

## INTERNATIONAL LAW - CONTEMPORARY ISSUES (LL105)

**Course duration:** 54 hours lecture and class time (Over three weeks)

**LSE Teaching Department:** Department of Law

**Lead Faculty:** Professor Andrew Lang, Dr Devika Hovell and Dr Chris Thomas

**Pre-requisites:** None

### Course Outline:

Welcome to *Contemporary Issues in International Law* – we hope you will enjoy the experience of learning about international law in this time of great flux. The overall purpose of the course is to engage students with international affairs through the study of the legal frameworks which govern them, while at the same time situating that legal framework within the material and cultural conditions of international politics. It will be problem-based, rather than doctrinal, and will focus on controversial and significant issues in contemporary international politics – including the recent examples of the use of force, international economic integration, and the promotion and protection of human rights. Both the lectures and classes are taught in a manner that encourages participation through role-plays, and question and answer sessions. It is vital that each of you remains engaged and involved throughout the course. The more you put in to this course the more you will get out of it.

1

Substantively, the classes will introduce you to the structure and operation of the international legal order through a variety of focussed case studies including: the war on terror and the international legal prohibition against torture; the use of force in Iraq, Afghanistan and Kosovo; the International Criminal Court; ongoing transatlantic trade and economic disputes, among others.

### Assessment:

The assessment for the course will be 1 written assignment (1500w, due Monday of the third week), and a written examination.

### Texts:

#### *Essential texts*

There will be a coursepack containing most of the reading for this course. However, you will also need to have access to two texts: Evans (ed), *International Law*, 4<sup>th</sup> ed. (OUP: 2014); and Trebilcock, *Advanced Introduction to International Trade law* (Edward Elgar, 2015). The library will have limited copies of these, and you may find it best to purchase your own copies.

## Lecture schedule and reading list (subject to modification)

### 1. Sources, history and theoretical foundations of the international legal order (Dr Thomas)

#### Essential reading:

- [Statute of the ICJ](#), Article 38(1)
- [Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), UN Doc A/67/279 (9 August 2012), pp 5-22.

#### Background reading:

- Stephen C Neff, 'A Short History of International Law' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 3-24.
- Hugh Thirlway, 'The Sources of International Law' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 91-116.

### 2. Treaty interpretation and state responsibility (Dr Thomas)

#### Essential reading:

- [Vienna Convention on the Law of Treaties](#), Articles 31-33.
- [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), Articles 1-7 and 10-16.
- [Articles on the Responsibility of States for Internationally Wrongful Acts](#), Articles 2, 4-11.
- [Velasquez Rodriguez v Honduras \(Merits\)](#), Judgment of the Inter-American Court of Human Rights, 29 July 1988, paras 147-185 only.

#### Background reading:

- Malgosia Fitzmaurice, 'The Practical Working of the Law of Treaties' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 172-200 (esp pp 178-91).
- James Crawford and Simon Olleson, 'The Character and Forms of International Responsibility' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 443-74.

### 3. Jurisdiction and immunities (Dr Thomas)

#### Essential reading:

2

- Henry Kissinger, '[The Pitfalls of Universal Jurisdiction](#)' (2001) 80(4) *Foreign Affairs* pp 86-96.
- Kenneth Roth, '[Response: The Case for Universal Jurisdiction](#)' (2001) 80(5) *Foreign Affairs* pp 150-54.
- J Craig Barker, 'Case Comment: International Court of Justice: *Jurisdictional Immunities of the State (Germany v Italy)* judgment of 3 February 2012' (2013) 62(3) *International and Comparative Law Quarterly* 741-52.

#### Background reading:

- Christopher Staker, 'Jurisdiction' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 309-33.
- Hazel Fox, 'International Law and the Restraints on the Exercise of Jurisdiction by National Courts of States' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 339-65 only.
- Chanaka Wickremasinghe, 'Immunities Enjoyed by Officials of States and International Organizations' in Malcolm D Evans (ed), *International Law* (4<sup>th</sup> ed, 2014) pp 392-99 and 401-08 only.

#### 4. International law in domestic courts (Dr Hovell)

##### Essential reading:

Compare and contrast the approach taken by the different courts in the following case excerpts (there is some difficult reading here, but all will be explained in class!):

- *Kadi No II* (skim through first sections to get a sense of the facts of the case, but focus on paras 97-165), available here: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130d50a86f35264474a2192a3bf070fac8709.e34KaxiLc3eQc40LaxqMbN4Obh4Me0?text=&docid=139745&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=255548>
- *R. (on the application of Al-Jedda) (FC) (Appellant) v Secretary of State for Defence (Respondent)* [2007] UKHL 58, <http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd071212/jedda-2.htm>, facts and judgment of Lord Bingham, paras 26-39.
- *Al-Jedda v the United Kingdom* [Grand Chamber] Appl. No 27021/08 (ECtHR, 7 July 2011), (<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#Toc361936884>); facts and paras 100-110.

##### Background reading:

- Evans, *International Law* (4<sup>th</sup> ed, 2014), Chapter 14.
- P Sales & J Clement, 'International Law in Domestic Courts: The Developing Framework' (2008) 124 *Law Quarterly Review* 388, fulltext available online through LSE library.

- R v Jones (Margaret) [2006] UKHL 16, esp. Lord Bingham, paras 1-26, available at <http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060329/jones-1.htm>

## 5. International Criminal Law (Dr Hovell)

### Essential reading:

- Frédéric Mégret and Marika Giles Samson, 'Holding the Line on Complementarity in Libya: the Case for Tolerating Flawed Domestic Trials' (2013) 11 *Journal of International Criminal Justice* 571
- 'Appeal of Mr Al-Senussi against decision of Pre-trial Chamber on the admissibility of the case against Abdullah Al-Senussi', Judgment of 24 July 2014 available at <http://www.icc-cpi.int/iccdocs/doc/doc1807073.pdf> (concentrate on determination of first ground of appeal from paras 124 ff).

### Background reading:

- Evans, *International Law* (4<sup>th</sup> ed, 2014), Ch 25
- Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin Books 2006), Epilogue, pp 253-279

## 6. Mock security council debate

In this lecture, we will all be participating in a mock Security Council debate covering the issues addressed in earlier classes. Detail on preparation for this class will be disseminated closer to the time.

## 7. International humanitarian law (Dr Hovell)

### Essential reading:

- [\*Legality of the Threat or Use of Nuclear Weapons - ICJ Advisory Opinion\*](#), paras. 74-87; 90-97; Dissenting Opinion of Judge Higgins (time permitting Dissenting Opinion of Judge Shahabuddeen).
- Michael Boyle, '[Obama's Drone Wars and the Normalization of Extrajudicial Murder](#)', *The Guardian*, 11 June, 2012.

### Background reading:

- Evans (ed.), *International Law* (4<sup>th</sup> ed., 2014), chap. 27 (Turns), 821ff.
- Martti Koskeniemi (1997) '[Case Analysis: Faith, Identity, and the Killing of the Innocent: International Lawyers and Nuclear Weapons](#)', 10 *Leiden Journal of International Law* 134.
- Kevin Heller, "'One Hell of a Killing Machine': Signature Strikes and International Law" (2013) 11 *Journal of International Criminal Justice* 89.

- 'Secret "Kill List" Proves a Test of Obama's Principles and Will', *New York Times*, 29 May 2012, available here: <http://www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html?pagewanted=all&r=1&>

## 8. The use of force: Article 2(4), collective security and humanitarian intervention (Prof Lang)

### Essential reading:

- UN Charter, Article 2 and Chapter VII.
- Anne Orford, '[What Kind of Law is This?](#)' (29 March 2011)
- Harold Koh, 'Syria and the Law of Humanitarian Intervention: Parts 2 and 3': <http://justsecurity.org/2013/10/02/koh-syria-part2/> and <http://www.ejiltalk.org/category/syria/>

### Background reading:

- Evans (ed.), *International Law* (4<sup>th</sup> ed.), chap. 21 (Gray), 618-650
- Advice of AG Goldsmith concerning the international legality of military action against Iraq, 7 March 2003, available at [http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/notices/annex\\_a\\_-\\_attorney\\_general's\\_advice\\_070303.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/notices/annex_a_-_attorney_general's_advice_070303.pdf)

5

## 9. The use of force: self-defence and terrorism (Prof Lang)

### Essential reading:

- Bethlehem, 'Principles relevant to the scope of a State's right of self-defense against an imminent or actual armed attack by nonstate actors' (2012) 106 *AJIL* 769-777
- Wilmshurst and Wood, 'Self-Defence against Non\_State Actors: Reflections on the 'Bethlehem Principles' (2013) 107(2) *AJIL* 390-395

### Background reading:

- Reisman and Armstrong, 'The Past and Future of the Claim of Pre-Emptive Self-Defence' (2006) 100 (3) *American Journal of International Law* 525
- Tams, 'The Use of Force Against Terrorists' (2009) 20(2) *European Journal of International Law* 359-397

## 10. Assignment

## 11. The World Trade Organisation (Prof Lang)

### Essential reading:

- Trebilcock, *Understanding Trade law* (Edward Elgar, 2011), Chapters 1, 2, 14
- Also browse through the following newspaper reports on various aspects of the WTO's work:

BBC News, 'US takes India to WTO over solar cell imports',

<http://www.bbc.co.uk/news/business-21363498>

Reuters, 'China-U.S. row at centre of WTO currency forum',

<http://www.reuters.com/article/2012/03/28/wto-currencies-idUSL6E8ESBA520120328>

NYTimes, 'A New Front in Global Trade Wars',

<http://www.nytimes.com/2013/02/08/opinion/a-new-front-in-global-trade-wars.html?ref=worldtradeorganization>

### Background reading:

- The General Agreement on Tariffs and Trade 1947,  
[http://www.wto.org/english/docs\\_e/legal\\_e/gatt47\\_01\\_e.htm](http://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm)
- The WTO Understanding on the Settlement of Disputes,  
[http://www.wto.org/english/docs\\_e/legal\\_e/28-dsu\\_e.htm](http://www.wto.org/english/docs_e/legal_e/28-dsu_e.htm)

6

## 12. Developing countries in the global economy (Prof Lang)

### Essential reading:

- Trebilcock, *Understanding Trade law* (Edward Elgar, 2011), Chapter 16
- Nottage, 'Developing Countries in the WTO Dispute Settlement System' (2009),  
[http://www.globaleconomicgovernance.org/sites/geg/files/Nottage\\_GEG%20WP%202009\\_47.pdf](http://www.globaleconomicgovernance.org/sites/geg/files/Nottage_GEG%20WP%202009_47.pdf)

### Background reading:

- Trebilcock, Howse, and Eliason, *The Regulation of International Trade* (4<sup>th</sup> ed.) Chapter 16
- 'Developing Country Participation in the GATT: A Re-assessment', available at [www.cuts-citee.org/pdf/BP09-WTO-05.pdf](http://www.cuts-citee.org/pdf/BP09-WTO-05.pdf) (for a longer similar article see Wilkinson and Scott, "Developing Country Participation in the GATT: A Reassessment", (2008) 7(3) *World Trade Review* 473-510.

**13. Fragmentation (Prof Lang)**

**Essential reading:**

- Philippa Webb, *International Judicial Integration and Fragmentation* (OUP 2013), ch 6
- Report of the Study Group of the International Law Commission, 'Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law', 13 April 2006, UN Doc A/CN.4/L.682, (only paragraphs 1-26, 56-122, 223-266, and 481-493), available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/CN.4/L.682](http://www.un.org/ga/search/view_doc.asp?symbol=A/CN.4/L.682)
- G Guillaume, 'The Proliferation of International Judicial Bodies: the outlook for the international legal order', Speech to the 6<sup>th</sup> Committee of the UN General Assembly, 27 October 2000

**14. Revision Day**

**15. Examination**

**Credit Transfer:** If you are hoping to earn credit by taking this course, please ensure that you confirm it is eligible for credit transfer well in advance of the start date. Please discuss this directly with your home institution or Study Abroad Advisor.

As a guide, our LSE Summer School courses are typically eligible for three credits within the US system and 7.5 ECTS in Europe. Different institutions and countries can, and will, vary. You will receive a digital transcript and a printed certificate following your successful completion of the course in order to make arrangements for transfer of credit.

If you have any queries, please direct them to [summer.school@lse.ac.uk](mailto:summer.school@lse.ac.uk)