

ГОУ ВПО РОССИЙСКО-АРМЯНСКИЙ (СЛАВЯНСКИЙ)  
УНИВЕРСИТЕТ

Составлен в соответствии с  
государственными требованиями к  
минимуму содержания и уровню  
подготовки выпускников по  
направлению «Юриспруденция» и  
Положением «Об УМКД РАУ».



Институт: Права и политики

Кафедра: Теории права и конституционного права

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**УЧЕБНАЯ ПРОГРАММА**

Дисциплина: ФТД.02 «Природа международного права:  
критический анализ» (на английском языке)

Магистерская программа: «Конституционное  
право, муниципальное право»

Направление: 40.04.01 «Юриспруденция»

Форма обучения: очная

ЕРЕВАН

## Annotation

The Study Course titled “*The Nature of Public International Law: Critical Analysis*” is an English language course for all LL.M. students of the Department of Law of the Institute of Law and Politics of the Russian-Armenian University regardless of their specialization. The compulsory study course is taught during the 2<sup>nd</sup> year of the LL.M. studies.

The taught course aims at covering the basics of PIL, as well as the contemporary debates within the framework of PIL, which are of specific significance. The course focuses on the critical analysis of the history of development of International Law, the weak and strong characteristics of PIL as a legal system and the challenges to International legal regulations nowadays. Given that International Law is an integral part of the national legislation it is of utmost importance for the law students to be able to conduct the critical analysis of the main theoretical and practical legal issues within the framework of PIL with the emphasis on correlation of PIL and municipal law.

The main topics covered by the Course include:

- The nature and development of Public International Law (*inter alia*, International Law & Politics, International Law & moral rules, historical development of PIL, modern theories, *rationae tempore*, *rationae materia* & *rationae loci* of PIL).
- The issue of correlation of PIL and municipal law in general. The issue of correlation of Public International Law and International Private Law.
- The role of PIL in the national legal system of the Republic of Armenia.
- The sources of PIL – general introduction, the existing classification. The issue of hierarchy between the sources of PIL.
- Statutory sources: custom, treaties, general principles of law, judicial decisions, legal doctrines, as well as other sources of PIL.
- Subjects to PIL (legal personality, general introduction to the topic of subjects of International Law, contemporary developments, the problem of the tendency to consider non-state actors, transnational corporations and individuals as subjects of International Law).
- IHRL as a branch of PIL (the main universal and regional legal mechanisms of protection of human rights, the role of ECtHR in the development of the national legislation of the RoA, correlation of IHRL and International Environmental Law).
- LOAC as a branch of PIL (introduction to LOAC, the current challenges to efficient implementation of LOAC, correlation of IHRL & LOAC).

The teaching of the Course is designed to be in an interactive format with high level of involvement of the students via discussions, debates, role plays, as well as short ppt presentations (prepared individually or in a teamwork) on different topics from a list of PIL topics.

## The Aims and the Objectives of the Course

### *The Aims of the Course*

By the end of the Course “The Nature of Public International Law: Critical Analysis” the students will be expected to have gained deep knowledge and understanding of PIL as a legal system, as well as to develop necessary skills and attitude towards application of the knowledge gained during their everyday work as lawyers.

### ***The Objectives of the Course***

- Analyse the historical development of PIL, the nature of PIL, stressing the weaknesses and strengths of PIL as a legal system, as well as the methodological basis of contemporary International Law.
- Discuss the new challenges imposed to PIL regulations, as well as to implementation of PIL, the role of PIL within the framework of national legislation in the age of globalization.
- Evaluate the effectiveness of PIL rules governing the international-legal order and discuss possible modifications desired for the future (*lex ferenda*).
- Discuss & analyse the main topical issues withing the framework of IHRL and LOAC as separate branches of PIL.
- Apply PIL principles and regulations within the framework of case-studies, problem questions and role playing.
- Develop presentation and argumentation skills.

### **The competences that the students are expected to have gained by the end of the Study Course**

LL.M. students shall gain knowledge, skills and competences in accordance with the identified aim and the objectives of the Course.

The students must **know**: the theoretical basics of PIL, the historical development of PIL and the nature of PIL, the role of PIL for the evolution of international-legal order in the age of globalisation, the role of PIL within the framework of the national legislation.

The students must have the following **competences**: critically analyse the gaps of existing PIL regulations and evaluate the efficiency of existing regulations, the state of implementation of PIL in the RoA and analysis of new mechanisms for more efficient implementation of PIL, elaborating on the ways for enhancement of the national legislation taking into consideration the trends of development of PIL.

The students must have gained the folowing **skills**: research skills (including reaserch via professional web-sites, using professional literature: primary and secondary sources), presentation skills (including making ppts and oral presentations), working in teams, out-of-box thinking: finding creative solutions of different legal problems, skills of interpretation of International legal acts and proper implementation of PIL when drafting national legislation.

### **Трудоёмкость дисциплины и виды учебной работы по учебному праву**

Виды учебной работы	Всего,  в акад. часах	Распределение по семестрам			
		III			
1	3		5	6	7
<b>1. Общая трудоёмкость изучения дисциплины по семестрам , в т. ч.:</b>	72	72			
1.1. Аудиторные занятия, в т. ч.:	36	36			

1.1.1. Лекции	6	6			
1.1.2. Практические занятия, в т. ч.					
1.1.2.1. Обсуждение прикладных проектов					
1.1.2.2. Кейсы					
1.1.2.3. Деловые игры, тренинги					
1.1.2.4. Контрольные работы					
1.1.3. Семинары	30	30			
1.1.4. Лабораторные работы					
1.1.5. Другие виды аудиторных занятий					
1.2. Самостоятельная работа, в т. ч.:	36	36			
1.2.1. Подготовка к экзаменам					
1.2.2. Подготовка к семинарам					
1.2.2.1. Рpt презентации					
1.2.2.2. Research paper					
1.2.2.3. Эссе					
1.3. Консультации					
1.4. Другие методы и формы занятий **					
Итоговый контроль (Экзамен, Зачет, диф. зачет/указать)	зачет	зачет			

### **Approximate topics of presentations and essays**

The Spirit of International Law: past and present perceptions and perspectives for development. Weakness and strength of International legal system.

Moral basis of the International Law.

Sources of International Law. Hard Law vs. Soft Law. *Jus cogens* norms as source of International Law.

Judicial decisions and writings of publicists: the role in the system of the sources of International Law.

Customary norms: main characteristics. Custom vs treaty: efficiency in the context of practical implementation.

The brief analysis of the most important treaties in International Human Rights Law.

International Humanitarian Law: the current 3 most topical issues for the international community (open-ended).

3 most topical International Legal issues for the Republic of Armenia: open-ended.

Implementation of International Law in the Republic of Armenia.

International Humanitarian Law and International Human Rights Law as branches of PIL.

Nuclear Weapons case: critical analysis of the advisory opinion (ICJ).

Perincek vs. Switzerland case: critical analysis of the judgment (ECtHR).

Mechanisms for International Protection of Human Rights (universal and regional protection mechanisms).

Protection of human rights under ICCPR and ICSECR.

Ensuring compliance and better protection of the economic, social and cultural rights. Subjects of International Law in the context of extension of *ratione personae* scope.

Climate change: implications on international legal regulations (correlation with IHL and IHRL).

ICC: cons and pros (analysis of reasonings).

### **Teaching Methodology**

The classes are designed to ensure active participation of LL.M. students in the educational process. Both - lectures and seminars - take place in the format of discussions, individual and team-work presentations. The Study Course aims at maximal electronisation of the study process.

### **Reading Materials**

*The Function of Law in the International Community*, Lauterpacht, H., (Clarendon Press, 1933);

'*The Character of Customary Law: An Introduction*' in Amanda Perreau-Saussine and James Murphy (eds), *The Nature of Customary Law: Philosophical, Historical and Legal Perspectives*, Perreau-Saussine, A., (Cambridge University Press, 2009);

'*Some Common Heresies About International Law*' Scobbie, I., in Malcolm Evans (ed.), *International Law* (Oxford University Press, 2003);

*International Law (6th edition)*, Malcolm Shaw, Cambridge University Press, 2008.

*Principles of Public International Law (7th Edition)*, Ian Brownlie, Oxford University Press, 2008;

*How International Law Works. A rational choice theory*, Andrew T. Guzman, Oxford University Press, 2008;

*AKEHURST'S Modern Introduction to International Law*, Peter Malanczuk, Routledge, Seventh revised Edition, 1997;

*International Law: Cases and materials*, Lori F. Damrosch, Louis Henkin, Richard Crawford Pugh, Oscar Schachter, Hans Smit, , fourth edition, 2001;

*Handbook of International Law*, Anthony Aust, Cambridge University Press, 2005;

*Միջազգային Իրավունք ուսումնական ձեռնարկ*, Վիգեն Քոչարյան, Երևանի Պետական Համալսարան, 2002;

*Международное право. В 2-х томах*, Оппенгейм Л. М., (1948-1950); *Нормы международного права в правовой системе России*, Лукашук И.И.

(М.,1997г.)

*Международное право: Современные теоретические проблемы*, Черниченко С.В.

(1993);

*Принципы права вооруженных конфликтов: Курс лекций, прочитанных на юридическом факультете Открытого Брюссельского университета*, Давид Э. М., (МККК 2011) 1144 с.

*'International Law as Ideology'*, Scott, S., (1994) 5 EJIL 313.

*'An Inclusive International Legal System'*, McCorquodale, R., (2004) 17 Leiden Journal of International Law 477.

Nils Melzer, IHL a comprehensive introduction

### ***Treaty Instruments***

*European Convention on Human Rights*, 1950;

UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171;

UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993;

UN Human Rights Committee ('HRC'), General Comment No. 31 [80], 2004;

United Nations, *Statute of the International Court of Justice*, 18 April 1946; United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI.

### ***Cases***

Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, ICJ, 1996; Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ICJ, 2004;

Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain); Second Phase, International Court of Justice (ICJ), 5 February 1970;

Case Concerning Military and Paramilitary Activities in and Against Nicaragua (1986) ICJ; Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Prosecutor v. Dusko

Tadic, ICTY, 1995; & ECtHR case-law.