A. COURSE DESCRIPTION AND OBJECTIVES

This course focuses on the relationship between international development and the law. More specifically, the course will address issues related to international development from a legal perspective with respect to three major subject areas:

1. Environment
2. Finance
3. Labour and Human Rights

Students will be introduced to diverse range of legal tools that guide the actions of government and non-government actors in the field of international development. We will discuss the key international conventions, policies, actions plans and relevant state laws under each of the subject areas cited above. Case studies and in-class activities will be used to illustrate how such legal and non-legal (“soft law”) instruments are implemented and the challenges that arise.

Given the introductory nature of this course students are not expected to have taken previous courses in law. This course is designed to introduce students to diverse legal issues in the field of international law. Students will also be provided the opportunity to explore a subject of interest in this area in depth through the preparation and presentation in class of a term paper.

The overall objective is to instruct students, who may later practice in the broad field of international development, on certain key legal regimes and tools that exist, notably with respect to the environment, access to capital and financing development and matters related to labour and human rights. The law in these areas is constantly evolving and, as such, it is important to learn both what is currently in place and also how law evolves and where to access information. This will also be a focus of the course.

B. IMPORTANT DATES

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>January 8</td>
<td>Course begins</td>
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<tr>
<td>February 26</td>
<td>Final paper topic submissions due</td>
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<tr>
<td>March 4</td>
<td>Reading Week – No Class</td>
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<tr>
<td>March 25</td>
<td>Good Friday – No Class</td>
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<tr>
<td>April 15</td>
<td>Final Class, Final Papers Due</td>
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C. CLASSROOM TEACHING FORMAT

Given the nature of the subject matter and the objectives of the course, the teaching format implies active engagement of students. Most classes will consist of a lecture, student presentations and discussions on readings. There will be interactive in-class exercises or case studies at appropriate stages in the course to review and synthesize the material. We will also seek to incorporate relevant materials from current events and student contributions are welcome in that regard.
D. COURSE EVALUATION

Students are expected to attend each class. Accordingly, class attendance will be reflected in the student’s grade. Attendance, a short presentation of a reading and participation in the various student activities throughout the course of the semester will account for 25% of the student’s grade.

Class participation will be evaluated based on attendance, conscientious participation in class discussions and fulfilling a specific assignment. Each student will be responsible to present (alone or in a team, as will be determined) one of the readings (approximately 10 minutes) during the class in which the topic will be covered. Presentation topics and dates will be arranged with the instructors during the first few weeks of the semester.

The remaining 75% of the student’s grade will be based on the final paper to be handed in on the last day of the course - April 15, 2016 at 11:25 am. Students must submit their proposed topic and outline to the instructors by February 26, 2016. The instructors will assist students in identifying topics, if needed. The paper must not exceed 7,000 words (or 8,400 if written in French). It should be typed double spaced in size 12, Times New Roman font with standard margins. Students are expected to provide the necessary citations in an academically appropriate (ex. Chicago, MLA) manner. A bibliography should be provided at the end of the paper. Barring exceptional circumstances accompanied by instructor approval, students will be subject to a letter grade reduction for each day the paper is late (i.e., a paper handed in on April 16 that would normally have been graded as a B+ would receive a grade of a B).

E. LANGUAGE OF WRITTEN WORK, ACADEMIC INTEGRITY AND USE OF TEXT MATCHING SOFTWARE

Right to submit in English or French written work that is to be graded
In accord with McGill University’s Charter of Students’ Rights, students in this course have the right to submit in English or in French any written work that is to be graded. This right applies to all written work that is to be graded, from one-word answers to dissertations. Conformément à la Charte des droits de l’étudiant de l’Université McGill, chaque étudiant(e) a le droit de soumettre tout travail écrit devant être noté soit en français, soit en anglais.

Academic Integrity
McGill University values academic integrity. Therefore all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the Code of Student Conduct and Disciplinary Procedures (see www.mcgill.ca/integrity for more information).

Use of Text-matching software
Students are advised that text-matching software may be used to verify the originality of students’ written course work.

Special Needs
Students with disabilities who require special accommodations are invited to contact the Office for Students with Disabilities to discuss their situation. The instructors are also happy to discuss any concerns such students may have.

F. ACCESS TO INSTRUCTORS

Questions or issues can be discussed after class or during the break, by email or by appointment. Students may communicate with the instructors by email but substantive matters should be discussed in person.
January 8, 2016
CLASS 1: INTRODUCTION AND BASIC CONCEPTS OF LAW AND INTERNATIONAL LAW

International law is the generally regarded as a set of rules which are accepted as binding in relations between states. It serves as a framework for the practice of stable and organized international relations. Increasingly, international law and policies also govern and guide the behavior of non-state actors, such as multinational corporations, non-governmental organizations, communities and individuals. We will cover definitions of international law, sources of international law, the emergence of international development law and introduce key international organizations in this introductory class.

Readings:

UNGA Declaration on the Right to Development A/RES/41/128 (4 December 1986)

Charter of the United Nations and Statute of the International Court of Justice:


Arnulf Becker Sovereignty beyond the West: The End of Classical International Law, Lorca, 13 J. Hist. Int'l L. 7 (2011) [ 68 pages, 7 to 74 ]

January 15, 2016
CLASS 2: INTRODUCTION TO THE INTERNATIONAL LABOUR ORGANIZATION AND ITS CONVENTIONS AND DECLARATIONS

In this class, we will present a survey of the International Labour Organization (a special agency of the United Nations) including a brief overview of its history, development and objectives. We will review the Constitution of the ILO and will examine in more detail its “fundamental conventions” which apply to Member States. The objective of this class will be to draw-out key principles governing international labour standards and to examine the effectiveness of the ILO as an international body and to discuss a modern case study with the aim of situating the ILO as an actor in the broad scope of international development.
Readings:

- ILO Constitution (and Annex: The Declaration of Philadelphia)

- The International Labour Organization’s Fundamental Conventions, In-focus Programme on Promoting the Declaration, published by the International Labour Office:
  Forward
  Chapter on Freedom of Association and the Effective Recognition of the Right to Collective Bargaining
  Chapter on the Elimination of All Forms of Forced and Compulsory Labour
  Chapter on the Effective Abolition of Child Labour
  ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up

  www.ilo.org/wcmsp5/.../wcms_371208.pdf


- ILO Governing Body, 325th Session, Geneva (November 5 1025): “Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)”

Optional:


January 22, 2016

CLASS 3: A FINANCIAL INDUSTRY BENCHMARK FOR ACCESS TO CAPITAL: THE EQUATOR PRINCIPLES

This class will focus on private sources of financing and international development. We will review the adoption of the Equator Principles, including the background of such principles and their evolution, the 10 principles, the legal implications and the impact on the project finance industry.

Readings:

The Equator Principles (June 2013)
http://www.equator-principles.com/resources/equator_principles_III.pdf

IFC Performance Standards on Environmental and Social Sustainability (January 1, 2012)


http://www.caiombudsman.org/cases/ :

Turkey / Assan Aluminyum-01/Dilovasi

Ghana / Tullow Oil, Kosmos Energy & Jubilee FPSO-01/CAO Vice President Request
http://www.caiombudsman.org/cases/case_detail.aspx?id=166

Indonesia / Wilmar Group-01/West Kalimantan
http://www.caiombudsman.org/cases/case_detail.aspx?id=76

Indonesia / Wilmar Group-03/Jambi

Kazakhstan / Lukoil Overseas/Berezovka
http://www.caiombudsman.org/cases/case_detail.aspx?id=74

Optional:


CLASS 4: OVERVIEW ON INTERNATIONAL ENVIRONMENTAL LAW

This class will provide an overview of certain international treaties for the protection of the environment including:

- Geneva Convention on Long-range Transboundary Air Pollution (1979)
- Vienna Convention for the Protection of the Ozone Layer (1985)
- Montreal Protocol on Substances that Deplete the Ozone Layer (1987)
- Ramsar Convention on Wetlands of International Importance (1971)

We will also address issues of transboundary pollution; and environmental protection and international trade agreements.

Readings:


Optional:


February 5, 2016

CLASS 5: MULTILATERAL DEVELOPMENT FINANCE

This class will introduce students to the legal framework of multilateral development finance through an in-depth study of the World Bank Group, featuring guest speaker Anne-Marie Leroy, Senior Vice President and Group General Counsel of the World Bank Group.

Our guest speaker will lead the class through an overview of the history and context of the World Bank Group, its role in fighting poverty and boosting prosperity, as well as its structure and the legal, institutional and political framework in which it operates. We will also review the types of lending and operational policies used within the World Bank Group, including World Bank trust funds and partnerships. Finally, this class will consider challenges faced by the World Bank Group, including infrastructure financing and climate change adaptation, representation of emerging countries, and the arrival of new multilateral development banks.

Readings:

International Bank for Reconstruction and Development, Articles of Agreement:

International Finance Corporation, Articles of Agreement:

International Development Association, Articles of Agreement:

Multilateral Investment Guarantee Agency, Convention
https://www.miga.org/who-we-are/miga-convention/


Optional:


Woods, Ngaire. 2009. “Global Governance after the Financial Crisis: A new multilateralism or the last gasp of the great powers?”, Global Policy 1(1)


February 12, 2016

CLASS 6: INTERNATIONAL HUMAN RIGHTS CONVENTIONS AND INTERNATIONAL STANDARDS REGARDING BUSINESS AND HUMAN RIGHTS; CASE STUDIES AND MODERN DOMESTIC LEGISLATION ADDRESSING INTERNATIONAL HUMAN RIGHTS ISSUES

This segment will consist of two classes which will focus on key international instruments regarding human rights and the obligations of UN Member States in that respect. We will also study and explore other instruments from the UN and OECD that apply to private enterprise and seek to implement standards of business and development that take into account human rights, labour standards and other sustainability objectives. Throughout these two classes, we will refer to recent events or fact patterns as case studies to assist in considering the adequacy and effectiveness of existing international and domestic legal frameworks to achieve compliance with human rights and development objectives.

Readings: Please note that these readings cover two classes. You will be advised of which articles to prepare for each of the classes.


8474537.4
- UN First Optional Protocol to the International Covenant on Civil and Political Rights (1966)

- UN Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (1989)

- Fact Sheet no. 2 (Rev. 1), The International Bill of Human Rights

- UN Guiding Principles on Business and Human Rights (UNGPs)

- The United Nations “Protect, Respect and Remedy” framework for business and Human Rights, September 2010

- OECD Guidelines for Multinational Enterprises 2011 Edition

- Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises Responsible Business Conduct Matters

- IFC Performance Standards on Environmental and Social Sustainability (Effective January 1, 2012)

- The International Bill of Human Rights and IFC Sustainability Framework

- Voluntary Principles on Security and Human Rights

- The Voluntary Principles: Columbia Case Study

- Voluntary Principles on Security and Human Rights: An implementation tool kit for major project sites, working paper dated July 2008

- Promotion and Protection of all Human Rights, civil, political, economic, social and cultural rights, including the right to development, the Human Rights Council, 8 session, Agenda Item 3 on April 7, 2008; This is a report of the special representative of the Secretary General on the issue of Human Rights and Transnational Corporations and other business enterprises, John Ruggie


- Nike Responsibility (Labour Report, 2013), available online at: http://www.nikeresponsibility.com/report/content/chapter/labor


*Domestic legislation in the UK and US*
- Modern Slavery Act 2015, Chapter 30 (UK).


- Modern Slavery Act 2015: Lessons learned from Nestlé (Lexology article)

US legislation: California Transparency in Supply Chains Act and US federal legislation

Optional:


- Human Rights Compliance Assessment (HRCA) Quick Check, the Danish Institute for Human Rights, Human Rights and Business Project, dated June 2006

- Voluntary Principles on Security and Human Rights: An implementation tool kit for major project sites, working paper dated July 2008

February 19, 2016

CLASS 7: CLIMATE CHANGE

Guest Speaker: Helle Bank Jorgensen, President UN Global Compact Network, Canada – “Climate Change: Notes from Paris and the Evolving Role of Non-State Actors”

Subjects of this class will be: (1) Greenhouse gases; (2) International efforts for the reduction of greenhouse gases (update from Paris); (3) Regulatory approaches to reducing greenhouse gas emissions; (4) international climate change litigation

Readings:

UN Global Compact: https://www.unglobalcompact.org/

The UN Framework Convention on Climate Change (December 12, 2015)

Perspectives on Climate Change and Sustainability

Friends of the Earth v. Canada (Governor in Council), [2009] 3 FCR 201, 2008 FC 1183


Optional:


Regulation respecting a cap-and-trade system for greenhouse gas emission allowances, RRQ, c Q-2, r 46.1

Agreement between the California Air Resources Board and the Gouvernement du Québec Concerning the Harmonization and Integration of Cap-and-trade Programs for Reducing Greenhouse Gas Emissions, September 2013, available online at: [http://www.arb.ca.gov/cc/capandtrade/linkage/ca_quebec_linking_agreement_english.pdf](http://www.arb.ca.gov/cc/capandtrade/linkage/ca_quebec_linking_agreement_english.pdf)

Hallegatte, Stéphane; Bangalore, Mook; Bonzanigo, Laura; Fay, Marianne; Kane, Tamaro; Narloch, Ulf; Rozenberg, Julie; Treguer, David; Vogt-Schilb, Adrien. 2016. Shock Waves : Managing the Impacts of Climate Change on Poverty. Washington, DC: World Bank. © World Bank. [https://openknowledge.worldbank.org/handle/10986/22787 License: CC BY 3.0 IGO.](https://openknowledge.worldbank.org/handle/10986/22787)

February 26, 2016

CLASS 8: POLITICAL RISK AND PROJECT FINANCE IN EMERGING MARKETS

This class will focus on understanding political risks inherent to project finance in emerging countries, featuring two guest speakers from Export Development Canada, Patricia Bentolila, Project Finance Manager, Structured and Project Finance and Peter Whelan, Senior Country Risk Analyst. We will introduce the major risks involved and their potential consequences, such as expropriation, political violence (impacting physical assets or investments), currency inconvertibility and non-transfer, non-payment by a government. We will discuss how private corporations can manage and mitigate political risk in the context of Project Finance. In preparation for this class, think about the role that export credit, multilateral and investment insurance agencies play in international project finance in emerging countries. To help us think about these questions, we will consider real-world examples as case studies.

Readings:


Chapter 1: Introduction to Project Finance


Optional:


Chapter 11: Regulatory and Political Risks

- 11 -
March 11, 2016

CLASS 9: GUEST SPEAKER – Mr. Raymond Chrétien (scheduled)

This class will feature a guest speaker with extensive experience in the international arena as a representative of Canada abroad and having deep insights into the role of Canada in the international context on various international development issues. In addition, we will cover any outstanding materials and discussion topics arising from the labour and human rights and business, development and human rights segments of the class.

**Required readings:**

A list of required readings will be provided several weeks prior to this class.

March 18, 2016

CLASS 10 RIGHTS OF INDIGENOUS PEOPLES

In this class, we will review international conventions and declarations concerning the rights of indigenous people and review two key cases. We will review in particular the concept of Free Prior Informed Consent.

**Readings:**

Indigenous and Tribal Peoples Convention, 1989 (ILO No. 169). Available online at:

United Nations Declaration on the Rights of Indigenous Peoples. Available online at:

IFC Performance Standard 7 on Indigenous People. Available online at:

http://www.udallcenter.arizona.edu/jopna/pubs/jopna%202006_02_indigenous.pdf


*Tsilhqot’in Nation v. British Columbia*, 2014 SCC 44

**Optional:**

April 1, 2016

CLASS 11: ANTI-MONEY LAUNDERING REGULATIONS AND FIGHTING AGAINST BRIBERY AND CORRUPTION AND INTERNATIONAL DEVELOPMENT

This class will focus on the role of anti-money laundering regulations and the fight against international bribery and corruption and international development. We will provide an overview of the existing legal framework. We will also address the role of the different actors in curbing money laundering and corruption and the main approaches to limiting same. To help us assess the impact of such illicit financial flows we will consider the BAE case in Saudi Arabia as a case study. The students will also jointly draft during the course a corporation’s anti-corruption and anti-bribery policy.

Readings:

UN Convention against Corruption
https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

OECD Convention on combatting Bribery of Foreign Public Officials in International Business Transactions

US Foreign Corrupt Practices Act of 1977, as amended

Gerry Ferguson. 2015. Global Corruption: Law, Theory and Practice: An Open Access Coursebook on Legal Regulation of Global Corruption under International Conventions and under US, UK and Canadian Law, Chapter 1 (Corruption In Context: Social, Economic And Political Dimensions), sections 1.1 - 1.4, section 5, section 6, section 11, Chapter 4 (Money Laundering) and Chapter 7 Available online:


Optional:

The Council of Europe’s Criminal Law and Civil Law Conventions on Corruption
http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/default_en.asp

Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)

Corruption of Foreign Public Officials Acts (Canada)
http://laws-lois.justice.gc.ca/PDF/C-45.2.pdf

U.K. Bribery Act 2010

April 8, 2016

CLASS 12: PART 2 OF INTERNATIONAL HUMAN RIGHTS CONVENTIONS AND INTERNATIONAL STANDARDS REGARDING BUSINESS AND HUMAN RIGHTS; CASE STUDIES AND MODERN DOMESTIC LEGISLATION ADDRESSING INTERNATIONAL HUMAN RIGHTS ISSUES

This class will continue the two-class segment on key international instruments regarding human rights and the obligations of UN Member States in that respect. We will also study and explore other instruments from the UN and OECD that apply to private enterprise and seek to implement standards of business and development that take into account human rights, labour standards and other sustainability objectives. Throughout these two classes, we will refer to recent events or fact patterns as case studies to assist in considering the adequacy and effectiveness of existing international and domestic legal frameworks to achieve compliance with human rights and development objectives.

Readings:

Please see the readings for Class 6 of February 12, 2016. You will be advised which readings will apply to this second class.

April 15, 2016

FINAL CLASS: CLASS ACTIVITY

In this final class, we will provide students with a fact pattern which includes issues discussed during this course. Students will be organized into groups representing the various actors involved in the fact pattern and will be asked to identify the issues and develop solutions applying law and principles taught during the course.