Irish Centre for Human Rights, University of Galway

Public International Law (LW5118)

 Course Outline 2023-24

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| **Objective** | The objective of this course is to:* Introduce students to the basic principles and concepts of Public International Law (PIL).
* Expose students to the PIL foundations of their specialism e.g. International Human Rights Law, International Criminal Law etc.
* Equip students with PIL research skills.
* Enable students to analyse real-world international events through a PIL lens.
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| **Lecturer(s)** | **Professor Siobhan Mullally**siobhan.mullally@universityofgalway.ie **Pearce Clancy**p.clancy5@universityofgalway.ie or pearce.clancy@universityofgalway.ie  |
| **Times & venue** | This is an 8-week course. It takes place in **weeks 3-10 of Semester 1**.We will have a weekly in-person seminar on **Thursdays from 10am-1pm,** in the Irish Centre for Human Rights’ seminar room. Sessions 1 & 2 will be taught by Professor Siobhan Mullally. Sessions 3-8 will be taught by Pearce Clancy. |
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| **Overall Learning Outcomes** | Upon completion of this course you should be able to: * Explain how PIL has developed since the 16th C. and the major influences on its development
* Differentiate between the various subjects of PIL, including quasi subjects
* Research and evaluate the various sources of PIL to identify what the law governing any particular issue is
* Show how States navigate the rules of PIL in the interest of reciprocity, international comity or self interest
* Apply the norms of int’l law to real-world situations
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| **Format** | Each seminar lasts 3 hours, with a break. Classes are in-person and attendance is expected. |
| **Programme(s)** | LL.M Programmes in the ICHR and School of Law |
| **Course Material** | The course is available on the Blackboard learning management system: <http://blackboard.nuigalway.ie>All textbooks are available in the library, and all materials are available online via the library website and Google Scholar. |
| **Textbooks** | * Paola Gaeta, Jorge E. Viñuales, and Salvatore Zappalá, *Cassese’s International Law* (3rd edn, Oxford University Press, 2020).
* James Crawford, *Brownlie’s Principles of Public International Law* (9th edn, Oxford University Press, 2019).
* Malcolm Shaw, *International Law* (8th edn, Cambridge University Press, 2017).

Generally, it is only necessary to read from one of the above textbooks, however on some topics one might have more information than the others. Previous editions of all three are also available in the library—if the most up to date edition is unavailable these will suffice.Further reading is included for each session below. |
| **Assessment** | This course is assessed by a 5,000-word essay (including footnotes, excluding table of contents and bibliography) on a topic to be agreed with the teaching team. Essays should demonstrate significant research, familiarity with the literature, independent thought, and critical analysis. |
| **Workload hours** | Credit weighting: 10 ECT Total Student Effort: 250 hours for 10 ECT |

## Topics covered in module

1. History and Subjects of Public International Law

Textbooks

* Cassese, Chapter 2, pp. 79-91, 140-177.
* Brownlie, pp. 3-6, Chapter 4. For more detail on states and international organisations *see* Chapters 5-7.
* Shaw, pp. 10-31, Chapter 5.

Additional Reading

* Martti Koskenniemi, ‘History of International Law, since World War II’, *Max Planck Encyclopaedia of International Law*, available at: [https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e714](https://opil.ouplaw.com/display/10.1093/law%3Aepil/9780199231690/law-9780199231690-e714).
* Christian Walter, ‘Subjects of International Law’, *Max Planck Encyclopaedia of International Law*, available at: [https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1476?rskey=kXetSp&result=2&prd=OPIL](https://opil.ouplaw.com/display/10.1093/law%3Aepil/9780199231690/law-9780199231690-e1476?rskey=kXetSp&result=2&prd=OPIL).
* *Montevideo Convention on the Rights and Duties of States* (adopted 26 December 1933, entry into force 26 December 1934).
* *Reparation for injuries suffered in the service of the United Nations, Advisory Opinion, ICJ Reports 1949,* pp. 174.
1. Jurisdiction and Immunities

Textbooks

* Cassese, Chapter 5 & 6.
* Brownlie, Chapter 20, 21, & 22.
* Shaw, Chapter 11 & 12. Parts of Chapter 9 may also be of interest.

Additional Reading

* Bernard H Oxman, ‘Jurisdiction of States’, *Max Planck Encyclopaedia of International Law*, available at: [https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1436?rskey=bm8lm4&result=6&prd=MPIL](https://opil.ouplaw.com/display/10.1093/law%3Aepil/9780199231690/law-9780199231690-e1436?rskey=bm8lm4&result=6&prd=MPIL).
1. Sources of Public International Law I: The Law of Treaties, Unilateral Declarations, and *Jus Cogens*

Textbooks

* Cassese, Chapter 10, pp. 195-196, 232-244.
* Brownlie, Chapter 2 & 16, pp. 402-404.
* Shaw, Chapter 15, pp. 72-78, 90-95.

Additional Reading

* Article 38, *Statute of the International Court of Justice* (18 April 1946).
* *Vienna Convention on the Law of Treaties* (adopted 23 May 1969, entry into force 27 January 1980) 1155 UNTS 331.
* *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, ICJ Reports 1951*, pp. 15.
* *Nuclear Tests (Australia v France), Judgement, ICJ Reports 1974,* p. 253, 267-268.
* International Law Commission, *Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations, with commentaries thereto* (2006).
1. Sources of Public International Law II: Customary International Law, General Principles of Law, and Subsidiary Sources

Textbooks

* Cassese, pp. 184-195, 199-202.
* Brownlie, pp. 21-28, 31-44.
* Shaw, pp. 53-69, 72-90.

Additional Reading

* *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgement, ICJ Reports 1986*, p. 14, paragraphs 172-269.
* International Law Commission, *Draft Conclusions on Identification of Customary International Law, with commentaries* (2018).
* Stefan Talmon, ‘Determining customary international law: the ICJ’s methodology between induction, deduction and assertion’ (2015) 26(2) European Journal of International Law 417-443.
* Katie A Johnston, ‘The Nature and Context of Rules and the Identification of Customary International Law’ (2021) 32(4) European Journal of International Law 1167–1190.
1. Use of Force

Textbooks

* Cassese, Chapter 17.
* Brownlie, Chapter 33.
* Shaw, Chapter 19.

Additional Reading

* Article 2(4), 51, *Charter of the United Nations* (adopted 24 October 1945) 1 UNTS XVI.
* Thomas M Franck, ‘What Happens Now? The United Nations After Iraq’ (2003) 97(3) American Journal of International Law 607-620.
* James A. Green, Christian Henderson, and Tom Ruys, ‘Russia’s attack on Ukraine and the jus ad bellum’ (2022) 9(1) Journal on the Use of Force and International Law 4-30.
* Ingrid Wuerth Brunk and Monica Hakimi, ‘Russia, Ukraine, and the Future World Order’ (2022) 116(4) American Journal of International Law 687-697.
* Ntina Tzouvala, ‘Use of force, territorial integrity, and world order: continuing the debate’ (20 March 2023) *CIL Dialogues*, available at: <https://cil.nus.edu.sg/blogs/use-of-force-territorial-integrity-and-world-order-continuing-the-debate/>; *see also* the rest of the symposium at: <https://cil.nus.edu.sg/blog/symposia/use-of-force-territorial-integrity-and-world-order-continuing-the-debate/>.
1. State Responsibility

Textbooks

* Cassese, Chapter 12.
* Brownlie, Chapter 25-27.
* Shaw, Chapter 13.

Additional Reading

* International Law Commission, *Draft articles on Responsibility of States for Internationally Wrongful Acts* (2001).
1. Relationship between Public International Law and Domestic Law

Textbooks

* Cassese, pp. 221-231.
* Brownlie, Chapter 3.
* Shaw, Chapter 4.

Additional Reading

* Clive R Symmons, ‘The Incorporation of Customary International Law into Irish Law’ in Gernot Biehler, *International Law in Practice: An Irish Perspective* (Round Hall, 2005).
* Roslyn Fuller, *Biehler on International Law: An Irish Perspective* (2nd edn, Round Hall, 2013), Chapter 4.
* David Fennelly, *International Law in the Irish Legal System* (Round Hall, 2014), Chapter 2, 4.
1. Critical Approaches to International Law: Feminist, TWAIL, and Marxist Approaches
* Hilary Charlesworth, Christine Chinkin, and Shelley Wright, ‘Feminist approaches to international law’ (1991) 85(4) American Journal of International Law 613-645.
* James Thuo Gathii, ‘TWAIL: A brief history of its origins, its decentralized network, and a tentative bibliography’ (2011) 3(1) Trade, Law & Development 26-64.
* Antony Anghie, ‘Rethinking International Law: A TWAIL Retrospective’ (2023) 34(1) European Journal of International Law 7-112 (for skimming!).
* Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge University Press, 2020).