

Course Outline

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<b>COURSE:</b>	<b>LAWS 2601D Public International Law</b>
<b>TERM:</b>	<b>Winter 2019</b>
<b>PREREQUISITES:</b>	<b>LAWS 1000 (no longer offered 1.0), LAWS 1001, LAWS 1002, PSCI 1100, PSCI 1200 or PAPM 1000 (1.0)</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesdays 14:35pm-17:25pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Tara Ashtakala</b>
<b>CONTACT:</b>	<b>Office: Loeb B442 (Contract Instructor's Office)</b> <b>Office Hrs: By appointment only</b> <b>Email: Tara.Ashtakala@carleton.ca</b>

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**CALENDAR COURSE DESCRIPTION**

Examination of the role of law in contemporary international relations. Nature, history and sources of international law; international personality of states; status of international organizations and individuals; creation and effect of international obligations; importance and functions of law in the settlement of international disputes.

**COURSE DESCRIPTION**

Dutch jurist Hugo Grotius wrote of ``a common law of nations`` in the 17<sup>th</sup> century, but it was not until over two hundred years later that the first rules describing how the nation states of the world should interact with one another in certain situations were codified. Since then, the scope of public international law has vastly expanded, both in terms of the areas of activity covered by its norms and with regard to who can be a subject of this legal domain. This course will introduce the student to the nature, sources, subjects, types and judicial operation of public international law, with an emphasis on how law and jurisprudence within Canada is increasingly applying and harmonizing with that evolving at the international level. The ultimate goal of the evaluation activities in this course is to help the student 1) recognize the resonance between local and global legal issues and 2) use that dynamic to strategically resolve problems in practice.

**REQUIRED TEXTS**

Required readings will be accessible online. Case study exercises will be distributed in class. The readings and exercises 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 - 25% of final grade**

- essay due on **9 April 2019**
- Length: 10 pages double-spaced, plus bibliography.
- **Use Canadian Guide to Uniform Legal Citation (McGill Guide)** – available on Carleton Library website.
- **Use 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 take the life issue and to analyze how it is dealt with in international law: what are the international law rules or norms that apply; what defect in those rules is causing, or failing to rectify, the problem; and what is the most appropriate remedy in international law to fix it? (Introduction describes the problem, Body analyzes it and Conclusion describes why it is important to fix this problem in international law for the future).

**2. Audio-visual Presentation - 25% of final grade**

- The task for the Presentation is to create a five (5)-minute video or skit that illustrates the life issue selected. The video or skit must show why the issue is a problem (ie demonstrate its human impact) and summarize how it is reflected and remedied in international law.
- A sign-up sheet for presentation dates will be circulated at the first class.
- **You must sign up for your presentation date by the 22nd of January**
- Presentations will commence on the 6th of February

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

- **To be scheduled during formal exam period: April 12 - 27, 2019**
- the goal of the final exam is to apply the course content to 1) solve a fictitious client's legal problem and to 2) thoroughly discuss a thematic issue.

**SCHEDULE****PART 1: BASIC PRINCIPLES**

**8 Jan INTRODUCTION AND OVERVIEW; THE NATURE OF INTERNATIONAL LAW**

**15 Jan INTERNATIONAL LEGAL PERSONALITY**

Materials:

- Convention on the Rights and Duties of States , 26 December 1933, Organization of American States, at <http://www.oas.org/juridico/english/treaties/a-40.html> (Montevideo Convention)
- International Commission of Jurists, Report on Aaland Islands dispute, at <https://www.ilsa.org/Jessup/Jessup10/basicmats/aaland1.pdf> read from "Historical Development of Finland" up to "The Aaland Islands Before 1917"
- *Austro-German Customs Union case: Customs Régime between Germany and Austria* (Protocol of March 19th, 1931), Advisory Opinion, Permanent Court of International Justice, 5 September

1931 at [http://www.worldcourts.com/pcij/eng/decisions/1931.09.05\\_customs.htm](http://www.worldcourts.com/pcij/eng/decisions/1931.09.05_customs.htm); read paras 15-25, 59, 64, 65 and paras. 82-85.

- *Tinoco Arbitration (Great Britain v Costa Rica)* (1923) 1 R.I.A.A. 375 at [http://legal.un.org/riaa/cases/vol\\_1/369-399.pdf](http://legal.un.org/riaa/cases/vol_1/369-399.pdf) pages 376-382.
- Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960 (GA Res 1514) at <http://www.un.org/en/decolonization/declaration.shtml>
- *Reference re Secession of Quebec* [1998] 2 S.C.R. 217 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1643/index.do> paras. 109-139, 146.
- Charter of the United Nations, art. 104 at <http://www.un.org/en/sections/un-charter/chapter-xvi/index.html> and art. 71 at <http://www.un.org/en/sections/un-charter/chapter-x/index.html>
- *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 “The first question asked of the Court is as follows:...” to p. 180 “when necessitated by the discharge..”.
- *Jurisdiction of the Courts of Danzig*, Advisory Opinion, 1928 P.C.I.J. (ser. B) No. 15 (Mar. 3) at [http://www.worldcourts.com/pcij/eng/decisions/1928.03.03\\_danzig.htm](http://www.worldcourts.com/pcij/eng/decisions/1928.03.03_danzig.htm) read paras, 1, 10, 11, 12, 23, 24, 33-37, 48.

## 22 Jan SOURCES OF INTERNATIONAL LAW

### Materials:

- Statute of the International Court of Justice (art. 38) (remember that it is annexed to the United Nations Charter); text found at <https://www.icj-cij.org/en/statute>
- Vienna Convention on the Law of Treaties, 1155 UNTS 331, at <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>
- *North Sea Continental Shelf Cases (Federal Republic of Germany v Denmark and The Netherlands)*, [1969] I.C.J. Rep. 3, at <https://www.icj-cij.org/files/case-related/51/051-19690220-JUD-01-00-EN.pdf>. Read: Paragraph 1 (at bottom of page 13)- starting with “By the two special agreements respectively concluded by....” to paragraph 3; 6-7, 13, 25 to 28 up to “then it must be asked why it was that the Federal Republic did not take the obvious step of giving expression to this readiness by simply ratifying the Convention”, paragraphs 37, 60, 62 from “. The status of the rule in the Convention therefore...”, and paragraphs 63, 64, 69, 70-78.
- *Military Activities In and Against Nicaragua (Nicaragua v United States)*, [1986] I.C.J. Rep. 14, at <https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf>
  - paragraphs 18-26; 172-179; 183-190
- *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996, at <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>
  - Paragraphs 1, 10-19, 64-73
- *International Status of South West Africa Case*, Advisory Opinion [1950] ICJ Rep. 128 Separate Opinion of J McNair at <https://www.icj-cij.org/files/case-related/10/010-19500711-ADV-01-01-EN.pdf> read page 148 (page number at top right hand corner)

## 29 Jan RECEPTION OF INTERNATIONAL LAW IN NATIONAL LEGAL SYSTEMS

### Materials:

- *Trendtex Trading Corp. v. Central Bank of Nigeria* 1975 T. No. 3663 at <http://www.uniset.ca/other/css/19772WLR356.html> read from “The two schools of thought...” to “Has there been a change?”
- Vienna Convention on the Law of Treaties at

- <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>
- *Attorney General (Canada) v Attorney General (Ontario) (Labour Conventions)* [1937] UKPC 6 (28 January 1937) at [http://www.bailii.org/uk/cases/UKPC/1937/1937\\_6.html](http://www.bailii.org/uk/cases/UKPC/1937/1937_6.html) Click on 'Judgement': read pp. 1-2 (up to "...viz property and civil rights in the Province") and p. 5 (from "...Their Lordships") to p.6 (up to "...competent legislature or legislatures"). (page numbers at top centre of PDF pages).
  - *R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)*, [2017] UKSC 5, at <https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf> read paragraphs 1,2,5,14,15,25,34,36,40,41,42,43,45,50,51,54,55,60,62,64,65,86,108,113.
  - Geneva Conventions Act, RSC 1985, c G-3 at <https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-g-3/latest/rsc-1985-c-g-3.html>
  - *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 SCR 817 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1717/index.do>, paras 1-11 and 67-75
  - *Reference Re Public Service Employee Relations Act (Alta.)*, [1987] 1 S.C.R. 313 read summary of facts in headnote and read paras 57-60, at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/205/index.do>
  - *Canada (Justice) v. Khadr*, [2008] 2 S.C.R. 125, 2008 SCC 28, at <http://www.canlii.org/en/ca/scc/doc/2008/2008scc28/2008scc28.html>
  - *Pushpanathan v. Canada (Minister of Citizenship and Immigration)*, [1998] 1 S.C.R. 982, read paras 1-4 and 51-53 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1627/index.do>
  - *Reference as to Powers to Levy Rates on Foreign Legations*, [1943] S.C.R. 208 <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/8405/index.do> read judgement of Duff CJ from "THE CHIEF JUSTICE: His Excellency in Council has been pleased to refer to us certain questions"... to "...And he adds at page 471"... ; judgement of Hudson J, from "We next come to the larger and more difficult question"... to end; judgement of Taschereau J.
  - *R. v. Hape*, [2007] 2 S.C.R. 292, 2007 SCC 26 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2364/index.do> read paras 35-39
  - *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, [2002] 1 S.C.R. 3, at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1937/index.do>, read paras 7-23, 59-78.

## **PART II: THE LAW APPLICABLE TO NATIONS**

### **5 Feb TERRITORY**

#### Materials:

- Acquisition of territory:
  - *Island of Palmas case* (Netherlands v United States) (1928), 2 R.I.A.A. 829 at [http://legal.un.org/riaa/cases/vol\\_II/829-871.pdf](http://legal.un.org/riaa/cases/vol_II/829-871.pdf) p. 835 (from "the subject of the dispute...") to 840 ("the sound and natural criterium of territorial sovereignty"); 842 (from "The title alleged by the United States..." to "disposing of the rights of independent Third Powers"); 845 (from "As regards the question which of different legal systems") to 846 ("that the sovereignty of another may take its place does not arise"); 855 (from "Here, however, we must distinguish between, on the one hand, the act of first taking possession" to "inhabited exclusively by natives"); 866 (from "the conclusions to be derived..." to 869 ("therefore holds good").
  - "Claiming the last global frontier: overlapping geographical claims of Antarctic territory", S. Naidu, Jr., *Transnational Law & Contemporary Problems*. 17.2 (Spring 2008) p529 <http://heinonline.org.proxy.library.carleton.ca/HOL/Page?handle=hein.journals/tlcp17&collection=journals&page=529> (log in to Library to complete retrieval of document) read pp. 542-548
- Principles in disputes over boundaries:
  - *Case concerning the Frontier Dispute* (Burkina Faso v Mali), ICJ Reports 1986 p. 554 at

<https://www.icj-cij.org/files/case-related/69/069-19861222-JUD-01-00-EN.pdf>, read paras. 17, 20, 23-26, 29-30

- Jurisdiction over shared areas – polar regions:
  - Loukacheva, N. “Legal Challenges in the Arctic”, at [http://www.rha.is/static/files/NRF/OpenAssemblies/Oulu2006/leukacheva\\_4th-nrf-pp.pdf](http://www.rha.is/static/files/NRF/OpenAssemblies/Oulu2006/leukacheva_4th-nrf-pp.pdf)
  - Antarctic Treaty at [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf)
- Jurisdiction over Airspace:
  - Chicago Convention on International Civil Aviation at [http://www.icao.int/publications/Documents/7300\\_cons.pdf](http://www.icao.int/publications/Documents/7300_cons.pdf)
  - ‘Soviet Attack on a Korean Airliner’, Phelps (1985) 107 Military L.R. 255 at [http://www.loc.gov/rr/frd/Military\\_Law/Military\\_Law\\_Review/pdf-files/27786D~1.pdf](http://www.loc.gov/rr/frd/Military_Law/Military_Law_Review/pdf-files/27786D~1.pdf) p290-303

## 12 Feb JURISDICTION AND IMMUNITY

### Materials:

- *The Steamship Lotus (France v Turkey)* (1927) PCIJ Ser. A., No. 10 at [http://www.worldcourts.com/pcij/eng/decisions/1927.09.07\\_lotus.htm](http://www.worldcourts.com/pcij/eng/decisions/1927.09.07_lotus.htm) read paras 13-17, 25-28,31-35,40-48,50-55,84-87.
- *Libman v. The Queen*, [1985] 2 S.C.R. 178 at <http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/79/index.do?r=AAAAAQAGTglibWFuAAAAAQAQA> read paras. 2-6,10-11,17,21,42-43,59-60,65-68,74,77-78.
- *Regina V Bartle (Appellants) Ex Parte Pinochet (Respondent)* at <http://www.publications.parliament.uk/pa/ld199899/ldjudgmt/jd990324/pino7.htm> Judgement of Lord Millet, read from “The landmark decision of the Supreme Court of Israel in “*Attorney-General of Israel v. Eichmann* “ to “I agree, therefore, that our courts have statutory extra-territorial” (click ‘Continue’ at bottom of page to read full judgement of Lord Millet)
- *Luther v Sagor* [1921] 3 K.B. 532 at <http://www.uniset.ca/other/buttes/19213KB532.html> read judgements of Bankes LJ and Warrington LJ
- *The Schooner Exchange v. M'Faddon* 11 U.S. 116 (1812) at <https://supreme.justia.com/cases/federal/us/11/116/> scroll down to verdict of CJ Marshall
- *Trendtex Trading Corp. v. Central Bank of Nigeria* [1977] 2 W.L.R. 356 at <http://www.uniset.ca/other/css/19772WLR356.html> read judgement of Lord Denning from “Has there been a change?...” to “there is no immunity in respect of commercial transactions”
- Vienna Convention on Diplomatic Relations at [http://legal.un.org/ilc/texts/instruments/english/conventions/9\\_1\\_1961.pdf](http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf)
- Vienna Convention on Consular Relations at [http://legal.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](http://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf)
- *United States v. Burns*, [2001] 1 S.C.R. 283, 2001 SCC 7 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1842/index.do?r=AAAAQAVVW5pdGVkIFN0YXRlcyB2IEJ1cm5zAQ>, read paras. 1-8, 36-37, 124-144
- *Jensen v Arab Bank*, Supreme Court of the United States, April 2018, read majority Opinion at <https://supreme.justia.com/cases/federal/us/584/16-499/> and Dissent by Justice Sotomayor at <https://supreme.justia.com/cases/federal/us/584/16-499/>

## 19 Feb Reading Week, no class

## 26 Feb THE LAW OF TREATIES

### Materials:

- *Nuclear Test Cases (Australia v France)*, ICJ, Judgement of 20 December 1974, at

- <https://www.icj-cij.org/files/case-related/58/058-19741220-JUD-01-00-EN.pdf> paras 16-20,34-41,42-46
- Vienna Convention on the Law of Treaties at <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>
  - *Interpretation of Peace Treaties (second phase)*, Advisory Opinion: I.C. J. Reports 1950, p. 221 at <https://www.icj-cij.org/files/case-related/8/008-19500718-ADV-01-00-EN.pdf> read from p. 226 from “Having stated, in its Opinion of March 30th, 1950” to p. 227 “extended to the situation which now exists”; from p.228 “In these circumstances, the appointment of a third member” to p.229” would be contrary to their letter and spirit...”
  - *Libya v Chad*, ICJ, at <http://www.icj-cij.org/files/case-related/83/083-19940203-JUD-01-00-EN.pdf> para 41 only
  - *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, ICJ, Advisory Opinion of 28 May 1951, at <https://www.icj-cij.org/files/case-related/12/012-19510528-ADV-01-00-EN.pdf>
  - *Yukos Universal Ltd. v. Russian Federation*, Interim Award on Jurisdiction and Admissibility, PCA Case No. AA 227 (Nov. 30, 2009), at <http://ita.law.uvic.ca/documents/YULvRussianFederation-InterimAward-30Nov2009.pdf> read paras. 1,35-40,244-249,260-269,270, 282-285,289-292, 301-316.
  - *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, ICJ, Judgement of 25 September 1997 at <https://www.icj-cij.org/files/case-related/92/092-19970925-JUD-01-00-EN.pdf> paras. 15, 72-74, 77,78, 87-89, 92, 94-100,102-104.

### **PART III: DIFFERENT AREAS AND SUBJECTS OF INTERNATIONAL LAW**

#### **5 Mar INTERNATIONAL HUMAN RIGHTS LAW; LAW OF INDIGENOUS PEOPLES**

##### Materials:

- Toonen v. Australia, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994), paras 1, 3.1-4.2, 6.9, 8.1-8.6 at <http://www1.umn.edu/humanrts/undocs/html/vws488.htm>
- Universal Declaration of Human Rights at <http://www.un.org/en/universal-declaration-human-rights/index.html>
- Int. Covenant on Civil and Political Rights  
<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- Office of the High Commissioner for Human Rights, General Comment no. 06 The Right to Life, (art. 6) : . 04/30/1982 at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6630&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6630&Lang=en) select language
- *Husband of Maria Fanny Suarez de Guerrero v. Colombia*, Communication No. R.11/45, U.N. Doc. Supp. No. 40 (A/37/40) at 137 (1982), 1.1-3.2 (incl) ,13.1 – 15 at <http://www1.umn.edu/humanrts/undocs/session37/11-45.htm>
- International Covenant on Economic, Cultural and Social Rights at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- Committee on Economic, Social and Cultural Rights, General Comment No.03, UN Doc. E/1991/23; (1994) 1-1 I.H.H.R. 6 at <http://hrlibrary.umn.edu/gencomm/epcomm3.htm>
- *Gosselin v. Québec (Attorney General)*, 2002 SCC 84, [2002] 4 S.C.R. 429 read paras. 93-94, 330-333, 417-420 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2027/index.do>
- *Auton (Guardian ad litem of) v. British Columbia (Attorney General)*, [2004] 3 S.C.R. 657, 2004 SCC 78 at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2195/index.do> , read headnote only
- *Roger Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003), 10.2-11 at <http://www1.umn.edu/humanrts/undocs/829-1998.html>
- United Nations Declaration on the Rights of Indigenous Peoples, at

- [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf) see art. 1, 3, 26,43,46
- *Simon v. The Queen*, [1985] 2 S.C.R. 387, at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/93/index.do> , read paras 1-5, 33
- *Awas Tingni v Nicaragua* [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_79\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_79_ing.pdf) read paras. 1-4, 106-115, 127, 140, 142-155
- *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44, [2014] 2 S.C.R. 256, at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14246/index.do> read headnote and para 50
- *Sandra Lovelace v Canada*, UN Human Rights Committee Communication No. 24/1977\_ at <http://www1.umn.edu/humanrts/undocs/session36/6-24.htm>

## 12 Mar INTERNATIONAL TRADE LAW

### Materials:

- GATT 1947 at [https://www.wto.org/english/docs\\_e/legal\\_e/gatt47\\_e.pdf](https://www.wto.org/english/docs_e/legal_e/gatt47_e.pdf) art. 1
- GATT, *Belgian Family Allowances* case (1952) at [http://www.wto.org/gatt\\_docs/English/SULPDF/91850313.pdf](http://www.wto.org/gatt_docs/English/SULPDF/91850313.pdf)
- GATT 1994 and Agreement establishing the WTO: at [https://www.wto.org/english/docs\\_e/legal\\_e/06-gatt.pdf](https://www.wto.org/english/docs_e/legal_e/06-gatt.pdf) articles I, III, XI, XX, XXI,XXIV
- *Canada-Certain Measures Affecting the Automotive Industry* (2000), Appellate Body report, at [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S006.aspx?Query=\(@Symbol=%20wt/ds139/ab/r\\*%20not%20rw\\*\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20wt/ds139/ab/r*%20not%20rw*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#) click on PDF in language of your choice); read s. I 1; II 7,8,9; V
- *Japan Semiconductors* case at [https://www.wto.org/english/tratop\\_e/dispu\\_e/87semcdr.pdf](https://www.wto.org/english/tratop_e/dispu_e/87semcdr.pdf) read paras. 1, 10, 12, 16-18, 30, 104-109, 117.
- *US-Tuna Dolphin* cases: at <http://www.worldtradelaw.net/document.php?id=reports/gattpanels/tunadolpinl.pdf> paras 2.1-2.9, 2.12, 5.1-5.6, 5.22-5.34, 5.41-5.44, 6.1-7.3.
- *United States: Reformulated Gasoline* at [https://www.wto.org/english/tratop\\_e/dispu\\_e/2-9.pdf](https://www.wto.org/english/tratop_e/dispu_e/2-9.pdf) ss.I B (1) and (2), II A and B, III-V
- *United States-Import prohibition of Shrimp* (1998/2000) at [https://www.wto.org/english/tratop\\_e/dispu\\_e/58abr.pdf](https://www.wto.org/english/tratop_e/dispu_e/58abr.pdf) paras. 113-186
- *Canada v Maxzone Auto Parts (Canada) Corp.*, 2012 FC 1117 <https://www.canlii.org/en/ca/fct/doc/2012/2012fc1117/2012fc1117.html?autocompleteStr=Maxzone&autocompletePos=1> read paras. 1-19, 23, 29, 33-35, 39-44, 54-57,61, 78-81, 114.119.
- North American Free Trade Agreement, articles 1102 and 1103 at <http://www.sice.oas.org/trade/nafta/chap-111.asp>
- Case comment on *Methanex v United States* at [http://www.iisd.org/pdf/2005/commentary\\_methanex.pdf](http://www.iisd.org/pdf/2005/commentary_methanex.pdf)
- *Philip Morris v Uruguay*, <https://www.italaw.com/sites/default/files/case-documents/italaw7417.pdf> read paras 1-10, 12, 13, 74-78, 85-95, 96,108,110,113,121-123,132,133,135,144,146,168,176-179,180-182,191-192,306,307
- Canada complaint against US retaliation for Bombardier subsidies
- [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S006.aspx?Query=\(@Symbol=%20wt/ds535/1%20or%20wt/ds535/1\\*\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20wt/ds535/1%20or%20wt/ds535/1*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#) select language read paras 22, 23, 25,26

## 19 Mar INTERNATIONAL ENVIRONMENTAL LAW; THE LAW OF THE SEA;THE LAW OF OUTER SPACE

### Materials:

- Statute of the ICJ, art.38 at <https://www.icj-cij.org/en/statute>

- *Trail Smelter Arbitration (USA, Canada)* at [http://legal.un.org/riaa/cases/vol\\_III/1905-1982.pdf](http://legal.un.org/riaa/cases/vol_III/1905-1982.pdf) read p.1912 (last paragraph); p.1922 (last paragraph starting with 'On the basis of the evidence, the United States...'); p.1962 ("Part Three")-1964 (up to "sovereignty inherent in the Constitution of the United States"), 1965 ("The Tribunal, therefore,...")-1966 (up to "Part Four").
- Charter of the United Nations at <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> art 2.4
- Stockholm Declaration at <http://www.un-documents.net/unchedec.htm>
- Rio Declaration at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>
- *Nuclear Weapons Advisory Opinion*, ICJ, read paras. 27-29 (pp.241-242) at <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf> and dissenting opinion of Justice Weeramantry, section 10. Specific rules of the humanitarian law of war (f) The prohibition against environmental damage, (p.502-506) at <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-12-EN.pdf>
- *Gabcikovo case (Hungary v Slovakia)*, read para 140, 97 at <https://www.icj-cij.org/files/case-related/92/092-19970925-JUD-01-00-EN.pdf>
- *EC Beef Hormones case*, read C. Arguments by Canada-Appellee, 2. The Precautionary Principle at [https://www.wto.org/english/tratop\\_e/dispu\\_e/hormab.pdf](https://www.wto.org/english/tratop_e/dispu_e/hormab.pdf)
- *Indian Council for Enviro-Legal Action and Ors. V. Union of India (UOI) and Ors.*, Supreme Court of India 1996, at <http://www.ielrc.org/content/e9605.pdf> read paras. 1-4, 58, 67.
- *Case concerning Pulp Mills on the River Uruguay (Argentina v Uruguay)* (2010) read paras. 204-205 at <https://www.icj-cij.org/files/case-related/135/135-20100420-JUD-01-00-EN.pdf>
- UNCLOS at [http://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)
- *Anglo-Norwegian Fisheries case (Iceland v UK)*, 1974 opinion of Justice Fitzmaurice, ICJ, at <https://www.icj-cij.org/files/case-related/55/055-19730202-JUD-01-02-BI.pdf> - paras 1-8, 21.
- *Nicaragua case* at <https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf> read paras 212, 213, 214
- *Corfu Channel*, case, at <https://www.icj-cij.org/files/case-related/1/001-19490409-JUD-01-00-EN.pdf> pages.27-29
- *MV Saiga case (Saint Vincent and the Grenadines v Guinea)* at [http://www.worldcourts.com/itlos/eng/decisions/1999.07.01\\_Saint\\_Vincent\\_v\\_Guinea.pdf](http://www.worldcourts.com/itlos/eng/decisions/1999.07.01_Saint_Vincent_v_Guinea.pdf); read paras 31-39, 110, 116,, 120-122, 126, 127, 128-136, 155
- *Panama and José C. Monteverde (Panama) v. U.S (The David)*, (1933) 6 RIAA 382 [http://legal.un.org/riaa/cases/vol\\_VI/382-386\\_Compania.pdf](http://legal.un.org/riaa/cases/vol_VI/382-386_Compania.pdf) read pp. 384-386
- Outer Space Treaty at <http://www.unoosa.org/pdf/publications/STSPACE11E.pdf> read arts. I, II, VI, VII, VIII, IX
- Moon Agreement at <http://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/moon-agreement.html> read arts. 4, 6.2, 7.1, 11.2, 11.3, 11.5, 11.7, 12.1, 12.2
- *Smith v United States* 507 U.S. 197 (1993) at <https://www.law.cornell.edu/supct/html/91-1538.ZS.html>
- Settlement of Claim between Canada and the Union of Soviet Socialist Republics for Damage Caused by "Cosmos 954", at [http://www.jaxa.jp/library/space\\_law/chapter\\_3/3-2-2-1\\_e.html](http://www.jaxa.jp/library/space_law/chapter_3/3-2-2-1_e.html)
- *Langevin* 2012 QCCS 613, at <https://www.canlii.org/fr/qc/qccs/doc/2012/2012qccs613/2012qccs613.html> read paras. 1, 4, 5, 16, 17, 18, 19, 20, 26, 37

## **PART IV: JUDICIAL SETTLEMENT OF DISPUTES**

### **26 Mar THE WORLD'S COURTS**

#### **Materials:**

- *Military Activities In and Against Nicaragua (Nicaragua v United States)*, (merits) [1986] I.C.J. Rep. 14, at <https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf> para 31



- Statute of the International Court of Justice, art. 36; text found at <https://www.icj-cij.org/en/statute>
- *Nottebohm (Leichtenstein v Guatemala)*, Preliminary Objections, Decision of the Court, Judgment of 18 November 1953, at <https://www.icj-cij.org/files/case-related/18/018-19531118-JUD-01-00-EN.pdf> read from p.121 “the Court is not concerned with defining...” to p.122 “that it lacks jurisdiction or that the claim is inadmissible”
- *Nicaragua* para 29
- *Nicaragua* para 30
- WTO *Argentina: Measures Affecting Imports of Footwear, Textiles, Apparel and Other Items—Report of the Panel* [25 November 1997] WT/DS56/R at [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S006.aspx?Query=\(%20wt/ds121/r\\*%20not%20rw\\*\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChange=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(%20wt/ds121/r*%20not%20rw*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChange=true#) select PDF in language of your choice read para 7.20
- Statute of the ICJ articles 48-52
- *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 168 at <https://www.icj-cij.org/files/case-related/116/116-20051219-JUD-01-00-EN.pdf> read paras 59-61
- *Nicaragua* para 63
- *Corfu Channel Case (Merits)*, Judgment of April 9th, 1949, I.C. J. Reports 1949, p.4 at <https://www.icj-cij.org/files/case-related/1/001-19490409-JUD-01-00-EN.pdf> Read p.18 top to p .20 ‘operation to remain secret.’
- *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* [“Crime of Genocide”] (Bosnia Genocide case), ICJ 2007, at <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf> read paras 370-376.
- *Island of Palmas*, [http://legal.un.org/riaa/cases/vol\\_II/829-871.pdf](http://legal.un.org/riaa/cases/vol_II/829-871.pdf) read p852 from ‘Among the methods of indirect proof,,,’ to p853 ‘...seem wanting in accuracy’.

## **PART V: THE LAST RESORT OF STATES**

### **2 Apr THE LAW OF WAR AND THE USE OF FORCE**

#### Materials:

- Charter of the United Nations arts. 2(4) and 51, at <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf>
- *The Caroline* case [http://avalon.law.yale.edu/19th\\_century/br-1842d.asp](http://avalon.law.yale.edu/19th_century/br-1842d.asp) read up to Enclosure 2
- *Nicaragua* case at <https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf> – paras. 176, 188, 190, 193, 195, 200, 218, 219
- *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion ICJ, at <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf> read paras. 39, 41,42, 44
- *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Advisory Opinion, 2004, at <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf> read paras. 89, 135,138, 139-140
- Geneva Conventions of 1949 and the Additional Protocols 1977
  - GC I: <http://www.icrc.org/ihl.nsf/FULL/365?OpenDocument>
  - GC II: <http://www.icrc.org/ihl.nsf/FULL/370?OpenDocument>
  - GC III: <http://www.icrc.org/ihl.nsf/FULL/375?OpenDocument>
  - GC IV: <http://www.icrc.org/ihl.nsf/FULL/380?OpenDocument>
  - AP I: <http://www.icrc.org/ihl.nsf/FULL/470?OpenDocument>
  - AP II: <http://www.icrc.org/ihl.nsf/FULL/475?OpenDocument>

Read the paragraphs indicated on the slides.

### **9 Apr REVIEW OF COURSE**

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## **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](http://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](http://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](mailto: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](http://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](http://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](https://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/>