

Carleton University	Department of Law
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Course Outline

COURSE: LAWS 5603/INAF 5505 International Law: Theory and Practice

PREREQUISITES: None

TERM: Winter 2012

CLASS: **Day & Time:** Monday 11:35-2:25

Room: Please check with Carleton Central for current room location

INSTRUCTOR: Betina Kuzmarov

CONTACT: **Office:** C476 Loeb

Office Hrs: Monday 3:00-5:00 or by appointment

Telephone: (613) 520-2600 ext. 8810

Email: Please use the WebCT e-mail for this course

Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see:

http://www.carleton.ca/pmc/students/accom_policy.html. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC **by MARCH 7 FOR APRIL EXAMS**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.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 international institutions and the role these theories play in understanding world ordering. 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:

1. **Knowledge of basic concepts and principles of the sources of international law**
2. **Knowledge of the variety of theoretical approaches to international law**
3. **Ability to critically evaluate the theories about the sources of international law**
4. **Ability to understand how researchers approach the scholarship of international law**

TEXTS:

Readings in this course can be found on WebCT (Articles and eBooks) or will be placed on reserve (Books). When available, links will be posted on WebCT a week in advance of each class.

Also, here are samples of some basic texts available in our library that you can refer to for 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%	30 January 2012
Outline and Abstract	10%	27 February 2012
Presentations	20% (2x10%)	Dates to be signed up for by student
Final Paper	45%	April 5, 2012
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. It is due on 30 January 2012. 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:

Your final paper is due on the last day of class, 5 April 2012. 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 both you and me 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. Any late assignments will be penalized at a rate of 10% of your mark per day (including a weekend deduction)

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 WebCT 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. This means that you should expect to do your readings BEFORE class as this will help you get the most out of the seminar.
2. Web CT: Please sign up for a WebCT account. I use WebCT regularly. This course outline will be posted on WebCT as will all assignment sheets after they are handed out. WebCT 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. Further, the e-mail on WebCT is the e-mail address to use to get in touch with me for this course.
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:**

9 January Introduction

16 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.

23 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) available online at <<http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0>>.

30 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 available online at <<http://www.icj-cij.org/pcij/serie A/A 10/30 Lotus Arret.pdf>>

6 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.

M Koskeniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (Cambridge: CUP, 2001), Introduction (Part I and III) and Ch 1 (Pages 11-15).

L Vinx, "Austin, Kelsen and The Model of Sovereignty" (2011) 24 Can J L & Juris 473.

13 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) available online at <<http://www.icj-cij.org/docket/files/51/5535.pdf>>

20 February WINTER BREAK (NO CLASS)

27 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.

A Cole, "Book Review: Individualism in the Age of Internationalism" (2001) 99 Mich L Rev 1409.

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.

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

A Anghie, 1999. "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.

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 & S Rimmer, "Feminist Internationalisms" (2010) 32 Aust Fem LJ 4.

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

26 March 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.

2 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.

5 April FINAL PAPERS DUE