

International Relations (Course Outline)

Mizuno Mitsuaki

Important Notice

At this class, both English and Japanese are used.

(本講義では、期末試験を含め、英語と日本語が使用される。)

Purpose of this class:

to understand:

- 1) What is international law? What is it and how it works?
- 2) Is the use of force legal or illegal?
- 3) "peace" and the use of force. In order to maintain or keep "peace", is the use of force legal or illegal?
- 4) the United Nations system and international security

For these purposes, we will discuss:

1. armed conflicts
2. the United Nations and international society after world war II
3. peace and security. singly or/and collectively
4. international humanitarian law. its definition, role
5. "genocide" and crime against humanity
6. peace and security. the role of the United Nations Security Council
7. humanitarian intervention. former Yugoslavia, Rwanda, etc.
8. Peace Keeping Operations (PKO), especially PKO in Africa. We will NOT take historical approach.

NOTICE

1. evaluation: written examination at the end of the semester (December 12 and December 19, you will have to choose one. You can NOT take both.) 100%.

You can answer in either English or Japanese, but answer in English is recommended strongly.

No assignments will be provided.

2. Attendance at classes may NOT be considered.

International Relations

October 10, 2016

Mizuno Mitsuaki

1. Basic features of International Law

There are no legislative bodies or organs. But all the countries accept respect, and support them.

International Court of Justice can make decisions or make advisory opinion only on the legal issues / problems. It can not deal with political issues.

2. Difference between International Law and Domestic / National Law

	International Law	Domestic Law
Who can make?	depend on cases	Parliament (usually National Diet, or Congress)
What can make effective?	depend on cases (The United Nations do not and can not usually make it effective.)	Usually administrative organs make it effective.
Is there any compelling power?	Yes. All states have to accept and obey it.	Yes.
Is there any jurisdiction organ?	depend on cases. International Court of Justice make decision only on the legal matters.	Usually there are domestic Courts.
the separation of (the three) powers (of administration, legislation, and judicature)	No.	In most states, there is the separation of powers.

3. Treaty

In international society, treaties can be concluded between or among states. In some cases, international organizations can conclude treaties with states or other international organizations.

Restoring Peace and Security in Africa: Somalia and South Sudan Cases

October 16, 2016

International society / community is more and more interested in Africa, because the main issues it faces have close relations with peace keeping or restoring peace by the United Nations. In Japan, many people are interested in the situation in South Sudan, where the Japan's Self Defense Forces are joining the United Nations Mission in South Sudan (UNMISS). Some newspapers say that Japanese government are considering that they can use arms in order to protect other countries' personnel of the UNMISS if they are attacked and will seek protections of the Japan's Self Defense Forces.

But, there are argues whether using arms to protect or rescue other countries' personnel is against the Japanese Constitution, especially the article 9 or not.

Considering this issue, it is important to know and understand what is happening there. NHK has broadcast short documentary program on this. The cases of Somalia and South Sudan are introduced.

The points are:

- 1) What is happening in Somalia or South Sudan?
- 2) Why and how have civil wars occurred?
- 3) In order to restore peace, what can and must the international society do?
- 4) What role can we do?

Africa: Issues and Problems

October 17, 2016

Many people, especially after this November, are and will be interested in Africa, especially South Sudan. Japan's Self-Defense Forces are joining The United Nations Mission in South Sudan (UNMISS) now. Some news media in Japan have reported that the Japan's Self-Defense Forces may help and even rescue other countries' troops joining UNMISS.

The main issue is: If Japan's Self-Defense Forces may help and rescue other countries' troops, is this against Japan's Constitution, especially Article 9?

Before discussing this issue, we have to know what is happening in Africa. About 10 years ago, NHK broadcast special series programs on this. Of course, there are many differences between 10 years ago and today. But the current situation does NOT change 10 years ago. What did, and even did NOT, we do during this 10 years? And what should and should NOT do?

Through these series programs, we can understand what is the main issues which Africa is now facing.

1) 21世紀の潮流 アフリカ・ゼロ年
第1回 ジェノサイドを止めるのは誰か
2005年7月9日(土)

世界の中で、ひとり、紛争に苛まれ続けるアフリカ。平和への道はどこにあるのか。今世紀最悪の人道上の危機、スーダン・ダルフル紛争。謎のアラブ民兵による大量虐殺は、なぜ起きたのか、なぜ止められないのか、国際社会の責任を問う。

War in Darfur

The War in Darfur is a major armed conflict in the Darfur region of Sudan, that began in February 2003 when the Sudan Liberation Movement (SLM) and Justice and Equality Movement (JEM) rebel groups began fighting the government of Sudan, which they accused of oppressing Darfur's non-Arab population. The government responded to attacks by carrying out a campaign of ethnic cleansing against Darfur's non-Arabs. This resulted in

the deaths of hundreds of thousands of civilians and the indictment of Sudan's president Omar al-Bashir for genocide, war crimes, and crimes against humanity by the International Criminal Court.

South Sudan

Sudan was independent in 1956 from Egyptian rule. Since then, the Southern Sudan Autonomous Region was formed in 1972 and lasted until 1983. A second Sudanese civil war soon developed and ended with the Comprehensive Peace Agreement of 2005. Later that year, southern autonomy was restored when an Autonomous Government of Southern Sudan was formed. South Sudan became an independent state on 9 July 2011, following a referendum that passed with 98.83% of the vote.



1 面積
64 万平方キロメートル
(日本の約 1.7 倍)

2 人口
1,191 万人 (2014 年)

3 首都
ジュバ

4 人種・民族

ディンカ族, シルク族, ヌエル族, 他多数

5 言語
英語 (公用語), その他部族語多数

6 宗教
キリスト教, 伝統宗教

7 識字率
27%

source: 日本の外務省の公式サイト
http://www.mofa.go.jp/mofaj/area/s_sudan/

2) 21世紀の潮流 アフリカ ゼロ年
第2回 ナイジェリア石油争奪戦
～貧困をもたらすのは誰か～
2005年7月23日(土)

石油輸出量7位の産油国ナイジェリアは、巨額債務や汚職が重荷となり、国民は貧困に喘いでいる。資源を狙うアメリカの思惑と貧困対策に取り組むオバサンジョ大統領、そして反発を強める油田地帯のリーダー、アサリ・ドクボの動きに密着した。

Olusegun Obasanjo

Obasanjo was a career soldier before serving twice as his nation's head of state. He served as a military ruler from 13 February 1976 to 1 October 1979, and as a democratically elected president from 29 May 1999 to 29 May 2007. From July 2004 to January 2006, Obasanjo also served as Chairperson of the African Union. Obasanjo served both as a military ruler and as a democratically elected president. Some criticize what he did as a military ruler.

3) 21世紀の潮流 アフリカ ゼロ年
第3回 子ども兵を生んだのは誰か
～モザンビーク・内戦の果てに～
2005年7月24日(日)

内戦や地域紛争が続くアフリカ。その戦場では最前線で闘うことが強いられた子ども兵の存在があたり前になってしまった。世界が初めてアフリカの子供兵を知ったモザンビーク内戦を検証し、子ども兵を生んだアフリカの苦悩の現代史を描く。

Mozambican Civil War

The Mozambican Civil War began in 1977, two years after the end of the war of independence. It resembled the Angolan Civil War in that both were proxy wars of the Cold War that started soon after the countries gained independence from Portugal. The ruling party, Front for Liberation of Mozambique (FRELIMO), and the national armed forces (FAM), were

violently opposed from 1977 by the Mozambique Resistance Movement (RENAMO) which received funding from white-ruled Rhodesia and (later) apartheid South Africa. About one million people died in fighting and from starvation; five million civilians were displaced, and many were made amputees by landmines, a legacy from the war that plagued Mozambique for more than two decades afterward. Fighting ended in 1992 and the country's first multi-party elections were held in 1994. However, in 2013, after more than 20 years of peace, RENAMO insurgency resurged and is ongoing, resulting in dozens of deaths.

4) 21世紀の潮流 アフリカ ゼロ年

第4回 感染爆発が止まらない

～南アフリカ 届かないエイズ薬～

2005年7月31日(日)

南アフリカは世界最多530万人ものエイズ感染者が抱える。すでに治療薬はあるが、値段は特許料で高く、貧困者には手が届かない。FTAで知的財産の保護が進み、薬の入手が困難になる中、多くの命が失われている。南アフリカの悲惨な現実を描く。

South Sudan and International Society

October 24, 2016

Read the Editorial of *Chunichi Shimbun* Newspaper dated on October 23, 2016, and consider the followings:

1)

South Sudan is now in turmoil. There are occurring many acts of violence, and even civil wars. In this situation, if Japan withdraw its Self-Defense Forces joining the United Nations Mission in South Sudan (UNMISS), what will happen there?

2)

If international society, especially the United Nations withdraw from there, will the South Sudanese people be forsaken or not?

3)

Without the support from the international society, can the human rights of the South Sudanese people be protected?

the Responsibility to Protect (保護する責任)

The Responsibility to Protect (R2P or RtoP) is a global political commitment which was endorsed by all member states of the United Nations at the 2005 World Summit to prevent genocide (ジェノサイド), war crimes (戦争犯罪), ethnic cleansing (民族浄化) and crimes against humanity (人道に対する罪).

The principle of the Responsibility to Protect is based on the underlying premise (前提) that sovereignty (主権) entails (伴う) a responsibility to protect all populations from mass atrocity crimes and human rights violations. The principle is based on a respect for the norms and principles of international law, especially the underlying principles (根本原則) of law relating to sovereignty, peace and security, human rights, and armed conflict.

The Responsibility to Protect is a political commitment unanimously adopted by all members of the United Nations General Assembly at the 2005 World Summit and articulated in paragraphs 138-139 of the 2005 World Summit Outcome Document:

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI (国連憲章第6章 紛争の平和的解決) and VIII (国連憲章第8章 地域的取極) of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective (集团的) action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII (国連憲章第7章 平和に対する脅威、平和の破壊及び侵略行為に関する行動), on a case-by-case basis and in cooperation with relevant regional organizations (地域的国際機構) as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from

genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

the Charter of the United Nations

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

安全保障理事会は、その決定を実施するために、兵力の使用を伴わないいかなる措置を使用すべきかを決定することができ、且つ、この措置を適用するように国際連合加盟国に要請することができる。この措置は、経済関係及び鉄道、航海、航空、郵便、電信、無線通信その他の運輸通信の手段の全部又は一部の中断並びに外交関係の断絶を含むことができる。

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it 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 of Members of the United Nations.

安全保障理事会は、第 41 条に定める措置では不十分であろうと認め、又は不十分なことが判明したと認めるときは、国際の平和及び安全の維持又は回復に必要な空軍、海軍または陸軍の行動をとることができる。この行動は、国際連合加盟国の空軍、海軍又は陸軍による示威、封鎖その他の行動を含むことができる。

<国際法関係の英文（法文）を読む時のヒント>

- 1) 文の最初が **Should** で始まる場合、「もし～であるならば」、「～というときは」という意味のことが多い。疑問文「～すべきであろうか」のことはとても少ない。
- 2) 「ジェノサイド」、「戦争犯罪」、「民族浄化」、「人道に対する罪」の定義に注意。国際法上の定義は、政治学や歴史学における定義と異なる。

International Relations

November 28, 2016

Today's points:

1. rush and rescue missions
2. The Japanese Constitution and the duties under the Charter of the United Nations

1. rush and rescue missions

News Navigator: What are 'rush and rescue' missions?

October 25, 2016 (Mainichi Japan)

The government is considering ordering Self-Defense Force (SDF) troops participating in U.N. peacekeeping operations in South Sudan to perform so-called "rush and rescue" missions. The Mainichi answers some common questions readers may have about rush and rescue missions.

Question: What are rush and rescue missions that the SDF may perform during peacekeeping operations?

Answer: Such missions would be performed if staff of the United Nations, other international organizations or nongovernmental organizations (NGOs) were in a dangerous situation, such as being surrounded by rioters or militants. If SDF troops deployed to participate in U.N. peacekeeping operations were asked for help, SDF members armed with weapons would rush to the scene in order to rescue people in danger. However, South Sudan's security organizations and other countries' infantry units responsible for maintaining order in the country are supposed to first receive such requests. In cases where these organizations could not respond or the SDF could rescue victims more swiftly, the SDF would receive such requests.

Q: There have been fears that the risk to SDF personnel would increase if they were to perform rush and rescue missions, haven't there?

A: Defense Minister Tomomi Inada told the Diet that the risks to SDF members would never heighten. However, some SDF members think that their risks would certainly increase if they were to perform rush and rescue missions. A retired member of the Ground Self-Defense Force has publicly said that the chance of SDF members encountering danger might heighten if SDF troops were to be given a new mission they

have yet to experience.

Q: What are the differences between new "rush and rescue" missions and other missions that the SDF has been performing?

A: The scope of situations in which SDF members can use weapons would expand. SDF personnel have so far been allowed to use weapons only in cases where they need to defend themselves and people around them. In rush and rescue missions, however, SDF members would be allowed to use weapons to remove barricades or force those surrounding people the SDF is supposed to rescue to retreat. Such new missions could not be fulfilled unless SDF personnel were to be allowed to use weapons more broadly, which has led to concerns that the risks to SDF members would heighten.

Q: What are the chances that the SDF would be ordered to perform rush and rescue missions?

A: Troops that are to be deployed to South Sudan this coming November to replace those currently participating in peacekeeping operations are being trained to perform rush and rescue missions, and preparations to perform such missions are nearly completed. Whether to allow the SDF to perform rush and rescue missions depends on the government's evaluation of the situation in South Sudan. (Answers by Naritake Machida, City News Department)

source:

<http://mainichi.jp/english/articles/20161025/p2a/00m/0na/011000c>

2. The Japanese Constitution and the duties under the Charter of the United Nations

Issue:

If there is a contradiction between the Japanese Constitution, especially Article 9, and the duties under treaties Japan has concluded, what should we do?

The Japanese Constitution says :

Article 9

The Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.

日本国民は、正義と秩序を基調とする国際平和を誠実に希求し、国権の発動たる戦争と、武

力による威嚇又は武力の行使は、国際紛争を解決する手段としては、永久にこれを放棄する。
In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

前項の目的を達するため、陸海空軍その他の戦力は、これを保持しない。国の交戦権は、これを認めない。

Article 98

The treaties concluded by Japan and established laws of nations shall be faithfully observed.

日本国が締結した条約及び確立された国際法規は、これを誠実に遵守することを必要とする。

The Charter of the United Nations says:

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

安全保障理事会は、平和に対する脅威、平和の破壊又は侵略行為の存在を決定し、並びに、国際の平和及び安全を維持し又は回復するために、勧告をし、又は第 41 条及び第 42 条に従っていかなる措置をとるかを決定する。

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

事態の悪化を防ぐため、第 39 条の規定により勧告をし、又は措置を決定する前に、安全保障理事会は、必要又は望ましいと認める暫定措置に従うように関係当事者に要請することができる。この暫定措置は、関係当事者の権利、請求権又は地位を害するものではない。安全保障理事会は、関係当事者がこの暫定措置に従わなかったときは、そのことに妥当な考慮を払わなければならない。

Article 41

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are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

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Article 42

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<一言ポイント>

1) 「紛争の平和的解決」というとき、「平和的」は *peaceful* ではなく、*pacific* と言います。*peaceful* と *pacific* の違い（法的な意味での違い）を調べてみるとよいでしょう。

2) 英語で書かれた条約、外交文書、政治経済（特に安全保障）に関する文章で使われる語（単語）の数は、文学や文化に関する文章で使われる語（単語）の数よりも、少ないと思います。文章表現も（Should～、may～、shall～といったように）単調なことが多いと思います。その半面、一文が長く、どこで切れているのか、関係代名詞の先行詞がどこなのか、過去分詞が修飾しているのはどこなのか、など読みにくく、聞き取りにくいことも多く、慣れるまでが大変ですが、いったん慣れてしまえば、比較的読みやすく、話すことも容易です。

3) 日本語で書かれた法（条約、憲法、法律、条例、命令、規則等を総称して「法」と言います）は、一文が長いことが多く、慣れるまで読みにくいことが多いと思います。「、」の使い方が独特で、主語の後に「、」をつけます。「日本国民は、」とあれば「日本国民」が主語、「安全保障理事会は、」であれば「安全保障理事会」が主語です。

4) 特に、留学などで外国に行く学生は、（日本の）「平和主義」、「戦争放棄」その他の安全保障についての事柄を、現地の学生に英語で説明できるとよいでしょう。