



RHODES UNIVERSITY
Where leaders learn

PUBLIC INTERNATIONAL LAW

COURSE OUTLINE

2010

Instructor

Prof. Laurence Juma

I –INTRODUCTION

1. Overview

This course is offered in the first part of the year (first semester). It is designed for LLB and international relations students who will eventually be required to give legal advice and/or carry out responsibilities pertaining to the international realm. The course is aimed at providing these students with an introductory knowledge of principles of Public International Law—that branch of the law that deals with interactions and relations among states as well as among international and regional institutions. Thus, the course aims to provide understanding of the contemporary dynamics involving the role(s) of individuals in the international system; the fundamental principles and nature of the international legal system; and the role and importance of international law in modern human societies. It will also give students a basic understanding of the role international law plays in post-apartheid South Africa

Apart from the above, this course is also intended to provide students with an opportunity to become familiar with research and analytical skills in international law systems and processes. Recognising that dynamic nature of international legal processes, this course has been designed to stimulate critical and imaginative thinking among students both as individuals, and as collective subjects of international law.

II – LEARNING COMPONENT

1. Assumptions of Prior Learning

The following assumptions of prior learning are made: that the students who will enrol in this course have the ability to communicate effectively in both spoken and written English; to read, interpret and extract legal principles from international agreements, decisions of international tribunals and other source materials; to learn independently; and to apply problem-solving techniques to practical situations.

2. Critical Outcomes

The course will contribute to the student attaining the following critical outcomes:

- collecting, analysing, organising and critically evaluating information
- conveyed during lectures and contained in the study guide;
- identifying and solving legal practical problems;
- demonstrating an understanding of the world as a set of related systems;
- successfully completing given tasks without supervision;
- use of technology

3. Specific Learning Outcomes and Associated Assessment Criteria

Learning Outcome 1

Students will acquire knowledge and understanding of the international system, how it is organised and how it works.

Assessment Criteria:

- Students demonstrate knowledge and understanding of the international system; its main actors and how it functions.

Learning Outcome 2

Students will understand the repository of authoritative decision-making and enforcement of compliance.

Assessment Criteria:

- Students demonstrate their understanding of, and competence to use, various sources of international law.
- Students demonstrate their ability to understand group interests and negotiating positions.

Learning Outcome 3

Students will acquire the ability to identify the relationship between international law and domestic law

Assessment Criteria

- Students shall demonstrate understanding of aspects of international law that are binding or applicable in domestic law
- Students shall demonstrate understanding of the interlink between domestic law and international law

Learning Outcome 4

The learner understands contemporary issues and problems of an increasing interdependent and globalising world.

Assessment Criteria

- Students demonstrate the ability to identify various factors and forces that shape the contemporary international community and how problem-solving contexts are interrelated.

4. Teaching Methods

The teaching of the course will take the form of formal lecturing and class discussions. There will be two 45 minute lectures every week on topics specified in this outline. Particular importance is attached to the class discussions as one of the aims of the course is to encourage analytical and critical thinking on the part of the student. Pre-reading is recommended and expected to ensure easier understanding

during lectures. *Students are expected to take responsibility for their own learning by reading the course material provided and conducting research as directed.* Students are encouraged to discuss any problems they may encounter during research with the instructor.

5. Outline of Course Content

Topic 1: Introduction: Nature, Scope and Evolution of International Law

Topic 2: Sources of International Law

Topic 3: Relationship between International Law and Municipal Law

Topic 4: Subjects of International Law

Topic 5: Statehood and the Right to Self-Determination

Topic 6: Law of Treaties

Topic 7: The United Nations

Topic 8: Terrorism

Topic 9: Aspects of international Humanitarian Law

Topic 10: International Human Rights Law

6. Assessment Methods

The course will comprise of one research essay and one two hour examination to be written in June 2010. The research essay will be the class work component and it amounts to 30% of the final work; the remaining 70% being the exam component. In addition to the summative assessment tasks, there is formative assessment during lectures. Lecture attendance is compulsory and the student may not miss a maximum of three lectures, unless a satisfactory explanation is furnished. It is every student's responsibility to sign the class register circulated during the lecture. The class register will serve as proof of attendance or nonattendance of lectures.

7. Time Allocation

School Week	Date	Content Outline	Reading Material
1	08/02/10- 12/02/10	Introduction to the Course	Course Outline
2	15/02/10- 19/02/10	Topic 1: Nature, Scope and Evolution of International Law	Dugard, Ch.1; Harris, Ch. 1.
3	22/02/10/- 26/02/10	Topic 2: Sources of International Law	Dugard, Ch. 3; Harris, Ch. 1.
4	01/03/10- 05/03/10	Topic 3: Relationship between International Law and Municipal Law	Dugard, Ch. 4; Harris, Ch. 3.
5	08/03/10- 12/03/10	Topic 4: Subjects of International Law	Harris, Ch. 4.
6	15/03/10- 19/03/10	Topic 5: Statehood and the Right to Self-Determination	Dugard, Ch. 5; Harris, Chs. 4-5.
7	23/03/10- 26/03/10	Topic 6: Law of Treaties	Dugard, Ch. 19; Harris, Ch. 10.
8 & 9	29/03/10- 09/04/10	NO LECTURES	

10	12/04/10- 16/04/10	Topic 6: Law of Treaties – Cont...	Dugard, Ch. 19 Harris, Ch. 10
11	19/04/10- 23/04/10	Topic 7: The United Nations	Dugard, Ch. 22;
12	26/04/10- 30/04/10	Topic 8: Terrorism	Dugard, Ch. 23; Harris, Ch. 11.
13	03/05/10 07/05/10	Topic 9: Aspects of International Humanitarian Law	To be assigned
14	10/05/10- 14/05/10	Topic 10: International Human Rights Law	Dugard, Chapter 20; Harris, Ch. 9.

III - STUDENT SUPPORT

1. Student Support strategies

The instructor shall, to the extent that time allows, offer guidance and support to students who may need further assistance. However, the students must on their own seek appropriate appointments with the instructor and be prepared to do extra work.

2. Self-Assessment Exercises/Activities

The following questions are provided for revision and practice only. Therefore, they cover wide areas that allow students to measure their understanding of the topics concerned. **Students should note that examination questions will be much more specific and will not necessarily appear in this format.**

Topic 1: Nature, Scope and Evolution of International Law

(a) Assess the contribution of South Africa to the evolution and development of international law.

(b) In your estimation, what makes South Africa a country of peculiar interest for international law?

Topic 2: Sources of International Law

(a) With the aid of appropriate case law and illustrations, explain the following terms:

(i) *Jus cogens*

(ii) *Opinio Juris*

(iii) Decisions *ex aequo et bono*

(iv) Obligations *erga omnes*

(v) Soft Law.

(b) To what extent can 'soft law' be considered to be valid sources of public international law? Support your response with vivid illustrations.

Topic 3: Relationship between International Law & Municipal Law

(a) Explain the meaning of incorporation and transformation of international law into municipal law. Explain the variations in the legal status of incorporated international obligations in different national legal systems. What are the implications of such variations in the implementation of treaties?

(b) Fitzmaurice (1957: 71) argued that "the entire monist-dualist controversy is unreal, artificial and strictly beside the point...." What pragmatic approaches can you proffer for the resolution of the perceived conflict between monism and dualism?

Topic 4: Subjects of International Law

(a) To what extent can you validate the assertion that the individual citizens of each State are subjects of international law?

(b) "The categories of subjects of international law are not closed". Discuss with the aid of relevant illustrations and case law.

Topic 5: Statehood and the Right to Self-Determination

(a) Enumerate instances when an entity otherwise regarded as a 'State' may not qualify for statehood in international law.

(b) Despite the wealth of instruments recognising and affirming the right of self-determination, the practical content of this right remains unsettled in international law.

Critically evaluate the above statement.

Topic 6: Law of Treaties

(a) Highlight the comparative strengths and weaknesses of the *Vienna Convention on the Law of Treaties, 1969 (VCLT)* vis-à-vis the customary international law on treaties. To what extent does the *VCLT* codify the customary international law on treaties? Can you identify any shortcomings of the *VCLT*? What will you suggest in relation to future improvements?

(b) Under what circumstances may the validity of a treaty be impeached?

Topic 7: The United Nations

(a) Explain the role of the following UN bodies in relation to the maintenance of international peace and security:

- (i) The Security Council;
- (ii) The General Assembly; and
- (iii) The International Court of Justice

(b) Discuss:

(i) *An Agenda for Peace, 1992*

(ii) *Uniting for Peace Resolution, 1950.*

Topic 8: Terrorism

(a) In your estimation, is international law capable of effectively responding to the doctrinal challenges of the use of force by States? What measures will you suggest for reform in this area of public international law?

(b) Despite so much usage of the term “terrorism”, it appears to be a terminology in flux. To what extent does the *International Convention for the Suppression of Acts of Nuclear Terrorism 2005* clarify the meaning of this word? How would you attempt to define the term?

Topic 9: Aspects of International Humanitarian Law

(a) What do you understand to be the relevance of making a distinction between international and non-international armed conflicts in international humanitarian law?

(b) To what extent can the activities of a Private Military/Security Company (PMSCs) be subject to the rules of international humanitarian law?

(c) Discuss the principle of ‘complementarity’ as it relates to the confluence between human rights and international humanitarian law in conflict situations.

Topic 10: International Human Rights Law

(a) Describe the extent to which the Constitution of South Africa represents a viable municipal framework for the realisation of the International Bill of Rights.

(b) Analyse the situation of human rights in South Africa. What are the impediments to the fulfilment of the promise of international human rights in South Africa? What would you conceive to be viable approaches to legal and policy reform in South Africa?

IV - COURSE READINGS

1. Compulsory Reading Materials

- John Dugard, *International Law: A South African Perspective*, 3rd edition, Juta & Co., Ltd, 2005.
- D J Harris, *Cases and Materials on International Law*, 6th edition, London: Sweet & Maxwell, 2004.

2. Additional Reading Materials

- Antonio Cassese, *International Law*, 2nd ed., Oxford; Oxford University Press, 2005.

- Ian Brownlie, *Principles of Public International Law*, 6th ed., Oxford University Press, 2003.
- Alina Kaczorowska, *Public International Law*, 2nd ed., London: Old Bailey Press, 2003.
- Peter Malanczuk, *Akehurst's Modern Introduction to International Law*, 7th rev. ed., London: Routledge, 1997.
- Marco Sassòli & Antoine Bouvier, *How Does Law Protect in War?* 2nd ed. Geneva: ICRC 2006.
- Any other reading material that is compulsory will be made known ahead of the lecture in which such material will be used.

3. Important International Law Websites

Candidates are advised to visit these sites ahead of lectures and all through the semester:

<http://www.unsystem.org/>

<http://www.un.org/Depts/dhl/resguide/specpk.htm>

<http://www.justlawlinks.com/GLOBAL/international/citreaty.htm>

<http://www.ohchr.org/english/law>

<http://www.unhchr.ch/html/intlinst.htm>

<http://www.ohchr.org/english/law/independence.htm>

<http://www.unodc.org/unodc/terrorism.html>

<http://www.brettonwoodsproject.org>

<http://www.developmentgap.org>

<http://www.globalpolicy.org>

V - A WORD OF WISDOM

“Eighty percent of success is in showing up” – Woody Allen.