



**South Asian University
Faculty of Legal Studies**

MPhil/PhD

2023

Monsoon Semester (First Semester)

Course Information

Part I

Course Title	Advanced International Legal Issues
Course Code	
Course Instructor	Prof. 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

International law has well within its scope of study issues which may properly form part of its advanced course, a course which requires some background knowledge of the discipline and which it is the purpose of our compulsory graduate course on international law to impart to the graduate student. For instance, while theoretical, philosophical and normative perspectives of and approaches to international law do occupy a common field of introductory enquiry at both the graduate and research levels, it is only in their advanced and non-classical/traditional manifestations and characterizations that they form part of the research curriculum. Likewise, while the graduate student is duly introduced to treaties as part of the sources/processes of the formation of international law, aspects and issues arising out of and connected with their application and interpretation have been left for the advanced course. And this holds equally true for major international law issues of concern to the South Asian countries, namely use of force, terrorism, water-sharing, and boundaries. The course will thus introduce advanced international legal issues stemming also from state jurisdiction, immunity, extradition and death penalty as part of some of the more discernible debates in contemporary international law, such as in the area of use of force

that brings to the fore the difficulties involved in balancing the necessity of response to international terrorism and of the observance of the rules of armed conflict and the protection of human rights, including in resolving complex issues engaging state responsibility.

Course Aim

The aim of the course is to advance the reflective, interpretive, critical and problem-solving capacities of the research student.

Course Objectives

The objectives of the course are to fulfil one of the requirements of the research programme and to prepare the student for fulfilling its other requirements.

Course Outcomes

Successful completion of the course should enable the student to be aware of the advanced conceptions and perspectives of approaching international legal issues, understand the nature and scope of state jurisdiction and the role and sphere of operation of state immunity, appreciate the contending and contesting claims underlying the issues of extradition and death penalty, understand the core aspects of application and interpretation of treaties, such as forms of reservation and the scope of the grounds of their suspension and termination, comprehend the complexities of issues involved in the legality of and justifications for the recent threats and uses of force in international relations, particularly its role in a necessary response to terrorism, debate the legal issues relating to international terrorism, including human rights considerations, and study and offer solution to the international law issues of particular concern to the South Asian countries.

Course outline

1. Introduction to advanced international legal issues
 2. State jurisdiction, including immunity from jurisdiction especially of foreign state officials
 3. Extradition and death penalty
 4. Application and interpretation of treaties
- [Mid-Term Examinations]
5. Legality of and justifications for the recent threats and uses of force
 6. Legal issues relating to international terrorism
 7. Water-sharing and water resource management issues involving the South Asian Countries
 8. Boundaries and the fishermen issue involving the South Asian countries

Course syllabus

Week 1

1. Introduction to advanced international legal issues: Theoretical, philosophical and normative conceptions: advanced approaches and alternative perspectives; appraisal.

Required Readings

Anne Orford and Florian Hoffmann (eds), *The Oxford Handbook of the Theory of International Law* (Oxford 2016) Introduction OR Andrea Bianchi, *International Law Theories: An Enquiry into Different Ways of Thinking* (Oxford 2016) Introduction OR Siegfried Weissner (ed), *General Theory of International Law* (Brill 2017) Introductory Essay.

C G Weeramantry, *Universalising International Law* (Martinus Nijhoff 2004) Chapter 7 (Widening the Conceptual Framework).

A A Cançado Trindade, 'International Law for Humankind: Towards to a New *Jus Gentium*' (2005) 316 *Hague Recueil* Part I, Chapter I.VII (The Universalist Conception of International Law).

Onuma Yasuaki, 'A Transcivilizational Perspective on International Law' (2009) 342 *Hague Recueil* 81, Chapter I.III.

Supplementary Readings

Hans J Morgenthau, 'Positivism, Functionalism, and International Law' (1940) 34 *American Journal of International Law* 260.

Myres S McDougal, 'International Law, Power and Policy: A Contemporary Conception', 82 *Hague Recueil* (1953) I, 131.

David Kennedy, 'A New Stream of International Law Scholarship' (1988) 7 *Wisconsin International Law Journal* 28.

Hillary Charlesworth et al., 'Feminist Approaches to International Law' (1991) 85 *American Journal of International Law* 613.

E B Pashukanis, 'The General Theory of Law and Marxism' in P Beirne and R Sharlet (eds), *Pashukanis: Selected Writings on Marxism and Law* (Academic Press 1980) 37.

Obiora Chinedu Okafor, 'Critical Third World Approaches to International Law (TWAIL): Theory, Methodology, or Both?' 10 *International Community Law Review* (2008) 371.

Further Readings

Martti Koskenniemi, 'Theory: Implications for the Practitioner' in Philip Allott and Anthony Carty (eds), *Theory and International Law: An Introduction* (British Institute of International and Comparative Law 1991) 1.

Antony Anghie, 'Towards a Postcolonial International law' in Prabhakar Singh and Benoît Mayer (eds), *Critical International Law* (Oxford 2014) 123.

Georges Abi-Saab, 'The Third World Intellectuals in Praxis: Confrontation, participation, or operation behind enemy lines' (2016) 37 *Third World Quarterly* 1957.

L Marasinghe, 'Third World Jurisprudence for the Twenty-First Century' in Antony Anghie and Garry Stugress (eds), *Legal Visions of the 21st Century: Essays in Honour of Judge Christopher Weeramantry* (Brill 1998) 49.

M Sornarajah, 'The Asian Perspective to International Law in the Age of Globalization' (2001) 5 *Singapore Journal of International and Comparative Law* 284.

B S Chimni, *International Law and World Order: A Critique of Contemporary Approaches* (Cambridge University Press 2017) Chapter 1 (Introduction).

Edward Dumbauld, 'The Place of Philosophy in International Law' (1935) 83 *University of Pennsylvania Law Review* 590.

Weeks 2 and 3

2. State jurisdiction, including immunity from jurisdiction specially of foreign state officials: sovereignty and equality of states; sovereignty and the application of the rules; sovereignty and jurisdiction; membership of international organizations; civil jurisdiction; bases of jurisdiction; criminal jurisdiction; nature of immunity; immunity from jurisdiction: meaning, basis, scope, exceptions; appraisal.

Required Readings

Chicago Convention on International Civil Aviation, 1944.

Vienna Convention on Diplomatic Relations, 1961.

Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, 1967.

United Nations Convention on the Law of the Sea, 1982.

United Nations Convention on Jurisdictional Immunities of States and their Property, 2005.

Belhaj v Straw; Rahmatullah (No. 1) v Ministry of Defence [2017] UKSC 3.

Republic of Italy and Ors. v Republic of India and Ors., Judgment of the Supreme Court of India, dated 18 January 2013.

Jurisdictional Immunities (Germany v Italy: Greece Intervening) [2012] ICJ Rep 99.

S Sucharitkul, 'Jurisdictional Immunities in Contemporary International Law from Asian Perspectives' (2005) 4 *Chinese Journal of International Law* 1.

Supplementary Readings

Chicago International Air Services Transit Agreement, 1944.

Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, 1979, Article 12.

International Law Commission, Immunity of State Officials from Foreign Criminal Jurisdiction, Report of ILC, 2015, A/70/10, Chapter X.

R A Kolodkin, Immunity of State Officials from Foreign Criminal Jurisdiction, Preliminary Report of the ILC Special Rapporteur, 2008, A/CN.4/601.

Rahmatullah (*No 2*) v *Ministry of Defence; Mohammed v Ministry of Defence* [2017] UKSC 1.

The Enrica Lexie Incident (Italy v India), PCA, 2016.

Regina v Bow Street Metropolitan Stipendiary Magistrate and Others, Ex parte Pinochet Ugarte (No. 3), [2000] 1 AC 147.

J. McIntyre Machinery Ltd. v Nicastro, Judgment of the U.S. Supreme Court, 564 U.S. (2011).

Jones v Ministry of Interior Al-Mamlaka Al-Arabiya AS Saudiya (the Kingdom of Saudi Arabia), House of Lords, Appellate Committee, 2006 UKHL.

Alexander Orakhelashvili, 'State jurisdiction in international Law: Complexities of a basic concept' in Alexander Orakhelashvili (ed), *Research Handbook on State Jurisdiction and Immunities in International Law* (Edward Elgar 2015) 1.

F A Mann, "The Doctrine of International Jurisdiction Revisited After Twenty Years" (1984) 184 *Hague Recueil* 9.

Further Readings

Convention on Offences and Certain other Acts Committed on Board Aircraft, 1962.

Protocol on Immunities and Privileges, Southern African Development Community, 1992.
UN General Assembly Resolution 59/38 of 16 December 2002.

The Enrica Lexie Incident (Italy v India), ITLOS 2015.

Bouzari v. Islamic Republic of Iran, 2004, CanLII 871 (Court of Appeal for Ontario).

Joined Cases 'wood pulp' 89/85, Judgment of the European Court of Justice, 27 September 1988,
http://eur-lex.europa.eu/resource.html?uri=cellar:5ed612ae-790c-4091-bf05-0a6d7cbd9142.0002.06/DOC_1&format=PDF.

Attorney-General of the Government of Israel v. Eichmann (1961) 36 ILR 5 District Court of Jerusalem.

The Case of the S.S. Lotus (1927), PCIJ Series A, No. 10.

The Schooner Exchange v McFaddon 7 Cranch 116 (1812) U.S. Supreme Court.

F A Mann, 'The Doctrine of Jurisdiction in International Law' (1964) 111 *Hague Recueil* 1.

Hazel Fox, *The Law of State Immunity* (Oxford University Press 2002) Part I.

Weeks 3 and 4

3. Extradition and death penalty: conventional and customary law; doctrines of double criminality, speciality and non-inquiry; human rights issues and humanitarian considerations; state practice: EU practice, US practice and the practice of the South Asian countries; appraisal.

Required Readings

UNGA Res 71/187: Moratorium on the Use of the Death Penalty, 2 February 2017.

UN Model Law on Extradition, 2004, Section 12.

International Covenant on Civil and Political Rights, 1966, Article 6.

Treaty of Extradition between the Government of India and the Government of Nepal, 1953.

Extradition Agreement between the Republic of India and the Kingdom of Bhutan, 1997.

India-U.S. Extradition Treaty, 1997.

Questions Relating to the Obligation to Prosecute or Extradite (Belgium v Senegal), ICJ Judgment, dated 20 July 2012.

John Dugard & Christine Van Den Wyngaert, *Reconciling Extradition with Human Rights* (1998) 92 AJIL 187.

Supplementary Readings

Optional Protocol to the International Covenant on Civil and Political Rights, 1966.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

Hague Convention against Unlawful Seizure of Aircraft, 1970.

Montreal Convention for Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971.

Rome Convention for Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988.

Convention against Terrorist Bombing, 1997.

Convention against Financing of Terrorism 1999.

The Constitution of Bhutan, 7–18.

The Constitution of Nepal, Article 16.

Judge v Canada, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

Abu Salem Abdul Qayyum Ansari v Central Bureau of Investigation & Anr., Judgment of the Supreme Court of India, dated 05 August 2013.

Soering v United Kingdom, 11 European Human Rights Reports 439 (1989).

Factor v Lubenheimer, 290 US 276 (1933).

Ved P Nanda, *Bases For Refusing International Extradition Requests: Capital Punishment And Torture* (2000) 23 Fordham International Law Journal 23.

Further Readings

United Nations Convention Against Corruption, 2005, Article 44.

Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States, 1995.

American Convention on Human Rights, 1969.

Arab Charter on Human Rights, 1994.

Extradition Treaty between the U.S. And Mexico, 1979, Article 8.

Protocol number 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Protocol number 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Mohammed Fakhar Al Zaman Lodhi v The Governor of Brixton Prison and Anr., Decision of the Royal Courts of Justice, 09 October 2002.

Regina v Bow Street Metropolitan Stipendiary Magistrate and Others, Ex parte Pinochet Ugarte (No. 3), [2000] 1 AC 147.

Minister of Justice v. Burns and Rafay, 22 March 2001, 2001 SCC 7.

Shankar Kisanrao Khade v State of Maharashtra, Judgment of the Supreme Court of India, dated 25 April 2013.

US v Saccoccia, 18 F3rd 795, 800 n.6 (9th Cir. 1994) 8.

J S Reeves, 'Extradition Treaties and the Death Penalty' (1924) 18 AJIL 298.

William A Schabas, 'International Law and the Death Penalty' (1994) 22 American Journal of Criminal Law 250.

Ravindra Pratap, *Daya Singh Latoria v Union of India and others*, *Oxford Reports on International Law in Domestic Courts* (2006), <http://ildc.oxfordlawreports.com>.

Weeks 5 and 6

4. Application and interpretation of treaties: Vienna Convention: conclusion; reservations: interpretative declaration, conditional interpretive declaration, reservations and declarations, including to key treaties concerning women and children, by the South Asian countries; entry into force; provisional application; suspension and termination: material breach and supervening impossibility, fundamental change of circumstances; meaning, nature and scope of "interpretation" in interpretation of treaties, general rule of interpretation and the supplementary means of interpretation, practice of treaty interpretation across representative treaty regimes; work of the International Law Commission; appraisal.

Required Readings

Vienna Convention on the Law of Treaties, 1969.

Convention on the Elimination of All Forms of Discrimination against Women, 1979, Articles 2, 7, 16, 29, Declarations and Reservations by the South Asian Countries, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&lang=en.

Convention on the Rights of the Child, 1989, Articles 14, 32, Declarations and Reservations by the South Asian Countries, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDec.

Asian Agricultural Products Ltd. v Republic of Sri Lanka, ICSID Case No. ARB/87/3, Final Award, dated 21 June 1990.

Duncan B Hollis, *The Oxford Guide to Treaties* (OUP 2012) Parts III (Treaty Application) and IV (Treaty Interpretation).

Supplementary Readings

ILC Report 2017 (Provisional Application of Treaties) 180.

ILC Guide to Practice on Reservations to Treaties, 2013.

Doha Declaration on TRIPS Agreement and Public Health, 2001.

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.

Pepper v Hart [1993] 1 All ER 43.

European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, Report of the Panel, WT/DS141/R, adopted 12 Mar. 2001, as modified by the AB Report (WT/DS141/AB/R).

Katherine del Mar, ‘Integrity versus Flexibility in the Application of Treaties’ in Christian J Tams et al (eds), *Research Handbook on the Law of Treaties* (Edward Elgar 2014)

Further Readings

The MV Saiga No. 2 (Saint Vincent and Grenadines v Guinea) ITLOS, Judgment, 1 July 1999.

The Island of Timor (Netherlands v Portugal), PCA (1914).

US v Kirby, 74 US 482 (1868).

Kenya’s Reservation to its Optional Clause Declaration under Article 36(2) of ICJ Statute.

G Nolte (ed), *Treaties and Subsequent Practice* (OUP 2013).

O Dörr and K Schmalenbach (eds), *Vienna Convention on the Law of Treaties: A Commentary* (Springer 2012).

M Fitzmaurice, O Elias and P Merkouris (eds), *Treaty Interpretation and the Vienna Convention on the Law of Treaties* (Brill 2010).

Richard Gardiner, *Treaty Interpretation* (OUP 2010).

Weeks 7 and 8

5. Legality of and justifications for the recent threats and uses of force: prohibition; UN Security Council authorizations and/or approvals; self-defence: necessity, “armed attack”, proportionality, imminence, anticipatory, non-state actors; “humanitarian intervention”, cyber attack, environmental harm; role of consent and invitation; recent cases: Iraq, Kosovo, Afghanistan, Gaza, Crimea, Syria: considerations, standards and operation of legality and legitimacy; appraisal.

Required Readings

UN Charter, Article 2(4) and Chapters VII and VIII.

United Nations Security Council Resolution 1373.

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

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.

Supplementary Readings

United Nations Security Council Resolution 1368.

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

UK Attorney General's Speech at International Institute for Strategic Studies, 'The modern law of self-defence', 11 January 2017, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/583171/170111_Imminence_Speech_.pdf.

US Legal Adviser's Lecture on 'The Emerging Law of 21st Century War' (2017) 66 Emory Law Journal 487.

Ian Brownlie, 'International Law and the Use of Force by States Revisited' (2002) 1 Chinese Journal of International Law 1.

Dapo Akande and Thomas Liefländer, 'Clarifying Necessity, Imminence and Proportionality in the Law of Self-defence' (2013) 107 AJIL 563.

Georges Abi-Saab, 'Some Prefatory Thoughts on 'Humanitarian Intervention'', in in Marcelo Kohen, Robert Kolb and Djacoba Liva Tehindrazanarivelo (eds), *Perspectives of International Law in the 21st century/Perspectives du droit international au 21e siècle Liber Amicorum Professor Christian Dominicé in Honour of his 80th Birthday* (Brill 2011) 365.

Further readings

United Nations General Assembly Resolution 2625.

United Nations General Assembly Resolution 3314.

United Nations Security Council Resolution 2249.

Armed Activities on the Territory of the Congo (Democratic Republic of Congo v Uganda) [2005] ICJ Rep 168.

The M/V "Saiga" (No. 2) Case (Saint Vincent and the Grenadines v Guinea), Judgment of the International Tribunal for the Law of the Sea, 1 July 1999.

The Caroline Case (1840) 29 BFSP 1137.

UN, *A more secure world: our shared responsibility* (2004).

Romana Sadurska, 'Threats of Force' (1988) 82 AJIL 239.

Mohamed S Helal, 'The Unknown Unknowns of Humanitarian War' (2017) 111 AJIL Unbound 297.

Yaroslav Radziwill, *Cyber-Attacks and the Exploitable Imperfections of International Law* (Brill 2015) Chapter 2 (Theoretical Framework).

Anne Peters, Christian Marxsen (eds), "Self-Defence Against Non-State Actors: Impulses from the Max Planck Dialogues on the Law of Peace and War", MPIL Research Paper No. 2017-07.

Weeks 9 and 10

6. Legal issues relating to international terrorism: definition problem; overview of the international conventions and protocols relating to the prevention and suppression of terrorism; duty of states and non-state actors, cyber terrorism; counter-terrorism: relevance of international humanitarian law, international human rights law, international refugee law; *jus cogens*; appraisal.

Required Readings

International Convention for the Suppression of Terrorist Bombings, 1997.

SAARC Regional Convention on Suppression of Terrorism, 1987.

Security Council Resolution 1373 (2001).

United States Diplomatic Staff in Tehran (United States of America v Islamic Republic of Iran) [1980] ICJ Rep 3.

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

International Convention for the Suppression of the Financing of Terrorism, 1999.

General Assembly Resolution 67/99 on Measures to Eliminate International Terrorism, 14 December 2012.

India-Sri Lanka Agreement of 29 June 1987.

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

Hamdi v Rumsfeld, 542 U.S. 507 (2004).

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.

Situation in the Islamic Republic of Afghanistan, Pre-Trial Chamber III, ICC-2/17, 20 November 2017.

Alan Greene, 'Defining Terrorism: One Size Fits All' (2017) 66 ICLQ 411.

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.

Further Readings

Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, 1977.

International Convention for the Suppression of Acts of Nuclear Terrorism, New York, 2005.

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971.

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988.

Convention for the Suppression of Unlawful Seizure of Aircraft, 1970.

Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963.

Security Council Resolution 1368 (2001)

R v Secretary of State for the Home Department [2002] EWHC Admin 644.

S D Murphy, "Terrorism and the Concept of 'Armed Attack' in Article 51 of the UN Charter" (2002) 43 *Harvard International Law Journal* 41.

R Perera, 'Suppression of Terrorism: Regional Approaches to Meet the Challenges', 16 *Sri Lanka Journal of International Law* (2004), 19-26.

Suyra P Subedi, 'The war on terror and UN attempts to adopt a comprehensive convention on international terrorism' in Paul Eden and Therese O' Donnell (eds), *September 11, 2001: A Turning Point in International and Domestic Law* (Transnational 2005) 207.

Antony Anghie, *Imperialism, Sovereignty and the making of International Law* (Cambridge 2004) Chapter 6 (On making war on the terrorist: imperialism as self-defence).

Javid Rehman, 'Islam, Terrorism and International Law' in B Saul (ed), *Research Handbook on International Law and Terrorism* (Edward Elgar 2015) Chapter 11.

Weeks 11 and 12

7. Water-sharing and water resource management issues involving the South Asian Countries: customary law, treaty law, role of equity, no harm, data sharing; appraisal.

Required Readings

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.

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

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

Supplementary Readings

UN Watercourses Convention, 1997.

Case Concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay), International Court of Justice, <http://www.icj-cij.org/docket/files/135/15877.pdf>.

Baglihar Hydroelectric Dam, Expert Determination, Executive Summary, 12 February 2007 (Lausanne, 2007).

ILC, Report of the International Law Commission on the work of its 68th session (2 May–10 June and 4 July–12 August 2016) UN Doc. A/71/10.

Surya P Subedi, 'Hydro-Diplomacy in South Asia: The Conclusion of the Mahakali and Ganges River Treaties' (1999) 93 AJIL 953.

J S Bains, 'Diversion of International Rivers' (1960) 1 Indian Journal of International Law 38.

Further Readings

India-Nepal Agreement (revised in 1996) on the Kosi River Project, 1954.

Gandak River Treaty between India and Nepal (amended 1964), 1959.

The Diversion of Water from the Meuse (The Netherlands v Belgium) [1937] PCIJ Series A/B, No. 70.

The Law of the Non-navigational Uses of International Watercourses, Third Report on the law of non-navigational uses of international watercourses by Mr Stephen M Schwebel, Special Rapporteur, A/CN.4/348 and Corr.1, *Yearbook of the International Law Commission* 1982, vol. II (1).

World Bank (2010). *Sustaining Water for All in a Changing Climate*, World Bank Group Implementation Progress Report. Washington D. C.: World Bank.

World Commission on Water for the Twenty-First Century, Commission Report (2000). *Water Secure World: Vision for Water, Life, and the Environment*, 30. Cairo: World Water Council.

Surya P Subedi, 'The Legal Regime Concerning the Utilization of the Water Resources of the River Ganges Basin', 46 German Yearbook of International Law (2004), pp.452-493.

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.

Weeks 13 and 14

8. Boundaries and the fishermen issue involving South Asian countries: historical developments, international arrangements, bilateral treaties; principle of *uti possidetis juris*; role of equity; appraisal.

Required Readings

Agreement on Trade and Intercourse between the Tibet Region of China and India, 1954 (for the *Panchsheel* Principles).

Vienna Convention on the Law of Treaties, 1969.

India-Bhutan Friendship Treaty, 2007.

Agreement on the Establishment of a Working Mechanism for Consultation and Coordination on India-China Border Affairs, 2012.

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.

The Bay of Bengal Maritime Boundary Arbitration between the People's Republic of Bangladesh and The Republic of India (Bangladesh v India), Award of the Arbitral Tribunal, Permanent Court of Arbitration, dated 07 July 2014

Supplementary Readings

Convention between Great Britain and China relating to Sikkim and Tibet, 1890.

Treaty of Kabul, 1921.

Indian Independence (International Arrangements) Order, 14 August 1947.

Treaty of Perpetual Peace and Friendship between the Government of India and the Government of Bhutan, 1949.

India-Sikkim Treaty, 1950.

Agreed Minutes Regarding the Implementation of the Award of the Tribunal in the Indo-Pakistan Western Boundary Case (1970) 10 Indian Journal of International Law 242.

Agreement between India and Sri Lanka on the Boundary in Historic Waters between the Two Countries and Related Matters, 1974.

The Constitution (Thirty-Sixth Amendment) Act, 1975.

Burkina Faso v Niger [2013] ICJ Rep 44.

Island of Palmas (Netherlands v United States) [1928] 2 RIAA 898.

K Krishna Rao, 'The Sino-Indian Boundary Question and International Law' (1962) 11 ICLQ 375.

Harnam Singh, 'Kachchativu Question' (1968) 8 IJIL 4.

Rahmatullah Khan, 'The Kashmir Problem: Its Handling in the United Nations' (1969) 11 Journal of the Indian Law Institute 273.

Ijaz Hussain, 'The Durand Agreement in the Light of Certain Recent International Conventions' (1985) 18 Law and Politics in Africa, Asia and Latin America 255.

Further Readings

Agreement between the Government of the People's Republic of China and the Government of the Kingdom of Bhutan on the Maintenance of Peace and Tranquility Along the Sino-Bhutanese Border Areas, 1998.

Agreement of the Central People's Government and the Local Government of Tibet on Measures for the Peaceful Liberation of Tibet, 1951.

Convention between Great Britain and Thibet (Treaty of Lahsa), 1904.

Convention between the United Kingdom and China Respecting Tibet, 1906.

Agreement between the Government of the Republic of India and the Government of the People's Republic of Bangladesh Concerning the Demarcation of the Land Boundary Between India and Bangladesh and Related Matters, 1974.

The Durand Line Agreement (1893).

S P Jagota, "Maritime Boundary" (1981) 257 Hague *Recueil* 81.

Prescott and C Schofield, *The Maritime Political Boundaries of the World* (Martinus Nijhoff, 2005).

D A Colson and R W Smith, eds., *International Maritime Boundaries* (Martinus Nijhoff, 2011) vol vi.

Thomas Cottier, *Equitable Principles of Maritime Boundary Delimitation: The Quest for Distributive Justice in International Law* (Cambridge 2015).

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.

M N Shaw, 'Peoples, Territorialism and Boundaries' (1997) 8 EJIL 478.

Ravindra Pratap, 'India-Bangladesh Maritime Boundary Award' (2015) *LAWASIA Journal* 1.

Teaching Method

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

Assessment Method

There will be written examinations and a case study/written assignment/term paper.