

Course Outline

COURSE: LAWS 2601C - Public International Law

TERM: Winter 2016

PREREQUISITES: 1.0 credit from LAWS 1000 [1.0], PAMP 1000 [1.0], PSCI 1100 and PSCI 1200.

CLASS: **Day & Time:** Tuesdays, 2:35pm - 5:25pm
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: Tiffany A. MacLellan
(CONTRACT)

CONTACT: **Office:** Loeb D485
 Office Hrs: By appointment
 Email: tiffany.maclellan@carleton.ca

Academic Accommodations:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://carleton.ca/pmc/students/dates-and-deadlines/>

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Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

COURSE DESCRIPTION

International law is often presented as a tool to cure the international community's problems, as one way by which relations between peoples and states can be improved or, as an imperial tool to promote the interests of the powerful states. It is important for students of international law to understand the core principles and treaties of international law, and how these principles and treaties can promote peace and/or oppress states and their constituents. Accordingly, this course will examine these interpretations by giving students an appreciation of the close relationship between international law and politics and how the two forces interact. Underpinning the course and the approach to teaching is a conviction that the relationship between law and politics is practical, current and relevant to our individual lives.



By David Low. Published in the *Evening Standard*, 26 April, 1945.
Courtesy of British Cartoon Archive, University of Kent, www.cartoons.ac.uk

LEARNING OUTCOMES

By the end of the course, students will be able to:

1. Understand how multilateral treaties are structured and operate;
2. Identify key actors in the international legal system and assess their role in shaping the system;
3. Demonstrate a solid understanding of the nature of international treaties and regimes and an in-depth understanding of one chosen treaty regime;
4. Appreciate the complexity of the role of international courts and tribunals in the international system.

TEACHING OBJECTIVES

Throughout the course, I will:

1. Promote a familiarity with international law and its relationship to the international political system;
2. Develop student's understanding of key principles and concepts of international law and some of the most important mechanisms that drive international law, especially treaties and custom;
3. Challenge students to question assumption concerning the operations of the international legal and political systems.

REQUIRED TEXTS

Shaw, Malcolm. 2014. *International Law* (7th ed.) Cambridge: Cambridge University Press.

Students can purchase this text at Octopus Books, which is located at 116 Third Avenue. Their typical hours of operation are: Monday to Saturday: 10 am - 6 pm, Sunday: 12 pm - 5 pm. The book price is \$89.95. A copy of this text will be on reserve in the library as well.

All other readings are retrievable through ARES, which is accessible via cuLearn.

ASSESSMENTS

This course is based on the view that students who take their studies seriously will develop good subject knowledge but will also develop a range of very practical skills. These include strong communications skills (written and oral), the capacity to analyze critically and to present arguments cogently. This will require students to read in depth and to prepare for classes. Assessment tasks are designed to promote those skills.

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

In-class quizzes (30%)

Three short tests which cover material from weeks 1 to week 4 will be administered during the first weeks of the course. Students will be provided 30 minutes to complete each multiple choice test, which are worth 10% a piece. The key to performing well on all three tests: attend class and take notes!

QUIZ 1 will engage the lectures and readings assigned in week 1 & 2 (History of International Law, Sources of International Law, Municipal & International Law). The test will take place during the first 30 minutes of class on **January 26th**.

QUIZ 2 will engage the lecture and readings assigned in week 3 (Subjects of International Law, Recognition). The test will take place during the first 30 minutes of class on **February 2nd**.

QUIZ 3 will engage the lecture and readings slated for week 4 (Jurisdiction, Immunities). The test will take place during the first 30 minutes of class on **February 9th**.

If a student misses a quiz, it is their responsibility to attain and disseminate appropriate documentation to the TA and instructor right away. Accommodations to write a missed quiz for documented reasons will occur within 1 week of the original quiz date.

Group Presentation (15%)

This assignment is intended to ensure that students understand the various elements of an international treaty or convention and have developed an appreciation of the importance of those various elements to the operation and effectiveness of the treaty. Students will select a multilateral treaty and analyze its objectives and structure and its achievements and failings. The group will also examine a current affairs story and relate it to the treaty presented. See Appendix ‘A’ for a breakdown of the roles and responsibilities of each group member. Groups will be formed February 2nd.

Due date: Presentations will take place in the second half of the relevant class. See course schedule for dates.

Criteria	Weight
Explanation of ‘object and purpose’, substantive provisions, noteworthy reservations, conditions for entry into force, status, depository, committees, protocols (if relevant)	/7
Appropriate connection between treaty and contemporary event	/5
Analysis of the treaty’s achievements and/ or failings	/4
Organized, prepared, clear, engaging	/4
TOTAL	/20

Peer evaluation (5%)

Each individual will evaluate their group members based on the following: did the member contribute to group meetings?; Did the member facilitate the contributions of other group members and work collaboratively?; Did the member complete their duties as outlined in Appendix ‘A’?; Was the member constructive and did they respond to conflict respectfully?

Due date: The Friday following your group’s presentation. Please submit via cuLearn.

Criteria	Weight
Contributes to group meetings	/1
Facilitates the contributions of group members	/1
Completes the task assigned as discussed with group members	/2
Fosters constructive team climate/ Responds to conflict appropriately	/1
TOTAL	/5

Discussion Paper: International Tribunals (40%)

International tribunals are portrayed as evidence that the international community will no longer tolerate violations of human and humanitarian rights. Some critics, however, describe these tribunals as little better than attempts by the West to cover its inaction over major humanitarian crises. Others argue that these tribunals are imperial and colonial in nature. Students will select one international tribunal and analyze its structure, objectives, its achievements and failings. Students are expected to discuss the importance, role and effectiveness of the international tribunal selected. Students should complete the case study with a solid understanding of their particular tribunal and of the tribunal process in general. 2500 words max.

Due Date: April 8th, 4:30pm via cuLearn

Criteria	Weight
Clearly articulated, supported and convincing argument	/10
Accurate and rigorous engagement with socio-legal scholarship	/10
Accurate understanding of tribunal structure and jurisdiction	/10
Organization, relevant examples, grammar, spelling, correct reference format	/10
TOTAL	/40

Pop In-class assignments (10%)

Two ‘pop’ in-class assignments (5% each) will be administered during the course. They will be submitted at the end of class, and the work will be evaluated on a pass/fail basis.

Format: The format for the final paper is as follows: 1.5 or double spaced, 12 point font, and adherence to a recognized citation style.

Late Policy: Assignments submitted after the due date will be accepted at the cost of three marks per day. Extensions are reserved for those moments when you find yourself in a documented, extenuating circumstance. Retroactive extensions will not be granted, meaning all extensions must be requested at least 24 hours before the deadline along with the appropriate documentation. No exceptions.

Grading: In accordance with the Carleton University Undergraduate Calendar, the letter grades assigned in this course will have the following percentage equivalents:

A+ = 90-100	B+ = 77-79	C+ = 67-69	D+ = 56-59
A = 85-89	B = 73-76	C = 63-66	D = 53-56
A - = 80-84	B - = 70-72	C - = 60-62	D - = 50-52
F = Below 50			

WDN = Withdrawn from the course DEF = Deferred
 FND = (Failed, no Deferred) = Student could not pass the course even with 100% on final exam

SCHEDULE

WEEK 1- January 12th **Introduction to course & international law**

Required Reading

Course Outline: LAWS 2601C Public International Law, Winter 2016!

Anghie, Anthony. 1996. "Francisco de Vitoria and the Colonial Origins of International Law." *Social & Legal Studies*, 5(4): 321-336.

Koskenniemi, Martti. 2011. "The Fate of Public International Law: Between Technique and Politics." *The Politics of International Law*. Hart Publishing (Portland): 331-362.

WEEK 2 - January 19th **Sources of International Law, Municipal & International Law** *custom — treaties — general principles — judicial decisions — ratification*

Required Reading

Shaw, Malcolm. 2014. "Sources." In *International Law 7th Edition*, 49-91. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2014. "International law and municipal law." In *International Law 7th Edition*, 92-98. Cambridge: Cambridge University Press.

WEEK 3 - January 26th
The Subjects of International Law, Recognition

legal personality — self-determination — statehood — de jure and de facto recognition

Required Reading

Shaw, Malcolm. 2014. "The Subjects of International Law." In *International Law 7th Edition*, 142-193. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2014. "Recognition." In *International Law 7th Edition*, 321-340. Cambridge: Cambridge University Press.

WEEK 4 - February 2nd
Jurisdiction, Immunities

principles of jurisdiction — territorial sea — Nationality of Ships — sovereign immunity — diplomatic law

Required Reading

Shaw, Malcolm. 2014. "Jurisdiction." In *International Law 7th Edition*, 469-485. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2014. "Law of the Sea." In *International Law 7th Edition*, 403 - 445. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2014. "Immunities." In *International Law 7th Edition*, 506- 564. Cambridge: Cambridge University Press.

WEEK 5 - February 9th
The Law of Treaties, Reading Treaties

entry into force — reservations — states party — committees — protocols

Required Reading

Scott, Shirley V. 2004. "Reading a Multilateral Treaty." *International Law in World Politics: An Introduction*. Lynne Rienner (London): 141-160.

Shaw, Malcolm. 2014. "The law of treaties." In *International Law 7th Edition*, 654-690. Cambridge: Cambridge University Press.

Vienna Convention on the Law of Treaties (1969)

WEEK 6 - February 16th
NO CLASS, READING WEEK

WEEK 7 — February 23rd
International law & the ‘Global Commons’

common heritage — common concern — precautionary principle — harm principle

Required Reading

Brunnée, Jutta. 2006. “Common Areas, Common Heritage, and Common Concern.” In *International Environmental Law*, edited by Ellen Bodansky, Daniel; Brunnée, Jutta; Hey, 550–73. Oxford: Oxford University Press.

Noyes, John. 2011. “The Common Heritage of Mankind: Past, Present, and Future.” *Denver Journal of International Law and Policy* 40 (1): 447–71.

Natarajan, Usha; Khoday, Kishan. 2014. “Locating Nature: Making and Unmaking International Law.” *Leiden Journal of International Law* 27: 573–93.

Presentations

Convention Concerning the Protection of the World Cultural and Natural Heritage (1972)

Law of the Sea Convention, Part XI (1982)

Canberra Convention on the Conservation of Antarctic Marine Living Resources (1982)

Kyoto Protocol to the United Nations Framework Convention on Climate Change (1997)

WEEK 8 - March 1st
International Human Rights Law

nature of IHRL — development of IHRL regime — UN system and IHRL

Required Reading

Shaw, Malcolm. 2014. “The international protection of human rights.” In *International Law 7th Edition*, 194-204. Cambridge: Cambridge University Press.

Mutua, Makau. 2001. “Savages, Victims, and Saviors: The Metaphor of Human Rights.” *Harvard International Law Journal* 42 (1): 201–43.

Fagbongbe, Mosope. 2008. “The Future of Women’s Rights from a TWAIL Perspective.” *International Community Law Review* 10: 401–9.

Presentations

The International Covenant on Civil and Political Rights (1966)

The Convention on the Elimination of all Forms of Discrimination Against Women (1979)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Convention on the Rights of Persons with Disabilities (2006)

WEEK 9th - March 8th
International Humanitarian Law

Jus Ad Bellum — Jus in Bello — Geneva Conventions — Hague Conventions

Required Reading

Shaw, Malcolm. 2014. "International Humanitarian Law." In *International Law 7th Edition*, 847–74. Cambridge: Cambridge University Press.

Kennedy, David. 2006. "Reassessing International Humanitarianism: The Dark Sides." In *International Law and Its Others*, edited by Anne Orford, 131–55. Cambridge: Cambridge University Press.

Presentations

Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949)

Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949)

Geneva Convention (III) relative to the Treatment of Prisoners of War (1949)

Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (1949)

WEEK 10 - March 15th
Arms Control

Kolb, Robert and Hyde, Richard. 2008. *An Introduction to the International Law of Armed Conflict*. Hart Publishing: Portland: 152 -161.

Ballard, Kyle. 2007. "Convention in Peril? Riot Control Agents and the Chemical Weapons Ban." *Arms Control Today* 37 (7): 12–16.

Carter, K.R. 2010. "Should International Relations Consider Rape a Weapon of War?" *Politics & Gender* 6: 343–71.

Presentations

Arms Trade Treaty (2013)

Convention on the Prohibition of the Use, Stockpiling, Production, and transfer of
Anti-Personnel Mines and their Destruction (1997)

Convention on Cluster Munitions (2008)

Treaty on the Non-Proliferation of Nuclear Weapons (1970)

WEEK 11 - March 22nd

International Law, Refugees & Migrants

statelessness - non-refoulement - durable solutions

Required Reading

Chetail, Vincent. 2014. "The Transnational Movement of Persons under General International Law – Mapping the Customary Law Foundations of International Migration Law." In *Research Handbook on International Law and Migration*, edited by Celine Chetail, Vincent; Bauloz, 1–60. Northampton: Edward Elgar.

Chimni, BS. 2004. "From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems." *Refugee Survey Quarterly* 23 (3): 55–73.

Sharma, Nandita. 2003. "Travel Agency: A Critique of Anti-Trafficking Campaigns." *Refuge* 21 (3): 69–87.

Presentations

The Convention Relating to the Status of Refugees (1951)

International Convention on the Protection of the Rights of All Migrant Workers
and Members of Their Families (1990)

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,
supplementing the United Nations Convention against Transnational Organized Crime (2000)

WEEK 12 - March 29th

International Criminal Law

International Criminal Court — genocide — crimes against humanity - crime of aggression

Required Reading

Shaw, Malcolm. 2014. "Individual criminal responsibility in international law." *International Law 7th Edition*. Cambridge University Press (Cambridge): 285-316.

Clarke, Kamari. 2015. "Refiguring the perpetrator: culpability, history and international criminal law's impunity gap." *International Journal of Human Rights*. 19(5): 592-614.

Simpson, Gerry 2007. "War Crimes Trials and Political Trials." *Law, War & Crime Polity*. Press (Cambridge): 11-29.

Rome Statute of the International Criminal Court

The Convention on the Prevention and Punishment of the Crime of Genocide (1948)

Don't forget! Discussion papers are due at 4:30pm on April 8th via cuLearn

APPENDIX 'A'

Roles and Responsibilities of Group Members

Role: Leader

Your role is to focus on the organization and production of the project content. You make a list of the project content, and distribute it to participants. You let the 'organizer' take care of things like meeting times and dates, etc. You are focused on ensuring that all participants have an equitable share of the project. You see the entire project, and make sure that all areas are covered and everyone understands what they are doing. You are positive, and encourage participation. You recognize conflict, and work in collaboration to solve this with the 'peacemaker' of the group.

Role: Organizer

Your role is to organize group meetings, places, times, dates, member contact information, communication requirements, timelines, etc. You are in charge of the group's big picture and the process of the group. During meetings you ensure that participants are working on the task at hand. You reorganize throughout the project, and initiate new aspects of the project or process as necessary. You are positive, verbal, and very task oriented. You are in charge of ensuring that the project meets the deadline, that everyone knows when to submit, where to meet, how often to communicate, and when to practice for presentations if this is part of the project. You wrap things up at the end of the project.

Role: Designer/ IT Specialist

Your role is to ensure that the 'product' or 'take-away' of the project is perfect and very professionally done. You take everyone's content - format it, produce it, and create a seamless document, PowerPoint presentation, pamphlet, booklet, poster, etc. You add artwork, sound or special effects, etc. to create professional quality work.

Role: Editor

Your role is to edit everyone's work, and ensure there is no repetition. You are an expert in English language grammar and spelling; you understand and utilize the publishing style required for the project. Your writing is succinct and professional. You understand the language style of the profession you are studying. You integrate each participant's work into a seamless document.

Role: Presenter

Your role is to present the final product. You will have rehearsed the presentation before class, be well rested, and prepared with any presentation notes necessary in order to impart the material as clearly as possible. It is your duty to come to class early and ensure your presentation is ready to go in the

class room. You may also take the lead and answer any questions the class has about your presentation.

Every Group Member is expected to...

.... participate in the project, follow direction, research and prepare thorough work, meet deadlines, communicate as necessary, and meet all the specific requirements of the project. You recognize the special roles of other group members, and give them your support. You willingly participate in the group process and production of content. You should be positive, and add to (not detract from) the group function as a whole. If conflicts arise, you work to resolve the issue before it gets out of hand. You are committed to the group process until the final project has been completed. You understand your role and the roles of others within the group and support all group members.