

University of California, Berkeley  
Legal Studies  
LS 157: International Law & International Relations  
Summer 2023  
M TU W TH 4:30 pm – 6:30 pm PST  
Professor: Smadar Ben-Natan, Ph.D.  
Instructor: Daimeon Shanks

## INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

International law and international relations are central to global affairs and to local communities. The Russian war against 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 society, individuals, and peoples. 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 amount to 10% of the final grade.** Participation includes in-session discussion and out-of-session online discussions. Class recordings and slides will be shared with students.

**Class hours:** Monday-Thursday 4:30-6:30 pm PST. Break between 5:30-5:40.

**Discussion hours:** Group 1 Mon 12:00-2:00 pm; Group 2 Tue 2:00-4:00 pm.

**Office Hours: Class:** Friday 9:00- 10:00. **Discussion:**

**Assignments and Evaluation:**

10% - Presence and 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.

50% - 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 third 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 (10%):** All readings will be posted on bCourses. Students are expected to **read all readings 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, one or more 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 10 minutes long, accompanied by a visual presentation of 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** - We strongly encourage you to have your video on as much as possible. 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. Seeing your faces also helps us be engaged, assess your experience, and make the situation more humane and pleasant. If you generally feel uncomfortable with video presence for any reason, please write me an email explaining yourself, so we can make sure you are feeling well through class.

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

#### 1. Monday, May 22: Introductory class

- Textbook, 1-5 (The Nature of International Law).

The major part 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 23: 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), 375-376, 386-390.
- **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).
- **Class reading:** John Austin, *The Province of Jurisprudence Determined* (1832) (excerpts).

#### 3. Wednesday, May 24: Histories of International Law

- Textbook, 9-24.
- Antony Anghie, *Towards a Postcolonial International Law* (2014).
- **Student Presentation:** 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).

#### 4. Thursday, May 25: Theories of International law and international relations

- Textbook, 25-35 (Henkin)
- Anne-Marie Slaughter, *International Law and International Relations Theory: A Dual Agenda*, 87 *Am. J. Int'l L.* 205 (1993).
- **Student Presentation:** TBD

### PART II: SOURCES OF INTERNATIONAL LAW

#### 5. Monday, May 29: Treaties

- Textbook, 75-78 (defining treaties); 80-87 (defining treaties continued; examples); 88-89 (excerpt from Tim Mayer and Charles Lipson); 93-97 (invalidity

of treaties); 98-100 (reservations).

- Vienna Convention on the Law of Treaties.
- **Student Presentation:** Oona Hathaway, *Do Human Rights Treaties Make a Difference?* 111 YALE L. J. 1936, 1937-1962 (2001-2002).

## 6. Tuesday, May 30: Customary International Law

- Textbook, 281-303.
- International Law Commission, [First Report on formation and evidence of customary International Law](#) (2013) (excerpts)
- **Case:** The Paquete Habana (1900) 175 U.S. 677 (in textbook 282)
- **Student presentation:** J. Patrick Kelly, *The Twilight of Customary International Law*, 40 Va. J. Int'l L. 449 (2000).

## 7. Wednesday, May 31: General Principles and Soft Law

- Textbook, 464-465 (The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States).
- Statute of the International Court of Justice, articles 38 & 59.
- Oscar Schachter, *International Law in Theory and Practice* (1991), 50-55
- **Case:** *American Banana v. United Fruit*

## PART II: INTERNATIONAL ACTORS AND GLOBAL GOVERNANCE

## 8. Thursday, June 1: States

- Textbook, 450-461
- Charter of the United Nations
- **Student presentation:** Helman & Ratner, *Saving Failed States* 3-12, 18-20
- **Student presentation:** Wilde, *The Skewed Responsibility Narrative of the "Failed State" Concept*

## 9. Monday, June 5: Statehood and other "Territories"

- Textbook, 489-493
- **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)
- **Case:** *Jurisdiction of the ICC over Palestine: Pre-trial Chamber I, No. ICC-01/18 Situation in the State of Palestine*, 5 February 2021, available at [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021\\_01165.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_01165.PDF).

## **10. Tuesday, June 6: International Organizations I - The United Nations**

- Textbook, 510-517
- **Case:** Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion 1945 I.C.J. Rep. 174 (Apr. 11), 4-18.
- **Student Presentation:** Jean L. Cohen, Constitutionalism beyond the State: Myth or Necessity? 127-137

## **11. Wednesday, June 7: International Organizations II**

- Textbook, 494-501; 522-527 (start at WTO and GATT).
- Clinton et al., [Why the WHO?](#), Think Global Health (May 29, 2020).
- International Health Regulations.
- WHO Resolution on COVID-19.
- **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).
- **Class reading:** Rana Essawy, *The WHO: The Guardian of Human Rights during Pandemics?* EJIL:Talk! (June 15, 2020) (to be read and discussed in class).

## **12. Thursday, June 8: International Organizations III- International Courts and Tribunals**

- Textbook, 331-341 (International Court of Justice); 800-820 (regional human rights systems).
- [The Guardian View on Trump and the International Criminal Court: An Attack on Human Rights](#) (June 21, 2020).
- **Student Presentation:** Adrian Fulford, *Who Arrests Those Accused by the ICC?* 112 AJIL Unbound 168 (2018).

## **13. Monday, June 12: Individuals, Corporations, Peoples and Civil Society**

- Textbook, 780-782
- **Case:** [Kiobel v. Royal Dutch Petroleum](#) in textbook 299.
- **Case:** SERAC v. Nigeria (2001) AHRLR 60 (African Commission on Human Rights) paragraphs 43-72.
- **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), 957-983.

### **PART IV: FOCUS AREAS IN INTERNATIONAL LAW**

## **14. Tuesday, June 13: International Dispute Resolution**

- Textbook, 319-324; 400-411.

- **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.

### **15. Wednesday, June 14: International Environmental Law**

- Textbook, 823-827; 897-914; 931-944.
- **Student presentation:** Cymie R. Payne, ICJ Halts Atlantic Whaling – Japan Starts again, 181- 184, 186 – 190 (section 5), 192-194.

### **16. Thursday, June 15: The Law of Armed Conflict I - Jus Ad Bellum**

- Textbook, 964-967; 981-991 (international intervention); 1011 humanitarian intervention; 1032-1033 (Responsibility to Protect); 1044-1048 (intervention in Lybia).
- Christine Gray, international Law and the Use of force, chapter 3, 75-78 (intervention, Nicaragua case).
- **Student presentation:** Dapo Akande, Classification of Armed Conflicts, sections 1-7, 9.

### **17. Monday, June 19: The Law of Armed Conflict II - Jus in Bello**

- Textbook, 1053-1071; 261-273 (presidential power and the global struggle against terrorism, Hamdi and Hamdan).
- **Case:** Hamdan v. Rumsfeld, 548 U.S. 557 (2006).
- **Student Presentation:** Harold Hongju Koh, *On American Exceptionalism*, 55 Stan. L. Rev. 1479 (2003).

### **18. Tuesday, June 20: Human Rights I- The Human Rights Regime**

- Textbook, 752-757 (background and UNDHR); 759-760 (international covenants); 770- 771 (UN human rights system); 783-789 (US and human rights law).
- **Student Presentation:** Beth Simmons, Mobilizing for Human Rights: International Law in Domestic Politics (2009), Chapter 4: Theories of compliance 112-155 (excerpts).

### **19. Wednesday, June 21: Human Rights II - Torture**

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



## **20. Thursday, June 22: Human Rights III – 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).

## **21. Monday, June 26: Citizenship and Asylum**

- Textbook, 748-751.
- James Hathaway, *The Law of Refugee Status* (1991), 1-13.
- **Case:** *Nottebohm Case (Liechtenstein v. Guatemala)*, 1955 I.C.J. Rep. 4 (Apr. 6).
- **Student Presentation:** Karen Musalo, *A Short History of Gender Asylum in the United States*, 29 *Refugee Surv. Q.* 46 (2010).

## **22. Tuesday, June 27: International Criminal Law**

- Textbook, 1127-1147; 1170-1176.
- 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).

## **23. Wednesday, June 28: International Law in Domestic Courts**

- Textbook, 153-178; 186-190; 440-448.
- **Case:** *Medellín v. Texas*, 552 U.S. 491 (2008) (in textbook, 194-200); entire decision (optional) can be found [here](#).
- **Student presentation:** Sarah Cleveland, *Our International Constitution*, 31 *Yale J. Int’l L.* 1 (2006) (excerpts).

## **CONCLUSION**

## **24. Thursday, June 29: 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.

**Course Ends**