

International Law
CML3231SC
Kevin R. Gray
Fall 2007

Course schedule: Wednesday 19:00-22:00
Location: Fauteux 351
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GENERAL OBJECTIVES

The purpose of this course is to provide a general introduction to the international legal system. It will provide an introduction to the basic concepts, principles, institutions and rules in international law. This will include such topics as the origins and nature of the international legal system; the formation, sources and application of international law; the law of treaties; international legal personality; the institutional framework of international law; the relationship between states and territory; state jurisdiction; and state responsibility. The latter part of the course, substantive areas of international law will be covered such as international trade and investment law, international environmental law and international human rights and humanitarian law. There will be a focus, where appropriate, on international law areas of contemporary interest and of particular relevance to Canada.

EVALUATION

There is a midterm examination worth 40% and a final examination worth 60%. The midterm examination is scheduled for October 24, 2007. As an option, students can submit a paper instead of writing the midterm. If students would like to write the paper, they must consult with me by September 26, 2007 and have a specific topic in mind that they would like to write about. All paper topics must be approved by me prior to submitting the paper. The paper will be due on the same day as the midterm examination. Papers received after that date will be penalized 2 % (from 40%) each day. Any requests for extensions must be initially given to me in writing before October 24, 2007. The paper must be a result of your original, individual work and not of collaborative activity, and be 15-20 pages in length (types, double-spaced). You should consult the University Regulation on Academic Fraud, http://www.uottawa.ca/cgi-bin/cgiwrap/regist/print.cgi?E/academic/info/regist/fraud_e.html

Beware of Academic Fraud!

Academic fraud is an act committed by a student to distort the marking of assignments, tests, examinations and other forms of academic evaluation. Academic fraud is neither accepted nor tolerated by the University. Anyone found guilty of academic fraud is liable to severe academic sanctions.

Here are a few examples of academic fraud:

- engaging in any form of plagiarism or cheating;
- presenting falsified research data;
- handing in an assignment that was not authored, in whole or in part, by the student;
- submitting the same assignment in more than one course, without the written consent of the professors concerned

In recent years, the development of the Internet has made it much easier to identify academic plagiarism. The tools available to your professors allow them to trace the exact origin of a text on the Web, using just a few words.

In cases where students are unsure whether they are at fault, it is their responsibility to consult the University's Web site at the following address; you will find « Tools for Writing Papers and Assignments » to http://www.socialsciences.uottawa.ca/eng/writing_tools.asp

Persons who have committed or attempted to commit (or have been accomplices to) academic fraud will be penalized. Here are some examples of the academic sanctions, which can be imposed:

- a grade of « F » for the assignment or course in question;
- an additional program requirement of between three and 30 credits;
- suspension or expulsion from the faculty.

Last session, most of the students found guilty of fraud were given an « F » for the course and had between three and twelve credits added to their program requirement.

For more information, see:

http://www.uottawa.ca/academic/info/newsletter/fraud_e.html

COURSE SCHEDULE AND PROGRAM

Following is a course outline with associated reading assignments. The text refers to John Currie "Public International Law", which is available at the University of Ottawa bookstore. The second half of the course will use M.N. Shaw, *International Law*, 5th ed. (Cambridge University Press, 2003) KZ 3275.S43 A355 2003. It is recommended that you purchase this text book from the book store. All materials on the reading list are available in the Faculty of Law Brian Dickson Library and/or the Morrisette Library.

Most of the primary materials used in the course – from particular treaties to judicial opinions – can be found and downloaded off of the DRW website at <http://teaching.law.cornell.edu/faculty/drwcasebook/>.

A. Principles, Concepts and Rules

WEEK 1 – General Introduction

Required: Text, p. 1-17

Recommended:

Currie, Forcese & Oosterveld, 3-38

Koh, H. H., Review Essay, "Why Do Nations Obey International Law? (1997) 106 *Yale Law Journal*, pp.2599-2659.

Mattias Kumm, AThe Legitimacy of International Law: A Constitutionalist Framework of Analysis@, (2004) 15:5 *European Journal of International Law* 907B931 (available at <http://www.ejil.org/journal/Vol15/No5/3.pdf>)

WEEK 2 – Sources of International Law

Required: Text, p. 66-102, 103-143, 160-192

Recommended: Currie, Forcese & Oosterveld, 40-60, 120-160

WEEK 3 – International Legal Personality and International Institutions

Required: Text, p. 18-65

Recommended:

Currie, Forcese & Oosterveld, 163-280

Shaw, 1082-1117

Charnovitz, S. "Nongovernmental Organizations and International Law" (2006) 100 *American Journal of International Law* 348-372

WEEK 4 – Relationship between International and Domestic International Law

Required: Text, p. 193-227

Recommended:

Currie, Forcese & Oosterveld, 104-119

Quebec- Succession of Quebec References Case

<http://www.temple.edu/lawschool/drwiltext/docs/Reference%20re%20Secession%20of%20Quebec.pdf>

Kindred, Hugh M., et al., International Law - Chiefly as Interpreted and Applied in Canada, 6th ed., (Toronto: Emond Montgomery, 2000), A. National Application in Canada, Introduction - pp.165-8; 2. Treaties in Canada - pp.180-193; 3. Influence of International Law on Canadian Law - pp.227-233.

Karen Knop, "Here and There: International Law in Domestic Courts", 32 *N.Y.U. J. Int'l L. & Pol* 501-535

WEEK 5 – States and Jurisdiction, Sovereignty and State Responsibility

Required: Text, p. 228-245, 290-315, 384-414

Recommended:

Currie, Forcese & Oosterveld, 285-341, 433-46

Shaw, 175-201, 225-232, 367-408, 572-620

J. Jackson, "Sovereignty-Modern: A New Approach to an Outdate Concept (2003) 97 *American Journal of International Law* 782-802,

"Symposium: The ILC's State Responsibility Articles", (2002) 96:4 *American Journal of International Law* 773-891

B. Substantive Areas of International Law

WEEK 6– Use of Force

Required: Shaw 1013-1053, 1119-1147

Recommended:

Currie, Forcese & Oosterveld, 833-888

Agora: Future Implications of the Iraq Conflict (2003) 97:3 *American Journal of International Law* 553-628

WEEK 7 - International Trade and Investment

Recommended:

Currie, Forcese & Oosterveld, 693-700

Lowenfeld, A., *International Economic Law* (Oxford: Oxford University Press; 2005), Part VI-International Investment 387-496

Methanex Corp. v. United States, at S. E. Gaines, 100 AJIL 683-689

Sornarajah, M., *The Clash of Globalisations and the International Law on Foreign Investment*, The Simon Reisman Lecture in International Trade Policy, September 12, 2002 (CTPL Policy Debates).

Mitsuo Matsushita, Thomas J. Schoenbaum and Petros C. Mavroidis, *The World Trade Organization :Law, Practice, and Policy*, (Oxford: Oxford University Press, 2003), Chapters 1-2

Joost Pauwelyn, *The Role of Public International Law in the WTO: How Far Can We Go?*, (2001) 95 *A.J.I.L.*, 535-578

Howse, R., "Membership and its Privileges: the WTO, Civil Society, and the *Amicus* Brief Controversy", (2003) 9 *European Law Journal* 496.

WTO: <http://www.wto.org/>

NAFTA: www.nafta-sec-alena.org

WEEK 8 – International Environmental Law

Required: Shaw, 753-809

Recommended:

Currie, Forcese & Oosterveld, 719-759

Kevin R. Gray (2005), "Transboundary Environmental Disputes along the Canada-US Frontier: Revisiting the Efficacy of Applying the Rules of State Responsibility", *Canada Yearbook of International Law* 334-391

WEEK 9 – International Human Rights and Humanitarian Law

Required: Shaw, 247-310

Recommended:

Currie, Forcese & Oosterveld, 538-692, 889-946

D. McGoldrick, "Criminal Trials Before International Tribunals: Legality and Legitimacy", in D. McGoldrick, P. Rowe, and E. Donnelly, *The Permanent International Criminal Court: Legal and Policy Issues* (Oxford: Hart Publishing, 2004) 9-46.

WEEK 10 – International Dispute Settlement and Coherence in International Law

Required: Shaw 914-928, 951-1012

Recommended:

P. Birnie & A. Boyle, *International Law & the Environment* (2nd ed.), (Oxford: Oxford University Press, 2002) 697-755

Paulson, “Compliance with Final Judgments of the International Court of Justice Since 1987”, (2004) 98 *American Journal of International Law* 434-461

Joost Pauwelyn, “The Role of Public International Law in the WTO: How Far Can We Go?”, (2001) 95 *American Journal of International Law*, 535-578.

Brack, D. & Gray, K. R., “Multilateral Environmental Agreements and the WTO” (Royal Institute of International Affairs: London)

<http://www.riia.org/pdf/research/sdp/MEAs%20and%20WTO.pdf>.

WEEK 11 – Contemporary Issues of International Law of specific importance to Canada (Northwest Passage, Detainees in Afghanistan, Climate Change)

Corfu Channel (Merits) (United Kingdom v. Albania), [1949] *International Court of Justice Reports* 4

D.C. McRae, “Arctic Sovereignty: Loss by dereliction?”, (1994-1995), 22:2 *Northern Perspectives* 485.

Fleur Johns, “Guantánamo Bay and the Annihilation of the Exception”, (2005) 4 *European Journal of International Law* <http://www.ejil.org/journal/Vol16/No4/art2.pdf>

DFAIT website – Canada International Policy http://geo.international.gc.ca/cip-pic/about/policy_positions-en.aspx

BIBLIOGRAPHY

Recommended Further Reading: *(on reserve in library)*

J.-M. Arbour & G. Parent, *Droit International Public*, 5^e éd. (Yvon Blais, 2006)
KZ 1242.A726 2006

I. Brownlie, *Principles of Public International Law*, 6th ed. (Oxford University Press, 2003) KZ 3225.B76 A365 2003

A. Cassese, *International Law*, 2nd ed. (Oxford University Press, 2005)
KZ 3395.C25 A35 2005

H. Charlesworth & C. Chinkin, *The Boundaries of International Law: A Feminist Approach* (Manchester University Press, 2000) KZ 1251.C48 2000

J. Currie, C. Forcese & V. Oosterveld, *International Law: Doctrine, Practice and Theory*, (Toronto: Irwin Law, 2007)

M.D. Evans, ed., *International Law*, 2nd ed. (Oxford University Press, 2006)
KZ 3410.1574 2003