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**Course: Law**

**Degree:** Bachelor

**Branch:** Core curriculum

**Study plan:** Aviso n.º 9088/2019, de 23 de maio

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**Teaching staff:**

**Professor in charge of the curricular unit**

Doutor Salar Abbasi

**Other Professors of the curricular unit**

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**Language of instruction:**

English

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**Functioning:**

The proposed course is composed of 2 phases: 1) a historical overview, 2) a theoretical scrutiny.

Phase 1) Through this phase, students will learn how practical incidents have caused theoretical changes in regard to inter-polity laws. For instance, these incidents range from the collapse of the Roman Empire, and succeeding theoretical upheavals in the meaning and application of the 'natural law theory' in the inter-polity level, to the 1648 Treaty of Westphalia that ended Thirty-Year Wars among European polities, and marked the shift toward realism and positivism in inter-polity laws; and from the industrial revolution in Europe that puts forth 'empiricism' as the main edifice of theory in international law, to the revival of natural law theories in international law following WW2 and, in particular, the end of Cold War.

Phase 2) in this phase the formalist-realist divide of international legal theory will be taught. Looking with one lens, one comes across the transformation of the old legal formalism that defines law as a doctrinal science and gives to law an axiomatic non-instrumental nature, to the law-and-economics school that bases law on the single axiom of maximizing choice. With another lens, one comes across the radical contextualist character of the classic legal realism that considers law as a means to respond to practical real-life issues with the centrality of facts and empirical evidence. This chapter also aims to elaborate how the latter transformed into the New Haven Schools' policy-oriented jurisprudence that advocates simultaneity of international law and 'policy sciences'.

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**Intended learning outcomes:**

The purpose of this course is to provide students with a thorough vision about the conceptual and contextual foundations of public international law. The proposed course will be taught based upon the theory-practice approach.

The Theory-Practice approach provides clear understanding of the theories of international law with a contextual sensibility. Theory and practice are intrinsically interconnected in international law, to the degree to which each brings about the other. In some cases, in international law, practice precedes theory or puts a serious question against relevance of an already established theory. International law is structurally composed of the symbiosis of theory and practice. In a nutshell, at the end of this course, students are expected to, firstly, learn the theories based upon which public international law functions; and secondly, discern the importance and role of practice in the evolution of theories in international law.

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**Syllabus:**

Salar Abbasi, 'Democracy in International Law-making: Principles from Persian Philosophy', Routledge Publication, Taylor & Francis Group (London & New York, December 2021). Chapter 4 only. The book is on-file with the author and Chapter 4 of it will be distributed to the students.

**Salar Abbasi, 'Social Media: A Radical Form of Postmodernism in International Law'. (Under review with Netherlands International Law Review- on file with the author)**

Kennedy, David, 'International Law and the Nineteenth Century: History of an Illusion' (1997) 17 QLR 99.

Morgenthau, Hans J., 'Positivism, Functionalism, and International Law' (1940) 34 The American Journal of International Law 260.

Wagner, Andreas, 'Lessons of Imperialism and of the Law of Nations: Alberico Gentili's Early Modern Appeal to Roman Law', European Journal of International Law 2012, 873.

Fassbender, Bardo, 'Westphalia, Peace of (1648)', Max Planck Encyclopedia of Public International Law [MPEPIL].

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**Evidence of the syllabus coherence with the curricular units intended learning outcomes:**

It is crucial for students to learn the significance of theory and 'conceptualization' in the formation of public international law, and also, the practice of rules and norms by international actors that could alter or outdate an already respected theory of international law.

The way the course is designed helps students observe public international law from a unique angle; the symbiosis of theory and practice in the concept of public international law. Phase (1) demonstrates the evolutionary stream of theories and practices of inter-polity laws in the context of historical incidents. Phase (2) help them grasp the theory behind international legal order. In result, the proposed course is different from classic course on public international law. It delves into the theoretical roots of international law through a contextual sensibility.

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**Recommended prior learning (or curricular units whose prior attendance is recommended):**

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**Teaching and assessment methods:**

To me, maintaining Dialogue with law students is a key in the learning process. I strongly believe that an international law teacher should provide an atmosphere within which students would engage actively in discussions and express their opinions with enthusiasm. Students shouldn't be frightened of making a mistake; sometimes, the thoughtful and intelligent student is revealed by the interesting or deep character of their 'mistake'. Given this, I will encourage students involve in the discussion and make their voices heard.

Assessment: 50% in-class activity, engagement, and preparedness – 50% Final exam In-class assignments are 'expressive', and the Final exam will be a written test. I will divide the 10-hour seminar in two phases that I explained above. I will also provide the students with the reading material if they are not able to have access to those resources themselves.

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**Evidence of the teaching methods and the intended learning outcomes:**

International law is under construction and development. And it will be developed, to a considerable degree, through new ideas, fresh minds [of students and scholars], and innovative theories. An international law student has to feel the need to seek for new venues of thought in order to think about, address, and fill conceptual lacunas in international law. Through a dialogue-based teaching perspective, new venues of thought and scrutiny will be discovered. With their active

engagement in discussions in the classroom, students will find room to discuss and argue about the subject matter of the course. And this objective can be achieved through a dialogue-based teaching method.

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**Bibliography:**

Cantegreil, Julien, 'Legal Formalism Meets Policy-Oriented Jurisprudence: A More European Approach to Frame the War on Terror' (2008) 60 Me. L. Rev. 97.

Capps, Patrick & Rivers, Julian, 'Kant's Concept of International Law' (2010) 16 Legal Theory 229.

Dyzenhaus, David, 'Hobbes on the International Rule of Law' (2014) 28 Ethics & international affairs 53.

Fassbender, Bardo, 'Westphalia, Peace of (1648)', Max Planck Encyclopedia of Public International Law [MPEPIL].

Kammerhofer, Jörg, 'International Legal Positivism' [2014] Oxford Handbook of International Legal Theory (Oxford: Oxford University Press 2015).

Kennedy, David, 'International Law and the Nineteenth Century: History of an Illusion' (1997) 17 QLR 99.

Morgenthau, Hans J., 'Positivism, Functionalism, and International Law' (1940) 34 The American Journal of International Law 260.

Saberi, Hengameh, 'Love It or Hate It, But for the Right Reasons: Pragmatism and the New Haven School's International Law of Human Dignity' (2012) 35 BC Int'l & Comp. L. Rev. 59.

Salar Abbasi, 'Democracy in International Law-making: Principles from Persian Philosophy', Routledge Publication, Taylor & Francis Group (London & New York, December 2021).

**Salar Abbasi, 'Social Media: A Radical Form of Postmodernism in International Law'. (Under review with Netherlands International Law Review)**

Sands, Philippe, 'Unilateralism', Values, and International Law, 11 EUR. J. INT'L L. 291, (2000).

Wagner, Andreas, 'Lessons of Imperialism and of the Law of Nations: Alberico Gentili's Early Modern Appeal to Roman Law', European Journal of International Law 2012, 873.

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**Legislation:**

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