

Course Outline

COURSE:	LAWS 2601B – Public International Law
TERM:	Winter 2018
PREREQUISITES:	1.0 credit from LAWS 1000 [1.0], PAPM 1000 [1.0], PSCI 1100 and PSCI 1200
CLASS:	Day & Time: Wednesdays, 6:05pm-8:55pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Dr. Tiffany A. MacLellan
CONTACT:	Office: B442 LA (Contract Instructor's Office) Office Hrs: By appointment Email: tiffany.maclellan@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://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*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://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://carleton.ca/studentaffairs/academic-integrity/>

Student Services: The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4th floor of MacOdrum Library or online at carleton.ca/csas

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 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

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, the instructor 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. 2017. International Law (8th 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 \$62.95. 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.

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.

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.

Mid-term exam (30%)

The multiple-choice mid-term exam will cover material from lecture 2 (sources of international law, municipal & international law), lecture 3 (subjects of international law, recognition), and lecture 4 (jurisdiction, immunities). The mid-term will take place in class on February 7th.

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. All groups must be formed by January 31st.

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

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 discussed?; Was the member constructive and did they respond to conflict respectfully?

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

**Discussion Paper (50%)
Special Court for Sierra Leone**

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 analyze the SCSL's structure, objectives, its achievements and failings. Students are expected to discuss the importance, role and effectiveness of the tribunal. 2500 words max.

Criteria	Weight
Explanation of 'object and purpose', substantive provisions, noteworthy reservations, conditions for entry into force, funds established, committees	/6
Appropriate connection between treaty and contemporary event	/3
Analysis of the treaty's achievements and/or failings	/3
Organized, prepared, clear, engaging	/3
TOTAL	/15

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

Criteria	Weight
Clearly articulated, supported and convincing argument	/10
Accurate and rigorous engagement with socio-legal scholarship	/15
Accurate understanding of tribunal structure and jurisdiction	/15
Organization, relevant examples, grammar, spelling, correct reference format	/10
TOTAL	/ 50

Due Date: April 6th, 4:30pm via cuLearn

Format: The format for the final paper is as follows: 1.5 or double spaced, 12point 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

Lecture 1 — January 10th

Introduction to course & international law

Required Reading

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

Lecture 2 – January 17th

Sources of International Law, Municipal & International Law
 custom — treaties — general principles — judicial decisions — ratification

Required Reading

Shaw, Malcolm. 2017. "Sources." In *International Law 8th Edition*, 51-95. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2017. "International law and municipal law." In *International Law 8th Edition*, 96-154. Cambridge: Cambridge University Press.

Lecture 3 - January 24th

The Subjects of International Law, Recognition
 legal personality — self-determination — statehood — de jure and de facto recognition

Required Reading

Shaw, Malcolm. 2017. "The Subjects of International Law." In *International Law 8th Edition*, 155-205. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2017. "Recognition." In *International Law 8th Edition*, 329-349. Cambridge: Cambridge University Press.

Lecture 4- January 31st

Jurisdiction, Immunities
principles of jurisdiction — sovereign immunity — diplomatic law

Required Reading

Shaw, Malcolm. 2017. "Jurisdiction." In *International Law 8th Edition*, 483-515. Cambridge: Cambridge University Press.

Shaw, Malcolm. 2017. "Immunities from Jurisdiction." In *International Law 8th Edition*, 523-587. Cambridge: Cambridge University Press.

Lecture 5 – February 7th

MID-TERM EXAM

Lecture 6 — February 14th

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. 2017. "The law of treaties." In *International Law 8th Edition*, 684-722. Cambridge: Cambridge University Press.

Vienna Convention on the Law of Treaties (1969)

READING WEEK FEBRUARY 19TH – 23RD

Lecture 7 — February 28th

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

Required Reading

Shaw, Malcolm. 2017. "Individual criminal responsibility in international law." *International Law 8th Edition*. Cambridge University Press (Cambridge): 288-328.

Kendall, Sara. 2015. "Commodifying Global Justice: Economies of Accountability at the International Criminal Court." *Journal of International Criminal Justice*. 13(1): 113-134.

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

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

Lecture 8 — March 7th

International Humanitarian Law

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

Required Reading

Shaw, Malcolm. 2017. "International Humanitarian Law." In *International Law 8th Edition*, 891–923. 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.

FILM: EYE IN THE SKY (2015)

Lecture 9 — March 14th

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.

Meskeil, Lynn. 2013. "UNESCO's world heritage convention at 40: Challenging the economic and political order of international heritage conservation." *Current Anthropology* 54(4): 483.

Presentations

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

Outer Space Treaty (1967)

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

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

Lecture 10 – March 21st

International Human Rights Law

nature of IHRL — development of IHRL regime — post-colonial perspectives on IHRL

Required Reading

Shaw, Malcolm. 2017. "The international protection of human rights." In *International Law 8th Edition*, 210-287. 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

African Charter on Human and Peoples' Rights (1981)

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 the Child (1989)

Lecture 11– March 28th

International Law, Refugees & Migrants
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.

Liempt, Ilse, and Stephanie Sersli. 2013. "State responses and migrant experiences with human smuggling: A reality check." *Antipode* 45(4): 1029-46.

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)

Lecture 12 – April 4th

Arms Control

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

Maruhn, Thilo. 2007. "Dispute Resolution, Compliance Control and Enforcement of International Arms Control Law." In *Making Treaties Work: Human Rights, Environment, and Arms Control*, edited by Geir Ulfstein, 243–71. Cambridge: Cambridge University Press.

Ballard, Kyle. 2007. "Convention in Peril? Riot Control Agents and the Chemical Weapons Ban." *Arms Control Today*

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)

Chemical Weapons Convention (1993)

37 (7): 12–16.