

LL.B. IInd Term

Course Name – Public International Law

LB-205

Course Objectives:

- Introduction to the relevance and scope of the Public International Law in the globalized world with special reference to India;
- Examine the jurisprudential doctrines, practices and legal instruments that have been instrumental in its formulation, development and functioning;
- Create awareness about the structures and characteristics of Public International Law with emphasis on specific areas of the discipline;
- Examine the position of India vis-à-vis Public International Law and its implementation in India; and
- Engage the students with the cases decided by ICJ and other relevant dispute settlement bodies.

Intended Learning Outcomes:

- Understand the meaning of Public International Law, its legal basis, development, approaches and its position vis-à-vis the Indian legal system;
- Distinguish between various sources of Public International Law and their respective use in any given dispute involving questions of law;
- Understand the relationship between Public International Law and the national legal system with special emphasis on India; &
- Understand and reflect upon the jurisprudential doctrines and law related to the principle of State Responsibility, Law of the Sea, State Jurisdiction, Diplomatic and Consular Immunities.

Prescribed Books

- Malcolm N. Shaw, International Law (9th ed., 2021), Cambridge University Press
- D. Harris & Sandesh Sivakumaran, Cases and Materials on International Law (9th ed., 2020), Sweet & Maxwell
- James Crawford, Brownlie's Principles of Public International Law (9th ed., 2019), Oxford University Press
- Gurdip Singh, International Law (3rd ed., 2015), Eastern Book Company
- V. K. Ahuja, Public International Law (1st ed. 2015), Lexis Nexis
- S. K. Verma, An introduction to Public International Law (3rd ed. 2019), Satyam Law International
- Kaul, J.L. & Anupam Jha, Shifting Horizons of Public International Law, (1st ed. 2018), Springer

Prescribed Treaties

- Charter of the United Nations, 1945
 Statute of the International Court of Justice, 1945
 International Covenant on Civil and Political Rights (ICCPR), 1966
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

- Optional Protocols to ICCPR, ICESCR, CEDAW, CRC, CRPD
- European Convention on Human Rights, 1950, Protocol 9 of 1990 and Protocol 11 of 1994
- United Nations Convention on Law of the Sea, 1982
- 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 v
- The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976

Course Syllabus

Topic 1: Nature and Development of International Law (10 hours)

- 1.1 Definition of International Law
- 1.2 Development of International Law – Need for international peace and security, establishment of the United Nations, development of different generations of human rights
- 1.3 Codification of International Law: Work of International Law Commission
- 1.4 Sanctions of International Law- Security Council, General Assembly, ICJ, Human Rights Council, ITLOS, ICC, PCA, sanctions under different human rights treaties etc.
- 1.5 Subjects of International Law: Position of States, International Organizations, Individuals- Establishment of International Organizations, development of human rights and position of individuals
 1. *Reparation for Injuries Suffered in the Service of the United Nations Case*. ICJ Rep.1949, p. 174...1
 2. *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)
- 1.6 Third World and International Law

Topic 2: Sources of International Law (9 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
 - 2.1.3 General Principles of Law Recognized by Civilized Nations
3. *Lotus Case (France v. Turkey)*, PCIJ, Ser. A, No. 10 (1927)
4. *North Sea Continental Shelf Cases*, ICJ Rep. 1969, p. 3127
5. *Right of Passage over Indian Territory (Merits) (Portugal v. India)*, ICJ Rep. 1960 p. 67
6. *Asylum Case (Columbia v. Peru)*, ICJ Rep. 1950, p. 26613
7. *Advisory Opinion of ICJ on the Effect of Awards of Compensation made by the United Nations Administrative Tribunal*, 1954 *International Law Reports* 31021
8. *Island of Palmas Case (Netherlands v. United States) (1928) Permanent Court of Arbitration*, 2 R.I.A.A. 829

9. <i>Temple of Preah Vihear Case (Merits) (Cambodia v. Thailand)</i> , ICJ Reports 1962, p.6	24
2.1.4 Judicial Decisions, Juristic Opinion	
2.1.5 <i>Ex aequo et bono</i>	
2.2 Other Sources of International Law	
2.2.1 Resolutions of General Assembly	
10. <i>Advisory Opinion of ICJ on the Legality of the Threat or Use of Nuclear Weapons</i> , 35 <i>International Legal Materials</i> 809 (1996)	30
2.2.2 Resolutions of Security Council	
11. <i>Advisory Opinion of ICJ on Namibia</i> , ICJ Rep. 1971, p. 16	
12. <i>Advisory Opinion of ICJ in Western Sahara Case</i> , ICJ Rep. 1975, p. 12	
13. <i>Advisory Opinion of ICJ in Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo Case</i> , ICJ Rep. 2010	33
2.2.3 Advisory Opinions of PCIJ and ICJ	
14. <i>Advisory Opinion of Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965</i> , ICJ Rep. 2019	

Topic 3 : Relationship Between International Law and Municipal Law (9 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	
15. <i>In Re Berubari Union No. (I)</i> , AIR 1960 SC 845 : (1960) 3 SCR 250	37
16. <i>Ram Kishore Sen v. Union of India</i> (1966) 1 SCR 430 : AIR 1966 SC 644	46
17. <i>Jolly George Varghese v. Bank of Cochin</i> , AIR 1980 SC 470 (1980) 2 SCC 360.....	52
18. <i>Gramophone Company of India Ltd. v. Birendra Bahadur Pandey</i> , AIR 1984 SC 667: (1984) 2 SCC 534	
19. <i>Union of India v. Sukumar Sengupta</i> , AIR 1990 SC 1692 : 1990 Supp. SCC 545	
20. <i>Vellore Citizens' Welfare Forum v. Union of India</i> (1996) 5 SCC 647.....	59
21. <i>Vishaka v. State of Rajasthan</i> , AIR 1997 SC 3011 : (1997) 6 SCC 241.....	63
22. <i>Justice K S Puttaswamy (Retd.) v. Union of India</i> (2017) 6 SCC 235.....	71

Topic 4: State Responsibility (8 hours)

4.1 Basis of International Responsibility	
23. <i>Corfu Channel Case</i> , ICJ Rep. 1949, p. 4	
24. <i>Barcelona Traction, Light and Power Co. Ltd. Case</i> , ICJ Rep.1964, p. 6	
25 <i>Case Concerning United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)</i> , ICJ Rep.1980, p.3	
26. <i>Nicaragua Case (Nicaragua v. USA)</i> ICJ Rep.1986, p. 14	74
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. <i>La Grand Case (Germany v. United States of America)</i> ICJ Reports 2001, p. 466.....	83
4.4 Forms of Reparation	
4.4.1 Restitution	
4.4.2 Indemnity	
4.4.3 Satisfaction	
4.4.4 Guarantee against Repetition	
28. <i>Certain Activities Carried Out By Nicaragua in the Border Area (Costa Rica v Nicaragua)</i> ICJ Reports 2018	
29. <i>Armed Activities on the Territory of The Congo (Democratic Republic of the Congo v Uganda)</i> ICJ Rep 2022.....	92
4.5 Rule of Exhaustion of Local Remedies	
4.6 ILC Draft Code on Responsibility of States for Internationally Wrongful Acts, 2001.....	102

Topic 5: Law of the Sea (9 hours)

5.1 Maritime Zones	
5.1.1 Territorial Sea	
30. <i>Anglo-Norwegian Fisheries Case (United Kingdom v. Norway)</i> , ICJ Rep. 1951, p. 116...	112
31. <i>Corfu Channel Case</i> , ICJ Rep. 1949, p. 4.....	119
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	
32. <i>North Sea Continental Shelf Cases</i> , ICJ Rep. 1969, p. 3.....	127
33. <i>Libya v. Tunisia Continental Shelf Case</i> , ICJ Rep. 1982, p. 17.....	139
34. <i>Republic of Italy v. Union of India</i> (2013) 4 SCC 721.....	147
35. <i>In the Matter of the Bay of Bengal Maritime Boundary Arbitration (between the People's Republic of Bangladesh and the Republic of India)</i> , PCA, 2014	
36. <i>Maritime Delimitation in the Indian Ocean (Somalia v Kenya)</i> ICJ Rep 2021.....	163
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	

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
- 37. *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* ICJ Rep. 2002, p.3
- 38. *Abu Salem v. State of Maharashtra (2011)* SCC 214.....177
- 39. *Arrest and Restoration of Savarkar (France/Great Britain, 1911)*.....186

Topic 7: Sovereign, Diplomatic, and Consular Immunity/Privileges (5 hours)

- 7.1. Diplomatic agents- Types
- 7.2. Consuls
- 7.3. Sovereign and Non-Sovereign Acts
- 7.4. Diplomatic Immunity: personal and property
- 7.5. Consular Privileges and Immunities
- 40. *The Schooner Exchange v. McFaddon (1812)* 7 Cranch 116
- 41. *Case Concerning U.S. Diplomatic and Consular Staff in Tehran*, ICJ Rep. 1980, p. 3.....189
- 42. *Jurisdictional Immunities of the State (Germany v. Italy: Greece Intervening)* ICJ Rep. (2008)
- 43. *Jadhav Case (India v Pakistan)*, ICJ Rep. (2019).....208

Important Note:

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