

BOSTON UNIVERSITY GENEVA PROGRAM

Fall 2011 • Course IR 445 E

Introduction to Public International Law

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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. The course is designed to give students a global understanding of the 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 can it be found? 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 page).

The main textbook used for the course is Malcolm EVANS (ed.), *International Law*, Oxford University Press, 2nd ed., 2006 (hereafter EVANS). Other reference books are Peter MALANCZUK, *Akehurst's Modern Introduction to International Law*, London/New York: Routledge, 7th revised ed., 1997 (AKEHURST'S), and Antonio CASSESE, *International Law*, Oxford University Press, 2nd ed. 2005 (CASSESE).

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 the course Blackboard page.

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. Final grades are composed of three written works and attendance, as follows:

- Case analysis: 15% of grade (1 case per 3 students): to be discussed during the last hour of classes 4 to 12
- Essay of **6 pages maximum**, including all references such as footnotes and bibliography: 25% of grade (due by Monday, 26 September by 1:30pm)
- Two hour exam in which students are required to answer two questions: 50%, Thursday, 6 October, 3-5:30pm
- Full attendance and active participation: 10% of grade.

For the essay paper, a 10% penalty (i.e. 2.5 points) will be applied to any work submitted after the deadline, except for circumstances outside the student's control.

The final grade, from A to F, is the total percentage of the assignments, with the following equivalence:

A : 93-100 %	B : 81-84	C : 69-72
A- : 89-92	B- : 77-80	D : 60-64
B+ : 85-88	C+ : 73-76	F : below 60

4. Course schedule (Friday September 2nd to Thursday October 6th, 2011)

Class #1: Friday, Sept. 2nd, 2-5pm

Room: M 2 193

WELCOME TO PIL

- Overview of the course and assignments
- Writing seminar

Required Reading

- ICJ, *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* [hereafter PLO Mission Case], Advisory Opinion of 26 April 1988, §§7-18, 24-29, and 57-58.
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Class #2: Monday, Sept. 5th, 2-5pm

Room: M R 040

INTRODUCTION TO THE INTERNATIONAL LEGAL ORDER

- The Structure of the International Community
- Historical Development and Specificities of Public International Law
- The Relationship between International Law and Domestic Law

Required Reading

- CASSESE, Chapter 1: 'The Main Legal Features of the International Community', 3-21
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Class #3: Tuesday, Sept. 6th, 2-4:30pm

Room: M R 030

THE SUBJECTS OF INTERNATIONAL LAW (I)

- The Concept of Subject of Law and of Legal Personality
- States: Definition and Conditions for Statehood, Territory and Underlying Principles, Sovereignty

Required Reading:

- Montevideo Convention on the Rights and Duties of States, 26 December 1933
 - Badinter Commission, Opinions Nos. 1, 2 and 3, in 92 *International Law Report* (1992), 162-172.
 - ICJ, *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion of 22 July 2010, §§57-84 + Declaration of Judge Simma
 - D. Byman & Ch. King, "The Phantom Menace", *New York Times*, August 15, 2011
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Class #4: Monday, Sept. 12th, 2-5pm

Room: M R 030

THE SUBJECTS OF INTERNATIONAL LAW (II)

- International Organizations: Legal Definition, Rights and Duties under International Law
- The Status of Individuals in International Legal Order
- Other International Actors: Non-State Actors and International Regulations of their Activities

Required Reading:

- ICJ, *Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion of April 1949, *ICJ Reports* 1949, 174-185 [[case for students analysis \(CSA\) #1](#)]
 - R. McCorquodale, 'The Individual and the International Legal System', in EVANS, 307-329.
 - ICJ, *LaGrand Case (Germany v. U.S.A.)*, Judgment of 27 June 2001, §§13-42.
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Class #5: Tuesday, Sept. 13th, 2-4:30pm

Room: M R 030

THE SOURCES OF INTERNATIONAL LAW (I)

- Article 38 of the ICJ Statute and its List of Sources
- Treaties: Concept, Conclusion, Reservation, Conditions of Validity, Interpretation, Termination

Required Reading:

- Statute of the International Court of Justice (Article 38), annexed to the UN Charter
 - The Vienna Convention on the Law of Treaties (1969) [extracts]
 - ICJ, *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment of 25 Sept. 1997, §§46-59; 82-115 [[\(CSA\) #2](#)]
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Class #6: Thursday, Sept. 15th, 2-4:30pm

Room: M 3 020

THE SOURCES OF INTERNATIONAL LAW (II)

- Custom, General Principles of Law and Codification

- Resolutions of International Organizations and Unilateral Declarations of States
- Hierarchy of Sources and Hierarchy of Norms in International Law

Required Reading:

- ICJ, *North Sea Continental Shelf Case (F.R. of Germany/Denmark; F.R. Germany/The Netherlands)*, Judgment of 20 February 1969, §§ 34-39; 58-86; 100-101 [\[CSA #3\]](#)
- ICJ, *Legality of the threat or use of nuclear weapons*, Advisory Opinion of 8 July 1996, §§64-79; 98-102
- ICTY, *Prosecutor v. Anto Furundzija*, Judgment of 10 December 1998, §§181-185
- 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)*, hereafter ‘*Genocide Case*’, Judgment of 26 February 2007, §§114-120
- ILC, *Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations*, adopted in the ILC 2006 session

Class #7: Monday, Sept. 19th, 2-5pm

Room: M 4 020

THE FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW (I)

- The Principles proclaimed in the UN General Assembly Resolution 2625 (XXV) of 1970
- ‘The Responsibility to Protect’: a new principle of international law?

Required Readings:

- The Charter of the United Nations: Preamble, Articles 1 and 2
- Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the U.N, annexed to GA Res. 2625 (XXV), 24 October 1970
- ICJ, *Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. USA) (Merits)*, Judgment of 27 June 1986 – hereafter ‘*Nicaragua Case*’, §§202-220; 239-249
- Extracts of UN documents on the ‘Responsibility to Protect’
- The UN Security Council Resolutions on Libya (2011) and the Responsibility to Protect [\[CSA #4\]](#)

Class #8: Tuesday, Sept. 20th, 2-5pm

Room: PM 13

THE FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW (II):

THE PROHIBITION OF THE USE OF FORCE

- History of the Prohibition of the Use of Force
- Scope of the Prohibition and its Legal Nature
- The Horizontal Exception to the Prohibition: Individual and Collective Self-Defense

Required Reading:

- Briand-Kellogg Pact, 27 August 1928
- Saavedra Lamas Treaty (‘Anti-War Treaty’), 10 October 1933
- The Stimson Doctrine of Non-Recognition, January 1932
- The Charter of the United Nations: Articles 2(3), 2(4), and 51
- The Definition of Aggression, annexed to General Assembly Resolution 3314 (XXIX), 14 December 1970
- ICJ, ‘*Nicaragua Case*’ 1986, §§75-80; 92-94; 226-238
- ICJ, *Armed Activities on the Territory of Congo (D.R. Congo v. Uganda)*, Judgment of 19 December 2005, §§26-27; 92-165 [\[CSA #5\]](#)

Class #9: Thursday, Sept. 22nd, 2-4:30pm

Room: M 1 170

THE PROHIBITION OF THE USE OF FORCE (CONTINUED)

- The Vertical Exception to the Prohibition: 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
- Selected Security Council Resolutions relating to Iraq
- Selected Security Council Resolutions Authorizing Use of Force by Regional Organizations

Class #10: Monday, Sept. 26th, 2-5pm (*Essay due date, by 1.30pm*)

Room: M R 030

STATE RESPONSIBILITY FOR INTERNATIONALLY WRONGFUL ACTS (I)

- Nature of International Responsibility
- The Elements of State Responsibility

Required Reading:

- ILC Articles on State Responsibility for Internationally Wrongful Acts, annexed to GA Res. 56/83, 2001
- ICJ, *Case concerning the United States Diplomatic and Consular Staff in Teheran (U.S.A. v. Iran)*, Judgment of 24 May 1980, §§60-95 [CSA #6]
- ICJ, ‘*Genocide Case*’, Judgment of 26 February 2007, §§379-407.

Class #11: Tuesday, Sept. 27th, 2-5pm

Room: PM 11

STATE RESPONSIBILITY (II)

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

Required Reading:

- 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 [CSA #7]

Class #12: Thursday, Sept. 29th, 2.15-4:45pm

Room: M S 030

THE SETTLEMENT OF INTERNATIONAL DISPUTES (I)

- Diplomatic Means of Dispute Settlement: Negotiation, Good Offices, Mediation, Inquiry, Conciliation

Required Reading:

- The Charter of the United Nations; Articles 2(3), and 33
- J. Merrills, ‘The Means of Dispute Settlement’, in: EVANS, 533-559
- ICJ, *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*, Advisory Opinion of 26 April 1988, §§33-58 [CSA #8]

Class #13: Monday, Oct. 3rd, 2-4:30pm

Room: M 4 020

THE SETTLEMENT OF INTERNATIONAL DISPUTES (II)

- Legal Means of Dispute Settlement: Arbitration and Permanent Courts
- The Law and Procedure of the International Court of Justice

Required Reading:

- The Charter of the United Nations: Articles 92-96
- The Statute of the ICJ: Articles 34, 35, 36, 41, 59, 65 and 66
- Sample Declarations of Acceptance of the Compulsory Jurisdiction of the ICJ
- ICJ, ‘*Genocide Case*’, Judgment of 26 February 2007, §§80-113; 121-141 [CSA #9]
- ICJ, ‘*Wall Case*’, Advisory Opinion of 9 July 2004, §§36-50; 59-65

Class #14: Tuesday, Oct. 4th, 2-4pm

Room: PM 11

REVISION SESSION:

Overview of the whole course and question-time, “blank” collective exam

Class #15: Thursday, Oct. 6th, 3-5:30pm

Room: M S 030

FINAL EXAM

5. Plagiarism

All students are responsible for having read the Boston University statement on plagiarism, which is available in the Academic Conduct Code. Students are advised that the penalty against students on a Boston University program for cheating on the examinations or for plagiarism may be ‘expulsion from the program or the University or such other penalty as may be recommended by the Committee on Student Academic Conduct, subject to approval by the dean’.

6. Appealing a grade

Students are entitled to appeal a grade, in accordance with the instruction distributed by BU Geneva office at the introductory session of the program.

7. Blackboard website information

Additional information on the course, not developed in the present syllabus, can be found on the Blackboard page of the course, into which all PIL students are enrolled. In case of problems, please contact the teaching assistant.