

International Law

SOSC 1270, Fall 2017, TuTh 12:00-1:20 CYTLTL; Barry Sautman, Rm 3383, 23587821; sobarrys@ust.hk; office hour: Th 11:00-11:50; Teaching Associate & Tutor: Walter Lee (walterlee@ust.hk) (Voluntary Tutorials: TBA [English] and TBA [Cantonese]); Teaching Assistant: TBA

Public international law (IL) is based on rules for relations among states (countries), as well as the human rights of people. It covers almost every aspect of human activity and is mainly studied by analyzing legal cases and international agreements (treaties). The topics in an introductory IL course are the same everywhere in the world. The cases used are the “classics” that established the principles of IL. Most topics involve current events of world-wide importance.

Intended Learning Outcomes (ILOs)

HKUST has outcome-based education. Courses here have goals: ILOs. Students in Common Core courses vary in their interests and the amount of work they are willing to do. There thus should be different ILOs for different kinds of students. Here are the kinds of students who take IL, their rough proportions in the course over the years, their characteristics, and the ILOs for each category of student. The percentages are **not** the same as the course distribution of grades. They are based only on the amounts of work that students typically do.

Poor Students	Ave./Good Students	Very Good Students	Excellent Students
about 15% of class	About 60% of class	About 15% of class	about 10% of class
miss most lectures never read not interested in doing a paper	attends most lectures reads little or nothing may be interested in doing a paper	attends most lectures reads sometimes; interested in doing a paper	Attends almost all lectures; reads a lot very interested in doing a paper
ILO (#1): get a grade and have some idea of what topics are covered by IL	ILO (#2): same as #1, + at end of course, able to understand news articles on IL topics.	ILO (#3): same as #1 and #2, + can basically discuss key social issues as affected by IL, in writing or orally	ILO (#4): same as #1,2 and 3, + has basically grasped how legal reasoning works

Course Requirement

There is only one course requirement: to take two multiple choice (MC) exams totaling 100 bilingual questions (each question in both English and Chinese). About 84 questions will be based on lectures and 16 on student presentations.

Volunteering to Write and Present a Paper

You can volunteer to write and present in class a research paper on a current IL topic. If you do, the paper will be 50% of your final grade; your exam marks will be the other 50%. There are two benefits to doing a paper. First, **the average grade on papers is generally one full grade higher than the**

average grade by examination; for example, if the average grade by examination alone is B-, the average grade given to papers is A-. Second, in your career you will likely have to do research and write papers or reports. Many students go through their whole undergraduate education without having written a research paper. Almost every student who has written a research paper for one of my courses has said later that it was a valuable experience for future work or post-graduate study.

You can work on the paper as an individual or (assuming sufficient enrolment in the course) in a team of two students. The papers should be 12-15 double-spaced pages. The paper **must** have *footnotes* with the sources that you used for each bit of information and not just a bibliography. It **must** be written using almost entirely your own words: plagiarism (copying any work of others and pretending it is your own) can result in failing the course.

Teams will present their papers in class on 21, 23, and 28 November. The length of presentation depends on the number of papers presented, but in the past, each presentation has been 25 minutes, with 7 minutes of that for questions. Thus, a maximum of 9 papers can be presented.

Students can apply to the Teaching Associate to do a particular paper topic. A list of more than one hundred suggested topics is in this syllabus. You can propose a topic not on this list, but it must be about a current issue in IL that can be covered adequately in a short paper. Only one group can select a particular topic -- first come, first served.

Sign-ups for papers begin at 1:30 on 5 Sept. and finish at 18:00 on 15 Sept. If more students sign up than we have slots available, a lucky draw will be carried out electronically by the Teaching Associate just after 18:00 on 15 Sept. If you do a paper, you **must** meet with the instructor, for 5-10 minutes, in the period 18-22 Sept., to discuss your topic.

Two optional seminars will be set up for paper writers: one on how to research a paper in IL and the other on how to write one. A few sample papers will be put on reserve. If at least one student in a group of paper writers is literate in Chinese, a **bilingual** .ppt must be used during the presentation. Students will present in reverse order of the date and time that they signed up to do a paper; thus those who sign-up earlier get more time to prepare. Papers are due on 30 Nov., in a soft copy sent to the instructor.

Discussion Matters

You are encouraged to ask questions or make comments at any time in class. Ask the TA about administrative matters, not the instructor. Please do not talk above a whisper to friends in class and turn off your cell phone. To do well in this class, you should pay attention to lectures and presentations. Please do not waste your time in class by checking social media, playing games, or chatting with friends.

Optional tutorials by the Teaching Associate will be arranged, with at least one tutorial held in English and one in Cantonese. If demand is sufficient, another tutorial may be held in 普通话 (“Mandarin”). Tutorials are for asking questions and discussing course topics. They are not required, but they may help you to better understand the lectures and prepare for the exams.

Course Readings and Videos

Exam questions are all drawn from lectures and student presentations. As with any “technical” subject however, you will understand lectures better if you also read a textbook. **You only need to read one textbook, either in English or Chinese.** Here are some textbooks that you can choose from:

In English: Jan Klabbbers, *International Law* (Cambridge: Cambridge University Press, 2d ed. 2017) (“Klabbbers”); Martin Dixon, *Textbook on International Law*, 7th ed. (Oxford: Oxford University Press 2013) (Dixon); Alina Kaczorowska-Ireland, *Public International Law*, 5th ed. (London: Routledge, 2015) (e-book); Peter Malanczuk, *Akehurst's A Modern Introduction to International Law*, 7th ed. (London: Routledge, 1997)(e-book or hard copy).

In simplified Chinese: 董秀丽, 国际法教程 (北京:北京大学出版社, 2006)(“Dong”); 白桂梅, 国际法 (北京: 北京大学出版社, 2010) (“Bai”); 杨泽伟 国际法 (第二版) (北京:高等教育出版社, 2012) (“Yang”). In traditional Chinese 魏靜芬, 國際法 (台北市; 五南圖書出版公司, 2011)(“Wei”).

Revision books: Stephen Allen, *International Law* 3d ed. (London: Pearson, 2017); A revision source is Susan Breau, *International Law 2013 and 2014: Questions and Answers* (Oxford: Oxford University Press, 2013). For topics in great detail, Malcolm Shaw, *International Law*, 7th ed. (Cambridge: Cambridge University Press, 2014) or 马尔科姆· N· 肖, 国际法 : 第六版 (北京 : 北京大学出版社, 2011).

These texts are on reserve. The library has many other English and Chinese IL textbooks. The campus bookstore will stock the Klabbbers and the Yang texts (Yang is about \$58 and Klabbbers about \$289).

Videos: Videos on IL topics at the Library Media Resources, each 30 minutes, are Law of Treaties: KZ1301.L39; Sources of International Law: JX68.L37; States: KZ4002.S73; Use of Force: KZ6355.U84; International Dispute Settlement: KZ5538.I58. Note: these videos are very boring, but still useful.

Tentative Schedule of Topics and Readings

A=Akehurst; B = Bai; Di=Dixon; Do= Dong; K= Klabbbers; K-I = Kaczorowska-Ireland;
Y= Yang (Not every book covers every topic; use more than one book where needed)

5, 7, 12, 14, Sept. Historical Development of IL (A Ch 2; D Ch. 1; K Ch1; K-I Ch 1; Y Ch 1-2) and Customs and Treaties (A Ch 3-4; B Ch. 2, 7; Di Ch 2-3; Do Ch 9; K Ch 2-3; K-I Ch. 2-3; Y Ch 12)

19, 21, 26, 28 Sept.: States and International Organizations (A Ch 5-8, 17, 21; B Ch. 4, 6, 8, 9, 11, 16; Di Ch 5-7; Do Ch 3-4, 8, 10; K Ch 4-5, 7; K-I Ch 5-7, 11; Y Ch 3,-6, 10-11)

3, 10 Oct.: International Human Rights (A Ch 14; B Ch 10; Di Ch 12; Do Ch 7; K Ch 6; K-I Ch 12; Y Ch. 9). **Note:** 10 Oct. lecture either by video or by Dr. Lee; as the instructor will be at a conference

12 Oct.: 1st Exam

17, 19 Oct.: Sea, Air, Space Law (A Ch 12-13; B 12-13; Di Ch 8; Do Ch 5-6; K Ch 13; K-I Ch 8; Y, Ch 7-8)

24, 26 Oct.: Environmental Law (A Ch 16; B Ch 14; K Ch 14)

30 Oct; 2, 7, 9, 14, 16, Nov.: The Use of Force (A Ch 19-20; B 5, 18; Di Ch 11; K Ch 10-11; Y Ch 14) and Peaceful Settlement of Disputes (A Ch 18; B Ch 17; 16; Di Ch 12; Do Ch 11; K Ch 8; Y Ch 13)

21, 23, 28 Nov.: Presentation of student papers (3 papers per session, each by two students)

30 Nov: 2d Exam

Appendix: **Suggested IL Paper/Presentation Topics**

Human Rights Law

1. The IL elements of the Hong Kong booksellers incident
2. The International Organization for Migration and rights under bilateral labor migration agreements
3. Torture terrorists and kill their families: Donald Trump's proposals and IL
4. Police extra-judicial killing of criminals: Philippines President Duterte's proposals and IL
5. Would enacting Article 23 of Hong Kong's Basic Law violate IL?
6. Does IL require universal suffrage?
7. Is civic nomination of Hong Kong's Chief Executive required by IL?
8. US refusal to ratify the Geneva Convention Additional Protocol 1, protecting civilians during warfare
9. States demanding compensation from other states for slavery
10. The International Criminal Court and sovereignty
11. Is the "responsibility to protect" (R2P) an excuse for Western domination?
12. Should the death penalty be banned in China?
13. IL and racial discrimination in Hong Kong
14. Suing multi-national corporations for human rights violations
15. Does the UN Security Council permanent members' veto power further human rights violations?
16. IL and the right to food
17. Can national laws on free speech be enforced on the internet?
18. Hong Kong's obligations to asylum seekers
19. Is a national government's ban on women wearing face veils a human rights violation?
12. Can (and should) states ban the advocacy of secession?
13. Suing foreign officials who have committed crimes against humanity
14. The United Nations Convention on the Rights of People with Disabilities
15. Hong Kong's foreign domestic helpers and the Migration of Labor Convention
16. US opposition to the Cultural Diversity Convention
17. The UN Declaration on the Rights of Indigenous Peoples
18. The International Labor Organization's human rights conventions
19. Harsh penalties in the US and extradition
20. US targeted killings of "terrorists"
21. Are there any non-human (animal) rights under IL?
22. Conventions on reducing statelessness and the UK's stripping "terrorists" of their citizenship
23. Trump's restrictions on asylum seekers and IL

Environmental Law

1. The 2015 Paris Treaty on Climate Change: promising or bound to disappoint?
2. States demanding compensation from other states for environmental damage
3. China's attitude toward IL regulation of natural resources

4. China and the criminalization of trade in elephant tusks
5. The proposed treaty to control sales of tobacco.
6. Can an international timber organization save the world's forests?
7. Obstacles to implementing climate change treaties
8. The continuing battle over the Bhopal chemical disaster of 1984
9. The UN Watercourses Convention, Chinese dams and Southeast Asian floods and droughts
10. International regulation of exports of electronic waste: implications for Hong Kong and the Mainland
11. China's obligations to curb pollution under IL
12. Dealing with rising sea levels through IL
13. Global warming and the Canada/US dispute over the Northwest Passage
14. Problems of the Antarctic Treaty
15. Depleted uranium and IL
16. Global warming, the scramble for Arctic resources and IL
17. IL factors in the ivory trade between Africa and China
18. The Convention on International Trade in Endangered Species (CITES) and the timber trade

Sea, Air & Space Law

1. US "freedom of navigation" activities in the South China Sea: vindicating IL or provoking China?
2. US refusal of guidelines on military and intelligence-gathering activity in exclusive economic zones
3. Egypt's 2016 transfer of two Red Sea islands to Saudi Arabia: politics and IL
4. With mining asteroids now feasible, is a new Outer Space treaty needed?
5. China's Air Defense Identification Zones: IL dimensions
6. Space junk falling to Earth, under international and national law
7. The US/China Dispute in the South China Sea: What Rules Matter?
8. The Philippines/China arbitration case and the status of China's South China Sea "Nine-dashed Line"
9. Can transnational internet racism be regulated?
10. IL and the problem of sea pirates.
11. The effects of South China Sea reclamation projects on ownership of islands
12. The "New Cod War": the European Union sanctions against over-fishing
13. The South Korea/Japan island dispute (Dokodo/Takeshima)
14. Do governments have a "duty to warn" of an impending tsunami?
15. Providing a share for poor countries from the riches of the seabed
16. The US-Hong Kong quarrel about "open skies"
17. The "weaponization of space"
18. Remote sensing from space and the right to privacy
19. Diaoyutai/Senkaku: the China/Japan quarrel that won't go away
20. Should compensation for air passengers' death or injury vary by jurisdiction
21. The China-Japan East China Sea exclusive economic zones quarrel
22. Why hasn't the US ratified the UN Convention on the Law of the Sea?
23. China's regulations allowing seizure of illegal intruders into territorial waters
24. Who gets treasure discovered in historic shipwrecks in international waters?
25. The disappearance of Malaysian Airlines flight 117: what IL can tell us

Law of the Use of Force and Peaceful Settlement of Disputes

1. Do remedies exist for US bombings of hospitals in war zones?
2. The 2014 conflict in Gaza: violations of IL by Israel, Palestinian groups or both?
3. Would a Western attack on Syria be an unlawful act of reprisal?
4. Punishing companies that do natural resources business in war zones
5. Should all states ratify the treaty against land mines?

6. The International Criminal Court, the US and the Crime of Aggression
7. IL and the development of nuclear weapons by North Korea.
8. Is the pre-emptive use of force against terrorism lawful?
9. The US use of civilian “contract employees” to circumvent the laws of war
10. IL and the US detention of “enemy combatants” in the “war on terrorism”
11. The failure to comply with the IL against torture in post-war Iraq
12. The United Nations treaty on the international sale of arms
13. The effort to form a treaty banning cluster bombs
14. The Cambodia/Thailand conflict over the Preah Vihear Buddhist temple
15. Legality of the US use of the Stuxnet computer worm against Iran
16. Russia’s annexation of Crimea: IL aspects
17. The war crime of destroying historical buildings or artefacts
18. Trump’s advocacy of pillaging countries for their oil
19. Israel’s population transfer to the occupied West Bank
20. The role of a Conciliation Commission in the East Timor/Australia maritime delineation dispute

Miscellaneous

1. Is diplomatic immunity absolute, even where the “diplomat” does not engage in diplomacy?
2. How can governments use the citizenship of companies to force them to pay taxes?
3. Can a state be made responsible for the terrorist acts of its citizens?
4. IL aspects of the return of Taiwanese fraud suspects to the Chinese mainland
5. Would luring a Hong Kong criminal suspect to enter Chinese mainland territory violate IL?
6. Restrictive and absolute immunity of states in the Hong Kong vultures fund case
7. Is Britain entitled by treaty to monitor Hong Kong’s political system?
8. How much can states restrict freedom of speech on the internet?
9. Criminal diplomats and immunity from prosecution
10. Is electronic surveillance of foreign leaders and diplomatic missions lawful?
11. IL and the protection of intellectual property in China
12. International lawsuits to obtain compensation for Japanese war crimes
13. The Palestinian symbolic effort in the push for statehood
14. Is Tibet a state under IL?
15. Is Taiwan a state under IL?
14. Edward Snowden’s situation under IL
15. Prosecuting corrupt Chinese officials in foreign courts
16. Lessons for IL from settlement of the Hong Kong-Shenzhen territorial dispute over the Lok Ma Chau loop
17. Can international law be used to end offshoring of wealth?
18. What IL consequences can we expect if Scotland becomes independent?
19. Tensions over who owns what in Arctic
20. Do China’s rare earth minerals practices violate WTO rules?
21. China’s use of extradition to catch corrupt officials who have fled abroad
22. Hong Kong and the United Nations Convention against Corruption
23. IL aspects of China’s protection of its citizens abroad
24. Is the Sino-British Joint Declaration on Hong Kong still an enforceable treaty?
25. The International Court of Justice case about British sovereignty over the Chagos Islands
26. Chinese government claims that its state-owned enterprises have sovereign immunity from lawsuits in the US