

International Law and China

SOSC 6030Q; Spring 2025, Barry Sautman (沙伯力; Rm 3383; 23587821; sobarrys@ust.hk.

TA: Roy Pat Shu Ho (psrho@ust.hk); IL and China class discussion meetings: Room 2463, F 18:30-20:20
For those who want to attend, SOSC 1270, Introduction to IL lectures, W, F 13:30-14:50, Room 2464
(these lectures will also be video-recorded; the videos will be available to SOSC 6030Q students).

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 IL principles. Most topics involve current events of world-wide importance. This course is about basic principles of IL and China shaping international relations through its perspectives on the IL aspects of key global issues.

Course Requirements

This course has four requirements. Students can earn a maximum of 140 marks by: 1) taking a 64-question, multiple-choice exam, with bilingual (English/Chinese) questions, on principles of IL (maximum 64 marks); 2) in a team, researching, writing, and presenting in class a 15-20 page paper (maximum 40 marks); 3) in a team, leading one class discussion of one reading (maximum 16 marks); and 4) participating in class discussions (maximum 20 marks).

Students in this course will learn basic principles of IL by attending the instructor’s lectures, either in-person or by viewing online videos of the lectures. The lectures will be presented, at the same time, to two groups of students: UG students enrolled in their own IL course, SOSC 1270, and MGCS, SOSC, and other PG students enrolled in this course. The UG students and the MGCS/SOSC PG students will attend these lectures together, but will be graded separately, as the two courses have different requirements. Students may also read a textbook on IL, in English or Chinese (see below), to reinforce their knowledge of IL principles. The exam, however, is based entirely on the lectures.

Students in this course will also discuss, in a student-led seminar format, how China interacts with IL. Discussions will take two forms. At the outset of the course, students will be assigned, by surname, to a discussion leaders’ group. At each class meeting (once per week, for 90 minutes), the discussion leaders will present the main ideas of the two readings (usually from academic journals) assigned for that week. Team presentations of each reading will each take 15-20 minutes. The discussion leaders will then conduct a discussion of the two readings, based on questions they pose to the class.

The readings are listed in this syllabus. Each reading is about China’s involvement in a key aspect of IL; for example, to discuss the law of the sea, there is a reading about the South China Sea dispute. Students in this course are thus only required to read one journal article during the entire semester. They are encouraged however to do more readings, as the readings show how IL principles are applied. Students who do the week’s readings can also confidently participate in the classroom discussion of those readings.

Discussion leaders can earn a maximum of 16 marks based on their leadership. Students can also earn one mark when they make a substantive comment during the discussion of the readings or of student papers. A maximum of two marks can be earned that way in each class meeting, with a total maximum of 20 marks for class participation.

Students will present their group research papers in the last 3 class meetings before the exam. Group size (probably 2-3 students) and time to present papers (probably 25 minutes for each group; 17-18

minutes for presentation, 7-8 minutes for questions) will depend on how many students enroll in the course. Students will choose their research paper topics themselves, although the topic must be about China's involvement with a current issue in IL. Students can form paper writing groups themselves. Each student group will meet for 10-15 minutes with the instructor to discuss their paper topic.

Textbooks that Introduce IL

If you want to read about the basic principles of IL, here are some textbooks. You can choose one:

In English: Jan Klabbbers, *International Law* (Cambridge: Cambridge University Press, 3rd ed. 2021) (“Klabbers”); 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 (第四版) (北京:高等教育出版社, 2022) (“Yang”). In traditional Chinese 魏靜芬, 國際法 (台北市; 五南圖書出版公司, 2021) (“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*, 9th ed. (Cambridge: Cambridge University Press, 2021) 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. You can buy a book. Chinese texts are much cheaper (Y50) than English texts (US\$50) and much easier to understand.

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 SOSOC 1270 Lecture Topics and Optional Readings in Textbooks

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 Feb. 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 Feb.: 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)

5, 7 Mar.: 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 Mar.: 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 Mar.: Environmental Law (A Ch 17; B Ch 14; K Ch 14)

26 28 Mar.; 9, 16, 23, 25 Apr.: 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)

Tentative Schedule of Discussion Meetings and Readings for Those Meetings

Feb. 7: Introduction to IL and China

Reading (to be presented by the instructor): Cai Congyan, "The Rise of China and the Strategy of Universality of International Law," *China International Strategy Review* 3 (2021): 154-186.

Feb. 14: Customary IL

Readings: Sun Xinyi, "A Preview of the Legislative Practice for Universal Jurisdiction: an East Asian Context," *Journal of East Asia and International Law (JEAIL)* 16:2 (2023): 385-402.

Huang Xisheng and David Devlaeminck, "The Legal Components of Benefit-Sharing in Transboundary Watercourses: An Analysis of China's Approach," *Review of European, Comparative and International Law (RECIEL)* 32:1 (2023): 18-28.

Feb. 21: Treaties

Readings: Carrie Shu Shang and Shen Wei, "China's Treaty Practices: Politicization of Law or Legalization of Politics?" in Ignacio de la Rasilla and Cai Congyan (eds.), *The Cambridge Handbook of China and International Law* (Cambridge University Press, 2024): 133-160.

Esther Song and Joanne Yang, "China's Adherence to International Human Rights Treaties: an Empirical Assessment," *International Area Studies Review* 2023: 1-17.

Feb. 28: States & International Organizations

Readings: Maria Adele Carrai, "Historical Legacies, Globalization and Chinese Sovereignty Since 1989," Ch. 6 of M.A. Carrai, *Sovereignty in China: a Genealogy of a Concept Since 1840* (Cambridge: Cambridge University Press, 2019): 183-219.

Wang Chenxin, "Seeking Development in the Neoliberal World: China's State-owned Enterprises Reforms in the Context of International Economic Law," *JEAIL* 17:2 (2024) 325-348.

Mar. 7: Human Rights

Alexander Dukalskis, "A Fox in the Henhouse: China, Normative Change, and the UN Human Rights Council," *Journal of Human Rights* 22:3 (2023): 334-350.

Dai Ruijun, "China and International Human Rights Law," in de la Rasilla and Cai Congyan (eds.), *The Cambridge Handbook*, 2024: 261-283.

Mar. 14: Law of the Sea, Air and Outer Space

Readings: Ma Jinxing, “A Chinese Perspective of Treaty Interpretation on the Status of Maritime Features: in Response to the South China Sea Arbitration Award,” *JEAIL*11:1 (2018): 99-120.

Su Jinyuan and Shi Yanan, “The Precautionary Approach and Challenges Posed by Mega-Constellations,” *RECIEL* 33 (2024): 312-325.

Mar 21: Law of the Environment

Readings: Liu Bingyu, “Criminal Justice Cooperation to Combat Transnational Wildlife Crime: An Examination of Cooperation Between China and Africa,” *RECIEL* 32:1 (2023): 119-135.

Liu Nengye, “China and International Environmental Law: Sageliness Within and Kingliness Without?,” in de la Rasilla and Cai, *The Cambridge Handbook*, 2024: 323-338 .

Mar 28: Use of Force

Readings: Cai Congyan and Wang Yifei, “China and International Terrorism Law,” in de la Rasilla and Cai, in de la Rasilla and Cai, *The Cambridge Handbook*, 2024: 219-237.

Zhang Binxin, “China and International Humanitarian Law”, in de la Rasilla and Cai. *The Cambridge Handbook*, 2024: 302-320.

Apr. 11: Peaceful Settlement of Disputes

Readings: Cai Congyan, “China and the International Court of Justice,” in Achilles Skordas and Lisa Mardikian (eds.), *Research Handbook on the International Court of Justice*, (London: Edward Elgar, 2025): 522-546.

Zhang Xinjun and Chen Xidi, “China and the Settlement of Territorial Disputes,” in de la Rasilla and Cai, *Cambridge Handbook*, 2024: 522-547.

Apr. 25: Four Student Paper Presentations

May 2: Four Student Paper Presentations

May 9: Four Student Paper Presentations

May 16: Exam (64 bilingual MC questions)

Some *Suggested Paper Topics*

International Environmental Law

1. China’s attitude toward IL regulation of natural resources
2. Hong Kong and the trade in ivory
3. The World Health Organization Framework Convention on Tobacco Control: China and the US
4. China and the implementation of the international tropical timber agreement
5. International regulation of electronic waste exports: implications for Hong Kong and the Mainland
6. China’s IL obligations to curb pollution, at home and abroad
7. Does the IL of the environment have a role in China reducing its building of coal-fired power plants?
8. China’s participation in the Antarctic Treaty

9. China and the Arctic Council
10. Is China meeting its climate change mitigation obligations?
11. China and the IL of illegal fishing
12. Does IL require China to share critical minerals?
13. Belt & Road infrastructure projects and the IL of the environment
14. China and the Convention on Biological Diversity
15. China and the International Solar Alliance agreement

International Human Rights

1. Should the death penalty be banned in China?
2. China's role in the United Nations Human Rights Council
3. Is the Xinjiang government's ban on women wearing face veils a human rights violation?
4. Does China's ban on the advocacy of secession violate IL?
5. The extent of China's implementation of the Convention on the Rights of People with Disabilities
6. Implications of China's ratification of International Labor Organization conventions on forced labor
7. Animal rights in China and IL
8. Were China's Covid-19 lockdowns a violation of international human rights?
9. Does IL permit Hong Kong National Security Law's provisions on secession, sedition and collusion?
10. The National Security Law's long-arm jurisdiction: can actions taken overseas be prosecuted?
11. IL and racial discrimination in Hong Kong
12. Are boarding schools in ethnic minority areas "cultural genocide"?
13. Did Xinjiang's "vocational training and education centers" violate human rights?
14. Did a Chinese construction company in Brazil practice "slave labor"?
15. China's domestic and global anti-terrorism efforts and IL

Sea, Air and Space Law

1. The China-Japan East China Sea exclusive economic zones quarrel
2. China, the US, Russia and the Open Skies mutual surveillance treaty
3. Air Defense Identification Zones in China and the US: IL dimensions
4. China's role in confronting sea pirates
5. Attitudes toward undersea mining and the International Seabed Authority: China and the US
6. Diaoyutai/Senkakus: a China/Japan quarrel that won't go away
7. Can the US authorize private maritime warfare ("privateers") to attack Chinese ships?
8. Territorializing airspace in the East and South China Seas
9. China's regulations allowing seizure of illegal intruders into territorial waters
10. Can IL help solve fishing disputes in the South China Sea?
11. China's national space law and the IL law of outer space
12. China and the utilization of space resources
13. Should China join the Moon Treaty?
14. Does the US ban on China accessing the International Space Station violate IL?
15. Is a new US/Hong Kong air services agreement needed?

Other IL Topics

1. Was China's arrest of two Canadians as an act of "retortion" for Meng Wanzhou's arrest lawful?
2. IL and the protection of intellectual property in China
3. China's use of extradition to catch corrupt officials who have fled abroad
4. Can China (or the US) be sued for Covid-19-related negligence?
5. China's neutrality during the Russia/Ukraine war

6. China, the US, and the WTO disputes resolution system
7. China, the US and military warships passing through exclusive economic zones
8. The US government's "Uyghur genocide" claims and China
9. The debate about the status of Taiwan in IL
10. China's perspective on the IL of artificial intelligence (AI)
11. How China uses IL to settle disputes
12. China and the IL aspects of the Israel/Gaza war
13. US tariffs on Chinese goods and IL
14. China's opposition to US unilateral sanctions against other states
15. IL and the case Jimmy Lai (黎智英) in Hong Kong