

Exeter Summer School 2019 - Introduction to International Law

Course description and reading list

Course description

This course introduces students in some depth to the field of public international law, that is, the law that applies in the relationships between States and that governs certain aspects of the relations between States and non-State actors (including individuals and private corporations). The course will have two parts – the first, main part, will introduce students to certain structural features of international law (i.e. where does international law come from? How does it form? In what circumstances is a State legally responsible for violating international law?) The second part will introduce students to a few specific topics of regulation in international law (i.e. the use of military force and international trade law).

Course objectives

The aims of this course are:

- a) to increase students' understanding of the function of the law in international relations;
and
- b) to equip students with the ability to engage critically with the law.

Teaching

12 x 1.25 hr lectures

6 x 1.25 hr seminars

4 x 1 hr tutorials

Lectures: Dr Lawrence Hill-Cawthorne, Associate Professor, University of Reading

LLB (London School of Economics); BCL, MPhil, DPhil (University of Oxford)

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Seminars and tutorials: Anna Ventouratou, DPhil Candidate and Graduate Teaching Assistant in Public International Law, University of Oxford

LLB, LLM (University of Athens); MJur, MPhil (University of Oxford)

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Assessment

This course will be assessed via a 3 hour end-of-course exam (60%) in addition to one essay of not more than 2,000 words including references (40%), the details of which are provided in the tutorial guide and will be further discussed in Tutorial 1.

Readings

The core text for this course will be Malcolm D Evans (ed), *International Law* (5th edn, OUP, 2018). References in the reading list below to 'Evans' refer to this text. Required reading must be completed in advance of the lectures, with supplementary and further reading for students to deepen their knowledge of the topics especially for seminars, tutorials and the assessments.

Lecture 1: The nature of public international law

Required reading:

- Evans, chapters 1, 2 and 3

Further reading:

- Glanville Williams, 'International Law and the Controversy Concerning the Word "Law"' (1945) 22 *British Yearbook of International Law* 146
- J Crawford, 'Chance, Order, Change: The Course of International Law' (2014) 365 *Hague Recueil des Cours* http://www.nijhoffonline.nl/book?id=er365_er365_009-390 Part I
- Andrea Bianchi, *International Law Theories* (OUP, Oxford 2018)

Lecture 2: Subjects of international law

Required reading:

- Evans, chapters 7, 8 and 9

Supplementary reading:

- J Crawford, *The Creation of States in International Law* (OUP, 2007, 2nd edn) Chapters 1 (Sections 1.1, 1.4 & 1.5), Chapter 2, Chapter 3 (Sections 3.1, 3.2 & 3.3), Chapter 9, pp. 415-418 only)
- R Higgins, *Problems and Process: International Law and How We Use It* (OUP, 2000) Chapters 3 and 7
- [Accordance with international law of the unilateral declaration of independence in respect of Kosovo \(Request for Advisory Opinion\), Advisory Opinion of 22 July 2010, ICJ Rep. 2010](#)
- Talmon, 'The Constitutive versus the Declaratory Theory of Recognition: Tertium Non Datur?' (2005) 75 *British Year Book of International Law* (BYIL) 101-181

Further reading:

- D Akande, 'Which Entity is the Government of Libya and Why Does it Matter?', June 2011, and 'Recognition of the Libyan National Transitional Council as the Government of Libya' July 2011 at EJIL: Talk!
- A Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP, 2005)
- K Parlett, *The Individual in the International Legal System* (CUP, 2011)
- A Clapham, *Human Rights Obligations of Non-State Actors* (OUP, 2006)

Seminar 1: Nature and subjects of international law

Lecture 3: The sources of international law

Required reading:

- Evans, chapter 4 and 5

Supplementary reading:

- M Akehurst, 'Custom as a Source of International Law' (1974-1975) 47 *BYIL* 1
- FL Kirgis, 'Custom on a Sliding Scale' (1987) 81 *American Journal of International Law* (AJIL) 146
- M Mendelson, 'The Subjective Element in Customary International Law', (1995) 68 *BYIL* 177
- R Higgins, *Problems and Process: International Law and How We Use It* (OUP, 2000) Chapter 2
- J Charney 'Universal International Law' (1993) 87 *AJIL* 529

Further reading:

- C M Chinkin, 'The Challenge of Soft Law: Development and Change in International Law' (1989) 38 *International and Comparative Law Quarterly* (ICLQ) 850
- A Roberts, 'Traditional and Modern Approaches to International Law: A Reconciliation' (2001) 95 *AJIL* 757
- R Baxter, 'Multilateral Treaties as Evidence of Customary International Law' (1965) 41 *BYIL* 275
- J Kammerhofer, 'Uncertainties in the Formal Sources of International Law: Customary International Law and Some of Its Problems' (2004) 15 *European Journal of International Law* (EJIL) 523
- P Weil, 'Towards Relative Normativity in International Law?' (1983) 77 *AJIL* 413-442

Lectures 4 and 5: Sources cont. and the law of treaties

Required reading:

- Evans, chapter 6

Supplementary reading:

- C Redgwell, 'Universality or Integrity? Some Reflections on Reservations to General Multilateral Treaties' (1993) *BYIL* 245
- R Goodman, 'Human Rights Treaties, Invalid Reservations, and State Consent' (2002) 96 *AJIL* 531
- See the International Law Commission's Guide to Practice on Reservations to Treaties

Further reading:

- R Baratta, 'Should Invalid Reservations to Human Rights Treaties be Disregarded?' (2000) 11 *EJIL* 413
- See the symposium in (2013) 24 *EJIL* 1055 – 1152 on the International Law Commission's Guide to Practice on Reservations to Treaties
- Sinclair, *The Vienna Convention on the Law of Treaties* (Manchester University Press, 1984, 2nd edn)

Seminar 2: Sources and treaties

Lectures 6 and 7: State responsibility

Required reading:

- Evans, chapter 14
- ILC Articles on the Responsibility of States for Internationally Wrongful Acts (2001)

Supplementary reading:

- J Crawford, *The International Law Commission's Articles on State Responsibility* (CUP, 2002), esp introduction
- L A Sicilianos, 'The Classification of Obligations' (2002) 13 *EJIL* 1127-1145
- ILC Articles on the Responsibility of States for Internationally Wrongful Acts with commentaries, esp commentary to Articles 4, 5, 7, 8, 22, 25, 28-31, 42, 48, 49-54.

Further reading:

- J Crawford, *State Responsibility: The General Part* (CUP, 2014)
- See the symposium on the ILC's Articles on State Responsibility in (2002) 96(4) *AJIL* 773 – 890
- M Koskenniemi, 'Solidarity Measures: State Responsibility as a New International Order?' (2001) 72 *BYIL* 337-356

Seminar 3: State responsibility

Lecture 8: International Dispute Settlement

Required reading:

- Evans, chapters 18 and 19

Supplementary reading:

- R Higgins, *Problems and Process: International Law and How We Use It* (OUP, 2000) Chapter 11
- R Jennings, 'The International Court of Justice after Fifty Years' (1995) 89 *AJIL* 493
- D Akande, 'The International Court of Justice and the Security Council: Is there Room for Judicial Control of Decisions of the Political Organs of the United Nations?' (1997) 46 *ICLQ* 309

Further reading:

- R Higgins, 'A Babel of Judicial Voices? Ruminations from the Bench' (2006) 55 *ICLQ* 791
- C Greenwood, 'Some Challenges of International Litigation' (2012) 1 *Cambridge Journal of International & Comparative Law* 7

<i>Seminar 4: International dispute settlement</i>
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Lecture 9: Case Study in International Dispute Settlement (Ukraine/Russia)

THERE IS NO ADDITIONAL READING FOR THIS LECTURE

Lecture 10: Use of military force

Required reading:

- Evans, chapter 20

Supplementary reading:

- R Higgins, *Problems and Process: International Law and How We Use It* (OUP, 2000) Chapters 14, 15
- V Lowe and A Tzanakopoulos, 'Humanitarian Intervention' in Max Planck Encyclopedia of Public International Law
- O Corten, 'The Unwilling or Unable Test: Has it Been or Could it be Accepted?' (2016) 29 *Leiden Journal of International Law* 777
- N Krisch, 'Legality, Morality and the Dilemma of Humanitarian Intervention after Kosovo' (2002) 13 *EJIL* 323-335
- V Lowe, 'Clear and Present Danger?': Responses to 'Terrorism' (2005) 54 *ICLQ* 184, especially 191-4
- M Milanovic 'Illegal But Legitimate?', April 2017 at EJIL: Talk!

Further reading:

- A D Sofaer, 'On the Necessity of Pre-Emption' (2003) 14 *EJIL* 209
- M Byers, 'Jumping the Gun', (2002) 24 *London Review of Books* (No. 14)
- B Simma 'NATO, the UN and the Use of Force: Legal Aspects', (1999) 10 *EJIL* 1-22
- V Lowe, 'The Iraq Crisis: What Now?', (2003) 52 *ICLQ* 859 (especially 865-869)
- C Gray, *International Law and the Use of Force* (OUP, 2018, 4th edn)
- M Weller (ed), *Oxford Handbook of the Use of Force in International Law* (OUP, 2015)
- T Franck, *Recourse to force : state action against threats and armed attacks* (CUP, 2002)

<i>Seminar 5: Use of military force</i>

Lectures 11 and 12: International humanitarian law

Required reading:

- Evans, chapter 27

Supplementary reading:

- K Dormann, 'The Legal Situation of "Unlawful/Unprivileged Combatants"' (2003) 850 *International Review of the Red Cross* 45
- D Akande, 'Classification of Conflicts: Relevant Legal Concepts' in Wilmshurst (ed.), *International Law and the Classification of Conflicts* (2012), Chapter 3
- ICRC, 'Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law' (2009)
- M Schmitt, 'Military Necessity and Humanity in International Humanitarian Law: Preserving the Delicate Balance' (2009-2010) 50 *Virginia JIL* 795
- Y Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict* (CUP, 2016, 3rd edn) esp Chapter 2, 4, 8

Further reading:

- S Sivakumaran, *The Law of Non-International Armed Conflict* (OUP, 2012)
- G H Aldrich, 'The Laws of War on Land' (2000) 94 *AJIL* 58-63
- C Byron, 'Armed Conflicts: International or Non-International' (2001) 6 *JCSL* 63
- T D Gill, 'Classifying the Conflict in Syria' (2016) 92 *Int.L.Studies* 353
- A P V Rogers, 'Zero-casualty warfare' (2000) 82 *International Review of the Red Cross* (No.837), 165
- D Akande, 'Clearing the Fog of War? The ICRC's Interpretive Guidance on Direct Participation in Hostilities' (2010) 59 *ICLQ* 180-192

- D Turns, 'Targets' in White & Henderson (eds), *Research Handbook on International Conflict and Security Law* (2015), Chapter 10

Seminar 6: International humanitarian law