



**South Asian University
Faculty of Legal Studies**

**LLM
2018–2020
Monsoon Semester (First Semester)
Course Information**

Part I

Course Title	International Law
Course Code	LW003
Course Instructor	Dr Ravindra Pratap
Course Duration	One semester
Course Units	4
Medium of Instruction	English
Prerequisites	Nil
Precursors	Nil
Equivalent Courses	N/A

Part II

Course Description

The course will introduce public international law and focus on its essentials with an emphasis on the problem-solving approach and with special reference to the South Asian countries. It will begin with an introduction to the classical/traditional approaches to international law and understand its nature and functions. We will then look into the processes and institutions of international law formation, including proof, methods and the incidence of the burdens of proof of custom, and other sources and decisional considerations, the treatment of domestic law by international courts and tribunals and the processes, forms and consequences of the reception of international law into municipal law considering the practices of representative countries, including the South Asian Countries, the key principles of international law, including equal rights and self-determination of peoples, non-use of force and non-intervention, and the basics of state responsibility before introducing key historical and contemporary international law issues in South Asia, such as boundaries and water-sharing and the evolving forms and manifestations of the use of force and terrorism.

Course Aim

The aim of the course is to help the student develop a learning approach that combines critical thought and applied knowledge to the study of international law.

Course Objectives

The objectives of the course are to equip the graduate student with the necessary knowledge and skills of international law to study more specialized courses of international law and develop capacity to apply international law in concrete cases.

Course Outcomes

Successful completion of the course should enable the student to understand the nature and functions of international law with an introduction to classical/traditional conceptions and key contribution of Asian states in the development of international law, appreciate the processes of and institutions involved in the formation of international law and the issues of their hierarchy, relative normativity and systematicity, explain the interaction of international law and municipal law of the South Asian countries and the spheres of their discernibly more relevant interface, understand the importance of the basic principles of international law, acquire the essential knowledge of the law of state responsibility, demonstrate the relevance of international law to the contemporary developments at the international, regional and national levels, and make an informed choice of the theoretical knowledge and apply the critical thinking for finding solutions to international law problems, particularly major international law issues in South Asia.

Course outline

1. The nature and functions of international law
2. Sources of international law
3. Relation of international law to municipal law
[Mid-Term Examinations]
4. Principles of international law
5. State responsibility
6. Introduction to select international law issues in South Asia

Course syllabus

Week 1

1. The nature and functions of International law: classical/traditional approaches; naturalism, positivism and Grotian conception; validity, normativity and enforcement: spheres of validity, varieties of normativity and relativities of enforcement; role and contribution of the Asian states; appraisal.

Required Readings

Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (Routledge 1997) 1–2, 3–6, 15–17/M N Shaw, *International Law* (Cambridge 2003) Chapter 1/I A Shearer, *Starke's International Law* (Oxford 2007) Chapter 1.

J J G Syatauw, *Some Newly Established Asian States and the Development of International Law* (Martinus Nijhoff 1961) 234–37.

Supplementary Readings

David J Bederman, *International Law in Antiquity* (Cambridge 2001) Chapter 2 (State Relations in Ancient Civilizations).

R Y Jennings and Arthur Watts (eds), *Oppenheim's International Law* (Oxford 2008), vol 1 (Peace) Introduction: The Nature of International Law.

Anne Orford and Florian Hoffmann (eds), *The Oxford Handbook of the Theory of International Law* (Oxford 2016) Chapters 14 (Naturalism) and 20 (Positivism)/ Siegfried Weissner (ed), *General Theory of International Law* (Brill 2017) Chapter 3 (Traditional Theories about International Law: Naturalism and positivism).

H Lauterpacht, 'The Grotian Tradition in International Law' (1946) 23 *British Yearbook of International Law* 1.

R P Anand (ed), *Asian States and the Development of a Universal International Law* (Vikas Publications 1972).

Onuma Yasuaki, 'International Law in and with International Politics: The Functions of International Law in International Society' (2003) 14 *EJIL* 105.

Further Readings

C H Alexandrowicz, 'Kautilyan Principles and the Law of Nations' (1965–66) 41 *British Yearbook of International Law* 301.

Said Mahmoudi, 'Islamic Approach to International Law' in Rüdiger Wolfrum (ed) *Max Planck Encyclopaedia of Public International Law* (Oxford 2012) 1.

Matthew J Moore, 'Buddhism and International Law' in Daniel J Kapust and Helen M Kinsela (eds), *Comparative Political Theory in Time and Place* (Springer 2017) 51.

Francisco de Vitoria, 'On the American Indians', in A Pagden and J Lawrance (eds), *Political Writings* (Cambridge University Press 1991) § 18 (290)/Francisco Suárez, 'On Law and God the Lawgiver' ('De legibus, ac Deo legislatore') in *Selections from Three Works*. Vol II (G. Williams trans., Oxford University Press, 1944) Bk II, Ch XV § 14 (276) and Bk III, Ch II § 3 (373-374).

Hugo Grotius, *De Jure Belli ac Pacis Libri Tres* (1646), Francis W Kelsey (trans.), James Brown Scott (ed) (Oxford 1925) Prolegomena.

Samuel Pufendorf, *Of the Law of Nature and Nations: Eight Books* (1729) Basil Kennett (trans.) (Walthoe, Wilkin, Bonwicke, Birt, Ward and Osborne MDCCXXIX), Bk II, Chapter III/Emmerich de Vattel, *The Law of Nations or Principles of the Law of Nature* (Leiden 1758) Joseph Chitty (trans.) (T & JW Johnson 1844) Preliminaries.

Cornelius von Bynkershoek, *Quaestionum Juris Publi Libri Duo* (1737) Vol II, Tenney Frank (trans.) (Oxford 1930)/Georgio Gaja, 'Positivism and Dualism in Dionisio Anzilotti' (1992) 3 EJIL 123.

C H Alexandrowicz, 'Treaty and Diplomatic Relations between European and South Asian Powers in the Seventeenth and Eighteenth Centuries' (1960) 100 Hague *Recueil* 203.

Antony Anghie, 'Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law' (1999) 40 Harvard International Law Journal 1.

V K Krishna Menon, 'The Modern State and International Law' (1960) 1 Indian Journal of International Law 116.

G Williams, 'International Law and the Controversy Concerning the Word "Law"' (1945) 22 British Yearbook of International Law 146.

Hans Kelsen, 'The Nature of International Law: International Delicts and International Sanctions' and 'The Essential Function of International Law: The Determination of the Spheres of Validity of the National Legal Orders' in *Principles of International Law* (Rinehart 1952) 3, 207.

H L A Hart, 'International Law' in *The Concept of Law* (Oxford 1961) 208.

Hersch Lauterpacht, 'The "Specific" Character of International Law and the Rule of Law in International Society' in *The Function of Law in the International Community* (Oxford 1933) Chapter 20.

R R Baxter, 'International Law in "Her Infinite Variety"' (1980) 29 International and Comparative Law Quarterly 549.

Prosper Weil, 'Towards Relative Normativity in International Law' (1983) 77 American Journal of International Law 413.

Kenneth W Abbott and Duncan Snidal, 'Hard and Soft Law in International Governance' (2000) 54 International Organization 421.

Kamal Hossain, 'International Law: Instrument or Impediment of Change and Development' in P J I M de Waart, P Peters and E M G Denters (eds), *International Law and Development* (Martinus Nijhoff 1988) 13.

H H Koh, 'Why Do Nations Obey International Law?' (1997) 106 Yale Law Journal 2599.

Dino Kritsiotis, 'International law and the relativities of enforcement' in James Crawford and Martti Koskeniemi (eds), *The Cambridge Companion to International Law* (Cambridge 2012) 245.

C G Weeramantry, 'International law and Developing World: A Millennial Analysis' (2000) 41 Harvard International Law Journal 277.

Hisashi Owada, 'Asia and International Law: The Inaugural Address of the First President of the Asian Society of International Law' (2011) 1 Asian Journal of International Law 1. Radhabinod Pal, 'International Law in a Changing World', in *International Law in a Changing World* (United Nations 1963) 88.

Philip Allott, 'True Nature of International Law' (2013), Lauterpacht Centre of International Law, <http://www.lcil.cam.ac.uk/sites/default/files/LCIL/documents/lectures/Allott-handout.pdf/>

L Henkin, 'International Law: Politics, Values and Functions' (1989) 216 *Hague Recueil* IV, 9.

James Crawford, 'International law as a discipline and profession' (2012) 106 *Proceedings of the American Society of International Law* 471.

Weeks 2–4

2. Sources of international law: Article 38 of the Statute of the International Court of Justice: treaties, forms, consent, parties, entry into force; custom, essentials, evidence, persistent objector; general principles of law, equity *infra legem*; judicial decisions, consistency and expediency; juristic work; other decisional considerations: economic interests, considerations of humanity, UN General Assembly resolutions; unilateral acts; authoritative legal acts of international organizations; *ex aequo et bono*; work of the International Law Commission; hierarchy, order and/or systematicity; appraisal.

Required Readings

Charter of the United Nations, Articles 1, 24, 39, 41, 42, 103.

Statute of the International Court of Justice, 1945, Articles 38, 59.

Vienna Convention on the Law of Treaties, 1969, Articles 2, 7, 34, 38, 46, 53, 64.

Statute of the International Law Commission, 1947, Articles 16–24.

H Thirlway, 'The Sources of International Law' in M Evans (ed) *International Law* (Oxford 2006) 115/James Crawford, *Brownlie's Public International Law* (Oxford 2012) Chapter 2.

Supplementary Readings

Military and Para Military Activities in and Against Nicaragua (Nicaragua v. United States of America), *Merits, Judgment* [1986] ICJ Rep 14.

Frontier Dispute (Burkina Faso/Mali), *Judgment* [1986] ICJ Rep 554.

Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand) [1962] ICJ Rep 6.

Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter) (Advisory Opinion) [1962] ICJ Rep 151.

Fisheries Case (United Kingdom v. Norway) [1951] ICJ Rep 116.

Corfu Channel (Merits), *Judgment* [1949] ICJ Rep 4.

ILC Work on the Identification of Customary International Law.

James Crawford and Michael Giudice, 'Sources and the Systematicity of International Law' in Jean d'Aspremont, Samantha Besson, and Sévrine Knuchel (eds), *The Oxford Handbook of the Sources of International Law* (Oxford 2018) Chapter 16.

M Akehurst, 'The Hierarchy of the Sources of International Law' (1975) *British Yearbook of International Law* (1975) 273.

Hans Kelsen, *Principles of International Law* (Rinehart 1952) 303–66.

S V Viswanatha, *International Law in Ancient India* (Longmans 1925) General Features: Sources, 1–19.

David J Bederman, *International Law in Antiquity* (Cambridge 2001) Chapter 3 (Religion and the sources of a law of nations in antiquity).

Further Readings

UN General Assembly Resolution 377 (V) A (3 November 1950).

Asylum Case (Columbia/Peru) [1950] ICJ Rep 266.

Right of Passage over Indian Territory, Judgment, ICJ Reports [1960] ICJ Rep 6.

North Sea Continental Shelf Cases, ICJ Reports [1969] ICJ Rep 3.

India – Patent Protection for Pharmaceutical and Agricultural Chemical Products, Report of the Appellate Body of the WTO, WT/DS50/AB/R.

ILC Guide to Practice on Reservations to Treaties, 2013.

S Prakash Sinha, 'New Nations and the International Custom' (1968) 9 *William and Marry Law Review* 788.

Olufemi Elias, 'The Nature of the Subjective Element in Customary International Law' (1995) 44 *International and Comparative Law Quarterly* 501.

J I Charney, 'The Persistent Objector Rule and the Development of Customary International Law' (1985) *British Year Book of International Law* 1.

Curtis A Bradley, 'Introduction: Custom's Future' in Bradley (ed), *Custom's Future: International Law in a Changing World* (Cambridge University Press 2016) 1.

V Nageshwar Rao, 'Jus cogens and the Vienna Convention on the Law of Treaties' (1974) 14 *Indian Journal of International Law* 362.

Michael Akehurst, "Equity and General Principles of Law" (1976) 25 *International and Comparative Law Quarterly* 801.

H Lauterpacht, *Private Law Sources and Analogies of International Law* (Longmans 1927).

M Wood, 'Teachings of the Most Highly Qualified Publicists (Art. 38(1) ICJ Statute)' *Max Planck Encyclopedia of Public International Law* (online).

M K Nawaz, 'Other Sources of International Law: Are Judicial Decisions of the International Court of Justice a Source of Law' (1979) 19 *Indian Journal of International Law* 526.

Richard A Falk, "On the Quasi-Legislative Competence of the General Assembly" (1966) 60 *American Journal of International Law* 782.

W Fiedler, 'Unilateral Acts in International Law' (1984) 7 *EPIL* 517.

D B Hollis, 'Why state consent still matters: Non-State Actors, Treaties, and the Changing Sources of International Law' (2005) 23 *Berkeley Journal of International Law* 137.

Ravindra Pratap, 'Nuclear Arms Control Treaties and Non-Parties' (1999) 39 *Indian Journal of International Law* 626.

V D Degan, *Sources of International Law* (Martinus Nijhoff 1997).

Weeks 5–7

3. Relation of international law and municipal Law: theoretical and conceptual perspectives; municipal law in international law, “domestication” of international obligations and interpretation of municipal law; international law in municipal law, customary law, treaties, reception and treatment of other forms and manifestations of international law: state practice: UK practice, U.S. practice and the practice of the South Asian countries; appraisal.

Required Readings

Draft Declaration on Rights and Duties of States, 1949.

Sunil Babu Pant and others v Nepal Government and others, Nepalese Supreme Court, Judgment of 21 December 2007 [2008] 2 NJA L.J. 261, 138 I.L.R. 500.

Prof. Nurul Islam and Ors. v Government of the People’s Republic of Bangladesh and Ors., Bangladesh Supreme Court, Judgment of 7 February 2000, 52 D.L.R. (2000) 413.

Vishakha and Ors. v State of Rajasthan and Ors., AIR 1997 SC 3011.

James Crawford, *Brownlie’s Public International Law* (Oxford 2012) Chapter 3.

Supplementary Readings

R v. Jones and Others, Judgment of the House of Lords, 29 March 2006 [2006] UKHL 16.

Nallaratnam Singarasa v Attorney-General, Decision of the Supreme Court of Sri Lanka, 15 September 2006.

Union of India v. Azadi Bachao Andolan, AIR 2004 SC 1107.

The Paquete Habana, 175 U.S. 677 (1900).

The Constitution of Afghanistan, Article seven, ninety.

The Constitution of the People’s Republic of Bangladesh, Articles 25, 145A.

The Constitution of the Kingdom of Bhutan, Articles 24, 25.

The Constitution of India, Articles 51, 73, 246, 253, Seventh Schedule, List 1, Entry 14.

The Constitution of the Republic of Maldives, Articles 68 and 93.

The Constitution of Nepal, Article 51.

The Constitution of the Islamic Republic of Pakistan, Article 97, Fourth Schedule.

The Constitution of the Democratic Socialist Republic of Sri Lanka, Article 27, 157.

Hugh Thirlway, 'Concepts, Principles, Rules and Analogies: International and Municipal Legal Reasoning' (2002) 294 *Hague Recueil* 265.

V Fikfak, 'International Law before English and Asian Courts: Finding the Judicial Role in Separation of Powers', 3 *Asian Journal of International Law* (2013) 271.

Jamshed A Hamid, 'International Law and Pakistan’s Domestic Legal Order' (1994) *Asian Yearbook of International Law* 127.

S K Agarwala, 'Indian Judicial Reasoning and Transnational Law' (1984) 22 *Archiv des Völkerrechts* 1.

P C Rao, 'Issues Relating to Treaties and the Constitution of Nepal' (1968) 8 *IJIL* 549.

Hans Kelsen, *Principles of International Law* (Rinehart 1952) Chapter V (International and national Law).

E M Borchard, 'Relation between International Law and Municipal Law' (1940) 27 *Virginia Law Review* 137.

Further Readings

Murrey v The Charming Betsey, 6 U.S. 64 (1804).

Exchange of Greek and Turkish Populations (1925) PCIJ Series B, No. 10.

Sei Fujii v State of California (1952) 38 C2d 718.

Atala Riffo and Daughters v Chile, Judgment of the Inter-American Court of Human Rights, dated 24 February 2012.

Quincy Wright, 'Conflicts of International Law with National Law and Ordinances' (1917) 11 *American Journal of International Law* 1.

A Cassese, 'Modern Constitutions and International Law' (1985) 192 *Hague Recueil* 331.

R Bahdi, 'Truth and Method in Domestic Application of International Law' (2002) 15 *Canadian Journal of Law and Jurisprudence* 255.

H Schermers, 'The Role of Domestic Courts in Effectuating International Law' (1990) 3 *Leiden Journal of International Law* 77.

D Sloss (ed), *The Role of Domestic Courts in Treaty Enforcement: A Comparative Study* (Cambridge 2009).

V G Hegde, 'Indian Courts and International Law' (2010) 23 *Leiden Journal of International Law* (2010) 53.

Bharat H Desai, 'Enforcement of the Right to Environment Protection through Public Interest Litigation in India' (1993) 33 *Indian Journal of International Law* 27.

Ravindra Pratap, *Narmada Bachao Aandolan v Union of India*, *Oxford Reports on International Law in Domestic Courts* (2006), <http://ildc.oxfordlawreports.com>.

D Shelton, *International Law and Domestic Legal Systems: Incorporation, Transformation, and Persuasion* (Oxford 2011).

M Kirby, 'The Growing *Rapprochement* Between International Law and National Law' in Antony Anghie and Garry Stugress (eds), *Legal Visions of the 21st Century: Essays in Honour of Judge Christopher Weeramantry* (Brill 1998) 333.

M Waters, 'Mediating Norms and Identity: The Role of Transnational Judicial Dialogue in Creating and Enforcing International Law' (2005) 93 *Georgetown Law Journal* 487.

Weeks 8–10

4. Principles of international law: introductory: equal rights and self-determination of peoples; sovereign equality of states; non-use of force; peaceful settlement of disputes; non-intervention; good faith; co-operation; appraisal.

Required Readings

Charter of the United Nations, 1945, Articles 1, 2, 103.

Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 1970, United Nations General Assembly Resolution 2625 (XXV) of 24 October 1970.

Supplementary Readings

International Covenant on Civil and Political Rights, 1966, Article 1.

Vienna Convention on the Law of Treaties, 1969, Articles 18, 26, 27.

Manila Declaration on the Peaceful Settlement of International Disputes, 1982.

UNGA Resolution A/RES/36/103: Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, 1981.

UNGA Resolution 1514: Declaration on the Granting of Independence to Colonial Countries and Peoples, 1960.

UNGA Resolution A/RES/3314: Definition of Aggression, 1974.

The Text of Proclamation of Independence of Bangladesh, 10 April 1971 in 11 IJIL (1971) 547.

Accordance with International Law of the Unilateral Independence in respect of Kosovo, ICJ Advisory Opinion [2010] ICJ Rep 403, para. 79.

Case Concerning the Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v United States of America) (Merits) [1986] ICJ Rep 14, para 228.

Nuclear Tests [1974] ICJ Rep 253, para. 46.

A A Cançado Trindade, *International Law for Humankind: Towards to a New Jus Gentium* (Brill 2010) Chapter III (Foundations of International Law: The Role and Importance of Its Basic Principles) 85.

Ved P Nanda, 'Self-determination in international law: The tragic tale of two cities—Islamabad (West Pakistan) and Dacca (East Pakistan)' (1972) 66 American Journal of International Law 321.

R S Saini, 'Is the Right to Self-Determination Relevant to Jammu and Kashmir?' (1998) 38 IJIL 157.

Surya P Subedi, 'The Right of Self-determination and the Tibetan People' in Dino Kritsiosis (ed), *Self-determination: Cases of Crisis*, Hull University Law School, Studies in Law Series, 1994, 1.

Roshani M Gunewardene, 'Indo-Sri Lanka Accord: Invitation or Intervention?' (1991) 3 Sri Lanka Journal of International Law 173.

V S Mani, *Basic Principles of Modern International Law* (Lancer 1993).

Further readings

Convention for the Pacific Settlement of International Disputes, 1907.

UNSC Resolution 1483 (2002).

UNSC Resolution 678 (1990).

UNSC Resolution 487 (1981).

Law of Transboundary Aquifers, UN GA Res. 63/124, dated 15 January 2009, Article 7.

United States – Import Prohibition of Certain Shrimp and Shrimp Products: Recourse to Article 21.5 of the DSU by Malaysia, WTO Doc. WT/DS58/AB/RW, AB-2001-4 (22 October 2001) para. 134.

Legality of the Threat or Use of Nuclear Weapons [1996] ICJ Rep 226.

East Timor (Portugal v Australia) [1995] ICJ Rep 90.

Western Sahara, Advisory Opinion [1975] ICJ Rep 6.

Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) (Advisory Opinion) [1971] ICJ Rep 16.

North Sea Continental Shelf Cases, ICJ Reports 1969, 47, para. 85.

Corfu Channel (Merits) [1949] ICJ Rep 4.

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory [2004] ICJ Rep 136.

Legality of Use of Force (Yugoslavia v United States of America (Provisional Measures)), Order of 2 June 1999 [1999] ICJ Rep 916.

Border and Transborder Armed Actions Nicaragua-Honduras (jurisdiction and admissibility) [1988] ICJ Rep 396, para. 105.

Reference re Secession of Qubec [1998] 2 SCR 217.

Yearbook of the International Law Commission (1980), vol. II (2) 159.

J W Garner, 'The Draft Code of the International Diplomatic Academy on the Fundamental Principles of International Law' (1936) 30 AJIL 279.

Charles G Fenwick, 'The Fundamental Principles of International Law' (1942) 36 AJIL 446.

G Schwarzenberger, "The fundamental principles of international law" (1955) 113 Hague *Recueil* 195.

Charles Leben, 'Obligations Relating to the Use of Force and Deriving from Peremptory Norms of International Law' in James Crawford, Alain Pellet, and Simon Olleson (eds), *The Law of International Responsibility* (Oxford 2010) chapter 85.

M Byers, 'Terrorism, the Use of Force and International Law after 11 September' (2002) 51 *International and Comparative Law Quarterly* 401.

Ian Brownlie, 'The Peaceful Settlement of International Disputes' (2009) 8 *Chinese Journal of International Law* 267.

Tomy Koh, 'International Law and the Peaceful Resolution of Disputes: Asian Perspectives, Contributions, and Challenges' (2011) 1 *Asian JIL* 57.

M Jamneiad and Michael Wood, 'The Principle of Non-Intervention' (2009) 22 *Leiden Journal of International Law* 345.

Y K Tyagi, 'The Concept of Humanitarian Intervention Revisited' (1995) 16 *Michigan Journal of International Law* 883.

C Stahn, 'Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?' (2007) 101 AJIL 99.

Ravindra Pratap, "Sovereign Economic Freedom and Interests of Other States", in Patel, ed., *India and International Law* (Brill 2005) 127.

P H Winfield, 'The History of Intervention in International Law', (1922) 3 *British Yearbook of International Law* 130.

R Emerson, 'Self-Determination' (1971) 65 AJIL 459.

Opinion of Advocate-General Wathelet in *Case C-266/16: Western Sahara Campaign UK, The Queen v Commissioners for Her Majesty's Revenue and Customs, Secretary of State for Environment, Food and Rural Affairs*, ECJ, 10 January 2018.

Hans Kelsen, 'The Principle of Sovereign Equality of States as a Basis for International Organization' (1944) 53 *Yale Law Journal* 207/R P Anand, 'Sovereign Equality of States in the United Nations' (1967) 7 *Indian Journal of International Law* 185.

Peter Kooijmans, *The Doctrine of Legal Equality of States: An Inquiry into the Foundations of International Law* (Sijthoff 1964)/P J Baker, 'The Doctrine of Legal Equality of States' (1923) 4 *British Yearbook of International Law* 1.

Gillian White, 'The Principle of Good Faith' in Vaughan Lowe and Colin Warbrick (eds), *The United Nations and the Principles of International Law: Essays in Memory of Michael Akehurst* (Routledge 1994) 230.

J F O'Connor, *Good Faith in International Law* (Darmouth 1991).

Nicholas J Wheeler, *Saving Strangers: Humanitarian Intervention and International Society* (Oxford 2000) Part I (Theories of Humanitarian Intervention).

B S Chimni, 'Towards a Third World Approach to Non-Intervention: Through a Labyrinth of Western Doctrine' (1980) 20 *Indian Journal of International Law* 21.

Anne Peters, 'Compensatory Constitutionalism: The Function and Potential of Fundamental International Norms and Structures' (2006) 19 *Leiden Journal of International Law* 579.

Weeks 11 and 12

5. State responsibility: terminological; nature and scope: wrongful act, attribution, and breach; defences: valid consent, self-defence, permissible and proportional countermeasures, *force majeure*, distress, necessity; exceptions to defences: *jus cogens*, compliance with the continuing obligation; compensation, reparation, restitution, satisfaction; appraisal.

Required Readings

Responsibility of States for Internationally Wrongful Acts, 2001, Text adopted by the International Law Commission in its Fifty-Third Session, 2001.

Ian Brownlie, 'The Responsibility of States for the Acts of International Organizations' in Maurizio Ragazzi (ed), *International Responsibility Today: Essays in Memory of Oscar Schachter* (Martinus Nijhoff 2005) 343.

Supplementary Readings

Vienna Convention on the Law of Treaties, 1969, Articles 53 and 64.

United Nations Convention on the Law of the Sea (UNCLOS), 1982, Article 18 (2).

WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, 1994, Articles 3 (7) and 22 (6).

Prosecutor v Duško Tadić, International Tribunal for the Former Yugoslavia, Case IT-94-1-A (1999), 38 *ILM* (1999), 1541, para. 117.

LaGrand (Germany v. United States of America), Provisional Measures [1999] ICJ Rep 9, para. 28.

Gabčíkovo-Nagymaros Project [1997] ICJ Rep 7, para. 54.

Case Concerning Military and Para Military Activities in and Against Nicaragua (Nicaragua v United States of America) [1986] ICJ Rep 14, para. 109.

Richard B. Lillich, Gordon A. Christenson, Jane Chalmers, David Caron and Pierre M. Dupuy, 'Attribution Issues in State Responsibility' (1990) 84 *ASIL Proceedings* 51.

Chittharanjan Felix Amerasinghe, 'The Essence of the Structure of International Responsibility' in Maurizio Ragazzi (ed), *International Responsibility Today: Essays in Memory of Oscar Schachter* (Martinus Nijhoff 2005) 3.

Djamchid Momtaz, Gerard Cahin & Olivier de Frouville, 'Attribution of Conduct to the State' in James Crawford, Alain Pellet, and Simon Olleson (eds), *The Law of International Responsibility* (Oxford 2010) Chapter 19.

Derek Jinks, 'State Responsibility for Sponsorship of Terrorist and Insurgent Groups: State Responsibility for the Acts of Private Armed Groups' (2003) 4 *Chicago Journal of International Law* 83.

Rishi Gulati, 'The 26/11 Mumbai Terrorist Attacks: Assessing Pakistan's Responsibility in International Law' (2011) 51 *IJIL* 321.

Vaughan Lowe, 'Precluding Wrongfulness or Responsibility' (1999) 10 *EJIL* 405.

A A Cançado Trindade, *International Law for Humankind: Towards to a New Jus Gentium* (Brill 2010) Chapter XIX Basic Considerations of Humanity in Relation to State Responsibility.

Further Readings

Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, Advisory Opinion, Seabed Disputes Chamber of the International Tribunal for the Law of the Sea, Case No 17, 1 February 2011, (2011) 50 *ILM* 458, paras.110, 117–20.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment [2007] ICJ Rep 43, para. 430.

Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment [2010] ICJ Rep 14, para. 193.

- Legality of the Threat or Use of Nuclear Weapons* [1996] ICJ Rep 226, para 330.
- Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion* [1949] ICJ Rep 174, 184.
- United States Diplomatic and Consular Staff in Tehran, Judgment, ICJ Reports 1980*, para. 56.
- Corfu Channel, Merits, Judgment* [1949] ICJ Rep 4, 23.
- Case Concerning the Factory at Chorzow (Merits)* [1928] PCIJ, Series A, No. 17, 47.
- Customs Régime between Germany and Austria, Advisory Opinion* [1931], PCIJ, Series A/B, No. 41, 46 and 49.
- Christian Domince, 'Attribution of Conduct to Multiple States and the Implication of a State in the Act of Another State' in James Crawford, Alain Pellet, and Simon Olleson (eds), *The Law of International Responsibility* (Oxford 2010) Chapter 20.
- Vladyslav Lanovoy, 'The Use of Force by Non-State Actors and the Limits of Attribution of Conduct' 28 EJIL (2017) 587.
- Moynihan Harriet, 'Aiding and Assisting: The Mental Element Under Article 16 of the International Law Commission's Articles on State Responsibility' (2017) ICLQ doi:10.1017/S0020589317000598.
- Marco Milanovic, '[State Responsibility for Acts of Non-state Actors: A Comment on Griebel and Plücker](#)' (2009) 22 Leiden Journal of International Law 307.
- Emmanuel Roucouas, 'Non-State Actors: Areas of International Responsibility in Need of Further Exploration' in Maurizio Ragazzi (ed), *International Responsibility Today: Essays in Memory of Oscar Schachter* (Martinus Nijhoff 2005) 391.
- Budislav Vukas, 'Humanitarian Intervention and State Responsibility' in Maurizio Ragazzi (ed), *International Responsibility Today: Essays in Memory of Oscar Schachter* (Martinus Nijhoff 2005) 235.
- J Romesh Weeramantry, 'Eritrea's Damages Claims (Eritrea v. Ethiopia); Ethiopia's Damages Claims (Ethiopia v. Eritrea)' (2010) 104 AJIL 480.
- J. Combacau and D Alland, 'Primary and Secondary Rules in the Law of State Responsibility: Categorizing International Obligations' (1985) 26 Netherlands Yearbook of International Law 81.
- Edith Brown Weiss, 'Invoking State Responsibility in the Twenty-First Century' (2002) 96 AJIL 798.

Weeks 13 and 14

6. Introduction to select international law issues in South Asia: boundaries, the fishermen issue; water-sharing, water resource management; use of force; terrorism; appraisal.

Required Readings

UN Charter, Articles 1 and 2.

Convention on the Law of the Non-navigational Uses of Watercourses, 1997, Articles 5 and 7.

SAARC Regional Convention on Suppression of Terrorism, 1987.

Agreement between Sri Lanka and India on the Boundary in the Gulf of Mannar and the Bay of Bengal between the two Countries and Related Matters, 1976, Article 5.

Kingsley de Silva, 'Terrorism and Political Agitation in Post-Colonial South Asia: Jammu-Kashmir and Sri Lanka', in Ramesh Thakur and Oddny Wiggen (eds), *South Asia in the World: Problem Solving Perspectives on Security, Sustainable Development and Good Governance* (UNU Press 2004) 84.

Supplementary Readings

UN Security Council Resolution 1373.

The Indus Waters Treaty, 1960.

Treaty Between the Government of the People's Republic of Bangladesh and the Government of the Republic of India on Sharing of the Ganga/Ganges Waters at Farakka, 1996.

Mahakali Treaty between India and Nepal, 1996.

Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, 2002, Article 15.

Bay of Bengal (Bangladesh v India) Arbitration, Permanent Court of Arbitration, Award of 7 July 2014.

R P Anand, *South Asia in Search of a Regional Identity* (Banyan Publications 1991) Chapter III (Recent Developments in the Law of the Sea and Maritime Issues in South Asia).

R Perera, 'Suppression of Terrorism: Regional Approaches to Meet the Challenges', 16 *Sri Lanka Journal of International Law* (2004) 19.

S M A Salman and K Uprety, *Conflict and Cooperation on South Asia's International Rivers: A Legal Perspective* (World Bank 2002) Chapter 1.

Further Readings

Report of the Ad Hoc Committee Established by the United Nations General Assembly Resolution 51/210 of 17 December 1996 on the Draft Comprehensive Convention on International Terrorism, 2013.

Bangladesh-Pakistan-India Agreement on the Repatriation of POWs and Civilian Internees, 13 *International Legal Materials* (1974) 501.

The Indus Waters Kishenganga Arbitration (Pakistan v India), Final Award of the Permanent Court of Arbitration, dated 20 December 2013.

Yakub Abdul Razak Memon v The State of Maharashtra, Judgment of the Supreme Court of India, 21 March 2013.

L D M Nelson, 'The Commission on the Limits of the Continental Shelf with Special Reference to Developing Countries' in Sharif Bhuiyan, Philippe Sands and Nico Schrijver (eds), *International Law and Developing Countries: Essays in Honour of Kamal Hossain* (Brill 2014) Chapter 12.

O P Sharma, 'Enforcement Jurisdiction in the Exclusive Economic Zone: The Indian Experience' (1993) 24 *Ocean Development and International Law* 155.

Rahmatullah Khan, 'The United Nations Handling of the Kashmir Problem' in R P Anand (ed), *Asian States and the Development of a Universal International Law* (Vikas Publications 1972) 108.

Bashir Ahmed, 'Pakistan and Some Issues of International Law' (1979) 32 *Pakistan Horizon* 64.

James Crawford and Rowan Nicholson, 'The Continued Relevance of Established Rules and Institutions Relating to the Use of Force' in Marc Weller (ed), *The Oxford Handbook of the Use of Force in International Law* (Oxford 2017) Chapter 4.

Eyal Benvenisti, 'Asian Traditions and Contemporary International Law on the Management of Natural Resources' (2008) 7 *Chinese Journal of International Law* 273.

Surya P Subedi, 'Regulation of shared water resources in international law: The challenges of balancing competing demands' in Surya P Subedi (ed), *International Watercourses Law for the 21st Century* (Routledge 2006) Chapter 1.

Peter Lehr et al, 'Responding to Terrorism and Ideology of Hate', in S O Wolf et al (eds), *The Merits of Regional Cooperation: The Case of South Asia* (Springer 2014) 11.

Imtiaz Ahmad (ed), *South Asian Rivers* (Springer 2018).

Ravindra Pratap, 'Building Peace over Water in South Asia: The Watercourses Convention and SAARC' (2018) 4 *Athens Journal of Law* 7.

— 'India-Bangladesh Maritime Boundary Award' (2015) *LAWASIA Journal* 1.

Teaching Method

The course will be offered using a combination of lectures and class discussions. The students are expected to prepare and debate the course materials in the class.

Assessment Method

There will be two written examinations totalling 80 marks and a case study/written assignment of 20 marks.