

Course Outline

COURSE:	LAWS 3603 A – Public International Law
TERM:	Fall 2008/09
PREREQUISITES:	LAWS 1000 or LAWS 2005, or PAMP 1000 or a Political Science or History course in international relations.
CLASS:	Day & Time: Monday 8:35-11:25 Room: A720 LA (Loeb)
INSTRUCTOR:	Professor Trevor Purvis
CONTACT:	Office: D599 LA (Loeb) Office Hrs: Tuesdays – 2:45-5:45 Telephone: 613-520-2600 x. 3673 Email: tpurvis@ccs.carleton.ca

"Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive your letter of accommodation, no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 7, 2008, for December examinations, and March 6, 2009, for April examinations." With regard to accommodations for religious obligations and pregnancy, please see http://www.carleton.ca/pmc/students/accom_policy.html

COURSE OBJECTIVES & CONTENT:

This course introduces students to both traditional and critical understandings of the nature, history, and content of the field of public international law. Originally viewed as the branch of law that regulates the relations between independent, sovereign states, public international law has come to encompass much more than inter-state relations. The set of relationships that are regulated by public international law has over time been significantly transformed and reconstituted. This course seeks to make sense of this transformation: what it is about, why it has occurred, and where the discipline is headed in terms of its contemporary developmental trajectory. At the end of the course, students should be acquainted with both orthodox understandings of the discipline as well as the basic outlines of the contemporary critiques of such orthodox perspectives. Just as importantly, students will also be expected to appreciate the ways in which public international law has been shaped by, and has itself contributed to the shaping of, various social, economic, and political aspects of a world that is being transformed by the forces of 'globalization', the geo-political restructuring of the post-Cold War era, and the challenges to existing international law posed by the so-called 'war on terror'.

REQUIRED READING:

The one compulsory text is: **Evans, Malcolm ed. (2006) *International Law* (2nd ed.) Oxford: Oxford University Press.**

This text has been ordered through Mother Tongue Books at 1067 Bank Street (between Sunnyside and the Canal) and should be available at the beginning of term.

All other articles, cases and treaty materials will be placed on WebCT.

In previous years we have used Ian Brownlie's classic *Basic Documents in International Law*, now in its fifth edition (Oxford: Clarendon Press, 2003), as a documentary supplement. Given that all of the documents contained therein are now available on the internet there seemed little point in ordering it as a compulsory text for this year. That being said, students may find it a useful reference text for their personal libraries and might want to make arrangements for acquisition of a copy for themselves. Alternatively one can readily find each of the treaties listed in the syllabus at numerous points on the internet – try GOOGLE.

COURSE EVALUATION:

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| 1. One case study, Due October 20, 2008
(Roughly 3000 words before footnotes & bibliography) | 40% |
| 2. Final Exam | 60% |

A NOTE ON CASE STUDIES

These should take the form of a brief critical paper. The final products should demonstrate a thorough reading of the case and an ability to extract, contextualize and evaluate its most crucial elements.

The purpose of this exercise is to give you (and you should demonstrate):

1. an understanding of the importance of the case to international law;
2. an understanding of the historical and theoretical backdrop against which the case emerged;
3. a grasp of the key concepts underpinning the case;
4. an appreciation of the possible future implications for international law in the principal areas touched on in the case.

There is NO winning formula for this paper. You are expected to read with care, and thoughtfully discuss the case, its foundations, and its implications. But you must always bear in mind, this is a course in public international law. So whatever 'approach' you take to the paper must be able to significantly engage the principal concepts of international law at stake in the case.

You should be able to write an excellent paper with just the case assigned and the course text. A careful reading of each should offer you enough material to write a top-notch paper. That being said, this term's assigned case has given rise to a very significant literature. Should students wish to incorporate other materials external to the required course readings, you are encouraged to do so. It is, however, not required. And note, long bibliographies are no substitute for serious engagement.

This year's case study will focus on the International Court of Justice's 2004 advisory opinion regarding the legal consequences of the construction of a wall in the occupied Palestinian territory. The case is available for download on WebCT.

I will offer more comments on the assignment in class.

All papers should be handed in personally in class, or submitted through the drop-off box at the main office of the Law Department. **Under no circumstances should papers be left under my office door.**

Note: Unless accompanied by a medical certificate late papers will be penalized one grade-point for each day they are submitted beyond the due date (i.e. a B- will be assigned a C+ if submitted one day late). If you submit papers electronically (**NOT RECOMMENDED**) you are responsible for ensuring it has been received in a timely fashion. Should an electronic submission not be received or arrive late, for whatever reason, you will be penalized for late submission.

You are strongly advised to retain a copy of all papers submitted.

All submitted work must be original! Papers should be properly referenced. Either in-text or footnote citations are acceptable, just ensure you use one citation method, and do so consistently. Each paper *must also include a complete bibliography* of all materials cited, regardless of whether bibliographic details are provided in footnotes. Should you have any questions regarding style requirements for papers you are advised to consult the Department of Law's 'Legal Style Sheet for Term Papers' which can be accessed on the internet at <http://www.carleton.ca/law/style.htm>. Alternatively, you may either refer to a style guide or use a book or an article as a guide. *Thoroughness and consistency* should be your aim. Students are also responsible for familiarizing themselves with the Departmental Course-Related Policy and Procedure Statement which can be found at <http://www.carleton.ca/law/policy.htm>, most particularly in relation to regulations regarding due dates and plagiarism, as well as the University's general regulations regarding instructional offences.

Allegations of an instructional offence may be investigated by instructors and/or departmental chairs and, in all cases, will be reported to the faculty Dean. Any student found to have committed an instructional offence may be:

- a. expelled;
- b. suspended from all studies at the University;
- c. suspended from full-time studies; and/or awarded a reprimand;
- d. refused permission to continue or to register in a specific degree program but subject to having met all academic requirements shall be permitted to register and continue in some other program;
- e. placed on academic probation;
- f. awarded an F or Abs in a course or examination.

CLASS SCHEDULE

1. **SEPT 8 INTRODUCTION/HISTORY OF THE DISCIPLINE/INTERNATIONAL LAW AND THE DOMESTIC ORDER**
REQUIRED READING: Evens, Chs. 1, 2 & 14
 1. Stephen C. Neff: A Short History of International Law*
 2. Martii Koskeniemi: What is International Law For?
 14. Eileen Denza: The Relationship Between International and National Law
2. **SEPT 15 THE SOURCES OF INTERNATIONAL LAW**
REQUIRED READING: Evans Chs. 4-6
 4. Hugh Thirlway: The Sources of International Law*
 5. Alan Boyle: Soft Law in International Law-Making
 6. Dinah Shelton: International Law and 'Relative Normativity'
3. **SEPT 22 INTERNATIONAL LEGAL PERSONALITY**
REQUIRED READING: Evans Chs. 8-10
 8. Colin Warbrick: States and Recognition in International Law, Part1*
 9. Dapo Akande: International Organizations*
 10. Robert McCorquodale: The Individual and the International Legal System*

Montevideo Convention on Rights and Duties of States Universal Declaration of Human Rights
4. **SEPT 29 INTERNATIONAL CRIMINAL LAW & ITS ENFORCEMENT/LIMITATIONS ON THE USE OF FORCE I**
(ius ad bellum & ius in bello)
REQUIRED READING: 24. Antonio Cassese: International Criminal Law*
 26. Christopher Greenwood: The Law of War (International Humanitarian Law)*
*UN Charter (especially Articles 2 and 51)**
*Rome Statute of the International Criminal Court (especially Preamble and Articles 5-8 and 15)**
5. **OCT 6 LIMITATIONS ON THE USE OF FORCE II: THE UN AND COLLECTIVE SECURITY**
REQUIRED READING: 20. Christine Gray: The Use of Force and the International Legal Order*
UN Charter (especially Articles 2 & 51, Chapters VI and VII)
*Declaration on Friendly Relations**
6. **OCT 13 NO CLASS (UNIVERSITY CLOSED)**
7. **OCT 20 JURISDICTION OVER TERRITORY AND PERSONS/IMMUNITY FROM JURISDICTION**
REQUIRED READING: 11. Professor Vaughan Lowe: Jurisdiction*
 12. Lady Hazel Fox: International Law and Restraints Upon the Exercise of Jurisdiction by National Courts of States
 13. Chanaka Wickremasinghe: Immunities Enjoyed by Officials of States and International Organizations*
Vienna Convention on Diplomatic Relations

NOTE: CASE STUDIES DUE IN CLASS

- 8. OCT 27 RECOGNITION/NATIONALITY**
REQUIRED READING: 8. Colin Warbrick: States and Recognition in International Law, Part 2*
 16. Pheobe Okowa: Issues of Admissibility and the Law on International Responsibility*
- 9. NOV 3 STATE RESPONSIBILITY/STATE SUCCESSION**
REQUIRED READING: 15. James Crawford and Simon Olleson: The Nature and Forms of International Responsibility*
 Beemelmans, Hurbert (1997) 'State Succession in International Law: Remarks on Recent Theory and State Praxis.' 15 *Boston University International Law Journal* 71*
 Majzub, Diba (1999) 'Does Secession Mean Succession? The International Law of Treaty Succession and an Independent Québec.' 24 *Queen's Law Journal*. 411-450
ILC Draft Articles on State responsibility
- 10. NOV 10 THE LAW OF TREATIES**
REQUIRED READING: 7. Malgosia Fitzmaurice: The Practical Working of the Law of Treaties*
Vienna Convention on the Law of Treaties
- 11. NOV 17 THE LAW OF THE SEA/ INTERNATIONAL PROTECTION OF THE ENVIRONMENT**
REQUIRED READING: 21. Malcolm D. Evans: The Law of the Sea*
 22. Catherine Redgwell: International Environmental Law
UN Convention on the Law of the Sea
- 12. NOV 17 PEACEFUL SETTLEMENT OF DISPUTES**
REQUIRED READING: 18. John Merrills: The Means of Dispute Settlement*
 19. Hugh Thirlway: The International Court of Justice*
*Statute of the International Court of Justice**
- 13. NOV 24 OTHER CURRENT ISSUES IN PUBLIC INTERNATIONAL LAW**
(1) International Regulation of Economic Activity
(2) International Protection of Human Rights
(3) Public International Law and Terrorism
REQUIRED READING: 23. Gerhard Loibl: International Economic Law*
 25. Henry J Steiner: International Protection of Human Rights*
 26. Cassese, Antonio (2006) 'The Multifaceted Criminal Notion of Terrorism in International Law.' *Journal of International Criminal Justice* 4, 933-958.*