

# INTRODUCTION TO THE INTERNATIONAL LAW COMMISSION

Spring 2025

# PROGRAMME OF WORK

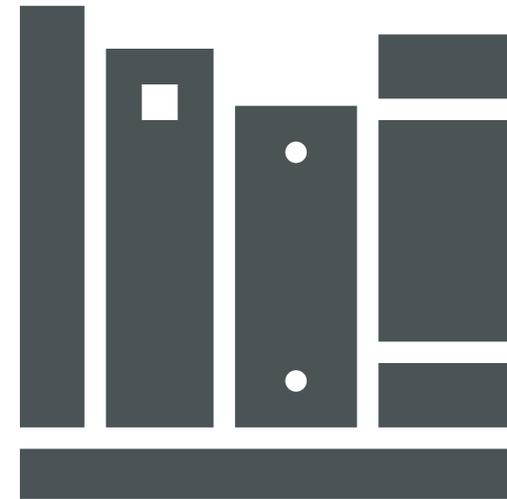


## SELECTION OF TOPICS

- The Commission shall consider proposals for the progressive development of international law referred by:
  - the General Assembly (**Statute, Article 16**).
  - Members of the United Nations, the principal organs of the United Nations other than the General Assembly, specialized agencies or official bodies established by intergovernmental agreements to encourage the progressive development and codification of international law (**Statute, Article 17**).
- **Statute, Article 18(2):** When the Commission considers that codification of a particular topic is necessary and desirable, it may submit its recommendations to the General Assembly.
  - Although the Commission can proceed with work on such topics without waiting for General Assembly approval, in practice, the Commission generally waits for the General Assembly to endorse or comment upon the recommendation before beginning substantive consideration of a topic.
- **Statute, Article 18(3):** The Commission must give priority to requests of the General Assembly to deal with any question.

# PRIVATE INTERNATIONAL LAW

- **Statute, Article 1(2):** the Commission “shall concern itself primarily with public international law, but is not precluded from entering the field of private international law”.
- **From 1947 to 1996:** the Commission rarely dealt with private international law topics, except when they are incidental to public international law issues.
- **In 1996:** the Commission commented it seemed unlikely the Commission would be called upon to deal with private international law issues given the work of bodies like the United Nations Commission on International Trade Law (UNCITRAL) and the Hague Conference on Private International Law.





## SURVEYS OF INTERNATIONAL LAW

- The Commission periodically reviews its programme of work with the intent of bringing it up to date, taking into account General Assembly recommendations, the international community's current needs, and the potential to discard topics that are no longer suitable for consideration.
- **Statute, Article 18(1):** The Commission shall survey the whole field of international law with a view to selecting topics for codification.
- The Commission has conducted two such surveys:
  - **1949:** based on a Secretariat memorandum entitled “Survey of international law in relation to the work of codification of the International Law Commission”
  - **1968:** based on a series of documents prepared by the Secretariat.
- **In 1996,** the Commission studied the scope of progressive development and codification after nearly 50 years of work.
  - **Purpose:** provide a global review of the main fields of general public international law.
  - **Result:** established a general scheme of topics of international law classified under 13 non-exhaustive main fields of public international law, including completed, current, and future topics.
- **In 2014,** the Commission asked the Secretariat to review the 1996 list of topics and propose potential new topics with brief explanatory notes.

- **In 1949:** based on the survey of international law created by the Secretariat, the Commission created an initial list of topics that were ripe for consideration called the “long-term programme of work”.
- Topics must first be added to the long-term programme of work, after which the Commission may select them for substantive consideration during its upcoming sessions.
- After being added to the long-term programme of work, topics can be further subdivided or refined and may also be removed from the long-term programme of work without ever being the subject of substantive consideration.
- In selecting new topics for inclusion in its programme of work, the Commission is guided by the criteria that it agreed upon in 1998:
  - The topic should reflect the needs of States in respect of the progressive development and codification of international law.
  - The topic should be at a sufficiently advanced stage in terms of State practice to permit progressive development and codification.
  - The topic should be concrete and feasible for progressive development and codification.
  - The Commission should not restrict itself to traditional topics but could also consider those that reflect new developments in international law and pressing concerns of the international community as a whole.

A background image of a map with a red pushpin. A white rectangular box with a black border is overlaid on the map, containing the text 'LONG-TERM PROGRAMME OF WORK' in a blue, serif font. The text is arranged in three lines: 'LONG-TERM', 'PROGRAMME', and 'OF WORK', each line underlined.

LONG-TERM  
PROGRAMME  
OF WORK

## SELECTION OF TOPICS

- To add a topic to the long-term programme of work, designated Commission members or the secretariat write a short outline or explanatory summary on a topic included in the 1996 list or suggested by Commission members, **including**:
  - Major issues raised by the topic.
  - Any applicable treaties, general principles or relevant national legislation or judicial decisions.
  - Existing doctrine.
  - The advantages and disadvantages of preparing a report, study, or draft convention.
  - A bibliography.

### The Working Group on the Long-term Programme of Work

- Established by the session's Planning Group.
- Considers the outlines / summaries to identify topics for possible consideration.

### The Chair of the Working Group

- Provides annual oral progress reports to the Planning Group each session.
- Submits a final written report in the last year of the Commission's term containing a list of recommended topics for inclusion in the long-term programme of work.

### The Planning Group

- Considers and adopts the report, which is then submitted to the Commission.

### The Commission

- Considers and adopts this report in plenary.
- Adds it in the Commission's annual report to the General Assembly with syllabuses included as annexes.

# CURRENT LONG-TERM PROGRAMME OF WORK

(as of 2025)

Ownership and protection of wrecks beyond the limits of national maritime jurisdiction.

Jurisdictional immunity of international organizations.

Protection of personal data in transborder flow of information.

Extraterritorial jurisdiction.

The fair and equitable treatment standard in international investment law.

Evidence before international courts and tribunals.

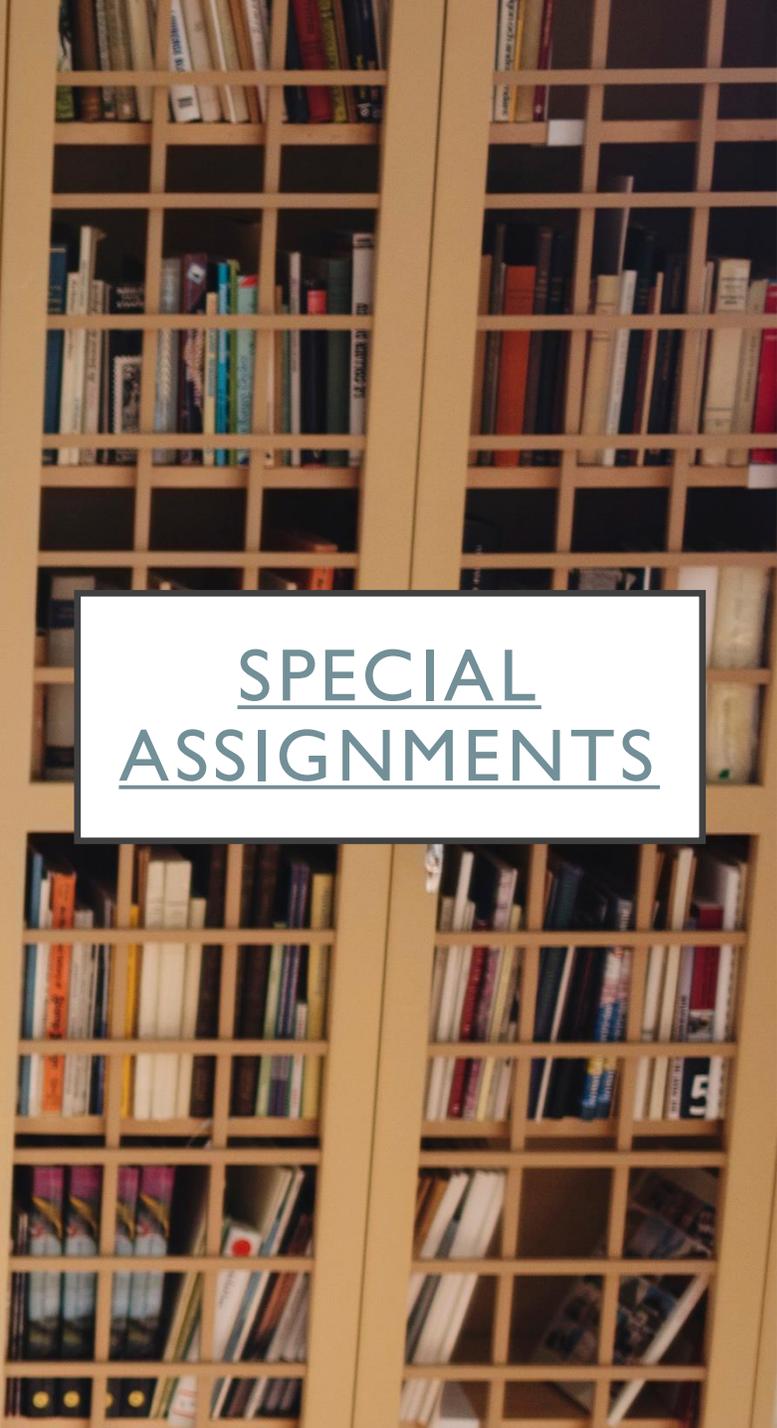
Universal criminal jurisdiction.

Reparation to individuals for gross violations of international human rights law and serious violations of international humanitarian law.

The principle of non-intervention in international law.

Identification and legal consequences of obligations *erga omnes* in international law.

Legal aspects of accountability for crimes committed against United Nations personnel serving in peacekeeping operations.



## SPECIAL ASSIGNMENTS

- Occasionally, the Commission is asked to conduct activities outside its normal work of progressive development and codification.
  - **Examples:**
    - Draft Statute for an International Criminal Court (as part of the Commission's work on the draft code of crimes against the peace and security of mankind).
    - Question of defining aggression.
- **Methods:** the Commission is free to adopt special methods for such tasks.
  - It may dispense with the normal stages of its work and consider special assignments as a whole or in a working group without appointing a Special Rapporteur or holding first and second readings.
    - **Final product:** normally, submit conclusions for consideration by the General Assembly without recommending a specific further action.
  - It may also use virtually the same working methods as its normal work.
    - **Final product:** normally, submission of draft articles accompanied by commentaries and sometimes a recommendation for action by the General Assembly.

# DISCUSSION QUESTIONS

**Regarding the source of international law:**

- (1) What form of law would the work of private bodies qualify as?**
- (2) What form of law would the work of the Commission qualify as?**
- (3) Does the difference matter?**