

COURSE WORK FORMAT

School of International Studies ***CENTRE FOR INTERNATIONAL LEGAL STUDIES***

Course: **Ph.D. (Monsoon Semester)**

Course Title: **INTERNATIONAL SETTLEMENT OF DISPUTES (DI 634)**

Course Type (Core/Optional): Core

Course Teacher: PROF. DR. BHARAT H DESAI

Credits: Two

Contact Hours: Two per week

Course Objectives: In the wake of vertical and horizontal expansion of the body of International Law, there has been crystallization of a separate body of rules and principles as well as international institutional structures for addressing inter-state disputes that impinge upon quest for maintenance of international peace and security. It comprises a range of techniques for pacific settlement of disputes including formal mechanisms of courts and tribunals. The course seeks to impart an advanced understanding of processes, structures and evaluation of the efficacy of these international dispute settlement mechanisms.

Learning Outcomes: To understand and evaluate the processes and working of the structures for international settlement of disputes.

Evaluation Method: Mid-semester and End-semester examinations

Course Content: see detailed course outline (attached)

Readings: see detailed course outline (attached)

JAWAHARLAL NEHRU UNIVERSITY
School of International Studies, New Delhi 110067
CENTRE FOR INTERNATIONAL LEGAL STUDIES

Ph.D. Course: Winter Semester 2023 (DI 634)

INTERNATIONAL SETTLEMENT OF DISPUTES

Course Teacher: Professor Dr. Bharat H. Desai

[DONE: 13 October 2023]

I. Quest for Prohibition of Threat or Use of Force

- A. War as an 'extra-legal' phenomenon
- B. Outlawry of war: The Hague Conferences 1899 & 1907; Covenant of League of Nations 1919; Pact of Paris 1928
- C. Prohibition of Threat or Use of Force [Preamble; Art.1(1); Art. 2(4) of the UN Charter]

II. General Principles of International Dispute Settlement

- 1. Pacific Settlement of Disputes [Chapter VI of UN Charter]
- 2. Third Party Dispute Settlement: Modes of Settlement
 - (i) Negotiation
 - (ii) Good Offices and Mediation
 - (iii) Inquiry and Conciliation
 - (iv) Arbitration
 - (v) Judicial Settlement
- 3. Structures for Resolution of International Disputes
 - A. **Choice of Forum**
 - (i) Permanent Court of Arbitration
 - (ii) International Court of Justice (and its predecessor: PCIJ 1922-1946)
 - (iii) International Tribunal under the Law of Sea
 - (iv) International Criminal Court

B. Issues of Jurisdiction and Admissibility

C. Third Party Intervention

D. Provisional Measures

III. Seminal Issues/ Challenges

A. Growth in Inter-State Disputes

Maritime Disputes; Land Frontier Disputes; Trade Disputes;
Human Right Cases; Environment & Natural Resources Cases.

B. Proliferation of International Criminal Tribunals: Mixed/Hybrid

- (i) Victor's Justice; Tribunal for vengeance
- (ii) Do they really do justice or deepen wounds?
- (iii) Sexual and Gender-Based Violence
- (iv) Victim-survivor Centric Approach to Justice
- (v) Crimes committed by the UN Peace-keeping Forces

C. Concerns for Fragmentation and Competing Jurisdictions

D. Post-Conflict Transitional Justice Processes

- (i) Politics of Peacebuilding; Truth and Reconciliation
- (ii) Legal Value of Peace Agreements: Role of Women
- (iii) Apology; Satisfaction; Restitution; Reparations

E. Need for Specialized Courts, Witness Protection and Field Visits

F. Reemergence of Arbitration: Issues and Concerns

G. Dispute Settlement and Dispute Avoidance Paradigm

H. Quest for an International Environment Court (IEC)

IV. Development of International Law: Role of Courts and Tribunals

- ❖ *Non-liquet* (no law) and Completeness of International Law

SELECTED READING LIST

BOOKS

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Solis, Gary D. (2010), *The Law of Armed Conflict: International Humanitarian Law in War* (New York: Cambridge University Press).

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Lauterpacht, Hersch (1958), *The Development of International Law by the International Court* (London: Sweet & Maxwell)

Lowe, Vaughan and Collier, John (1999), *The Settlement of Disputes in International Law: Institutions and Procedures*, (Oxford: Oxford University Press).

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Murty, B.S. (1968), "Settlement of Disputes", in Max Sorensen (ed.), *Manual of Public International Law* (London: MacMillan Press), pp.673-738.

Ni Aolain, Fionnuala and Francesca Haynes, Dina and Cahn, Naomi (2011), Ed., *On the Frontlines: Gender, War, and the Post-Conflict Process* (UK: OUP).

Palmer, Nicola et. Al (2012), Ed., *Critical Perspectives in Transitional Justice* (UK: Intersentia).

Roht-Arriaza, Naomi and Mariezcurrena, Javier (2006), Ed., *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice* (UK: CUP).

Romano, Cesare P.R. (2000), *The Peaceful Settlement of International Environmental Disputes: A Pragmatic Approach* (The Hague: Kluwer Law International).

Tames, Christian J and Sloan, James (2013), *The Development of International Law by the International Court of Justice* (Oxford: OUP); Oxford Scholarship Online: January 2014

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Certain Iranian Assets (Islamic Republic of Iran V. United States of America); *ICJ Reports*, 30 March 2023; [Judgment of 30 March 2023 \(icj-cij.org\)](https://www.icj-cij.org/)

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Corfu Channel case (Merits), *ICJ Reports* (1949), p.4; *AJIL*, vol.43, no.3, 1949, p.571

Bay of Bengal Maritime Boundary Arbitration between Bangladesh and India, 7 July 2014; http://www.pca-cpa.org/BD-IN%2020140707%20Award2890.pdf?fil_id=2705

Jashav Case (India v. Pakistan), *ICJ Reports*, 17 July 2019; [168-20190717-JUD-01-00-BI.pdf \(icj-cij.org\)](https://www.icj-cij.org/)

Kishenganga Arbitration (Pakistan v. India), 20 December 2013; http://www.pca-cpa.org/showpage.asp?pag_id=1392

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