



Recent Case Law of International Courts

Class Presentation Topics Fall Semester 2024

Prof. Helen Keller and Dr. Viktoriya Gurash

I. Contentious Jurisdiction of the International Court of Justice

25 September 2024 – Compromissory Clause

1. What are the different ways of invoking the ICJ's contentious jurisdiction? In *Guyana v Venezuela*, which of these methods was used by Guyana to invoke the ICJ's jurisdiction?
2. Explain how the International Court of Justice characterized the dispute in *Ukraine v Russia*, and why it came to different conclusions as to its jurisdiction to adjudicate the different aspects of the dispute.

2 October 2024 – Monetary Gold Principle and Standing to Litigate *Erga Omnes* Obligations

3. Discuss how the MGP applies/does not apply in the *Nicaragua v Germany* case in light of Judge Al-Khasawneh's *Dissenting Opinion* (paras 10-17) and Judge's Sebutinde *Separate Opinion* (paras 12-23).
4. Explain the concepts 'community interest', 'injured State'/'specially affected', and 'legal interest' and their relation to the issue of *erga omnes* standing. (Cf *Declaration Judge Kress*, paras 7-35)

II. Extraterritorial Application of Human Rights Treaties

9 October 2024 – Context of Armed Conflict

5. What tests of extra-territorial application of the Convention has the ECtHR set out and considered in its jurisprudence? Focus specifically on the cases of *Banković* and *Al-Skeini*.
6. Compare the ECtHR's approach to extraterritorial jurisdiction in times of war in *Georgia v. Russia (II)* and *Ukraine and the Netherlands v. Russia*. In what way do the approaches differ?

16 October 2024 – Trans-Boundary Environmental Harm

7. Compare the approaches by the IACtHR and the ECtHR respectively to assessing extraterritorial jurisdiction in cases of transboundary environmental harm. What criteria and what methodology/arguments do they rely on?
8. Critically discuss the ECtHR's statement in para. 212 in fine (last sentence) of the *Duarte Agostinho* judgment. ('As regards the Inter-American Court's approach in its Advisory Opinion



and that of the CRC in *Sacchi and Others* (...), the Court notes that both are based on a different notion of jurisdiction, which, however, has not been recognised in the Court's case-law (...).')

III. Climate Change

23 October 2024 – Human Rights Perspective on Climate Change

9. How did the Court apply the admissibility criterion of 'victim status' (art 34, ECHR) to (i) the individual applicants and (ii) the applicant association in *Verein KlimaSeniorinnen Schweiz and Others v Switzerland*? Evaluate the Court's reasoning in regard of the two.

10. What aspects of Switzerland's conduct led the Court to find a violation of Article 8 ECHR? Evaluate the Court's reasoning considering Judge Tim Eicke's dissenting opinion.

30 October 2024 – Law of the Sea Perspective on Climate Change

11. Explain the concepts of systemic treaty interpretation and harmonization of international law and discuss how the ITLOS implements these concepts in its *Advisory Opinion*.

12. Compare the ECtHR's approach in the *KlimaSeniorinnen* case and the ITLOS's approach in its *Advisory Opinion* on Climate Change to specifying the applicable obligations with respect to climate change.

IV. Use of Force and Provisional Measures

6 November 2024 – Use of Force

13. Is the UN Charter right to self-defence applicable in relation to the Israeli military operation against Gaza in response to the Hamas attack on 7 October 2023 (for factual circumstances see the *ICJ's Order on Provisional Measures of 26 January 2024*). Assuming that Israel had the right to self-defence, discuss the necessary conditions justifying the exercise of such a right.

14. In the context of the Russo-Ukrainian war as outlined in the *ICJ's Order on Provisional Measures of 16 March 2022*, discuss whether and to what extent international law allow States to protect or rescue their nationals by means of armed force in the territory of another State.

13 November 2024 – Provisional Measures

15. What are the legal criteria for the ICJ's indication of provisional measures orders? What were the points on which *Judges Sebutinde*, *Judge Nolte* and *ad hoc Judge Barak* disagreed with the Court in their declarations (and separate opinion) to the Order of 26 January 2024 in the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* case?

16. What are the limitations to the content of provisional measures (PMs) orders that the ICJ may indicate? What legal and factual reasons explain the modification of the PMs ordered in the



ICJ's response to South Africa's [first](#) and the [third](#) requests in relation the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* case?

V. Reparations

20 November 2024

17. What are the guiding principles in the Court's assessment of compensation in the *DRC v Uganda* judgement? Discuss the Court's approach in light of [Judge Robinson's Separate opinion](#). Who carries the burden of proof in compensation claims?

18. Discuss the application by the ICJ of the 'global sum principle' in the *DRC v Uganda* judgement.

VI. Human Rights and States' Margin of Appreciation

27 November 2024 – Environment and Public Health

19. Critically discuss the ECtHR's application of the margin of appreciation doctrine in light of its dealing with scientific evidence in *Vavřička* case. In what way does the margin of appreciation doctrine give leeway to the ECtHR or the State in their consideration of scientific evidence?

20. In what way did the ECtHR limit the margin of appreciation of Switzerland in the *KlimaSeniorinnen* case, where did it leave Switzerland discretion?

4 December 2024 – Manifestation of religious beliefs

21. On what grounds can a State justify imposition of limitations to on the freedom to manifest religious beliefs? Compare the European Court of Human Rights' approach in *SAS v France* to that of the Human Rights Committee in *Yaker v France*.

22. Do cases involving prohibitions on displays of religious adherence implicate Article 14 ECHR (read with Article 9 ECHR) and Article 26 ICCPR? Compare and evaluate the reasoning in *SAS v France* and *Yaker v France* given by the ECtHR and HRC respectively regarding the argument on indirect discrimination.