

Public International Law in context: a view from Latin America

Course Syllabus (40h)

International Summer School Law School 2023, Universidad de Los Andes

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I. Course Description

This course explores the main topics of public international law with particular attention to the Latin American context. It examines the nature and structure of international legal arguments in historical perspective and contemporary practice, considering the regional experience of Latin America. The course's central assumption is that international law looks different in different locations of the world, despite the universalist pull of the international legal argument. In this setting, students will analyze the fundamental elements of international law concerning the particularities of the Latin American context. Specialized international law regimes will also be assessed in connection to specific issues of the regional experience. Students will engage substantively with the foundations of the field, articulating a critical understanding of how international law takes shape in the regional context.

International law is considered an argumentative practice that takes place in a regional context structured by disagreements amongst states and asymmetries of power. Political, economic, social, and ideological issues all inform the contemporary practice of international law in Latin America. Accordingly, the key concepts, institutions, practices, and debates of the field will be assessed by the students contextually. Traditional topics of public international law will be explored under a regional sensibility: the sources and subjects of international law, international dispute settlement, immunities and jurisdiction, and state responsibility. The protection of human rights in the region, the issues of development concerning the protection of the environment in Latin America, the use of force and the ongoing regional discussions about the lawfulness of intervention, and contemporary regional issues related to the Law of the Sea will all be analysed by the students.

Students will be encouraged to consider their own perspectives of historical and contemporary Latin American issues to acquire an expert understanding of the impacts of public international law in the region, as this course will be conducted based on a student-centred process of effective learning. Without thinking of international law as a neutral or objective field but as a vocabulary that has connections with the various ways in which material and spiritual goods are distributed in the world, students will explore a nuanced and detailed approach to the discipline. The main objective is to shed light on how international law as a vocabulary has been used to enable political blueprints for the region. This approach combines a focus on the history and theory of international law with a doctrinal assessment of the fundamental elements of the international legal

argument. In this setting, effective learning comes not just as an issue of pedagogy but as an essential strategy to explore the contemporary pressing stakes of the discipline in the context of Latin America.

II. Objectives

The objectives of this course are:

- To bring out a substantive understanding of the key concepts, institutions, practices, and debates in the field of public international law;
- To articulate an expert understanding of the development and structure of the international legal system and the historical and theoretical bases for public international law;
- To critically assess historical and contemporary events and developments in public international law in Latin America;
- To analyse the practice of international law in the regional context;
- To develop lawyerly skills in building international legal arguments about contemporary issues in public international law concerning our region.

III. Course Content

Topic 1

Nature of international law. International law, history, theory, and practice in Latin America.

Reading materials:

- 1) L. Eslava, L. Obregón, R. Urueña. 'Imperialismo(s) y derecho(s) internacional(es): ayer y hoy'. In: A. Anghie; M. Koskenniemi; A. Orford. *Imperialismo y derecho internacional*. Bogotá: Siglo de Hombre Editores, Universidad de los Andes, Pontificia Universidad Javeriana, 2016, 11-94;
- 2) E. Novoa Monreal. *El Derecho como obstáculo al cambio social*. Buenos Aires: Siglo XXI Editores, 5ª ed., 2007, p. 13-19 and p. 19-32.

Topic 2

Sources of international law. Customary law, the law of treaties, and the regional context.

Reading materials:

- 1) H. Charlesworth, 'Law-making and Sources'. In: J. Crawford; and M Koskenniemi (eds) *The Cambridge Companion to International Law* (CUP, 2012), 187-200;
- 2) B. S. Chimni, 'Customary International Law: A Third World Perspective'. 112 *American Journal of International Law* 1 (2018);
- 3) *Asylum (Colombia v. Peru)*, ICJ 1950, Summary of the Judgment of 20 November 1950.

Topic 3

Subjects of international law. Statehood and the individual in the Latin American region.

Reading materials:

- 1) K. Knop, 'Statehood: territory, people, government'. In: J. Crawford; and M Koskenniemi (eds) *The Cambridge Companion to International Law* (CUP, 2012), 95-116;
- 2) A. A. Cançado Trindade, 'The Legal Personality of the Individual as Subject of International Law'. In: A. A. Cançado Trindade, *International Law for Humankind*, The Hague Academy of International Law Monographs, 2.ed., Leiden: Martinus Nijhoff, (2013), 213-232;
- 3) A. B. Lorca, 'Codifying American international law: statehood and non-intervention'. In: A. B. Lorca, *Mestizo International Law* (CUP, 2014), 305-310.

Topic 4

International dispute resolution and Latin American disputes.

Reading materials:

- 1) A. E. Villalta Vizcarra, 'Solución de Controversias en el Derecho Internacional'. *Publicaciones Digitales XII Curso Derecho Internacional* (2014). Available at https://www.oas.org/es/sla/ddi/docs/publicaciones_digital_xli_curso_derecho_internacional_2014_ana_elizabeth_villalta_vizcarra.pdf, access 22 July 2022.
- 2) M. T. Infante Caffi, 'El Pacto de Bogotá: casos y práctica'. *ACDI - Anuario Colombiano De Derecho Internacional*, 10 (2017) 85-116.

Topic 5

Jurisdiction and immunities. Latin American practice on diplomatic asylum.

Reading materials:

- 1) J. Crawford, 'Jurisdictional Competence'. In: Brownlie's Principles of Public International Law. 9.ed., OUP, 2019, p. 440 and the following;
- 2) J. Crawford, 'Privileges and Immunities of Foreign States'. In: Brownlie's Principles of Public International Law. 9.ed., OUP, 2019, p. 470 and the following;
- 3) A. Gómez-Robledo Verduzco. 'El Derecho de Asilo en el Sistema Jurídico Internacional'. *Temas Selectos de Derecho Internacional*, 4.ed., Mexico: UNAM, 2003, p. 615-628.

Topic 6

State responsibility.

Reading materials:

- 1) Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries. Available at: https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf, access 22 July 2022.
- 2) K. Greenman, 'Aliens in Latin America: intervention, arbitration and state responsibility for rebels'. 31 *Leiden Journal of International Law* (2018) 617-639.

Topic 7

International Environmental Law and development in Latin America.

Reading materials:

- 1) S. Pahuja, 'Conserving the world's resources?'. In: J. Crawford; and M Koskenniemi (eds) *The Cambridge Companion to International Law* (CUP, 2012), 398-420;
- 2) R. Merino, 'The cynical state: forging extrativism, neoliberalism and development in governmental spaces'. 41(1) *Third World Quarterly*, (2020), 58-76.

Topic 8

International law and the use of force. International law and intervention in Latin America.

Reading materials:

- 1) F. F. Carvalho Veçoso, 'Intervención, deuda externa y la conformación del orden espacial: el bloqueo de Venezuela revisitado (1902-1903). *Revista Estudios Sociales*, n. 59, Santa Fé, 2020, p. 41-62.
- 2) A. Orford, 'NATO, Regionalism, and the Responsibility to Protect'. In: I Shapiro and A Tooze (eds), *Charter of the North Atlantic Treaty Organisation together with Scholarly Commentaries and Essential Historical Documents* (Yale University Press, 2018), 302-327.

Topic 9

International Human Rights Law. The Inter-American view on amnesties.

Reading materials:

- 1) F. F. Carvalho Veçoso; C. A. V. Sandoval, 'A Human Rights' Tale of Competing Narratives'. 8 *Direito & Práxis*, 2017, 1603-1651.
- 2) F. F. Carvalho Veçoso; A. A. Junior, 'The Inter-American System as New Grossraum? Assessing the Case Law of the Inter-American Court of Human Rights.' *ESIL Conference Paper Series*, 2011, 1-21.

Topic 10

Law of the Sea. Latin Americans, the Third UN Conference on the Law of the Sea, and contemporary issues.

Reading materials:

- 1) J. Crawford, 'The territorial sea and other maritime zones'. In: Brownlie's Principles of Public International Law. 9.ed., OUP, 2019, p. 241 and the following;
- 2) J. Crawford, 'Maritime delimitation and associated questions'. In: Brownlie's Principles of Public International Law. 9.ed., OUP, 2019, p. 267 and the following;
- 3) J. Crawford, 'Maritime transit and the regime of the high seas'. In: Brownlie's Principles of Public International Law. 9.ed., OUP, 2019, p. 280 and the following;
- 4) F. V. Garcia Amador, *América Latina y el derecho del mar*, Editorial Universitaria: Instituto de Estudios Internacionales, Universidad de Chile, 1976, 13-47. <https://libros.uchile.cl/files/presses/1/monographs/317/submission/proof/index.html#48>

Topic 11

Regional international law: past, present and future.

Reading materials:

- 1) F. F. Carvalho Veçoso, 'Assessing Regionalism in International Law'. 35 *L'Observateur des Nations Unies*, 2013, 7-23.
- 2) L. Obregón, 'Regionalism (Re-)constructed: A Short History of a "Latin American International Law"'. *Select Proceedings of the European Society of International Law: Regionalism and International Law Valencia*, 2012.

IV. Class schedule

Week 1	Topic 1 18/07/22	Nature of International Law
		International law, history, theory, and practice in Latin America
	Topic 2 19/07/2022	Sources of International law
		Customary law, the law of treaties, and the regional context
	Topic 3 21/07/2022	Subjects of International Law
		Statehood and the individual in the Latin American region
Topic 4 22/07/2022	International Dispute resolution and Latin American disputes	
Topics 5 and 6 23/07/2022	Jurisdiction and immunities	
	State responsibility	
Week 2	Topic 7 25/07/2022	International Environmental Law and development in Latin America
		Research Workshop
	Topic 8 26/07/2022	International law and the use of force
		International law and intervention in Latin America
	Topic 9 27/07/2022	International Human Rights Law
		The Inter-American view on amnesties
	Topic 10 28/07/2022	Law of the Sea
		Latin Americans, the Third UN Conference on the Law of the Sea and contemporary issues
Topic 11 29/07/2022	Regional international law: past, present and future	

V. Assessment

Students will be assessed based on the following:

- a) Class participation (40%);
- b) Essay (60%).

a) This subject is based on a student-centred process of effective learning, and class participation will be encouraged as a fundamental aspect of the activities developed in the classroom.

b) The final assessment is a short essay (up to 3,000 words, including footnotes). Students will be asked to choose a topic amongst the eleven-course topics and explore one specific research question related to the selected topic. At the beginning of week 2 of the course, students will present their preliminary ideas for collective discussion in a research workshop.