

Institute for International Law and Justice Seminar

(L05.3700.001)

Spring 2006

Professors Alston, Kingsbury & Kumm

Wednesdays, 2.05pm – 3.55pm

Furman Hall, Room 316

Syllabus

Wednesday 11 January:

1. Jeremy Bentham's International Law

Jeremy Bentham, *The Principles of International Law* (1786-90) (note that these readings are taken from 1843 Bowring edition, which contains some significant distortions of Bentham's manuscripts): Essay 1 (Objects of International Law), Essay 3 (Of War), Essay 4 (A Plan for an Universal and Perpetual Peace).

Gunhild Hoogensen, *International Relations, Security and Jeremy Bentham* (2005), p. 81-103 (Bentham on Peace), and pp. 40-54 (background, on the problems of the Bowring edition of the texts)

Wednesday 18 January:

2. James Madison's International Law

[Anon.], *An Examination of the British Doctrine which subjects to capture a Neutral Trade not open in Time of Peace* (1806), pp. 1-11 (on purposes of the treaties, and sources of law of nations), 35-42 (on GF Martens), 43-63 (analysis of relevant treaties through to 1715), 80-94 (on British conduct), 102-111 (on British policies in the 1790s), 152-73 (policy issues: Madison vs. Judge William Scott)

David Golove, *Military Tribunals, International Law, and the Constitution: A Franckian-Madisonian Approach*, *NYU Journal of International Law and Politics* 35 (2003), pp. 363-377.

Wednesday 25 January:

3. Twentieth Century Positivist Theories of International Law

Lassa Oppenheim, International Law, 2nd edn, vol. 1 (1912), pp. 3-44

H.L.A. Hart, The Concept of Law (1961), ch. 10

Wednesday 1 February:

4. Hans Kelsen and the Pure Theory of Law

Guest speaker: Prof Alexander Somek, University of Iowa

Hans Kelsen, Legal Formalism and the Pure Theory of Law (originally published 1929)

Hans Kelsen, Pure Theory of Law, pp. 320-47 (2nd edition 1960)

Wednesday 8 February:

5. Carl Schmitt and the Problem of Politics

Carl Schmitt, The Concept of the Political, pp. 19-79 (1st ed. 1932)

Wednesday 15 February:

6. The New Haven School

Myres MacDougal, Perspectives for an International Law of Human Dignity, in: MacDougal and Associates, Studies in World Public Order (1987), pp. 987-1019

Michael Riesman, Why Regime Change is (Almost) Always a Bad Idea, 98 American Journal of International Law (2004), pp. 516-525

Further reading: Myres MacDougal & Gertrude C.K. Leighton, The Rights of Man in the World Community, in: MacDougal and Associates, Studies in World Public Order (1987), pp.335-403

Wednesday 22 February:

7. Contemporary Liberal Theory of International Law

Anne-Marie Slaughter, *A New World Order* (2004), pp. 1-35 and 65-103

Jose Alvarez, *Do Liberal States Behave Better?: A Critique of Slaughter's Liberal Theory*, *European Journal of International Law* 12 (2001), pp. 183-246

Wednesday 1 March:

8. Rawls and International Human Rights

John Rawls, *The Law of Peoples*, pp. 59-120

The Margin of Appreciation Doctrine in the European Court of Human Rights, Handyside v. UK No. 24 Judgment of 7 Dec. 1976 (No. 24) 1 E.H.R.R. 737

UN Security Council Resolution 688 (1991)

Wednesday 8 March:

9. Jurgen Habermas: Kant and Peace

Jurgen Habermas, *The Kantian Project and the Divided West* (rough translation of 2004 work)

Further Reading: Jurgen Habermas, *Kant's Idea of Perpetual peace: At Two Hundred Years Historical remove*, in: Habermas, *The Inclusion of the Other* (1998), pp. 165-202

Wednesday 22 March:

10. Global Justice?

Thomas Nagel, "The Problem of Global Justice", *Philosophy and Public Affairs* 33 (2005), pp. 113-47.

Thomas Pogge, *World Poverty and Human Rights* (2003), pp. 196-215 (and notes at pp. 254-55)

Wednesday 29 March:

11. Third World International Law and Anti-Imperialism

B.S. Chimni, "Third World Approaches to International Law: A Manifesto" in Antony Anghie, Bhupinder Chimni, Obiora Okafor and Karen Mickelson eds., *The Third World and International Order: Law, Politics and Globalization* (2003), pp. 47-75.

B.S. Chimni, "International Institutions Today: An Imperial Global State in the Making", *European Journal of International Law* 15 (2004), pp. 1-39.

Wednesday 5 April:

12. Discussion with Prof Martti Koskenniemi

Materials to be finalized. Please note that Prof Koskenniemi will be delivering an IILJ Lecture at NYU Law School on Monday 3 April, approx 6pm-8pm – please plan to attend that lecture.

Wednesday 12 April:

13. Student Paper Presentations

Wednesday 19 April:

14. Student Paper Presentations