



COURSE PROFILE

LAW OF THE SEA

LAWS7866

Semester: 1, 2004 (Intensive)

Monday 9 February – Thursday 12 February

Course Co-ordinator: Dr Michael White

T.C. Beirne School of Law

UNIVERSITY OF QUEENSLAND

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COURSE DETAILS

Course title Law of the Sea

Unit value #2

Class contact hours 9:00AM -5:00PM Monday 9 February – Thursday 12 February 2004

Course description The core content of the course is an overview of the international law of the sea with a particular emphasis on the Australian and regional aspects.

The course is an introduction to the customary law and the conventions on the international law of the sea, including UNCLOS and the relevant international conventions and practices. Also included is a survey of the Australian National Oceans Policy and particular policy and regulation aspects of special areas, including the coastal seas, Offshore Oil and Gas areas in the Timor Sea, the Great Barrier Reef and the Torres Strait. Details can be viewed from the topics of the presentations, under.

Objectives and goals The course is an advantage to those students who wish to pursue post-graduate studies at a level that will enable them to practise, advise, regulate, write or lecture on these topics. It is a goal of the course that students should gain an understanding of international law of the sea and policy in relation to the Australian circumstance.

Graduate attributes developed

Attribute	How developed
In-depth knowledge of field of study	Class attendance and participation, independent study, written paper.
Effective communication	Class participation, own research, written paper.
Independence and creativity	Independent study, written paper.
Critical judgement	Class participation, independent study, written paper.
Ethical and social understanding	Class attendance and participation and subsequent research.

CONTACT DETAILS

Course co-ordinator

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 Centre for Maritime Law
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 Email + 61 (0)7 3365 1454 - to Law School office
 Consultation m.white@law.uq.edu.au

TEACHING AND LEARNING

TEACHING & LEARNING METHODOLOGY

Presenters: The presenters are Dr Michael White and a number of Guest Lecturers

Venue: Room 209; GPN3 Building (Blg.No.3), BEL Faculty, St Lucia Campus, Brisbane, University of Queensland

CLASS STRUCTURE

Date	Time	Content
DAY ONE		<u>INTRODUCTORY TOPICS</u> 08:45 Registration 09:00 – 10:15 Introduction to International Law (AC) 10:15 – 10:30 <i>Morning Tea</i> 10:30 – 11:45 Historical Background to the law of the Sea (MW) 11:45 – 13:00 Treaty Practice & Procedure (AC) 13:00 – 14:00 <i>Lunch</i> 14:00 – 15:15 Indigenous Sea Rights (MW) 15:15 – 15:30 <i>Afternoon Tea</i> 15:30 – 17:00 Law of the Sea Treaties 1958
DAY TWO		<u>UNCLOS</u> 09:00 – 10:15 Background and principles of UNCLOS 10:15 – 10:30 <i>Morning Tea</i> 10:30 – 11:45 UNCLOS – baselines; internal waters; territorial sea 11:45 – 13:00 UNCLOS – EEZ, High Sea (FH) 13:00 – 14:00 <i>Lunch</i> 14:00 – 15:15 UNCLOS – International Straits 15:15 – 15:30 <i>Afternoon Tea</i> 15:30 – 17:00 UNCLOS – Archipelagos
DAY THREE		<u>UNCLOS (continued)</u> 09:00 – 10:15 Continental Slope; The Area (CF) 10:15 – 10:30 <i>Morning Tea</i> 10:30 – 11:45 ITLOS; ICJ 11:45 – 13:00 Piracy & terrorism (MW) 13:00 – 14:00 <i>Lunch</i> 14:00 – 15:15 Underwater cultural heritage (CF) 15:15 – 15:30 <i>Afternoon Tea</i> 15:30 – 17:00 Problem (MW)
DAY FOUR		<u>OTHER LAW OF THE SEA ISSUES</u> 09:00 – 10:15 Australian Maritime Boundaries 10:15 – 10:30 <i>Morning Tea</i> 10:30 – 11:45 Offshore Constitutional Settlement (MW) 11:45 – 13:00 Timor Sea Oil & Gas 13:00 – 14:00 <i>Lunch</i> 14:00 – 15:15 Fisheries (FH) 15:15 – 15:30 <i>Afternoon Tea</i> 15:30 – 17:00 Concluding Problem (MW)

READING LIST

Birnie, Patricia 2nd edition, International Law & The Environment, (2001) Oxford University Press.

Blay, S. et al (1997) Public International Law: An Australian perspective, Oxford University Press.

Brown, E D, (1994) The International Law of the Sea, Dartmouth Publishing.

Brown, E.D. (2001) Sea-Bed Energy and Minerals: The International Legal Regime Vol. 2 & 3 Martinus Nijhoff Publishers.

Cassese, Antonio, 2nd edition, (2001) International Law, Oxford University Press.

Charney, J.I. and Alexander, L.M. International Maritime Boundaries (Vol 1), 1992, (Vol 2), 1994, (Vol 3), 1998, Kluwer Law International.

Chiu, H. (1997) The International Law of the Sea – cases, documents, readings Supplement 1, Four Courts Press, Dublin.

Churchill, R.R. and Lowe, A.V. (1999) The Law of the Sea, 3rd edition, Manchester University Press.

Clingan, T A (1994) The Law of the Sea: ocean law and policy, San Francisco, Austin & Winfield.

Crawford, J and Rothwell, D.R. (1994) The Law of the Sea in the Asian Pacific Region, Kluwer Law International, (Martinus Nijhoff).

Dupuy, R.J. and Vignes, D. (1990, 92) A Handbook on the New Law of the Sea, Volumes I and II, Martinus Nijhoff Publishers: Kluwer Law International.

Elferink, A & Rothwell, D (Eds) (2001) The Law of the Sea & Polar Maritime Delimitation, Martinus Nijhoff

Environment Australia (1997) Australia's Oceans Policy, Background Paper No 2, International Agreements, Portfolio Marine Group.

Eiriksson, G. (2000) The International Tribunal for the Law of the Sea, Martinus Nijhoff Publishers.

Grotius, H. (1972 reprint) The Freedom of the Sea: or, the Right which belongs to the Dutch to take part in the East Indian Trade, The Evolution of Capitalism Series, Ayer Co Publishing.

Kaye, S. (1995) Australia's Maritime Boundaries, Wollongong Papers on Maritime Policy No 4, Centre for Maritime Policy, University of Wollongong.

Kaye, S. (1997) The Torres Strait, Vol. 12 of 'International Straits of the

World', Martinus Nijhoff Publishers.

Nordquist, M. H. and Moore, J. N. (1995) Entry into Force of the Law of the Sea Convention, Martinus Nijhoff Publishers.

Nordquist, M. H. and Moore, J. N. (1999) Oceans Policy, Martinus Nijhoff Publishers.

O'Connell, D.P. (1982) International Law of the Sea, Oxford: Clarendon Press.

Payoyo, P.B. (1997) Cries of the Sea, Martinus Nijhoff Publishers,

Pharand, D. and Leanza, U. (1993) The Continental Shelf and the Exclusive Economic Zone, Martinus Nijhoff Publishers.

Platzoder, R. (1994) The United Nations Convention on the Law of the Sea: basic documents, Martinus. Nijhoff Publishers.

Reicher, H. (ed), (1995) Australian International Law: Cases and Materials, Sydney: LBC

Rothwell, D and Bateman, S. (2000) Navigational Rights and Freedoms and The New Law of the Sea, Martinus Nijhoff Publishers.

Selden, J. (1972 reprint) Of the Dominion or Ownership of the Sea, The Evolution of Capitalism Series, Ayer Co. Publishing.

Shearer, I. (1994) Starke's International Law, 11th edition, Sydney: Butterworths

United Nations, Division of Ocean Affairs and the Law of the Sea, (1993) The Law of the Sea: a Select Bibliography, New York, United Nations.

Vidas, D. and Ostreng, W (1999) Order for the Oceans at the Turn of the Century, Kluwer Law International.

White, M. (1994) Marine Pollution Laws of the Australasian Region (Chapters 7,8 & 9), Federation Press.

Internet

<http://www.un.org/law/>

- latest UN information on treaties
- has a special section for law of the sea
- has alternative language sites

<http://www.un.org/Depts/los/>

- goes straight to LOS issues at the UN

<http://www.austlii.edu.au/au/other/dfat/>

- Department of Foreign Affairs treaty library

- gives latest Australian treaty action and NIA's

<http://www.fed.gov.au/>

- Australian Federal government entry point for all departments

<http://www.dfat.gov>

- Department of Foreign Affairs pages

<http://www.law.gov.au>

- Attorney-General's department
- interpretation of Australia's treaty obligations

<http://www.affa.gov.au/affa/fisheries.html>

- useful fisheries information

<http://www.erin.gov.au/portfolio/>

- Oceans Policy information
- other environmental information

<http://www.amsa.gov.au>

- Australian Maritime Safety Authority

<http://www.antdiv.gov.au>

- Australian Antarctic Division

<http://www.gbrmpa.gov.au>

- Great Barrier Reef Marine Park Authority

<http://www.imo.org/imo/welcome.htm>

- IMO homepage

<http://www-ibru.dur.ac.uk>

- International Boundaries Research Unit at University of Durham, UK
- has information on all disputed boundaries including those in the sea

<http://www.isa.org.jm/>

- information on the International Seabed Authority

<http://www.state.gov/www/global/oes/oceans/index.html>

- US State Department pages on oceans policy and law of the sea
<http://www.uscg.mil/>
- US Coast Guard pages
- useful information on fisheries and other enforcement issues
<http://www.itlos.org/>
International Tribunal for the Law of the Sea (ITLOS).

Conventions (available on the internet)

United Nations Convention on the Law of the Sea (UNCLOS or LOSC) (ATS 1994 No 31)

Agreement relating to the Implementation of Part XI of the UNCLOS (ATS 1994 No 32)

Agreement for the Implementation of the provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks & Highly Migratory Fish Stocks (ATS 1995 No 43)

UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001

Legislation (available on the internet)

Coastal Waters (State Powers) Act 1980 (Cth)

Coastal Waters (State Title) Act 1980 (Cth)

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Fisheries Management Act 1991 (Cth)

Offshore Minerals Act 1994 (Cth)

Petroleum (Australia - Indonesia Zone of Cooperation) Act 1990 (Cth)

Petroleum (Submerged Lands) Act 1967 (Cth)

Seas and Submerged Lands Act 1973 (Cth)

Torres Strait Fisheries Act 1984 (Cth)

Crimes at Sea Act 2000 (Cth)

ASSESSMENT

The Assessment for postgraduate students will be on one dissertation research paper on a subject chosen by the student and agreed to by the

Course Co-ordinator of a length of about 10,000 words, excluding footnotes, to be submitted two months after the course ends.

The research paper should be typed, double-spaced on A4 paper. Its form and presentation should comply with the conventions regarding presentation of written material within the Law School, see under in 'Footnoting'. (As a guide students may follow the style of articles appearing in leading Australian legal journals).

Each student's research paper should be delivered, in hard copy and electronic form if requested, to the Course Coordinator, by close of business (usually 5.00pm) on the due date. It is to be in Microsoft Word format. A late submission penalty will apply, in fairness to students who submit papers by the due date, of a deduction of 5% for each day or part of a day late. Extensions of time will require an application in writing, email is preferred, setting out the reasons, before the due date.

Submission of the research paper in electronic form will be evidence of agreement that the paper may be saved in the CML computer base and be made available, if requested, for research by others.

Attendance at all lectures is expected and attendance at more than 75% of the lectures is a criterion for being assessed for the course.

CRITERIA FOR ASSESSMENT FOR RESEARCH PAPER

Students should aim to produce a research paper that is worthy of publication as a contribution to a law school journal. Consequently, the paper should:

1. demonstrate an understanding of the legal issues raised by the topic;
2. demonstrate research which extends beyond textbooks and materials provided by the lecturers in class;
3. demonstrate an ability to relate pertinent material to the issues and to analyse the issues in light of that material;
4. demonstrate an ability to argue a point of view in a logical and coherent fashion supported by primary and secondary source material;
5. demonstrate a command of the English language and an ability to appropriately present and reference a paper which is commensurate with the standard expected for the publication of legal articles.

A student who produces a paper that is considered worthy of publication with little or no amendment will receive a grade of 7.

A student who produces a paper which deals well with the legal issues in the problem but which is not presented to a high enough standard for publication will receive a grade of 6.

A student who produces a paper which deals with the legal issues adequately and which is adequately written and referenced will receive a grade of 5.

A student who produces a paper which is well written but which does not demonstrate any real legal analysis will receive a grade of 4.

A student who produces a paper which is neither well researched nor written and which does not demonstrate any real understanding of the issues involved will fail (grades of 1, 2).

PLAGIARISM

All material submitted for assessment must be the student's own original work. This requires not only that the student acknowledge in the paper the source of any significant concept or principle but also that the student should refrain from soliciting or accepting detailed assistance, other than discussion and research suggestions, from other persons in writing the paper. Any instance of plagiarism, collusion, or other forms of cheating could result in a nil mark for the paper and may lead to the imposition of even more severe academic penalties by a University disciplinary board.

FOOTNOTING

For style and referencing Melbourne University Law Review *Australian Guide to Legal Citation*, 2nd ed, 2002, has been adopted by the School of Law as the prescribed text for style and referencing for all written submissions in the School (its URL is www.law.unimelb.edu.au/mulr). The assignments in this course must be submitted in conformity with the style and referencing suggested in this text. (Basically, assignments should follow the format of the leading legal journals, but use footnotes and not endnotes).

REVIEW OF ASSESSMENT

After the publication of examination results, a student may consult with a course co-ordinator for the purposes of obtaining feedback about his/her examination performance, to assist the student to improve his/her examination technique and to better understand the methodology involved in the allocation of marks. Such sessions are not held for the purpose of improving a student's mark or grade in a course, except that such an adjustment may be made but only where it is revealed that there has been a mathematical error in marking or where some assessable material was not taken into account.

DISABILITY SUPPORT

Any student with a disability who may require alternative academic arrangements in the course is encouraged to seek advice at the commencement of the semester from a Disability Adviser at Student Support Services. The University Health Service can arrange advice and assistance on professional accreditation/registration issues that might arise as a result of alternative arrangements.

FURTHER INFORMATION

For those who wish to enrol as a seminar registrant or has a query as a post-graduate student the administrative details may be arranged with Andrea Peirce, phone (07) 3365.3498; email: a.peirce@law.uq.edu.au; T.C. Beirne School of Law, University of Queensland.

For details about the course contact may be made with the Course Coordinator, Dr Michael White QC, phone (07) 3365.2120; email: m.white@law.uq.edu.au.