



Introduction to Public International Law

Course IR 445 / PO 243 • Spring 2020

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. 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, 5th ed., 2018 (hereafter EVANS, available at the Muzy Students' house). Other reference books are Peter MALANCZUK, *Akehurst's Modern Introduction to International Law*, London/New York: Routledge (AKEHURST'S), and Antonio CASSESE, *International Law*, Oxford University Press (CASSESE), all available at the University of Geneva Library to which BU Geneva students have full access.

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) Case analysis presentation (20%): 15 minutes presentation of the case, followed by 30 minutes class discussion.
- b) Case analysis paper (25%): a written task singling out the legal precedents of a case law. Further explanation on these case analysis assignments are posted at Learn Blackboard and will be given during the first class.
- c) A 3-hour final exam, composed of a dissertation and a situation analysis: 45%
- d) Active participation: 10% of grade (criteria for an A-level participation are posted at Blackboard Learn, including ungraded reading assignments).

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. Course schedule (January 15 – February 21)

Class #1: Wednesday, January 15, 2-5pm

INTRODUCTION TO THE INTERNATIONAL LEGAL ORDER

- The Structure of the International Community
- International Law as 'Law'
- The Realities of International Law
- The Specificities of International Law
- The Relationship between International Law and Domestic Law

Required Readings

- 'In What Sense is International Law Law?', selected articles from the *Proceedings of the Annual Meeting (American Society of International Law - ASIL)*, Vol. 103 (March 25-28, 2009) (*PDF – See Blackboard Learn*)
- 1. PCIJ, *Case of the S.S. Wimbledon*, Judgment of 23 April 1923, *PCIJ Reports*, Série A1, pp. 11ff. (Extracts)
- Read also E. Denza, 'The Relationship Between International and National Law', in EVANS, 383-409.

Class #2: Thursday, January 16, 2-5pm

THE FEATURES OF INTERNATIONAL JUSTICE

- The Consensual Basis of the Jurisdiction of International Tribunals
- Overview of Existing International Tribunals: from Interstate to Criminal Tribunals
- The Weight of Case-law in International Law: An Introduction to the Case Law Analysis Assignment

Required Readings (Numbered texts are those compiled in the Reading brick):

- 2. Samples of Declarations Recognizing the Compulsory Jurisdiction of the International Court of Justice
- H. Thirlway, 'The International Court of Justice', in EVANS, 573-599.

Class #3: Monday, January 20, 2-5 pm

THE SUBJECTS OF INTERNATIONAL LAW (I)

- The Concept of Subject of Law
- States: Conditions for Statehood
- States' Maritime Zones and Basic Principles on Territories
- The Question of Recognition and the Creation of States in Contemporary World

Required Readings:

- 3. Montevideo Convention on the Rights and Duties of States, 26 December 1933
- 4. Badinter Commission, Opinions Nos. 1, 2 and 3, in 92 International Law Report (1992), 162-172.
- 5. 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
- Read also M. Craven & R. Parfitt, 'Statehood, Self-determination, and Recognition', in EVANS, 177-221.

Class #4: Tuesday, January 21, 2-5 pm

THE SUBJECTS OF INTERNATIONAL LAW (II)

- International Organizations: legal definition, rights and duties under International Law
- The subjects of IL (continued): The status of individuals and other international actors in the international legal order

Required Readings:

- 6. 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.
- R. McCorquodale, 'The Individual and the International Legal System', in EVANS, 259-280.

Class #5: Friday, January 24, **Whole day**, Room M 1160 (Joint session with the Health Class)

SUSTAINABLE DEVELOPMENT GOALS EXERCISE

Class #6: Monday, January 27, 2-5pm

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, Rules of application and Interpretation

Required Readings:

7. The 1969 Vienna Convention on the Law of Treaties (extracts)
 - A. Roberts & S. Sivakumaran, 'The Theory and Reality of the Sources of International Law', EVANS, 89-116.

Class #7: Tuesday, January 28, 2-5 pm

THE SOURCES OF INTERNATIONAL LAW (II)

- Treaties (continued): termination
- Custom: constitutive elements, codification, and relations with treaties
- General Principles of Law

Required Readings:

8. ICJ, *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment of 25/09/1997, §§46-59; 82-115 [Case analysis #2]
9. 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.
10. ICJ, *Legality of the threat or use of nuclear weapons*, Advisory Opinion of 8 July 1996, §§64-79; 98-105.
11. ICTY, *Prosecutor v. Anto Furundžija*, Judgment of 10 December 1998, §§181-185.

Class #8: Monday, February 3, 2-5 pm

THE SOURCES OF OF INTERNATIONAL LAW (III)

- Decisions of International Organizations, and Unilateral Declarations of State
- The Fundamental Principles of International Law proclaimed in the UN GA Resolution 2625 (XXV)
- The Principle on Non-interference in Internal Affairs of States, and 'The Responsibility to Protect'

Required Readings:

12. ILC, *Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations*, 2006
13. *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
14. 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; §§201-209; 212-214, 239-253, 258-266 (on non-intervention) [Case analysis #3]

Class #9: Tuesday, February 4, 2-5 pm

THE PROHIBITION OF THE USE OF FORCE (I): *JUS CONTRA BELLUM*

- 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 Readings:

15. Briand-Kellogg Pact, 27 August 1928
16. Saavedra Lamas Treaty ('Anti-War Treaty'), 10 October 1933
17. The 'Stimson Doctrine of Non-Recognition', January 1932
 - The Charter of the United Nations: Articles 2 (3), 2 (4), and 51
18. The Definition of Aggression, annexed to General Assembly Resolution 3314 (XXIX), 14 December 1970
 - ICJ, '*Nicaragua Case*' 1986, §§75-80; 92-94; 226-238.
19. 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 #4]

Class #10: Monday, February 10, 2-5 pm

THE PROHIBITION OF THE USE OF FORCE (II): *JUS AD BELLUM*

- 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
 - Ch. Gray, 'The Use of Force and the International Legal Order', in EVANS, 599-629.
20. Selected Security Council Resolutions Authorizing Use of Force by States and Regional Organizations

Class #11: Friday, February 14, 9-12 am

STATE RESPONSIBILITY FOR INTERNATIONALLY WRONGFUL ACTS (I)

- Nature of International Responsibility
- The Elements of State Responsibility

Required Reading:

21. ILC Articles on State Responsibility for Internationally Wrongful Acts, annexed to GA Res. 56/83, 2001
22. 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 #5]
23. 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 Feb. 2007 ['Genocide Case'], §§379-407.

Class #12: Monday, February 17, 2-5 pm

STATE RESPONSIBILITY (II)

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

Required Reading:

24. 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 #6]

Class #13: Wednesday, February 19, 9-12 am

THE SETTLEMENT OF INTERNATIONAL DISPUTES

- Diplomatic Means of Dispute Settlement: Negotiation, Good Offices, Mediation, Inquiry, Conciliation
- Legal definition of a dispute
- Legal Means: Arbitration, Permanent Courts

Required Reading:

- The Charter of the United Nations; Articles 2(3), 33, and The Statute of the ICJ: Articles 34-36, 41, 59, 65 & 66
 - J. Merrills, 'The Means of Dispute Settlement', in EVANS, 548-569.
25. Revised General Act for the Pacific Settlement of International Disputes, 1949
 26. American Treaty on Pacific Settlement ('Pact of Bogota'), 1948
 27. ICJ, *Case Concerning Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation) – Preliminary Objections*, Judgment of 1 April 2011, §§ 1, 11, 20-39, 106-185 [Case analysis #7]

Class #14: Friday, February 21, 9-12 am

Room: M 4276

FINAL EXAM

5. Boston University Study Abroad Academic Policy

All students are responsible for having read and understood the program's academic policy. It contains information about the program's academic policies and procedures, academic conduct and attendance policies. The policy is published on the program website: <http://www.bu.edu/geneva/academic-policy/>.

6. Blackboard Learn website information

Additional information on the assignments 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.