

Political Science 4/573
International Law
Professor Glenn E. Perry
Fall Semester, 2004
TTH at 9:30 p.m. (in HH 223)

This course is an introduction to the body of rules that are legally binding on the international level, mainly on states in their relationships with other states (but with international organizations and individuals also increasingly gaining the status of “persons” or “subjects” in this legal system). While International Law arguably represents unrealistic ideals in some situations, the day-to-day rules are rarely violated and thus constitute a basic part of international relations. An examination of the weaknesses of this legal system is also central to an understanding of the reality of international politics. In any case, at least one course in International Law constitutes a fundamental part of the program of any student specializing in International Relations. And in addition to providing the student with a knowledge of specific rules, the course inevitably introduces him or her to certain broad aspects of jurisprudence (and experience with reading court decisions) that provide excellent preparation for law school.

The student is required to attend class regularly and to read the assignment each time. She or he is also expected to participate in the discussion and particularly to be able to pick out the facts, issues, decisions, and reasoning when cases have been assigned. Using this format (i.e., facts, issues, decisions, and reasoning), you will sometimes be expected to submit case briefs in writing as well. At other times, the class may be divided into groups to discuss cases or other topics and to report to the whole class. In addition, the textbook for the course contains lists of study questions at the end of each case. These questions will provide an important focus for class discussion. And at times I will ask you in advance to submit your answers to these questions in writing.

As shown in the schedule of class meetings (the instructor, of course, reserves the right to make appropriate changes in consultation with the class), three essay tests (including the one given during the final examination week) are planned. Each of these tests constitutes one component of the grade for the course. Class participation (the foundation of which is regular attendance) and the various written assignments (not including a term paper) will provide two additional components (i.e., one-fifth each).

In addition, each graduate student will write a research paper. This will constitute two other factors (i.e., two-sevenths of the final grade). Topics for these papers will be provided.

The textbook is Valerie Epps. *International Law*, 2nd ed. Durham, N.C.: Carolina Academic Press, 2001 (paperback). This book will have to be your regular companion for the duration of this semester. Designed to be more appropriate for undergraduate courses and even for graduate students in Political Science than are the massive casebooks designed for law schools that have been used when this class was offered in previous years, it will at least be less of a burden to carry around with you. Nevertheless, it is a substantial tome, filled with court decisions that you will constantly have to wrestle with during the next four months.

A copy of one or more editions of Gerhard von Glahn, *Law Among Nations: An Introduction to Public International Law* will be on reserve, primarily to provide examples of how cases should be briefed. *Black's Law Dictionary*--indispensable for understanding legal terminology--will be on reserve at the reference desk. But in most cases today you may not have to use this work, for if you do a Google search (using quotation marks) for any legal term, including those in Latin, this likely will take you to entries in various dictionaries.

Office hours: 1:30-2:30 (TH) and 3:00-4:00 (MWF) or by appointment. Office: Holmstedt Hall, Room 318 (on the north end of the second floor. Telephone: 237-2505. E-mail: <psperrg@isugw.indstate.edu>.

SCHEDULE OF TOPICS AND ASSIGNMENTS:

WEEK ONE (August 23-27)

Tuesday: Late registration; no class

Thursday: Introduction and getting to know one another. What is international law? But is it really law? Does it matter? Retroactive assignment: the Introduction to Epps (pp. 3-4).

WEEK TWO (August 30--September 3)

Tuesday: Origin and character of international law

Read: J. L. Brierly, *Law of Nations* (5th ed.), Chapter I (on reserve)

Thursday: Origins and character of international law (continued)

Read: J. L. Brierly, *Law of Nations*, the first three sections of Chapter II (ending before Section 4 (“The Sources...”), i.e., to p. 56)

WEEK THREE (September 6-10)

Tuesday: Sources of international law--general discussion and focus on custom

Read: Epps, pp. 5-11, including the following case:
The Paquete Habana (pp.5ff)

Video--The Nature and Sources of International Law

Thursday: Continued discussion of sources, including treaties, general principles, judicial decisions, and writings of scholars

Read: Epps, pp. 11-23, including the following case:
Dolly M.E. Filartiga and Joels Filartiga v. America Norberto Pena-Irala (p.11ff)

WEEK FOUR (September 13-17)

Tuesday: Focus on *opinio juris*

Read: **North Sea Continental Shelf Cases** (Epps, pp. 17ff)

Thursday: Title to territory

Read: Epps, pp. 25-43, including the following cases:

Island of Palmas (Miangas) Case (pp. 26ff)

Legal Status of Eastern Greenland (pp. 35ff)

WEEK FIVE (September 20-24)

Tuesday: Title to territory (continued discussion)

Read: Epps, pp. 44-51

Thursday: *FIRST TEST*

WEEK SIX (September 27--October 1)

Tuesday: The law of treaties

Read: Epps, pp. 53-63, including the following case:

Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (pp. 56ff)

Thursday: Interpretation of treaties

Read: Epps, pp. 63-87, including the following cases:

LaGrand Case (Germany v. United States of America) (pp. 64ff)

United States v. Stuart (pp. 80ff)

Video--The Law of Treaties

WEEK SEVEN (October 4-8)

Tuesday: The law of treaties--invalidity, termination and suspension,

Read: Epps, pp. 87-97, including the following cases:

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) (pp. 90ff)

The Fisheries Case (Jurisdiction) (United Kingdom v. Iceland) (pp. 93ff)

Thursday: More on the law of treaties--termination and suspension, procedure for termination, state succession in respect of treaties, effect of war on treaties

Read: Epps, pp. 93-112, including the following cases:

Case Concerning Gabcikovo-Nagymaros Project (pp. 97ff)

Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia-Herzegovina v. Yugoslavia) (pp. 104ff)

Techt v. Hughes (pp. 108ff)

WEEK EIGHT (October 11-15)

Tuesday: Jurisdiction

Read: Epps, pp. 113-123, including the following cases:

United States v. Aluminum Company of America (pp. 115ff)

United States v. Fawaz Yunis, a/k/a Nazeeh (pp.118ff)

Thursday: Jurisdiction (continued) and extradition

Read: Epps, pp. 123-142, including the following cases:

Attorney General of the Government of Israel v. Eichman (pp. 123ff)

United States v. Humberto Alvarez-Machain (pp. 132ff)

WEEK NINE (October 18-22)

Tuesday: Immunity from jurisdiction: diplomatic immunity, consular immunity

Read: Epps, pp. 142-153, including the following case:

Case Concerning United States Diplomatic and Consular Staff in Tehran (pp. 144ff)

United States v. Sihadej Chindawongse/United States v. Boripat Siripan (pp. 151ff)

Thursday: immunity of international organizations, head of state immunity, sovereign immunity, act of state doctrine

Read: Epps, pp. 153-175, including the following case:

**Regina v. Bartle and the Commissioner of Police for the Metropolis and others
Ex Parte Pinochet**

WEEK TEN (October 25-29)

Tuesday: The law of the sea

Read: Epps, pp. 177-192, including the following case:

United States v. Conroy/United States v. Walker (pp. 185ff)

Thursday: More on the law of the sea: international straits, the contiguous zone, the exclusive economic zone, the continental shelf, the high seas, the deep sea bed, settlement of maritime disputes, marine pollution

Read: Epps, pp. 192-205, including the following case:

Corfu Channel Case (pp. 192ff)

WEEK ELEVEN (November 1-5)

Tuesday: Jurisdiction over vessels, fishing on the high seas

Read: Epps, pp. 206-240

United States v. Marino-Garcia/United States v. Cassalins-Guzman (pp. 210ff)

Wildenhus' Case (pp. 216ff)

The Saiga Case (St. Vincent and the Grenadines v. Guinea)

Thursday: *Second Test*

WEEK TWELVE (November 8-12)

Tuesday: International Environmental Law

Read: Epps, pp. 241-256, including the following cases:

The Corfu Channel Case (Merits) (pp. 242ff)

Trial Smelter Case: United States v. Canada (pp. 245ff)
Legality of the Threat or Use of Nuclear Weapons (pp. 252ff)

Thursday: International legal personality; nationality of individuals

Read: Epps, pp. 257-279, including the following case:
Reference re Secession of Quebec (pp. 260ff)
Nottebohm Case (Liechtenstein v. Guatemala) (pp. 209ff)

WEEK THIRTEEN (November 15-19)

Tuesday: More on international legal personality, especially relating to international organizations

Read: Epps, pp. 279-294, including the following case:
Reparations for Injuries Suffered in the Service of the United Nations (pp. 281ff)

Thursday: Human rights

Read: Epps, pp. 295--313, including the following cases:
Camargo (on behalf of Guerrero) v. Columbia (1982) (pp. 237ff)
Lovelace v. Canada (1981) (pp. 240ff)

Time does not permit us to deal with regional human rights system this semester, but you should at least skim over pp. 313-339 in order to be familiar with this topic. As for enforcement by domestic courts, we have recurrently considered this question already, but skim over pp. 339-355.

WEEK FOURTEEN (November 22-26)

Tuesday: The peaceful settlement of disputes: arbitration and international courts

Read: Epps, pp. 357-38, including the following case:
Norwegian Loans Case (pp. 364ff)
Case Concerning Military and Paramilitary Activities in and Against Nicaragua: Nicaragua v. United States (p. 367)

Thursday: Thanksgiving break

WEEK FIFTEEN (November 29-December 3)

Tuesday: The use of force, including war

Read: Epps, pp. 383-394, including the following cases:
The Caroline Case (pp. 386ff)
Legality of the Threat or Use of Nuclear Weapons (pp. 389ff)

**Case Concerning Military and Paramilitary Activities In and Against Nicaragua:
Nicaragua v. United States (pp. 391ff)**

Thursday: The use of force (continuing discussion)

Read: Epps, pp. 398-416, including the following cases:

Legality of the Threat or Use of Nuclear Weapons (pp. 398ff)

**Case Concerning Military and Paramilitary Activities In and Against Nicaragua:
Nicaragua v. United States** (pp. 402ff)

WEEK SIXTEEN (April 6-10)

Tuesday: More on force and war--*jus in bellum*

Read: Epps, pp. 416-356, including the following cases:

The Prosecutor v. Drazen Erdemovic (pp. 420ff)

The Prosecutor v. Jean Kambanda (pp. 437ff)

Video: International criminal law

Thursday: Focus on the use of nuclear weapons

Read: Epps, pp.447-469, including the following case:

Legality of the Threat or Use of Nuclear Weapons (pp. 447ff)

Video: Use of Force

WEEK SEVENTEEN--Finals week (December 13-17)--THIRD TEST on December 16 at 10 a.m.