



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

**PROGRAMME: B.A.,LL.B.(HONS.) FYIC**

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (IX) – ACADEMIC YEAR .....**

<b>SL NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T/P</b>	<b>CR</b>	<b>CH</b>
<b>1</b>	<b>BL905.9 INTERNATIONAL LAW, SPECIALIZATION GROUP PAPER- V)</b>	<b>INTERNATIONAL DISPUTE RESOLUTION BODIES - I</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE :BL 905.9 ( INTERNATIONAL LAW, SPECIALIZATION GROUP PAPER – V) ,INTERNATIONAL DISPUTE RESOLUTION BODIES - I**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: DR. GITANJALI GHOSH**
- E. COURSE INSTRUCTOR: DR. GITANJALI GHOSH**

## 1. COURSE OBJECTIVES

Traditionally, international law was the law that governed the conduct of States in their relations with each other. Gradually, international law has also come to govern individuals, international organizations and even corporations. In today's globalizing world, it has emerged as one of the significant subjects for study. It is not an exaggeration to state that international law affects every person living on the globe.

As the students are already familiar with the basics of international law, this course will take their study one notch higher with the introduction of a very important and contemporary areas of international law i.e. settlement of disputes.

The course is designed to acquaint students with comprehensive knowledge on peaceful settlement of disputes under international law. In international relation between States, disputes are inevitable. Peaceful settlement of these disputes is essential for maintaining international peace and security. Article 2(3) of the Charter of the United Nations stipulates that State parties are under a duty to settle disputes in a peaceful way. Certain means have been identified by the Charter. However, States can also resort to other peaceful means for resolving international disputes. As per Article 33 of the UN Charter, in the absence of a precise treaty obligations, States are free to decide the particular means of dispute settlement they prefer. Any settlement will inevitably depend, directly or indirectly, on the agreement of the parties.

The edifice of dispute settlement at the international level is attributed to an inherent tension between a legal duty to settle disputes in a peaceful way and the absence of any real compulsory mechanism that may render such obligation effective. There are two broad ways for settling international disputes – peaceful means and coercive means. The present course is devoted primarily to the study of different peaceful means for settlement of international disputes. Pacific settlement of disputes at international level covers variety of settlement devices which can broadly be categorised as diplomatic and legal/ judicial means. The diplomatic means include negotiation, mediation, inquiry, good offices, and conciliation. The legal means include arbitration and judicial settlement of disputes by International Court of Justice. The basic principles and methods governing each of the pacific settlement mechanisms is based on different criteria, viz, whether they contemplate the intervention of a third party, whether the settlement is based on the application of rules of international law, or whether the final outcome of the procedure has a binding or nonbinding character. The progressive institutionalization of dispute settlement procedures and the growing role of United Nations General Assembly, Security Council and Secretariat have provided an important dimension to the understanding of peaceful settlement of disputes. States of different regions such as Europe, America, Africa and Arab are also involved in resolving disputes peacefully and the role of such regional arrangements is another important area of study on the subject matter of peaceful settlement of disputes.

The objectives of the course, in particular, are as follows:

- To familiarize students with the dynamics of disputes under international law
- To acquaint students with the principles of international law that creates the obligation upon states to peacefully resolve international disputes

- To impart detailed knowledge on pacific, coercive, legal and judicial means for settlement of disputes

## 2. TEACHING METHODOLOGY

The teaching methodology shall aim at the generation of critical thinking among the students. The topic for a particular class shall be informed to the students beforehand and readings shall be assigned to them for the said topic. They are expected to have a basic idea about the topic prior to the class. Subsequent to a brief lecture on the topic, there shall be class discussion on the same as well as on the readings assigned. Pursuant to the class discussion, the teacher shall substantiate the issues raised and answer any questions posed or left unanswered. Topics shall also be assigned to be students for presentation in class to develop their teaching learning abilities. Case study method shall also be adopted for relevant topics.

## 3. COURSE LEARNING OUTCOMES

At the completion of the course, it is humbly expected that the students shall:

- Comprehend the subject matter of the course
- Be able to analyze contemporary international criminal law problems in the light of the concepts learnt
- Be able to articulate their ideas on the subject matter of the course
- Produce at least one research paper of publishable quality
- Desire to take up international law for further studies

## 4. COURSE EVALUATION METHOD

The course shall be assessed for 200 marks.

Internal assessment shall carry 70% (140 marks) and Semester End Examination shall carry 30% (60 marks).

Sl. No.	Marks Distribution	
1	Project Work	40 marks
2	Seminar/Group Discussion	20 marks
3	Assignment/Assessment	30 marks
4	Mid-Semester Test	40 marks
5	Attendance in class	10 marks
6	Semester End Examination	60 marks

## 5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

## **MODULE I**

- Fundamentals of Settlement of International Disputes
- Understanding International Disputes
- Legal and Political Disputes
- Means of Settlement of Disputes
  - Peaceful – Diplomatic and Judicial
  - Coercive
  - Institutional
- Principles of Settlement of Disputes
- Coercive Settlement of Disputes
  - Retortion
  - Reprisals
  - Embargo
  - Pacific Blockade
  - Intervention

## **MODULE II**

### Peaceful Settlement of Disputes - Diplomatic Means of Settlement of Disputes

- Negotiation
  - Consultation
  - Forms of negotiation
  - Substantive aspects of negotiation
  - Negotiation and adjudication
  - Limitations of negotiation
- Good Offices
- Mediation
  - Mediators
  - Consent to mediation
  - Functions of mediation
  - The limits of mediation
- Inquiry
  - The 1899 Hague Convention
  - The *Dogger Bank* inquiry
  - Inquiries under the 1907 Hague Convention

- Treaty practice 1911–40
- The *Red Crusader* inquiry
- The *Letelier and Moffitt* case
- The value of inquiry

### **MODULE III**

#### Peaceful Settlement of Disputes – Diplomatic Means of Settlement of Disputes

- Conciliation
  - Emergence of conciliation
  - Work of commissions of conciliation
  - Practice of conciliation
  - Place of conciliation in modern treaty law
  - Significance of conciliation

#### Peaceful Settlement of Disputes – Judicial Means of Settlement of Disputes

- Arbitration
  - Forms of arbitration
  - The selection of arbitrators
  - Terms of reference
  - Basis of the decision
  - Effect of the award
  - Private international arbitration
  - The utility of arbitration
- Permanent Court of Arbitration
  - 1899 Hague Convention
  - 1907 Hague Convention
  - Organs
  - PCA Rules

### **MODULE IV**

- Permanent Court of International Justice
  - Origin of the Court
  - Preparation and adoption of the Statute
  - Composition of the Court
  - Organization of the Court
  - Jurisdiction of the Court
  - Procedure of the Court

- The rules of law applied
- The role of the Court
- International Court of Justice
  - Contentious jurisdiction
  - Jurisdictional disputes
  - Incidental jurisdiction
  - Advisory jurisdiction
  - Membership of the Court
  - Chambers
  - The Court's decision
  - Extension of the Court's function
  - Legal and political disputes
  - The effect of judgments
  - The significance of the Court

## 6. PRESCRIBED READINGS

- J.G. Merrills, *International Dispute Settlement* (Cambridge University Press, 2011) Chapters 1, 2, 3, 4, 5, 6 and 7.
- Malcolm N. Shaw, *International Law* (7th edn, Cambridge University Press 2014) Chapters 18, 19 and 20.
- Martin Dixon, *Textbook on International Law* (7th edn, OUP 2013) Chapters 10 and 11.
- Antonio Cassese, *International Law* (OUP 2001) Chapters 14 and 18.
- Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapters 18, 19 and 20.
- S.K. Verma, *An Introduction to Public International Law* (2nd edn, Satyam Law International 2012) Chapter 16.
- Anthony Aust, *Handbook of International Law* (2nd edn, Cambridge University Press 2010) Chapter 22.

## INTERNATIONAL DOCUMENTS

- Charter of the United Nations
- Convention for the Pacific Settlement of International Disputes 1899
- Convention for the Pacific Settlement of International Disputes 1907
- Statute of the International Court of Justice
- Statute of the Permanent Court of International Justice
- UNCITRAL Arbitration Rules (as revised in 2010)
- Permanent Court of Arbitration Rules 2012

## CASES

- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)
- Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)
- Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)

- Avena and Other Mexican Nationals (Mexico v. United States of America)
- Oil Platforms (Islamic Republic of Iran v. United States of America)
- Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)
- LaGrand (Germany v. United States of America)
- Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)
- United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)
- Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)
- Temple of Preah Vihear (Cambodia v. Thailand)
- Corfu Channel (United Kingdom of Great Britain and Northern Ireland v. Albania)
- Haya de la Torre (Colombia v. Peru)
- Nottebohm (Liechtenstein v. Guatemala)
- North Sea Continental Shelf (Federal Republic of Germany v. Netherlands)
- Fisheries Jurisdiction (United Kingdom of Great Britain and Northern Ireland v. Iceland)