



Mahidol University
International College

ICIR 312 International Law and International Relations

Course Description & Aims:

Introduction to the basic concepts and problems of public international law and the international legal system. Course will cover major topics in the discipline such as the sources of international law, jurisdiction of states, international law and the use of force, and the relationship between international law and the internal law of states. It will also address newer themes in international law such as the international law of human rights, international law of the seas, and international criminal law. Review and discussion of a number of international law cases decided by national and international tribunals, as well as certain treaties, resolutions and other international legal instruments of importance. The interrelation and role that international law plays in an international relations context will continually be examined and reinforced.

The nature, development, and current status of international law; the legal personality of states and other entities under international law; recognition; territory; jurisdiction and immunity; treaties; state responsibilities; the settlement of disputes and the use of force; laws of the sea, air and space; environmental law; human rights; international legal institutions; enforcement of international law. Students will understand; analyze; evaluate; key concepts of international law in an international relations context.

Lecturer: William J. Jones

Office number 2111 and office hours Monday-Thursday 10-5 pm

Meeting and consultation by appointment

Assessment

Attendance and Active Participation	10%
Case Briefs	30%
Final Examination	30%
Group Debate on Contemporary International Relations Issue with Final Report	30%

Course Learning Outcomes

At the completion of the course the student will be able to:

1. To interpret international public law and municipal law and the intersection of these two strains of law
2. To understand customary international law, the binding normative rules and principles dealing with the conduct of states and of international organizations
3. To analyze different types of law such as maritime law, laws of war, humanitarian and human rights law, diplomatic law and treaty law of state relations
4. To evaluate legal reasoning and arguments and apply this to relevant international legal cases
5. To analyze and evaluate the intersection and interface between international law and international politics

	Topic
1	Introduction: Outline, Review and Definitions
	Sources of International Law
2	Natural Law: Grotius & De Vattel
	Natural Law: Grotius & De Vattel
3	International Customary Law
	International Human Rights & Law
4	International Human Rights & Law
	International Humanitarian Law (Law of Armed Conflict)
5	International Humanitarian Law (Law of Armed Conflict)
	International Law the UN and use of force
6	International Diplomatic Law
	International Law & Municipal Law
7	Review for midterm examination
	Midterm Examination
8	States, Recognition & State Secession
	States, Recognition & State Secession
9	International Boundaries and Disputes (Land)
	International Boundaries and Disputes (Maritime)
10	Treaties & International Law
	Treaties & International Law
11	States---Responsibilities & Liabilities
	International Organizations---Responsibilities & Liabilities
12	Legal Debate
	Legal Debate
13	Final Examination

Assessment Methods & Criteria

1. Students are expected to attend classes and to participate in the analysis and discussion of the assigned readings and case briefs. The level and quality of participation will be graded at 10%.
2. In-class Debate 23%
One (1) in-class debate on a case as arbitrated/decided in an international legal court on a contemporary international relations issue. Students will be in groups and organize themselves on which aspects they will be handling. The debate will proceed by all groups presenting their opening arguments then their full legal cases which will be followed by rebuttals and each group providing concluding remarks. Groups will also have to submit a short report of their case which includes their side of the case, facts, arguments, counterarguments and conclusion in no more than 1,000 words.
3. Final Examination 30%
Open book midterm and final examination of questions based on lectures, readings, class seminars, case briefs and case studies.
4. Case Briefs 30%
There will be multiple in-class assignments based on legal case briefs and topic readings for students to complete, present and discuss. Students will be assessed as to their preparation, knowledge and ability to discuss topics in-class.

Course Text:

- Shaw, Malcolm. N. (2008). *International law* (6th ed.). Cambridge: Cambridge University Press.
- Simmons, B. A., & Steinberg, R. H. (2007). *International law and international relations: an international organization reader*. Cambridge: Cambridge University Press.
- Bolded readings are required for in-class discussion; non-bolded are supplementary

Online journals and reference material

- International Court of Justice - <http://www.icj-cij.org/>
- International Criminal Court - <http://www.icc-cpi.int/Menus/ICC/>
- European Journal of International Law - <http://www.ejil.org/> or <http://ejil.oxfordjournals.org/>
- American Journal of International Law - <http://www.asil.org/ajil.cfm>
- Journal of International Criminal Justice - <http://jicj.oxfordjournals.org/>
- Journal of Conflict & Security Law - <http://jcs.oxfordjournals.org/>

Open Access Journals

Open access database for law journals

- <http://digitalcommons.bepress.com/online-journals-law/>
- American University International Law Review - <http://www.auilr.org/>
- Boston College Law School Journals
 - Boston College Journal of Law & Social Justice - <http://lawdigitalcommons.bc.edu/jlsj/>
 - Boston College Environmental Affairs Law Review - <http://lawdigitalcommons.bc.edu/ealr/>
 - Boston College International & Comparative Law Review - <http://lawdigitalcommons.bc.edu/iclr/>
 - Boston College Law Review - <http://lawdigitalcommons.bc.edu/bclr/>
 - Boston College Third World Law Journal - <http://lawdigitalcommons.bc.edu/twlj/>
- Harvard University International Law Journal - <http://www.harvardilj.org/>
- Fordham University International Law Journal - <http://law.fordham.edu/fordham-international-law-journal/ilj.htm>
- University of Texas International Law Journal - <http://www.tilj.org/>
- New York University Journal of International Law and Politics - <http://www.law.nyu.edu/journals/jilp/index.htm>
- Yale University - Yale Journal of International Law - <http://www.yjil.org/>
- George Washington University - The George Washington International Law Review - <http://www.gwilr.org/>
- U. of Wisconsin - Wisconsin International Law Journal - <http://hosted.law.wisc.edu/wilj/>
- California Western Law Review and California Western International Law Journal <http://www.cwsl.edu/main/default.asp?nav=journals.asp&body=journals/home.asp>
- U. of Houston - Houston Journal of International Law - <http://www.hjil.org/>
- Boston University - Boston University International Law Journal <http://www.bu.edu/law/central/jd/organizations/journals/international/index.html>
- U. of Michigan - Michigan Journal of International Law - <http://students.law.umich.edu/mjil/>
- U. of Cal. Berkeley - Berkeley Journal of International Law - <http://www.boalt.org/bjil/>
- Max Planck Institute - <http://www.zaoerv.de/index.cfm>
- Washburn University - Washburn Law Journal - <http://washburnlaw.edu/wlj/>
- Georgetown University - Georgetown Law Journal - <http://www.georgetownlawjournal.com/>
- University of Virginia - Virginia Journal of International Law - <http://www.vjil.org/>
- Northwestern University - Northwestern Journal of International Human Rights <http://www.law.northwestern.edu/jihr/>
- U. of Melbourne - Melbourne Journal of International Law - <http://mjil.law.unimelb.edu.au/>

Sources of International Law

Topic description: This week various sources of international law will be examined as well as the hierarchy of international law. The process of rules building and development of different sources of international law will be examined.

Expected learning outcomes: For students to understand and identify different sources of international law as well as understand the hierarchy of sources of international law.

Readings and activities:

- Malcolm Shaw chapter 3
- **3rd Restatement of United States Foreign Relations Law**
- **The Antelope Case [US Supreme Court 1825]**
- Activities – Case brief and discussion of the case from an historical context of how international is applicable and/not by examining the judicial reasoning behind this case. Antelope case will be presented by students with reference to International Customary Law and how legal reasoning settles ICL.

Review Questions:

- Where does international law come from?
- Why are sovereign states legally bound by customary international law/s? Are they?
- What evidence do courts consider to determine if a new rule of customary international law has developed?
- How do treaties affect the development of customary international law?
- Can the same rule be part of customary international law and of treaty law at the same time?
- Can the rule in a treaty be applied to a state that is not bound by the treaty if the rule is also part of customary international law?

Natural Law: Grotius and De Vattel

Topic description: An introduction to origins of the international legal order along with terms and relevant definitions. Historical arguments made by Emmerich de Vattel and Hugo Grotius on the nature and typologies of both natural law and positive law of nations.

Expected learning outcomes: For students to have an understanding of the historical context and arguments made for the foundation of what would become international public law. Understand relevant terms and definitions that will be used throughout the class and in texts.

Readings and activities:

- **De Vattel on the Law of Nations [1758]**
- **Case of S.S. Wimbledon**
- Activity – Case brief and discussion the S.S. Wimbledon which has as its focus the role of international treaties vis-à-vis national law and state sovereignty.

Review Questions:

- When did the current system of international law develop?
- How does the idea of natural law differ from the idea of positive international law? What are they based on? Can they operate together or are they in antithesis to each other?
- What role does natural law play in international law according to De Vattel?
- Is De Vattel's theory of the Law of Nations (International Law) dependent on his concepts of natural law?
- What does De Vattel see as the role of positive law of nations?
- Why need positive law and how should it operate within the context of nations as primary agents in an international system?

International Customary Law

Topic Description: This module explores the concept of customary law as a facet and source of international law. The differences and problematic nature of traditional vs. modern custom will be discussed. The interface of international law and politics will be explored to find deeper broader understandings of legalization as a process.

Expected learning outcomes: For students to understand the basis for customary law as a process and exploring its sources. To understand the interface between law and politics and how law can be seen as a process of varying degrees from hard to soft law interfacing with interests of states.

Readings and activities:

- **ICJ Preah Vihear Case Part 1 & 2 – 1961/62**
- **Finnemore, Martha and Stephen J. Toope, “Alternatives to “Legalization”:** Richer Views of Law and Politics” in *International Law and International Relations*, ed. Beth A. Simmons and Richard H. Steinberg (New York: Cambridge UP, 2006, 188-202).

International Human Rights Law

Topic description: This week the development and application of international human rights law will be examined. The differences types of treaties embodied in first, second and third generation of human rights and the treaties that embody these typologies. The origins and purpose of international human rights law will be discussed and how it is applicable in international relations.

Expected learning outcomes: For students to understand the differences, basis and applicability of international human rights law. To examine and evaluate how and when this body of international law apply in the international arena.

Readings and activities:

- Malcolm Shaw Chapter 6
- **PCIJ Advisory Opinion Minority Schools Case – 1935**
- **Mazower, Mark (2004) The Strange Triumph of Human Rights, 1933-1950, *The Historical Journal*, 47(2), 379-398.**
- Moravcsik, Andrew, (2000) The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe, *International Organization*, 54(2), 217–252.
- Activity – discuss different types and categorized hypothetical acts of human rights law violations.

Review Questions:

- What is the relationship between international human rights and the idea of natural law?
- Are international human rights part of positive international law?
- Does the UN Charter establish an international law of human rights?
- Are all human rights equally important?
- Are economic and social rights really human rights? What are these rights?
- Are human rights primarily a matter of customary international law or of treaties?
- Are human rights more or less important than the rights of states under international law?
- Can human rights violations within a state legally justify intervention or other actions inconsistent with the sovereignty of that state?

International Humanitarian Law & Use of Force

Topic description: This week the laws of war from a classical and contemporary perspective will be discussed. The contemporary body of international humanitarian law, its principles, purposes and application will be evaluated. How and when this body of law applies and how

to identify and apply international humanitarian law. The doctrine of responsibility to protect will be examined and questioned.

Expected learning outcomes: For students to understand the historical and contemporary discourse surrounding the laws of war and theory of just war. To examine and evaluate when international humanitarian law applies and to identify and categorize acts which may or may not violate this body of law.

Readings and activities:

- Malcolm Shaw Chapter 21
- **ICJ Advisory Opinion Legality of the Threat or Use of Nuclear Weapons – 1996**
- **Rudolph, Christopher, “Constructing an Atrocities Regime: The Politics of War Crimes Tribunals (2001)” in *International Law and International Relations*, ed. Beth A. Simmons and Richard H. Steinberg (New York: Cambridge UP, 2006, 594-621).**
- Activity – discuss the controversial nature of responsibility to protect and how it been used for legitimate and illegitimate uses. Case study of Cyclone Nargis and the humanitarian arguments for intervention will be debated during in-class discussion.

Review Questions:

- Who is the guardian of the Geneva Conventions?
- What is the purpose of the four Geneva Conventions?
- What constitutes a war crime?
- Who is/can be held accountable to war crimes?
- When does international humanitarian law apply?

International Diplomatic Law

Topic description: The second half of this week is a rejoinder to humanitarian law and international law related to the use of force. This week introduces international diplomatic law as a set of norms, principles, rules and regulations that are anchored in the 1961 and 1963 Vienna Conventions on the Consular and Diplomatic Relations. Diplomatic law is a rejoinder to laws of war in that they seek to regulate behavior of states in issue areas to avoid and/or remedy causes that lead to war and conflict or seek to extricate states out of conflictual situations.

Expected learning outcomes: For students to understand the uses and modes of contemporary diplomacy as practiced by states. For students to understand the norms underpinning the 1961 and 1963 Vienna Conventions. To analyze and evaluate how these treaties regulate interstate behavior and the purposes behind these foundational treaties that regulate the diplomatic relations among states.

Readings and activities:

- Vienna Convention on Diplomatic Relations 1961 - https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iii-3&chapter=3&lang=en
- Vienna Convention on Consular Relations 1963 - https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-6&chapter=3
- **ICJ Advisory Opinion Case Concerning United States Diplomatic and Consular Staff in Tehran – 1980**
- Grzybowski, Kazimierz (1981) The Regime of Diplomacy and the Tehran Hostages, *International and Comparative Law Quarterly*, 30, 42-58.
- **Tabaar, Mohammad A. (2017) Causes of the US Hostage Crisis in Iran: The Untold Account of the Communist Threat, *Security Studies*, 26(4), 665-697.**
- Activity – in-class worksheet on VCDR and VCCR to identify violations or breaches of diplomatic law.

Review questions?

- What are the purposes of the VCDR and VCCR?
- What is inviolability?
- According to each treaty which agents and items are inviolable and to what degree?
- How is immunity of the diplomatic agent different between consular agents, embassy agents, international organization agents?

International Law and its Relation to Municipal Law

Topic description: This week various of sources of international law will be examined in relation to the intersection of international public law and national law. Conflict of laws and how they interplay in the international scope of relations between and among states.

Expected learning outcomes: For students to understand how sources of international law are developed and understood as being binding or not among states. To examine conflict of laws and how international laws are applicable to states in their international relations.

Readings and activities:

- Malcolm Shaw Chapter 4
- **LaGrand Case [ICJ – 1999]**
- Activities – Case briefs will examine disputes between states concerning consular affairs and the applicability of international law to national law and the responsibilities it generates. The second case will examine the how, when and if treaties are to be considered self-executing and the impact that has on the incorporation of international law into national law as well as how conflict of and between these laws are resolved. LaGrand case will be presented by students.

Review Questions:

- Can rules of international law be effective within states?
- Must all rules of international law be effective as law within states?
- Does it make a difference if the rule is treaty or custom?
- Are international law and municipal (national) law part of a single system of law or two different systems?
- Are states under an obligation to give effect to treaties within their municipal law?
- If a rule of international law is not given direct effect under domestic law within a state, does this affect the force of the rule under international law?
- Can an international court order a state to change its national law?
- Can rules of municipal law affect the development of international law? How?

States, Recognition & Statehood

Topic description: This week the development and theories of state recognition and gaining statehood will be examined and evaluated. How states are born by using different historical examples will be assessed. The process and problems that are encountered with premature recognition and the role this plays in international relations will be evaluated.

Expected learning outcomes: For students to understand different theories and standards used in state recognition and statehood. To examine and evaluate different examples of gaining statehood the implications.

Readings and activities:

- Malcolm Shaw Chapter 9
- Vienna Convention on Succession of States in Respect of Treaties 1978 --- http://untreaty.un.org/ilc/texts/instruments/english/conventions/3_2_1978.pdf
- **Reference for Advisory Opinion Quebec Secession [Canadian Supreme Court – 1998]**
- ICJ Advisory Opinion Unilateral Declaration of Independence of Kosovo – 2010

- Wellman, Christopher H. (1995) A Defense of Secession and Political Self-Determination, *Philosophy & Public Affairs*, 24(2), 142-171.
- Zaher, Mark W. “The Territorial Integrity Norm: International Boundaries and the Use of Force” in *International Law and International Relations*, ed. Beth A. Simmons and Richard H. Steinberg (New York: Cambridge UP, 2006, 259-289).
- Activity – Case briefs of the Canadian Supreme Court which laid down principles for secession and gaining statehood in a democratic manner. The ICJ’s judicial ruling on Kosovo’s independence and the political implications of gaining statehood prematurely. Class discussion on political ramifications of early recognition of states.

Review Questions:

- What are the necessary characteristics of a state?
- How is it determined when a new state is formed?
- Who acts on behalf of the state for purposes of international law?
- What happens when there is a revolutionary change of government? Does the state stay the same? What are influences that may or may not determine the outcome?
- What legal questions (national & international) did the Supreme Court of Canada have to consider in its reference to the legality of secession of Quebec?
- Can one part of a state secede from the rest and become a separate state? According to the Canadian Quebec advisory opinion, under what conditions might succession be possible?
- The former Yugoslavia disintegrated into several countries (Croatia, Slovenia, Macedonia, Montenegro, Serbia, Bosnia & Herzegovina). The Albanian population of Kosovo wants to be independent from Serbia and has since 2008 declared itself to be independent. What legal considerations apply to these claims for independence?

International Boundaries & Disputes (Land & Sea)

Topic description: This week international boundaries and disputes will be discussed and how the process of demarcation takes place. The role that international boundaries have in international relations and how this can lead to open dispute. How boundaries are demarcated, features, resources and territory is negotiated between states.

Expected learning outcomes: For students to understand different processes by which boundaries both land and sea are engaged to mitigate and settle disputes between states. To understand and apply UNCLOS to real world situations in preparation for the legal debate.

Readings and activities:

- Malcolm Shaw Chapter 11
- Prescott, V. & Triggs, G. D. *International Frontiers and Boundaries: Law, Politics and Geography*. Martinus Nijhoff: Leiden. 2009 (pp. 137-189).
- **The Corfu Channel Case [ICJ 1949]**
- Activity – student presentation on Corfu Channel case and sovereignty vs. innocent passage on the high seas. Discussion of Preah Vihear Case and legal reasoning behind ICJ decision. Class discussion on the efficacy and uses of borders in international relations

Review Questions:

- What are different types of boundaries?
- What is the difference between boundaries and borderlands?
- How do borders differentiate political, economic, ideological and legal boundaries?
- Should borders be open or closed?
- How are boundaries defined and decided upon by states?

Treaties & International Law

Topic description: This week the role, types and nature of treaties will be discussed and examined. How to interpret treaty law by considering legal language and the degree to which states are bound by international treaties. To critically examine treaty reservations and interpretations.

Expected learning outcomes: For students to identify different types of treaties and examine how states make reservations and interpretations to treaties that may or may not undermine both the text and spirit of treaties.

Readings and activities:

- Malcolm Shaw Chapter 4
- Human Rights Committee General Comments on Reservations Inconsistent with Human Rights Treaties [General Comments #24, 26, 31] --- <http://www1.umn.edu/humanrts/gencomm/hrcomms.htm>
- **ICJ Advisory Opinion Reservation to the Convention on the Prevention and Punishment of the Crime of Genocide – 1951**
- UN Treaty Database
- Activity – students work in groups to identify and categorize reservations and interpretations that ASEAN states have made to international human rights treaties and evaluate if these undermine treaties which have been ratified.

Review Questions:

- What is a treaty?
- How do states express their consent to be bound by treaties?
- What is a reservation to a treaty?
- What is the difference between a reservation, an understanding and a declaration made when ratifying a treaty?
- Why do states make reservations to treaties?
- Do reservations serve a useful purpose?
- When are reservations unacceptable?
- What is the legal result of an unacceptable reservation?

States & International Organizations - Responsibilities & Liabilities

Topic description: This week the standing of states and international organizations in international law will be considered from the perspective of responsibilities that they have and the legal liabilities they have. The continuing debate in international relations concerning the updating of rules of state responsibility for the 21st century will be examined and the controversial nature of proposed treaties that would alter state responsibility. International organizations will be examined through the criteria established by the ICJ which are different from state responsibilities.

Expected learning outcomes: For students to understand the current state of state responsibility and evaluate the proposed draft articles of state responsibility which would alter the nature of state responsibility. To understand and differentiate the differences between state and international organizations responsibilities and liabilities by examining an ICJ ruling and apply this to ASEAN as an international organization with legal standing in international law.

Readings and activities:

- Malcolm Shaw Chapters 14 and 23 State responsibility
 - **ICJ Advisory Opinion Reparations for Injuries Suffered in the Service of The United Nations – 1949**
 - **David Armstrong et. al. *International Organisation in World Politics*. (3rd ed. Palgrave: New York, 2004, 1-15).**

- Charter of the Association of Southeast Asian Nations 2007 - <http://www.aseansec.org/21069.pdf>
- Activity – student presentation and class discussion on Responsibility of International Organization. ASEAN as an international organization with legal standing substantive vs. declarative legal status.

Review Questions:

- What is the basic principle of state responsibility?
- When does state responsibility become an issue?
- What purpose do international organizations serve?
- Why does it matter if an international organization has legal personality?
- Do international organizations have authority over states?
- What is the source of that authority?
- Should international organizations have the same rights as states?
- What is the difference between declarative and substantive international legal personality?

Legal Debate

Topic description: This week students will prepare and engage in a legal debate from a state perspective on the South China Sea Dispute between various ASEAN countries, China and America.

Expected learning outcomes: For students to apply knowledge gained during the trimester by analyzing and applying legal theory, doctrines and treaties in a real live simulation of a legal case. Students will work in groups and present their case while rebutting opposition groups legal arguments.

Readings and activities:

- UN Convention on the Law of the Sea
- Legal debate