



**South Asian University  
Faculty of Legal Studies  
LLM**

**Monsoon Semester-2019  
Course Information**

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**Part I**

<b>Course Title:</b>	Law of the Sea
<b>Course Code:</b>	LW
<b>Course instructor:</b>	Dr. Srinivas Burra
<b>Course Duration:</b>	One Semester
<b>Credit Units:</b>	4
<b>Medium of Instruction:</b>	English
<b>Prerequisites:</b>	Nil
<b>Precursors:</b>	Nil
<b>Equivalent Courses:</b>	N/A

**Part II  
Course Overview**

Law of the Sea course intended to cover the historical development of the legal regulation of the sea, its culmination in the form of United Nations Convention on the Law of the Sea (LOSC) 1982, implementation of the LOSC and the developments after its adoption. It would deal with

the developments at various international conferences prior to the UNCLOS III. It would focus on the debates on issues like common heritage of humankind and Exclusive Economic Zone which went into the making of the LOSC. As the LOSC 1982 is considered as the Constitution of the Oceans, the Course content elaborately focuses on the various maritime zones as provided under the Convention. Jurisprudence of the international courts and tribunals continues to play a significant role in the clarification of the LOSC provisions on issues like delimitation of maritime zones and other issues. Discussions would focus on this jurisprudence whenever necessary.

### **Part III Course Aims**

The Course is aimed at: contextualising the historical and theoretical underpinnings of the development of the law of the sea leading to the adoption of the Geneva Conventions on the Law of the Territorial Sea; analyzing and discussing the various parts of the Convention; and evaluating the application of the Convention.

### **Part IV Evaluation Criteria**

**Course requirements:** Students are expected to read and comment on the assigned reading material. Students are also expected to demonstrate a capacity to integrate arguments/views drawn from the class lectures with the readings. Mere repetition of class lecture notes or summarization of the content of the readings will not suffice.

**Grading of Student performance:** Evaluation/Grading is based on student performance in assessment tasks/activities/exams/presentations/class participation/viva voce test/regular attendance.

### **Part V**

#### **Course Syllabus**

##### **Week 1**

##### **History of the Law of the Sea**

Regulation of the sea was one of the issues which were at the inception of international law. The discussion would cover the historical debates on the regulation of maritime affairs like Grotius' Mare Liberam to Selden's Mare Clausum. It would also deal with the early attempts at the codification of the Law of the Sea like the Hague Codification Conference of 1930.

##### **Week 2**

##### **Introduction to the United Nations Convention on the Law of the Sea, 1982**

It would cover the developments prior to the adoption of the United Nations Convention on the Law of the Sea (LOSC) 1982, mainly the developments at the UNCLOS I and UNCLOS II. It would cover the four Geneva Conventions of 1958. It would provide introduction to the LOSC and reasons why it is regarded as the constitution of the oceans. It would also focus on the debates on common heritage of humankind and the general backdrop of maritime zones.

##### **Week 3**

##### **Baselines**

Baselines constitute an important starting point for the delimitation of maritime zones. Legal and other factual complexities involved in drawing baselines will be discussed. Normal baselines, straight baselines, bays, mouths of rivers, low-tide elevations. *Anglo-Norwegian Case* and other case law would be covered.

#### **Week 4**

##### **The Territorial Sea and Contiguous Zone**

The topic would cover breadth of the territorial sea, delimitation of territorial sea, right of innocent passage, rights and duties of coastal States, civil and criminal jurisdiction of coastal States in relation to coastal ships, warships and innocent passage and relevant judgements of the ICJ/Tribunals. It would also deal with the contiguous zone and its distinct legal nature.

#### **Week 5**

##### **Straits used for International Navigation**

This week's discussion would focus on the importance of straits used for international navigation and their legal regulation under the law of the sea. Judgment of the ICJ in the *Corfu Channel Case*, ICJ (1949) would be evaluated as an important historical precedent. It would be followed by the treatment of Straits under the Geneva Convention of 1958. The legal regime of the straits under Part III of the LOSC of 1982 is analyzed. It would evaluate the historically divergent views on the interest of coastal States and maritime powers. It would also discuss the concept of transit passage, straits and innocent passage, types of straits and duties of ships and aircraft.

#### **Week 6**

##### **Archipelagoes and Islands**

The discussion would focus on archipelagos, archipelagic States, archipelagic baselines and archipelagic waters. It would also deal with the difference between archipelagoes and archipelagic States, innocent passage through archipelagic waters, definition of archipelagic sea lanes, and the legal status of mid-ocean archipelagoes.

#### **Week 7**

##### **Exclusive Economic Zone (EEZ)**

The issues that would be covered under this topic are: origin of the concept of EEZ, legal status of the EEZ under the LOSC of 1982, Sovereign rights over the EEZ, rights conferred on coastal States to explore, exploit, conserve and manage EEZ resources and military exercises in the EEZ.

#### **Week 8**

##### **Continental Shelf and the High Seas**

Legal regime of the continental shelf and the high seas would be covered. Criteria applied for fixing the limits of the continental shelf, sovereign rights of the coastal States over the continental shelf and freedoms of other States would be discussed. It would include Spatial scope of the high seas, principle of the freedom of the high seas and exclusive jurisdiction of the flag States. It would also deal with their relation with other maritime zones.

#### **Week 9**

##### **Maritime Delimitation**

It would deal with the delimitation of the maritime areas based on criteria such as: ascertaining whether there is any pre-existing agreement relating to delimitation; delimiting the territorial sea by applying the equidistance-special circumstances rule; and delimiting the continental

shelf/EEZ applying the equitable principle-relevant circumstances rule. It would also cover the jurisprudence developed by ICJ, arbitral awards and ITLOS on disputes pertaining to delimitation of maritime zones.

#### **Week 10**

##### **Marine Environment and Marine Scientific Research**

Protection and preservation of the marine environment, due diligence obligations and legislation to prevent, reduce and control pollution, forms of marine pollution and attendant international/regional treaty regimes including UNEP Regional Seas Programmes- pollution from land-based sources, pollution from sea-bed activities, pollution from activities in the Area, pollution by dumping, pollution from or through the atmosphere, pollution from vessels, provisions on enforcement, sovereign immunity, responsibility and liability. Need for marine scientific research, scope and nature of marine scientific research, international legal regime- Geneva Conventions on the Law of the Sea 1958 and UNCLOS 1982, jurisdiction over marine scientific research in various maritime zones-internal waters, territorial waters, contiguous zone, EEZ and continental shelf and high seas, Area beyond the limits of national jurisdiction, rules regarding deployment of research installations or equipment in marine scientific research, responsibility and liability,

#### **Week 11**

##### **Deep Seabed Mining**

This week's discussion would cover evolution of Arvid Pardo's concept of the common heritage of humankind and its application to deep seabed, Part XI of the LOSC, International Seabed Authority, pioneer investor scheme, its categories and the establishment of the Preparatory Commission, negotiation of the Part XI Agreement, the relationship between the Part XI Agreement and the LOSC and legal impact of the Part XI Agreement.

#### **Week 12**

##### **Dispute Settlement Procedures under LOSC 1982**

LOSC contains a comprehensive system of dispute settlement mechanism. The discussion would cover various institutional mechanisms under the Convention, voluntary and compulsory procedures for dispute settlement, limitations to the compulsory procedures, ITLOS, the Seabed Disputes Chamber and special chambers. It would involve discussion of some relevant cases.

#### **Week 13**

##### **Security at Sea and LOSC 1982**

This week's discussion would focus on the matters relating to security issues like piracy, interdiction at sea and other forms of crime prevention.