

NIRMA UNIVERSITY
Institute of Law
B.A.,LL.B.(Hons.) and B.Com.,LL.B.(Hons.) [5-Year Integrated Programme]
Academic Year 2019-20
Semester IV

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| Course Code | 2BL444 |
| Course Title | Public International Law |

Course learning outcomes:

At the end of the course, the students will be able to

1. Compare various approaches for interpreting International Law
2. Determine factors contributing to development of International Law
3. Analyze implications of the World Order created by International Law
4. Identify appropriate strategies for resolving international conflicts
5. Understand and elaborate the problems of International law and the solution thereof

Syllabus

Teaching Hours 60

Unit I. Nature Definition and Scope of Public International Law

8 Hours

1.1 Definition of International Law

- Oppenheim Definition
- Other classic Definition
- Modern Definition

1.2 Basis of International Law - Jurisprudential Theories

1.3 Codification of International Law: work of International Law Commission

1.4 Sanctions of International Law

1.5 Nature of International law

- *Is International law a True Law?*
- *Is International Law a Weak Law?*

1.6 Difference between Public and Private International law.

1.7 Development of International Law

Unit II Sources of International Law

12 Hours

2.1 Statute of the International Court of Justice, 1945 (Article 38)

2.1.1 International Treaties and Conventions

2.1.2 International Customs

- Lotus Case (France v. Turkey), PCIJ, Ser. A, No. 10 (1927) 3. North Sea
- Continental Shelf Cases, ICJ Rep. 1969, p. 3 (refer to Paras.61-81 Topic 5: Law of the Sea)
- Right of Passage over Indian Territory (Merits) (Portugal v. India), ICJ Rep. 1960, p. 6 7 5.
- Asylum Case (Columbia v. Peru), ICJ Rep. 1950, p. 266
- General Principles of Law Recognized by Civilized Nations 6.
- Advisory Opinion of ICJ on the Effect of Awards of Compensation made by the United Nations Administrative Tribunal ,
- Island of Palmas Case (Netherlands v. United States) (1928) Permanent Court of Arbitration,
- Temple of Preah Vihear Case (Merits) (Cambodia v. Thailand), ICJ Reports 1962, p.6

2.1.3 General Principal of Law recognized by civilized Nation

2.1.4 Judicial Decisions, Juristic Opinion

2.1.5 Ex aequo et bono

2.2 Codification and progressive development of international law – History of codification: Congress of Vienna etc. ILC UNCTIRAL and other UN agencies.

2.3 Are decisions of international organizations law-making? UN General Assembly (*Nicaragua* case) and Security Council (*Lockerbie* cases)

Unit III. Subjects of International law

6 Hours

3.1 Traditional and nontraditional subjects of International law

3.2 States as a Subject: Montevideo Convention, 1933

- Non State entities are subject or not?

3.3 Status of International Organization

3.4 Place of Individuals in International Law

Unit IV. Relationship between International Law and Municipal law

7 Hours

4.1 Theories

- Monistic Theory
- Dualistic Theory
- Practice of States: India, United Kingdom, United States of America

4.2 Role of domestic law in implementation of International law

4.3 Divergent State Practices in respect of Treaties – Transformation and Incorporation – US and Commonwealth

4.4 International Law and the Indian Constitution:

4.4.1 Preliminary: Articles 51 & 372

4.4.2 Treaty Making and Treaty Implementation: Articles 73, 246 (Union List, State List, Concurrent List), 253

4.4.3 Legislative practice in implementation of treaties

4.5 Indian Judiciary and International Law – an overview

Jolly Verghese, Visaka. M.V. Elizabeth

Unit V International Responsibility**7 Hours**

5.1 Constituent Elements of International Responsibility

- Damage Theory
- Fault Theory
- Absolute Liability
- Risk Theory

5.2 legal consequences of breach of International Obligation

- Restitution
- Compensation
- Satisfaction
- Indemnity

5.3 ILC Draft Code on Responsibility of States for Internationally Wrongful Acts, 2001

Unit VI Sovereignty and Jurisdiction**7 Hours**

6.1. Territorial Jurisdiction

6.2. Jurisdiction based on nationality, protective principle

6.3. Universal Jurisdiction

6.4. Extra territorial Jurisdiction of State

6.5. Extradition, Deportation, Asylum

- Abu Salem v. State of Maharashtra (2011) SCC 214 151
- Arrest and Restoration of Savarkar (France/Great Britain, 1911)

Unit VII Law of Sea**7 Hours**

7.1 Maritime Zones

7.1.1 Territorial Sea

- Anglo-Norwegian Fisheries Case (United Kingdom v. Norway), ICJ Rep. 1951, p. 116 100
- Corfu Channel Case, ICJ Rep. 1949, p. 4 107

7.1.2 Contiguous Zone

7.1.3 Continental Shelf

7.1.4 Exclusive Economic Zone

7.1.5 High Seas

7.2 Delimitation of Adjacent and Opposite Maritime Boundaries

7.3 Concept of “Common Heritage of Mankind” Relating to the Resources of International Seabed Area

7.4 International Seabed Mining – Parallel System of Mining

7.5 Indian Maritime Interests, Policy and Law

7.6 International Tribunal for the Law of the Sea

Unit VIII Legal Controls of International Conflict

6 Hours

9.1 Settlement of International Disputes : Peaceful and coercive

9.2 Prohibition of force (*Nicaragua* case), self-defense (*Caroline* incident Webster Note), and the UN Security Council

9.3 Arms Control and Disarmament – Shimoda case, Nuclear Weapons case

9.4 International terrorism

9.5 Basic Principles of International Humanitarian Law

Suggested Readings:-

1. Kapoor, S K. (2009). *International law & Human rights*. Central Law Agency.
2. Brownlie, I. (2003). *Principles of Public International Law*. Oxford: Oxford University Press.
3. Brownlie, I. (2009) *Basic Documents in International Law*. Oxford: Oxford University Press.
4. Dixon, M., et.al. (2003) *Cases & Materials on International law*. (5th ed). Oxford: Oxford University Press.

5. Dixon, M. (2003) *Textbook on International Law*. (6th ed). Oxford: Oxford University Press.
6. Harris D.J. (2004). *International Law: Cases and Materials*. London (6th ed.). Thomson, Sweet & Maxwell.
7. Robert. J. & Arthur W. (2008) *Oppenheim's International Law*. . (Vol. I.) Oxford: Oxford University Press.
8. Shaw, M. (2008) *International Law*. (6th ed) Cambridge: Cambridge University Press.
9. Ivan S. (2014 Reprint). *Starke's International Law*. (11th ed.) Oxford: Oxford University Press.