# International Law

## Online Winter School @ Fudan SOE

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### Course Objectives

This course is designed to provide students with an introduction to international law focused on basic theory of contemporary international legal system including the major selected topics. It intends to use English as teaching language in the hope that students are able to learn international law on the basis of original legal materials, particularly the cases of International Court of Justice (ICJ) or WTO while practicing in English. Additional course-specific objectives include the following: 1) to develop students' ability to identify and apply international legal principles relevant to current issues and events in global politics; 2) to develop skills in analytical reasoning; 3) to improve students' ability to write with precision, clarity, and logical coherence.

### Course Description

International law (IL) is traditionally defined as the rules, principles, and norms which govern the interactions among states, but today it consists of rules and principles of general application dealing with the conduct of states and of intergovernmental organizations and with their relations inter se, as well as with some of their relations with persons, whether natural or juridical. Some scholars of international relations view international law as a meaningful tool for providing order to world politics and for minimizing global conflict. Others of international relations dismiss international law as insignificant or regard it as international comity. According to these scholars, state interests-- not internationally agreed-upon rules, principles, and norms--guide interaction among states. However, many international jurists believe that international law is really a law and play very important role in international community. In this course, we will explore the concept of international law, the purposes, functions and resources of international law, the fundamental principles of international law, sovereignty and non-intervention, and whether these principles have been eroded in recent decades as a result of growing support for new international legal norms, including human rights. We will also discuss the participants and the objects of international law, jurisdiction and state immunity, state responsibility, Law of International Contacts, (International Treaties and Laws of diplomatic relation), the settlement international disputes by peaceful means and Use of Force.

The course is organized into 10 topics, focusing on jurisprudence of international law.
law. These topics can be categorized into 6 parts. The first part of the course offers a general introduction to international law, asking whether and to what extent international law is “really law,” examining international-relations approaches to IL in political science, general principles of international law, including the key actors, the creation and sources of international law, the interpretation of international law by courts and tribunals, the problem of enforcement, and the relationship between international and national (or “municipal” law). The second part focuses on laws on actors or subjects of international legal relations, including those of states, international governmental organizations, quasi-state, NGO and transnational corporations. In the third part, we examine legal system on individuals. The fourth part will concern laws on objects of international legal relations, containing laws on territory, law of the seas. In the fifth part laws on contact among states or international contact laws, including law of treaties and law of diplomatic relations. The 6th part includes the legal system on international dispute settlement, containing international judicial system (international courts) and arbitration system, and the laws of war. As for other issues, such as international environmental law, international economic law will be surveyed briefly, which will be mainly learned by students themselves.

For each topic, we will discuss one typical case.

Course Requirements:
Prerequisites: Fundamental Knowledge on Civil Law

Course Requirements:
1. Each student shall register online to access into Fudan VCampus for references of teaching materials (PPT) and discussion out of classroom.

   Fudan VCampus:
2. Registered student shall read textbook and cases before class in accordance with course schedule.

   The summary of cases are assigned for reading, but it is strongly recommend to check website of ICJ or WTO for getting more information on each case

   WTO: http://www.wto.org/english/tratop_e/dispu_e/find_dispu_cases_e.htm

Teaching Methods:
The methods of teaching include interpretation, discussion, questions and answers by campus network. The students are encouraged to make their presentations and to exchange views in the classroom. It is arranged for several presentations on typical cases by the students in groups.
Instructor's Academic Background:

Email: zfma@fudan.edu.cn.

Course Schedule

Class 1

**Topic 1: Introduction and Nature of International Law (I)**

Definition of international law: is International law really law?

- Historical development of International law
- What does International law contain?
- Nature of International law
- Structure of International law

Reading materials:
- "INTERNATIONAL LAW: 100 WAYS IT SHAPES OUR LIVES"
- "INTERNATIONAL LAW: 50 ways it harms our lives"
- Lotus Case (1927)

Class 2

**Topic 2: Fundamental Theoretical Issues of International Law**

**General principles of international law and ius cogens**

- General principles of United Nations Charter
- What’s ius cogens?
- What’s erga omnes?
Case analysis (2): Genocide case
Bosnia-Herzegovina v. Serbia/Montenegro (2007, ICJ)

**International law and domestic law**
What’s the principle under the WTO Agreement in respect of International law and domestic law?
What’s the constitutional status of international law in US?
What’s the constitutional status of international law in China?

**Sources of international law**

**Natural law vs. positive law**
Introduction: Applicable law for dispute settlement by ICJ
Modern sources of international law:
Article 38 of the Statute of International Court of Justice, including treaties, custom, general principal of law, judicial decisions and the teachings of publicists, other sources
Concerning the following questions:
How is international law made?
Whose consent is needed, and how is consent given?
How are international agreements made, interpreted, applied, terminated?
What new forms of law-making are emerging in the 21st century?
Examples of the sources of law relevant in field of human rights, climate change addressing, arms control and non-proliferation, and environmental protection.

Case analysis (3) *China-Measures Affecting Imports of Automobile Parts*
US v. China (2008, WTO)
*North Sea Continental Shelf Case*
Germany v. Denmark and Netherlands (1969, ICJ)

**Reading materials:**
1. Introductory Notes, Preamble and Chapters 1 & 2 of UN Charter,
4. The Slides discussed in the class
*Case Reading: North Sea Continental Shelf Case*
Germany v. Denmark and Netherlands (1969, ICJ)

**Class 3**

**Topic 3 The Participants in the international legal system**
The concept of subject of international law: development of the subjects
The international system constituted
The conditions of being a state
The right of a people to self-determination
States, Organizations, and Individuals

legal doctrines govern recognition of states and governments and legal consequences from recognition

--analyzing post-Soviet and post-Yugoslav developments (including the issue on Kosovo), the Palestinian situation, South Sudan, and Taiwan.

The status, rights, and obligations which actors possess under international law

Case analysis: Western Sahara (Advisory Opinion of 16 October 1975)

Reading materials:
2. The Slides discussed in the class
3. Case Reading: Western Sahara (Advisory Opinion of 16 October 1975)

Class 4

Topic 4: Jurisdiction and state immunity

Criminal jurisdiction of national court
Territorial principle
Nationality principle
Protective principle
Universality principle

State Immunity and exceptions
extraterritorial application of legislation, restrictions on transactions

Immunity questions include
--suits against foreign states in relation to their commercial activities and against state sponsors of terrorism,
--issues of diplomatic and head-of-state immunity
--the immunities of foreign officials.

Case analysis: Case Concerning the Arrest Warrant of 11 April 2000,
Democratic Republic of the Congo v. Belgium (2002, ICJ)
the U.S. Supreme Court in Samantar v. Yousuf (2010)

Reading materials:
2. The Slides discussed in the class
3. Case Concerning the Arrest Warrant of 11 April 2000,
Democratic Republic of the Congo v. Belgium (2002, ICJ)

Class 5

Topic 5  State responsibility
Definition of Responsibility of States
The preliminary rules and secondary rules in respect of state responsibility
International wrongful act
The consequences of an international wrongful act
Case analysis: the Corfu Channel Case United Kingdom v. Albania (1949 ICJ)

Reading materials:

2. The Slides discussed in the class
4. Case reading: the Corfu Channel Case United Kingdom v. Albania (1949 ICJ)

Class 6

Topic 6 Individual in international law and Human Rights
The status of individual in international law
The law of nationality
The legal status of alien
Asylum and extradition

International Law of Human Rights
- International Legal Systems and the Development of Human Rights law
- The United National Systems and the modern human rights regime
- The International Bill of Rights: The Universal Declaration of Human Rights, International Covenant on Civil and Political Rights (ICCPR), The International Covenant on Economic, Social and Cultural Rights (ICESC)
- Regional Protection of Human Rights: European Court of Human Rights, American Court of Human Rights
* Case analysis (7) Nottebohm Case Liechtenstein v. Guatemala (1955, ICJ) ;
Case discussion: Soering Case (Soering v. UK, ECt HR, 1989)

Reading materials:
2. The Slides discussed in the class
3. Case reading: *Nottebohm Case* Liechtenstein v. Guatemala (1955, ICJ);
   Soering Case (Soering v. UK, ECt HR, 1989)

**Class 7**

**Case Analysis and Presentations**
1. The Case of SS. “Lotus”
2. The Advisory Opinion concerning the unilateral declaration of independence in respect of Kosovo

**Class 8 and Class 9**

**Topic 7  Objects of International Law: Territory in international law, the law of sea, the law of air space and the law of outer space**

**Part I: Territorial Sovereignty**
- Concept of a state’s territory
- International legal principles pertaining to the modes of acquisition
- Critical date and intertemporal law
- Island of Palmas Case, Legal Status of Eastern Greenland case, Temple of Prea Vihear
- Principle of Uti Possidetis

**Reading materials:**
2. The Slides discussed in the class
3. Case Reading: Island of Palmas Case, Legal Status of Eastern Greenland case

**Part II: Law of the Sea**
- UN Convention on the Law of the Sea
- Maritime zones: Territorial Sea, Contiguous Zone, Continental Shelf, Exclusive Economic Zone
- Maritime delimitation issues
- The regime of the High Seas: freedom of the High Seas, Jurisdiction over ships, regulation of fisheries
* Case discussion: Pedra Blanca (Malaysia/Singapore, 2008, ICJ)

**Reading materials:**
2. The Slides discussed in the class
3. Case Reading: Pedra Blanca (Malaysia/Singapore, 2008, ICJ)

Part III: Space Law
--- the Law of air space: Chicago Convention on International Civil Aviation, and treaties on the security for international civil aviation
--- the law of outer space: Outer Space Treaty (formally Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies 1967) and other related treaties.

Reading materials:
3. Bahrain, Egypt, Saudi Arabia and United Arab Emirates v. Qatar

Class 10

Topic 8: International Environmental Law
-- Historic Development
-- Transborder Environmental Harm
-- preserving collective goods
-- trade in hazardous and endangered goods

Reading materials

Class 11-Class 12


- Formalities for the conclusion of treaties
- Reservations to treaties: definition, legal effect, reservation to human rights treaties (The Genocide Convention case, ICJ 1951)
- General principles of Interpretation
- Invalidity, Termination, and Suspension of Treaties
- The Scope of legal obligation: Pacta Sunt Servanda, Rights and Duties of Third States
* Case discussion: Temple of Preah Vihear (Cambodia v Thailand, 1962, ICJ) concerning the
interpretative approach of the ICJ;
- The Vienna Convention on Diplomatic Relations (1961)
- General legal aspects of diplomatic relations
- Classification of personnel, inviolability of mission, privileges and immunities
- The Vienna Convention on Consular Relations (1963)
* Case discussion: La Grand Case (Germany v. US, 2001, ICJ; Case Concerning United States Diplomatic and Consular Staff in Tehran (US v. Iran, 1980, ICJ)

Reading materials:
2. The Slides discussed in the class
3. La Grand Case (Germany v. US, 2001, ICJ; Case Concerning United States Diplomatic and Consular Staff in Tehran (US v. Iran, 1980, ICJ)

Class 13
Topic 10: The Settlement International Disputes by Peaceful Means
- Definition and classification of international disputes
- Diplomatic Methods of International Dispute Settlement
- Inter-state Courts and Tribunals
- International Institutions and Dispute Settlement
- Introduction of International Criminal Law
- The origin (the Nuremberg and Tokyo trials after World War II) and the development (International Criminal Tribunals for Yugoslavia and Rwanda—Ad Hoc ones---- and the International Criminal Court) of international criminal tribunals.

Reading materials:
2. The Slides discussed in the class

Class 14
Topic 10: Use of Force
- The conditions for states to lawfully use force?
  --self-defense
  --collective uses of force authorized by the United Nations and regional organizations
  --intervention for humanitarian and other purposes under an evolving concept of “responsibility to protect.”
  --the law of war (including the international humanitarian law that protects noncombatants and regulates methods of warfare.
  --specific cases.
Reading materials:
2. The Slides discussed in the class

Class 15-16
Moot Court, Presentations by the students, Discussion and Q&A.

Final examination: Open-book One

The design of class discussion or exercise, practice, experience and so on:
The class discussion will be based on the presentations of each group (the class will be divided into several groups, each group containing 4 students), moot court and the lecturer’s demonstration.

Grading & Evaluation:
The grade will be based primarily on an in-class, open-book, open-note examination. The exam will be two hours long. The lecturer reserves the right to adjust grades upward or downward based on the quality of students’ class participation.
Registered student must take final examination (open-book one, 60%), which will be assessed with attendance (10%), completion of assignments (10%) and class performances including practices of moot court (20%).

Teaching Materials & References:

Textbooks:

Supplementary materials:
3. Collections of cases in English (attachment)