



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

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

**DETAILS OF COURSE OFFERED**

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

SL. NO	COURSE CODE	COURSE TITLE	L	T	P	CR	CH
1.	1002 IL SP VII	LAW OF THE SEA - I	4 PER WEEK		1 PER WEEK	4	

**A. CODE AND TITLE OF THE COURSE: 1002 IL SP VII ,  
LAW OF THE SEA - I**

**B. COURSE CREDIT: 4 (TOTAL MARKS 100)**

**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. Law of sea is another important area in the study of international law.

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.

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 several important and contemporary areas of international law.

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

- Provide students with an understanding of the international law of sea
- Introduce students to the concepts of territorial sea, contiguous zone, continental shelf, EEZ, High Seas etc.
- Introduce students to UNCLOS and other international legal instruments
- Provide students with an understanding of the dispute settlement process

## **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 before hand 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. Debates shall also be organized at regular intervals.

## **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 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. The examinations shall be closed book.

Internal assessment shall carry 70% (140 marks) and external assessment shall carry 30% (60 marks).

2 Assignments of 20 marks each	40 marks
Seminar	20 marks
2 Class Tests of 35 marks each	70 marks
Attendance	10 marks
Semester End Examination	60 marks

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

### **MODULE -I**

#### **Historical Development of the Law of the Sea**

- Mare Liberum
- Mare Clausum

#### **Codification of the Law of the Sea**

- The Hague Conference for the Codification of International Law (1930)
- The First UN Conference on the Law of the Sea (1958)
- The Second UN Conference on the Law of the Sea (1960)
- The Third UN Conference on the Law of the Sea (1973–1982)

#### **Development after UNLCOS III**

- General considerations
- Adoption of two Implementation Agreements
- De facto amendment of the UNCLOS through Meetings of States Parties
- Development of the law of the sea through international organisations

### **MODULE -II**

#### **Baselines**

- Normal baselines
- Straight baselines
- Juridical bays
- Historic bays
- Bays bordered by more than one State
- River mouths
- Ports
- Islands
- Reefs
- Low-tide elevations

### **Internal Waters**

- Spatial scope
- Legal status
- Jurisdiction of the coastal State over foreign vessels in internal waters
- Access to ports
- Ships in distress at sea

### **Territorial Sea**

- Legal status
- The right of innocent passage
- Rights and obligations of the coastal State concerning innocent passage

## **MODULE -III**

### **International Straits**

- Legal framework for international straits prior to 1982
- Typology of international straits under the UNCLOS
- International straits under Part III of the UNCLOS
- International straits outside the scope of Part III of the UNCLOS
- The right of transit passage
- Rights and obligations of coastal States bordering straits
- Customary law character of the right of transit passage
- Non-suspendable innocent passage
- Legality of creation of bridges in international straits

### **Archipelagos**

- Definition of an archipelago, archipelagic States and archipelagic waters
- Archipelagic baselines
- Jurisdiction of archipelagic States over archipelagic waters
- The right of innocent passage through archipelagic waters
- The right of archipelagic sea lanes passage
- Rights and obligations of an archipelagic State

### **Contiguous Zone**

- The concept of the contiguous zone
- Coastal State jurisdiction over the contiguous zone

## **6. PRESCRIBED READINGS**

- Yoshifumi Tanaka, *The International Law of the Sea* (Cambridge University Press 2012) Chapters 1, 2, 3 and 4.
- R.R. Churchill and A.V. Lowe, *Law of the Sea* (3rd edn, Manchester University Press, 1999) Chapters 1, 2, 3, 4, 5, 6 and 7.
- R.P. Anand, *Origin and Development of the Law of the Sea* (Martinus Nijhoff Publishers, 1983).
- James Harrison, *Making the Law of the Sea* (Cambridge University Press, 2011).
- M. Mendelson, 'The International Court of Justice and the Sources of International

Law' in V. Lowe and M. Fitzmaurice (eds.), *Fifty Years of the International Court of Justice* (Cambridge University Press 1996) 63-89.

- Malcolm Evans, 'The law of the sea' in Malcom D. Evans (ed.), *International Law* (4th edn, OUP 2014) Chapter 22.
- Martin Dixon, *Textbook on International Law* (7th edn, OUP 2013) Chapter 8.
- V.K. Ahuja, *Public International Law* (Lexis Nexis 2016) Chapter 11.
- Louis B. Sohn, *Law of the Sea in a nutshell* (Thomson Reuters, 2006) Chapter 10.
- R. Bernhardt, 'Custom and Treaty in the Law of the Sea' (1989) 205 RECUEIL DES COURS 167.
- P. Allott, 'Power Sharing in the Law of the Sea', (1983) 77 AMERICAN JOURNAL OF INTERNATIONAL LAW 1.
- Moritaka Hayashi, The 1994 Agreement for the Universalization of the Law of the Sea Convention (1996) 27 OCEAN DEV. & INT'L L. 31.
- G. Marston, 'The Evolution of the Concept of Sovereignty over the Bed and Subsoil of the Territorial Sea', (1976-77) 48 BRITISH YEARBOOK OF INTERNATIONAL LAW 321.
- D.P. O'Connell, 'The Juridical Nature of the Territorial Sea', (1971) 45 BRITISH YEARBOOK OF INTERNATIONAL LAW 303.
- Barbara Kwiatkowska, 'The Archipelagic Regime in Practice in the Philippines and Indonesia-- Making or Breaking International Law?' (1991) 6 INT'L J. ESTUARINE & COASTAL L. 1.
- David L. Larson, 'Innocent, Transit, and Archipelagic Sea Lanes Passage' (1987) 18 OCEAN DEV. & INT'L L. 411.
- Chris Forward 'Archipelagic Sea-Lanes in Indonesia-Their Legality in International Law' (2009) 23 AUSTL. & N.Z. MAR. L.J. 143.
- J. Peter A. Bernhardt, 'The Right of Archipelagic Sea Lanes Passage: A Primer' (1994-95) 35 VA. J. INT'L L. 719.
- Hasjim Djalal, 'Regulation of International Straits' (2009) 6 INDONESIAN J. INT'L L. 315.

### **International documents**

- Convention and Statute on Freedom of Transit (1921)
- Convention Regarding the Regime of the Straits (1936) (Montreux Convention)
- Geneva Convention and Statute on the International Regime of Maritime Ports (1923)
- Geneva Convention on the Territorial Sea and Contiguous Zone (1958)
- Guidelines on Places of Refuge for Ships in Need of Assistance (2003)
- International Convention for the Safety of Fishing Vessels (1977)
- International Convention for the Safety of Life at Sea (1974) (SOLAS)
- United Nations Convention on the Law of the Sea (1982)

### **Cases**

#### **ITLOS cases**

- The M/V "Norstar" Case (Panama v. Italy)
- The "Enrica Lexie" Incident (Italy v. India), Provisional Measures

- Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)
- The "Arctic Sunrise" Case (Kingdom of the Netherlands v. Russian Federation), Provisional Measures
- Request for an Advisory Opinion submitted by the Sub-Regional Fisheries Commission (SRFC) (Request for Advisory Opinion submitted to the Tribunal)
- The "ARA Libertad" Case (Argentina v. Ghana), Provisional Measures
- The M/V "Virginia G" Case (Panama/Guinea-Bissau)
- The M/V "Louisa" Case (Saint Vincent and the Grenadines v. Kingdom of Spain)
- Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area (Request for Advisory Opinion submitted to the Seabed Disputes Chamber)
- Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)
- The "Tomimaru" Case (Japan v. Russian Federation), Prompt Release
- The "Hoshinmaru" Case (Japan v. Russian Federation), Prompt Release
- The "Juno Trader" Case (Saint Vincent and the Grenadines v. Guinea-Bissau), Prompt Release
- Case concerning Land Reclamation by Singapore in and around the Straits of Johor (Malaysia v. Singapore), Provisional Measures
- The "Volga" Case (Russian Federation v. Australia), Prompt Release
- The MOX Plant Case (Ireland v. United Kingdom), Provisional Measures
- The "Chaisiri Reefer 2" Case (Panama v. Yemen), Prompt Release
- The "Grand Prince" Case (Belize v. France), Prompt Release
- Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile/European Union)
- The "Monte Confurco" Case (Seychelles v. France), Prompt Release
- The "Camouco" Case (Panama v. France), Prompt Release
- Southern Bluefin Tuna Cases (New Zealand v. Japan; Australia v. Japan), Provisional Measures
- The M/V "SAIGA" (No. 2) Case (Saint Vincent and the Grenadines v. Guinea)
- The M/V "SAIGA" Case (Saint Vincent and the Grenadines v. Guinea), Prompt Release

### **ICJ cases**

- Territorial and Maritime Dispute (Nicaragua v. Colombia)
- Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)
- Maritime Delimitation in the Black Sea (Romania v. Ukraine)
- Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)
- Oil Platforms (Islamic Republic of Iran v. United States of America)
- Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)
- Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

- Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)
- Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)
- Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)
- Continental Shelf (Libyan Arab Jamahiriya/Malta)
- Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)
- Continental Shelf (Tunisia/Libyan Arab Jamahiriya)
- Aegean Sea Continental Shelf (Greece v. Turkey)
- Territorial Dispute (Libyan Arab Jamahiriya/Chad)
- Frontier Dispute (Burkina Faso/Republic of Mali)