

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. [Djacobina 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).

The main textbook used for the course is Malcolm EVANS (ed.), *International Law*, Oxford University Press, 3rd ed., 2010 (hereafter EVANS). Other reference books are Peter MALANCZUK, *Akehurst's Modern Introduction to International Law*, London/New York: Routledge, 7th revised ed., 2003 (AKEHURST'S), and Antonio CASSESE, *International Law*, Oxford University Press, 2nd ed. 2005 (CASSESE), available at the University of Geneva Library. Students may also consult www.icj-cij.org to access full texts of the judgments and advisory opinions of the International Court of Justice, www.un.org/documents for any official documents of the United Nations, and other useful websites listed in Blackboard Learn.

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:

A : 93 – 100 %	A- : 89 – 92	B+ : 85 – 88
B : 81 – 84	B- : 77 – 80	C+ : 73 – 76
C : 69 – 72	C- : 65 – 68	D : 60 – 64

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)
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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
 - Badinter Commission, Opinions Nos. 1, 2 and 3, in 92 *International Law Report* (1992), 162-172.
 - ICJ, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion of 22 July 2010, §§55-84, 95-100, 113-119 + Declaration of Judge Simma
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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:

- ICJ, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion of April 1949, *ICJ Reports* 1949, 174-185. [[Case analysis #1](#)]
 - D. Akande, 'International Organizations', in EVANS, 252-281.
 - R. McCorquodale, 'The Individual and the International Legal System', in EVANS, 284-306.
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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)
 - H. Thirlway, 'The Sources of International Law', in EVANS, 95-120.
 - The Vienna Convention on the Law of Treaties (1969) [extracts]
 - ICJ, *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment of 25 Sept. 1997, §§46-59; 82-115 [[Case for students' analysis #2](#)]
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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](#)]
 - ICJ, *Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. USA) (Merits)*, Judgment of 27 June 1986 – hereafter 'Nicaragua Case', §§ 172-177 & 183-186 [see document XIV in the reading brick]
 - ICTY, *Prosecutor v. Anto Furundzija*, Judgment of 10 December 1998, §§181-185.
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Class #6: Friday 29 January 2016, 9-12am, SK

THE SOURCES OF INTERNATIONAL (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:

- ICJ, *Legality of the threat or use of nuclear weapons*, Advisory Opinion of 8 July 1996, §§64-79; 98-105.
 - ILC, *Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations*, 2006
 - 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 brick p. 101.)
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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
- ICJ, *Case concerning Armed Activities on the Territory of the Congo* (Democratic Republic of Congo v. Uganda), Judgment of 19 December 2005, §§42-54, 72-165 [[Case analysis #5](#)]

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:

- ILC Articles on State Responsibility for Internationally Wrongful Acts, annexed to GA Res. 56/83, 2001
- 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](#)]
- ICJ, ICJ, *Case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of 26 February 2007 [*'Genocide Case'*], §§379-407

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
- J. Merrills, 'The Means of Dispute Settlement', in: EVANS, 533-559
- ICJ, *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*, Advisory Opinion of 26 April 1988, §§33-58 [[Case analysis #8](#)]
- Selected writings on arbitration, from M. Dixon & R. McCorquodale, *Cases and Materials on International Law* (Oxford University Press, 4th ed., 2003)
- *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

Required Reading:

- The Charter of the United Nations: Articles 92-96 & The Statute of the ICJ: Articles 34, 35, 36, 41, 59, 65 & 66
- 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
- ICJ, '*Genocide case*', Judgment of 26 February 2007, §§80-113; 121-141.

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

FINAL EXAM