

PUBLIC INTERNATIONAL LAW

Reading list Autumn 2009

Responsible for course: Ole Kristian Fauchald, o.k.fauchald@jus.uio.no
in collaboration with Cecilia Bailliet, c.m.bailliet@jus.uio.no

Mock exam: Topic and deadline to be announced. Discussion of mock exam on Nov. 9.

Teaching:

31/8: Theory of public international law – Lecture, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapters 1 and 2 / Evans chapters 1, 2 and 3
- Peters, Anne. “Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures.” *Leiden Journal of International Law*, Vol. 19 (2006) pp. 579-610.
- Koskenniemi, Martti. “Fragmentation of International Law: Difficulties Arising from Diversification and Expansion of International Law.” Report of the Study Group of the International Law Commission (2007), available at http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/1_9_2006.pdf.

Primary materials:

- The Charter of the United Nations
- The Statute of the International Court of Justice (in particular Article 38)
- The Vienna Convention on the Law of Treaties

Establishment of groups for the case studies

7/9: Treaties in international law – Lecture and case study, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapters 9, 10, 23.6 and 24.6 / Evans chapters 4, 5, 6 and 7
- Peters, Anne. “Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures.” *Leiden Journal of International Law*, Vol. 19 (2006) pp. 579-610.
- Koskenniemi, Martti. “Fragmentation of International Law: Difficulties Arising from Diversification and Expansion of International Law.” Report of the Study Group of the International Law Commission (2007).
- Jackson, John H.: “The Changing Fundamentals of International Law and Ten Years of the WTO”, *Journal of International Economic Law*, Vol. 8 No. 1 (2005) pp. 3-15.

Primary materials:

- The Statute of the International Court of Justice (in particular Article 38)

- The Vienna Convention on the Law of Treaties
- The WTO Agreement
- The UN Framework Convention on Climate Change
- The Kyoto Protocol

Case study:

- The trade and environment controversy

10/9: Custom in international law – Lecture and case study, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapters 8 and 11 / Evans chapters 4, 5 and 6
- International Law Association: “Report of the Committee on Formation of Customary (General) International Law. Statement of Principles Applicable to the Formation of General Customary International Law.” (2000), available at <http://www.ila-hq.org/pdf/CustomaryLaw.pdf>.
- Peters, Anne. “Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures.” Leiden Journal of International Law, Vol. 19 (2006) pp. 579-610.
- Koskenniemi, Martti. “Fragmentation of International Law: Difficulties Arising from Diversification and Expansion of International Law.” Report of the Study Group of the International Law Commission (2007).

Primary materials:

- The Charter of the United Nations
- The Statute of the International Court of Justice (in particular Article 38)
- The Friendly Relations Declaration
- The Rio Declaration on Environment and Development

Case study:

- ICJ Nicaragua case, ICJ Reports 1986

14/9: International law and domestic law – Lecture and case study, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapters 12 and 21 / Evans chapters 14 and 24.
- Peters, Anne. “Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures.” Leiden Journal of International Law, Vol. 19 (2006) pp. 579-610.

Primary materials:

- The Rome Statute of the International Criminal Court
- The U.S. Constitution
- The Norwegian Constitution
- ICJ Request for Interpretation of the Judgement of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America), available at <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=11&case=139&code=musa&p3=4>

Case study:

- The principle of complementarity in International Criminal Law

17/9: State sovereignty, including law of the sea – Lecture and case study, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapters 3, 4, 5 and 6 / Evans chapters 11, 12, 13 and 21

Primary materials:

- UN Convention on the Law of the Sea, Parts I-X & XII
- ILC Draft Articles on Prevention of Transboundary Harm from Hazardous Activities
- Rio Declaration on Environment and Development
- The Convention on Biological Diversity
- UN Declaration on Permanent Sovereignty over Natural Resources (UNGA Res. 1803 (XVII) 1962)
- UN Charter of Economic Rights and Duties of States (UNGA Res. 3281 (XXIX) 1974)

Case study:

- Question 2 of the exam for the Spring of 2008, available at:
http://www.uio.no/studier/emner/jus/jus/JUR5540/oppgaver/exam_JUR5540_public_international_law_v08.html

21/9: Statehood in international law – Lecture and case study, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapter 4 / Evans chapter 8

Primary materials:

- Montevideo Convention on the Rights and Duties of States (1933)
- ILO Convention no. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)
- UN General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples, UN GA Resolution 1514 (XV)
- The Friendly Relations Declaration

Case study:

- The question of a Palestinian state

24/9: International environmental law – Lecture and case study, Fauchald

Reading (only mandatory reading is listed):

- Cassese, chapter 23 / Evans chapter 22

Primary materials:

- ILC Draft Articles on State Responsibility for Internationally Wrongful Acts
- ILC Draft Articles on Prevention of Transboundary Harm from Hazardous Activities
- UN Convention on the Law of the Sea, Parts I-X & XII
- Rio Declaration on Environment and Development
- The UN Framework Convention on Climate Change
- The Kyoto Protocol
- The Convention on Biological Diversity

- UN Declaration on Permanent Sovereignty over Natural Resources (UNGA Res. 1803 (XVII) 1962)

Case study:

- Gabčíkovo-Nagymaros Project (Hungary/Slovakia), ICJ Reports 1993

5/10: Intergovernmental organizations – Lecture and case studies, Bailliet

Reading:

- Cassese, chapters 7 and 16 / Evans, chapter 9
- Ulfstein, Geir & Robin R. Churchill: “Autonomous Institutional Arrangements in Multilateral Environmental Agreements. A Little-Noticed Phenomenon in International Law.” *The American Journal of International Law*, Vol. 94 No. 4 (2000) pp. 623-659.
- Ehlermann, Claus-Dieter & Lothar Ehring: “Decision-Making in the World Trade Organization. Is the Consensus Practice of the World Trade Organization Adequate for Making, Revising and Implementing Rules on International Trade?” *Journal of International Economic Law*, Vol. 8 No. 1 (2005) pp. 51-75.

Primary Materials:

- Statute of the United Nations High Commission for Refugees (UNHCR)
- Constitution of the International Labour Organization (ILO)
- Rome Statute of the ICC
- The Charter of the United Nations
- The Vienna Convention on the Law of Treaties

Case study:

- Legal and operational functions of the UNHCR, ILO and ICC

8/10: Private parties in international law – Lecture and case studies, Bailliet

Reading:

- Evans, chapter 10 / Cassese, chapter 7.6
- Charnovitz, Steve. “Nongovernmental Organizations and International Law.” *The American Journal of International Law*, Vol. 100 No. 2 (2006), pp. 348-372

Primary Materials:

- European Convention on the Recognition of the Legal Personality of International Non Governmental Organizations, available at: <http://conventions.coe.int/Treaty/en/Treaties/Word/124.doc>
- INGO Accountability Charter, available at: <http://www.ingoaccountabilitycharter.org/>

Case Study:

- Recommendations of Norway’s Council of Ethics, available at: http://www.regjeringen.no/en/sub/styret-rad-utvalg/ethics_council.html?id=434879

12/10: Violation of International Law and Responsibility – Lecture and case studies, Bailliet

Reading:

- Cassese, chapter 13 / Evans, chapters 15 and 16

Primary Materials:

- ILC Draft Articles on State Responsibility for Internationally Wrongful Acts

Case Study:

- ICJ United States Diplomatic and Consular Staff in Tehran

19/10: Dispute settlement and enforcement – Lecture and case studies, Bailliet

Reading:

- Cassese, chapter 14 and 15 / Evans, chapters 17, 18 and 19

Primary Materials:

- UN Charter, Art. 2 (3), Chapter VI, Arts. 33, 36, 37 & 96
- Statute of the International Court of Justice, Chapter IV, Art. 36
- UN Convention on the Law of the Sea, Part XV, Art. 282
- UNCITRAL Arbitration Rules:
http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/1976Arbitration_rules.html
- ICSID Convention: <http://icsid.worldbank.org/ICSID/ICSID/RulesMain.jsp>
- Permanent Court of Arbitration Website: <http://www.pca-cpa.org/>

Case study:

- ICJ Norwegian Loans Case, France v. Norway, 1957
- ICJ Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Jurisdiction)

22/10: Use of force – Lecture and case studies, Bailliet

Reading:

- Cassese, chapters 17 and 18 / Evans, chapter 20

Primary Materials:

- The UN Charter
- NATO Treaty: <http://www.nato.int/docu/basicxt/treaty.htm>
- Resolutions on Kosovo:
- UN Security Council Resolution 1199, available at:
<http://www.un.org/documents/scres.htm>
- UN Security Council Resolution 1244
- Key Documents on Afghanistan: <http://www.globalpolicy.org/security-council/index-of-countries-on-the-security-council-agenda/afghanistan.html>
- Key Documents on Iraq: <http://www.globalpolicy.org/iraq.html>

Case study:

- Article 4(h) of the Constitutive Act of the African Union

26/10: Human rights law – Lecture and case studies, Bailliet

Reading:

- Cassese, chapter 19 / Evans, chapter 25

Primary Materials:

- UN Declaration on Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights

- UN Convention on the Elimination of Racial Discrimination
- UN Convention Against Torture
- UN Convention on the Elimination of Discrimination Against Women
- UN Convention on the Rights of the Child
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- Convention on the Rights of Disabled Peoples

Case study:

- Inter-American Commission on Human Rights: Decisions Report N° 27/09, Case 12.249, Jorge Odir Miranda Cortez et al. v. El Salvador, available at <http://www.cidh.oas.org/annualrep/2009eng/ElSalvador12249eng.htm>

29/10: Humanitarian law – Lecture and case studies, Bailliet

Reading:

- Cassese, chapter 20 / Evans, chapter 26

Primary Materials:

- The Geneva Conventions and Protocols, available at: http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/section_ihl_treaties_and_customary_law?OpenDocument

Case Studies:

- Sexual Violence in the Context of War, UN Security Council Resolution 1820, available at: http://www.un.org/Docs/sc/unsc_resolutions08.htm,
- ICTY, Furundzija Case, judgment and summary available at: <http://www.icty.org/case/furundzija/4>

2/11: Third world and feminist perspectives – Lecture and case studies, Bailliet

Readings:

- Cassese, chapter 24
- Charlesworth, Hilary, Christine Chinkin and Shelley Wright. “Feminist Approaches to International Law.” The American Journal of International Law, Vol. 85, No. 4 (Oct., 1991), pp. 613-645
- Pahuja, Sundhya: “Beheading the Hydra: Legal Positivism and Development”, Law, Social Justice & Global Development journal 2007, issue 1

Case Study:

- Final Document of the Non-Aligned Movement, available at: <http://www.namegypt.org/Relevant%20Documents/01FINAL%20DOCUMENT.DOC>

5/11: Class debate of a current issue, Bailliet

Topic to be announced

9/11: Discussion of the mock exam, Bailliet