

TOPICS IN LAW AND POLICY: INTERNATIONAL PROTECTION OF MINORITY GROUPS (POLSCI 3LP3-E) Fall 2020

Instructor: Lev Marder
Email: marderl@mcmaster.ca
Lecture: Tuesdays 7:00-10:00pm
Room: online zoom, please see link on
A2L

Office: virtual
Office Hours: please schedule through
email

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Course Description

What groups need international legal protection? Which ones in theory and practice receive which protections and what are the domestic and international implications of advancing and/or using international mechanisms to protect these groups? In this course, we will examine the differences in the international legal protections applied to different groups and the Canadian policy and legal responses domestically and internationally. The course will be organized around the international legal protection of three groups: indigenous peoples, national minority groups, and migrants/refugees. The first unit lays the ground for understanding how nationalism and international protection of minority groups are related, and the history and the different definitions of minority groups. Each of the subsequent units will familiarize students with the different theoretical and legal definitions of the group in focus, the international legal protection afforded to and withheld from the group, the Canadian domestic and international policy and legal responses, and we will critically analyze these responses through comparative analysis.

Course Objectives

By the end of the course students should be able to:

- Know the main categories of minority groups, the different types of state policies towards minority groups
- Know the historical and current international mechanisms of minority group protections
- Be able to compare the problems that different minority groups face in Canada and abroad
- Be able to analyze the problems different minority groups face when international mechanisms of minority group protections are set in motion
- Demonstrate professional and ethical behaviour through teamwork, and the practice of collaborative and respectful questioning of various perspectives
- Have honed communication skills in multiple settings through weekly online class participation, and presentation
- Have developed critical and creative thinking skills through textual analysis, weekly reflections, and the testing of theories and arguments against court cases and concrete legal conundrums in the Canadian and global contexts

Required Materials and Texts

- Will be available through Avenue2Learn

Class Format

This is an online course that combines Zoom lectures/discussions with interactive learning on A2L. Zoom classes will be held every Tuesday from 7-10pm. These classes,

except for small class group discussions, will be recorded and posted on A2L. These live sessions are a chance to develop and test your understanding of the material and prepare for writing response papers. After the introductory unit, every unit is designed to prepare your group to write your evaluation of a policy proposal (ie. Response paper) responding to an issue raised during that unit. In these units, two weeks of lectures/discussions will lead into a week of policy proposal presentations. These presentations will likewise be live and recorded and posted on A2L. Students not able to participate in live zoom sessions will have the option to both review the recordings and not lose participation marks by properly participating in weekly online forum discussions (which is not necessary for students participating in weekly live zoom classes).

Course Evaluation – Overview

1. Forum Post and Discussion -15%, due September 25/27
2. Debate position papers – 10%, due October 27; 15% due November 17; 15% due December 8
3. Presentation – 15%, due date for group to be determined first day of class
4. Vlog assignment –10%, due December 11/13
5. Participation OR weekly reading responses—20%

Course Evaluation – Details

Forum Post and Discussion (15%), due Sept 25/27

Detailed instructions will be released on the first day of class

Presentation (15%), due date to be determined during the first class

Presentations in groups of 4-5 students will be held on October 20, November 10, and December 1, at the end of units 2-4. You will be tasked with presenting a case study so as to defend a policy in front of the whole class addressing a problem with the application of international legal mechanisms. That policy should be formulated in response to the issues raised in that unit. You are expected to be using secondary sources for this presentation as well. By Friday morning at the latest (before the Tuesday presentation), your group is to meet with me on Zoom to present your plan, notes, and materials, so we can be sure you have an excellent presentation. *Without the Zoom meeting, your group cannot do presentation, and forfeits the entire presentation grade (15%).* While presenting live is highly encouraged, recorded presentations are also possible.

Debate position papers (10%, 15%, 15%), due October 27, November 17, December 8

On October 20, November 10, and December 1 several groups will defend their policy. By Sunday of that week, your group's task is to use that unit's texts, theories, legal documents, and examples to formulate your response to the policy. The debate position paper should be around 5-7 pages. You are responding to the proposed policy during

each unit, even when you are presenting. You have a choice as to which policy you respond to except your own policy (you cannot respond your own policy). Since we engage in this exercise three times, the first paper weighs less than the others, because it will be your first time working together, and based on feedback you'll hopefully be able to improve your work on the papers that are weighed more heavily in the overall grading scheme.

Participation or weekly reading responses (20%)

Option 1: Weekly Forum Discussions (8 times, worth 20%):

By Monday at noon, before the unit starts, you are to post your reading responses on the readings/legal texts on the discussion forum. These responses should be about a half a page to a page long. You are to put in writing your understanding of the texts/positions expressed in those texts. Is there something you do not understand? Is there something you do not agree with? Is there something that you wanted to read in a text and finally found it articulated in this text? Even if you did not agree with something, briefly summarize the author's position or legal position outlined in the text or policy. The reading response is supposed to show that you have read the assigned readings, even if you do not completely understand them. Please cite specific passages or at least page numbers from the texts. In addition to the paragraph/page include 2-3 questions that either just interest you having read the text or that you would like to be covered in class. This part of the reading response is worth half of the reading response mark. The other half is for responding twice to the posts of others on the forum by Tuesday at noon. These responses should be about a paragraph long (half a page), based on the texts as well, and they should be meaningful responses that either answer questions or develop the thoughts further (but certainly not just meaningless agreement with the original post). The dates for posting the reading responses before the Tuesday class, are on Mondays Sept 14, 21, 28; Oct 5, 26; and Nov 2, 16, 22.

OR Option 2: Weekly Class Participation (every class, worth 20%):

Excellent seminar participation involves consistently coming to class online, demonstrably having read the material, staying for the entire class, paying full attention to what others in the class are contributing, and making valuable contributions to the discussion. Further details will be available on Avenue To Learn.

Vlog Assignment (10%), Dec 11/13

Detailed instructions will be released on the first day of class

Weekly Course Schedule and Required Readings

Week 1 (September 8)

Unit 1.1 Introduction: brief history of the international protection of minority groups

Readings:

Minority Issues in Europe: Rights, Concepts, Policy, edited by Tove H. Malloy, Frank & Timme, 2013.

Notes: Bring an open mind

Week 2 (September 15)

Unit 1.2 Nationalism, minority groups, and individuals

Readings:

Poole, "The Coming of Nationalism"

Week 3 (September 22)

Unit 1.3 Defining minority groups

Readings:

Kymlicka, W. (2001). Universal minority rights? *Ethnicities*, 1(1), 21-23.

Fortman, Bas de Gaay. Minority Rights: A Major Misconception? *Human Rights Quarterly* Volume 33, Number 2, May 2011

De Villiers, Bertus. Language, Cultural and Religious Minorities: What and Who Are They? 36 *University of Western Australia Law Review* 92 (2012)

Notes: Forum post due Sept 25 and Forum response due Sept 27 (15% of final grade)

Week 4 (September 29)

Unit 2.1 International protection of Indigenous peoples: theory background and issues

Readings:

James Anaya, *Indigenous Peoples in International Law*

Luis Rodriguez-Pinero, *Indigenous Peoples, Postcolonialism and International Law* (Oxford UP 2005),

Week 5 (October 6)

Unit 2.2 International protection of Indigenous peoples: international legal mechanisms

Readings:

Koivurova, Timo. Jurisprudence of the European Court of Human Rights Regarding Indigenous Peoples: Retrospect and Prospects. *International Journal on Minority and Group Rights* 18 (2011) 1–37.

Stephen Allen and A. Xanthaki (eds) *Reflections on the UN Declaration on the Rights of Indigenous Peoples* (Hart 2011),

Week 6 (October 13 Reading week)

Week 7 (October 20)

Unit 2.3 International protection of Indigenous peoples: case studies from Canada in comparative perspective

Readings:

Notes: Presentations of policy proposals (select groups), on October 20 (15% of final grade)

Week 8 (October 27)

Unit 3.1 International protection of national minority groups: theory background and issues

Readings:

Guibernau, Monstressat. Nations without States: Political Communities in the Global Age. 25 *Mich. J. Int'l L.* 1251 2003-2004.

Thomas Benedikter, *Legal Instruments of Minority Protection in Europe*

Kristin Henrard, Robert Dunbar *Synergies in Minority Protection: European and International Law Perspective*

Notes: Debate Position Paper 1 due October 27 (10% of final grade)

Week 9 (November 3)

Unit 3.2 International protection of national minority groups: international legal mechanics or lack thereof

Readings:

Chapman, C., & Ramsay, K. (2011). *Two Campaigns to Strengthen United Nations*

Mechanisms on Minority Rights. *International Journal on Minority and Group Rights*, 18(2), 185-199

Ahmed, T. (2010). A Critical Appraisal of EU Governance for the Protection of Minority Rights. *International Journal on Minority and Group Rights*, 17(2), 265-285.

Gilbert, Geoff. Religio–nationalist minorities and the development of minority rights law. *Review of International Studies* (1999), 25, 389–410.

Castellino, Joshua. No Room at the International Table: The Importance of Designing Effective Litmus Tests for Minority Protection at Home. *Human Rights Quarterly* 35 (2013) 201-228.

Week 10 (November 10)

Unit 3.3 International protection of national minority groups: case studies from Canada in comparative perspective

Readings:

Notes: Presentations of policy proposals (select groups), on November 10 (15% of final grade)

Week 11 (November 17)

Unit 4.1 International protection of refugees and migrant groups: theory background and issues

Readings:

Suhrke, *Global Refugee Movements and Strategies of Response*" in Aleinikoff and Martin, *Immigration Process and Policy*, 3rd Edition

Chetail, Vincent: *Sources of International Migration Law*.

Notes: Debate Position Paper 2 due November 17 (15% of final grade)

Week 12 (November 24)

Unit 4.2 International protection of refugees and migrant groups: international legal mechanisms

Readings:

Hathaway James C., *The Rights of Refugees under International Law*, Cambridge University Press, Cambridge, 2005

James C. Simeon, *Critical Issues in International Refugee Law: Strategies Toward Interpretative Harmony*,

Week 13 (December 1)

Unit 4.3 International protection of refugees and migrant groups: case studies from Canada in comparative perspective

Readings:

Notes: Presentations of policy proposals (select groups), on December 1 (15% of final grade)

Week 14 (December 8)

Conclusion

Readings:

Notes: Debate Position Paper 3 due December 8 (15% of final grade)

Vlog assignment –10%, due December 11/13

Course Policies

Submission of Assignments and Late Policy:

Written assignments aside from reading responses are due at 11:59pm in the dropbox online on the day indicated in the syllabus.

Late assignments, without proper documentation and prior agreement with your instructor when possible, will receive a 10% daily deduction including weekends. Online forum contributions cannot and will not be accepted late, because they are time-sensitive.

If you know that you will have a few assignments due in several classes on the same day, come talk to your instructor about it early (at least two weeks before the deadline) and a short extension may be granted. Extensions are official only in written form, when confirmed through email.

Reading, Email, Office Hour and Other Rules:

Every student is responsible for all required readings. Some of the texts are more difficult than others. Students are expected to come to every class online having read the reading assigned for that class.

I will be happy to meet with you through zoom, please reach out, let me know what times work for you, and I'll be happy to chat. Come, sit, relax in the virtual office and if you want to talk about the university in general or the course in particular, I'll be glad to see you. My rule for both email communication and office hours is that you meet me half way. (For example, just asking what does Rawls think of equality doesn't give me anything to work with in order to help you out). Be prepared to tell me what you know and what you understand so that we can build on that basis to enrich your understanding and experience.

I will reply to emails within 24 hours (and usually much much much much quicker), so if you do not get a reply from me within 24 hours, the wires must have crossed somewhere and you should email me again to make sure your email gets through. Please don't hesitate to resend emails in those cases, as quick communication under these circumstances is paramount and I'd love to help.

Grades

Grades will be based on the McMaster University grading scale:

MARK	GRADE
90-100	A+
85-90	A
80-84	A-
77-79	B+
73-76	B
70-72	B-
67-69	C+
63-66	C
60-62	C-
57-59	D+
53-56	D
50-52	D-
0-49	F

Absences, Missed Work, Illness

McMaster Student Absence Form (MSAF): In the event of an absence for medical or other reasons, students should review and follow the Academic Regulation in the Undergraduate Calendar "Requests for Relief for Missed Academic Term Work".

Under some circumstances, students may be granted relief in the form of completing the missed assignments one week in the following week.

Courses with an On-Line Element

Some courses may use on-line elements (e.g. e-mail, Avenue to Learn (A2L), LearnLink, web pages, capa, Moodle, ThinkingCap, etc.). Students should be aware that, when they access the electronic components of a course using these elements, private information such as first and last names, user names for the McMaster e-mail accounts, and program affiliation may become apparent to all other students in the same course. The available information is dependent on the technology used. Continuation in a course that uses on-line elements will be deemed consent to this disclosure. If you have any questions or concerns about such disclosure please discuss this with the course instructor.

Online Proctoring

Some courses may use online proctoring software for tests and exams. This software may require students to turn on their video camera, present identification, monitor and record their computer activities, and/or lock/restrict their browser or other applications/software during tests or exams. This software may be required to be installed before the test/exam begins.

Authenticity / Plagiarism Detection

Some courses may use a web-based service (Turnitin.com) to reveal authenticity and ownership of student submitted work. For courses using such software, students will be expected to submit their work electronically either directly to Turnitin.com or via an online learning platform (e.g. A2L, etc.) using plagiarism detection (a service supported by Turnitin.com) so it can be checked for academic dishonesty.

Students who do not wish their work to be submitted through the plagiarism detection software must inform the Instructor before the assignment is due. No penalty will be assigned to a student who does not submit work to the plagiarism detection software.

All submitted work is subject to normal verification that standards of academic integrity have been upheld (e.g., on-line search, other software, etc.). For more details about McMaster's use of Turnitin.com please go to www.mcmaster.ca/academicintegrity.

Copyright and Recording

Students are advised that lectures, demonstrations, performances, and any other course material provided by an instructor include copyright protected works. The Copyright Act and copyright law protect every original literary, dramatic, musical and artistic work, **including lectures** by University instructors

The recording of lectures, tutorials, or other methods of instruction may occur during a course. Recording may be done by either the instructor for the purpose of authorized distribution, or by a student for the purpose of personal study. Students should be aware that their voice and/or image may be recorded by others during the class. Please speak with the instructor if this is a concern for you.

Academic Accommodation for Religious, Indigenous or Spiritual Observances (RISO)

Students requiring academic accommodation based on religious, indigenous or spiritual observances should follow the procedures set out in the [RISO](#) policy. Students should submit their request to their Faculty Office **normally within 10 working days** of the beginning of term in which they anticipate a need for accommodation or to the Registrar's Office prior to their examinations. Students should also contact their instructors as soon as possible to make alternative arrangements for classes, assignments, and tests.

Academic Integrity Statement

You are expected to exhibit honesty and use ethical behaviour in all aspects of the learning process. Academic credentials you earn are rooted in principles of honesty and academic integrity. **It is your responsibility to understand what constitutes academic dishonesty.**

Academic dishonesty is to knowingly act or fail to act in a way that results or could result in unearned academic credit or advantage. This behaviour can result in serious consequences, e.g. the grade of zero on an assignment, loss of credit with a notation on the transcript (notation reads: “Grade of F assigned for academic dishonesty”), and/or suspension or expulsion from the university. For information on the various types of academic dishonesty please refer to the [Academic Integrity Policy](https://secretariat.mcmaster.ca/university-policies-procedures-guidelines/), located at <https://secretariat.mcmaster.ca/university-policies-procedures-guidelines/>

The following illustrates only three forms of academic dishonesty:

- plagiarism, e.g. the submission of work that is not one’s own or for which other credit has been obtained.
- improper collaboration in group work.
- copying or using unauthorized aids in tests and examinations.

Conduct Expectations

As a McMaster student, you have the right to experience, and the responsibility to demonstrate, respectful and dignified interactions within all of our living, learning and working communities. These expectations are described in the [Code of Student Rights & Responsibilities](#) (the “Code”). All students share the responsibility of maintaining a positive environment for the academic and personal growth of all McMaster community members, **whether in person or online.**

It is essential that students be mindful of their interactions online, as the Code remains in effect in virtual learning environments. The Code applies to any interactions that adversely affect, disrupt, or interfere with reasonable participation in University activities. Student disruptions or behaviours that interfere with university functions on online platforms (e.g. use of Avenue 2 Learn, WebEx or Zoom for delivery), will be taken very seriously and will be investigated. Outcomes may include restriction or removal of the involved students’ access to these platforms

Academic Accommodation of Students with Disabilities

Students with disabilities who require academic accommodation must contact [Student Accessibility Services](#) (SAS) at 905-525-9140 ext. 28652 or sas@mcmaster.ca to make arrangements with a Program Coordinator. For further information, consult McMaster University’s [Academic Accommodation of Students with Disabilities](#) policy.

Faculty of Social Sciences E-mail Communication Policy

Effective September 1, 2010, it is the policy of the Faculty of Social Sciences that all e-mail communication sent from students to instructors (including TAs), and from students to staff, must originate from the student's own McMaster University e-mail account. This policy protects confidentiality and confirms the identity of the student. It is the student's responsibility to ensure that communication is sent to the university from a McMaster account. If an instructor becomes aware that a communication has come from an alternate address, the instructor may not reply at his or her discretion.

Course Modification

The instructor and university reserve the right to modify elements of the course during the term. The university may change the dates and deadlines for any or all courses in extreme circumstances. If either type of modification becomes necessary, reasonable notice and communication with the students will be given with explanation and the opportunity to comment on changes. It is the responsibility of the student to check his/her McMaster email and course websites weekly during the term and to note any changes.

Extreme Circumstances

The University reserves the right to change the dates and deadlines for any or all courses in extreme circumstances (e.g., severe weather, labour disruptions, etc.). Changes will be communicated through regular McMaster communication channels, such as McMaster Daily News, A2L and/or McMaster email.