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Public International Law

Spring semester 2020/2021

– *Syllabus* –

Field of study: International Relations

Course type: compulsory course

Assessment methods:

- **Lectures:** end-of-term oral exam
- **Classes:** end-of-term oral exam

- Classes -

Class I-II. The definition, concept and history of international law

1. Law and politics in the world community.
2. The role of force.
3. International system.
4. The function of politics.
5. Historical development of international law:
 - early origins,
 - the Middle Ages and the Renaissance,
 - the founders of modern international law,
 - positivism and naturalism,
 - the nineteenth century,
 - the twentieth century,
 - communist approaches to international law,
 - the Third World.
6. The expanding legal scope of international concern.
7. Modern theories and interpretations.
8. Positive Law and Natural Law.
9. New approaches.
10. The fragmentation of international law?

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 1-68.

Class III. Sources of international law

1. The lack of a legislature within international law.
2. Custom in international law:
 - material fact (*usus*),
 - *Opinio juris*,
 - protest, acquiescence and change in customary law,
 - regional and local custom.
3. International treaties:

- definition,
- parties,
- form,
- objects,
- importance,
- termination and suspension of a treaties,
- *Vienna Convention on the Law of Treaties* (1969).

4. General principles of law.

5. Judicial decisions as a subsidiary means for the determination of rules of law.

6. Teachings of the most highly qualified publicists as a subsidiary means for the determination of rules of law.

7. Decisions of the international intergovernmental organizations.

8. Unilateral acts.

9. Hierarchy of sources and *jus cogens*.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 69-128.

Class IV. Sources of international law: case studies

Class V. The subjects of international law

1. The concept of legal personality.

2. State as a subject of international law.

3. The criteria of statehood.

4. The fundamental rights of states.

5. Unitary and federal states.

6. *Sui generis* territorial entities.

7. Insurgents, belligerents and national liberation movements as a subjects of international law.

8. Individuals as a subjects of international law.

9. International organisations as a subjects of international law.

10. The right to self-determination.

11. Territorial integrity of states vs. self-determination of peoples.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 195-264.

Class VI. State responsibility in international law

1. The nature and limits of state responsibility.

2. Invocation of state responsibility.

3. The consequences of internationally wrongful acts.

4. Serious breaches of peremptory norms (*jus cogens*).

5. Diplomatic protection and nationality of claims.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 778-819.

Class VII. Jurisdiction in international law

1. The principle of domestic jurisdiction.

2. Legislative, executive and judicial jurisdiction.

3. Civil and criminal jurisdiction:

- The territorial principle,
- The nationality principle,

- The passive personality principle,
 - The protective principle,
 - The universality principle.
4. War crimes, crimes against peace and crimes against humanity.
 5. Treaties providing for jurisdiction.
 6. Extradition.
 7. Extraterritorial jurisdiction.
 8. Jurisdiction in international law: case studies.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 645-696.

Class VIII. Immunities from jurisdiction in international law

1. The concept of state immunity.
2. The absolute and restrictive approach to state immunity.
3. International immunities and privileges of Heads of State and members of the Government.
4. The concept of diplomatic immunity.
5. Diplomatic privileges and immunities.
6. Consular privileges and immunities.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 697-777.

Class IX. Immunities from jurisdiction in international law: case studies

Class X-XI. Territory in international law

1. The concept of territory in international law.
2. Territorial sovereignty.
3. New states and title to territory.
4. The acquisition of additional territory:
 - boundary treaties and boundary awards,
 - accretion,
 - cession,
 - conquest and the use of force,
 - the exercise of effective control,
 - intertemporal law,
 - The role of subsequent conduct: recognition, acquiescence and estoppel.
5. Territorial integrity, self-determination and sundry claims.
6. The doctrine of *uti possidetis*.
7. International boundary rivers.
8. 'The common heritage of mankind'.
9. The polar regions.
10. Leases and servitudes.
11. The law of outer space.
12. The territorial sea:
 - width,
 - juridical nature,
 - right of innocent passage,
 - jurisdiction over foreign ships.
13. Internal waters.
14. Baselines.

15. Bays.
16. Islands.
17. Archipelagic states.
18. Contiguous zone.
19. Exclusive economic zone.
20. Continental shelf.
21. High seas.
22. International straits.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 487-614.

Class XII. Territory in international law: case studies

Class XIII. The settlement of disputes in international law

1. Diplomatic methods of dispute settlement:
 - negotiation,
 - good offices and mediation,
 - inquiry,
 - conciliation.
2. International institutions and dispute settlement:
 - regional organisations,
 - universal organisations,
3. Arbitration.
4. Permanent international courts.
5. The settlement of disputes in international law: case studies.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 1010-1056.

XIV. International humanitarian law

1. The origin and development of the international humanitarian law.
2. The scope of protection under the Geneva Conventions system:
 - wounded and sick,
 - prisoners of war,
 - protection of civilians and occupation.
3. The conduct of hostilities.
4. Armed conflicts in international law:
 - international armed conflict
 - non-international armed conflict
5. Enforcement of humanitarian law.

Literature:

M.N. Shaw, *International Law*, Cambridge 2008, pp. 1167-1203.

XV. International humanitarian law: case studies