



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

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

**DETAILS OF COURSE OFFERED**

**EVEN SEMESTER (VI)– ACADEMIC YEAR .....**

<b>SL. NO</b>	<b>COURSE CODE</b>	<b>COURSE TITLE</b>	<b>L</b>	<b>T</b>	<b>P</b>	<b>CR</b>	<b>CH</b>
<b>1.</b>	<b>605</b>	<b>PUBLIC INTERNATIONAL LAW</b>	<b>4 PER WEEK</b>		<b>1 PER WEEK</b>	<b>4</b>	

**A. CODE AND TITLE OF THE COURSE: 605,**

**PUBLIC INTERNATIONAL LAW**

**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.

In the light of the growing importance of international law, it is not only desirable but also imperative for students to have a thorough knowledge of the subject. Hence, the primary objective of this course is to generate and sustain an interest to study international law in the minds of the students.

Apart from familiarizing students with the basics of international law, this course will take their study one notch higher with the introduction of several important and contemporary areas of international law.

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

- Introduce students to the definition, nature, sources, subjects of international law as well as to the concept of recognition and relationship of international law with municipal law
- Provide students with an understanding of the law of treaties and state responsibility
- Introduce students to the concepts of use of force, self-defence, humanitarian intervention, responsibility to protect and sanctions under international law
- Provide students with an understanding of jurisdiction and immunities from jurisdiction
- Introduce students to the different modes of 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.

## **3. COURSE 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 organization related 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. The examinations shall be closed book. Internal assessment shall carry 70% (140 marks) and external assessment shall carry 30% (60 marks).

Sl. No.	Internal Assessment	
1.	2 Assignments	2x20 = 40 marks
2.	Seminar/Group Discussion	20 marks
3.	Class Tests (twice in a semester)	2x 35 = 70 marks
4.	<b>Attendance in class</b>	10 marks
5	Semester End Examination	60 marks

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

##### MODULE-I

##### History and Normative Structure of International Law

- Introduction
- Historical Development
- Early Origins, Middle Ages and Modern International Law
- Positivism and Naturalism
- International Law in the Nineteenth and Twentieth Century
- Definition of International Law
- Nature of International Law
- Basis of International Law
- Emergence of the Third World

##### Subjects of International Law

- International Legal Personality
- States as Subjects of International Law
  - Creation of State
  - Self-determination and the criteria for statehood
  - Fundamental Rights of States

- Independence
  - Equality
  - Peaceful Co-existence
- Non-State Entities as Subjects of International Law
    - International Organizations
    - Individuals
    - National Liberation Movements
    - Transnational Corporations
    - Holy See

### **Sources of International Law**

- Custom
- Treaties and Conventions
- General Principles of Law
- Judicial Decisions
- Works of Writers and Jurists
- Hierarchy of Sources
- *Jus Cogens*

### **MODULE -II**

#### **Relationship between International Law and Municipal Law**

- Theories
- Role of municipal laws in international law
- International law before municipal courts
- State Practices in United Kingdom, United States of America and India

#### **Recognition**

- Recognition of states
- Theories
- Recognition of governments
- Kinds of recognition
- Withdrawal of recognition
- Non-recognition
- The legal effects of recognition

#### **Jurisdiction**

- The principle of domestic jurisdiction
- Legislative, executive and judicial jurisdiction
- Civil jurisdiction
- Criminal jurisdiction

- Extraterritorial jurisdiction
- Extradition
- Asylum

### **Immunities from Jurisdiction**

- State Immunity
- Immunity for Government Figures, Heads of the State and other Holders of High Ranking Office
- Diplomatic and Consular Immunities

## **MODULE- III**

### **Use of force and the UN Charter**

- Prohibition of the Use of Force under Article 2(4) of the UN Charter
- Meaning of “Threat or Use of Force”
- Use of Force and Exceptions under the UN Charter –
  - Exception 1: Authorization by UN Security Council (Chapter VII, Arts. 39-42)
  - Exception 2: Right to Individual or Collective Self-Defence (Chapter VII, Art. 51)
- Regional Actions under Chapter VIII of the UN Charter

### **Self- defence**

- Scope of Self- Defence: Necessity and Proportionality
- Meaning of Armed Attack
- Anticipatory Self- Defence
- Pre-emptive Self- Defence
- Collective Self- Defence
- Role of the Security Council

### **Intervention**

- Humanitarian Intervention
  - Humanitarian Intervention with Security Council Authorization
  - Humanitarian Intervention without Security Council Authorization
- Concept of Responsibility to Protect
  - Birth of the Concept
  - New Concept with Old Ideals of Humanitarian Intervention
  - Responsibility to Protect and International Law
- UN Peacekeeping

### **International Law and Sanctions**

- History of Sanctions
- Sanctions under the UN system
- Sanctions and Violations of Human Rights

#### **MODULE-IV**

#### **Law of Treaties**

- Definition of a Treaty
- Making of a Treaty
- Authority to conclude Treaty
- Expression of Consent to be bound
- Vienna Convention on the Law of Treaties 1969
  - Formation of Treaties
  - Reservations to Treaties
  - Invalidity of Treaties
  - Suspension and Termination of Treaties

#### **Settlement of disputes**

- Diplomatic methods
- Judicial methods

#### **State Responsibility**

- Scope and Nature of State Responsibility
- Concept of Internationally Wrongful Act
- Attribution of Conduct to a State
- Responsibility of State in connection with an Act of another State
- Breach of International Obligation
- Consequences of Breach
- Circumstances Precluding Wrongfulness
- Reparations

#### **6. PRESCRIBED READINGS**

- Anthony Aust, *Handbook of International Law* (2nd edn, Cambridge University Press 2010) 49-107, 108-162, 205-214, 246-249, 376-395 Chapters 1, 2, 4, 9, 13 and 22.
- Antonio Cassese, *International Law* (2nd edn, OUP 2005) 98-123, 170-182, 241-277, 339-374 Chapters 4-12 and 21.
- Bardo Fassbender and Anne Peters, *The Oxford Handbook of the History of International Law* (Oxford University Press 2012).
- Christopher C Joyner, *International Law in the 21st Century: Rules for Global Governance* (Rowman & Littlefield Publishers, Inc 2005) Chapters 1-5.
- Jan Klabbers, *International Law*, (Cambridge University Press 2013) Chapters 1, 2, 4 and 7.

- Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapters 1, 2, 4, 8, 9 and 10.
- Malcolm N. Shaw, *International Law* (6th edn, Cambridge University Press 2008) 129-165, 397-443, 444-482, 645-687, 697-777, 778-843, 902-955, 1118-1168, 1235-1267 Chapters 1, 2, 3, 5 and 23.
- Martin Dixon, *Textbook on International Law* (7th edn, OUP 2013) 53-86, 174-206, 242-274, 309-340 Chapter 1, 2, 4, 5 and 10.
- *Oppenheim's International Law* (Jennings and Watts eds) (Longman 1992).
- Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (7<sup>th</sup> Revised edn, Routledge 1997) 130-146, 254-272 Chapters 1, 2, 4, 5, 6, 7 and 8.
- Chanaka Wickremasinghe 'Immunities enjoyed by Officials of States and International Organizations' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 379-411.
- Christopher Staker, 'Jurisdiction' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapter 11.
- Eileen Denza, 'The relationship between international and national law' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapter 14.
- H.O. Agarwal, *International Law and Human Rights* (6th edn, Central Law Publications 2009) ) 225-235, 263-291, 297-306, 315-340.
- Hazel Fox 'International Law and Restraints on the Exercise of Jurisdiction by National Courts of States' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 336-378.
- James Crawford, *Brownlie's Principles of Public International Law* (8th edn, OUP 2012) 367-394, 443-476, 487-508, 744-774.
- V.K. Ahuja, *Public International Law* (Lexis Nexis 2016) Chapters 4, 5, 6, 8, 14, 15 and 17.
- Charles Cantrell, 'The Political Offense Exemption in International Extradition: A Comparison of the United States, Great Britain and the Republic of Ireland' (1977) 60 *MARQUETTE LAW REVIEW* 777-824.
- David M. Lieberman, 'Sorting the Revolutionary from the Terrorist: The Delicate Application of the Political Offense Exception in U.S. Extradition Cases' (2006) 59 *STANFORD LAW REVIEW* 181-212.
- Rena Hozore Reiss, 'The Extradition of John Demjanjuk: War Crimes, Universality Jurisdiction, and the Political Offense Doctrine' (1987) 20(2) *CORNELL INTERNATIONAL LAW JOURNAL* 281.
- Dapo Akande and Sangeeta Shah, 'Immunities of State Officials, International Crimes, and Foreign Domestic Courts' (2011) 21(4) *EUROPEAN JOURNAL OF INTERNATIONAL LAW* 815-852.
- Christine Gray, 'The Use of Force and the International Legal Order' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 618-650.
- Spencer Zifcak, 'The Responsibility to Protect' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 509-536.
- Jared Genser and Bruno Stagno Ugarte (eds), *The United Nations Security Council in the Age of Human Rights* (Cambridge University Press 2014) Chapters 5 and 8.
- Bruno Simma, 'NATO, the UN and the Use of Force: Legal Aspects' (1999) 10 *EUROPEAN JOURNAL OF INTERNATIONAL LAW* 1-22.
- Eve Massingham, 'Military intervention for humanitarian purposes: Does the Responsibility to Protect doctrine advance the legality of the use of force for

humanitarian ends?’ (2009) 91 INTERNATIONAL REVIEW OF THE RED CROSS 803-831.

- Hans Kelsen, ‘Collective Security and Collective Self-Defence under the Charter of the United Nations’ (1948) 42(4) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 783-796.
- James A. Green and Francis Grimal, ‘The Threat of Force as an Action in Self-Defense Under International Law’ (2011) 44(285) VANDERBILT JOURNAL OF TRANSNATIONAL LAW 286-329.
- Jorri Duursma, ‘Justifying NATO’s Use of Force in Kosovo?’ (1999) 12 LEIDEN JOURNAL OF INTERNATIONAL LAW 287-295.
- Josef L. Kunz, ‘Individual and Collective Self-Defense in Article 51 of the Charter of the United Nations’ (1947) 41(4) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 872-879.
- Kelly J. Malone, ‘Preemptive Strikes and the Korean Nuclear Crisis: Legal and Political Limitations on the Use of Force’ (2003) 12(3) PACIFIC RIM LAW & POLICY JOURNAL 807-834.
- Leo Van de hole, ‘Anticipatory Self-Defence Under International Law’ (2003) 19(1) AMERICAN UNIVERSITY INTERNATIONAL LAW REVIEW 69-106.
- Mehrdad Payandeh, ‘With Great Power Comes Great Responsibility? The Concept of the Responsibility to Protect within the process of International Lawmaking’ (2010) 35 THE YALE JOURNAL OF INTERNATIONAL LAW 469-516.
- Niaz A. Shah, ‘Self-defence, Anticipatory Self-defence and Pre-emption: International Law’s Response to Terrorism’ (2007) 12(1) JOURNAL OF CONFLICT AND SECURITY LAW 95-126.
- ‘The Chatham House Principles of International Law on the Use of Force in Self-Defence’ (2006) 55(4) THE INTERNATIONAL AND COMPARATIVE LAW QUARTERLY 963-972.
- Thomas M. Franck, ‘Collective Security and UN Reform: Between the Necessary and the Possible’ (2005-2006) 6 CHI. J. INT’L L. 597-611.
- Thomas M. Franck, ‘What Happens Now? The United Nations after Iraq’ (2003) 97(3) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 607-620.
- Thomas M. Franck, ‘Who Killed Article 2(4)? or Changing Norms Governing the Use of Force by States’ (1970) 64(5) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 809-837.
- Christine Gray, The ICJ and the use of Force <<http://ssrn.com/abstract=2311217>> accessed 13 June 2021.
- Jeremy Matam Farrall, *United Nations Sanctions and the Rule of Law* (Cambridge University Press 2007).
- Edward C. Luck, *UN Security Council* (Routledge 2006) Chapters 4, 5 and 6.
- Carlos Manuel Vázquez, ‘Trade Sanctions and Human Rights—Past, Present, and Future’ (2003) 6 J. INT’L ECON. L. 797-839.
- Hans Kelsen, ‘Sanctions in International Law under the Charter of the United Nations’ (1945-1946) 31 IOWA L. REV. 499-543.
- Josef L. Kunz, ‘Sanctions in International Law’ (1960) 54(2) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 324-347.
- Nigel D White and Ademola Abass, ‘Countermeasures and Sanctions’ in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 537-562.
- Boris Kondoch, The Limits of Economic Sanctions Under International Law: The Case of Iraq’ (2001) 7 INT’L PEACEKEEPING 267-294.



- Mallory Owen, 'The Limits of Economic Sanctions Under International Humanitarian Law: The Case of the Congo' (2012) 48(1) TEXAS INTERNATIONAL LAW JOURNAL 104-123.
- R. St. J. MacDonald, 'Economic Sanctions in the International System' (1969) CANADIAN YEAR BOOK OF INTERNATIONAL LAW 61.
- Anthony Aust, *Modern Treaty Law and Practice* (2nd edn, Cambridge University Press 2007) 16-27.
- Malgosia Fitzmaurice 'The Practical Working of the Law of Treaties' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 166-200.
- ILC, Reservations to Multilateral Conventions Law (1951) <[http://legal.un.org/ilc/texts/instruments/english/reports/1\\_6\\_1951.pdf](http://legal.un.org/ilc/texts/instruments/english/reports/1_6_1951.pdf)> accessed 12 June 2021.
- John Merrills, 'The Means of Dispute Settlement' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapter 19.
- Hugh Thirlway, 'The International Court of Justice' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapter 20.
- Annie Bird, 'Third State Responsibility for Human Rights Violations' (2011) 21(4) EUROPEAN JOURNAL OF INTERNATIONAL LAW 883-900.
- Danwood Mzikenge Chirwa, 'The Doctrine Of State Responsibility as a Potential Means of Holding Private Actors Accountable for Human Rights' (2004) 5 MELBOURNE JOURNAL OF INTERNATIONAL LAW 1.
- Jennifer Lynne Weinman, 'The Clash between U.S. Criminal Procedure and the Vienna Convention on Consular Relations: An Analysis of the International Court of Justice decision in the *La Grand Case*' (2002) 17(4) AMERICAN UNIVERSITY INTERNATIONAL LAW REVIEW 857-904.
- Naomi Roht-Arriaza, 'State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law' (1990) 78(2) CALIFORNIA LAW REVIEW 451-513.
- Sompong Sucharitkul, 'State Responsibility and International Liability under International Law' (1996) 18 LOY. L.A. INT'L & COMP. L. REV. 821-839.

### **International Instruments**

- Charter of the United Nations and Statute of the International Court of Justice (adopted 26 June 1945, entered into force 24 October 1945).
- Vienna Convention on Diplomatic Relations (adopted 18 April 1961, entered into force 24 April 1964) 500 UNTS 95.
- Vienna Convention on Consular Relations (adopted 24 April 1963, entered into force 19 March 1967) 596 UNTS 261.
- Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.
- International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1.
- UNGA Res 56/83 'Responsibility of States for internationally wrongful acts: Resolution adopted by the General Assembly' (28 January 2002) A/RES/56/83.

## Indian Legislations

- The Extradition Act, 1962

## Cases

- Krishna Sharma v State of West Bengal AIR 1954 Cal 591.
- A.D.M. Jabalpur v Shivakant Shukla AIR 1976 SC 1207.
- Gramophone Company of India Ltd. v Birendra Bahadur Pandey and ors. AIR 1984 SC 667.
- Birma v State of Rajasthan AIR 1951 Raj 127.
- Shiv Kumar Sharma v UOI and ors. AIR 1968 Del 64.
- Vishakha and ors. v State of Rajasthan and ors. AIR 1997 SC 3011.
- Abu Salem Abdul Qayoom Ansari v State of Maharashtra and anr. (2011) 11 SCC 214.
- Daya Singh Lahoria and ors. v UOI and ors. AIR 2001 SC 1716.
- Questions relating to the Obligation to Prosecute or Extradite (Belgium v Senegal) (Judgment) [2012] ICJ Rep 422.
- Jadhav case (India v Pakistan) (Merits) [2019].
- Avena and Other Mexican Nationals (Mexico v United States of America) (Judgment) [2004] ICJ Rep 12.
- LaGrand (Germany v United States of America) (Judgment) [2001] ICJ Rep 466.
- Case concerning the United States Diplomatic and Consular Staff in Teheran (United States of America v Iran) (Judgment) [1980] ICJ Rep 3.
- Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v Belgium) (Judgment) [2002] ICJ Rep 3.
- Haya de la Torre Case (Judgment) [1951] ICJ Rep 71.
- Jurisdictional Immunities of the State (Germany v Italy: Greece intervening) (Judgment) [2012] ICJ Rep 99.
- Case concerning armed activities on the territory of the Congo (Democratic Republic of the Congo v Uganda) (Judgment) [2005] ICJ Rep 168.
- Case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) (Merits) [1986] ICJ Rep 14.
- Case concerning Oil platforms (Islamic Republic of Iran v United States of America) [2003] ICJ Rep 161.
- Corfu Channel Case (UK v Albania) (Merits) [1949] ICJ Rep 4.
- Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) [2004] ICJ Reports 136.
- Legality of the Threat of Use of Nuclear Weapons (Advisory opinion) [1996] ICJ Rep 226.
- Cameroon v Nigeria (Land and Maritime Boundary between Cameroon and Nigeria) (Judgment) [2002] ICJ Rep 303.
- Danube Dam case (Case concerning the Gabčíkovo-Nagymaros Project) (Judgment) [1997] ICJ Rep 7.
- North Sea Continental Shelf (Federal Republic of Germany v Denmark; Federal Republic of Germany v Netherlands) (Judgment) [1969] ICJ Rep 3.

- Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro) (Judgment) [2007] ICJ Rep 43.