

*(Seminar offered to students preparing masters degrees in international law and in international relations at the Université du Québec à Montréal (<http://www.uqam.ca>), Canada, during the 2001-02 academic year by Professors Thierry Hentsch of the Political Science Department and Marco Sassòli of the Law Department.)*

## 1. Description of the seminar

The objective of this seminar is to produce supervised research on a current problem relating to the new international reality. This work will give the student the opportunity to demonstrate his or her understanding of the international dimension of political problems, his or her ability to master the relevant sources and the research methods that are suitable to the study of the chosen problem, and his or her ability to analyse the problem's challenges in a critical manner. The content and the subjects will be chosen by the teachers concerned. The work will involve research, writing, presentation and discussion with the group of a major research project on the seminar topic.

### Subject and purpose of the seminar: War in the contemporary world

War will be discussed as a particular phenomenon in today's world, as it has been emerging and taking shape for over a decade, following the collapse of the Communist bloc in Eastern Europe. The seminar will focus on the philosophical, political and legal aspects of war in today's world, while putting it into a historical perspective so as to facilitate the understanding of its evolution in recent years. Among the topics covered will be the following: the issue of the legitimacy of war's purposes (*jus ad bellum*), the context in which it is carried out (*jus in bello*), the political and legal problems relating to humanitarian work, the increasing difficulty of distinguishing between civilians and military personnel, the problems resulting from occupation of enemy territory, the issue of sanctions and punitive action.

The first part of the seminar will be devoted to lectures by teaching faculty on the general issues referred to above. These talks will be given in a long-term historical perspective and may use examples from periods prior to 1989. They will also examine recent or current conflicts, mainly in the Middle East and in the Balkans. Students will be more specifically urged to prepare and present talks, from mid-term onwards, on the main concepts relating to the field of study of war and on post-Cold War conflicts (see list below).

## 2. Programme for the first semester

### Meeting No. 1

- Presentation of the seminar

- Philosophy and anthropology of war
- Violence and the specific nature of war

## Meeting No. 2

- War and international relations
  - Long-term historical perspective, from Antiquity to the Renaissance
  - The Westphalian system and its evolution, from 1648 to today

## Meeting No. 3

- War and humanitarian policy
  - Birth of the humanitarian movement
  - Problems of humanitarian policy
  - Historical examples of humanitarian dilemmas

## Meeting No. 4

- War and international law
  - The distinction between *jus ad bellum* (the lawfulness or unlawfulness of war) and *jus in bello* (rules to comply with in war)
  - The prohibition on the use of force in contemporary international law and exceptions to it
  - Introduction to IHL

## Meeting No. 5

- Specific problems of IHL
  - The distinction between international armed conflict and non-international armed conflict
  - The distinction between civilians and combatants
  - Implementation of IHL: third States, ICRC, United Nations, non-governmental organizations, criminal justice

## Meeting No. 6

- Students' talks on subjects relating to the factors contributing to armed conflict, the role of international law in the management of armed conflict, and non-international armed conflict

## Meeting No. 7

- Students' talks on subjects relating to the distinction between *jus ad bellum* and *jus in bello*

## Meeting No. 8

- Students' talks on subjects relating to the distinction between civilians and combatants

## Meeting No. 9

- Students' talks on subjects relating to humanitarian work

## Meeting No. 10

- Introduction to the conflicts in the Eastern Mediterranean

## Meeting No. 11

- Introduction to the conflicts in the former Yugoslavia

## Meeting No. 12

- Students' talks on subjects relating to the conflicts in the Eastern Mediterranean

## Meeting No. 13

- Students' talks on subjects relating to the conflicts in the former Yugoslavia

## Proposed method of assessment for the first term

- Presentation and discussion of the chosen research topic: (50%)
- Paper of two pages maximum, presenting ideas on the chosen research topic, to be distributed **one week before** the presentation: (20%)
- Discussion, as "devil's advocate," of written ideas presented by another student: (30%)

## 3. Examples of research topics

### a. Conceptual problems

1. Anthropological, sociological, political and economic factors contributing to the outbreak of armed conflict
2. The role of international law in the international community's management of armed conflict
3. The influence of the prohibition on the use of force on international relations since 1945
4. The limits of self-defence in international law
5. Usefulness and limits of international military interventions to restore peace
6. Usefulness and limits of international military interventions to deliver humanitarian aid and protect the civilian population
7. Does the distinction between international armed conflict and non-international armed conflict still correspond to reality?
8. The lower threshold of war: an exploration of the boundaries between crime and armed conflict
9. The lower threshold of war: an exploration of the boundaries between political violence and armed conflict
10. The distinction between *jus ad bellum* and *jus in bello* in contemporary conflicts
11. The distinction between *jus ad bellum* and *jus in bello* in non-international armed conflicts
12. The equality of the belligerents before IHL in the age of just wars, international police action and

humanitarian intervention

13. The equality of the belligerents before IHL: an outmoded principle in the age of the criminalization of belligerents?
  14. The philosophical and ideological origins of the distinction between civilians and combatants
  15. The distinction between civilians and combatants in identity-related and resource wars
  16. The distinction between civilians and combatants in international interventions against regimes considered criminal
  17. Can the distinction between civilians and combatants be maintained in the face of “zero-casualty” military operations?
  18. Factors determining compliance or lack of compliance with IHL
  19. Humanitarian activities as an alibi for intervening in armed conflict
  20. Humanitarian activities as an alibi for failing to resolve armed conflict
  21. Humanitarian activities in the absence of States and authorities
  22. Implementation of IHL by humanitarian organizations in the absence of a State
  23. Humanitarian activities carried out under armed forces leadership
  24. Neutrality and impartiality of humanitarian activities in “unstructured” conflicts
  25. Neutrality and impartiality of humanitarian activities in view of the criminalization of belligerents
- b. Concrete situations
- i. *The Middle East*
    1. The Arab-Israeli conflict: the last international conflict in a “unipolar” world?
    2. The status of Palestine and Palestinians in international law
    3. The role of international law in the management and resolution of the conflict in the Near East
    4. The territories occupied by Israel: strengths and weaknesses of the Fourth Geneva Convention
    5. Applicability of the Fourth Geneva Convention to the autonomous Palestinian territories
    6. Role of Israeli settlements in the occupied territories in resolving the conflict
    7. Role of humanitarian activities in the Israeli-Palestinian conflict
    8. Role of the ICRC in the Israeli-Palestinian conflict
    9. Role of the United States of America in the Israeli-Palestinian conflict
    10. The Gulf War: an application of the United Nations system for restoring peace?
  - ii. *The former Yugoslavia*
    1. Conflicts in the former Yugoslavia: end of the distinction between international armed conflict and non-international armed conflict?
    2. Compliance and non-compliance with jus ad bellum at the outbreak of armed conflict in the former Yugoslavia
    3. Impact of third States and the United Nations on the management and resolution of conflicts in the former Yugoslavia
    4. Management and prolongation of the conflicts in the former Yugoslavia by humanitarian entities
    5. Impact of war crimes and of their repression on the management and resolution of conflicts in the former Yugoslavia
    6. Conflict in the former Yugoslavia: the end of the illusion of the same international law for all?
    7. Contribution of the ICTY to peace-making

8. Prospects for a withdrawal of international forces from Bosnia-Herzegovina
9. Prospects for a withdrawal of international forces from Kosovo
10. Rules of international law determining the future status of Kosovo

#### **4. Programme for the second semester**

**Each student gives a talk on a theoretical subject relating to the topic of his draft article. The talk is followed by a discussion involving all participants and by teachers' comments.**

##### **Meeting No. 1:**

- Lecture on humanitarian activities (by the political science teacher) and their legal basis (by the international law teacher)

##### **Meeting No. 2:**

- **Student's talk:** The concept of international security
- **Student's talk:** The realist conception of war

##### **Meeting No. 3:**

- **Student's talk:** The principle of State sovereignty
- **Student's talk:** The concept of defence

##### **Meeting No. 4:**

- **Student's talk:** Universalism v. particularism
- **Student's talk:** Holism v. individualism
- **Student's talk:** Interventionism v. isolationism

##### **Meeting No. 5:**

- **Student's talk:** The perception of the military through the history of ideas (beginning with Machiavelli)

##### **Meeting No. 6:**

- **Student's talk:** International law as a geostrategic tool (in a particular spatiotemporal framework)
- **Student's talk:** The prohibition on the use of armed force, and exceptions allowed under the United Nations Charter

##### **Meeting No. 7:**

- **Student's talk:** International legal rules governing humanitarian crisis situations
- **Student's talk:** The concept of humanitarian assistance

#### **Meeting No. 8:**

- **Student's talk:** The concept of distinction between civilians and military personnel
- **Student's talk:** The definition of the aims of war

#### **Meeting No. 9:**

- **Student's talk:** Neo-Gramscian analysis of peace-keeping in an intra-State war
- **Student's talk:** The concepts of "unstructured conflict" and "failed State"

#### **Meeting No. 10:**

- **Student's talk:** The strategic interests of the United States of America in the Near East
- **Student's talk:** Resistance and terrorism

#### **Meeting No. 11:**

- **Student's talk:** Justice in the face of war (theory of the liberal school)
- **Student's talk:** The Rome Statute of the ICC

#### **Meeting No. 12:**

- **Student's talk:** Historical background of the international community's policy on recognizing nation-States

#### **Meeting No. 13:**

- **Student's talk:** The concept of humanitarian intervention

#### **Meeting No. 14: Evaluation of the course and of war in the contemporary world**

#### **Proposed mode of assessment**

1. A 30-45 minute talk on a theoretical subject chosen by the student (in agreement with the teachers) that is one of the theoretical bases of the research topic treated in the draft article. Assessment criteria: understanding of the issues from the standpoint of political science and/or law, coherence, clarity, incorporation of both disciplines' approaches, form. Due date: the day of the presentation. Weighting: 40%.
2. Writing of a publishable draft article of 15-30 pages on the chosen research topic, to be revised in accordance with the teachers' suggestions. Assessment criteria: understanding of the issues from the standpoint of political science and law, choice of problems to be treated, presentation (language, structure, quotations) in conformity with the requirements of a scientific publication, conciseness, originality, exhaustiveness. Weighting: 60%.

