

# 2021 SEOUL ACADEMY OF INTERNATIONAL LAW



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## PROGRAM OVERVIEW

### Dates and Format

| Date October 18 (Mon.) – 29 (Fri.), 2021

| Format Webinar

### PROGRAM OBJECTIVES

The Seoul Academy of International Law (SAIL) is a training program organized by the Center for International Law (CIL) at the Korea National Diplomatic Academy (KNDA) of the Ministry of Foreign Affairs of the Republic of Korea. It provides courses lectured by prominent scholars and practitioners in the field of international law to the participants from Asia and the Pacific region. The objective of the program is to promote greater understanding on contemporary issues in international law among those involved in international law practice. In an effort to establish the rule of law in the region on a more solid basis, the SAIL aims, in particular:

- To enhance the participants' understanding about international law
- To promote exchanges of views on contemporary international law
- To strengthen future cooperation and networks between the participants
- To facilitate sharing knowledge in participating countries' foreign policies relating to current international legal issues

### PARTICIPANTS

More than 40 participants in the program come from various countries in Asia and the Pacific, and range widely from government officials, including diplomats and legal practitioners, to scholars, researchers as well as graduate students.

## LECTURERS & COURSES

### Dapo Akande

*Professor, University of Oxford*

Use of Force in International Law

### Dapo Akande

*Professor, University of Oxford*

Law of Armed Conflict

### Ki-Gab Park

*Professor, Korea University*

Codification and Progressive Development of International Law by ILC

### Jin-Hyun Paik

*Professor, Seoul National University*

Major Issues in the Law of the Sea

### Chen Li

*Professor, Fudan University*

New Issues on Recognition and Enforcement of Foreign Arbitral Awards

### Won-soo Kim

*Professor, Incheon National University*

The UN and International Law

### Rafael Leal-Arcas

*Professor, Queen Mary University of London*

Climate Change Law and Policy

### Rafael Leal-Arcas

*Professor, Queen Mary University*

International Energy Law

### Bhupinder S. Chimni

*Professor, O.P. Jindal Global University*

Third World Approaches to International Law

## Use of Force in International Law

**Prof. Dapo Akande***Professor, University of Oxford*

This course will consider the rules in the United Nations Charter and in customary international law dealing with the use of force by states. We will examine the scope and significance of the prohibition of the use of force; the law relating to self-defence; other claimed exceptions to the prohibition of the use of force, especially the doctrine of humanitarian intervention. The lectures will also give brief attention to the collective security scheme established under the United Nations Charter.

## Law of Armed Conflict

**Prof. Dapo Akande***Professor, University of Oxford*

This course will consider the law applicable to the conduct of participants in an armed conflict. We will begin by considering the sources of the law of armed conflict (which is also known as international humanitarian law). We then turn to the distinction between international armed conflicts and non-international armed conflict, before examining some of the basic rules applicable to detention in armed conflict and to the conduct of hostilities.

## Codification and Progressive Development of International Law by ILC

**Prof. Ki-Gab Park***Professor, Korea University*

Outline of the lecture on “Current trend of codification of international law: focused on the works done by the UN International Law Commission (ILC)” The “codification of international law” has a quite long history, but its effective methodology has been developed, in particular, with the creation of the United Nations and one of subsidiary organs of the General Assembly, the *International Law Commission*. We will see the differences between “codification” and “progressive development”, “*lex lata*” and “*lex ferenda*” through the analysis of certain recent works carried out by the ILC, namely various sources of international law, protection of persons from natural/industrial and humanitarian disasters, international environmental law, climate change and sea-level rise, etc.

## Major Issues in the Law of the Sea

**Prof. Jin-Hyun Paik***Professor, Seoul National University*

This course examines some of the major issues in the law of the sea. In particular, it will highlight the evolving regime of the exclusive economic zone (EEZ) and dispute settlement under the UN Convention on the Law of the Sea (UNCLOS). The course will introduce to students the latest developments and controversies related to these subjects.

## New Issues on Recognition and Enforcement of Foreign Arbitral Awards

**Prof. Chen Li***Professor, Fudan University*

The past sixty years has demonstrated the monumental success of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“the Convention”). Since China acceded to the Convention in 1986, it has been implemented directly and preferentially across different levels of Chinese courts, thanks to various legislative and judicial initiatives, including the Supreme People’s Court’s introduction of a *Negative Reporting System*. Today, Chinese courts generally show a pro-enforcement bias and practice self-restraint in using Art. V of the Convention to deny recognition and enforcement of foreign arbitral awards in China. However, with the fast development of arbitration practice in China, Chinese courts have encountered new challenges in applying the Convention. Two issues are of particular interest: (1) whether awards made by foreign arbitration institutions seated in China can be recognized and enforced under the Convention as non-domestic awards (*Duferco case* and *Longlide case*); and (2) whether awards made outside China without foreign elements can be recognized and enforced under the Convention (*Siemens case*). This talk considers these issues in light of the inherent incongruence between the Chinese arbitration system and the framework under the Convention. It explores possible solutions to this tension and concludes that both issues should be answered in the positive.

### The UN and International Law

**Prof. Won-soo Kim**

*Professor, Incheon National University*

This course will examine where we stand in international law and norm making at the United Nations, how it is made or evolves and where it will and should go. For the past 76 years since its inception, the UN has not only led the norm making in key aspects of international relations, but also has expanded its role as a normative custodian and even an enforcer in international justice and accountability.

This examination of the UN's normative work will be focused on three pillars of the core mandates of the UN: 1) peace and security, 2) development and 3) human rights and justice.

### Climate Change Law and Policy

**Prof. Rafael Leal-Arcas**

*Professor, Queen Mary University of London*

This course will examine the scientific, economic, legal, political, institutional, regulatory, and historical underpinnings of climate change as an issue and the related policy challenges of creating and sustaining a prosperous decarbonized modern society. Particular attention will be given to analyzing the existing international framework of treaties, laws, regulations, and policies and the incentives they have created to address the build-up of greenhouse gas emissions in the atmosphere.

The course will center on a set of critical questions including: What would a 21st century policy framework that is designed to deliver a successful response to climate change look like? Does the 2015 Paris Climate Change Agreement provide the right foundation for action? How should issues of (in)equity be addressed? How might incentives be structured to engage the business community in climate change problem-solving?

### International Energy Law

**Prof. Rafael Leal-Arcas**

*Professor, Queen Mary University of London*

The legal aspects at the junction of interstate energy cooperation have become increasingly important in a world that is hungry for energy security. This course focuses on selected legal issues relating to international energy governance. International law as it stands today is not well equipped to handle international energy governance issues fully. This legal deficiency affects energy security negatively. If the currently fragmented and multi-layered international energy governance regime were streamlined for greater legal cohesiveness and international political and economic cooperation, it would promote energy security.

This course takes a broader view on interstate energy cooperation, such as energy transit, energy market liberalization and energy investment. It also focuses on specific areas of such cooperation, such as trade and energy; trade, environment and energy; and energy exploration and maritime delimitation disputes.

The course also presents an analysis of the European Energy Union as an example of regional energy governance, as well as of renewable energy as part of the decarbonization goal towards the fight against climate change.

### Third World Approaches to International Law

**Prof. Bhupinder S. Chimni**

*Professor, O.P. Jindal Global University*

The overall objective of the course will be to introduce third world approaches to international law (TWAIL) and argue that it captures and articulates most effectively in the world of international law, both from a theoretical and practical standpoint, the concerns and interests of peoples and nations of the Global South. The lecture will among other things discuss the reasons for continuing use of the category "third world", identify the distinctive features of TWAIL, note the differences between and inside different generations of TWAIL scholarship, look at some of the gaps in existing TWAIL scholarship, and the criticisms advanced against it.

## 2021 Seoul Academy of International Law Lecture Schedule

WEEK 1	10/18 (Mon)	10/19 (Tue)	10/20 (Wed)	10/21 (Thu)	10/22 (Fri)
16:00-18:00 (KST)	16:00~16:15 Opening Ceremony & Orientation	Use of Force in International Law  <i>Prof. Dapo Akande</i>	Law of Armed Conflict  <i>Prof. Dapo Akande</i>	Codification and Progressive Development of International Law by ILC  <i>Prof. Ki-Gab Park</i>	Major Issues in the Law of the Sea  <i>Prof. Jin-Hyun Paik</i>
	16:15~16:55 *Special Video Clip				
WEEK 2	10/25 (Mon)	10/26 (Tue)	10/27 (Wed)	10/28 (Thu)	10/29 (Fri)
16:00-18:00 (KST)	New Issues on Recognition and Enforcement of Foreign Arbitral Awards  <i>Prof. Chen Li</i>	The UN and International Law  <i>Prof. Won-soo Kim</i>	Climate Change Law and Policy  <i>Prof. Rafael Leal-Arcas</i>	International Energy Law  <i>Prof. Rafael Leal-Arcas</i>	Third World Approaches to International Law  <i>Prof. Bhupinder S. Chimni</i>
	18:00~18:30				Closing Ceremony

\*Special Video Clip: A Documentary titled 'Joseon Dynasty's Encounter with Modern International Law'



**Prof. Dapo Akande**  
Professor, University of Oxford

Professor Dapo Akande is Professor of Public International Law at the University of Oxford where he is also Co-Director of the Oxford Institute for Ethics, Law and Armed Conflict (ELAC). He has held visiting professorships at Yale Law School, the University of Miami School of Law, the University of Vienna and Católica Global Law School, Lisbon, Portugal. He was the 2015 Sir Ninian Stephen Visiting Scholar at the University of Melbourne Law School's Asia-Pacific Centre for Military Law. Dapo is one of the authors of the *Oppenheim International Law: The United Nations* (2017, OUP) and one of the editors of the *Practitioners Guide to the Application of Human Rights Law in Armed Conflict* (2016, OUP). He was a member of the International Group of Experts that prepared the *Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations* (2017, CUP). He is also a member of the International Advisory Panel for the American Law Institute's project on the *Restatement Fourth, The Foreign Relations Law of the United States*. Professor Akande is (or has recently been) a member of the Editorial or Advisory Boards of several journals and including the *American Journal of International Law*, the *European Journal of International Law*; and the *African Journal of International and Comparative Law*. He is a Trustee on the board of the British Institute of International and Comparative Law and was a Counsellor of the American Society of International Law. He is founding editor of the scholarly blog: *EJIL:Talk!* the blog of the *European Journal of International Law*. He has worked as counsel or adviser in several cases before different international tribunals and national courts. He has also worked as consultant, expert or adviser on various international law issues to international organizations, states and non-governmental organizations



**Prof. Ki-Gab Park**  
Professor, Korea University

Ki-Gab PARK is a Korean citizen, professor at the *School of Law, Korea University*, Republic of Korea. He took a Ph.D (international law) at the *l'Université de Paris 2*, France (1989) and a Diploma of The Hague Academy of International Law, The Netherlands (1988) He gave an one-week lecture on "Protection of persons in the event of disasters" in French at *The Hague Academy of International Law*, The Netherlands (2013). Currently he serves as a member of the *UN International Law Commission*. (2012-2016, 2017-2022)



## LECTURERS



**Prof. Jin-Hyun Paik**  
*Professor, Seoul National University*

Jin-Hyun Paik is Judge of International Tribunal for the Law of the Sea (ITLOS) in Hamburg, Germany since 2009 and served as its President from 2017 to 2020. He is currently President of the Special Chamber of ITLOS in the case concerning the Delimitation of the Maritime Boundary between Mauritius and Maldives in the Indian Ocean. Judge Paik was Arbitrator in the “Enrica Lexie” Incident Case (Italy v. India) at the Permanent Court of Arbitration (PCA). He currently serves as President of the Arbitral Tribunal in Dispute concerning Coastal State’s Rights in the Black Sea, Sea of Azov, and Kerch Strait (Ukraine v. the Russian Federation). He is also Professor of International Law at Seoul National University in Korea and was Dean of its Graduate School of International Studies (GSIS).

## LECTURERS



**Prof. Won-soo Kim**  
*Chair Professor of Incheon National University, former Under Secretary-General of the UN*

Won-soo KIM is the former Under Secretary-General and the High Representative for Disarmament of the United Nations. As the Korean diplomat, he served as the Secretary to the ROK (Republic of Korea) President for Foreign Affairs and Trade as well as for International Security at the Blue House. He also served as the Director General for Policy Planning and Ambassador for Regional Cooperation at the Ministry of Foreign Affairs. He is now the Chair of the International Advisory Board of the Future Consensus Institute (Yeosijae) and the Chair Professor of the Incheon National Univ. in Korea as well as the member of the Group of Eminent Persons for the Comprehensive Nuclear Test Ban Treaty (CTBT).



**Prof. CHEN Li**  
*Professor, Fudan University*

CHEN Li is the vice dean and Professor of International Law at Fudan University School of Law. She is the standing councilor of China Private International Law Association. She is also an arbitrator of both Shanghai Arbitration Commission and Shanghai International Arbitration Center. Professor Chen obtained her LLB, LLM and Ph.D. in Fudan University, and Post-Graduate Diploma in Common Law from Hong Kong University. She specializes in private international law, international economic law and Antarctic governance. She supervises both Master’s and Ph.D. candidates, and teaches private international law, introduction to international economic law and international commercial arbitration to both Chinese and international students at Fudan Law School. Professor Chen has been awarded several government level prizes on her teaching and research achievements. In recent years, she has completed several government-sponsored research programs focusing on the reform of Chinese arbitration law, possible solutions of China’s non-market economy status under the international trade remedy laws as well as Antarctic governance. She has published three monographs and over 50 articles. She was a visiting scholar of Max Planck Institute for Comparative and Public International law (Germany in 2001), International and Area Study Center of Yale University (Fox International Fellowship 2004-2005), Center for Ocean Law and Policy in University of Virginia (US-China Fulbright Visiting Scholar 2012-2013), and has also spoken at international conferences in the U.S., Korea, Germany, U.K., Denmark, Japan and Singapore.



**Prof. Rafael Leal-Arcas**  
*Professor, Queen Mary University of London*

Rafael Leal-Arcas is Professor of European and International Economic Law, a Jean Monnet Chair holder (awarded by the European Commission), Program Director of the LLM in International Economic Law, and former Director of Research at the Centre for Commercial Law Studies of Queen Mary University of London. He is also a visiting professor at New York University Abu Dhabi in the UAE and the Inaugural Lee Kong Chian International Visiting Professor of Law at the Yong Pung How School of Law of Singapore Management University, Singapore. Dr Leal-Arcas’s research is funded by the EU Commission’s Horizon 2020 program, most notably a grant of EUR14 million as part of a consortium of 21 institutions to work on renewable energy and smart grids.



**Prof. Bhupinder S. Chimni**  
 Professor, O.P. Jindal Global University

Dr. B.S.Chimni is a Distinguished Professor of International law, Jindal Global University, India. He has been elected Associate Member, *Institut de Droit International*. He is former Vice-President and at present Member of the Advisory Council of Asian Society of International Law. He has been a Visiting Professor at Brown University, Tokyo University, American University at Cairo and the Graduate School of International Studies, Geneva. He has also been Fellow, Institute for Advanced Studies, Nantes, France; Senior Fulbright Visiting Scholar at Harvard Law School, a Visiting Fellow at Max Planck Institute for Comparative and Public International Law, Heidelberg, Centre for Research in Arts, Social Sciences and Humanities, Cambridge University, UK. He is also Member, Academic Council, Institute for Global Law and Policy, Harvard University. He has delivered several prestigious lectures including the Eighth Grotius Lecture at the Centennial Meeting of the American Society of International Law in Washington (2006) and the first Harrell-Bond Lecture at Centre for Refugee Studies, Oxford University (1999). His most recent publications include: *International Law and World Order: A Critique of Contemporary Approaches* (Cambridge University Press, Cambridge, 2017); *Customary International Law: A Third World Perspective* American Journal of International Law (2018). He is member of the editorial board of American Journal of International Law, Asian Journal of International Law, and is Editor-in-Chief of Indian Journal of International law.



## A Hub of International Law in East Asia

The Center for International Law of IFANS, KNDA aims to play a hub role in promoting international law in East Asia, where the role of international law assumes a growing importance in achieving regional peace and prosperity.

The Center for International Law was established in November 2013 to facilitate comprehensive and systematic research in international law, which would contribute to foreign and security policy formulation. Affiliated with the Institute of Foreign Affairs and National Security (IFANS) of the Korea National Diplomatic Academy (KNDA) of the Ministry of Foreign Affairs of the Republic of Korea, it aims to promote research activities and nurture experts in this field by connecting the government and the private sector. In East Asia, the Center aims to serve as the regional hub of international law by connecting diverse scholars, policymakers, and institutions both in Korea and other parts of the region.

### RESEARCH

The Center for International Law carries out research on various issues related to international law that hold particular significance to Korean diplomacy. By conducting research on a wide array of issues, including the law of the sea, international humanrights and humanitarian law, international environmental law, international economics law, cyber and data security, space and new technology, and peaceful settlement of disputes, the Center seeks to provide comprehensive legal and policy analysis for foreign policy-making.

### SYMPOSIUMS & WORKSHOPS

The Center for International Law organizes symposiums, seminars, and workshops at various scales to facilitate discussions on issues in Korean diplomacy, with particular focus on the perspective of international law. The Center's interdisciplinary approach to various issues facilitates discussions

that are not only academically extensive, but also practically meaningful. By participating in the symposiums and workshops hosted by the Center, experts from home and abroad can engage in depth dialogue on major issues in various fields. Among the issues that were previously covered, cyber security, transboundary environmental issues, Korean reunification, and North Korean human rights are the prominent examples.

### ACADEMIC & POLICY NETWORKS

In conducting its research projects, the Center for International Law actively collaborates with many partners, widely ranging from individual scholars and policymakers to public organizations and think tanks, at national, regional, and international levels. By arranging research trips to foreign institutes and international organizations, and inviting scholars from foreign countries, the Center promotes exchange of views on international law and policy collaboration with experts.

### EDUCATION

The Center for International Law provides international law education at various levels. It develops educational materials for KNDA's courses, designed for its diplomat candidates and other government officials. Furthermore, it provides special lectures and training programs on international law to provincial governments and public organizations in Korea. It has also set up its new program, Seoul Academy of International Law, designed to teach public international law to junior scholars and practitioners mainly from Asia and Pacific region.

### DATABASE & PUBLICATIONS

The Center for International Law develops database on international law. Some of its main features are the analysis of the Korean cases that are relevant to international law and international relations, and the compilation of the international law materials that hold essential policy implications for Korean diplomacy. Furthermore, the Center publishes various materials on international law, including reports on its seminars and research projects.





**2021  
SEOUL ACADEMY OF  
INTERNATIONAL LAW**

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