



האוניברסיטה העברית בירושלים
THE HEBREW UNIVERSITY OF JERUSALEM

Rothberg International School
Department of Summer Courses
and Special Academic Programs

ביה"ס לתלמידים מחו"ל ע"ש רוטברג
המחלקה לקורסי קיץ
ותוכניות מיוחדות



Public International Law:

The Case of Jerusalem (SPLW201)

Dr. Leonard Hammer

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June 26– July 26, 2011

Sun – Tue: 4:00pm-7:00pm

45 Academic Hours, 3 Academic Credits

COURSE GOALS & REQUIREMENTS

The goal of the course is to provide an overview of public international law with a focus on issues relevant to Jerusalem. Following an introduction to the international legal system, the course and lectures will be broken down into parts whereby we will discuss relevant international legal principles and consider their application to Jerusalem. I also shall request of you all to make presentations throughout the course on a topic relevant to Jerusalem (and the course) as explained below.

COURSE READING

The course reading is designed to stimulate class discussion as well as sharpen some ideas that will be discussed in the lecture.

We will use the following book:

Akehurst, *Modern Introduction to International Law* (hereinafter: Akehurst) **341 A313**

I also shall have some guest lecturers come in and maybe also we can go out for visits (I hope!) pending proper arrangements. Further, I will devote the last class to a review session, where together we will review a sample exam as well as address any questions you might have about the course materials.

You also shall be responsible for a presentation portion that will address an issue relevant to international law and Jerusalem. This is meant to stimulate thought and discussion and is NOT a research paper. Basically, I expect you all to put together something you might have read, from the news, seen on a website, or just thought about and did some minor research into regarding Jerusalem and international law. I desire that you come up with 2/3 discussion questions to be given to the class a day or two BEFORE your presentation to allow us (myself included) to think about the questions. You are to engage a discussion based on your presentation and questions – this is not a high-pressure presentation, but meant to be interesting and engaging for us all.

You **MUST ATTEND LECTURES** and participate in the discussions. I will account for your attendance, presentation, **and** participation as part of the final grade.

The exam will be based **on the lectures** and is **closed book**.

COURSE ASSESSMENT

Participation and attendance: 20%

Presentation: 15%

Final Exam: 65%

COURSE OUTLINE

Lecture I

Public International Law - An Overview

The key here is to understand the sources of public international law. Consideration will be given to the universal nature of international law and to the nature of obligations within the international legal framework. Think about the meaning of obligation and whether there is a necessity for “law” here. We will also account for where the issues of sources fit in to the Jerusalem context.

Lecture Reading: Akehurst, 35-46, 48-55 **341 A313**

Seminar

Take a look at the following link. What do you think the author is stating about International Law?

Seminar Reading: **Is Foreign Law International Law? By Frederic L. Kirgis October 31, 2005** <http://www.asil.org/insights051031.cfm>

Lecture II

International Law and International Relations

Consider the manner in which international law affects international relations and how the two can or cannot conform. The notion here is to account for developing frameworks for addressing the issue of Jerusalem – such that please consider which approach YOU consider most relevant.

Lecture Reading:

II. The Players

Lecture III

International Personality and Statehood

We will attempt to “define” a state – or at least identify its key elements. We also will consider recognition of states and governments. What significance is there to being a state? What is the meaning of autonomy and where does it fit into the international legal framework? What of other entities in the world? Is there any normative value to recognition?

You can imagine this is an issue for Jerusalem – how do you think the recognition issue comes to the fore in this context?

Lecture Reading: Akehurst 75-90 **341 A313**

Lecture IV

The United Nations and its International Role

The lecture will address the history leading up to the UN. We will analyze the UN, its key organs, and inherent problems with the UN. What issues do you have with the UN? Why do you think the UN has such problems?

Reading: Akehurst, 364-366, 373-384 **341 A313**

Seminar

What does the following resolution discussed in the article tell us about the Security Council and its powers? We will discuss especially the role of the Security Council and Jerusalem by considering SC Res. 242 following the 1967 war.

Lecture V

Dealing with Disputes

Addressing disputes is obviously an important factor in international law. Consider the various ways in which states attempt to settle disputes (negotiation, conciliation, mediation and arbitration). Are they effective? What of assistance from third parties? What damage can they cause and why?

Lecture Reading: Akehurst, 273-281 **341 A313**

Seminar

I would like to consider with you the University of Windsor Proposal for the Old City and shall provide a link.

Lecture VI

International Law and Domestic Law

It is imperative to consider how one integrates public international law with domestic law, if at all. How real is international law and what is its relationship with domestic law?

Lecture Reading: Akehurst 63-71 **341 A313**

Lecture VII

The Law of Treaties

We will consider the significance of treaties and their role in the international framework.

Lecture Reading: Akehurst 130-137 **341 A313**

Seminar

Let us examine the Vatican-Israel Accord from 1993 and consider its role in the Israeli context. (a link will be provided)

Lecture VIII

The Use of Force

We will analyze the classic approaches to the use of force and trace the development up until the UN period. We will then consider the UN provisions on this matter and whether they actually reflect customary international law.

Lecture Reading: Akehurst, 309-318, 385-390 **341 A313**

Seminar

Consider the following discussion about proportionality and self defense. What is the underlying problem with regard to proportionality? Are there actual “legal” standards defining that term?

Seminar Reading: **Some Proportionality Issues Raised by Israel’s Use of Armed Force in Lebanon August, 2006** <http://www.asil.org/insights060817.cfm>

Please consider this application to Jerusalem, especially regarding post-1967 and the rules that might apply.

Lecture IX

International Humanitarian Law and Human Rights

Reading: On the relationship between human rights law protection and international humanitarian law

Hans Heintze

IRRC December 2004 Vol. 86 No 856

[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/692EUA/\\$File/irrc_856_Heintze.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/692EUA/$File/irrc_856_Heintze.pdf)

OR

Challenges in applying human rights law to armed conflict

Noam Lubell

IRRC Volume 87 Number 860 December 2005

[http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/review-860-p737/\\$File/irrc_860_Lubell.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/review-860-p737/$File/irrc_860_Lubell.pdf)

This lecture shall account for the role of international human rights within the normative framework of international humanitarian law. The two systems are quickly converging and merit a thorough examination. We shall consider a number of issues, including, in particular, the right to life and Economic and Social Rights. We shall then account for what is the significance of such issues to Jerusalem, especially the manner by which human rights should be applied to the city, given its status (to be further delineated below).

Lecture X

Occupied Territory

Reading:

The scope of international humanitarian law includes as well the area of application. Thus, instances apply where the law is applied even in situations that are outside the formal jurisdiction of a state. This is an important and seminal issue for Jerusalem, especially places like the Old City, where we will account for its status and the significance of international law in that context.

Lecture

The International Court of Justice and International Humanitarian Law

Reading: CRITICAL REFLECTIONS ON THE INTERNATIONAL HUMANITARIAN LAW ASPECTS OF THE ICJ WALL ADVISORY OPINION 5

Ardi Imsei

99 AJIL 2005

<http://www.jstor.org/stable/3246093?cookieSet=1>

The International Court of Justice has been quite active over the past decade in addressing issues concerning international humanitarian law. This has assisted (at times) to elaborate on the structure and status of a variety of norms. Following an explanation of what the ICJ “is”, we shall consider the separation wall case and the ICJ’s perspective as it affects Jerusalem.

Lecture XI

Protection of Cultural Property in the Context of Occupation

Reading: The legal regime for protecting cultural property during armed conflict

J. Kastenber

42 Air Force Law Review 1997 **E-journal**

While protection of cultural property during war might seem insignificant, the importance of such objects many times serves as a catalyst for action, especially when accounting for religious grounds as a source of conflict. It is important to consider the normative structure, and critique the existing forms of protection that are in place for cultural property. Obviously – this is a factor in Jerusalem(!) – and we shall elaborate upon these issues following further delineation in the next lecture concerning holy places in the international context.

Lecture XII

Holy Places in the International Sphere

This section shall account for the role of holy places in the international sphere, especially in relevant treaties and agreements between Israel and other entities. This includes the 1993 Fundamental Agreement with the Holy See and the variety of peace treaties that refer to holy places. We also shall account for the status of the Old City in international law and various proposals concerning the manner by which a peace agreement can account for holy places.

R. Lapidoth Freedom of Religion and Conscience in Israel 249 in M. Breger ed. *The Vatican-Israel Accords: Political, Legal, and Theological Contexts* (Notre Dame P., Indiana, 2003)
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Websites of Interest:

- UN: <http://www.un.org/>
- American Society of International Law: <http://www.asil.org/resource/home.htm>
- Using the Internet and International Law:
- <http://www2.lib.uchicago.edu/~llou/forintl.html#research>
- International Affairs Resource: <http://www2.etoan.edu/vl/research.html>