
Course Outline

COURSE:	LAWS 5603/INAF 5505 International Law: Theory and Practice
PREREQUISITES:	None
TERM:	Winter 2013
CLASS:	Day & Time: Tuesday 8:35-11:25
	Room: Students are advised to confirm their room assignment on Carleton Central
INSTRUCTOR:	Betina Kuzmarov
CONTACT:	Office: C476 Loeb
	Office Hrs: Tuesday 11:30-1:30 or by appointment
	Telephone: (613) 520-2600 ext. 8810
	Email: Betina_Kuzmarov@carleton.ca

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

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://www2.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://www2.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://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>. You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION:

This course is designed to provide an introduction to various theoretical approaches to international law. Students will gain an understanding of a variety of perspectives on international law and the role these theories play in understanding and ordering international relations. To do this this course will focus on the sources of law, and in particular customary international law. It will examine customary international law from a variety of theoretical perspectives including (but not limited to): Natural law, Positivism, Process approaches, Critical Legal Studies, TWAIL, Feminist Perspectives, Marxism and IR/IL.

COURSE OBJECTIVES

By the end of the course students will have:

- **Knowledge of basic concepts and principles of the sources of international law**
- **Knowledge of the variety of theoretical approaches to international law**
- **Ability to critically evaluate the theoretical approaches to international law in relation to the sources of international law**
- **Ability to understand how researchers approach the scholarship of international law**

TEXTS:

Readings in this course can be found on Ares the system. Ares will either link you to the source or will direct you to the library reserves for the readings.

Also, here are samples of some basic texts which will provide you with some extra background on the readings:

MN Shaw, *International Law*, 6th ed (Oxford: OUP, 2008).

P Malanczuk, *Akehurst's Modern Introduction to International Law*, 8th ed (Routledge, 2012) [Please note the 1997 version is available as an ebook in the library].

A Aust, *Handbook of International Law* (Cambridge: CUP, 2005).

J Currie, *Public International Law*, 2nd ed, Essentials Series (Toronto: Irwin, 2008).

EVALUATION:

The evaluation for the course will be broken down as follows:

Evaluation	%	Due Date
Essay Topic	5%	22 January 2013
Outline and Abstract	10%	26 February 2013
Presentations	20% (2x10%)	Students will sign up for dates in class
Final Paper	45%	10 April 2013
Class Participation	20%	Ongoing
TOTAL	100%	

Essay Topic:

The essay topic is a 250 word (maximum) summary of the topic you propose to research for your final paper. The readings for this course will suggest many possible topics for research. On top of this I am defining the scope of the essay for this seminar broadly so that you can focus on your own interests. If you have any questions about a topic you are thinking about, please just e-mail/ask.

Outline and Abstract:

The outline for your paper is a 2 page (double spaced; maximum) point form summary of the structure of your paper. Your abstract is a 250 word (maximum) overview of your topic, thesis, theoretical approach and structure of your paper.

Presentations:

Twice in the term students will be required to “present” the week’s readings to the class. Presentations will include preparation of discussion questions for the readings, as well as leading discussion on the readings.

Final Paper:

The easiest way to satisfy this evaluation is by writing a research paper. It should be a maximum of 20 pages (double spaced). However, if you have a really creative idea that you’d like to explore – a writing or multimedia project, let me know. My only requirement is that the project conveys to me your research and that it should be a big enough project to be equivalent to a 20 page paper.

Participation:

As I mentioned above, this class is a seminar format so there is almost no “lecturing” in my class. Therefore, the success of each class depends on all of us (me included) preparing for class. This means that you must read all the readings for each class, and simply coming to class does not mean you will receive participation marks. Generally speaking participation includes: preparation, participation and contribution to the class environment.

I’ll provide more details on each of these evaluations, including grading rubrics, in an assignment package that will be available online after the first class.

ALL ASSIGNMENTS MUST BE HANDED IN TO ME IN CLASS ON THE DUE DATE. Please note that for written assignments marks may be deducted for spelling, grammar and style. Late Essay Topics and Outlines and Abstracts will be penalized at a rate of 10% of your mark per day (including a weekend deduction) and I will not (without prior agreement) accept late final papers.

Also, please note that all written work must be yours alone, and any ideas you include in your work which are not original to you should be properly referenced, otherwise this is plagiarism. I will explain further in class about what plagiarism is and what academic integrity means at Carleton but as a good first step you should familiarize yourself with the Department’s policies on proper referencing and citation. Also, you should take a look at the University’s academic integrity policy and the Library’s web page on plagiarism.

To create a consistent and fair policy I grant extensions only in the circumstances approved by the Registrar’s Office, and only for the period up to the due date. If you think you may require an extension please see me **BEFORE** the assignment is due and I will be able to consider your request. Also, I cannot accept assignments **AFTER** the assignment has been returned to students (approved extensions aside). If you have not submitted

your assignment by the time it is returned you will not receive a grade, and this is important because ALL assignments must be completed to receive a passing grade in this course.

You should also note that standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that ALL GRADES (on specific assignments/exams and/or final grades) submitted by me may be subject to revision. No grades are final until they have been approved by the Dean. This means your grades posted on cuLearn and recorded on your assignments/exams can change at any time until your final grade is approved by the Dean.

COURSE HINTS:

My goal for this course is provide you with the knowledge, skills (and enthusiasm) to allow you to achieve your best. So here are some tips for how to do this...

1. Preparation – Attendance and preparation are the best ways to succeed in this class. Attendance means actively note taking and participating in class. This class is designed so that the seminars build on the readings.
2. cuLearn: I use cuLearn regularly. This course outline will be posted on cuLearn as will all assignment sheets after they are handed out. cuLearn should be your first stop if you have any administrative questions since all the documents for the class (outline and assignments etc.) are posted there.
3. Questions: If you are unsure please ask. That's my job. Please don't hesitate to ask if something was unclear or if you have any questions about an assignment. Also, there are many great services available on campus that can also provide you with advice, for example there is the Writing Tutorial Service, the Student Academic Success Centre, and the Learning Commons. Please ask me about any of these services.
4. E-mail policy: I'm always happy to answer e-mails. I check my e-mail regularly during business hours (9 to 5) on work days (Monday to Friday). I do not check my e-mail after 5 pm during the week or on weekends (and holidays). If you send an e-mail during a weekday (9-5) I try to reply to it that same day, after 5 pm I'll try to reply the next day. If you send an e-mail on the weekend you can expect a reply on Monday.
5. How to address me: I am pretty flexible on this and I don't mind Betina. If you don't like using first names, I am happy to answer to more formal titles, like Dr. Kuzmarov, in class and in e-mails.
6. Contesting a grade: If you think you have a reason to contest a grade on an assignment please follow this procedure. First, wait a week and think carefully about the reasons why you want to contest the grade – you have to make a case as to why you feel (based on the comments and marking grid) your grade should be changed. Grades can be changed only for valid reasons. Second, contact me with your concerns by e-mail (it helps to set them out in writing) and then set up an appointment to discuss your concerns with me. At this time we'll make arrangements for you to provide me with the graded paper. I am always happy to change grades for valid reasons, but requesting to have your grade reviewed can mean that YOUR GRADE MAY GO DOWN, so please keep that in mind.

COURSE SYLLABUS:**Introduction:**

8 January Introduction

15 January (A Brief) Introduction to International Law

A Watts, Sir, "The Importance of International Law" in M Byers, ed, *The Role of Law in International Politics: Essays in International Relations and International Law* (Oxford: OUP, 2000) 5.

SR Ratner & A-M Slaughter, "Appraising the Methods of International Law: A Prospectus For Readers" (1999) 93 AJIL 291.

22 January The Sources of International Law

D Kennedy, "The Sources of International Law" (1987) 2 Am U J Int'l L & Pol 1.

A Boyle & C Chinkin, *The Making of International Law* (Oxford: OUP, 2007), Ch 5.

The Statute of the International Court of Justice, Article 38(1).

29 January Customary International Law

M Byers, *Custom, Power and The Power of Rules: International Relations and Customary International Law* (Cambridge: CUP, 1999), Ch 8.

J Kammerhoffer, "Uncertainty In The Formal Sources of International Law" (2004) 15 EJIL 523.

JP Kelly, "The Twilight of Customary International Law" (2000) 40 Va J Int'L L 449.

The Steamship Lotus, [1927] PCIJ Ser A No 10.

5 February The Classical Theories of International Law: Natural Law/Positivism and Customary International Law

AC Cutler, "The 'Grotian Tradition' in International Relations" (1991) 17 Review of international Studies 41.

B Kingsbury, "Legal Positivism as Normative Politics International Society, Balance of Power and Lassa Oppenheim's Positive international Law" (2002) 13 EJIL 401.

M Craven, "On Foucault and Wolff or From Law to Political Economy" (2012) 25 Leiden J Int'l L 627.

12 February Modern Approaches to Customary International Law I: Policy and Process based approaches to Customary International Law

ME O'Connell, "New international Legal Process" (2004) 36 Stud in Transnat'l Legal Pol'y 79.

O Hathaway, "The Continuing Influence of the New Haven School" (2007) Yale J Int'l L 553.

The North Sea Continental Shelf Case, [1969] ICJ Rep 3 (1969).

19 February WINTER BREAK (NO CLASS)

26 February Modern Approaches to Customary International Law II: Liberal, Interpretive and Ethical Approaches

T Nardin, "International Ethics and International Law" (1992) 18 Review of International Studies 19.

FR Teson, "The Kantian Theory of International Law" (1992) 92 Columbia L Rev 53.

A Roberts, "The Problem of Traditional and Modern Approaches to Customary International Law: A Reconciliation" (2001) 95 AJIL 757.

5 March Power and Customary International Law: Introduction

M Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument*, Reissue (Cambridge: CUP, 2005), Ch 6 (to 6.4.1).

M Byers, *Custom, Power and The Power of Rules: International Relations and Customary International Law* (Cambridge: CUP, 1999), Ch 1.

A Orford, "Positivism and the Power of International Law" [Review Essay] (2000) 24 Melb U L Rev 502.

12 March Constructing the Subject of Customary International Law I: Colonialism, Universalism and International Law

A Anghie, "Finding the Peripheries: Sovereignty and Colonialism in 19th Century International Law" (1999) 40 Harv Int'l L J 1.

D Otto, "Subalternity and International Law: The Problems of Global Community and the Incommensurability of Difference" (1996) 5 Social & Legal Stud 337.

A Orford, "Feminism, Imperialism and the Mission of International Law" (2002) 71 Nordic J Int'l L 275.

19 March Constructing the Subject of Customary International Law II: Feminist Approaches

K Knop, "Re/Statements: Feminism and State Sovereignty in International Law" (1993) 3 Transnat'l L Contemp Probs 293.

H Charlesworth & C Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press/Juris, 2000), Ch 3.

D Otto, "The Exile of Inclusion: Reflection on Gender Issues in International Law Over the Last Decade" (2009) Melb J Int'l L 11.

26 March No Class**2 April Globalization, Global Justice and Customary IL I: International Law, Marxism and the idea of Empire**

S Marks, "Empire's Law" (2003) 10 Ind J Global Stud 449 (Pages 449-457).

A Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge, CUP, 2005), Ch 5 (Sections 1, 3, 4).

BS Chimni, "Outline of a Marxist Course on Public International Law" (2004) Leiden J Int'l L 1.

S Pahuja, *Decolonizing International Law: Development, Economic Growth and the Politics of Universality* (Cambridge: CUP, 2011), Ch 5.

9 April Globalization, Global Justice and Customary IL II: Interdisciplinary Approaches

A-M Slaughter-Burley, "International Law and International Relations: A Dual Agenda" (1993) 87 AJIL 205.

J Bruneau & S Toope, "Constructivist Approaches to International Law" forthcoming in JL Dunoff and MA Pollack eds, *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art* (Cambridge: CUP, 2012).

Wrap Up

10 April FINAL PAPERS DUE