

Course Outline

COURSE:	LAWS 3604A – International Organizations
TERM:	FALL 2018
PREREQUISITES:	LAWS 2601 and 0.5 credit in LAWS at the 2000 level
CLASS:	Day & Time: Tuesdays 8:35am-11:25am Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Tara Ashtakala
CONTACT:	Office: B442 LA Loeb Building (Contract instructor's Office) Office Hrs: By appointment only Telephone: 613-520-3690 Email: tara.ashtakala@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: Please contact 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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Academic Accommodations for Students with Disabilities: If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) www.carleton.ca/pmc

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 Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source.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://carleton.ca/studentaffairs/academic-integrity/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: carleton.ca/sexual-violence-support

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: students.carleton.ca/course-outline

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/>

CALENDAR COURSE DESCRIPTION

Nature, character, legal status and jurisdiction of intergovernmental international organizations. Rights and duties of states arising from membership in international organizations. Distinction between international and supra-national institutions. United Nations system, selected subsidiary organs, and specialized agencies; non-governmental organizations at times of crisis.

COURSE DESCRIPTION

The notion that human beings are better equipped to survive and to meet their needs collectively, rather than individually, has been embraced by international law, so much so that a separate branch, dealing with the norms, principles and rules of international organizations, has been delineated. Solving global problems is beyond the capacities of individual States under general international law, and so governments have found it efficient to delegate the administration of their international legal and juridical relations to bodies that they create. Those creations, however, can take on a legal life of their own that was not anticipated by the traditional, primary subjects of international law; thus, international law and lawyers need to observe whether the international organization can claim greater space in international law and, ultimately, whether other non-State actors will be able to exploit that opening as well. This course will examine the origins, structure, types, powers, obligations, responsibilities and immunities of international organizations, primarily through the case law in this *lex specialis* of public international law.

REQUIRED TEXTS

Required readings will be accessible online, as per the URLs indicated in the lecture schedule below. Some additional articles, as well as case study exercises, will be distributed in class. The readings are intended to reinforce or supplement lecture content.

EVALUATION

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.

All three (3) components must be completed in order to obtain a passing grade**1. Term Essay - 30% of final grade**

- essay due on **7 December 2018**
- Length: 12-15 pages double-spaced, proper legal citation and bibliography required
- **Canadian spelling only**; if you are going to use spell-checking applications to review your text, you should first ensure that the language settings on your computer are set to Canadian (English or Multilingual Standard).
- The task for the Term Essay is to analyze the ability of an existing international organization to solve an international problem and to propose solutions, based in international law, to improve the organization's ability to address the particular issue

2. Audio-visual Presentation - 20% of final grade

- The task for the 8 (min) - 10 minute (max) presentation is to explain to the class the global issue and how the organization selected has addressed it, to identify the defects in doing so and to outline proposed solutions
- A sign-up sheet for presentation dates will be circulated at the first class.
- **You must sign up for your presentation date by the 25th of September**
- Presentations will commence on the 2nd of October

3. Open book final examination - 50% of final grade

- **To be scheduled during formal exam period: 9-21 December 2018**
- the goal of the final exam is to apply the course content to 1) solve a legal problem for a fictitious international organization and to 2) thoroughly discuss a thematic issue confronting international organizations

SCHEDULE

11 September Introduction, History

18 September Legal Personality of International Organizations

Readings:

- *Reparation for Injuries Suffered in the Service of the United Nations*, ICJ Advisory Opinion of 11 April 1949, at <https://www.icj-cij.org/files/case-related/4/004-19490411-ADV-01-00-EN.pdf>
 - Read
 - p. 176 from: "The first question asked of the Court is as follows:..." to p. 177 "to the victim or to persons entitled through him..";

- p.178 from 'When the Organization brings a claim against one of its Members...' to p.179 'and by providing for the conclusion of agreements between the Organization and its Members.'
 - P. 179, from 'Accordingly, the Court has come to the conclusion that the...' to '...bringing international claims'.
 - p. 182 from 'The Court here is faced with a new situation' to end of page;
 - p. 183 from 'Having regard to its purposes and functions...' to p.185 '...Member of the United Nations';
 - p. 186 from 'The question of reconciling...' to 'performance of his mission by that agent'.
- *Maclaine Watson & Co. Ltd. v International Tin Council* [1989] All ER 523
<http://unisetca.ipower.com/other/cs2/19893AER523.html>
 - Read: headnote and judgement of Lord Templemann up to 'English judges cannot meddle with unincorporated treaties...'
 - *Application of the Interim Accord of 13 September 1995 (The Former Yugoslav Republic of Macedonia v Greece)*, Judgement, [2011] ICJ Rep 644 at <https://www.icj-cij.org/files/case-related/142/142-20111205-JUD-01-00-EN.pdf> read paras. 15, 16, 20, 21,22,39,40,42,43,47,49-50,52-54,91.

25 September Structure and Membership

Readings:

- Montreal Convention 1971 at <https://treaties.un.org/doc/Publication/UNTS/Volume%20974/volume-974-I-14118-english.pdf>
read only those articles specified in Lockerbie case
- Charter of the United Nations, arts. 4, 25 and 103, at <http://www.un.org/en/sections/un-charter/un-charter-full-text/>
- *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, Preliminary Objections, Judgment, I. C. J. Reports 1998, p. 115:
 - Judgement: <https://www.icj-cij.org/files/case-related/89/089-19980227-JUD-01-00-EN.pdf> read paras. 1,4-5,9,12,15, 22-24,26-27,33-38,39-41.
 - Separate Opinion of Judge Lachs on Provisional Measures: <https://www.icj-cij.org/files/case-related/89/089-19920414-ORD-01-04-EN.pdf>
 - Dissenting opinion of Judge Bedjaoui on Provisional Measures at <https://www.icj-cij.org/files/case-related/89/089-19920414-ORD-01-06-EN.pdf> read paras. 1,-4,6-7,12,16,19,22,29,30.
- *Prosecutor v Dusko Tadic, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction*, IT-94-1-AR72, Appeals Chamber for the International Criminal Tribunal for the former Yugoslavia, Decision of 2 October 1995 at <http://www.icty.org/x/cases/tadic/acdec/en/51002.htm> read paras. 1,2,15-18,22; 32-36; 37-38.
- *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*, Advisory Opinion [1948] ICJ Rep 57 at <https://www.icj-cij.org/files/case-related/3/003-19480528-ADV-01-00-EN.pdf> read pp. 61, 62,63, 64 (up to ...'and the exhaustive character of the prescribed conditions, on the other hand').

2 October Legal Powers**Readings:**

- *Effect of Awards of Compensation made by the United Nations Administrative Tribunal*, Advisory Opinion [1954] ICJ Rep 47 at <http://www.icj-cij.org/files/case-related/21/021-19540713-ADV-01-00-EN.pdf> read pps. 47,50,51,53,56,57,58,59,61,62.
- *Certain Expenses of the United Nations (Article 17, paragraph 2 of the Charter)*, Advisory Opinion, [1962] ICJ Rep 151 <http://www.icj-cij.org/files/case-related/49/049-19620720-ADV-01-00-EN.pdf> read pps. 157,158,161,162,163, 167,168,179.
- *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*, ICJ Advisory Opinion of 8 July 1996, [1996] ICJ Rep 66 at <https://www.icj-cij.org/files/case-related/93/093-19960708-ADV-01-00-EN.pdf> read paras. 10-11, 15-16, 18-26, 28, 29, 31.

9 October The legal effects of acts of non-judicial organs**Readings:**

- *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Merits, Judgement, [1986] ICJ Rep 14 at <https://www.icj-cij.org/files/case-related/70/070-19841126-JUD-01-00-EN.pdf> read paras. 72, 188, 189, 191, 192,193,195,203,204,264.
- *Abdelrazik v. Canada, (Minister of Foreign Affairs)* [2010] 1 FCR 267, 2009 FC 580 (CanLII) at <https://www.canlii.org/en/ca/fct/doc/2009/2009fc580/2009fc580.html> read paras. 1-4,9-14,20-27,40-41,45-51,54,55,91,121-129,153.
- *Complaint, Article 26 ILO Constitution, Myanmar, 1996, CO 29* at https://www.ilo.org/dyn/normlex/en/f?p=1000:50012:0::NO:50012:P50012_COMPLAINT_PROCEDURE_ID,P50012_LANG_CODE:2508280,en:NO Read paras. 1,3,8,12,13,14,15,34,35,38,54,77,78,105-107,120,161,198-204,468,479,520,522,538,539,540

16 October Judicial organs: status, applicable principles, judicial independence**Readings:**

- *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, [1971] ICJ Rep 16 at <https://www.icj-cij.org/files/case-related/53/053-19710621-ADV-01-00-EN.pdf> read paras. 25,27,29,32,40,52,55,89,90,91,94,95,96,122,123,124,125,126.
- *In the Matter of the South China Sea Arbitration*, PCA Case No. 2013-19, Award, 12 July 2016, at <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf> read paras. 118 (incl footnote 32), 145,146,149, 165,1172,1180
- *International Skating Union v Chen, Weiguang and Chinese Skating Association*, Case No. 2018-06, at <https://www.isu.org/disciplinary-legal/17361-case-2018-06-isu-vs-chen/file>

23 October Reading week, no class**30 October Obligations of IOs****Readings:**

- *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, Advisory Opinion, ICJ Rep. 1980 at 73, at <https://www.icj-cij.org/files/case-related/65/065-19801220-ADV-01-00-EN.pdf> read para. 10,11,12,26,27,34,35,36,37,42,45,46,47,48,49.

- Case No. IT-95-9-PT, *Decision on the Motion for a Judicial Assistance to be Provided by SFOR and others*, Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia, 18 October 2000 at <http://www.icty.org/x/cases/simic/tdec/en/01018EV513778.htm> read paras. 9,11,12,13,14,15,18,38,43,46,47,48,58,59,60,61,62,63.
- *International Fruit Company v Productschap voor Groenten en Fruit*, Case 21-24/72, Court of Justice of the European Community, [1972] ECR 1219, at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:61972CJ0021&from=EN> Read p. 1222 'Article XI of GATT is in the following terms'; p. 1225 'Grounds of Judgement' to 1228.

6 November Legal Responsibility of IOs

Readings:

- *Al Jedda v United Kingdom*, App. No. 27021/08, European Court of Human Rights, 7 July 2011 at <http://www.refworld.org/cases/ECHR,4e25466e2.html> read paras.
- *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi v Ireland*, App. No. 45036/98, European Court of Human Rights, 30 June 2005 at <https://www.eui.eu/Documents/DepartmentsCentres/AcademyofEuropeanLaw/CourseMaterialsHR/HR2009/DeWet/DeWetBackgroundReadingCase3.pdf> read paras. 122-125,149,150,154-165.
- *Matthews v United Kingdom*, App. No. 24833/94, European Court of Human Rights, 18 February 1999 at <http://www.worldlii.org/eu/cases/ECHR/1999/12.html> read paras. 26,27,30-44,63-65.

13 November Immunities and Privileges

Readings:

- *Georges et al v United Nations et al*, US District Court Southern District of New York, 13-CV-7146 (JPO), 9 Jan 2015 at <http://www.ijdh.org/2015/01/topics/health/united-states-district-court-southern-district-of-new-york/>
- *Prewitt Enterprises, Inc. v Organization of Petroleum Exporting Countries*, 353 F.3d 916 (11th Cir. 2003) at <https://law.justia.com/cases/federal/appellate-courts/F3/353/916/577082/>.
- *Prosecutor v Blagoje Simic et al, Ex Parte Confidential, Decision on the Prosecution Motion under Rule 73 for a Ruling Concerning the Testimony of a Witness*, Trial Chamber, 27 July 1999 at <http://www.icty.org/x/cases/simic/tdec/en/90727EV59549.htm> read paras. 1-21,45-80.

27 November The International Organization as Employer

Readings:

- *In re Duberg*, ILOAT Judgment No. 17 [1955] at https://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=17&p_language_code=EN
- *Louis de Merode et al v The World Bank*, WBAT Decision No. 1, 1981 at <https://webapps.worldbank.org/sites/wbat/Judgments%20and%20Orders1/de%20Merode,%20Lamson%20Scribner,%20Jr.,%20Reese,%20Reisman%20Toof,%20Ruberl,%20Shapiro%20v.%20The%20World%20Bank.pdf> read paras. 3,4,5,8-12,15,17,18-28,35,36,42,48.

- *In re Mussig*, ILOAT Judgement no. 1376 [1994] at https://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=1376&p_language_code=EN&p_word=sexual
- *G.J. M. v European Organisation for the Safety of Air Navigation*, ILOAT Judgement no 2493 at https://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=2493&p_language_code=EN

20 November International Private Organizations

Readings: tba

NGOs

Unions

Multinational Corporations

4 December REVIEW OF COURSE