Introduction to Public International Law

Course IR 445 / PO 243 Spring 2016

1. Course Overview

The course aims to present a panorama of public international law, which covers principles and rules that govern the relations between States and the latter’s interactions with other international actors. It is designed to give students a global understanding of these principles and rules governing international relations and, ultimately, provide them with practical skills in legal reasoning and arguing, research and writing on international issues.

The course will start with an introduction to the international legal order, including a presentation of the specificities of international law as compared to domestic law. It will then focus on core areas of public international law, which involve the following questions. Who are the actors in the international legal system and to whom does international law apply? How is international law created and where to find it? What are the fundamental principles of public international law, besides the multitude of international rules, with a special focus on one of them, namely the prohibition of the use of force? Finally, in case of breaches of international rules, how does international law react to such breaches?

2. Methodology and textbooks

The course is taught through lectures and in-class discussions, with an extensive reliance on primary materials (treaties, resolutions, official declarations, and decisions of international courts). The relevant materials are indicated for each topic in the course syllabus and compiled in a reading-brick. The reading brick and the course syllabus were prepared and generously provided to the lecturers by Dr. Djacoba Liva Tehindrazanarivelo, lecturer in international law and international relations. Students are required to read them carefully before coming to class. Additional readings are also suggested for students who wish to go further on topics of particular interest (see the course Blackboard Learn page: learn.bu.edu).


3. Assignments and grading criteria

Assignments for the course, and the objectives of each of them, will be explained in greater detail on the first day of class.

The assignments are composed of three written works and on attendance, as follows:

a) A one-hour mid-term quiz on materials covered in classes 1 to 6: 20% of grade, Tuesday 2 February, 2-3pm
b) Case analysis: 25% of grade (1 case per 2 students), consisting of 10 minutes presentation and 30 minutes class discussion.
c) Two-hour final exam, composed of a dissertation and a situation analysis: 45%, Thursday 18 February 2-5pm
d) Full attendance and active participation: 10% of grade (criteria for an A-level participation are posted in Learn Blackboard).

An outline of the case analysis shall be sent by email to all class the day before its presentation, no later than 6pm. A 10% penalty (i.e. 2.5 points) will be applied to any work submitted after that deadline.
The final grade, from A to F, is the total percentage of the assignments, with the following equivalence:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>93 – 100 %</td>
</tr>
<tr>
<td>A-</td>
<td>89 – 92</td>
</tr>
<tr>
<td>B+</td>
<td>85 – 88</td>
</tr>
<tr>
<td>B</td>
<td>81 – 84</td>
</tr>
<tr>
<td>B-</td>
<td>77 – 80</td>
</tr>
<tr>
<td>C+</td>
<td>73 – 76</td>
</tr>
<tr>
<td>C</td>
<td>69 – 72</td>
</tr>
<tr>
<td>C-</td>
<td>65 – 68</td>
</tr>
<tr>
<td>D</td>
<td>60 – 64</td>
</tr>
</tbody>
</table>

4. Plagiarism
All students are responsible for having read the Boston University statement on plagiarism, which is available in the Academic Conduct Code. Students are advised that the penalty against students on a Boston University program for cheating on the examinations or for plagiarism may be ‘expulsion from the program or the University or such other penalty as may be recommended by the Committee on Student Academic Conduct, subject to approval by the dean’.

5. Grade appeal
Students are entitled to grade appeal, in accordance with the instruction distributed by BU Geneva office at the introductory session of the program.

6. Blackboard Learn website information
Additional information on the assignments, not fully developed in the present syllabus, could be found at the Learn Blackboard page of the course, into which all PIL students are enrolled. In case of access problem, please contact Alexandra Garcia or Matthew Wellington.

7. Course schedule (Wednesday 13 January 2016 to Thursday 18 February 2016.)

**Class #1:** Wednesday 13 January, 2-5 pm, GG and SK

**INTRODUCTION TO THE INTERNATIONAL LEGAL ORDER**
- The Structure of the International Community
- Historical Development and Specificities of Public International Law
- The Relationship between International Law and Domestic Law
- The Weight of Case Law in International Law (an introduction to the case law analysis assignment)

*Required Reading*
- ‘In What Sense is International Law Law?’, selected articles from the *Proceedings of the Annual Meeting (American Society of International Law)*, Vol. 103 (March 25-28, 2009)
- PCIJ, *Case of the S.S. Wimbledon*, Judgment of 23 April 1923, PCIJ Reports, Serie A1, pp. 11ff. (Extracts)

**Class #2:** Thursday 14 January, 2-5pm, GG

**THE SUBJECTS OF INTERNATIONAL LAW (I)**
- The Concept of Subject of Law and of Legal Personality
- States: Conditions for Statehood, Territory and Underlying Principles, Sovereignty

*Required Reading:
- Montevideo Convention on the Rights and Duties of States, 26 December 1933

**Class #3:** Wednesday 20 January, 2-5pm, GG

**THE SUBJECTS OF INTERNATIONAL LAW (II)**
- International Organizations: Legal Definition, Rights and Duties under International Law
- The Status of Individuals in International Legal Order
- Other International Actors: Non-State Actors and International Regulations of their Activities

*Required Reading:
**Class #4:** Friday 22 January, 9-12am SK  
**THE SOURCES OF INTERNATIONAL LAW (I)**  
- The sources listed in Article 38 of the ICJ Statute  
- The relationship between sources: equality and hierarchy of norms (vs. hierarchy of sources)  
- Treaties: Concept, Conclusion, Reservation, Conditions of Validity, Interpretation, Termination  

**Required Reading:**  
- Statute of the International Court of Justice (Article 38)  
- The Vienna Convention on the Law of Treaties (1969) [extracts]  

---

**Class #5:** Wednesday, 27 January 2-5pm, SK  
**THE SOURCES OF INTERNATIONAL LAW (II)**  
- Treaties: Termination (continued)  
- Custom and its codification  
- General Principles of Law  

**Required Reading:**  
- ICJ, *North Sea Continental Shelf Case (F.R. of Germany/Denmark; F.R. Germany/The Netherlands)*, Judgment of 20 February 1969, §§ 34-39; 60-85; 100-101 [*Case analysis #3*]  

---

**Class #6:** Friday 29 January 2016, 9-12am, SK  
**THE SOURCES OF INTERNATIONAL LAW (III) AND FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW (I)**  

### Fundamental Principles  
- Resolutions of International Organizations and Unilateral Declarations of States  
- The Principles proclaimed in the UN General Assembly Resolution 2625 (XXV)  
- The Principle on Non-interference in Internal Affairs of States and ‘The Responsibility to Protect’  

**Required Readings:**  
- The Charter of the United Nations: Preamble, Articles 1 and 2  
- *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations*, annexed to GA Res. 2625 (XXV), 24 October 1970  
- ICJ, ‘Nicaragua Case’ 1986, §§201-209; 212-214, 239-253, 258-266 [*Case analysis #4* (on non-intervention)]  
- Selected documents on the ‘Responsibility to Protect’ (read also the SC resolution on Libya, reading bric p. 101.)

---

**Class #7:** Tuesday 2 February 2016, [Mid-term quiz: 2-3pm], course 3-5pm, GG  
**THE FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW (II): THE PROHIBITION OF THE USE OF FORCE**  
- The progressive limitations of the recourse to war  
- Scope of the Prohibition of the use of force and its Legal Nature  
- The Horizontal Exception to the Prohibition: Individual and Collective Self-Defense  

**Required Reading:**  
- Briand-Kellogg Pact, 27 August 1928  
- Saavedra Lamas Treaty (‘Anti-War Treaty’), 10 October 1933
- The Stimson Doctrine of Non-Recognition, January 1932
- The Charter of the United Nations: Articles 2 (3), 2 (4), and 51
- The Definition of Aggression, annexed to General Assembly Resolution 3314 (XXIX), 14 December 1970
- ICJ, ‘Nicaragua Case’ 1986, §§75-80; 92-94; 226-238 (see document XIV in the reading brick)

**Class #8: Wednesday 3 February, 2-5pm, GG**

**THE PROHIBITION OF THE USE OF FORCE (CONTINUED)**

- The Use of Force pursuant to UN Security Council Authorization: the UN Charter Framework and the Practice of ‘Authorized’ or ‘Recognized’ Military Actions

**Required Reading:**
- The Charter of the United Nations: Articles 24 and 25, Chapters VII and VIII
- Selected Security Council Resolutions relating to Iraq
- Selected Security Council Resolutions Authorizing Use of Force by Regional Organizations

**Class #9: Wednesday 10 February 2016, 2-5pm, SK**

**STATE RESPONSIBILITY FOR INTERNATIONALLY WRONGFUL ACTS (I)**

- Nature of International Responsibility
- The Elements of State Responsibility

**Required Reading:**
- ICJ, *Case concerning the United States Diplomatic and Consular Staff in Teheran* (U.S.A. v. Iran), Judgment of 24 May 1980, §§60-95 [*Case analysis #6*]

**Class #10: Thursday 11 February, 2-5 pm, SK**

**STATE RESPONSIBILITY (II)**

- The Content of State Responsibility
- The Invocation of Responsibility and Diplomatic Protection

**Required Reading:**
- ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, hereafter ‘Wall Case’, Advisory Opinion of 9 July 2004, §§70-80; 114-124; 132-163 [*Case analysis #7*]

**Class #11: Tuesday 16 February, 2-5 pm, GG**

**THE SETTLEMENT OF INTERNATIONAL DISPUTES (I)**

- Diplomatic Means of Dispute Settlement: Negotiation, Good Offices, Mediation, Inquiry, Conciliation
- Legal Means (I): Arbitration

**Required Reading:**
- The Charter of the United Nations; Articles 2(3), and 33
- *The Geneva Award of the Alabama claims* (United States of America / United Kingdom)

**Class #12: Wednesday 17 February 2016, 2-5 pm, GG**

**THE SETTLEMENT OF INTERNATIONAL DISPUTES (II) / REVISION**

- Legal Means of Dispute Settlement (II): Permanent Courts
- The Law and Procedure of the International Court of Justice

BU Geneva PIL Syllabus (IR 445E)  
Page 4 of 5  
G. Gaggioli and S. Krähenmann
Required Reading:
- Sample of Treaties on Settlement of Disputes: ‘Revised General Act’ 1949 & ‘Pact of Bogota’ 1948
- Sample of Declarations Recognizing the Compulsory Jurisdiction of the ICJ

**Class #13:** Thursday 18 February, 3-5pm, SK and GG

**FINAL EXAM**