

Course Outline

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| COURSE: | LAWS 5603W – International Law: Theory and Practice |
| TERM: | Winter 2014 |
| PREREQUISITES: | LAWS |
| CLASS: | Day & Time: Tuesdays, 2:30 – 5:30 |
| | Room: Please check with Carleton Central for current room location |
| INSTRUCTOR: (CONTRACT) | Betina Kuzmarov |
| CONTACT: | Office: D383 Loeb |
| | Office Hrs: Please see me after class to book an appointment |
| | Telephone: (613) 520-2600 ext. 8810 |
| | Email: betina.kuzmarov@carleton.ca |

Academic Accommodations

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/>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:

<http://www.carleton.ca/studentaffairs/academic-integrity/>

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://www.carleton.ca/law/student-resources/department-policies/>

COURSE DESCRIPTION:

This course is designed to provide an understanding of a variety of approaches to international law and the role these theories play in understanding and ordering international relations. To achieve this goal 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 STRUCTURE

This course may be structured slightly differently than other seminars you are used to. My focus is on working with you to gain knowledge, build values and work on skills that you will need in your future (see B Coplin, 10 Things Employers Want You to Learn in College [Berkeley: 10 Speed, 2012]). I want you to see that you have gained substantive knowledge but also the ability to apply that knowledge in a meaningful way – in ways that you can apply to other classes, that you can use in your own research, and that are transferable to the job market. As with all your seminar classes, I will expect that you will have read the materials before class. After this, to make the best use of your time (and my time) I will ask you to answer a few questions on the main concepts in the readings that you are supposed to answer before class and I will also ask you to tell me what you found difficult or challenging. I will read these answers before class and I will use this information as a launching point for some discussion of the main points in the readings. This should take about an hour and a half. We will then use the second half of class to work on some exercises to apply the readings and solve problems from the readings, usually in pairs or small groups. This will allow us to use the learning outcomes to work on the skills and values outlined there. I will then wrap up with some “take aways” and preparation for the next class, to ensure that you have context for the class.

LEARNING OUTCOMES**Content**

By the end of this course students will gain **understanding** of basic concepts and principles of the sources of international law and **knowledge** of the variety of theoretical approaches to international law. They will be able to **explain** and **interpret** these sources and **recall** this information when required during this course. This course will prepare students to take other graduate level courses in international law.

Skills

By the end of this course, students will be able to take **responsibility** for their own learning in public international law. They will be able to **identify** relevant sources, conduct independent **research** both on the web and through library holdings and databases and they will be able to **communicate** this research orally (one on one, in groups and in presentations) and in writing (formal written reports, and informal emails and updates to me). They will also learn skills to **coach** other students through this process, eventually **modeling** skills such as **peer editing**. This will often require students to **work** with other students in pairs or teams and to communicate with me about their results both in person and in writing.

Values

By the end of this course students will be able to **evaluate** the strengths and weaknesses of theoretical arguments in public international law. They will be able to **assess** the effectiveness of these arguments by a variety of techniques including **critiquing, comparing** and **defending** various viewpoints, and ultimately they will be able to make **recommendations** as a result of these arguments. They will also be able to **characterize** this information as it applies to new contexts. They will be able to organize their thoughts and when necessary and they will change their opinions as they develop their thoughts. Students will also be able to breakdown these arguments by identifying **assumptions, key components** and **internal relationships** in these arguments. Students will then **apply** these insights to their own original analysis through original research.

As you can see I have a lot more emphasis on skills and values. I am confident that, at this stage of your education you have the skills and ability to gain a lot of the substantive knowledge on your own. Where I can add value to your learning is by helping you with areas of difficulty, clarifying concepts and coaching and mentoring you in the skills and values. Please don't hesitate to talk to me if you have any questions or concerns about this approach, I'll be happy to discuss this with you.

COURSE HINTS

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

1. 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.

2. E-mail policy: **I'm always happy to answer e-mails.** I check my e-mail regularly from 8 am to 8 pm (Monday to Thursday) and 8 am to 6 pm on Fridays. I do not check my e-mail regularly after these hours during the week or on the weekend and on holidays. If you send me an e-mail during the week I will try to reply to it that same day and after these hours I'll try to reply the next day. If you send me an e-mail on the weekend you can expect a reply on Monday.

3. 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.

4. 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. 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.

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 that you can use for some extra background on the readings:

A Aust, *Handbook of International Law*, 2nd ed (Cambridge: CUP, 2010) [Please note the 2005 version is available as an ebook in the library].

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

B Fassbender et al, *Oxford Handbook of the History of International Law* (Oxford: OUP, 2012).

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

MN Shaw, *International Law*, 7th ed (Oxford: OUP, 2014) [Please note the 2008 version is available as an ebook in the library].

EVALUATION

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

| Evaluation | % | Due Date | Learning Objectives |
|---------------------|-----|-----------------------------------|-------------------------------------|
| Warm Up | 5% | Each Class (10 Must be Submitted) | Understanding, Knowledge, Recall |
| Reflective Journal | 20% | 31 March, 2015 | Evaluate, Assess, Identify |
| Presentation | 10% | Last two weeks of classes | Communicate, Critique, Characterize |
| Research Memo | 35% | April 8, 2015 | Identify, Apply, Recommend |
| Class Participation | 30% | Ongoing | Work, Characterize, Model, Coach |

I'll provide more details on each of these evaluations, including grading rubrics, in an assignment package that will be handed out at 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 Warm Ups will not be accepted and late reflective journals 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 research memos.

Also, please note that all written work must be yours alone, as this is unauthorized copying, 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 and/or final grades) submitted by me may be revised. No grades are final until the Dean has approved them. This means your grades posted on cuLearn and recorded on your assignments/exams can change at any time until the Dean approves your final grade

COURSE SYLLABUS:

6 January Introduction

13 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.

JT Parry, "What is the Grotian Tradition in International Law?" (2013) 35:2 U PA J Int'l L 299

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

20 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.

N Krisch, "The Decay of Consent: International Law in the Age of Public Goods" (2014) 108 AJIL 1.

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

27 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.

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

P Fitzpatrick, "The Revolutionary Past: Decolonizing Law and Human Rights" (2014) 2:1 Metodo: International Studies in Phenomenology and Philosophy 117.

R Collins, "Classical Legal Positivism in International Law Revisited" in *International Legal Positivism in a Post-Modern World* (Cambridge: CUP, 2014).

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

10 February Modern Approaches to Customary International Law: ILP, New Haven, Liberal and Ethical Approaches to Customary International Law

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

M Land, "Reflections on the New Haven School" (2013-2014) 58 New York Law School L Rev 919.

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

T Nardin, "Middle-Ground Ethics: Can One Be Politically Realistic without Being a Political Realist?" (2011) 25:1 Ethics & Int'l Affairs 7.

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

17 February WINTER BREAK (NO CLASS)

