

International Law

SOSC 1270, Fall 2020, M W 12:00-13:20 Zoom; Barry Sautman; Rm 3383; 23587821 (沙伯力 sobarrys@ust.hk); Teaching Associate: Deng Ying (daphned@ust.hk)

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 mostly 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 have varied interests and willingness to do work, so there 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 kind of student. The percentages are **not** the same as the course grade distribution; they are based only on the amount of work 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 reads 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 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 one multiple choice (MC) exam totaling 80 bilingual questions (each question in both English and Chinese). About 64 questions will be based on lectures and 16 will be based on student presentations.

Volunteering to Write and Present a Paper

You can **volunteer** to write and present to the 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. It cannot have only 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 or individuals will present papers in class on 23, 25, 30 November and 2 December. The length of presentation depends on how many papers are presented. If the **maximum of 12 papers** are presented in those four class meetings, each presentation will be 18 minutes, plus 7 minutes for questions by students and the instructor.

Students can apply to the Teaching Assistant to do a particular paper topic. A list of 130 *suggested* topics is in this syllabus. You can propose a topic not on the 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. In the case of a few topics, it may also be possible for a team to present their paper in the form of a debate, with one team member debating the other. For example, they might do so with the topic "Does international law allow states to ban groups that advocate secession?"

Sign-ups for papers begin at 10:30 on 8 Sept. and end at 18:00 on 19 Sept. If more students sign up than we have slots available, a TA will carry out a lucky draw electronically no later than 10:00 on 20 Sept. If you do a paper, you **must** meet with the instructor for 5-10 minutes, in the period from 21-23 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 may be made available. 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 sign up to do a paper; thus those who sign-up earlier get more time to prepare. Papers are due on 2 Dec., in a soft copy sent to the instructor.

Discussion Matters

You are encouraged to ask questions. **Ask a TA about administrative matters, not the instructor.** Please have your audio and video turned off during lectures. To do well in this class, you should pay attention to lectures and presentations.

Optional tutorials may be arranged. Tutorials are for responding to questions and discussing course topics. They are not required but may help you to better understand lectures and prepare for the exam.

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); *Akehurst's A Modern Introduction to International Law*, 8th ed. (London: Routledge, 2018).

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); Susan Breau, *International Law 2013 and 2014: Questions and Answers* (Oxford: Oxford University Press, 2013). For topics in great detail, Malcolm Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017) 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 much cheaper than Klabbbers). Whether the library and bookstore will be open during the semester remains to be seen, but if you cannot access a hard copy of a text book, there are online articles about almost every subject covered in the course.

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 may be 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)

7, 9, 14, 16 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)

21, 23, 28, 30 Sept.: States and International Organizations (A Ch 5-7, 11-14; 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)

Tutorial: To Be Arranged (TBA)

5, 7 Oct.: International Human Rights (A Ch 15-16; B Ch 10; Di Ch 12; Do Ch 7; K Ch 6; K-I Ch 12; Y Ch. 9).

12, 14 Oct.: Sea, Air, Space Law (A Ch 8-9; B 12-13; Di Ch 8; Do Ch 5-6; K Ch 13; K-I Ch 8; Y, Ch 7-8)

19, 21 Oct.: Environmental Law (A Ch 17; B Ch 14; K Ch 14)

Tutorial: TBA

28 Oct.; 2, 4, 9, 11, 16 Nov.: The Use of Force (A Ch 19-21; B 5, 18; Di Ch 11; K Ch 10-11; Y Ch 14) and Peaceful Settlement of Disputes (A Ch 22-23; B Ch 17; 16; Di Ch 12; Do Ch 11; K Ch 8; Y Ch 13)

Tutorial: TBA

18 23, 25, 30 Nov.: Presentation of student papers (3 papers per session, each by one or two students)

2 Dec: Exam

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

Human Rights Law

1. Does IL allow for Hong Kong's National Security Law provisions on secession, terrorism, sedition and collusion?
2. The National Security Law's long-arm jurisdiction: can actions taken overseas be prosecuted?
3. The IL elements of the Hong Kong booksellers incident of 2015
4. The International Organization for Migration and rights under bilateral labor migration agreements
5. Torturing terrorists and killing their families: Donald Trump's proposals and IL
6. Police extra-judicial killing of criminals: Philippines President Duterte's proposals and IL
7. Does IL require universal suffrage?
8. Is civic nomination of Hong Kong's Chief Executive required by IL?
9. US refusal to ratify the Geneva Convention Additional Protocol 1, protecting civilians during warfare
10. States demanding compensation from other states for slavery
11. The US sanctions against the International Criminal Court
12. Is the "responsibility to protect" (R2P) an excuse for Western domination?
13. Should the death penalty be banned in China?
14. Taking action against diplomats for sexual harassment
15. IL and racial discrimination in Hong Kong
16. Suing multi-national corporations for human rights violations
17. Does the UN Security Council permanent members' veto power further human rights violations?
18. IL and the right to food
19. Can national laws on free speech be enforced on the internet?
20. Hong Kong's obligations to asylum seekers
21. Is a national government's ban on women wearing face veils a human rights violation?
12. Can 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. US targeted killings of "terrorists"
20. Are there any animal rights under IL?
21. Conventions on reducing statelessness and the UK's stripping "terrorists" of their citizenship
22. Trump's restrictions on asylum seekers and IL
23. Malaysia's refusal to ratify the anti-racial discrimination treaty
24. Israel's anti-boycott law and free speech

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. Hong Kong and the trade in ivory
5. The World Health Organization Framework Convention on Tobacco Control: China and the US
6. Can an international timber organization save the world's forests?
7. The international trade in pesticides and IL
8. Climate refugees and IL
9. The UN Watercourses Convention, Chinese dams and Southeast Asian floods and droughts
10. International regulation of electronic waste exports: 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 withdrawal from the Open Skies treaty allowing unarmed surveillance flights over member countries
3. Developing countries and the UN deal capping emissions from international flights
4. US refusal of guidelines on military and intelligence-gathering activity in exclusive economic zones
5. Egypt's transfer of two Red Sea islands to Saudi Arabia: politics and IL
6. With mining asteroids now feasible, is a new Outer Space treaty needed?
7. China's Air Defense Identification Zones: IL dimensions
8. How to deal with space junk falling to Earth, under IL and national law
9. The US/China Dispute in the South China Sea: What Rules Matter?
10. What's happened as a result of the 2016 China/Philippines South China Sea arbitration case?
11. Can transnational internet racism be regulated?
12. IL and the problem of sea pirates
13. The effects of South China Sea reclamation projects on ownership of islands
14. The "New Cod War": the European Union sanctions against over-fishing
15. The South Korea/Japan island dispute (Dokodo/Takeshima)
16. Do governments have a "duty to warn" of an impending tsunami?
17. Providing a share for poor countries from the riches of the seabed
18. The US-Hong Kong quarrel about "open skies"
19. The "weaponization of space"
20. Remote sensing from space and the right to privacy
21. Diaoyutai/Senkakus: the China/Japan quarrel that won't go away
22. Should compensation for air passengers' death or injury vary by jurisdiction?
23. Making prosecution of unruly airline passengers easier
24. The China-Japan East China Sea exclusive economic zones quarrel
25. Why hasn't the US ratified the UN Convention on the Law of the Sea?
26. China's regulations allowing seizure of illegal intruders into territorial waters
27. Who gets treasure discovered in historic shipwrecks in international waters?

28. The disappearance of Malaysian Airlines flight 117: what IL can tell us
29. Can the US legally stop and board North Korean ships on the high seas?
30. Okinotori-shima: fake Japanese island in the Philippine Sea?
31. Does the possibility of outposts on the Moon require updating the law of outer space?
32. Territorializing airspace in the East and South China Seas
33. Evaluating the effects of the Montreal Protocol on slowing climate change
34. Can IL help solve fishing disputes in the South China Sea?
35. Can the US authorize private maritime warfare (“privateers”) to attack Chinese ships?
36. Evaluating the effects of the Convention on Long-range Transboundary Air Pollution

Law of the Use of Force and Peaceful Settlement of Disputes

1. Seizure of Iranian oil tankers by the UK (2019) and US (2020)
2. The US refusal to join the United Nations’ Arms Trade Treaty
3. Do remedies exist for US bombings of hospitals in war zones?
4. The 2014 conflict in Gaza: violations of IL by Israel, Palestinian groups or both?
5. Would a Western attack on Syria be an unlawful act of reprisal?
6. Punishing companies that do natural resources business in war zones
7. Should all states ratify the treaty against land mines?
8. The International Criminal Court, the US and the Crime of Aggression
9. IL and the development of nuclear weapons by North Korea
10. Is the pre-emptive use of force against terrorism lawful?
11. The US use of civilian “contract employees” to circumvent the laws of war
12. IL and the US detention of “enemy combatants” in the “war on terrorism”
13. The failure to comply with the IL against torture in post-war Iraq
14. 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 artifacts
18. Trump’s advocacy of pillaging countries for their oil
19. Israel’s population transfer to the occupied West Bank
20. The 2018 Australia-Timor Leste Maritime Boundary Treaty: model of IL success?
21. Would a US “preventive war” against North Korea be illegal?
22. The US effort to keep China out of the Arctic
23. Would Israel’s annexation of parts of the Palestinian West Bank be illegal under IL?
24. Disputes among African countries about damming the Nile River
25. What kind of sanctions can the US lawfully impose on other countries?
26. The US assassination of Iranian general Quassim Solemani

Miscellaneous

1. Covid-19 lawsuits: Is China immune? Does China have state responsibility?
2. Can contracts be broken by invoking force majeure during Covid-19?
3. Can China lawfully respond to the UK’s grant of citizenship to Hong Kong people with BN(O) passports by withdrawing their Chinese citizenship and Hong Kong residency?
4. The (suspended) Hong Kong extradition bill in light of IL
5. Does IL allow the extradition of Huawei’s Meng Wanzhou from Canada to the US?
6. Effects of the US’s suspension of its extradition treaty with Hong Kong
7. Is it legitimate for China to arrest two Canadians as an act of “retortion” for Meng Wanzhou arrest?
8. The proposed International Criminal Court prosecution of US soldiers for crimes in Afghanistan

9. IL aspects of other countries' return of Taiwanese fraud suspects to the Chinese mainland
10. Would luring a Hong Kong criminal suspect to enter Chinese mainland territory violate IL?
11. Restrictive and absolute immunity of states in the Hong Kong vultures fund case
12. Is Britain entitled by treaty to monitor Hong Kong's political system?
13. How much can states restrict freedom of speech on the internet?
14. The 2019 International Court of Justice decision that the UK illegally occupies the Chagos Islands
15. Is electronic surveillance of foreign leaders and diplomatic missions lawful?
16. IL and the protection of intellectual property in China
17. International lawsuits to obtain compensation for Japanese war crimes
18. Immunity and the US refusal to turn over the wife of a US diplomat who killed a British teenager
19. US "long-arm jurisdiction" and other countries' sovereignty
20. Is Taiwan a state under IL?
14. Edward Snowden's situation under IL
15. Prosecuting corrupt Chinese officials in foreign courts
16. The Hong Kong-Guangzhou high speed railway's immigration co-location and IL
17. Can international law be used to end the offshoring of wealth?
18. What IL consequences can we expect if Scotland becomes independent?
19. Tensions over who owns what in Arctic: US opposition to Canadian claims
20. The US refusal to allow appointment of new WTO appellate judges
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. Must Israel return the occupied Golan Heights to Syria?
25. Is an embassy the territory of the country that runs it?
26. How IL deals with cyber espionage
27. The US's forcing of the International Postal Union to allow the US to set its own postal rates