

INTERNATIONAL LAW

Class activities*

Class 1: Jan. 12 Introduction

- (i) What is International Law?
- (ii) What is the purpose of International Law? Is it effective?
- (iii) Who are the main international actors?
- (iv) What are some of the topics of International Law?
- (v) Do you think International Law affects your everyday life? If so, how?
- (vi) Do you follow international news? If so, what news have you been following lately?

Choose an international conflict or issue and follow it in the news. You will report about it throughout the course.

- (vii) Analyze the following cartoons:





Classes 2 & 3 Jan 19 & 26: Sources and Actors of International Law

International Law in the news



Do an online search of current news dealing with International Law not discussed before in class. Summarize the articles and critically analyze them. Present them to the whole class.

Do an online search and discuss these questions:



- What is the United Nations system?
- What are the strengths and weaknesses of the system? How effective is the system?
- Are the criticisms of some of the major organs of the United Nations, such as the Security Council, valid?
- Look for recent news articles discussing the work of the United Nations.
- What is the World Health Organization? What does it do? What has been its role during the pandemic? Who effectively controls the WHO? Why did Donald Trump withdraw its support? Who funds the WHO?



Scenarios:

- 1) The General Assembly recently adopted the United Nations Declaration on Human Cloning, by which Member States were called on to adopt all measures necessary to

prohibit all forms of human cloning inasmuch as they are incompatible with human dignity and the protection of human life. A leading South Korean university launched a human cloning program. The Philippines sent a letter to the South Korean government demanding the government to order the immediate termination of that program or else the Philippines would take this case to the International Court of Justice. Can the Philippines succeed? Why or why not?

- 2) Professor Cassale, a very respected Italian scholar, published a book on International Law where he holds that “In the case of secession non-military bases may continue to be used by the state that built them, provided that it offers to pay adequate compensation to the state where that base is located.” There is a conflict between Russia and Estonia as Estonia, now an independent state, wants to build a wind farm to generate clean electricity where there is a Soviet built nuclear plant. Russia offers compensation, which is considered adequate by Estonia, to keep operating the nuclear plant. Estonia refuses the compensation as it prefers to build the wind farm. There is no treaty and no international custom about this issue. Estonia brings the complaint to the International Court of Justice and Russia invokes the book. Can Russia be successful? Why or why not?
- 3) Netherlands ratified the Moon Agreement. Canada has not. Netherlands wants to invoke environmental obligations arising out of the Agreement against Canada. Is this possible?
- 4) France, Spain, Russia, and the United States have the following principles in their domestic laws. What is the general common principle? France: Foreign correspondents of internationally accredited news agencies must be given access to the theatre of operations in armed conflicts, provided they make a request in writing. Spain: Foreign correspondents of internationally accredited news agencies must be given access to the theatre of operations in armed conflicts, if requested with at least 72 hours in advance. United States: Foreign correspondents of internationally accredited news agencies must be given access to the theatre of operations in armed conflicts, provided they agree to comply with orders issued by the military officer in charge. Russia: Foreign correspondents of internationally accredited news agencies must be given access to the theatre of operations in armed conflicts, if previously registered with the Department of Foreign Affairs.

- 5) Suppose, there is an international armed conflict between Belize and Honduras. BBC, the leading UK news organization wants to go to Belize to broadcast the conflict live. Can it invoke the general principle of law mentioned above?
- 6) The United States, Russia, France, and the United Kingdom, together with other European, and Latin American states are making declarations that they regard the clean up of nuclear plants as an imperative obligation. China objects and issues a declaration saying that there is no such obligation in international law. Brazil refuses to clean up its nuclear plants. The United States formally complains to Brazil and threatens to sue before the International Court of Justice. Can the US succeed? Why or why not?
- 7) The United States, Russia, France, and the United Kingdom, together with other European, and Latin American states have long regarded the cooperation to clean up nuclear plants as an imperative obligation. So, for example, when France decided to clean up a nuclear plant in its Guyana territory, it sought the collaboration of the United States, which it gave it without seeking any monetary compensation. When Argentina sought help from China on account of this long established international customary norm, China refused saying that it now objects to that international custom. Argentina wants to bring a case against China before the International Court of Justice. Can Argentina succeed? Why or why not?
- 8) An NGO that elaborated a draft international treaty on the protection of the Environment together with the Canadian government wants to vote in the international assembly discussing this treaty. You are the president of the assembly. May you allow the NGO to vote? Can you allow it to participate in the deliberations without voting?
- 9) Do an online search and find some principles of international law. Think of examples.
- 10) Do an online search and find some rules of customary international law. Think of examples.

Class 4 Feb. 2

Private International Law

Scenarios

1. Josh is a Canadian citizen who resides in Sault Ste. Marie, Ontario. He went to Bologna, Italy for the summer holidays. There he bought a meat sandwich from La Rosticceria, an

Italian deli with no assets or branches outside Italy. He ate the sandwich. He was immediately hospitalized for a week as the meat was contaminated. He came back to Canada and wants to sue La Rosticceria in Canada. If he does, can the judicial decision be enforced in Canada? If so, what is the applicable law? Can the judicial decision be recognized in Italy? If Josh wanted to sue La Rosticceria in New York, will the New York courts accept the case?

2. Essar, a Canadian company in Sault Ste. Marie, requested the purchase of steel from a Pipeland, a UK company. The companies exchange emails and agree on the price of steel. They do not mention anything about the governing law of this contract. Pipeland does not deliver the steel as agreed. Essar wants to sue Pipeland. Where can Essar sue? What is the applicable law?
3. Julian wants to sell his stamp collection. He places an ad on his own website. Alex, a resident of Moscow, Russia, emails Julian saying he wants to buy it. Alex receives the stamp collection but never pays. Where can Julian sue Alex? What is the applicable law?
4. The Coca-Cola Company, a company with head offices in Atlanta, Georgia, US, hires Heliene, a solar power company from Sault Ste. Marie, to install solar panels on its new plant in Barcelona, Spain. Heliene sends three Canadian technicians to Barcelona and ships the panels from the Sault. The technicians install the panels. The Coca-Cola Co. refuses to pay Heliene because it argues that the panels were not correctly installed. Where can Heliene sue The Coca-Cola Company? The contract between Heliene and Coca-Cola is silent as to the governing law. Suppose that one of the Heliene technicians is injured while installing the panels. Where can the technician sue? What is the applicable law?
5. Pierre, a French citizen, went to Disneyworld in Florida, US. There he injured his head in Splash Mountain because the ride malfunctioned. Where can Pierre sue Disneyworld? What is the applicable law?
6. 25 de mayo, a theater company located in Buenos Aires, Argentina makes a request for the purchase of a rotating stage from Theatre Props, a company in Madrid, Spain. The request is accepted but there is no mention of the governing law. 25 de Mayo receives the rotating stage. When its technicians try to install it, they realize that it does not work. One of the technicians is injured while trying to install the stage. Where can 25 de Mayo sue Theatre Props for the contracts and the torts case? What is the applicable law in each lawsuit?

7. Because there is no same sex marriage law in Texas, Paul and John came to Sault Ste. Marie, Ontario to get married. After the marriage, they return to Texas. Is the marriage valid in Canada? Is the marriage valid in Texas? Suppose that Because that Paul and John intend to live in the Sault after they get married. Is the marriage valid in Canada?

Class 5: Feb 9 Globalization



Read the following excerpts and discuss the questions below

- 1) What is globalization? What is globalization for Viviane Forrester?
- 2) Why is globalization a strange dictatorship for Viviane Forrester? Do you agree? Why or why not?
- 3) What is ultra-liberalism?
- 4) What are derivatives? How do they work? Why does Viviane Forrester make reference to casinos?
- 5) Viviane Forrester argues that “globalization imposes the will of the dominant financial elite.” What does she mean by it? Find examples of the dominant financial elite.
- 6) What are investment funds? How do they work? Who controls them? What is the connection between investment funds and globalization?
- 7) Who is George Soros? What projects and initiatives have George Soros and the Open Society Foundations funded? What can you make of the support to these projects?
- 8) Discuss the differences between globalism and nationalism. Think of current examples.

Dictatorship

Because the Republic is perceived by leftist intellectuals as the quintessential site of democracy, the Anglo-Saxon world is reconfigured in these texts as a model of totalitarianism. Each of the authors sees behind market transformations the rise of a new authoritarian regime, an ascendant world order that is assuming ever greater powers and crushing the foundations of democracy. This is a 'tyranny of profit', a 'financial terrorism', an 'infernal machine' or a 'market dictatorship' that is taking control of the entire planet and which is sapping democratic rights and freedoms (Bourdieu, 1998; Ramonet, 1999: 97; Forrester, 2000: 33, 52). Through its dogmatic neo-liberal creed, globalization has unleashed the power of capital onto the world to the extent that it now dictates to society, supersedes elected governments, imposes a single ideology and quashes all opposition. This 'authoritarian regime' imposes the will of a dominant financial elite across the entire planet and brings untold suffering to the many (Forrester, 2000: 26). Moreover, by concentrating power in unelected supranational institutions, it violates the sacred bond between citizen and state and a precious legacy of the democratic tradition.

For Ignacio Ramonet, the market has become a vehicle for American tyranny and the 'new masters of the world' have established a ruthless and oligarchic power structure that aspires towards absolute power: 'they recognise neither borders, not states, nor cultures and they deride national sovereignties' (Ramonet, 2001: 13). Just as during other periods of totalitarian rule, this new order establishes itself as a 'modern divinity' that requires absolute submission, that exerts forms of coercion and imposes its own ideology. By placing emphasis on profit above every other consideration, globalization threatens to destroy the sociopolitical edifice of western democracies and in particular, the notion of progress enshrined by the French Republic. Ramonet seeks to delineate the contours of this new order in which power is

increasingly displaced from the political to the technological sphere and the media becomes a key instrument of manipulation and control.

It is Viviane Forrester who expresses most forcefully this conception of globalization as a form of totalitarianism. In her *Une Etrange dictature (A Strange Dictatorship, 2000)*, she argues that through propaganda, ruthless exploitation and an obsessive profit-making doctrine, Anglo-Saxon globalization has become as destructive in its effects as any other period of totalitarianism. This is a system that discards whole swathes of humanity, treats them as superfluous and consigns them, through mass unemployment, to a sort of living hell. Like other forms of dictatorship, globalization attacks the very fabric of society, its traditions, structures and values and is also characterized by a systematic destruction of human life. Thus, she evokes historical precedents that are both terrifying and extreme, those of European colonialism, apartheid in South Africa, racial segregation in the United States and the Holocaust of World War II to describe the true nature of this regime. Yet, globalization is a 'strange' dictatorship which is all the more dangerous because it extends its power in hidden and surreptitious ways and assumes the benign face of democracy: 'a dictatorship without a dictator has established itself without attacking any specific nation' (Forrester, 2000: 52). She suggests that this regime could however easily dispense with the apparatus of democracy and make the transition to a full dictatorship. Forrester's representation of globalization as an ascendant totalitarianism has attracted criticism for its alarmist and conspiratorial nature and some have denounced it as an 'apocalyptic vision' and others as an 'alarmist diatribe' (A. Supiot cited by Gollain, 1999: 485; Smith, 2004: 59).

Between Republic and Market: Globalization and Identity in Contemporary France

Sarah Waters

A second round of salvos was fired in 1999 and 2000. Forrester changed her critique from that of globalization to 'the fiasco of ultra-liberalism,' in *Une étrange dictature*, published in 2000.³⁵ Indeed, she argues that globalization does not require ultra-liberalism, defined as 'self-regulation of the economy through the mechanism of the market.' Rather ultra-liberalism was a conscious political choice exercised at the global level. It is not that the economy has triumphed over politics, but rather the reverse, with the culprit being 'the world of business, which has itself evolved into speculation.'³⁶ The key words in this world, as she sees it, are casino, competitiveness, Asian miracle, derivatives, and so forth. The result is a world in which 'all is sacrificed so that one exploiter is able to conquer another exploiter, essential infrastructure is destroyed, social programs are suppressed, a reactionary and regressive revolution is unleashed, and cynicism and de-industrialization are the rule.'³⁷ The dictatorship of the quest for profit also destroys democratic processes as power is transferred to a cartel of like-minded corporate leaders.

France Encounters Globalization

Peter Karl Kresl, Sylvain Gallais

Class 6: Feb. 16 Jus ad bellum & Jus in bello

Discussion questions



- 1) What was the Afghanistan war that took place between 2001 and 2021? Why did the US invade Afghanistan?

- 2) Who are the Taliban?
- 3) Who was Osama bin Laden? How was he involved in the Soviet-Afghan war? What was his role in the September 11 attacks? What happened to him?
- 4) Discuss the US occupation of Afghanistan.
- 5) Why did the US leave Afghanistan in 2021? What happened? Did the Biden administration make any mistakes?
- 6) Discuss the following article. What are the lessons learned from the end of the Afghan war?

Lessons from the end of the Afghan war

By Dr Maria Saifuddin Effendi August 31, 2021

War is beyond the question of jus ad bellum and jus in bello. It involves risks and consequences beyond the conflict boundaries. The aftermath of war is usually horrendous. Whether inter or intra-state, the very first outcome when the war ends is anarchy.

The incapability and incapacity to ensure public safety and security from internal, regional and external threats, deteriorated economy and an imminent crisis in the form of refugees and internally displaced people are to name just a few of the examples of the anarchic end of a long war. This is exactly what is happening in Afghanistan today. One may draw five lessons from the Afghan war and its humiliating end:

1. Security: A suicide bombing at the Hamid Karzai International Airport on August 26, 2021 by the Islamic State of Iraq and the Levant – Khorasan Province (ISIL-KP) in Kabul speaks volumes of the weak security structure in Afghanistan at the moment. The Taliban took over after 20 years of war during the chaotic exit of the US and Nato troops and their allies on August 15, 2021 – automatically inspiring regional sibling organizations that an extremist militant non-state actor can still win against local and foreign forces despite years of war. Even after emerging as winners, the Taliban are still not equipped and trained to confront ISIL-KP or groups alike. They have the weapons and vehicles that the US provided to the Afghan forces during its 20-year war but are not trained as a sophisticated military of the state which takes years of skills, training, knowledge and strategic learning process.

2. Post-war strategy: An efficient and effective strategy identifies the undesirable outcomes of the war and suggests ways to overcome or deal with the emerging threats amicably. If you can't beat them, include them to run a hybrid government. The Afghan war ended in anarchy. Stakeholders feared this anarchic end yet did not prepare any mechanism for the sake of a 'graceful' exit of the US and in the greater good of the Afghans. The US spent 83 billion dollars to develop and train the Afghan National Defense and Security Forces (ANDSF). It provided modern aircraft and vehicles worth 10 billion dollars, gave 130 aircraft to ANDSF and pledged to provide more even after the withdrawal.

India invested massively in nation-building, reconstruction, bilateral trade and the capacity building of the ANDSF. According to India Today, India spent three billion dollars, signed the India-Afghanistan Strategic Partnership in 2011, invested in 400 infrastructure projects across all the provinces. Afghanistan, going through brutal war and violence, was still receiving training and funding primarily from the US and India; and the European Union, Germany, and many other countries for reconstruction and peacebuilding. Yet it seems the security investment was not sufficient enough and so the country fell within a few days of the Taliban capturing Kabul and major provinces in Afghanistan.

What went so wrong that the ANDSF could not confront the Taliban? It was the insufficient – rather, poor – post-war strategy of the US, India, EU and many stakeholders which could not deal with the situation in Afghanistan on August 15, 2021. It could have been a workable multi-pronged strategy to work with both legitimate government and insurgents/militants together. Ashraf Ghani's government is seen as a corrupt one. What do we expect from a country which has been at war continuously since 1979? Neither did the US manage to defeat the Taliban, nor did it develop enough trust with them during the Afghan Peace Process 2020 to discuss and manage the immediate post-withdrawal anarchy. War and diplomacy failed miserably in this case.

The same goes for India. Pentagon Press Secretary John Kirby lauded India's 'constructive role' in Afghanistan on August 10, 2021. India certainly did play a role. It developed

infrastructure. It supported an ‘Afghan-led, Afghan-owned and Afghan-controlled national peace and reconciliation process’ – but that ‘Afghan-led/owned/controlled process’ did not include the Taliban as a stakeholder – even though the Taliban were controlling more than half of Afghanistan then. An indigenous process should have included the Taliban because they were/are the stakeholders in both war and peace times in the country. On August 17, 2021, India evacuated its diplomatic staff from Kabul hastily. Clearly, the support was not visionary, sustainable and inclusive to Afghanistan because India ran away the moment the Taliban took over. This leaves a question mark on both its partnership with Afghanistan and its credibility in the future.

3. Refugee crisis: The evacuation of thousands of Afghans and settling them in different countries is in no way closer to conflict resolution or sustainable peacebuilding in Afghanistan. Today, there are images of miserable Afghan families arriving at international airports in Washington DC, London, Toronto, and Brussels. Evacuating, dislocating or displacing a good number of indigenous populations after 20 years of a useless war is no victory.

The moment a person leaves their country and arrives at a developed one with an uncertain future, s/he trades off their identity as an Afghan citizen with the status of a refugee – a totally vulnerable phenomenon. Around 775,000 troops and \$300 million per day for 20 years could not bring peace in Afghanistan. Bringing Afghans to other countries is not a workable solution and will rather create animosity among those who could not leave Afghanistan for better prospects.

4. Ultimate beneficiary: The 20-year war actually gave an opportunity to the Taliban to learn how to fight against a sophisticated, well trained international force such as Nato. Though they are still far from obtaining legitimacy as an army, they are on their way to forming a desirable government. The ANDSF’s weaponry (US courtesy) tends to be in the possession of the Taliban. It is not difficult to predict what kind of government Afghanistan will have; the Taliban seem to be a player in the regional and international state system.

5. Adversity as opportunity: Iran, Qatar, China and Russia had a wiser approach in helping Afghanistan achieve stability and peace in the coming years. Pakistan has been an equally affected country in this 20-year war. It is already urging the world to accept the reality of the Taliban and work for the greater benefit of regional peace and security. The West, unfortunately, lived in a state of denial for 20 years. Had it worked for inclusive and sustainable peacebuilding in Afghanistan and made efforts to develop trust with both the Afghan government and the Taliban, the situation would have been a little better than today.

Universal jurisdiction

Read the article and discuss the following questions

- 1) What is universal jurisdiction?
- 2) Do you agree with this concept? Why or why not?
- 3) Should universal jurisdiction be expanded to other crimes? If so, what crimes?
- 4) Discuss the war crimes committed by the Myanmar military against that country's Rohingya minority.

Argentina court to investigate Myanmar war crimes against Rohingya Muslims

The case, which the UN says could amount to genocide, was brought under the legal premise of universal justice

Agence France-Presse Mon 29 Nov 2021 20.04 GMT

Argentina's justice system will investigate allegations of war crimes committed by the Myanmar military against that country's Rohingya minority under a court ruling upholding the principles of "universal justice". The appeals court decision, which Agence France-Presse has seen, overturns a lower court ruling rejecting a request for an investigation by the British-based Burmese Rohingya Organisation (BROUK).

A 2017 army crackdown on Rohingya Muslims in Myanmar, which the UN says could amount to genocide, has triggered an exodus of more than 740,000 members of the community, mainly to Bangladesh.

The legal premise of “universal justice” holds that some acts – including war crimes and crimes against humanity – are so horrific they are not specific to one nation and can be tried anywhere.

Argentina’s courts have taken up other universal jurisdiction cases in the past, including in relation to ex-dictator Francisco Franco’s rule in Spain and the Falun Gong movement in China.

Proceedings against Myanmar and its leaders are already under way at the international criminal court and the UN’s international court of justice.

Six Rohingya women, refugees in Bangladesh, had given remote testimony to the court in Argentina. One of the complainants said they “had all been sexually assaulted and that many of their family members had died as a result of the repression they had suffered” in August 2017, the court recalled.

In their decision, the appeals judges said that “the investigation and eventual judgment of this type of crime is the primary responsibility of states”.

The president of BROUK, Tun Khin, said in a statement the ruling represented hope “not just for us Rohingya but for oppressed people everywhere”. He added: “The decision in Argentina shows that there is nowhere to hide for those who commit genocide – the world stands firmly united against these abhorrent crimes.”

Class 7: March 2 Test



Class 8 March 9 International Space Law

International Space Law

- 1) Algomospace, a private corporation made up of International Law students and based in Sault Ste. Marie, Ontario launched a satellite –Algomasat- to Outer Space in January, 2008 from a small launch site built near Algoma U. The satellite exploded when achieving an altitude of 100 km and disintegrated. One of its pieces re-entered the Earth near Lyon, France and killed over 100 people. Who is legally responsible for this incident? How will the families of the victims be compensated?
- 2) Since the cause of the accident was attributed to the lack of technical capacity of the launch site, International Law students that own Algoamaspace managed to convince NASA authorities to let them launch their new satellite Algomasat II. The new satellite was launched in February. During countdown operations, a satellite antenna detached from the satellite and killed 2 NASA technicians. While it reached Outer Space, it disintegrated. Several satellite debris reentered the Earth in Valencia, Spain and killed near 50 people. Most of them were Spanish nationals, but there were three French citizens that were having holidays in Spain among the victims. A technical investigation revealed that the satellite exploded because a meteorite crashed against it and neither NASA nor Algomospace were negligent as it was impossible to foresee the presence of the meteorite.
- 3) Boeing –a US company- and LMI –a Russian firm- jointly launched a satellite from a privately-owned launch site in Australia. The satellite failed in Outer Space, disintegrated and killed 200 in Chile. Boeing and LMI had signed a contract saying that LMI would be liable for all damages caused by the satellite. The contract was signed by the US and Russian governments and reaffirmed that only the Russian government would be responsible for damages caused by the satellite and exonerated the US government from liability. The victims' families in Chile sue the US government. Is this legal? Do they have to sue the Russian government only?

- 4) The victims' families in Chile appoint a US law firm who sue Boeing in Seattle. Can they succeed? How can Boeing defend itself?
- 5) A Russian satellite collides with a Chinese satellite, and the Chinese satellite crashes against the International Space Station, killing 3 US astronauts on board. A technical investigation reveals that the Russian satellite failed because Russian engineers had made a mistake in the fuel calculations. Who is legally responsible for the killing of the US astronauts? Who can the US government sue?
- 6) The US and France reached an agreement to build a telecommunications satellite. In this agreement, the US would be responsible for 75% of all damages paid and France for the remaining 25%. The satellite fails and kills 20 people in Italy. The Italian government claims that it would need \$100,000,000 to compensate the victims' families. It claims the entire amount from the US. The US replies that it is prepared to pay only \$75,000,000 and that Italy should claim \$25,000,000 from France. Italy does not want to sue France as they share many political interests, so it hires you –a Sault Ste. Marie law firm specialized in International Law to advise the Italian government on its rights.
- 7) Arianespace, a French space vehicle, collides with Algomasat III – an illegally launched Canadian telecommunications satellite from Algomaspace, as a result of which 50 people are killed in Sudbury, ON. The Canadian government claims \$50,000,000 from France for causing the accident. France replies that it is not liable for any amount, as the accident was not its fault as its technicians were not aware of the presence of Algomasat III in Outer Space. The French government said that if Algomaspace had followed all international legal steps associated with the launch of its telecommunications satellite, Arianespace would have been aware of its presence and it would not have collided with Algomasat III. The Canadian government seeks your advice to advise on this situation.
- 8) A Canadian male astronaut commits sexual assault against a US female astronaut in a US module on board the International Space Station. The US commander arrests the Canadian astronaut and chains it to a chair for several days until he is sent back to Earth in a special Space Shuttle mission. The US arrests the Canadian astronaut and tries him for sexual assault. The Canadian government complains to the US because it wants to try it in Canada. Besides, the Canadian government threatens the US government with legal actions for depriving the freedom of the Canadian astronaut. Ottawa claims that it had exclusive

jurisdiction over its astronaut, so the US commander behaviour was illegal. The Canadian government seeks your International Law advice.

- 9) A Japanese astronaut in the International Space Station steals a US astronaut's memento while visiting the US module. The Japanese astronaut is arrested by the US commander and sent back to Earth. When he arrives, he is tried in the US for theft. The Japanese government complains to the US and holds that it has exclusive jurisdiction over its Japanese nationals. The US government refuses to hand over the Japanese astronaut and sentences him to 4 years in a US prison. The Japanese government seeks your International Law advice.
- 10) A Canadian astronaut in the International Space Station attempts to murder a French astronaut. The French government complains to Canada, but the Canadian government replies that the Canadian astronaut was under extreme pressure and he intended to kill his French colleague in an effort to be brought back to Earth earlier than scheduled. The Canadian government announces that it will not prosecute the Canadian astronaut. When the astronaut is brought back to Earth in the United States, both the French and the Canadian government request the US government to send the astronaut to France and to Canada, respectively. The US government seeks your International Law advice.

Classes 9: March 16 International Criminal Court

Discussion questions

- 1) Why was the ICC established?
- 2) What States voted against the ICC? Why?
- 3) What is the role of victims in procedures before the ICC? 4) Why can't the ICC impose the death penalty? What is your opinion about the death penalty for international crimes?
- 4) What are the rights of those accused of a crime by the ICC? 6) What are some of the predecessors to the ICC? Scenarios

Scenarios

- 1) President Maduro of Venezuela incites its generals to kill all Colombian citizens who reside in Venezuela or in a border city. Generals refuse to follow President Maduro's orders.
- 2) President Maduro of Venezuela incites its generals to rape all Colombian women who reside in Venezuela or in a border city. Generals refuse to follow President Maduro's orders.
- 3) President Maduro of Venezuela incites its generals to rape all Colombian women who reside in Venezuela or in a border city. Generals comply with President Maduro's orders.
- 4) The Canadian Prime Minister orders the killing of all French speaking Canadians residing in Canada. English speaking military personnel comply with the order.
- 5) Cabo Verde president and its armed forces killed, injured, and raped all members of the opposition political party.
- 6) Cabo Verde president and its armed forces inflicted serious mental harm to most members of a minority ethnic group by prohibiting those citizens to participate in cultural, sports, and political activities.
- 7) The US president invaded Irak again and killed thousands of civilians in attacks contrary to the Geneva Conventions.
- 8) A Canadian general in Afghanistan compelled an Afghanistan prisoner to join Canadian armed forces.
- 9) A US general in Afghanistan compelled an Afghanistan prisoner to join the US armed forces.
- 10) The Brazilian president ordered the federal police to arrest all members of the opposition political party and to keep them in secret detention camps. Federal police arrest and detain thousands of members of the opposition party.
- 11) Iranian generals massively torture and rape members of a religious group. The UN Security Council refers this case to the ICC.
- 12) South Africa reinstates the apartheid regime.
- 13) President Donald Trump massively deports millions of undocumented immigrants from the United States.
- 14) Canadian Prime Minister massively deports millions of undocumented immigrants from Canada.

- 15) Canadian Prime Minister massively deports thousands of citizens and permanent resident of Korean ascent.
- 16) Civilians were killed and raped; and homes and stores were looted in the context of an armed conflict between the government of the Central African Republic and rebel forces. Hundreds of rape victims have come forward to tell their stories, recounting crimes acted out with particular cruelty. Victims described being raped in public; being attacked by multiple perpetrators; being raped in the presence of family members; and being abused in other ways if they resisted their attackers. Many of the victims were subsequently shunned by their families and communities.
- 17) There are 1.65 million internally displaced persons in Darfur, Sudan, and more than 200,000 refugees from Darfur in neighbouring Chad. There has been large-scale destruction of villages throughout the three States of Darfur. Sudan is not a member of the ICC, but the UN Security Council referred the situation to the ICC.
- 18) Chilean president killed thousands of Chileans of Mapuche origin. The Chilean Congress impeached the president, who was then prosecuted in a criminal court. The Court found him not guilty. So, the Peruvian government referred the case to the ICC.
- 19) During the 2010/2011 post-electoral violence in Côte d'Ivoire, the government committed crimes against humanity. The post-election violence erupted after Presidential election results between opponents Mr Laurent Gbagbo and Mr Alassane Ouattara were disputed. Côte d'Ivoire became a party to the Rome Statute on May 1, 2013.
- 20) Vladimir Putin, Russian president, persecuted members of a minority religious group living on Russian territory.
- 21) Spanish army generals test new weapons in a low populated zone with no intention to cause harm. However, they end up destroying a nearby village where mostly Roma people live. Roma people are widely discriminated in Europe.
- 22) A young Italian soldier was given the order to rape all women in an African village who opposed to the presence of Italian armed forces. The Italian soldier reluctantly complied with the order from his superior.
- 23) A young Italian soldier was given the order to bomb a hospital that houses both military personnel and civilians in an African village in the context of an armed conflict. The Italian soldier reluctantly complied with the order from his superior.

24) French soldiers engaged in a war in an Asian country were given drugs by their government in order to cope with war. As a result of the effects of the drugs, most soldiers raped Asian women and looted their houses.

25) A young German contractor working in Afghanistan rapes an Afghanistan girl. Later, European governments plan a systematic killing, torture, and rape of Afghani citizens.

Class 10 March 23 Extradition

- What is extradition?
- Do an online search of the Roman Polanski (extradition) cases. What happened?
- Do an online search of the Julian Assange extradition requests. What happened?
- Do an online search of the Leonard Peltier (extradition) case. What happened?
- Choose a country and analyze its extradition laws.
- Choose a bilateral agreement on extradition between Canada and another country and analyze it.
- Read the following article and discuss the Huawei executive extradition case. What happened?

Huawei executive Meng Wanzhou freed by Canada arrives home in China

Published 25 September, 2021

In 2018 China accused Michael Spavor and Michael Kovrig of espionage, denying detaining them was in retaliation for Ms Meng's arrest. The apparent swap brings to an end a damaging diplomatic row between Beijing and the West. Mr Spavor and Mr Kovrig arrived in the western city of Calgary just before 06:00 local time (12:00 GMT) and were met by Prime Minister Justin Trudeau. A couple of hours later Ms Meng touched down in Shenzhen, China, to applause from a crowd gathered at the airport. "I'm finally back home!," said Ms Meng, according to the Global Times, a Chinese tabloid backed by the ruling Communist Party. "Where there is a Chinese flag, there is a beacon of faith," she added. "If faith has a colour, it must be China red."

Ms Meng was wanted on charges in the US but was released after a deal between Canada and US prosecutors. She spent three years under house arrest in Canada while fighting extradition to the United States. China had earlier insisted that her case was not related to the sudden arrest of Mr Kovrig and Mr Spavor in 2018. But China's the decision to free them after Ms Meng's release appears to show that pretence has been abandoned, reports Robin Brant, the BBC's Shanghai correspondent. Mr Kovrig and Mr Spavor have maintained their innocence throughout, and critics have accused China of using them as political bargaining chips. After they arrived in Calgary, Canadian Prime Minister Justin Trudeau shared images on Twitter of him welcoming the pair. "You've shown incredible strength, resilience, and perseverance," he wrote in the tweet. "Know that Canadians across the country will continue to be here for you, just as they have been."

Mr Spavor is a founding member of an organisation that facilitates international business and cultural ties with North Korea. In August this year a Chinese court sentenced Mr Spavor to 11 years in prison for espionage. There had been no decision in Mr Kovrig's case.

On Friday, a Canadian judge ordered the release of Ms Meng, Huawei's chief financial officer, after she reached a deal with US prosecutors over fraud charges against her. Huawei said in a statement that it would continue to defend itself in court, and looked forward to seeing Ms Meng reunited with her family.

Before her arrest, US prosecutors accused Ms Meng of fraud, alleging that she misled banks into processing transactions for Huawei that broke US sanctions against Iran. As part of a deferred prosecution agreement, Ms Meng admitted to misleading HSBC about Huawei's relationship with Skycom, a Hong-Kong based company that operated in Iran.

China's foreign ministry said the charges against her had been "fabricated" to suppress the country's high-tech industries, according to state media. But in a statement the US justice department insisted it would continue to prepare for trial against Huawei, which is still on a trade blacklist. Ms Meng is the elder daughter of Ren Zhengfei, who set up Huawei in 1987. He also served in the Chinese army for nine years, until 1983, and is a member of the Chinese Communist Party. Huawei itself is now the largest telecom equipment maker in the world. It has faced accusations that Chinese authorities could use its equipment for espionage - allegations it denies.

In 2019, the US imposed sanctions on Huawei and placed it on an export blacklist, cutting it off from key technologies. The UK, Sweden, Australia and Japan have also banned Huawei, while other countries including France and India have adopted measures stopping short of an outright ban.

Read the following article

Authorities to extradite asylum seeker to Russia. Against international law, say NGOs

Human rights watchdogs warn that Slovakia is about to violate a request of the UN Human Rights Committee and extradite an asylum seeker to Russia.

Slovak authorities are about to extradite Aslan Yandiev, an asylum seeker from Ingushetia, to Russia.

Human rights watchdogs say this is expected to happen on Tuesday, July 17 and warn that the extradition will go against Slovakia's commitments and against the June 21 decision of the UN Human Rights Committee, which ordered Slovakia to suspend the proceedings until its experts investigate whether Yandiev faces torture or other forms of mistreatment upon return to Russia.

The Committee has called on the Slovak government to "refrain from extraditing Mr Aslan Achmetovič Jandiev to the Russian Federation while his case is under consideration by the Committee".

Threat of torture alleged

Yandiev escaped from Ingushetia and requested asylum in Slovakia on May 14, 2008, arguing that he had been persecuted back home in Ingushetia and in North Ossetia. He claims that he faced fabricated charges for several crimes and was forced to "admit to them" under torture, Amnesty International Slovakia reports. In February 2011, Russian prosecutors requested his extradition and listed his crimes as follows: activities within an armed group, illegal possession and transport of shotguns and explosives, terrorist activities and other crimes.

Yandiev was thus detained and has been in prison in Slovakia since 2011. At the same time, he has been awaiting a decision on his asylum request since 2008.

Human rights watchdogs have compared Yandiev's case to that of Mustafa Labsi, whom Slovakia deported to Algeria in 2010, and who went on to claim financial compensation from Slovakia for violating his civil rights.

"By extraditing Aslan Yandiev to Russia, despite the ban on his extradition by the UN Human Rights Committee, Slovakia will violate its international commitments in the human rights area," Kamila Gunišová from Amnesty International Slovakia said. "This is a very dangerous step that might threaten access to justice."

Watchdogs call on authorities not to extradite

Amnesty International has reported an increase in the number of reports of out-of-court executions and torture in Ingushetia.

"We demand that the Foreign Ministry, the Justice Ministry, and the Interior Ministry stop the extradition of Aslan Jandiev to Russia, where he would face the risk of torture and other forms of mistreatment," Gunišová stated, calling on the Slovak authorities to respect the preliminary measures of the UN Human Rights Committee.

The Human Rights League watchdog organisation noted that if Slovakia extradites Jandiev to Russia, it will violate not only the request of the UN Human Rights Committee, but also its own laws, which state that Slovakia is bound by the International Pact on Civil and Human Rights and this pact has precedence before Slovak law.

"Therefore we call on the Slovak authorities to refrain from actions directed towards the extradition of Mr Jandiev to the Russian Federation until the preliminary measure is effective and we call on the Slovak lawyers' community to join this call in the name of lawfulness, justice, and rule of law," HRL director Zuzana Številová stated.

16. Jul 2018 at 13:19 | [MICHAELA TERENZANI](#)

- Should Slovakia extradite Aslan Jandiev? Why or why not?
- What implications would Aslan Jandiev's extradition have on human rights in Slovakia? On the global stage?
- Find an article about extradition. Share your findings and opinions with the class.
- What states were involved? What situation/crime led to a request for extradition?
- Do you agree with the decision to extradite/not to extradite, depending on your article?
- If a Canadian citizen committed a crime in Canada, such as murder or fraud, and fled the country? What foreign countries would afford him/her the strongest protection against extradition to Canada?

Scenarios

1. Three Canadian citizens traveled to Uganda. While there, one of the men raped the woman, while the other witnessed the event. Suppose Uganda requests the extradition of these three men and suppose that Canada and Uganda have a bilateral agreement. Would the Canadian government extradite?
2. While on holidays in Paraguay a few years ago, Professor Hermida was invited to a dinner at Faculty Club of the University of Asuncion. To his surprise, a military official –now a member of the Senate- known for torturing hundreds of people during the last military dictatorship in Paraguay, attended the dinner. During a heated argument about Human Rights, Professor Hermida insulted the senator and threatened to hit him. It is a crime to utter threats in Canada and Paraguay.
3. While on a swimming tournament in Dominican Republic, Lauren was arrested for the commission of the crime of theft, for refusing to tip a server at a restaurant. Lauren complained that the service was very poor, so she left no tip. The Dominican Republic Criminal Code defines theft as: “anyone that takes anything with intent to deprive, the owner of it, or anyone that refuses to give to the owner what legally belongs to the owner.” In the Dominican Republic, tips to food servers are considered a legal obligation, so servers are entitled to a tip by law.
4. Professor Hermida gave a conference in St. Petersburg, Russia. He stole a Russian doll for his private collection. There is no extradition treaty between Russia and Canada. Nonetheless, the Russian government requested the Canadian government to extradite Prof. Hermida for prosecution.
5. On his way back from Russia, Professor Hermida became very agitated because he had ordered a vegetarian meal, and the flight attendant brought him beef. So, he threw the tray with the beef at the flight attendant, who fell on the emergency exit handle. As a result, the emergency exit opened, and the captain had to make an emergency landing in Gander, NF because he could not continue to Toronto Pearson. At the captain’s request, RCMP officers arrested Professor Hermida at the airport. The Russian government submitted an extradition request based on the Montreal Convention for the Suppression of Unlawful Acts against Civil Aviation, ratified by both Canada and Russia. The Convention sets forth that it is an offence to “perform an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft”. Furthermore, the

Convention prescribes that “If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences.”

6. Courtney got a paid internship in Colombia. She worked with the Red Cross in Bogota, assisting victims the civil war to seek refugee status in Canada. After her twelve-month internship ended, she returned to Canada. Since Courtney did not pay any income tax in Colombia, the government requested her extradition for prosecution. Failure to file income tax returns in Colombia is a crime. In Canada, committing fraud on a tax return also constitutes a crime.
9. Kevin and Emily lived in Sault, Michigan. They were married for several years, but Kevin cheated on Emily on several occasions. Last year, Kevin met a woman from Sault, Ontario and decided to live with her here in Sault Ste. Marie, Ontario. Tired of Kevin’s adventures, Emily decided to file for divorce. Since Michigan divorce proceedings when spouses are not present in the court are quite lengthy in Michigan, Emily succeeded in convincing US authorities to request the Canadian government to extradite Kevin to appear before the Michigan court.
10. While on a study abroad program in Korea, an Algoma U student painted graffiti on a wall at the University. He was immediately arrested for vandalism, a crime that carries a minimum penalty of 10 years in prison and a maximum of life. Since he was given bail pending the trial, he took the first flight home and returned to the Sault. The Korean government requested the Canadian government to extradite him. Vandalism carries a maximum penalty of two years in prison if tried as an indictable offence. Assume there is a no list treaty between Korea and Canada.
11. Professor Hermida, whose childhood dream was to become a filmmaker, traveled to Hollywood to participate as an extra in a new movie. There he saw how another extra stole some jewellery from the leading actor. Once he got back, the Canadian government received an extradition request so that Prof. Hermida testified in the extra’s prosecution for theft.

Class 9 March 16: The Russia-Ukraine conflict

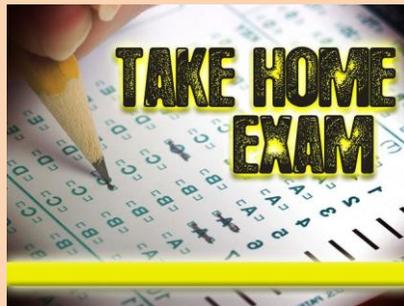


Discussion questions

1. What is the war in /demilitarization and de-nazification of/ Ukraine about?
2. Who is Vladimir Putin? Who is Zelenski?
3. Discuss major developments in Ukraine since the collapse of the Soviet Union: (i) foreign debt; (ii) the 1996 Constitution; (iii) Yanukovich.
4. What is the connection between the first Trump impeachment and the war in Ukraine? What is Joe and Hunter Biden's involvement in Ukraine?
5. What are Russia's arguments for invading Ukraine? What do you think of these arguments?
6. How did the U.S. respond to the crisis? Why? Has it been effective? What about other Western countries? Are Western's sanctions legal under international law? What about domestic law?

7. What are the everyday implications of the sanctions in Canada?
8. Are Russia's military operations legal under International Law?
9. Was Russia's annexation of Crimea legal under international law? Why or why not?
10. What similarities and differences do you see between the Ukraine crisis and the Cold War?
Are Russia and the West headed toward a new Cold War?
11. Should Ukraine become a member of NATO? Why or why not? What would this mean for Russia?
12. Should Ukraine become a member of the EU? Why or why not?
13. What are Russian's demands to end the crisis? Do you think the current negotiations can end the conflict?

Class 11 March 29: Review and feedback Distribution of final take-home





Class 12 April 4: Submission of final take-home



*** TRIGGER WARNINGS**



Some materials in this course may be sensitive. Course materials, including lectures, class activities, hypotheticals, scenarios, examples, court cases, and films shown in class, may have mature content, including violent, sexual, and strong language content.

Disclaimers

Except for newspaper articles and court cases, all class activities are hypothetical and fictitious. Any resemblance to actual persons, institutions, or events is purely coincidental. The views and opinions expressed in the articles assigned for reading in this course, as well as those expressed in videos shown in class, are those of the authors or the individuals who made those opinions and do not necessarily reflect the position of the course professor. Questions, follow-up questions, examples, and comments made within the context of class activities do not purport to reflect the opinions or views of the course professor. All such articles, comments, questions, examples, and activities are meant solely to facilitate the discussion and study of Law. They are not meant to advocate or promote any crime or unlawful action. Neither are they meant to advance any ideological perspective. Discretion advised before signing up for this course.