

LB-205: Public International Law-I

Prescribed Books:

- 1) Malcolm N. Shaw, International Law (8th ed., 2018).
- 2) D. Harris & Sandesh Sivakumaran, Cases and Materials on International Law (8th ed., 2015).
- 3) Robert Jennings and Arthur Watts (eds.), Oppenheim's International Law [Vol. I – Peace] (9th ed., 2008).
- 4) James Crawford, Brownlie's Principles of Public International Law (8th ed., 2013).
- 5) I.A. Shearer, Starke's International Law (1st Indian ed., 2007).
- 6) Gurdip Singh, International Law (3rd ed., 2015).
- 7) V. K. Ahuja, Public International Law (1st ed. 2015).
- 8) S. K. Verma, An introduction to Public International Law (2nd ed. 2012).
- 9) Kaul, J.L. & A. Jha, Shifting Horizons of Public International Law, (1st ed. 2018).

Prescribed Treaties:

- 1) Charter of the United Nations
- 2) Statute of the International Court of Justice

Course Syllabus:

Topic 1: Nature and Development of International Law (9 hours)

1.1 Definition of International Law

1.2 Basis of International Law – Jurisprudential Theories

1.3 Codification of International Law: Work of International Law Commission

1.4 Sanctions of International Law

1.5 Subjects of International Law

1. *Reparation for Injuries Suffered in the Service of the United Nations Case*. ICJ Rep.1949, p.174

1.6 Third World and International Law

Topic 2: Sources of International Law (10 hours)

2.1 Statute of the International Court of Justice, 1945 (Article 38)

2.1.1 International Treaties and Conventions

2.1.2 International Custom

2. *Lotus Case (France v. Turkey)*, PCIJ, Ser. A, No. 10 (1927)

3. *North Sea Continental Shelf Cases*, ICJ Rep. 1969, p. 3

4. *Right of Passage over Indian Territory (Merits) (Portugal v. India)*, ICJ Rep. 1960, p. 6

5. *Asylum Case (Columbia v. Peru)*, ICJ Rep. 1950, p. 266

2.1.3 General Principles of Law Recognized by Civilized Nations

6. *Advisory Opinion of ICJ on the Effect of Awards of Compensation made by the United Nations Administrative Tribunal*, 1954 International Law Reports 310

7. *Island of Palmas Case (Netherlands v. United States) (1928) Permanent Court of Arbitration*, 2 R.I.A.A. 829

- 8 *Temple of Preah Vihear Case (Merits) (Cambodia v. Thailand)*, ICJ Reports 1962, p.6

2.1.4 Judicial Decisions, Juristic Opinion

2.1.5 *Ex aequo et bono*

2.2 Other Sources of International Law

2.2.1 Resolutions of General Assembly

9. *Advisory Opinion of ICJ on the Legality of the Threat or Use of Nuclear Weapons*, 35 *International Legal Materials* 809 (1996)

2.2.2 Resolutions of Security Council

10. *Advisory Opinion of ICJ on Namibia*, ICJ Rep. 1971, p. 16

11. *Advisory Opinion of ICJ in Western Sahara Case*, ICJ Rep. 1975, p. 12

12. *Advisory Opinion of ICJ in Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo Case*, ICJ Rep. 2010

2.2.3 Advisory Opinions of PCIJ and ICJ

13. *Advisory Opinion of Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, ICJ Rep. 2019

Topic 3: Relationship Between International Law and Municipal Law (8 hours)

3.1. Theories

3.1.1 Monistic Theory

3.1.2 Dualistic Theory

3.2 Practice of States: India, United Kingdom, United States of America

14. *In Re Berubari Union No. (I)*, AIR 1960 SC 845: (1960) 3 SCR 250

15. *Ram Kishore Sen v. Union of India* (1966) 1 SCR 430: AIR 1966 SC 644

16. *Jolly George Varghese v. Bank of Cochin*, AIR 1980 SC 470 (1980) 2 SCC 360
17. *Gramophone Company of India Ltd. v. Birendra Bahadur Pandey*, AIR 1984 SC 667: (1984) 2 SCC 534
18. *Union of India v. Sukumar Sengupta*, AIR 1990 SC 1692: 1990 Supp. SCC 545
19. *Vellore Citizens' Welfare Forum v. Union of India* (1996) 5 SCC 647
20. *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011: (1997) 6 SCC 241
22. *Justice K S Puttaswamy (Retd.) v. Union of India* (2017) 6 SCC 235

Topic 4: State Responsibility (5 hours)

4.1 Basis of International Responsibility

23. *Corfu Channel Case*, ICJ Rep. 1949, p. 4
24. *Barcelona Traction, Light and Power Co. Ltd. Case*, ICJ Rep.1964, p. 6
25. *Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*, ICJ Rep.1980, p.3
26. *Nicaragua Case (Nicaragua v. USA)* ICJ Rep.1986, p. 14

4.2 Constituent Elements of International Responsibility

4.2.1 Damage Theory

4.2.2 Fault Theory

4.2.3 Absolute Liability and Risk Theory

4.3 The Act of State (Rules of Attribution)

27. *La Grande Case (Germany v. United States of America)* ICJ Reports 2001, p. 466

4.4 Forms of Reparation

4.4.1 Restitution

4.4.2 Indemnity

4.4.3 Satisfaction

4.4.4 Guarantee against Repetition

28. Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v Nicaragua) ICJ Reports 2018

4.5 Rule of Exhaustion of Local Remedies

4.6 ILC Draft Code on Responsibility of States for Internationally Wrongful Acts, 2001

Topic 5: Law of the Sea (10 hours)

5.1 Maritime Zones

5.1.1 Territorial Sea

29. Anglo-Norwegian Fisheries Case (United Kingdom v. Norway), ICJ Rep. 1951, p. 116

30. Corfu Channel Case, ICJ Rep. 1949, p. 4

5.1.2 Contiguous Zone

5.1.3 Continental Shelf

5.1.4 Exclusive Economic Zone

5.1.5 High Seas

5.2 Delimitation of Adjacent and Opposite Maritime Boundaries

31. North Sea Continental Shelf Cases, ICJ Rep. 1969, p. 3

32. *Libya v. Tunisia Continental Shelf Case*, ICJ Rep. 1982, p. 17

33. *Republic of Italy v. Union of India* (2013) 4 SCC 721

34. *In the Matter of the Bay of Bengal Maritime Boundary Arbitration (between the People's Republic of Bangladesh and the Republic of India)*, PCA, 2014.

5.3 Concept of “Common Heritage of Mankind” Relating to the Resources of International Seabed Area

5.4 International Seabed Mining – Parallel System of Mining

5.5 Indian Maritime Interests, Policy, and Law

5.6 International Tribunal for the Law of the Sea

Treaties and Statutes:

- 1) United Nations Convention on Law of the Sea, 1982.
- 2) Agreement relating to the Implementation of Part XI of the United Nations Convention of 1994 on the Law of the Sea of 10 December 1982.
- 3) The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

Topic 6: State Jurisdiction (5 hours)

6.1. Territorial Jurisdiction

6.2. Jurisdiction based on nationality, protective principle

6.3. Universal Jurisdiction

6.4. Extra territorial Jurisdiction of State

6.5. Extradition, Deportation, Asylum

35. *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* ICJ Rep. 2002, p.3

36. *Abu Salem v. State of Maharashtra* (2011) SCC 214

37. *Arrest and Restoration of Savarkar (France/Great Britain, 1911)*

Topic 7: International Human Rights Law (8 hours)

7.1. Traditional Human Rights

7.1.1. Civil and Political Rights

7.1.2. Economic, Social and Cultural Rights

7.2. Third Generation Human Rights (Solidarity Rights)

7.3. Implementation of Human Rights at International Level through various Conventions: ICCPR (1966), ICESCR (1966), CERD (1965), CEDAW (1979), CRC (1989), CMW (1990), CRPD (2006), CPED (2006) etc.

7.4. Human Rights Council

7.5. Regional Conventions on Human Rights and its implementation

7.6. Protection of Human Rights in India

38. *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011

39. *Gaurav Jain v. Union of India* AIR 1997 SC 3021

40. *Independent Thought v Union of India*, (2017) 10 SCC 800

41. *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v Russian Federation)*, ICJ Rep. (2019)

Treaties and Statutes:

- 1) International Covenant on Civil and Political Rights (ICCPR), 1966.
- 2) International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.
- 3) Optional Protocols to ICCPR, ICESCR, CEDAW, CRC, CRPD.
- 4) European Convention on Human Rights, 1950, Protocol 9 of 1990 and Protocol 11 of 1994.
- 5) The Protection of Human Rights Act, 1993 (India).

Topic 8: Sovereign, Diplomatic, and Consular Immunity/Privileges (5 hours)

8.1. Diplomatic agents- Types

8.2. Consuls

8.3. Sovereign and Non-Sovereign Acts

8.4. Diplomatic Immunity: personal and property

8.5. Consular Privileges and Immunities

42. *The Schooner Exchange v. McFaddon* (1812) 7 Cranch 116

43. *Case Concerning U.S. Diplomatic and Consular Staff in Tehran*, ICJ Rep. 1980, p. 3

44. *Jurisdictional Immunities of the State (Germany v. Italy: Greece Intervening)* ICJ Rep. (2008)

45. *Jadhav Case (India v Pakistan)*, ICJ Rep. (2019)

IMPORTANT NOTE:

1. The topics, cases and suggested readings given above are not exhaustive. The Committee of teachers teaching the Course shall be at liberty to revise the topics/cases/suggested readings.

2. Students are required to study/refer to the legislations as amended from time to time, and consult the latest editions of books.