Arcadia Centre for East African Studies
Nyerere Centre for Peace Research
P.O. Box 2771 Arusha, United Republic of Tanzania

ARCADIA UNIVERSITY
THE COLLEGE OF GLOBAL STUDIES

GRTZ PSIL 582 African Perspectives on International Law
Instructor: Mr Roland ADJOVI
Credits: 3

Purpose and Objectives of the Course

Students attending this class will learn how international law operates in the international relations in Africa, with a focus on peace and security. Various case studies will be introduced, sometimes with guest speakers. This should allow the students to better understand the basic elements of international law, and its specific elements related to the maintenance of peace and security in Africa.

Required Reading

Juma M. (ed.), *Compendium of Key Documents Relating to Peace and Security in Africa*, 2006, PULP (http://www.pulp.up.ac.za/pdf/2006_03/2006_03.pdf).

Instruments of the African Union, 2010, PULP (http://www.pulp.up.ac.za/pdf/2010_11/2010_11_d_instruments_of_african_union.pdf) (= 2010 AU Instruments).

Recommended Readings

African Yearbook of International Law, volume 1 (1993) to volume 15 (2007).

Elias T.O., Akinjide R., *Africa and the Development of International Law*, Martinus Nijhoff Publishers, 1998, Leiden (The Netherlands).

Maluwa T., *International Law in Post--Colonial Africa*, Kluwer Law International, 1999, Leiden (The Netherlands), London (United Kingdom), Boston (United States of America), Series: Studies and Materials on the Settlement of International Disputes, Vol. 4.

Schweigman D., *The Authority of the Security Council under Chapter VII of the UN Charter. Legal Limits and the Role of the International Court of Justice*, Kluwer Law International, 2001, The Hague (The Netherlands), London (United Kingdom) and Boston (United States of America).

Course Requirements and Grading System

1. **Class participation (10%)**

Active participation is expected and will be evaluated for 10% of the final assessment. Various materials will be assigned for reading, presentation, and discussion. Students are encouraged to be critical about the reading materials, and to address the questions and the cases assigned orally.

2. **Research paper: written paper (25%) and oral presentation (15%)**

Each student will prepare a research paper on a specific topic in connection with a peace and security in Africa (2000 to 3000 words). The paper should be submitted on 19 November 2010 at the latest, by email. All papers will be presented on 16 and 17 November 2010.

3. **Final exam (50%)**

The students will write a final exam on 9 November 2009, from 9.30 to 12.30, which will count for half (50%) of the final assessment of each student.

Structure of the course

Students will meet at the Nyerere Centre for Peace Research on Thursday, unless otherwise advised. A typical day will follow this schedule, although it might vary on days when there are visits or guest speakers.

9:00-10:30: First Hour Class
11:00-12:30: Second Hour Class
12:30-14:00: Lunch Break
14:00-16:00: Third Hour Class

Class policies

1. Attendance & Participation

Students are expected to attend all class meetings and to actively participate in discussions. In case of illness or family emergency, please check in with me on making up missed material. As explained above, active participation means that the students read the materials, and engage in critical discussion during the class. Please respect everyone's view.

2. Late Paper Policy

Papers are due for the last week of the course, and as indicated above. Your paper is considered submitted when it is in my hands or in my inbox (send it with receipt acknowledgement). Papers submitted after the deadline will be penalized 2% per day (e.g. Paper submitted 1 day late will be assessed on 13% instead of 15%). Any paper submitted more than a week (7 days) late will be granted a ZERO.

3. Academic Honesty

As a matter of principle, Arcadia University does not tolerate academic dishonesty in its students. Cases of cheating on exams, free-riding on group assignments, or plagiarizing papers will result in a ZERO for the assignment, which will automatically result in a failing grade for the course. While preparing your paper, you are most welcome for any discussion needed. Two days will be allocated for review before the exam, and you are also welcome if you have any question, or if you are stressed out or panicking.

4. Disability Services

Persons with documented disabilities requiring accommodations to meet the expectations of this course should contact the Dean of Students Office while enrolling into the programme, and before coming to Arusha, so that appropriate arrangements are in place.

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DETAILED SCHEDULE

1. Introduction on African Perspectives of International Law (5 hours)

1.1. Regionalism v Universalism in International Law

Reading: Thio Li-ann (2001), Formalism, Pragmatism and Critical Theory: Reflections on Teaching and Constructing an International Law Curriculum in a New (Post-Colonia) Asia, *Singapore Journal of International & Comparative Law* 5 (2001), 327-354 (http://law.nus.edu.sg/sybil/downloads/articles/SJICL-2001-2/SJICL-2001-327.pdf).

1.2. Peace and Security at risk in Africa: Conflicts

Reading:
Carter Center, 1995-1996 State of World Conflict Report (http://www.cartercenter.org/documents/1225.pdf) (=1996 Carter Center – State of World Conflict Report)

1.3. Causes of Conflicts

United Nations, General Assembly & Security Council, *The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa, Report of the Secretary-General*, Doc. A/52/871 – S/1998/318.

1.4. Legal principles involved for resolution of those conflicts

(i) Collective Security regime
(ii) Responsibility to Protect
(iii) Rule of Law

1.5. Agenda: Discussion of Selected Issues of International Law related Peace & Security in Africa and Addressing African Specificities

Issues:
(i) At the source of the conflicts (Boundaries, Mercenary / Private Security Companies, Natural Resources & Environment),
(ii) Legal principles (Collective Security, Rule of Law, Responsibility to Protect), and
(iii) Tools (International Organizations)

2. Issue 1: Boundaries in Africa (3 hours)

Reading:
Carter D.B., Goemans H.E., The Making of the Territorial Order: New Borders and the Emergence of Interstate Conflict, 30 March 2009 (http://www.rochester.edu/college/faculty/hgoemans/Publications/NewBorders34.info.pdf) (= 2009 Carter & Goemans on New Borders and the Emergence of Interstate Conflict)
Teshome W., Colonial Boundaries of Africa: The Case of Ethiopia's Boundary with Sudan, *Ege Akademic Review* 9 (2009) 1, 337-367 (http://eab.ege.edu.tr/pdf/9_1/C9-S1-M19.pdf) (= 2009 Teshome W on Colonial Boundaries - Ethiopia & Sudan)
Carter Center, *Approaches to Solving Territorial Conflicts. Sources, Situations, Scenarios, and Suggestions*, May 2010 (http://www.cartercenter.org/resources/pdfs/news/peace_publications/conflict_resolution/Solving_Territorial_Conflicts.pdf) (= 2010 Carter Center on Approaches to Solving Territorial Conflicts)
For comparative purpose, students are invited to read: Radan P., *The Break-up of Yugoslavia and International Law*, 2002, London and New York: Routledge

(http://athens.indymedia.org/local/webcast/uploads/break-up_of_yugoslavia_and_international_law.pdf) (= 2002 Radan P on Break-up of Yugoslavia & International Law)

Case Study: Eritrea-Ethiopia Claims Commission

- ⇨ Students are required to search on the website of the Permanent Court of Arbitration (www.pca-cpa.org) for the materials related to the cases and to read the most recent document.

3. Issue 2: Mercenary & Private Security Companies

Reading:

UN Security Council Resolutions 404 (= UNSC Resolution 404 Benin 1977), 405 (= UNSC Resolution 405 Benin 1977) and 419 (UNSC Resolution 419 Benin 1977) about 16 January 1977 Aggression against Benin

Convention on Mercenarism in Africa (1977/1985), in Juma M. (eds.), *Compendium of Key Documents Relating to Peace and Security in Africa*, 2006, PULP, p. 13.

Maogoto, Jackson Nyamuya and Sheehy, Benedict , Contemporary Private Military Firms Under International Law: An Unregulated 'Gold Rush'. Adelaide Law Review, Vol. 26, No. 2, 2006. Available at SSRN (http://ssrn.com/abstract=901211).

Gumedze S. (ed.), *Elimination of Mercenarism in Africa. A Need for a New Continental Approach*, 2008, ISS Monograph No. 147 (www.issafrica.org) (= 2008 Gumedze on Elimination of Mercenarism in Africa).

Gathii J.T., Commercializing War: Private Military and Security Companies, Mercenaries and International Law, 2009, Albany Law School Research Paper No. 49. Available at SSRN (http://ssrn.com/abstract=1356887).

For historical purpose, students should read: Fields N., *The Anatomy of a Mercenary: From Archilochos to Alexander*, University of Newcastle, PhD Thesis, 1994 (https://theses.ncl.ac.uk/dspace/bitstream/10443/180/1/fields94.pdf) (= 1994 Fields on Anatomy of a Mercenary)

4. Issue 3: Natural Resource and Environment

Case Study 1. Great Lakes region

Students are invited to read the reports of the UN Group of Experts.

Case Study 2. Migingo Island

Students are invited to search about this island on Lake Victoria.

Case Study 3. Ogoni land, Nigeria

Okafor O.C., International Law, Human Rights, and the Allegory of the Ogoni Question, in E.K. Quashigah and O.C. Okafor (eds.), *Legitimate Governance in Africa*, 1999, Kluwer Law International, 509-535.

In addition, students are invited to search for documents related to this case before the African Commission on Human and Peoples' Rights and before the U.S. Courts.

Case Study 4. Blood Diamonds

The class will watch the movie on the matter. Students are invited to search for UNSC materials related to this matter.

5. Legal Principles

5.1. Collective Security

Reading:
Yale Center for the Study of Globalization, Reforming the United Nations for Peace and Security, Proceedings of a Workshop to Analyse the Report of the High-Level Panel on Threats, Challenges, and Change, 2005 (http://www.ycsg.yale.edu/core/forms/Reforming_un.pdf) (= 2005 Reforming the UN - Peace & Security)

5.2. Responsibility to Protect

Reading:
United Nations Secretary-General's Report *Implementing the Responsibility to Protect*, U.N. Doc. A/63/677, January 2009.
See the website of the International Coalition for the Responsibility to Protect (http://www.responsibilitytoprotect.org/)
Students will research about the right to intervene in the context of the African Union. Here are few references:

Kioko B., "The Right of Intervention Under the African Union's Constitutive Act: From Non-Interference to Non-Intervention", *International Review of the Red Cross* 85 (2003) 852, 807-824 (http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/5WNJDL/$File/IRRC_852_Kioko.pdf).
Kuwali D., "The End of Humanitarian Intervention: Evaluation of the African Union's Right of Intervention", *African Journal in Conflict Resolution* 19 (2009) (http://www.hks.harvard.edu/cchrp/pdf/AJCR_vol9_no1_2009.pdf).
Yusuf A., "The Right of Intervention by the African Union: A New Paradigm in Regional Enforcement Action?", *AYIL* 11 (2003), 3-21.

5.3. Rule of Law

Reading:
Sur S. (1997), State Between Fragmentation and Globalization (http://www.ejil.org/pdfs/8/3/1454.pdf).
McMahon E.R., African Charter on Democracy, Elections and Governance: A Positive Step on a Long Path, 2007 (http://www.afrimap.org/english/images/paper/ACDEG&IADC_McMahon.pdf) (= 2007 McMahon on African Charter on Democracy)
Carter Center, *Guide to Electoral Dispute Resolution*, January 2010 (http://www.cartercenter.org/resources/pdfs/news/peace_publications/conflict_resolution/Election-Dispute-Guide.pdf) (= 2010 Carter Center on Election Dispute Guide)

6. Tool: International Organizations (see the course on International Organizations, Peace and Security in Africa)