Irish Centre for Human Rights, University of Galway

Public International Law (LW5118)

 Course Outline 2024-25

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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** | **Dr. Paul Bradfield****Email:** **paul.bradfield@universityofgalway.ie** |
| **Times & venue** | **Duration**: This is an 8-week course. It takes place during weeks 2-9 of Semester 1.**Class time & location**: Tuesdays from 10am – 1pm in the Seminar Room of the Irish Centre for Human Rights building. |
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| **Overall Learning Outcomes** | Upon completion of this course you should be able to: * Explain how PIL has developed and the major influences on its development;
* Differentiate between the various subjects of PIL;
* 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 international 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 [Canvas](https://universityofgalway.instructure.com/courses/35439) portal.The below textbooks are available in the library, while all other reading materials listed below are hyperlinked for ease of reference. |
| **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* (9th edn, Cambridge University Press, 2021).

Generally, it is only necessary to read from **one** of the above textbooks when preparing for class. However for some topics, one book might have more information than the others. Previous editions are also available in the library—if the most up to date edition is unavailable, prior editions will suffice.Note: The book by Shaw is available online via the University library website. 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 |

## Class Topics:

1. **History and Subjects of Public International Law (Week 2, Tuesday 17th September)**

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.11-35 & Chapter 5.

Additional Reading

* Martti Koskenniemi, ‘[History of International Law, since World War II’](https://opil.ouplaw.com/display/10.1093/law%3Aepil/9780199231690/law-9780199231690-e714), *Max Planck Encyclopaedia of International Law*.
* [*Montevideo Convention on the Rights and Duties of States*](https://avalon.law.yale.edu/20th_century/intam03.asp)(adopted 26 December 1933, entry into force 26 December 1934).
* [*Reparation for injuries suffered in the service of the United Nations, Advisory Opinion*](https://www.icj-cij.org/sites/default/files/case-related/4/004-19490411-ADV-01-00-EN.pdf)*, ICJ Reports 1949*.
1. **Jurisdiction and Immunities (Week 3, Tuesday 24th September)**

Textbooks

* Cassese, Chapter 5-6.
* Brownlie, Chapters 20-22.
* Shaw, Chapters 11-12.

Additional Reading

* Bernard H Oxman, ‘[Jurisdiction of States’](https://opil.ouplaw.com/display/10.1093/law%3Aepil/9780199231690/law-9780199231690-e1436?rskey=bm8lm4&result=6&prd=MPIL), *Max Planck Encyclopaedia of International Law*.
* Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo *v.* Belgium), [Judgement](https://www.icj-cij.org/sites/default/files/case-related/121/121-20020214-JUD-01-00-EN.pdf), 14 February 2002, ICJ Reports 2002, p.3 (paragraphs 1, 13-15, 45, 46 & 51-78); and [Joint separate opinion of Judges Higgins, Kooijmans and Buergenthal](https://www.icj-cij.org/sites/default/files/case-related/121/121-20020214-JUD-01-05-EN.pdf) (paragraphs 1-5, 17, 18, 19, 45-52 & 70-89).
* ICC, Appeals Chamber, [Judgment in the Jordan Referral re Al-Bashir Appeal](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_02856.PDF), 6 May 2019, paragraphs 95-132.
1. **Sources of Public International Law I: The Law of Treaties, Unilateral Declarations, and *Jus Cogens* (Week 4, Tuesday 1st October)**

Textbooks

* Cassese, Chapter 10, pp.195-196, 232-244.
* Brownlie, Chapters 2 & 16, pp.402-404.
* Shaw, Chapter 15, pp.78-82, 92-100.

Additional Reading

* Article 38, [*Statute of the International Court of Justice*](https://www.icj-cij.org/statute)(18 April 1946).
* [*Vienna Convention on the Law of Treaties*](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)(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*](https://www.icj-cij.org/sites/default/files/case-related/12/012-19510528-ADV-01-00-EN.pdf)*, ICJ Reports 1951*, p.15.
* *Nuclear Tests (Australia v France),* [*Judgement*](https://www.icj-cij.org/sites/default/files/case-related/58/058-19741220-JUD-01-00-EN.pdf)*, ICJ Reports 1974,* pp.253, 267-268.
* International Law Commission, [*Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations, with commentaries thereto*](https://legal.un.org/ilc/texts/instruments/english/commentaries/9_9_2006.pdf)(2006).
1. **Sources of Public International Law II: Customary International Law, General Principles of Law, and Subsidiary Sources (Week 5, Tuesday 8th October)**

Textbooks

* Cassese, pp.184-195, 199-202.
* Brownlie, pp.21-28, 31-44.
* Shaw, Chapter 3.

Additional Reading

* [*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgement*](https://www.icj-cij.org/sites/default/files/case-related/70/070-19860627-JUD-01-00-EN.pdf)*, ICJ Reports 1986*, p.14, paragraphs 172-269.
* International Law Commission, [*Draft Conclusions on Identification of Customary International Law, with commentaries*](https://legal.un.org/ilc/texts/instruments/english/commentaries/1_13_2018.pdf) (2018).
* Stefan Talmon, ‘[Determining customary international law: the ICJ’s methodology between induction, deduction and assertion’](https://academic.oup.com/ejil/article/26/2/417/423002) (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’](https://academic.oup.com/ejil/article/32/4/1167/6448591) (2021) 32(4) *European Journal of International Law* 1167–1190.
1. **Use of Force (Week 6, Tuesday, 15th October)**

Textbooks

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

Additional Reading

* Article 2(4) & Article 51, [*Charter of the United Nations*](https://www.un.org/en/about-us/un-charter)(adopted 24 October 1945) 1 UNTS XVI.
* Thomas M Franck, ‘[What Happens Now? The United Nations After Iraq’](https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/what-happens-now-the-united-nations-after-iraq/E33A27E40A73D204FF2E0458B2A45004) (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’](https://www.tandfonline.com/doi/full/10.1080/20531702.2022.2056803) (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’](https://www.cambridge.org/core/journals/american-journal-of-international-law/article/russia-ukraine-and-the-future-world-order/A7F4BFEF6CE7296F4C1AA1A4C9C3C105) (2022) 116(4) *American Journal of International Law* 687-697.
* Ntina Tzouvala, ‘[Use of force, territorial integrity, and world order: continuing the debate’](https://cil.nus.edu.sg/blogs/use-of-force-territorial-integrity-and-world-order-continuing-the-debate/) (20 March 2023) *CIL Dialogues*. Full blog symposium available [here](https://cil.nus.edu.sg/blog/symposia/use-of-force-territorial-integrity-and-world-order-continuing-the-debate/).
1. **State Responsibility (Week 7, Tuesday, 22nd October)**

Textbooks

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

Additional Reading

* *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda),* [Judgment](https://www.icj-cij.org/sites/default/files/case-related/116/116-20051219-JUD-01-00-EN.pdf), I.C.J. Reports 2005, p. 168, paragraphs 181-250.
* *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro),* [Judgment](https://www.icj-cij.org/sites/default/files/case-related/91/091-20070226-JUD-01-00-EN.pdf), I.C.J. Reports 2007, paragraphs 377-438.
* *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, [Advisory Opinion](https://www.icj-cij.org/sites/default/files/case-related/131/131-20040709-ADV-01-00-EN.pdf), 9 July 2004; ICJ Reports 2004, p.136 (pp.4-6 and paragraphs 66-67, 143-163.)
* International Law Commission, [*Draft articles on Responsibility of States for Internationally Wrongful Acts*](https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf) (2001).
1. **Disputes, part I (Claims, adjudication of disputes and third-party settlements: inter-state cases before the International Court of Justice) (Week 8, Tuesday 29th October)**

Textbooks

* Cassese, Chapter 13.
* Brownlie, Chapters 31-32.
* Shaw, Chapters 17-18.

Additional Reading

* *United States Diplomatic and Consular Staff in Tehran,* [Judgment](https://www.icj-cij.org/sites/default/files/case-related/64/064-19800524-JUD-01-00-EN.pdf)*,* I.C.J. Reports 1980, paragraphs 56-94.
* *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar),* [Provisional Measures](https://www.icj-cij.org/sites/default/files/case-related/178/178-20200123-ORD-01-00-EN.pdf)*,* Order of 23 January 2020, I.C.J. Reports 2020.
* *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, [Provisional Measures](https://www.icj-cij.org/sites/default/files/case-related/182/182-20220316-ord-01-00-en.pdf), Order of 16 March 2022, I.C.J. Reports 2022.
* *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v. Israel),* [Provisional Measures](https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf), Order of 26 January 2024.
* Leg*al Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, [Advisory Opinion](https://www.icj-cij.org/sites/default/files/case-related/169/169-20190225-ADV-01-00-EN.pdf), I.C.J. Reports 2019, paragraphs 132-182.
1. **Disputes, part II (Claims, adjudication of disputes and third-party settlements: inter-state cases before the ECtHR and PCA) (Week 9, Tuesday 5th October)**

Textbooks

* Cassese, Chapter 13.
* Brownlie, Chapters 31-32.
* Shaw, Chapters 17-18.

Additional Reading

* ECtHR, *Ireland v. United Kingdom,* [Judgement](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57506%22]})*,* 18 January 1978, paragraphs 150-187.
* ECtHR, *Cyprus v. Turkey*, Judgement, 10 May 2001, paragraphs 281-311.
* ECtHR, *Ukraine and the Netherlands v. Russia*, Admissibility Decision [Summary](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-13989%22]}), 30 November 2022.
* Helen Duffy, ‘[Georgia v. Russia: Jurisdiction, Chaos and Conflict at the European Court of Human Rights](https://www.justsecurity.org/74465/georgia-v-russia-jurisdiction-chaos-and-conflict-at-the-european-court-of-human-rights/)’, *Just Security*, 2 February 2021.
* Mark Milanovic, ‘[Georgia v. Russia No. 2: The European Court’s Resurrection of Bankovic in the Contexts of Chaos’](https://www.ejiltalk.org/georgia-v-russia-no-2-the-european-courts-resurrection-of-bankovic-in-the-contexts-of-chaos/), *EJIL T*alk!, 25 January 2021.
* Permanent Court of Arbitration, *The Government of Sudan v. The Sudan People's Liberation Movement/Army* (Abyei Arbitration), [Final Award](https://pcacases.com/web/sendAttach/18820), 22 July 2009, paragraphs 710-769.