

Lesson Six: The International Legal Order

Lesson Six - Lesson Plan

PLTS:

Independent inquirers, creative thinkers, team workers and effective participators

FUNCTIONAL SKILLS:

Literacy: listening to different perspectives and negotiating consensus

IT: internet research skills

OBJECTIVES:

- Students will explore use and limitations of international law in the examples of use of force and climate change treaties
- Students will consider how the concepts of equality, fairness, liberty and justice apply in the context of international law

OUTCOMES:

Students will be able to briefly explain:

- The importance of international law in addressing the use of force in international conflicts
- The importance of international law in addressing climate change

KEYWORDS:

Treaty, international community, international dispute, use of force, climate change

6.1 Introduction: The International Legal Order

Read or paraphrase the following for the class:

So far, we have explored different aspects of the legal system within the UK and how we as members of the national community benefit from and are subject to the law in the UK. Now we are going to explore the law that the UK is subject to as a member of the international community. This is called international law.



6.1.1 STARTER ACTIVITY: What Is International Law For? - Instructions for teachers (5 minutes)

P Ask the students to brainstorm in groups:

Can you think of some international problems that you have heard about in the news? How could international law help in these situations?



6.1.2 STARTER ACTIVITY: What Is International Law For? - Background for teachers

Students may come up with contemporary conflict situations (such as Syria or Ukraine) or issues with a global impact such as terrorism. You may wish to explain that international law operates in other vital areas such as finance and trade, and environmental protection.

The role of international law is to regulate the behaviour of states in all these different situations, to set out their rights and their responsibilities in the international community. International law tells countries what they can and cannot do. You may wish to draw the parallel that just as there would be chaos within countries if there were no national law to regulate the behaviour of individuals, there would be chaos if there were no international law to regulate the behaviour of states. You may wish to point out that the operation of international law is far from perfect, as will be explored later on. There are many world problems that remain unsolved and inequalities in the way that international law operates. When countries break international law, they are not always punished.

6.2 An Overview – The International Legal Order



6.2.1 An Overview: The International Legal Order - Teacher-led introduction (5 minutes)

Read or paraphrase the following:

In previous lessons we have explored our duties towards one another and towards our state and its duties towards us. As we have seen, the law provides order within our community. More specifically, national law, (that is, the law of a particular country,) provides order within that country.

In the same way that we as individuals exist within a community, on another level, countries also exist within a community – the international community. This means that they also have rights and duties towards other countries, that is, their fellow members of the international community. The law that governs the way that countries behave towards each other in the international community is called international law.

International law provides order within the international community, aiming to protect less powerful countries and aiming to make sure that they are treated equally and have the same rights as the most powerful countries. It also exists to tackle problems that cannot be solved by individual countries alone because they span several countries or indeed affect the whole international community. International law also helps to regulate behaviour and settle disputes which occur between individual countries with different interests, all seeking to protect their own interests, whether territory, natural resources, economic interests or political interests.



6.2.2 An Overview: The International Legal Order - Background for teachers

The aim here is to move the fundamental principles underpinning the Rule of Law to an international context and to show that they apply on an international level, with states being the legal subjects rather than individuals. Just as domestic law regulates the conduct of individuals on a national level, international law regulates the conduct of states on an international level. There are parallels that can be drawn

between the functions of the law at a national level and at an international level. In a nutshell, international law, like national law, has similar functions of resolving disputes between members of the international community and in preventing and punishing wrongdoing.

In general, international law operates across the state community regulating the conduct of and relationships between states. However, it can also operate within countries, giving rights to individuals and groups of individuals within them. As explored in Lesson 5, the international human rights treaties obligate states that have signed up to ensure human rights are observed within their countries. In this way, international law impacts on individuals.

But one of the major differences between international law and national law is in the area of enforcement. Because there is no international police force, international law is far harder to enforce than national law. For this reason, international law often operates by consensus whereas national law operates through the imposition of a legal framework on individuals.

Many of the issues tackled by international law are discussed and formalised into treaties (which are agreements between states) through the United Nations system. The United Nations is an international organization founded in 1945 after the Second World War. It now has 193 members, which makes up the vast majority of the countries in the world. Its aims include maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights.

Equality, fairness, liberty and justice in international law

Going back to the concepts that we discussed in previous lessons of equality, fairness, liberty and justice, how do these fit in with the international justice system? In some ways, the reality of how international dispute resolution mechanisms work is more complicated than with national systems. The international system has been criticised for being politicised and open to the sort of abuses and unfairness that we have discussed previously as not leading to justice.

Below we will discuss previously examined concepts of equality, fairness, liberty and justice in the context of the international justice system, looking particularly at resolving disputes between different countries.

Equality

Thinking back to Lesson Two, we talked about equality for individuals within a national justice system meaning being able to benefit equally from the law and being equally subject to the law. On an international level, equality similarly requires that countries can benefit equally from the law and be equally subject to the law, only this time, we are talking about international law rather than law within a certain country.¹

Equality of rights and opportunities for countries before international law is encapsulated by the principle of sovereign equality and it is a fundamental principle of international law. This means that every country, whether big or small, whether powerful or weak, has the same right to its own sovereignty. Sovereignty covers several rights: the right of a country to govern its own people by making laws and enforcing those laws, the right of a country to deal with its own internal affairs and to perform activities considered necessary to the population, and the right of a country to not have its territory intruded on by other countries.

Why is this important? We discussed above the fact that countries, or rather governments representing countries, pursue various interests. If the principle of sovereign equality did not exist, the most powerful countries could achieve their interests by whatever means they wanted, including through the use of force on other countries.

Being able to benefit equally from international law also requires, for example, that countries should have an equal opportunity to participate in decision-making in the international community and in creating international law. As part of this, in treaty negotiations, all countries that have an interest in signing the treaty would expect to have a voice in the negotiations leading up to the treaty being finalised.

Just as individuals are equally accountable before national law, states are equally responsible for obeying international law. If they do not do so, they should be held equally responsible before the law. We would not expect some countries to get away with not obeying the law because they are bigger or more powerful for example. Some people argue that at the moment, more powerful countries do get away with breaking the law and that this is unfair.

One of the main problems is that there is nobody to hold countries to account if they do break the law. There is no international police force to do this! Even where states are before an international tribunal² (court or court-like forum) to resolve a dispute among themselves, there is nobody to make them obey the court's ruling.

Fairness

The principles of equality before the law and sovereign equality incorporate the concept of fairness. Fairness requires that countries should have an *equal opportunity* to exercise their sovereign rights and to participate in the international community (and this is linked inextricably with the concept of equality we explored above.)

In general, if countries benefit equally from international law, and receive equal protection under international law, then we would say that the situation is fair.

Liberty

Within the concept of sovereignty is that of liberty. When we say that countries are sovereign, this incorporates the liberty to govern its people as it sees fit. Countries

may make their own laws to control the way that people within that country behave and develop measures that are necessary to make the country run effectively, for example, raising taxes.

Just as individuals have the liberty to do whatever national law does not prohibit, countries have the liberty to do whatever international law does not prohibit. It is questionable whether all countries do have the same liberty to act as they wish because some countries are less powerful and more dependent (economically and in other ways), meaning that they are more likely to be pressurised by other members of the international community.

Justice

We previously described the concept of 'justice' as getting the 'right result' using a fair procedure to get to that result. That concept is equally applicable in international law, applying where a country has not complied with international law, or two countries have a dispute.

We previously examined fair procedure in national justice systems involving national courts. In international law, similar concepts apply, but instead, cases are heard by the International Court of Justice (ICJ). As its name suggests, the ICJ is a court that hears and makes decisions on disputes between countries rather than between individuals.

6.3 International Law Case Study I – Armed Force and International Peace and Security



6.3.1 Case study I: Armed Force and International Peace and Security – Teacher-led introduction (5-10 minutes)

1. Obtain initial responses from the class to the following question:
What's the problem and why do we need international law to try and solve it?

2. Explain to the students that:

Disputes sometimes occur among states. In the most extreme cases, armed conflict may even occur. Just as there is national law regulating how we behave in our daily lives towards other individuals, countries are regulated on an international level on what they should and should not do in their behaviour towards each other.

The general rule is that countries are not allowed to use force against each other. After World War Two, there was a recognition that the horrors of war and suffering on such a wide scale should be prevented from happening again and the idea was to outlaw the use of force so that war would not occur again. This is one of the aims of the United Nations, and its Charter generally forbids the use of force.³

3. Ask the students why they think international law is important in regulating the use of force.

Sample answers:

Students may offer answers such as:

To avoid more powerful countries using force to gain advantages from weaker countries;

To avoid conflict that may result in loss of life, disruption of lives and humanitarian disaster

You may wish to explain that the law regulating the use of force aims to provide at least a framework which gives some guidance on when force can be used. It supports the concept of fairness and equality among states by protecting the territory and political integrity of all states equally. Without the law, it would be easy for more powerful states to gain advantages over weaker states without consequences. (Many argue that this happens anyway despite the existence of international law. Teaching notes will explore this below.)

4. Obtain from the class any initial responses to the following question.

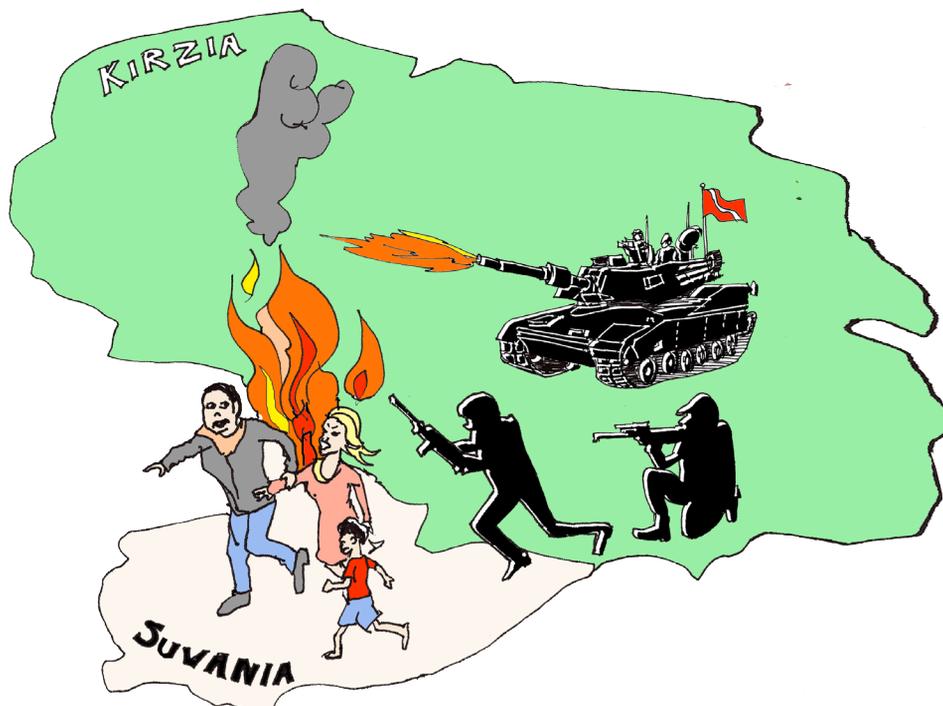
Can you think of any circumstances when countries should be allowed to use force against one another?

If there are no responses, tell the students that they are going to explore one example in the following activity.



6.3.2 ACTIVITY 1: Protecting Suvania - Printouts for students

Your group are the top advisors to the government in an imaginary country called Suvania. Suvania is a small country and you only have a small army. In Suvania there are reserves of natural gas and oil, which you sell to different countries. The income from the oil and natural gas ensures that all your people have enough food and enough money to live well. Next to Suvania, is a much bigger imaginary country, called Kirzia. Kirzia has a large population and a large army. They make money from selling their produce such as food, clothes and machinery to the rest of the world. They are rich, but they do not have enough oil or gas to meet the needs of the population so they have to get their oil and gas from other countries. Recently the government of Kirzia asked Suvania to sell all its oil and gas to them and not sell it to any other country. When your government refused, they moved their army into your country to try to take control of the oil and gas reserves. The Kirzia army are violent and they killed and injured some of your people. The hospital workers were also injured and couldn't look after the injured. Many people left their homes to escape the violence and are fleeing across the country. They have had to leave their livelihoods behind and they don't have food or shelter. You are going to advise the Prime Minister of Suvania on what action she could take to stop the crisis.



Consider the following actions. Then:

- Put the actions into the order you suggest the Prime Minister use them. You do not have to use them all. Just use the ones you think are advisable.
- Consider the consequences of each action.

a. Call on all other countries to help you by talking to the Government of Kirzia and telling them to move their army out.

b. Use your own army to drive the Kirzia army out of Suvania using force.

c. Make a request to the UN to call on all countries in the world to stop trading, buying or selling to Kirzia until they move their army out of Suvania.

d. Talk to the Prime Minister of Kirzia and ask him to move his army out.

e. Make a request to the UN for them to send a negotiator to Kirzia, asking the Prime Minister of Kirzia to move his troops out of Suvania.

f. Send your army to Kirzia to attack the Kirzian people so that the Kirzian government understands what you and your people are going through and to put pressure on them to withdraw from Suvania.

Follow up questions:

1. Imagine that a few of the very powerful countries in the UN decided that their own trade agreements with Kirzia were more important to them than the suffering of Suvianian people.

What do you think those powerful countries might do?

Thinking about this example, are the principles of equality and fairness always upheld by international law?



6.3.3 ACTIVITY 1: Protecting Suvania - Instructions for teachers (20-25 minutes)

1. Divide the students into groups of four or five.

P 2. Read through the instructions with them and ask them to put the actions in the order they think the Prime Minister should carry them out.

3. As the class to talk about the potential consequences of each action.

4. Look back at the question from the introduction to the activity:

Are there any exceptions to the prohibition on the use of force under international law?

Ask the students if they have anything further to add to this.



6.3.4 ACTIVITY 1: Protecting Suvania - Background for teachers

Sample Answers: (at a glance – see below for explanation)
Students may choose the following order:

d, a, e and c

b would probably be legal as it is self-defence. Students could put it anywhere in their order.

f would probably not be legal as it goes beyond self-defence. Students would not be advised to include this in their advice to their Prime Minister.

Note for teachers: The law (particularly from the UN Charter) behind this activity has been cited in footnotes for your information but is not necessary for students to understand the principles.

Generally, under international law, in line with the prohibition on the use of force,

countries must try peaceful methods for responding to attacks before resorting to forceful methods.⁴

The first thing that should be tried is talking to the Kirzia government to ask him to move his forces out of Suvania. If this does not work, the Suvianian government could ask other countries to help to persuade the Kirzia government to remove its troops.

If this does not work, the government of Suvania should let the UN Security Council (the UN body responsible for international practice and security) know that peaceful measures have failed. The Security Council may decide then to take other measures, including sending an impartial investigator or negotiator to Kirzia.⁵

If this does not work, under Chapter VII of the UN Charter which governs threats to the peace, breaches of the peace and acts of aggression, the Security Council may implement measures such as economic sanctions.⁶ At this point, the Security Council may call upon countries in the world to stop trading with Kirzia until it moves its army out of Suvania.

If none of this works, the Security Council may authorise the use of force against the aggressor.⁷ At this point, the UN may call upon the international community to use force to drive the Kirzian army out of the country. This is the first exception to the prohibition on the use of force.

However, in this case, it is likely that under international law, the country under armed attack would be allowed to use force in order to protect its citizens where the threat is immediate, or even imminent.⁸ Acting in self-defence in this way is the second exception to the prohibition on the use of force. The right to self-defence is a principle of customary international law (ie, unwritten law that has developed over time according to the practice and will of states) and is also written into the UN Charter.⁹ In this situation where there is continuing violence, it could certainly be argued that the threat is immediate enough to necessitate self-defence. The government of Suvania could therefore mobilise the Suvianian army to respond to the Kirzian attack by trying to drive the Kirzian troops out of Suvianian territory. You may wish to stress to students that the situation of armed attack or threat of armed attack has to meet the conditions of immediacy or imminence in order for the use of force in self-defence to be legal.

However, international law makes it clear that measures taken in self-defence have to be proportionate to the threat and limited to what is necessary to remove the threat.¹⁰ Retaliation is not permitted. For this reason, it would not be legal to send Suvianian troops to Kirzia to attack the Kirzian people as this is not strictly necessary to remove the threat and not proportionate as a response to the threat.

To use a real life example to explain the use of force, you could outline the circumstances of the Iraq War. The war began when US and UK forces, along with contingents from some other countries, invaded Iraq. George W. Bush, President of the US at the time, along with the Prime Minister of the UK at the time, Tony Blair,

claimed that this was justified on the basis that Saddam Hussein, the Iraqi leader, was developing dangerous weapons that could be used against the U.S. and that he may have been involved in the September 11, 2001 attacks on New York. Both these claims were later found to be false. Most people now feel that the entry into Iraq by US and UK armed forces using force against Iraqi people was illegal under international law. The US and the UK had no authorisation by the Security Council and it is unlikely that the invasion was an act of self-defence (against potential future terror attacks in light of what happened on September 11, 2001,) because a future possible attack was in no way immediate or imminent, particularly when it was found that Saddam Hussein did not have weapons of mass destruction. There is an ongoing inquiry looking into UK involvement in the Iraq conflict called the Chilcot Inquiry.

Follow up questions – teacher background

Imagine that a few of the very powerful countries in the UN decided that their own trade agreements with Kirzia were more important to them than the suffering of Suvianian people.

What do you think those powerful countries might do? How would that affect the future of Suvania?

Thinking about this example, are the principles of equality and fairness always upheld by international law?

You may wish to explain to students that the Security Council is made up of the US, Russia, China, the UK and France. These countries all have their own interests and any decision they make in the Security Council is a careful weighing up of whether this is the best course of action for their own interests as well as for the international community. If for example, any of the countries of the Security Council had strong trade links with Kirzia, the country might decide not to approve the decisions explained above that could be taken by the UN Security Council in order to authorise sanctions or ultimately even the use of force against Kirzia.

Although Suvania has the right to self-defence in this situation, the problem is that it may not be powerful enough to succeed in driving out Kirzian troops. Suvianian people may therefore continue to suffer under Kirzian attack.

The fact that a few countries in the Security Council have control over the legal action that may or may not be taken against Kirzia means that many have criticised international law as being unfair in that all countries are not equal before the law in these situations. Commentators point out that having these few countries in a position of having sole deciding power in situations concerning international peace and security means that the law in this area is skewed towards the interests of these countries and not for the objective and common good of the international community.

6.4 International Law Case Study 2 – Climate Change and International Treaties



6.4.1 Introduction to case study 2: Climate Change and International Treaties – Teacher-led introduction (5-10 minutes)

1. Ask the class to think about climate change. Obtain initial responses from the class:

What's the problem and why do we need international law to try and solve it?

2. Read or paraphrase the following:

Many of you will be aware of some of the ongoing debates and measures being negotiated on climate change. The effects of climate change are already being felt acutely in many parts of the world. These effects include global warming, irregular weather patterns and an increased incidence of natural disasters. These effects can have profound consequences on people's lives and livelihoods around the world. These range for example from people who live in coastal and low-lying regions having to move because their homes have flooded due to sea-level rise, people's crops failing due to weather patterns becoming unpredictable, to conflict due to changing availability of resources such as water. All this in turn has a great impact around the world on poverty, on economic growth, sustainable development, and political stability.

At the Earth Summit held in Rio in 1992, countries adopted the United Nations Framework Convention on Climate Change (UNFCCC.) This treaty set a goal to limit greenhouse gas emissions in order to limit average global temperature increases, and to consider what to do about the effects of climate change which could already be seen at that time. In 1997, the Kyoto Protocol was adopted to set specific emission reduction targets and to bind countries to those targets. Specifically, it requires industrialized countries to reduce their combined emissions of six major greenhouse gases during the five-year period from 2008 to 2012 to below 1990 levels. Since then, meetings between parties to the UNFCCC have taken place regularly to discuss issues such as climate change mitigation and adaptation commitments, funding for those commitments, timescales and methods for greenhouse gas emissions cuts, and to monitor countries' progress on reaching their targets for emission reductions.



6.4.2 ACTIVITY 2: Video on Climate Change and International Law – Teacher-led introduction and discussion (15 minutes)



Before you watch the video:

1. Ask the students to work in groups of three or four. Tell the students they are going to watch a video offering different perspectives on climate change negotiations, and to take 5 minutes to write down their initial thoughts on the following question:

Why are international treaties (which are part of international law) needed to tackle climate change?

2. Tell the students that as they watch the video, they should listen out for people giving reasons why international treaties are needed to tackle climate change.

Play the video on climate change and international law in the ‘Videos’ folder on the CD-ROM.

After playing the video:

a) Ask the students to feed back their answers to the class on *why international treaties are needed to tackle climate change*.

Discuss as a class:

Think back to the content of the videos.

*Are international treaties always successful in tackling climate change?
Why/Why not?*

This question can be used as a lead-in for the next activity. Try to identify how ideas that the students have may relate to the concepts of global equality, fairness, liberty or justice.



6.4.3 ACTIVITY 2: Video on Climate Change - Background for teachers

Above we have discussed the functions of international law which include not just resolving disputes and dealing with and preventing wrongdoing, but also dealing with global issues, or issues with a transnational dimension.

Climate change is one such example. It is a problem caused by all countries (some much more than others), and one whose effects will be felt by all countries (some much more than others.) There are many purposes to international treaty law here. But principally, in taking collective action, countries are able to tackle an issue that they would be unable to tackle if only some of them sought to tackle it individually. Moreover resources are pooled, a common standard is identified, and all countries have a say at the negotiation table as to what they think the action to be taken should be.

International treaties commit countries to a course of action through a process of consultation and common agreement. They force states to balance collective interests against individual national interests, set common standards and move towards a common goal.

Although the principle is that all countries have a say in negotiating treaties to tackle world problems, many feel that the situation is that some of the bigger and more powerful countries are able to get 'better deals' at the negotiation table. Many feel that these more powerful countries are able to pressurise other countries into accepting a position that suits the interests of the powerful countries, by virtue of their economic and military might. For example, some of the economies of the less powerful countries are dependent on the more powerful countries and therefore they cannot afford to disagree with these powerful countries in case trade that is vital to their survival is cut off. There is therefore criticism that all countries are not equal before international law.



6.4.4 ACTIVITY 3: Climate Change Negotiations – Printouts for students

Printouts for all groups

Imagine that you are a delegate who has been sent by your country to an international conference for the latest climate change negotiations. You are aiming to agree on the text for a draft treaty with other representatives from other governments. Although you all want to solve the problems that climate change is creating, the difficulty is agreeing on how it should be done, and what everyone's responsibilities should be.



Before the negotiations: Look at the following draft of a treaty on climate change. Read your role card and based on what your card says, decide whether you think each part of the treaty serves your country well. If you think a particular bit of the treaty is unfair to your country, try to redraft it together with the other negotiators to make it fairer.

International Treaty on Climate Change

- 1 All countries will cut their carbon emissions by 20%, regardless of whether they are rich or poor.
- 2 However, countries may make a cut lower than 20% if they are able to find another country willing to make a bigger cut to make up their share of the cut.
- 3 Poorer countries that need energy to improve their economy can cut carbon emissions more slowly than richer countries, so they don't need to make the 20% cut immediately. They can work up to the 20% cut gradually.
- 4 All countries must produce 25% of their total energy through 'clean energy' sources (such as wind farms or solar energy.) Richer countries will give money to poorer countries to help with costs of changing to clean energy.

Country I Printouts

I. You are from a poor country. People in your country don't use much energy and don't emit much carbon as they are not well off enough to afford cars and other such luxuries. They therefore don't have much of an impact on climate change. Richer countries use more energy and therefore have a much greater impact on the effects of climate change than your country does. However more people suffer in your country from climate change than in richer countries partly because your country's economy depends on regular weather patterns for crops to thrive.

You think that:

- a) Richer countries should cut their carbon emissions at a rate higher than 20% and that this should be achieved immediately as they do not need to develop at a fast rate as you do.
- b) Poorer countries such as your own should be allowed to cut their carbon emissions at well below 20% since you don't produce many carbon emissions anyway and it is unavoidable that you emit carbon in your path to becoming a developed country.
- c) There is a possibility of switching to 'cleaner energy' such as wind farms and solar energy which means that you can still use energy but not emit as much carbon. You would be willing to switch to cleaner energy going forwards but as setting all this up is very expensive, you are only happy to do it if it is paid for by richer countries.
- d) Rich countries should give your country money to deal with problems caused by climate change in your country. Rich countries have mainly been responsible for causing climate change, and yet many poor countries are the ones suffering the most from it. This is unfair and rich countries should at least take some of the burden of the climate change problems in your country.
- e) You don't think that rich countries should be able to avoid cutting their emissions drastically by paying poor countries to make cuts instead. The whole point is that they have had their turn at becoming developed and getting richer and now it's your turn. On the other hand, your country does however receive a lot of money from rich countries for education and to tackle poverty which is crucial for your country. You do need to keep the rich countries relatively happy in order that they do not decide to stop giving your country this money or your people will suffer.

After the negotiations:

Did you manage come to an agreement on what the clauses of the treaty should say?

How was your experience in trying to reach agreement? Was the process fair? Was it equal?

How do you think the issues of equality, fairness, liberty and justice affect the role of international law in tackling climate change?

Country 2 Printouts

2. You are from a fast-growing country that is no longer very poor but is not yet as economically powerful as you are aiming for. You want your country to develop quickly. You want to attract big businesses in order to improve your economy – that's how the rich countries got rich. With this plan in mind, you are definitely going to need to use more energy in the future in order to develop quickly.

You think that:

a) You do not want to have to cut your emissions by 20%. You want to agree on a cut much lower than that for your country.

b) As your economy is no longer heavily dependent on agriculture, you are not that worried about the effects of climate change. You don't mind too much if other countries don't want to make much of a cut either if that means they are more likely to agree to a lower cut for you.

c) There is a possibility of switching to 'cleaner energy' such as wind farms and solar energy which means that you can still use energy but not emit as much carbon. You would be willing to switch to cleaner energy going forwards but as setting all this up is very expensive, you are only happy to do it if it is paid for by richer countries. However, you don't think that cleaner energy is going to be able to provide for all your country's needs, so you do still want to negotiate for as little of a cut in emissions as possible.

d) You are not willing to consider receiving money for making more cuts to carbon emissions. You don't think that the amount of money received is enough to compensate you for the opportunity to develop quickly and in the long-term. It is much more valuable for you to be able to industrialise and build up the economy.

e) Your country is suffering from conflict between different ethnic groups. Several rich countries are providing funding and training to help your army and police to keep the peace in your country. You do need to keep the rich countries relatively happy so that they do not take away the support for your army and police, otherwise your country might descend into war.

After the negotiations:

Did you manage come to an agreement on what the clauses of the treaty should say?

How was your experience in trying to reach agreement? Was the process fair? Was it equal?

How do you think the issues of equality, fairness, liberty and justice affect the role of international law in tackling climate change?

Country 3 Printouts

3. You are from a rich country and your economy relies on big businesses, for example, oil companies, technology companies and food companies. To stay in power your government needs to listen to what these businesses want and do what your citizens want generally. The big businesses in your country do not want to cut carbon emissions, because this means using less energy and probably doing less business which means losing profits. The people in your country do not want to cut carbon emissions because this means having to change their lifestyles, for example not being able to own more than one car or go on holiday several times a year.

To keep your people and the businesses happy, you think that:

- a) You must maintain the level of emissions your country is producing. Any cut at all is going to make businesses and your people unhappy.
- b) In the worst case scenario, you can see that you might have to make a bit of a cut to your emissions but you certainly don't want that to happen immediately. You want time to be able to develop alternative energy solutions and make sure that businesses' and peoples' needs are covered.
- c) You want to pay the poorer countries to accept more of a cut to their emissions which means that you could make less of a cut to yours. You can afford to pay the poor countries to do that and in the long-term it is a much better deal for you to be able to carry on doing big business while paying poorer countries to make the cuts for you.
- d) You are willing to consider switching to cleaner energy, but that is clearly not going to meet all your energy needs, so you still want to negotiate for the lowest cut possible.
- e) You are willing to contribute to the cost of poorer countries switching to cleaner energy if this means they are willing to take on some of your cuts to carbon emissions.
- f) If the poorer countries try to push too hard for things in these negotiations you can pressurise them to do what you want by saying that you will take away aid money or support for peace in their country.

After the negotiations:

Did you manage come to an agreement on what the clauses of the treaty should say?

How was your experience in trying to reach agreement? Was the process fair? Was it equal?

How do you think the issues of equality, fairness, liberty and justice affect the role of international law in tackling climate change?



6.4.5 ACTIVITY 3: Climate Change Negotiations - Instructions for teachers (30 minutes /whole lesson activity if preferred)

You may wish to do this activity if there is time.

1. Tell the students they are going to be country delegates in climate change negotiations.

P 2. Read the draft treaty as a class. Discuss briefly how rich and poor countries may have different challenges on meeting the targets in the treaty. Discuss the meaning of any key words and concepts relating to the treaty on climate change.

3. Divide the students into three groups – Country 1,2 and 3 and give the students in the groups the corresponding printout.

4. Give the students time to read the role cards. Use the reading time to walk around the class checking if students have any questions relating to their role cards.

5. Tell the students to discuss and reach a consensus in their groups based on the information in the role card on the following:

- a) *Do you agree or disagree with points 1-4 in the treaty?*
- b) *Where you disagree, what do you think the treaty should say?*

6. When all the country groups have reached consensus, you will set up a mini class debate between the three groups.

7. As a class, look at the treaty point by point. Ask someone from each group to explain their opinion on point 1. Based on how convincing their arguments are, you may wish to redraft that point in the treaty on the PowerPoint. Repeat with points 2-4 in the treaty.

8. As the class to discuss the questions under the heading “After the negotiations.” Ask the students if they have anything further to add to this.



6.4.5 ACTIVITY 3: Climate Change Negotiations - Background for teachers

Emphasis should be on the process and experience of negotiating the treaty rather than the result. The idea is that students understand that countries often face conflicts of interests in negotiating agreements, sometimes with the result that agreement is difficult. This can lead to delays in solving the problem and final agreements where there is very little that is actually committed (in order to keep everyone happy.)

Students should also come to the conclusion that richer and more powerful countries may have an advantage at the negotiation table since they can use their power and wealth as tools to serve their own interests, whereas weaker and poorer countries cannot.



6.4.6 ACTIVITY 4: Optional Homework Exercise – Instructions for teachers

1. Print the following card on some of the global issues that the United Nations works on every day.

http://www.un.org/en/aboutun/pdf/E%202013EveryDay_Web.pdf

2. Ask the students to look at the card to get an idea of some of the global challenges that are tackled by countries collectively within the context of the United Nations. Ask the students to choose one of the challenges and to do some research on the topic. They could address in their research the extent of the challenge being faced, what has been done about it, the countries involved, and the progress that has been made.

6.5 Conclusion



6.5.1 Plenary

P Ask the students the following questions:

Is international law important in addressing the use of force in international conflicts? Give two reasons.

Is international law important in addressing climate change? Give two reasons

Footnotes:

¹ Emer de Vattel, a Swiss philosopher and legal theorist who is widely considered to have laid down some of the fundamental first principles of modern international law, said in his well-known work *The Law of Nations* that, ‘Since men are naturally equal, and a perfect equality prevails in their rights and obligations, as equally proceeding from nature — Nations composed of men, and considered as so many free persons living together in a state of nature, are naturally equal, and inherit from nature the same obligations and rights. Power or weakness does not in this respect produce any difference. A dwarf is as much a man as a giant; a small republic is no less a sovereign state than the most powerful kingdom.’

² Such as the International Court of Justice for example.

³ Article of the UN Charter

⁴ See Chapter VI of the UN Charter which provides for the peaceful settlement of disputes.

⁵ Under Article 36 of Chapter VI of the UN Charter, the Security Council may recommend ‘appropriate measures’ or adjustments to the peaceful means being tried by Suvania.

⁶ Under Article 39 of the UN Charter, ‘The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression...’ and under Article 41, it may recommend measures short of the use of force such as ‘interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.’

⁷ Under Article 42 of the UN Charter, the Security Council ‘may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces...’

⁸ In recent years, the definition of ‘imminent threat’ in relation to the threshold that triggers a right of self-defence has been stretched and debated hotly by legal scholars. One of the points of debate is whether the definition of what is ‘imminent’ as a threat should be broadened, considering the fact that conflict has changed so much in recent times, with imminence of a threat not always being obvious.

⁹ Article 51 of the UN Charter provides for the ‘inherent right of individual or collective self-defence if an armed attack occurs...’

¹⁰ In the *Case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. USA)*, the International Court of Justice confirmed that the legality of a measure taken in self-defence depended on it being necessary and proportionate to the attack, finding that this principle was one of customary international law.

Lesson 6 Glossary

Acts of aggression – a term in international law that refers to an aggressive act against another state that has reached a certain severity, including for example, invasion of another state, military occupation, annexation by the use of force, blockading ports or coasts

Breaches of the peace – a term in international law referring to a situation where the UN Security Council has determined that international peace has been disturbed and has reached a certain level of severity

Carbon emissions – the emission of carbon dioxide as a result of burning fossil fuels. Carbon dioxide is the main greenhouse gas.

Climate change mitigation and adaptation commitments – commitments made to lessen the effects of climate change and to help countries with adapting to different ways of life as required by climate change

Delegate – a representative of a country or organisation

Draft treaty – treaty text that has not yet been agreed by all states involved

Economic sanctions – measures typically blocking or restricting trade with a state, usually to compel that state to comply with international law

Enforcement (of law) – where the compliance with a piece of law is compelled by legal means, for example through a court judgment

Greenhouse gas – gases that warm the temperature of the earth, causing the climate to change. Carbon dioxide is the main greenhouse gas.

Industrialised countries – countries that have moved from an agrarian way of life to an industrial way of life (for example, manufacturing and processing raw materials)

International community – the community made up of the world's countries

International dispute – a dispute between two or more states

International legal order – the system of law that governs the international community and relations between states

Negotiation table – a physical or virtual forum where people or countries with different interests try to come to an agreement or settle on one or more issues

Prohibition – the forbidding of something by law

Regulate behaviour – to control behaviour by setting out what is legal and illegal

Retaliation – in this context, an act of revenge

Self-defence – in this context, actions taken by a state to protect its people and territory

Settle disputes – to resolve disagreements

State – a country with its own government

Territory (of states) – the area of land within a state's borders (it could also include the airspace and territorial water assigned to a state under international law)

UN Security Council – the UN body responsible for peace and international security in the world

Use of force (by states) – this usually refers to military force used by one or more states against another. For example, a military attack or an invasion of a country is a use of force.