



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

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

DETAILS OF COURSE OFFERED

ODD SEMESTER(IX) – ACADEMIC YEAR:

SL. NO	COURSE CODE	COURSE TITLE	L	T/P	CR	CH
1.	905 IL SP VI	INTERNATIONAL DISPUTE RESOLUTION BODIES - II	4 PER WEEK	1 PER WEEK	4	

A. CODE AND TITLE OF THE COURSE: 905 IL SP VI ,INTERNATIONAL

DISPUTE RESOLUTION BODIES - II

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 explain the role of United Nations and regional arrangement in peaceful settlement of disputes
- To analyse the dispute settlement mechanism under the regime governing the seas,

space, trade and investment

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 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)

external assessment shall carry 30% (60 marks).

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

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

MODULE I

Peaceful Settlement of Disputes – Institutional Means of Settlement of Disputes

- Procedure under the Charter of the United Nations
 - Role of Security Council
 - Investigation of disputes and determination as to whether a situation is in fact likely to endanger international peace and security
 - Recommendation to States parties to a dispute to settle their disputes by peaceful means
 - Relation to procedures under regional agencies or arrangements
 - Role of General Assembly
 - Discussion of questions and making recommendations on matters relating to the peaceful settlement of disputes
 - Recommendation of measures for the peaceful adjustment of situations
 - Role of Secretary-General
 - Functions of the Secretary-General in the implementation of the resolutions of other principal organs in the field of the prevention or settlement of disputes
 - Diplomatic functions
 - Functions of the Secretary-General based on the powers expressly conferred upon him by the Charter

MODULE II

Peaceful Settlement of Disputes – Institutional Means of Settlement of Disputes

- Procedure under Regional agencies or arrangements
 - Arab League
 - Organization of Islamic Cooperation
 - Organization of American States
 - African Union
 - Council of Europe
 - Association of Southeast Asian Nations

MODULE III

- **International trade disputes**

- General Agreement on Tariffs and Trade (GATT)
 - Articles XXII and XXIII
- World Trade Organization (WTO)
 - Understanding on Rules and Procedures Governing the Settlement of Disputes
 - Consultation
 - Good Offices, Conciliation and Mediation
 - Panel Phase
 - Appellate Body Review
 - Remedies
 - Arbitration

- **International investment disputes**

- International Centre for Settlement of Investment Disputes (ICSID)
 - Investor-State Dispute Settlement
 - ICSID's connection with the World Bank
 - Convention on the Settlement of Investment Disputes between States and Nationals of Other States
 - Administrative and Financial Regulations
 - Rules of Procedure for the Institution of Conciliation and Arbitration Proceedings (Institution Rules)
 - Rules of Procedure for Conciliation Proceedings (Conciliation Rules)
 - Rules of Procedure for Arbitration Proceedings (Arbitration Rules)

MODULE IV

- **Dispute resolution under United Nations Convention on the Law of the Sea**

- Principle of Compulsory Settlement
- Exceptions to Principle of Compulsory Settlement
- Conciliation
- Arbitration
- Special Arbitration
- ITLOS
- Sea-Bed Disputes Chamber

- **Dispute resolution under Space Law**

- Cosmos 954 Incident
- The Outer Space Treaty

- The 1972 Liability Convention
- International Inter-governmental Organizations and Bilateral Agreements
- The 1998 ILA Draft Convention
- PCA Outer Space Optional Rules

6. PRESCRIBED READINGS

- J.G. Merrills, *International Dispute Settlement* (Cambridge University Press, 2011) Chapters 8, 9, 10 and 11.
- Malcolm N. Shaw, *International Law* (7th edn, Cambridge University Press 2014) Chapters 11, 18, 22 and 23.
- Martin Dixon, *Textbook on International Law* (7th edn, OUP 2013) Chapters 8 and 11.
- Antonio Cassese, *International Law* (OUP 2001) Chapters 16 and 17.
- Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) Chapters 18, 19, 22 and 24.
- S.K. Verma, An Introduction to *Public International Law* (2nd edn, Satyam Law International 2012) Chapters 14, 16 and 19.
- Benedetto Conforti, *The Law and Practice of the United Nations* (3rd edn, Martinus Nijhoff Publishers 2005).
- Margaret P. Karns & Karen A. Mingst, *International Organizations* (Viva Books 2010) Chapters 4, 5, 6 and 9.
- Rhona K.M. Smith, *Textbook on International Human Rights* (6th edn, OUP 2014) Chapters 7, 8 and 9.
- Thomas Buergenthal, *International Human Rights in a nutshell* (4th edn, Thomson Reuters 2009) Chapters 2, 3, 4, 5 and 8.
- Anthony Aust, *Handbook of International Law* (2nd edn, Cambridge University Press 2010) Chapters 9, 15 and 22.
- Nigel D White and Matthew Saul, “Legal Means of Dispute Settlement in the Field^[SEP] of Collective Security: The Quasi-Judicial Powers of the Security Council” in Duncan French et al (eds), *International Law and Dispute Settlement* (Hart Publishing 2010) Chapter 8.
- Gino J Naldi, “Aspects of the African Court of Justice and Human Rights” in Duncan French et al (eds), *International Law and Dispute Settlement* (Hart Publishing 2010) Chapter 12.
- Tawhida Ahmed, “The EU, the ECHR and the Effective Protection of Human Rights for Individuals” in Duncan French et al (eds), *International Law and Dispute Settlement* (Hart Publishing 2010) Chapter 13.
- Paul James Cardwell, “The European Court of Justice as a Constitutional Court: Implications for the EU and International Legal Orders” in Duncan French et al (eds), *International Law and Dispute Settlement* (Hart Publishing 2010) Chapter 14.
- Autar Krishen Kaul, *Guide to the WTO and GATT* (3rd edn, Satyam Law International 2012) Chapters 1, 2, 3, 4 and 5.
- Richard Peet, *Unholy Trinity* (2nd edn, Zed Books 2009) Chapter 5.
- Fabio Tronchetti, *Fundamentals of Space Law and Policy* (Springer 2013) Chapter 4.
- Robin Churchill, “Trends in Dispute Settlement in the Law of the Sea: Towards the Increasing Availability of Compulsory Means” in Duncan French et al (eds), *International Law and Dispute Settlement* (Hart Publishing 2010) Chapter 6.

- Surya P Subedi, “The WTO Dispute Settlement Mechanism as a New Technique for Settling Disputes in International Law ” in Duncan French et al (eds), *International Law and Dispute Settlement* (Hart Publishing 2010) Chapter 7.

International Documents

- Charter of the United Nations
- Charter of Arab League
- Charter of the Organization of Islamic Cooperation
- Charter of the Organization of American States
- American Treaty on Pacific Settlement 1948 (Pact of Bogota)
- Protocol of Amendment to the Charter of the Organization of American States (A-50) (Protocol of Cartagena De Indias)
- Constitutive Act of the African Union
- Charter of the Organization of African Unity
- European Convention for the Peaceful Settlement of Disputes
- ASEAN Charter
- ASEAN Protocol on Enhanced Dispute Settlement Mechanism (Vientiane Protocol)
- Protocol to the ASEAN Charter on Dispute Settlement Mechanisms (Hanoi Protocol)
- United Nations Convention on the Law of the Sea
- General Agreement on Tariffs and Trade
- Agreement Establishing the World Trade Organization
- Convention on the Settlement of Investment Disputes between States and Nationals of Other States 1966
- Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, 1967 (Outer Space Treaty)
- Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, 1968 (Rescue Agreement)
- Convention on International Liability for Damage Caused by Space Objects, 1972 (Liability Convention)
- Convention on Registration of Objects Launched into Outer Space, 1975 (Registration Convention)
- Agreement Governing the Activities of States on the Moon and other Celestial Bodies, 1979 (Moon Agreement)
- Draft Convention on the Settlement of Space Law Disputes adopted by the Space Law Committee of the International Law Association, 1984
- Permanent Court of Arbitration (PCA) adopted the Optional Rules for Arbitration of Disputes Relating to Outer Space Activities (Outer Space Optional Rules)