

**MSc International Relations & MSc International  
Relations Theory, 2012-13**

**IR464: The Politics of International  
Law**

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**Room CLM 5.08**  
(Secretary: Uzma Lone, Room CLM 6.08)

**Seminars:**  
Tuesday, 10:00am – 12:00pm  
Wednesday, 10:00am – 12:00pm

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## **Introduction**

The course provides an introduction to the politics of the creation and implementation of international law, and examines how law relates to state power in international relations. The course focuses on the areas of international law most relevant to International Political Theory: human rights, the use of force and international crime, and examines the increasing legalization of international politics, the tensions between international politics and international law, alternatives to international law and the resurgence of sovereignty. The development of international criminal law is examined in some detail, in particular the use of war crimes trials and the International Criminal Court to bring 'peace and justice' to the international system. It is highly recommended, though not required, that students take course IR462 Introduction to International Political Theory prior to taking IR464.

## **Aims and Objectives**

The aims of this course are: to provide intellectual challenge to academically able graduate students by engaging with difficult and demanding material at the cutting edge of contemporary international political and international legal theory; to explore the relationship between law and politics at the international level; to examine the effect of changes in international law on international relations; to provide a basis for research at the doctoral level, or for careers in fields (including work in international law, government, international organisations, business and the media) which require articulate, clear thinking individuals with a grasp of contemporary issues in international politics and international law; and to provide a framework to assist concerned citizens to think about issues which will be of increasing importance in the 21<sup>st</sup> century.

The objectives of the course are: to promote a critical engagement with a wide range of literature in contemporary international political theory and international legal theory; and to display this engagement via the development of a succinct writing style and the ability to present complex arguments orally.

## **Teaching Methods**

Teaching will be via a series of 2 hour seminars commencing in the first week of Lent Term at which students will be expected to participate in discussions of the relevant literature. The programme of seminars is set out below. There are no lectures for this course.

Students will be required to present brief introductions to the seminars, setting out an agenda for discussion and summarising the key issues thrown up by the literature. Feedback will be provided, in the seminars and/or privately, on both content and presentational ability. In addition, three people in each seminar will be asked to make notes on one each of three key pieces of reading every week. The schedule for these reading summaries will be worked out by your seminar teacher.

### ***Presentations:***

- 25 minutes (maximum) long in total
- 2 students per seminar
- Handout (maximum length two sides of A4), showing skeleton structure of presentation, to be saved to Moodle by 6pm on the day before the seminar. Please print out and bring along handouts for everyone if 6pm deadline is missed.
  - Presenters should co-ordinate before the seminar to agree who will cover which aspects of the topic. The best presentations are usually those which the presenters work on jointly. *NB seminar teacher will formatively assess content for the presentation as a whole, but will give feedback to each student separately on presentation skills.*
  - Presentations should set out the material of the topic under discussion in particular by reference to the seminar questions which are listed immediately under the topic headings below. Presenters should focus on making well substantiated arguments.
  - We encourage the use of PowerPoint or similar software to make presentations in seminar, as it allows for an interesting mix of text, pictures and even film clips if you're particularly ambitious.

Presentations should include:

- Context of the topic – its location within the wider debate
- Main arguments found in the readings
- Analysis and critique of those arguments

### ***Reading in General & Reading Summaries:***

Everyone is expected to read for each seminar. Try to read the majority of the references marked with an asterisk\* each week along with any of the other reading that you find useful or interesting. You do not have to read all pieces listed under each topic but you should read widely – some pieces in detail and some just skimmed – until you feel you have a grasp of the subject. Presenters should try to read all of the asterisked reading and a good range of the other reading. Full details of the works mentioned in the seminar programme are provided in the separate Bibliography, available via Moodle. Where a chapter reference for a book is given, it is likely that the rest of the book will also be useful – don't feel you have to stop at the end of the chapter if you're gripped by the argument!

*Reading Summaries:* Each week, three people will be asked to make notes on one each of three key pieces prior to the seminar. These *reading summaries* should have a bullet point format, and include:

- Title, author and details of book or journal the piece is taken from, including publication date.
- Context – location of the piece in the wider debate (e.g. aims of the author in the piece, whether it is a response to another author).
- Main arguments put forward by the author.

The suggested maximum length for each summary is two A4 sheets. Summaries should be saved to Moodle by 6pm on the day before the seminar. The aim of these

summaries is to give you practice in condensing the main arguments in academic writing into note form, and to provide *aide memoirs* of the key pieces to assist in exam revision. Reading summary authors will be asked to comment on the summaries in the seminars, in particular with regard to the seminar questions.

## Modes of Assessment

*'Formative Assessment'*: Students will be expected to contribute to seminar discussions and to lead at least one seminar. A conventional essay of c. 2,000-2,500 words on a question taken from the IR464 sample or past examination papers or on a question agreed in advance by your seminar leader is required. This essay should be handed to your seminar teacher in the **Week 6 seminar** (3<sup>rd</sup> full week of February). Your essay should also be submitted in electronic copy to Moodle.

*'Summative Assessment'*: this will be by an unseen two-hour examination (50%) and an 'assessed essay' of 4,000 words (50%).

- The exam paper will contain 8 questions, of which students will be required to answer 2. Revision sessions will be provided at the beginning of the Summer Term. Sample and past examination papers are provided below.
- The assessed essay on a choice of topics provided in the middle of the Lent Term will be due by 5pm on the first day of the second week of the Summer term (i.e. 6<sup>th</sup> May 2013). Rules for the Assessed Essay are available as Appendix 2 below.

## Course Literature:

There is no core text for IR464, but the following books will be fairly widely used, and the Economist's Bookshop has been asked to stock them:

- D. Armstrong, *International Law & International Relations* (Cambridge, 2007)  
G. Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton UP, 2000)  
M. Byers, *The Role of Law in International Politics* (Oxford UP, 2001)  
A. Cassese, *International Law* (Oxford UP, 2004)  
A. Cassese, *International Criminal Law* (Oxford UP, 2008)  
H. Charlesworth & C. Chinkin, *The Boundaries of International Law* (Manchester UP, 2000)  
M. Evans, *International Law* (Oxford UP, 2006)  
R. Kerr, R & E. Mobekk, *Peace & Justice: Seeking Accountability After War* (Polity, 2007)  
M. Koskeniemi, *The Politics of International Law* (Hart, 2011)  
J. Laughland, *A History of Political Trials* (Peter Lang Ltd, 2008)  
J. Maogoto, *War Crimes and Realpolitik: International Justice from World War I to the 21st Century* (Lynn Rienner, 2004)  
D. McGoldrick, *From 9-11 to the Iraq War 2003: International Law in an Age of Complexity* (Hart Publishing, 2004)  
C. Reus-Smit (ed.), *The Politics of International Law* (Cambridge UP, 2004)  
G. Robertson, *Crimes Against Humanity: The Struggle for Global Justice* (Penguin, 2006)  
G. Simpson, *Law, War & Crime* (Polity, 2007)

Students will be expected to read widely and a detailed list of references is provided in the Bibliography (available on Moodle); alternative readings can be found by using the on-line catalogue of the BLPES.

*It is not intended that students should read all the references listed under each Seminar topic below (!); key works are marked with an asterisk\* and are in the Course Collection. Again, full details of the works mentioned in the seminar programme are provided in the separate Bibliography, available via Moodle.*

## **Moodle**

Moodle is the web-based location for IR464 course materials. It also provides additional teacher-to-student and student-to-student communication. The IR464 site is shared with IR306, IR462 and IR463, and can be accessed via the 'Welcome to LSE Moodle' [Quick Link](#) on the '[Current Students](#)' page of the LSE website. Students need to self-register onto the course via the link on the Moodle homepage to gain access to the site. Further guidance will be given as necessary in the first seminar. Help in using the system is also available online, plus the Teaching and Learning Centre runs tutorials which students are encouraged to make use of.

The Moodle site is based on a shared, easy-to-navigate front page, through which all course materials for IR464, arranged by topic, can be accessed. Some material is shared between the courses, including a shared general bibliography, web links and feeds, and news of upcoming events of interest. Material specific to a particular course is clearly marked with the relevant course number. This includes reading lists, discussion groups, space for class presentations and other work, and past exam papers. The readings for each week are outlined and linked where possible. E-pack links are scanned readings that are not otherwise available online.

Notices about the course will be posted on Moodle rather than emailed to students, so check the site regularly. Seminar discussion areas are intended to be used by students as a more informal space in which to consider the issues covered by the course. They will not be moderated by seminar teachers and students should ensure that their posts are appropriate. Other resources may become available as the Moodle area is developed through the academic year and your feedback on the site is welcomed. Please direct questions or feedback to Joe at [j.hoover@lse.ac.uk](mailto:j.hoover@lse.ac.uk).

## **Office Hours:**

**Joe:** Mondays 2pm-4pm in Room CLM 5.08. Sign up on LSEforYOU. If you need to schedule an alternative time or have a longer discussion, please e-mail Joe on [j.hoover@lse.ac.uk](mailto:j.hoover@lse.ac.uk).

## Seminar Programme

### ***1. The Law of Power: Law, Power and Interest in World Politics***

Some of this session will be taken up with course organisation, but we will also cover substantive issues, so students should read for this seminar as they would for any other. Questions to be discussed: What role does international law play in international relations? To what extent are states constrained by it? Are states primarily concerned with power rather than law?

#### **Reading:**

For wide-ranging, basic introductions to international law see *Armstrong* (2007) esp. Part 1, *Byers* (2000), *Rochester* (2006) esp. Part 1, and (though very basic) *Scott* (2004). Chapter 3 of *Armstrong* (2007)\* looks at international law through the lenses of realism, liberalism and constructivism. *Evans* (2006) is a comprehensive collection on international law – see Part One for this seminar. For an outstanding and substantial history see *Koskenniemi* (2001), and for a difficult but rewarding critical approach to international law, see *Koskenniemi* (2005). An easier introduction to Koskenniemi's thought can be found in *Koskenniemi* (1990)\* and its update *Koskenniemi* (2009)\*.

On international law and power, *Morgenthau* (1940) is a classic realist statement. *Onuf* (1979)\* looks at the role of law in ordering state relations. *Goldsmith and Posner* (2005)\* is the most important recent argument that international law is simply a tool of state interests. For comment on Goldsmith and Posner, and response by them, see the *Symposium* in the *Georgia Journal of International Law* (2006), especially *Anderson* (2006). Also useful are the collection of articles from *The National Interest* by *Woolsey* (2003) and *Byers* (1999) Chapter 3. *Simpson* (2004) challenges the notion of sovereign equality under international law and *Anghie* (2004) argues that colonialism was central to the establishment of international law, and such law cannot be understood now without acknowledging its inherent imperialism. *Anghie and Chimini* (2003) set out Third World approaches to international law and international power.

Various important theorists in IR and international law have written in the last decade or so on the relationship between the two disciplines: *Krasner* (2000); *Keohane* (1997); *Slaughter et al* (1998). The inaugural issue of the *Journal of International Law and International Relations* Vol 1 (2005) contains excellent pieces on Theory – see those by Klabbers and Simpson in particular.

## ***2. The Power of Law: a Progressive Politics?***

How does law impact on international politics? Does law change international norms – or the ‘rules of the game’ – and, through this, change state behaviour? Can we see a ‘global constitution’ emerging?

### **Reading:**

On what it means to talk about law as political (here in the context of war crimes trials) see Simpson (2007)\* chapter 1. On the increasing legalization of world politics, see Goldstein et al (2000)\*, Abbott et al (2000) and Finnemore & Toope (2001). On why such legalization might not be such a progressive idea, see Posner (2009). On whether or not international law is legitimate, see Besson & Tasiolous (2010) chapters 3 and 4. On the detail of who makes international law and how they do so, see Boyle and Chinkin (2007).

‘English School’ scholars were among the first to take law seriously in IR. Chapter 6 of Bull (1977)\* is the classic English School statement on the role of international law in international society, and Wilson (2009) is a comprehensive and clear introduction to English School thought on international law. Allot (1999) gives a lawyer’s view. Onuf (1994) looks at the constitution of international society. Kouvo & Pearson (2011) offer feminist assessments of the progressive potential of international law.

Reus-Smit (2004)\* especially chapter 2 and Reus-Smit (2003) offer constructivist perspectives on international law. On the role of norms in IR, see Kratochwil’s chapter in Byers (2000) and Legro (1997).

Franck (1999) examines the emancipation of the individual in international law – Koskenniemi (2002-03) comments on Franck’s work. Allott (2004) and Slaughter (2004) see sovereign states as increasingly irrelevant in today’s international system and Cohen (2004) examines the impact of globalization on international law. Alvarez (2005) looks at the role of international organisations in making law. Teitel (2011) looks at the rise of a the discourse of humanity in the development of international law.

## ***3. International Law and the Use of Force***

What are the principal laws limiting the use of force (*jus ad bellum* and *jus in bello*)? How did these two bodies of law develop and to what extent do they constrain states? If states are constrained, is this desirable?

### **Reading:**

Chapter 4 of Armstrong (2007) and Chapters 20 and 26 of Evans (2006)\* are good introductions to this week’s topic. Other good short pieces are Chapter 5 of Robertson (2006)\*, Chapters 14 and 15 of Cassese (2004) and Chapter 5 of Woolsey (2003). The three most important substantial works in this area are Gray (2008)\* for an excellent, up to date and comprehensive analysis, Best (1994)\* for a rich study of the development of legal restraint on war and Kennedy (2006)\* for a powerful critique of the legalisation of war. See Chapter 8 of Charlesworth & Chinkin (2000) for a feminist analysis of the use of force in international law and Chapter 6 of Caney

(2005) for a theoretical examination of the principles of the just use of force. *Bellamy* (2006) and *Arend & Beck* (1993) are also very useful, and *af Jochnick & Normand* (1994) provides an article length critical history of the law of war. *Glennon* (2010) argues that states obey international law on the use of force for reasons of pragmatism (rather than consent or some notion of natural law). *Osiel* (2009) is a powerful argument in favour of obeying international humanitarian law even when the other side does not reciprocate, with particular focus on the War on Terror.

The single most important change in the justification of the use of force in the international arena has been brought about by the (still controversial) Responsibility to Protect process – read the report itself *The International Commission on Intervention and State Sovereignty* report (2002) at <http://www.iciss.ca/pdf/Commission-Report.pdf> and the *UN World Summit report* (2005) at <http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement> for the watered-down eventual agreement (p. 30). See at *Evans* (2008), *Bellamy* (2008) and *de Waal* (2007) for recent commentary, though the literature on this topic is ever growing.

Useful web sources for IHL include: The ICRC <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/genevaconventions> and [http://www.icrc.org/web/eng/siteeng0.nsf/iwpList2/Info\\_resources:IHL\\_databases;](http://www.icrc.org/web/eng/siteeng0.nsf/iwpList2/Info_resources:IHL_databases;) Amnesty International <http://www.amnesty.org/> and Human Rights Watch <http://www.hrw.org/>.

On the International Court of Justice, the principal judicial organ of the UN and the source of much major IHL case-law, see *Meyer* (2002) or the website of the Court at <http://www.icj-cij.org/homepage/index.php?lang=en>

#### ***4. International Law and the Use of Force cases: Kosovo 1999 & Iraq 2003***

Case studies of the seeming inability of the international community to constrain NATO, the US and its allies in their use of force. Do these cases render international law useless in this area? Should we be concerned that the military action taken in each case was ‘not unambiguously legal’? Could the use of force be illegal but ethical?

#### **Reading:**

*Gray* (2008) and *Kennedy* (2006) include discussion on both cases. The best sources on the legal side on Kosovo are *American Journal of International Law* (1999b)\*, *Simma* (1999) and *Cassese* (1999). The *Report of the Independent Commission on Kosovo* (2000) is valuable, likewise *Ignatieff* (2000) and *Judah* (2000). *Roberts* (1993) introduced the term ‘humanitarian war’. On the war itself the best single item is *Freedman* (2000)\* closely followed by the appropriately titled *Daalder & O’Hanlon* (2000). The *International Affairs* Special Issue ‘The War over Kosovo: 10 Years On’ is an essential collection. *Booth* (2000) is also a useful collection (*Brown* (2000) in *Booth* is available on Moodle). *Ethics and International Affairs* (2000) has a useful forum ‘Military Means, Moral Ends: the Legacy of Kosovo’. *Chomsky* (1999) is a root-and-branch critique of NATO’s actions. *Blair* (1999) sets out the British Government’s understanding of the issues. *Habermas* (1999) pretty much agrees.

Useful references from various points of view include: *Roberts* (1999), *Prospect* (1999) debate on 'Is Military Intervention over Kosovo Justified?' – see arguments by Michael Ignatieff and Robert Skidelsky, *Seaton* (1999), *Weller* (1999a), *Mandelbaum* (1999).

On the effect of Iraq on international law, see *McGoldrick* (2004)\* and *Thakur & Singh Sudhu* (2006)\* – Part V is particularly relevant. *Sands* (2005) is a powerful argument that the US and its coalition partners fundamentally undermined international law by invading Iraq. *Robertson* (2006) Chapter 13 is a short and characteristically opinionated summary. *Lang* (2007)\* uses Iraq to show the drawbacks of a rule-governed international order. *Packer* (2005) is widely regarded as the best all-round book on the invasion and aftermath. On the conduct of the war see *Gordon & Trainor* (2006). *Hitchens* (2003) is as good a defence of the war as you are likely to read, along with *Cushman* (2005). *Teson* (2005a & b) and *Nardin* (2005) debate whether Iraq 2003 was a humanitarian intervention and could be justified in the same way as the Kosovo campaign. The *Dissent Magazine* panel discussion on Iraq (2007) includes statements by Michael Walzer and Jean Bethke Elshtain.

### **5. War Crimes Trials (1): Nuremberg, Tokyo and Eichmann**

The theory and history of war crimes trials – what/ whose purpose do they serve? Do they achieve only 'victors' justice'? How have the first such trials influenced future attempts to hold war criminals accountable?

#### **Reading:**

There are some outstanding recent books on the origins and politics of war crimes trials – for example, *Simpson* (2007)\*, *Laughland* (2008)\*, *Bass* (2002)\* esp. Chapter 5, *Maogoto* (2004) esp. Chapter 3, *Robertson* (2006) Chapter 6 and *Beigbeder* (1999). *Shklar* (1964/ 1986) is a classic text on political trials, and *Levinson* (1973) a classic text on responsibility for war crimes. Chapter 1 in *Kerr & Mobekk* (2007) and Chapter 1 in *McGoldrick et al* (2004) are good introductions to the topic. *McCormack & Simpson* (1997) offers theoretical and historical insight on international criminal law. *Cassese* (2008) is a comprehensive text on international criminal law and will be useful for seminars 6 and 7 as well as this one. *Tallgren* (2002) questions the purpose of international criminal law and *May* (2005) is a powerful philosophical reflection on international criminal law and contemporary conceptions of justice within it. *Megret* (2002) reviews six books on the politics of international criminal justice, including Bass, Beigbeder and Robertson. *Ainley* (2008) and *Hoover* (2012) both critique the view that to alleviate harm in international relations we just need to prosecute the 'evil individuals' who commit atrocities.

On Nuremberg, *Smith* (1981) and *Taylor* (1993)\* are highly readable accounts. On Tokyo, see *Totani* (2008)\* and *Futamura* (2008). On the Eichmann trial, the must-read account is that of *Arendt* (2006)\*. See *Luban* (2011) for commentary on Arendt's contemporary relevance. *Smith* (2010) contains a useful account of the development of the Genocide Convention, and European attitudes to genocide prevention and prosecution more broadly.

## **6. War Crimes Trials (2): ICTY, ICTR, Saddam Hussein & Charles Taylor**

Are these recent war crimes trials the most appropriate way to confront the problems of international violence or are they a low-domestic-cost way for states to support calls that ‘something must be done’? Has the problem of ‘victors’ justice’ now been overcome?

### **Reading:**

Many of the books listed for seminar 6 are relevant to this seminar too: *Simpson* (2007)\*, *Laughland* (2008)\* esp. Chapter 16-18, *Bass* (2002)\* esp. Chapter 6-8, *Maogoto* (2004) esp. Chapter 5 & 6, *Robertson* (2006) Chapter 9 and *Beigbeder* (1999). *Moghalu* (2008)\* takes an English School perspective. *Rudolph* (2001)\* is an outstanding piece on the politics of prosecuting war crimes. *Drumbl* (2007) and *Osiel* (2009) are rigorous and detailed attempts to think through how international law should deal with atrocity crimes. The *International Criminal Law Review* (2011) Special Issue on Gender and International Criminal Justice contains some interesting and important contributions.

On Pinochet, a landmark attempt to extradite a former head of state for serious human rights violations, the best source is *Weller* (1999), *Power* (2007) tells a more depressing story and *Robertson* (2006) provides a summary of the legal importance of the case. *Kerr & Mobekk* (2007) Chapters 2 and 4 cover the ICTY, the ICTR and the ‘internationalized’ courts in Sierra Leone, Kosovo, Timor-Leste and Cambodia. *Lutz & Reiger* (2009) includes chapters on all recent prosecutions of political leaders. The *International Centre for Transitional Justice Report* (2007) on Negotiating Peace in Sierra Leone and *Wigglesworth* (2008) are good on Sierra Leone, The *International Centre for Transitional Justice Report* (2007) on Negotiating Peace in Liberia includes more detail on the Special Court for Sierra Leone’s indictment of Charles Taylor, and *Okon* (2008) considers challenges to international criminal prosecutions in Africa. *deGuzman* (2008) is a review essay on justice in Cambodia. The Cornell International Law Review (2005)\* symposium on ‘Milosevic and Hussein on trial’ is full of excellent pieces, covering the wider debate between local and global justice as well as the two named trials: see pieces by Robertson and Rabkin in particular.

## **7. The International Criminal Court**

The development of the Court, its relationship to the UN Security Council and the challenges the Court faces in the first cases it is trying. How successful is such a court likely to be? Can it achieve both peace and justice or must trade-offs be made?

### **Reading:**

*Schabas* (2007)\*, *McGoldrick et al* (2004) and *Roach* (2006) are book length studies of the Court. *Ainley* (2011) assesses the Court after its first decade in operation. Chapter length pieces can be found in *Reus-Smit* (2004) Chapter 7, *Robertson* (2006) Chapter 10, *Moghalu* (2008)\* Chapter 6, *Kerr & Mobekk* (2007) Chapter 3 and *Maogoto* (2004) Part 3. *The American Journal of International Law* (1999a)\* is the best collection of papers on the formation of the Court: see papers by Kirsch & Homes, Scheffer and Arsanjani in particular. *Cassese* (1999) gives the view of the ICC from the former President of the ICTY. *Megret* (2001) and *Smith* (2002) are more theoretical appraisals of the Court. *Sagan* (2010) looks at the implications of the

Court's focus on African situations. *Roach* (2005) examines the ICC as a cosmopolitan project. The official website of the ICC is at <http://www.icc-cpi.int/home.html&l=en>. All relevant documents can be found on the website of the Rome Statute: <http://www.un.org/law/icc/>. The most broad-ranging internet resource on the ICC is [www.iccnw.org](http://www.iccnw.org) (a website run by the Coalition for the ICC, a group of NGOs). On the US critique of the ICC, see *Ralph* (2004), (2005) and (2007)\*, *Fairlie* (2011), *Sewall & Kaysen* (2000), *Franck & Yuhan* (2002-03) and *Kahn* (2003).

*Waddell & Clark* eds. (2008) on the ICC in Africa, *Clark* (2009) on the Great Lakes region, *Coleman* (2008) on the DRC, *Allen* (2006), *Branch* (2007) and *Ssenyonjo* (2007) on Uganda, and *Rodman* (2008), *de Waal and Stanton* (2009) and *Peskin* (2009) on Darfur offer commentaries on the difficulties the ICC has faced in its first major cases.

## **8. International Law and Human Rights**

The development of law to protect human rights is regarded by many as a key achievement of the international community, and the best way to prevent the kinds of atrocity that are prosecuted in war crimes trials. But does this law actually protect such rights? What are the politics of human rights protection? Which states' HR records are overlooked and why?

### **Reading:**

Chapter length pieces on international law and human rights include *Evans* (2006)\* Chapter 25, *Armstrong* (2007) Chapter 5, *Byers* (2000) Chapter 7, *Cassese* (2004) Chapter 16, *Robertson* (2006)\* Chapters 1-4, *Charlesworth & Chinkin* (2000)\* Chapter 7 and *Besson & Tasioulas* (2010) Chapter 16. *Koskeniemi* (2011) Part III is challenging and important. *Goldsmith & Posner* (2005)\* Chapter 4 offers a realist view. *Franck* (1999) Chapter 8 documents the individual as an emerging rights-holder and *Moravcsik* (2000) studies how human rights regimes emerge. *Kennedy* (2004) Chapter 1 and *Woolsey* (2003) Part 4 critique the human rights movement. *Dunne* (2006) argues that the international human rights regime is suffering a crisis of legitimacy post 2001. *Williams* (2010), esp. 5, provides a critique of the international human rights regime.

*Goldhaber* (2007) is an excellent history of the European Court of Human Rights – see also *Wildhaber* (2007) and *Krisch* (2008). *Lutz & Sikkink* (2000) document the effect of international human rights law on human rights practice in Latin America. *Goodale & Merry* (2007) provide a number of case studies of how human rights are put to use in practice.

*Steiner, Alston & Goodman* (2007) contains a great deal of commentary on human rights law along with links to an Online Resource Centre with the texts of all the major HR documents, and most of the minor ones. See also <http://www2.ohchr.org/english/law/index.htm#instruments> for links to HR instruments. *Dunne & Wheeler* (1999) is a recent wide-ranging collection, covering theory as well as practice. *Donnelly* (2007)\* and *Haas* (2008) are excellent on the theory and history of human rights. *Moyn* (2010) and *Hoover* (2013) both take critical account of the history of human rights, challenging the idea that human rights have developed in a smooth or continuous manner. *Terlingen* (2007) and *Lauren* (2007)

offer good commentary on the recent establishment of the Human Rights Council to replace the highly criticised Commission. The Human Rights Quarterly and International Journal of Human Rights are useful and reliable sources of reading material on all human rights issues.

### ***9. Alternatives to International Criminal Law***

TRCs; Amnesties; Restoration; Retribution; Political Action. Are these viable alternatives to international legal proceedings? Under what circumstances? Do TRCs really provide any truth or justice to societies in transition? Is it ever justifiable to grant amnesties for gross HR violations?

#### **Reading:**

*Nino* (1996)\* esp. Chapter 3, *Roht-Arriaza & Mariezcurrena* (2006) esp. Introduction and *Brito et al* (2001) esp. Introduction look at the politics of transitional justice methods and *Snyder and Vinjamuri*\* (2003-2004) approaches the subject of this seminar with a strong IR perspective. *Robertson* (2006) offers his views in Chapter 7. *Robinson* (2003) looks at the possibilities the Rome Statute offers for deferring to alternative methods of justice. *Sriram* (2006) discusses post-conflict justice in the context of IR theory.

Several texts outline the various alternatives available to countries dealing with past human rights abuses, including *Calhoun* (2004), *Kritz* (1995; 1996), *Brito* (1997) and *Aguilar et al.*\* (2001). For materials on case studies, *Elster*\* (2006) is a particularly good collection.

*Hayner* (1994) is a classic reading on truth commissions, material expanded in *Hayner* (2002). *Freeman* (2009) examines amnesties. Critiques of TCs and other accountability mechanisms can be found in *Mamdani* (2000), *Mertus* (2000), *Lanegran* (2005), *Chapman and Ball* (2001), *Daly* (2008), *Andrews* (2003), *Humphrey* (2002), and *Hamber & Wilson* (2003). *Olsen* (2010)\* is a particularly good new empirical study of transitional justice processes. *Williams* (2010), esp. chapter 4, and *Meister* (2011) both consider the limitations of truth commissions as forms of justice.

Human Rights Quarterly, the Journal of International Affairs, Ethics and International Affairs, the Third World Quarterly and The International Journal for Transitional Justice are reliable sources of reading material on these issues. Amnesty International <http://www.amnesty.org> and Human Rights Watch [www.hrw.org](http://www.hrw.org) offer up-to-date material on transitional justice mechanisms. The International Center for Transitional Justice website (<http://www.ictj.org/en/>) provides both background on TJ and analysis of current TJ processes.

## ***10. The Resurgence of Sovereignty and the Future of International Law***

Has international law become marginalised post-9/11? Is New Sovereignism a reasonable response to the encroachment of irresponsible, ill-defined and ill-enforced international law? How are the politics and practices of international law likely to change in the next decade?

### **Reading:**

The 'War on Terror' has produced challenges to conventional understandings of international law: see *Evangelista* (2008)\*, *Greenwood* (2002), *Greenberg* (2005) & (2006), and *Rivkin & Casey* (2007). *McGoldrick* (2004)\* looks at the effects of 9/11 and Iraq on international law, and at the US and international law more broadly. *Thakur & Singh Sidhu* (2006) contains many useful pieces on the effects of US power on international law and international order, in light of the invasion of Iraq, and *Falk* (2007) looks at the costs of the Iraq war for international law, the UN and world order. *Rivkin & Casey* (2003) document the post 9/11 split in European and American attitudes to international law and *Verdirame* (2007) is a detailed review piece on the divisions between American and European lawyers. *Robertson* (2006) Chapter 12 is a good post 9/11 summary. *Mansell* (2004) examines American exceptionalism post 9/11 and the pieces in *Ignatieff* (2005)\* esp. Chapters 6, 7, 10 and 11 look at American exceptionalism more broadly.

See *Spiro* (2000), *Helms* (2000/01), *Bolton* (1998) and *Rivkin & Casey* (2000/01)\* on the 'new sovereigntist' critique. Similar arguments are made against international humanitarian law in *Rabkin* (2002). *Woolsey* (2003) gathers together a wide range of relevant pieces, including Rivkin & Casey, Bolton and Helms.

*Koskenniemi* (2007)\* issues a call for international lawyers to engage in a politics of 'critical universalism'. *Chimini* (2007)\* looks at the past, present and future of international law from a critical third world approach. *Slaughter* (2004) and *Schoenbaum* (2006) Chapter 10 offer alternative visions of the possible future of international law. *Lang* (2008) is deeply pessimistic about the prospects of a rule-governed international order.

## **Appendix 1**

### ***Sample Examination Paper:***

There are 8 questions: answer 2.

1. Is contemporary international law more concerned with the rights of individuals than the rights of states?
2. What were the effects of 9/11 on international law?
3. Do laws that limit the use of force do more harm than good?
4. Do war crimes trials deliver anything more than victors' justice?
5. How, if at all, does international law constrain the actions of powerful states?
6. Are transitional justice mechanisms such as truth commissions a 'second best' option compared to international criminal trials for genocide, war crimes and crimes against humanity?
7. Is the International Criminal Court a successful institution?
8. Is international law in the process of transforming international politics?

### ***2009 Examination Paper:***

1. Is the international human rights regime just organised hypocrisy?
2. 'The US invasion of Iraq in 2003 and US conduct in the War on Terror demonstrate absolute contempt for the concept of international law.' Do you agree?
3. Is the International Criminal Court a force for good in the contemporary international system?
4. 'Justice without force is powerless; force without justice is tyrannical.' Discuss with reference to contemporary international law.
5. Are war crimes trials more effective at achieving justice than alternatives to international criminal law?
6. 'States speak the language of obligation while following the logic of self-interest' (Goldsmith & Posner). Discuss with respect to international law.
7. Do war crimes trials do anything more than dispense 'victor's justice'? Discuss with reference to AT LEAST TWO war crimes trials or international criminal tribunals.
8. 'The twentieth century ended much as it began, in a world of small wars and occasional genocides combated by great powers if it suited their national interest.' If

this is true, does it show that international law has had little effect on international relations?

### ***2010 Examination Paper***

1. Do international laws on the use of force have any discernible effect on the use of force?
2. Are war crimes tribunals only legitimate if they prosecute crimes committed by each side in a conflict?
3. 'The US is the US is the US. A new President will not change the disdain Americans have for international law.' Does the first year of the Obama Presidency support this view?
4. Do any theories of international law adequately explain the effects of such law on state behaviour?
5. 'No peace without justice!' Do the first cases at the ICC show this slogan to be dangerously misleading?
6. 'War crimes trials of state leaders are more about political theatre than the fair application of international criminal law.' Is this necessarily a criticism?
7. Is the use of military force without a United Nations Security Council resolution authorising the use of 'all necessary means' always illegal?
8. Which, if any, alternatives to international criminal law are preferable to war crimes trials?

### ***2011 Examination Paper:***

1. Do war crimes trials have any value if they fail to deter future atrocities?
2. Is international law merely the continuation of international politics by other means?
3. Does the intervention in EITHER Kosovo 1999 OR Iraq 2003 demonstrate the weakness of the UN Charter system?
4. Are truth commissions more likely to deliver justice than war crimes trials?
5. Should international crimes be tried at the International Criminal Court in preference to domestic courts?
6. Should peace be prioritised above justice when deciding whether to prosecute individuals who have committed atrocities?
7. Are human rights adequately protected by the current regime of international law?
8. Are states and individuals increasingly constrained by the emergence of a global rule of law?

***2012 Examination Paper:***

1. Is international law really law?
2. 'War crimes trials bless the order of the victors with the sanctity of law, and nothing more.' Do you agree?
3. Does the growth on international human rights law confirm that the rights of the individual now form the basis of international order?
4. Under what circumstances, if any, could the use of force be illegal but legitimate?
5. Has the expansion and embedding of international law since 1945 led to more civilised international relations?
6. Do alternatives to international criminal law succeed in bringing about justice, or are they only valuable in achieving peace?
7. Was the first decade of the operation of the International Criminal Court a success?
8. Does the US turn away from international law after 9/11 show that international law is a project for and by liberal states?

## Appendix 2

DEPARTMENT OF INTERNATIONAL RELATIONS

### *MSc 2012/13 – Rules for Assessed Essays IR464*

The IR464 Assessed Essay accounts for 50% of the final course mark.

#### 1. ESSAY LENGTH

The essay should not exceed the 4,000 word limit. This limit includes in-text references, footnotes or endnotes, but excludes the bibliography and title page. A penalty will be applied if the word limit is exceeded. Five marks will be deducted for essays over the specified word limit. Essays 200 words or more over the limit will not be accepted and will be given a mark of zero.

#### 2. OVERLAP

Some of you will be writing more than one assessed essay and all of you will be writing 10,000-word dissertations as part of your MSc, so please note the following:

- the essays/dissertations must be discrete pieces of work
- under no circumstances should you “cut and paste” text between pieces of assessed work.

If you are in doubt about the distinctiveness of your assessed work please contact the Course Coordinator/s to discuss the matter.

#### 3. PLAGIARISM

Plagiarism is the most serious offence in academic work and all assessed essays will be checked against specialist plagiarism software. The department takes plagiarism extremely seriously and the penalties are severe. Plagiarised work will at the minimum be awarded a mark of zero, and you may be denied a degree. **If your referencing (or lack thereof) makes it difficult for examiners to identify clearly when you draw on the work of others and in what form you do so you have committed plagiarism, even if this was not your intent.** Drawing on the work of others includes, but is not limited to, direct use of other’s formulations, paraphrasing of their formulations and use of other authors’ quotes from and references to third party sources. The work of others includes text and illustrations from books, newspapers, journals, essays, reports and the Internet. It is also an offence to plagiarise your own work (for instance by submitting the same text in two different pieces of assessed work).

It is your responsibility to ensure that you completely understand the rules on plagiarism and do not submit plagiarised work. The failure of seminar teachers to detect breaches of these rules in formative or assessed essays does not constitute an endorsement – implicit or explicit – of your referencing. You must read the school regulations (at

<http://www.lse.ac.uk/resources/calendar/academicRegulations/RegulationsOnAssessmentOffences-Plagiarism.htm>) and if you have any questions whatsoever, you must consult your seminar teachers or supervisor. For further guidance on how to avoid plagiarism and

how to reference correctly see e.g. the book by Richard Pears and Graham Shields, *Cite them right: the essential guide to referencing and plagiarism*, Pear Tree Books, 2005; the library podcast that offers training sessions on referencing (at [http://www2.lse.ac.uk/library/services/training/citing\\_referencing.aspx](http://www2.lse.ac.uk/library/services/training/citing_referencing.aspx)); and the help with referencing that is available through the IR subject guide on the library website (at <http://www2.lse.ac.uk/library/subjectGuides/internationalRelations/help.aspx>).

The golden rule for avoiding plagiarism is to ensure that examiners can be in no doubt as to which parts of your work are your own original formulations and which are the rightful property of someone else. To ensure this, when presenting the views and work of others include in the text an acknowledgement of the source of the material e.g. ...as Waltz (1979) has shown,... and give the full details of the work referenced in your bibliography. If you quote text verbatim, place the sentence in inverted commas and give the appropriate reference e.g. 'it is not possible to understand world politics simply by looking inside of states' (Waltz, 1979, p 65) and give the full details in your bibliography. If you wish to set out the work of another author at length so that you can produce a counter-argument, set the quoted text apart from your own text (e.g. by indenting a paragraph) and identify it by using inverted commas and adding a reference as above. If you wish to use references to third party sources you have found in a text, include a reference e.g. '[s]tates do not willingly place themselves in situations of increased dependence...considerations of security subordinate economic gain to political interest' (Waltz, 1979, cited in Moravcsik, 1993, p 129) and full bibliographical details of each work.

#### 4. SUBMISSION

By 5pm on 6<sup>th</sup> May 2013 you will be required to submit:

- a) a hard copy of the essay to Uzma Lone in D608.
- b) an electronic copy [u.lone@lse.ac.uk](mailto:u.lone@lse.ac.uk). You will be required to put your examination number and the IR464 course code in the header of your email;
- c) an electronic copy via Turnitin, the anti-plagiarism software site through which all essays will be filtered.

Remember that assessed essays are anonymous – so you should insert your examination number rather than your name in the text, including the title page. A template for the title page is attached at the end of these notes. **On no account should the electronic copies differ from the hard copy.** Further details regarding submission procedures will be provided in due course. You are advised to retain a copy of all submitted work.

#### 5. PENALTIES FOR LATE SUBMISSION

The submission deadlines are to be taken seriously, since significant penalties will be applied in the case of late submissions. These will be as follows: **five marks will be deducted for an essay submitted within 24 hours of the deadline and a further five marks will be deducted for each subsequent 24 hour period (LSE working days only) until the essay is submitted.**

**Please note that these penalties apply *immediately* after 5pm on 6<sup>th</sup> May.** Essays more than five days late will only be accepted with the permission of the Chair of the Sub-Board of Examiners.

## 6. EXTENSIONS

Extensions will only be granted in rare circumstances, which will generally be unforeseen and beyond your control, i.e. where good cause is evident and where this is supported by available evidence (for example, a medical certificate). You should only apply for an extension, therefore, in *extreme* circumstances (such as illness/injury, bereavement or other serious personal circumstances) and, if possible, well in advance. In the first instance, requests for extensions to the deadline should be made to the Course Coordinator, but please note that decisions in this regard rest with the Chair of the Sub-Board of Examiners. Please also note that until you receive a formal reply to your request for an extension, you should assume that the original deadline applies.

## 7. RESUBMISSION

Students who fail an MSc course have the opportunity to resubmit/resit only the elements they have failed - individual assessed essays and/or examinations. Therefore, in the event that a student passes the examination for a course, but fails the course overall as a result of a poor mark for the assessed essay (including in cases where that poor mark reflects late submission or an 'over-length' penalty), then the student will have the opportunity to redeem their failure through resubmission of an assessed essay.

The title/ question of the re-submitted work must be agreed with the course organiser in advance of submission. The essay should be submitted by the deadline stipulated for the following session. MSc students have *one* opportunity to redeem failure through the resubmission of an assessed essay.

IR464 Politics of International Law 2013

Assessed essay submitted in partial fulfilment of the assessment requirements for  
IR464

Candidate Number:

Enter your 5-digit examination number (not your Student ID Number)

Number of Words: 4000 max!

TITLE OF ESSAY

(Please specify the question you are answering in your title)

I have read and understood the School's rules on plagiarism and assessment offences  
and the work submitted is my own apart from properly referenced quotations.