International Law and Peace

International law may well be described as the queen of disciplines which deal with global order. Leadership in the battle against the factors disrupting global peace is the natural province of international law. There are many wonderful aspects of international law which every teacher, every schoolchild, and every member of the public should know.

The principles underlying international law are based upon universally accepted values and moral standards. They can be understood by every schoolchild. When children are informed about them their eyes light up with appreciation that the international world is governed by principles which are so acceptable to them.

International law represents the essence of the progress of civilization towards a world ruled by law rather than a world ruled by force. It took thousands of years of effort, hundreds of wars, and the sacrifice of millions of lives to achieve this. It is thus a very precious possession of all human beings, which must be carefully protected.

International law is an essential tool for the abolition of war. War has been a part of the human condition for thousands of years, but its abolition is now a necessity. With weapons of mass destruction becoming ever more readily available to state and non-state actors, the threat to a peaceful world being dragged into catastrophic conflict is so great that civilization itself is in peril.

Misunderstanding and cross cultural ignorance are among the root causes of war. While global forces demolish geographical barriers and move the world toward a unified economy, clashes among cultures can have damaging impact on peace. International law draws upon the principles of peace expressed by great peacemakers and embodied in ancient writings, religions, and disciplines, and places them in the social and political context of today to dissipate the clouds of prejudice, ignorance and vested interests that stand in the way of world peace and harmony.
The information and suggestions for classroom integration set forth in *International Law and Peace* makes international law more accessible to the entire global community. In learning about international law, students can appreciate the values and principles it exemplifies and understand international standards which all nations are required to follow in order to secure and maintain peace and to respect human rights. *International Law and Peace* provides critical background information about the role of law and codified rights to guide understanding and reinforce purpose of the lessons presented in Strand Two.

**Age Range:** Elementary to secondary school students (ages 5-18)

**Subject:** Interdisciplinary: Social Studies, Literature, Religious Studies, etc.

**Materials:** Copies of text and use of other lessons

**Duration:** A series of classroom discussions integrating the notion of International Law and how it derives from as well as applies to various disciplines.

**International Law and Peace**

**Contents:** *International Law Defined, How International Law Determines the Behavior of Nation States, History of International Law, Sources of International Law, The Effects of International Law on Daily Life, Principles and Values Embedded in International Law, and Leading International Cases*

**International Law Defined**

International law consists of rules and principles governing the conduct of states in their relations among themselves. In addition, since World War II and the emergence of human rights law, international law governs how states treat their citizens and recognizes the rights of individuals. International law is the combination of treaties, conventions and customs which governs relations between and within states and lays down generally accepted norms of behavior for the entire world.

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1 Judge Weeramantry published *Universalising International Law* which is expected to contribute to widening the content of international law. Please refer to the publications page for more information: [http://www.wicper.org/Books%20authored.htm](http://www.wicper.org/Books%20authored.htm).
How International Law Determines the Behavior of Nation States

Today, international law promotes active cooperation among nation states. International law prescribes a set of fundamental norms within which nation states are to conduct their internal behavior and their external relations. In regard to internal behavior, international standards regulate such things as the environment, health, industry, postal services, transportation, and occupational safety standards. Dozens of international human rights treaties also set forth political, civil, social, economic, and cultural rights to be respected within national legal systems. In relation to external behavior such as the use of force, the peaceful resolution of disputes, conciliation, arbitration, negotiation, mediation, and judicial settlement, all nations must abide by standards laid down in the UN Charter and other international instruments.

War has been outlawed by the UN Charter except in the limited situation of self defense and that too is regulated under strict limitations. The Security Council is also authorized by the UN Charter to direct the use of force to maintain or restore international peace and security.

Many of the world’s countries also operate in regional groups regulating their affairs by international agreements, including the European Union, the Organization of American States and the African Union.

In short, in every detail of its own affairs, every country needs to have some relationship or interaction with other countries and every one of these is heavily influenced by international law.

Compliance with international law is the ordinary state of affairs. States normally follow the rules. Compliance is caused by the commonly shared expectation that governments and individuals will abide by the law; the disapproval and condemnation that result when rules are broken; the loss of standing suffered by a rule-breaking state, which can have adverse diplomatic and economic consequences; and the availability of sanctions including economic measures like trade embargoes and in extreme cases, the use of force directed by the Security Council.
History of International Law

Many great wars caused the evolution of the rules and discipline of international law. Modern international law first took shape in 1625 during the 30 years war when Hugo Grotius, a Dutch diplomat, produced his great work, *On the Law of War and Peace*. Grotius saw that the old order in Europe was breaking down and the allegiance to the Pope and the Emperor was losing its grip over numerous states. With numerous states being released from the authority of the Pope and the Emperor, Grotius feared there would be little restraint among society and lawlessness would prevail. To avoid this, Grotius created a set of principles for the newly released states to obey in their dealings with each other. Hence, modern international law emerged.

In 1648, with the Peace of Westphalia many new nations large and small emerged and the smallest states would have had no chance of survival if there were not a rudimentary international legal system. Grotius’ ideals were admirable, but the world of power and realpolitik did not pay sufficient attention to them, resulting in other great wars. There was also the race for empires which began after the discovery of America and the evolution of maritime routes to Africa and the East. There were also revolutionary wars such as those accompanying the French Revolution.

Through all this dismal history of fighting, the philosophers were still straining to achieve recognition of a world order free of war.

After the carnage of the French revolutionary wars ended in 1815, a great effort was mounted to establish a peaceful world at the Congress of Vienna. This did not succeed, but the momentum for peace kept growing. In the 19th century there were around 400 peace societies around the world. However there was a great gulf between the world of the philosopher and the world of power and those who commanded real power tended to smile superciliously at the apostles of peace, viewing them as visionaries, day dreamers and utopians who did not understand the politics of power.

A momentous step forward occurred when the Tsar of Russia Nicholas II summoned all the sovereigns to a peace conference at The Hague in 1899. This was a great advance in world history

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because here at last was a bridge between the world of power and the world of the philosopher. Writers like Tolstoy were deeply influential in bringing about this result because their works were widely read at that time and may have even influenced the Tsar.

The 1899 Peace Conference sought to achieve a means for the peaceful settlement of disputes, rejecting the principle widely believed in at the time that war was the natural means of resolving international disputes. A proposal was made for the establishment of a Permanent Court of International Justice which would settle disputes between nations. At the time this was not achieved owing to resistance by the great powers. Rather, a Permanent Court of Arbitration\(^4\) was established making available a panel of experts in international law for countries to settle their disputes. It was successful in resolving a number of disputes that would have otherwise resulted in war.

This Court system, however, was not sufficient to prevent World War I from occurring in 1914. The War resulted in an enormous loss of life and further intensified the drive for peace and international law. In the Treaty of Versailles in 1919, the Permanent Court of International Justice was established with jurisdiction to settle international disputes if the states concerned were prepared to refer their disputes to the court. Consisting of a highly qualified, regular body of judges, this Court was empowered to apply the principles of international law to disputes before them, and functioned with great professional competence. International law thus gained in stature and acceptance.

However, this was still insufficient to prevent war because states were not required to submit disputes to the court. The world underwent the agony of a second world war. Afterwards, the Court of International Justice\(^5\) was given greater stature through the creation of the United Nations and the acceptance of the UN Charter of which the Statute of the International Court of Justice was made an integral part. By this Charter, war was outlawed and the peaceful settlement of disputes was required. The Charter was a tremendous advance and a great milestone on the road to the enthronement of international law.

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\(^3\) Also known as the treaties of Münster and Osnabrück, it was a series of treaties that brought the end of the Thirty Years War and recognized the United Provinces and Swiss Confederation. [en.wikipedia.org/wiki/Peace_of_Westphalia](http://en.wikipedia.org/wiki/Peace_of_Westphalia)

\(^4\) For more information on the Permanent Court of Arbitration, visit: [http://www.pca-cpa.org/](http://www.pca-cpa.org/)

\(^5\) For more information on the International Court of Justice, visit: [http://www.icj-cij.org/](http://www.icj-cij.org/)
The UN Charter explicitly states, in Article 2.4, that all member states “shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” The UN Charter has now been in force for 60 years, and virtually every state in the world is a member. It is binding on all nations.

It is the duty of every nation and of every citizen to do all they can to strengthen the acceptance and authority of the UN system as well as the system of international law because this is the principal means of achieving a world of peace and our principal protection against future wars.

**Sources of International Law**

The most authoritative statement on the sources of international law is contained in Article 38(1) of the Statute of the International Court of Justice (see end of lesson), an integral part of the UN Charter. The Statute identifies five sources:

1. Treaties (Conventions)
2. Customary International Law
3. General Principles of Law Recognized by All Nations
4. Judicial Decisions
5. Teachings of the Most Highly Qualified Jurists

**Treaties,** also referred to as **conventions,** set out in writing what has been agreed among nations. They are binding because one of the basic principles of international law is that treaties are binding on the nations who are parties to them, according to the maxim *pacta sunt servanda,* which means agreements shall be observed.

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However, treaties are only one of the sources set out by the Statute, contrary to the common but false impression that international law is contained only in treaties. Treaties give expression only to a small part of the totality of principles which constitute international law.

**Customary International Law** consists of rules and principles based on general practices accepted across the world as binding. It reflects in part universal moral values underlying, for example, the prohibitions of genocide and torture.

The **General Principles of Law Recognized by All Nations** signify general principles acknowledged by all legal systems, again reflecting universally shared standards or concepts.

Customary international law and general principles of law draw on all the cultures of the world to generate concepts, principles and rules to govern new situations as they arise. International law draws upon this vast reservoir for humanity-protecting and future-regarding principles like trusteeship of the earth's resources, conservation, protection of the environment and of health and welfare, duties to the community of nations, and obligations *erga omnes* (towards all people).

When the Nuclear Weapons Case\(^7\) was heard before the International Court of Justice in 1995, one of the arguments made by the nuclear powers was that there was no treaty provision expressly prohibiting the use of nuclear weapons. This illustrates the common fallacy that international law is only treaty law. It loses sight of the fact that apart from treaty law there is a vast range of principles which prohibit such destructive weapons—principles against genocide, principles against the killing of civilian populations, principles against the use of weapons that are cruel and inflict severe suffering and hardship, environmental principles protecting the rights of future generations, and so forth.

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Treaties, customary law, and general principles of law are the sources of international law, with the bulk of international law contained in these last two sources. **Judicial Decisions** and **Teachings of the Most Highly Qualified Jurists** are only means for determining the rules of law.

**The Effects of International Law on Daily Life**

Today, every country depends on international law for the daily function of most of its institutions. This is not often seen, as international law is relegated to the category of an abstruse discipline which operates at very high levels of diplomacy and statesmanship, separate from ordinary people. However, international standards heavily influence employment, labor protection, health, criminal justice, children’s rights, fair trial, privacy, environmental protection, and domestic laws.

International law impinges on the life of every citizen several times daily. A person cannot post a letter, travel abroad, receive an inoculation, refuel a car, purchase groceries, or use a telephone but for the fact that international law is smoothly working behind the scenes, attending to and regulating the transactions relevant to these services. Health relies on international standards and controls; international travel depends on a series of treaties and international law principles; the carriage of a letter would be impossible without international postal regulations; the normal stock of groceries regularly purchased almost surely contains a fair proportion of materials imported across national borders; and telephone services depend heavily on satellites and international telecommunication agreements.

Hundreds of multilateral treaties subscribed to by most of the nations of the world regulate such important functions as commerce, health, travel, aviation, shipping, outer space, telecommunication, and currency. Every citizen’s life today is so heavily dependent on international standards that life would be impossible without them and the international law which makes them work. No longer is it true to say that any country, however powerful, can regulate its own affairs. Life within nations relies on the smooth functioning of international law.
Principles and Values Embedded in International Law

International law adheres to principles that are based on universally accepted values and moral standards. Learning about its principles and values helps young students view issues that affect the world and its populations through a human rights lens. For example, international law:

1. Exemplifies the **Rule of Law** rather than the rule of force.

2. Demonstrates **Constructive Management of Conflict** through **Peaceful Settlement of Disputes** within and among nations.

3. Stands up for the **Protection of Children** and the rights of future generations as heirs to the future of humanity.

4. Advocates **Peace** and **Nonviolence**. International law is intrinsically linked with various subjects, writings, philosophies, and historical figures that reflect a yearning for peace i.e., world history, philosophy, literature, economics, political science, religious studies, sociology, psychology, and the fine arts. For example, physics, chemistry and medicine inform international law in its efforts to achieve and maintain peace as the highest of human aspirations in dealing with weapons of mass destruction, environmental considerations, ethical duties of scientists, and the right to health. In addition, Greek, Roman, Hindu, and Chinese peace philosophies, great writings of Aristotle, Rousseau, Kant, Jeremy Bentham, and Tolstoy, and peacemakers such as Gandhi, Mandela and Martin Luther King, Jr. inspire and guide international law for the peaceful settlement of disputes. A plaque of the Buddha peacefully settling a dispute adorns the walls of the International Court of Justice outside the Judges’ deliberation chamber, serving as a helpful reminder of the aims of international law.

5. Encourages **Diversity** and **Fellowship**. International law trains for world citizenship: just as civics is a subject that equips individuals to be citizens of their own country, international law is a subject that equips them to be citizens of the world. It measures the international implications of major policies that governments pursue to see whether such policies favor
self interest of the state or improved relationships and functioning between and among
nations of the world.

6. Promotes **Respect for All People**. International law advocates that all human beings are
members of one family: Christianity, Judaism and Islam express this value; Hinduism speaks
of the divine spark in every human being; and Buddhism teaches that whereas all other
varieties of mammals, reptiles, birds, insects, etc. have numerous species among them that
distinguish them categorically from one other, the human race has no such distinction except
the distinction which humans have made for themselves. Such teachings emphasize oneness
where people must work together or will sooner or later perish together.

7. Fosters **Cooperation**. International law formerly consisted of a set of rules for mere
passive co-existence among nations, but today is moving into active cooperation among
them. Concerned with matters such as human welfare, health, transport, outer space, the
environment, international travel, and disaster relief, international law governs and facilitates
both the internal and external affairs of a country.

8. Practices **Equality** and **Economic Justice**. International law elevates the condition of
impoverished states and deprived populations of the world. It is estimated that over the past
fifty years more than three times the number of people who died in all wars of the 20th
century have died from hunger and poor sanitation. At least part of the staggering total of
418 million people need not have died if their problem had been the subject of concentrated
attention in the light of applicable principles of international law.

9. Upholds **Human Dignity** through the principles of the UN Universal Declaration of Human
Rights of 1948, a post World War II development and legal revolution of the 20th century.
Every individual is born a member of the human community with inherent rights. No regime
or government can deny these rights to any individual. Earlier theories that these rights are
conferred by states, rulers or constitutions are obsolete.
Leading International Cases

International Criminal Law: Following World War II, the victorious Allies (United States, Britain, France, and Russia) established the Nuremberg Tribunal. It tried Nazi leaders - politicians, generals, industrialists, and others - for war crimes, crimes against humanity, and crimes against peace. War crimes are violations of the rules governing the conduct of warfare and occupation, and aim at protecting civilians against the effects of warfare and combatants from unnecessary violence. Crimes against humanity are large-scale atrocities against civilian populations. Crimes against peace are the planning and waging of wars of aggression (at about the same time, the UN Charter was written to prohibit the use of force against the territorial integrity or political independence of states). The Nuremberg trials are generally perceived as having been conducted fairly. They clearly established the principle of individual responsibility for participation or complicity in international crimes, with the corollary that following orders is no defense. However, it is also true that they did represent a kind of "victor's justice." For example, the Allies were not put on trial for the practice of city bombing that culminated in the U.S. atomic bombings of Hiroshima and Nagasaki.

The Nuremberg precedent lay dormant for decades, but in the 1990s served as the inspiration for the Security Council's establishment of ad hoc international tribunals to try individuals for crimes allegedly committed in the former Yugoslavia and Rwanda. States then built upon this experience to create the permanent International Criminal Court, which became operational in 2002. If this court functions successfully, it should lay to rest the charge of victor's justice that dogged the Nuremberg tribunal and to a lesser extent the Yugoslavia tribunal. The prosecutor for the court is now investigating atrocities in Congo and Uganda, at the requests of the governments of those countries, and in the Darfur region of Sudan, based upon a Security Council referral.

The International Court of Justice and Nuclear Weapons: Unlike the International Criminal Court, which prosecutes individuals, the International Court of Justice, often called the World Court, resolves disputes among states. The World Court has another function: it provides advisory opinions

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9 See http://www.eisil.org/index.php?sid=348390626&t=sub_pages&cat=21
on legal questions posed by UN bodies. In a creative use of this function, in the early 1990s the World Health Organization and the UN General Assembly asked the court for its advice on the legality of use and threatened use of nuclear weapons. Developing countries had condemned nuclear weapons for decades in resolutions in the General Assembly, but the nuclear-armed countries had voted against and ignored the resolutions. So taking a suggestion from civil society groups led by the International Physicians for the Prevention of Nuclear War, the International Association of Lawyers Against Nuclear Arms and the International Peace Bureau (a network of peace groups), non-nuclear countries turned to the World Court. Civil society - some 700 groups globally - lobbied in New York and Geneva and in capitals around the world for the adoption of the requests for the court's opinion by the General Assembly and the World Health Organization. Then civil society assisted governments in preparing their presentations to the Court.

Two weeks of dramatic hearings were heard before the Court in The Hague in November 1995. It took the Court almost a year to issue its opinion. By and large, it was a victory for the pro-disarmament forces. The Court held that the threat or use of nuclear weapons is generally contrary to international law prohibiting the infliction of indiscriminate harm, unnecessary suffering and disproportionate damage to the environment. (In separate opinions, Judge Weeramantry and two other judges went further and said that threat or use in all circumstances is illegal). Also, and unexpectedly, the Court, interpreting the Nuclear Non-Proliferation Treaty and other international instruments, held unanimously that there exists an obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in all its aspects. While the opinion has not served to instantaneously change the entrenched policies of the nuclear-armed states, it has become a central part of advocacy for reduction and elimination of nuclear arsenals by states in the United Nations and meetings to review the Nuclear Non-Proliferation Treaty, and by civil society groups worldwide.

**Procedure: Suggestions for Integrating International Law into Schools and Curricula**

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10 See http://www.eisil.org/index.php?sid=348390626&t=sub_pages&cat=500
11 For the arguments and the opinion, see www.icj-cij.org/icjwww/icases/iunan/iunanframe.htm.
International law provides valuable knowledge for students of all ages to learn. In general, teachers are encouraged to acquaint students with an understanding of international law, how it was formed, its sources, and its aims by providing them with copies of the text or a summary of the text provided here, the UN Charter, and resolutions adopted by the Security Council and the General Assembly. Ask them to read these materials, carefully outlining the principles and values expressed.

Note: Resolutions adopted by the Security Council often set forth binding law. Usually such resolutions arise in the context of specific situations, though obligations in relation to a specific situation may be imposed on all states. For example, resolution 1591 (2005) requires all states to prevent travel by and freeze funds of certain individuals designated as responsible for atrocities in Darfur, Sudan. In recent years, however, the Security Council has adopted resolutions responding to global problems, not to specific situations. Resolution 1373 (2001) requires all states to take measures to suppress terrorism, and resolution 1540 (2004) requires all states to adopt measures to prevent non-state actor acquisition of and trafficking in weapons of mass destruction. An example of an important Security Council resolution not adopted in a binding form but nonetheless strongly influencing subsequent UN operations is resolution 1325 (2000) on women, peace, and security. Among other things, it calls for increasing the role of women in multiple ways in conflict resolution and peacekeeping.12

General Assembly resolutions usually are recommendations, but on occasion can set forth binding rules and principles. The Universal Declaration of Human Rights was adopted by General Assembly resolution 217A (1948), and subsequently came to be regarded as customary international law.13

Following are suggestions for the integration of international law into the classroom and subject matter. Suggestions can be tailored to suit any age and if begun at the elementary level, can serve as solid building blocks for peace.

For Elementary Level Students (ages 5-8):

- Help children avoid inequality, unfairness and causing harm to others through teaching them the values embedded in international law such as of reverence for life, respect for others, respect for nonviolence, peaceful settlement of disputes, understanding differences, forgiveness, friendship, and assistance to those in distress.

For Lower School Students (ages 8-12):

- Couple studies of great wars and the sufferings they caused with stories about great peace workers and the positive impact they had on others’ lives. Some important peace figures include Thomas Jefferson, Abraham Lincoln, Gandhi, Martin Luther King, Jr., Nelson Mandela, Wilberforce, Mother Teresa, and Florence Nightingale. Ask students to express their ideas and feelings through drawings, poetry and/ or play acting that show both the negative and positive sides of the story.

For Middle School Students (ages 12-16)

- Research the lives of important figures and how their work relates to human rights and international law. Transfer this knowledge into class discussions on the causes of conflicts in the school community and/ or neighborhood. Ask students to think about the nature of the conflict and how it could have been avoided and handled differently.

- Increase knowledge of peace by introducing works such as Tolstoy’s War and Peace, Gandhi’s My Experiments with Truth, and passages from the great religious texts on peace. Recite and interpret passages from these works or other peace-related speeches. Ask students what messages for peace they would like to express today.

- Research the armaments industry (its cause, extent and the interests that promote it) coupled with peace conferences such as The Hague Conference of 1898 (its cause, objectives and outcomes). Discuss ways to contribute to peace movements and/ or to begin a peace campaign.
• Research how the abolition of slavery, the abolition of apartheid and/or the emancipation of a selected country from colonial rule was achieved. Draw upon this knowledge to write hypothetical essays on how the history of that nation may have been changed if it had decided to engage in peace instead of war.

• Invite students to choose 2-3 items from the news each week that indicate either tendencies toward peace or away from peace. Ask them to share their observations on these events with particular regard for the ways in which their potential for peace could be increased or their potential for violence reduced.

For Upper School Students (ages 16-18)

• Conduct mock cases resolving disputes among states before the International Court of Justice; mock criminal trials of individuals before the International Criminal Court; mock sessions of the Security Council on matters of international dispute e.g., regulating the use of a river that flows between two countries; or mock deliberations of the Human Rights Commission dealing with a pattern of violation of human rights. Compare this experience with a current day experience and how you would handle it.

• Write essays on such topics as the Congress of Vienna of 1815, the Hague Peace Conference of 1899, the Congress of Versailles of 1919, the San Francisco UN Conference of 1946 and try to spot the ways in which they could have done better.

• Make peace links with peers in other countries, particularly those with which students are unfamiliar, through letter writing, online discussion, student exchange, etc. Such exchange can help reduce barriers between populations and build understanding and curiosity and develop future opportunities such as working collectively on a project and/or twinning schools. Write reflective essays on what this exchange has taught you about such things as your own life and society, forms of communication and different cultures and lifestyles.
Resources:

- *The World Court, Its Conception, Constitution and Contribution* by Judge Weeramantry. Copies of this booklet were presented to schools through the Education Ministry and are currently being translated into Sinhala and Tamil. For more information about the International Court of Justice and Judge Weeramantry, please see [www.icj-cij.org](http://www.icj-cij.org).


Sources:

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The Weeramantry International Centre for Peace Education and Research believes peace education is urgently needed to help save the world from violence and war. The Centre is based upon the philosophy and work of His Excellency Judge Christopher Gregory Weeramantry, former Vice President of the International Court of Justice and former Justice of the Supreme Court of Sri Lanka. In a career spanning over fifty years and in an extensive body of published work he has addressed the three pillars of Intercultural Understanding, Peace Studies and International Law, each of which is an indispensable instrument of peace. The Centre takes as its fundamental premise, the proposition that a major cause of these conflicts is a lack of understanding of each other's historical, cultural and economic backgrounds, which need to be addressed by a concentrated programme of research and education at all levels.
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