

University of California, Berkeley  
Legal Studies  
LS 157: International Law & International Relations  
Summer 2024  
M TU W TH 4:10 pm – 6:00 pm PST  
Professor: Daimeon Shanks-Dumont  
Instructor: Anthony Ghaly

## **INTERNATIONAL LAW & INTERNATIONAL RELATIONS**

International law and international relations are central to global affairs and to local communities. The Russian war in Ukraine, the Covid-19 pandemic, and the climate crisis are some recent and horrific reminders of the relevance of global affairs to everyday lives. This course offers an introduction to public international law as a dynamic and contested topic through a wide array of issues and debates occupying states and governments, international organizations, non-governmental organizations, and international lawyers. After the Second World War, public international law and the United Nations system were re-envisioned with a promise to protect the sovereignty and integrity of vulnerable states against aggression, guarantee self-determination of peoples, and work towards universal human rights for individuals. However, the new global order maintained a structure that favors the imperial powers of the past and is constantly challenged by new powers and ideologies. International lawyers and scholars have been debating these internal contradictions and the relationships between law and power, East and West, Global North and Global South from various theoretical perspectives.

The course will provide an understanding and offer critiques of basic norms, modern doctrines, and theories of international law and international relations, as well as a study international law as a field of practice comprised of various actors, such as the United Nations, international tribunals, non-state actors, civil societies, peoples, and individuals. The second half of the course addresses the main areas of international law, such as human rights, the law of armed conflict, international criminal law, and international environmental law. Throughout the course, we will examine a host of fundamental questions, including, for example, is international law actually law, why states comply with international law (when they do), what are the legacies of colonialism and imperialism, how can human rights be enforced and promoted, when military or humanitarian intervention is justified, and what drives change in international law.

**This course will be taught online, synchronously, via Zoom. Presence and participation are required and amounts to 20% of the final grade.** If you are unable to attend a session, please email me in advance and explain why you are unable to attend in order to be excused. One unexcused absence is permitted. Students who miss a substantial amount of class time may be dropped from the class. It is understandable that the remote learning environment places unusual burdens on students; we will take that into account to

accommodate justifiable needs. **Students who experience difficulties with synchronous learning should address us to request special accommodations, which will only be approved under exceptional circumstances.**

If you believe that you may experience technical difficulties that will make synchronous participation difficult, please reach out to UC Berkeley's Student Technology Services: <https://studenttech.berkeley.edu/techsupport>. They have a lending program to ensure WiFi connectivity, and camera and microphone functionality. While tech issues do occur, they are not an acceptable excuse for substantive lack of attendance or participation.

**Course schedule:**

**Lecture hours:** LEC 001 Monday–Thursday: 4:10pm–6:00pm PST. 10 minutes break from 5:00–5:10.

- Zoom: Meeting ID: 998 1814 2194
- <https://berkeley.zoom.us/j/99818142194>

**Discussion hours:** DIS 101 Monday: 2:10–6:00 PST; DIS 102 Tuesday: 12:10–2:00 PST.

- Monday: 923 6725 6600; <https://berkeley.zoom.us/j/92367256600>
- Tuesday: 973 6313 8228; <https://berkeley.zoom.us/j/97363138228>

**Office hours:**

**Prof. Shanks-Dumont:** Monday 12:10pm–1:00pm PST (open collective meeting, no sign up required). I am available to meet outside of that hour, please email me with a suggested meeting time to arrange.

- Zoom: Meeting ID: 914 9097 3090
- <https://berkeley.zoom.us/j/91490973090>

**GSI Ghaly:** Thursdays 12:10–1:00pm (open collective meeting, no sign up required); Thursdays 1:10–2:00 pm (by appointment).

- Zoom: Meeting ID: 919 1422 3564
- <https://berkeley.zoom.us/j/91914223564>

**Assignments and Evaluation:**

20% - Participation in online sessions and discussions.

15% - Class presentation: each student will present one syllabus item (article or case) in class, according to a sign-up sheet.

25% - Paper assignment: one essay question. Will be given after class 12.

40% - Final exam: two out of three essay questions.

**Late assignments:** The course includes only two written papers: mid-term and final exam. Late submissions are allowed only upon an approved extension ahead of submission deadline.

**Academic accommodations:** Students requiring accommodation for disability should make sure that I get the official accommodation notice from DSP by the second week of

the semester (or as soon as possible after they have been to DSP).

**Textbook:** Carter, Weiner, Hollis, International Law (7th ed. 2018).

**No need to buy the book, reading materials will be uploaded to bCourses.**

### **Instructions on course work:**

**1. Reading and participation (20%):** All readings will be posted on bCourses. Students are expected to **read all material in preparation for class**. Classes will not repeat the reading material but base discussions on that material, where students are expected to participate in an informed manner. Students might be called on to participate. Please prepare for about four hours of reading and preparation for each class.

- It is advised to read the textbook readings before any other reading for the same class since it will give you a general understanding of the topic before continuing into more advanced topics.
- It is advised to take short notes that will help you remember the material and ask your questions in class discussions: 1. Topic of the piece 2. Your main takeaways 3. Question/s that you have following the reading.
- Pay attention to whether excerpts are defined by **pages** or **paragraphs**.
- Some of the reading materials will be **given as reading work during class, individually or as part of group work**. If you are slow in reading, or for any other reason, you should consider reading them beforehand.

### **2. Presentations in class (15%):**

In each class, starting from class no. 3 or 4, up to four (4) students will present a syllabus item as indicated, subject to adjustments. The final presentation plan will be adjusted and posted on a sign-up sheet as the course begins. Students presenting in the first week will get 2 points (out of 15) bonus.

- Students will upload their slides and speaking notes in the assignments section.
- Presentations are meant to instruct **other students who have not read** the same piece, complement the general reading, and generate discussion in class.
- **Presentations should be 15-20 minutes long, accompanied by a visual presentation of at least six slides** (PPT, Google Slides etc.), according to the following presentation sections: (1) Title, author, year, and presenting student (2) topic and context of the piece; (3) the question that is being explored; (4) the argument of the author and how it is demonstrated; (5) how the piece relates to the topic and main reading of the same class (complementing, countering, criticizing, and in what way); (6) your own reaction.
- Presentation items vary in content, genre and context, and the presentation should be adjusted accordingly. Your reaction can be anything relevant to the reading and the course, some examples are: why this was interesting and what have you learned; how it changes or reinforces your preconception of the topic; how does it contribute to the understanding of the international system;

criticisms you might have; how would you apply these arguments to a real-world situation, controversy, of different field of interest; how does this piece reflect on other topics that we already explored.

- It is suggested that you start reading and preparing for your presentation at least a week prior to your presentation date, so you can take advantage of office hours to ask clarification questions.
- Students presenting one section of a multi-section reading item are advised to read carefully all sections assigned to class to understand the piece as a whole.

### **3. Mid-Term Paper (25%)**

The mid-term will include an essay prompt on the materials learned so far. The essay should be up to 1,500 words long.

### **4. Final Exam (50%)**

Students will choose two essay questions out of three, each answer up to 1,500 words long.

## **Zoom Participation Guidelines**

- 1. Private space** - Please do your best to have a private and quiet space during classes. We will be understanding if that is not possible or if there are inevitable interferences, but it is better to avoid them for your own learning and focus.
- 2. Name** - Please make sure that your zoom name reflects how you would like us to address you; if you would like, add to your zoom name your choice of pronouns.
- 3. Mute** - Please mute your mic (lower-left corner of your screen) whenever you are not speaking. This helps avoid background noise and distractions for others. If we find that self-muting is not effective, we will take control of the mute function.
- 4. Video presence** - You are expected to attend the course lectures with your cameras turned on, ready to participate if called upon. Please keep off-camera episodes as short as possible only when necessary. Seeing each-other's faces is extremely helpful to the learning process and engaging with others and the learning material.
- 5. Bandwidth** - Closing any other applications on your computer to keep the video optimally functioning and your focus on the class. For these two hours, we ask that you avoid engaging simultaneously with social media, emails, and so on. Remember that you might be called on to participate in class.
- 6. Permission to speak** - Please use the raise hand function or indicate in the chat. Due to the number of students, we might not see you raise your hand physically.
- 7. Chat** - You can ask questions and make comments using the "Chat" feature, they will be answered in occasional Q&A breaks.
- 8. Leaving at the end** - Please remember to "leave the meeting" when finished.

## Class Topics and Reading

### PART I: INTRODUCTION

#### WEEK 1

#### **1. Monday, May 20: Introductory class**

- Textbook, 1-5 (definition of international law).

The majority of this class will be dedicated to individual introductions. Please be ready to introduce yourself and your interest in the course topic in a few sentences.

#### **2. Tuesday, May 21: What is law? What is international law?**

- Hans Kelsen, *Lecture III: International Law and the State*, in *Law and Peace in International Relations* (1942) (excerpts).
- Brian Z. Tamanaha, *Understanding Legal Pluralism: Past to Present, Local to Global*, 30 *Sydney Law Review* 375 (2008), 375-390.
- **Class reading:** John Austin, *The Province of Jurisprudence Determined* (1832) (excerpts).
- **Discussion Case:** *The Case of the S.S. "Lotus" (France v. Turkey)*, 1927 P.C.I.J. (ser. A) No. 10 (Sept. 7) (Textbook 34-35).

#### **3. Wednesday, May 23: Histories of international law**

- Textbook, 9-24 (histories of public international law).
- Yasuaki Onuma, *When was the Law of International Society Born? – An Inquiry of the History of International law from an Intercivilizational Perspective*, 2 *J. Hist. Int'l L.* 1 (2000) 1-11, 63-66.

#### **4. Thursday, May 24: Theories of International law and international relations**

- Textbook, 25-35 (is international law really law?).
- Anne-Marie Slaughter, *International Law and International Relations Theory: A Dual Agenda*, 87 *Am. J. Int'l L.* 205 (1993).
- **Student Presentation:** Antony Anghie, *Towards a Postcolonial International Law, in Critical International Law: Postrealism, Postcolonialism, and Transnationalism*, (2014), 123-142.

#### WEEK 2

#### **Monday, May 27: Memorial day - No class**

## PART II: SOURCES OF INTERNATIONAL LAW

### **5. Tuesday, May 28: Treaties**

- Textbook, 75-89 (defining treaties & distinctions); 93-100 (invalidity & reservations).
- **Student Presentation:** Oona Hathaway, *Do Human Rights Treaties Make a Difference?* 111 YALE L. J. 1936 (2002), 1937-1962.
- **Discussion case:** The Antelope, 23 U.S. 66 (1825) (excerpts).

### **6. Wednesday, May 29: Customary international law, general principles and soft law**

- Textbook, 123-131 (customary int'l law); 138-141 (general principles); 157-160 (soft law).
- J. Patrick Kelly, *The Twilight of Customary International Law*, 40 Va. J. Int'l L. 449 (2000) 449-465.
- **Student presentation:** J. Patrick Kelly, *The Twilight of Customary International Law*, 40 Va. J. Int'l L. 449 (2000), 465-543.
- **Discussion cases:** The Paquete Habana 175 U.S. 677 (1900) (excerpts).
- **Discussion case:** American Banana v. United Fruit (1909) (excerpts).

## PART II: INTERNATIONAL ACTORS AND GLOBAL GOVERNANCE

### **7. Thursday, May 30: States**

- Textbook, 450-466 (statehood, recognition, & self-determination).
- Helman & Ratner, *Saving Failed States*, 89 Foreign Policy (1993), 3-20.
- **Student presentation:** Wilde, *The Skewed Responsibility Narrative of the "Failed State" Concept*, 9 ILSA J. Int'l & Comp. L. 425 (2003).
- **Student presentation:** Makau Matua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 Mich. J. Int'l Law 1113 (1995), 1113-1142.

## WEEK 3

### **8. Monday, June 3: Statehood and other "territories"**

- Textbook, 489-493 (territories & other subjects of int'l law).
- Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations (2011).
- **Student presentation:** Antonio Cassese, *The Self-Determination of Peoples: A Legal Reappraisal* (1995), 11-32.

- **Discussion case:** Western Sahara, Advisory Opinion, I.C.J GL No 61, [1975] ICJ Rep 12, I.C.G.J 214 (.IC.J 1975), 16th October 1975, International Court of Justice (excerpts).
- **Discussion case:** Jurisdiction of the ICC over Palestine: Pre-trial Chamber I, No. ICC-01/18 Situation in the State of Palestine, 5 February 2021 (excerpts).

#### **9. Tuesday, June 4: International organizations I - The United Nations**

- Textbook, 494-528 (int'l organizations, the UN, & WTO).
- **Student Presentation:** Gerry Simpson, *Great Powers & Outlaw States* (2004), 167–179, 254–277.
- **Discussion Case:** Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion 1945 I.C.J. Rep. 174 (Apr. 11), 4-18.

#### **10. Wednesday, June 5: International organizations II**

- Mary Ellen O'Connell, *The UN, NATO, and International Law after Kosovo*, 22 *Human Rights Quarterly*, 57 (2000), 57-89.
- Clinton et al., *Why the WHO?*, *Think Global Health* (May 29, 2020).
- **Student Presentation:** Jean L. Cohen, *Constitutionalism beyond the State: Myth or Necessity?*, 2 *Humanity* 127 (2011).
- **Discussion Case:** Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. Rep. 226 (July 11), 4-6 (paragraph 1), 9-19 (paragraphs 10-26).

#### **11. Thursday, June 6: International organizations III- International courts and tribunals**

- Textbook, 331-341 (International Court of Justice); 799-820 (regional human rights systems) 1166-1175 (International Criminal Court).
- The Guardian View on Trump and the International Criminal Court: An Attack on Human Rights (June 21, 2020).
- **Class readings:** The New York Times: ICC and Israeli Officials; The FP: Can the ICC Actually Arrest Netanyahu?
- **Student Presentation:** Adrian Fulford, *Who Arrests Those Accused by the ICC?* 112 *AJIL Unbound* 168 (2018).

#### WEEK 4

#### **12. Monday, June 10: Individuals, corporations, peoples, and civil society**

- Textbook, 147-156 (networks, NGOs, & corporations).

- Kenneth Roth, Human Rights Organizations: A New Force for Social Change, in Samantha Power and Graham Allison, eds. *Realizing Human Rights: Moving from Inspiration to Impact* (2000), 225-248.
- **Student presentation:** Mauro Barelli, *The Role of Soft Law in the International Legal System: the case of the United Nations Declaration on the Rights of Indigenous Peoples*, 58 Int'l & Comp. Law Quarterly 957 (2009).

#### PART IV: SUBSTANTIVE AREAS IN INTERNATIONAL LAW

### **13. Tuesday, June 11: International dispute resolution**

- Textbook, 319-329 (negotiation, mediation, & conciliation); 400-411 (arbitration).
- **Discussion Case:** Award in the Arbitration regarding the delimitation of the Abyei Area between the Government of Sudan and the Sudan People's Liberation Movement/Army (July 22, 2009), Paragraphs 497-503.

### **14. Wednesday, June 12: International environmental law**

- Textbook, 823-827 (law of the sea); 897-914 (int'l environmental law); 931-944 (climate change).
- **Student presentation:** Susan P. Murphy, *Global political processes and the Paris Agreement A case of advancement or retreat of climate justice?*, in Routledge Handbook of Climate Justice (2018).
- **Discussion Case:** Whaling in the Antarctic (Australia v. Japan: New Zealand Intervening), Judgment (Mar. 31, 2014).

### **15. Thursday, June 13: Human rights I- The human rights regime**

- Textbook, 752-760 (human rights); 770- 771 (UN human rights system); 783-789 (US and human rights law).
- **Student Presentation:** Hersch Lauterpacht, *International Law and Human Rights* (1950), 3-9, 27-47, 114-115.
- **Student Presentation:** Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (2009), Chapter 4: Theories of compliance 112-155.
- **Discussion case:** SERAC v. Nigeria (2001) AHRLR 60 (African Commission on Human Rights) paragraphs 43-72.
- **Discussion case:** *Kiobel v. Royal Dutch Petroleum*, 569 U.S. 108 (2013).

#### WEEK 5

### **16. Monday, June 18: Human rights II – Gender and culture**



- Hilary Charlesworth, *What are “Women’s International Human Rights”?* in *Human Rights of Women: National and International Perspectives* (1994).
- **Student Presentation:** Leti Volpp, *Feminism versus Multiculturalism*, 101 *Columbia Law Review* 1181 (2001).
- **Discussion case:** *Maira da Penha v. Brazil*, IACommHR (2001).

### **17. Tuesday, June 19: Human rights III - Torture**

- Textbook, 1146-1147 (torture convention); 275-277 (postscript for Hamdan and the future of Guantanamo and its military commissions).
- **Movie:** *The Report* (2019).

### **18. Wednesday, June 20: The Law of armed conflict I - Jus ad bellum**

- Textbook, 962-969 (the use of force); 981-991 (anticipatory self-defense & intervention); 1011-1016 (humanitarian intervention).
- **Student presentation:** Dapo Akande, *Classification of Armed Conflicts* (2013).
- **Discussion Case:** *Military and Paramilitary Activities in and Against Nicaragua* (*Nicaragua v. United States of America*), International Court of Justice (excerpts).

### **19. Thursday, June 21: The Law of armed conflict II - Jus in bello**

- Textbook, 1053-1071 (int’l humanitarian law); 261-273 (*Hamdi and Hamdan*).
- **Student Presentation:** Harold Hongju Koh, *On American Exceptionalism*, 55 *Stan. L. Rev.* 1479 (2003).
- **Discussion Case:** *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (excerpts).

## WEEK 6

### **20. Monday, June 25: International criminal law**

- Textbook, 1127-1147 (int’l crimes); 1170-1176 (US and the ICC).
- Howard S. Levie, *Report of the Commission on the Responsibility of the Authors of the War*, 14 *AJIL* 95 (1919).
- **Student presentation:** Timothy Brook, *The Tokyo Judgment and the Rape of Nanking*, 60 *J. Asian Studies* 673 (2001).

### **21. Tuesday, June 26: Citizenship and asylum**

- Textbook, 748-751 (rights of nationality).
- James Hathaway & Michelle Foster, *The Law of Refugee Status* (1991), Intro: 1-13.
- **Student Presentation:** Karen Musalo, *A Short History of Gender Asylum in the*

*United States*, 29 Refugee Surv. Q. 46 (2010).

- **Discussion Case:** Nottebohm Case (Liechtenstein v. Guatemala), 1955 I.C.J. Rep. 4 (Apr. 6).

## **22. Wednesday, June 27: International law in domestic courts**

- Textbook, 191-203 (self-executing & non-self-executing treaties), 440-448 (role of int'l law in domestic courts).
- **Student presentation:** Sarah Cleveland, *Our International Constitution*, 31 Yale J. Int'l L. 1 (2006) (excerpts).
- **Discussion Case:** Medellín v. Texas, 552 U.S. 491 (2008) (in textbook, 194-200).

## PART V: CONCLUSION

## **23. Thursday, June 28: Conclusion- Empire, international community, and international law**

- Jean L. Cohen, *Whose Sovereignty? Empire Versus International Law*, 18 Ethics and Int'l Aff. 1 (2004), 1-24.