Syllabus

Israel and international law - 62383

Last update 30-09-2017

HU Credits: 3

Degree/Cycle: 2nd degree (Master)

Responsible Department: law

Academic year: 0

Semester: 1st Semester

Teaching Languages: English

Campus: Mt. Scopus

Course/Module Coordinator: Talila Devir

Coordinator Email: talila.devir@mail.huji.ac.il

Coordinator Office Hours: By appointment only.

Teaching Staff:
    Prof Yuval Shany
    Prof Malcolm Shaw
Course/Module description:
The course introduces the normative structure and theoretical foundations of Public International Law (PIL), alongside its institutional and procedural aspects. It also looks at the interplay between PIL and domestic legal systems, and between PIL and international relations, legal philosophy and political science.

A particular focus of the course is the relevance of PIL to the issues and challenges confronting the State of Israel. The State of Israel came into existence with the support of a UN Resolution (General Assembly Resolution 181 of 29 Nov. 1947) and has engaged extensively in several PIL instruments and arrangements. At the same time, much of the international criticism directed against Israel pertains to the conformity of its laws and policies with its obligations under PIL. The course shall therefore discuss some core issues in PIL and their significance to the State of Israel, in light and based upon the unique needs and history of Israel.

Course/Module aims:
Learning about PIL in general, and through the unique perspective of the State of Israel and its experience in the international realm.

Learning outcomes - On successful completion of this module, students should be able to:
Students will be able to define and analyze the role of international law, and will acquire knowledge and be able to analyze central topics in contemporary international law, most specifically relating to the State of Israel.

Attendance requirements(%):
75%

Teaching arrangement and method of instruction: Students are required to view all classes that will be available on-line. In addition, students are expected to read the items assigned to each class in the reading list below, to submit weekly assignments based on their class viewing and the materials read, and to actively participate in the forum discussion moderated by Ms. Talila Devir, the course administrator.
Course/Module Content:
The course consists of four parts: the first part of the course will deal with the history of PIL, its normative foundations and the theoretical basis for compliance with its norms. The second part of the course will discuss some of the main actors and institutions that operate in the international sphere. The third part of the course will present selected issues in PIL: Acquisition of Territory under International Law, The Prohibition against the Use of Force, The Laws of International Humanitarian Law, The Laws of Occupation, International Human Rights Law, International Criminal Law, Universal jurisdiction and the ICC, International Economic Law and International Environmental Law. The fourth part of the course will offer a closer look into issues relating to PIL and Israel, including: Status of International Law under Israeli Law, The creation of the State of Israel and the Status of Palestine, The Status of Jerusalem and the Territories seized by Israel, The Middle East Peace Process, Israel’s Wars under International Law, Israel’s Asymmetric Armed Conflicts, Israel’s immigration law and policy, Israel and International Criminal Law, Israel’s Relations with Trade Blocks.

Required Reading:
Two main books will be used during the course:

Part I: Introduction to PIL
1. The Nature of PIL
   - Shaw, 1-8, 31-48.

2. Historical development of PIL
   - Shaw, 9-22.

3. Theory of PIL - Why do States comply
4. Sources of PIL

- Shaw, 49-91, 654-693.

5. The relation between PIL and domestic law

- Shaw, 92-142.

Part II: PIL Institutions and Actors

6. The State

- Shaw, 142-178, 183-188.
- Convention on the Rights and Duties of States (Montevideo Convention) (1933), 165 L.N.T.S. 19, article 1.
- ICC, Office of the Prosecutor, Update on the Situation in Palestine, 3 April 2012.
96-98, 101-104, 107-110, 119-121, 131-139.


Further reading (optional): Crawford, Part II(5) Creation and Incidence of Statehood; Part II(6) Recognition of States and Governments.

7. State responsibility

Shaw, 566-612.


8. Immunities:

Shaw, p. 506-565.


PLA 7092/94, Her Majesty the Queen in Right of Canada v. Sheldon G. Edelson, tak-Supreme 97(2) (Supreme Court of Israel), paras. 1, 5-12, 15-16, 21-35.


9. International Organisations

Shaw, p. 875-931.


Further reading (optional): Guy Harpaz, "Normative Power Europe and The
• Further reading (optional): Guy Harpaz, "Judicial Review by the European Court of Justice of UN "Smart Sanctions" against Terror in the Kadi Dispute", 14 EFAR 65 (2009).

10. The Pacific Settlement of Disputes
• Shaw, 732-765.

Part III: Main PIL Regimes
11. Acquisition of Territory under International Law
• Shaw, 352-400.
• Further reading (optional): Legal Status of Eastern Greenland (Den. v. Nor.), 1933
P.C.I.J. (ser. A/B) No. 43 (Apr. 5).

12. The Prohibition Against the Use of Force

- Shaw, 811-846.
- General Assembly Resolution 3314 of 14 December 1974.
- Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, 43 ILM 1009, paras.138-142.

13. International Humanitarian Law

- Shaw, 847-875.
- Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, 187 Consol. T.S. 227 (Hague 1907), para.8 to the preamble, articles 2-25, 43.
- Further reading (optional): Cordula Drooge, The Interplay between International Humanitarian Law and International Human Rights Law in Situations of Armed

14. The Laws of Occupation

Further reading (optional): David Kretzmer, The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories (2002), Ch. 2.

15. International Human Rights Law
Shaw, 194-248.
Further reading (optional): Kiobel v. Royal Dutch Petroleum Co., Supreme Court of
the United States No. 10-1491 (2013).

16. International Criminal Law
• Shaw, 285-321.

17. International Economic Law
• General Agreement on Tariffs and Trade (GATT), Articles I, III, VI, XI, XX, XXI.
18. International Environmental Law
   • Shaw, 613-653.

Part IV: A deeper look into Israel and PIL
19. Status of International Law under Israeli Law
20. Israel: Recognized borders and territorial disputes
   • Yuval Shany, "Legal Entitlements, Changing Circumstances and Inter-temporality" (the article was uploaded to the website of the course).
21. Israel’s Asymmetric Armed Conflicts
22. Israel’s immigration law and policy
   HCJ 7146/12 Adam v Knesset, Judgment of 16 Sept. 2013, paras. 66-69, 91-93, 106-115 (per Arbel J).
23. Israel and International Criminal Law
24. Israel’s Relations with Trade Blocks

Additional Reading Material:
As elaborated above

Course/Module evaluation:
End of year written/oral examination 65 %
Presentation 0 %
Participation in Tutorials 5 %
Project work 0 %
Assignments 30 %
Reports 0 %
Research project 0 %
Quizzes 0 %
Other 0 %
Additional information: