclear Tests Cases

Qatar v Bahrain

Danube Dam cases

Namibian Opinion

Lecture 11: International Law and Municipal Law

Lecture 12: State Responsibility

Lecture 13: Jurisdiction

Lecture 14: Immunities

Lecture 15 International Criminal Law

Term Paper Assignment: Due on Week 9 (Draft due on week 7)

1. International relations are relations of power, not law; power prevails and law legitimizes what prevails.'

Discuss.

2. '...The definition of customary International Law has given rise to some vexed theoretical questions, such as: How is it possible to make law by practice? And how can something be accepted as law before it has actually developed into law...'

Discuss.

3. Is Modern International Law Eurocentric?

4. Can the 2003 war in Iraq be justified in International Law?

5. Does Chapter VII of the Charter of the United Nations satisfactorily govern the use of force by states in international law?

6. Discuss the relevance of International Law to the situation in the Sudanese province of Darfur.

7. "In International Law terms Israel is the true 'rogue state'. It does not comply with UN Resolutions, it ignores the Geneva Conventions, it pursues the development of nuclear weapons and it murders its perceived enemies beyond its territory. It also seems determined to obtain territory by force."

Discuss.
