

TEXAS  STATE

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DISTANCE &  
EXTENDED LEARNING

# POSI 4356: Correspondence

Course Sample



# Home screen

The screenshot shows the TRACS (Teaching, Research, and Collaboration) home screen. At the top left is the TRACS logo with the tagline "TEACHING • RESEARCH • COLLABORATION". At the top right is the Texas State logo and navigation links for ePortfolio, University Honor Code, Library, SLAC, and Writing Center. Below the header is a dark navigation bar with dropdown menus for "My Workspace", "201510.ENG5310-7317.002", "POSI 4356 corr", and "MORE SITES". On the right of this bar are links for "Enter access View" and "Logout".

A left-hand sidebar contains navigation links: "Site Info", "Home" (highlighted), "Syllabus", "Course Content", "Assignments", "Email", "Gradebook", "Resources", and "Help".

The main content area displays the Texas State logo and the text "DISTANCE & EXTENDED LEARNING". Below this, it says "Welcome to POSI 4356 International Law". At the bottom, there are two lines of text: "New to the course? Click the *Course Content* link at left, then read the Get Started materials." and "Returning to the course? Click the *Course Content* link and resume where you left off."

# Course Content



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**Reset** POSI 3322 corr: Learning Modules

View Preferences

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Title	Open	Due	Allow Until	Last Visit	
✓ <a href="#">MEET YOUR INSTRUCTOR</a>	-	-	-	Oct 17, 2014 12:42 PM	
▪ <a href="#">Dr. Robert F. Gorman</a>					
▪ <a href="#">Textbook</a>					
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▪ <a href="#">Maps</a>					
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<a href="#">LESSON 1</a>	-	-	-	Oct 15, 2014 3:55 PM	
▪ <a href="#">Objectives</a>					
▪ <a href="#">Read</a>					
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▪ <a href="#">Assignment</a>					
✓ <a href="#">LESSON 2</a>	-	-	-	Oct 17, 2014 12:42 PM	
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# Lesson One

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
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International law is often regarded as, at best, a primitive system of law lacking consistently effective centralized mechanisms for the enforcement of rules. This view is rooted in the idea that systems of law require effective centralized sanctions against law-breakers, but experts in the field of international law have long pointed out that the vast majority of governments scrupulously obey their international legal obligations. The rare but spectacular violations of international treaties and customary law get all of the media attention, while the routine obedience to the law goes largely unnoticed. This routine obedience is rooted in a number of motives discussed by Shaw in the first part of chapter 1 of the textbook. These motives included reciprocal benefits, habit, expedience, and mutual self-interest, among others. There is no jail for countries that violate international customs or treaties of which they are a part, but a number of further motives also exist arising from the negative consequence of disobedience to the law. These include the possibility of lost trade, the development of a bad reputation, widespread criticism, poisoned relations, and possibly even harsher retaliation. Notice that one of the reasons governments abide by international law is that customary international law, in which most modern principles of law are rooted, reflect the actual, long-standing practice of states. States obey the law, because it serves their interests. In short, international law works at least most of the time and even when conflict breaks out, states have long acknowledged certain rules governing retaliation and war. Law, after all, is not merely a system of cops protecting law-abiding citizens from robbers, but also a system to help promote harmony, commercial intercourse, standards for civil procedure, and means for dispute resolution. These forms of law enhance the interactions of members of society. Similarly, international law helps to promote and harmonize international relations, to create a predictable system of international order, and to encourage cooperative resolution of disputes. Finally, that international law is heavily influenced by politics and power, should come as no surprise. All law is rooted in politics, and law, even in domestic systems, is subject to ongoing political struggles and revision. All law is rooted in foundational ethical principles, and developed by political interaction. International law is hardly exceptional in this regard.



Source: [Wikimedia](#)

Still, lacking truly universal, effective and centralized enforcement of international law, the roughly two-hundred [sovereign states in the world](#) become both the makers and the enforcers of this law (and of course the chief culprits when it breaking the law!). All states are bound by the universally acknowledged principles of customary law, but they are free to abstain from any treaties that do not suit their interest and from acknowledging the binding character of any new practices asserted by other states but with which they disagree. Much of international law, then, is voluntary in nature, especially the particular law reflected in treaties. However, much international law, as Shaw illustrates in chapter 4, is routinely incorporated into the domestic—or what international lawyers call “[municipal](#)”—[legal systems](#). In this way international law can be enforced within the territorial jurisdiction of governments. This “domestication” or incorporation of international law into the legal codes and practice of states constitutes one of the chief decentralized means by which international law is enforced and applied by governments. The [Missouri v. Holland](#) case from the U.S. experience illustrates how one country incorporates international law through its own constitutional and statutory practice. See the summary of this case in the Key Cases section below.

As Shaw notes in the second half of chapter 1, the historical development of international law can be traced back to the ancient world of classical Greece and Rome. Although Shaw favors the Roman contributions over the Greeks, it should be noted that the Greeks actually developed a fairly sophisticated system of international legal interaction. They negotiated treaties, developed laws of asylum for exiles, devised mechanisms for legal resident aliens to engage in commerce, created the very first known international collective security organizations called [amphictyonies](#) (a kind of neighborhood watch organization). Moreover, the systems of ethical thought developed by Plato and Aristotle, furnish many of the basic ethical principles on which modern systems of law are based, including, among others, such indispensable notions as equity, right intention, proportionality, sovereignty, accountability, and necessity. Greek political thought then sought to examine how these ethical norms could be most fruitfully incorporated into various political regimes and legislation. Although, Shaw rightly attributes the emergence of natural law ideas to the Greek Stoics, they in turn, based this theory on principles derived from Aristotelian and Platonic moral and political philosophy. The contributions of the ancient Greeks, then, should not be overlooked or minimized.

# Assignment One



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[Reset](#) POSI 4356 corr: Assignments

## Assignment - In progress

Title	Lesson 1 Written Assignment
Due	Dec 31, 2018 5:00 pm
Status	Not Started
Grade Scale	Points (max 100.0)
Modified by instructor	May 13, 2014 2:28 pm

### Instructions

This assignment is worth 5% of your final grade.

Compose your submission in a single document. Attach the document as a .doc, .docx, or .rtf file, then click **Submit**. Written assignments are expected to be written using proper grammar, spelling, and punctuation. Respond to each question as clearly and concisely as possible. Remember to **answer the question**.

### PART ONE

Respond to the following questions in your own words. When using external sources, such as the textbook, be sure to cite the source of the information.

Consult both the Discussion section of this lesson and the relevant chapters from the textbook to answer the questions below.

#### Chapter 1: "The Nature and Development of International Law"

1. Define international law. How does public international law differ from private international law? What are the institutional weaknesses of international law? How does the decentralization of international law complicate or enhance its enforcement?
2. Why is it that most states abide by international law most of the time? What motivations are there for obedience to the law?
3. Can states legally use force or sanctions to achieve compliance to international law? Under what circumstances?
4. Is international law really law?
5. Discuss the Roman concept of *jus gentium*. How can it be seen as a precursor of modern international law?
6. Discuss the emergence of natural law thinking beginning with the Stoics to the High Middle Ages and Thomas Aquinas. How did William of Occam challenge this system of legal thought? How did he influence the emergence of positivism?
7. Why is Hugo Grotius regarded as the father of modern international law?

#### Chapter 2: "International Law Today"

1. In addition to states, what other types of entities now influence the development of international law?
2. Describe the ways in which natural law has reemerged as a competitor to positivism in the twentieth century.
3. Discuss briefly the contributions of behavioralism, liberalism and critical legal studies to the modern understanding of international law.

#### Chapter 3: "Sources"

1. What are the three chief and two subsidiary sources of international law? What makes the primary sources distinct from the secondary ones?
2. What are the material factors that determine the existence of a custom as opposed to a mere usage or practice of states? How does the *opinio juris sive necessitatis* ultimately determine the existence of binding custom? How is this reflected in the *Scotia* case?
3. What is a law-making treaty? Explain and discuss.
4. What is a general principle of international law? Describe the varying theories and supply examples.
5. What is the role of judicial decisions and writings of publicists in the development of international law?
6. Why are resolutions and declarations considered problematic sources of international law?
7. How is the principle of *jus cogens* related to the sources of international law? Can particular treaties violate universal norms of law?

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