

# Research on Case Studies: A Concise Guide on International Law Case Studies

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## Abstract

Under the legal education environment in China, it seems that it is very difficult to carry out case study reform directly among undergraduates. Although many universities have tried it, the effect is not as expected. The case study at the postgraduate stage has significant advantages. Postgraduates have an adequate knowledge base, and the course structure is more flexible. The case study is helpful to cultivate the independent research ability of postgraduates. In the *International Law Case Study* (the “Course”) with the case study as the core, the aim of the course is to strengthen the communication and discussion between teachers and students, and promote the teaching process through guided questioning. The Course uses two models, i.e. case analysis and moot court. Correspondingly, the Course has also formed distinctive teaching methods such as the list of key issues, statement and presentation, and question-based teaching methods.

## Keywords

Case Study, International Law, Jurisprudence, Graduate Students, Moot Court, Teaching Reform

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## 1. Introduction

Law is a discipline with both theory and practice. On the one hand, legal theory is an important object of legal research, involving a large number of legal systems and laws; on the other hand, a large amount of legal knowledge, rules, and principles are applied to practice, forming specific legal practices and related legal professions. Therefore, in legal education, education about theory and practice is inseparable. Traditional Chinese legal education emphasizes on theories, focusing on the analysis of legal provisions. Although the concept of practical teaching has been discussed in recent years, the method of teaching has not changed

fundamentally. Moreover, due to the lack of practical teaching experience, many colleges and universities have not effectively achieved the effect of practical teaching. For example, many law schools offer practical courses such as clinic-style teaching and moot courts. However, these practical courses usually prepare materials in advance, rehearse in advance, and present streamlined homework, thus cultivating students' ability to think independently. There is a lack of training in the methods and ability to solve complex problems (Yu, 2021).

The case study method is an important part of practical teaching. Especially in the field of legal education, the case study has played an irreplaceable and important role since its inception. In essence, the case study method that China has vigorously promoted in recent years refers to talent training methods in the civil law system (Su, 2018). The application of the case study to legal education began in the middle and late 19<sup>th</sup> century. Professor Randall, Dean of Harvard Law School, introduced the case study method into the classroom of legal education for the first time. He believed that legal principles are constantly evolving through various cases, so the fastest and best way to learn law is by studying and analyzing cases (McAninch, 1993). Since then, this concept has profoundly changed the modern legal education method. Especially in case law countries such as the United Kingdom and the United States, the case study method has even become the main teaching method in the law classroom. Courts apply laws to form precedents, which contain the development of legal theories and principles. This makes case study and legal education well combined.

However, affected by the characteristics of the Chinese legal system and the tradition of legal education, the proportion of case studies in Chinese legal courses is still low. Its more prominent problem is that case study occupies an auxiliary position in the entire law teaching, and case analysis fails to run through the entire stage of legal education (Chen, 2016). Teaching cases have not been combined with legal knowledge and professional ability training (Chen, 2016). The case selected for analysis is relatively simple and the depth of the case analysis is not enough (Chen, 2016). The degree of students' participation is insufficient. Overall, teachers still give priority to lectures (Chen, 2016). In order to further the exploration of teaching reform and strengthen the application of the case study method in legal education, the author uses the case study as the main teaching method in the Course taught by the author and comprehensively uses case analysis and moot court, which are two specific ways to achieve better teaching effects. The main content of the Course, teaching methods, and other aspects are briefly described below.

## **2. Course Overview**

### **2.1. Target Audience of the Course**

The Course is an elective course for postgraduate students. This course mainly uses important cases in the field of international law as research materials, and the scope of the course is very broad. It not only involves general international

law theories such as the subject of international law, state rights and obligations, and international responsibility, but also involves territorial law, the law of the sea, the law of international organizations, and state immunity. Specific branches of law such as Law, Diplomatic and Consular Relations Law, Human Rights Law and the Laws of War are also covered in the Course. The gist of this Course is to connect the theory and knowledge of international law through case analysis, interpret and study important cases of international law, so as to cultivate students' ability of professional thinking and practical application of knowledge. According to the teaching time and the overall teaching plan of the Course, the Course mainly focuses on cases in the field of public international law, with case analysis as the main teaching content. Compared with undergraduates, graduate students have better knowledge reserves and research capabilities, so the teacher does not need to spend lots of time in the classroom explaining basic knowledge. Rather, the class can focus more on the research and criticism of legal issues, making the development of case teaching more effective.

## 2.2. Course Objectives

1) Legal knowledge learning. Through case analysis, students can learn the international legal system, principles, and specific rules contained in the case, as well as the operating system and development context of international law. They can understand the basic ideas and characteristics of international dispute settlement.

2) Master the research methods. By taking the Course, students can master the research methods of classic cases of international law, understand the interpretation of international court judgments, and analyze the application of general legal principles in judgments.

3) Cultivation of professional thinking. Through the analysis of the defense and argumentation of judges, attorneys and other legal professionals in the cases, the student can improve their critical and innovative thinking.

## 2.3. Content of the Course

This Course mainly focuses on cases (especially the effective cases) of the International Court of Justice (ICJ). In principle, all cases of international courts or arbitral courts can be used for this Course, considering that the difference between judicial judgments and arbitral awards in international law is not as great as that in domestic law. However, as ICJ has greater influence in the field of international law, precedents of ICJ is the main content of the Course, which is supplemented by the precedents of other international courts.

The Course focuses on case analysis and teaching. Although the content and characteristics of each case are different, in terms of teaching content, there are still many aspects in common. Their common features mainly include 1) case background: the emergence of major international cases inevitably involves many reasons at the international political, economic, cultural and legal levels, and the

background of the case is the basis for subsequent analysis; 2) procedural issues: in the context of courts, procedural issues are the first issues that court participants face, mainly including issues of jurisdiction and admissibility; 3) substantive issues: this is the application of the law when the court hears the case, that is, how to apply the appropriate rules of international law to determine the main disputes; 4) the recognition and enforcement of judgments: the jurisdiction of the ICJ is based on the agreement among states. In many cases, even if the ICJ makes a judgment, it will face the question of whether and how to recognize and implement it; 5) frontier issues: case analysis is only a fulcrum, and it is beneficial to the cultivation of students' divergent and creative thinking. Therefore, in the case study, students will be consciously guided to combine case content with cutting-edge issues for research.

#### **2.4. Criteria for Case Selection**

The ICJ has accepted a large number of cases, and if the Permanent Court of International Justice is included, then the number of cases is very large. However, the teaching time of a semester is often only 32 - 54 hours, so in the selection of cases, certain standards should be followed. Among them, the key points to consider are as follows: 1) representative: this is the first principle of case selection. Main considerations include whether the case involves major issues of international law at the time of the case, whether the judgment has a significant impact on the development of international law, whether the judgment is brilliant in argumentation and has great theoretical value, or whether is critical and caused great controversy. Morey Osupor, an American educational psychologist, also emphasized the typicality and representativeness of case selection (Bai, 2019); 2) moderate difficulty: case selection requires trade-offs in terms of difficulty, and generally excludes particularly simple or complex cases. The case selection will be gradual, that is, the difficulty will be from easy to medium, and then from medium to difficult; 3) timeliness: since each case is rooted in a specific historical background of the times, it reflects international politics and international legal relations at that time. Therefore, it is generally advisable to choose a case that is closer to the current time and has more practical significance. Of course, this principle does not apply to classic cases; 4) expandability: the international legal system has inherent logic and relevance, and cases with high knowledge density will be given priority in order to expand the knowledge of students in combination with current frontier issues. These four principles should be considered comprehensively when selecting cases, especially when there are multiple cases in a semester course.

### **3. Teaching Modes and Features**

#### **3.1. Basic Principles of Case Teaching**

The course will select 3 - 4 cases per semester, and each case requires about 8 - 10 class hours. According to past teaching experience, the cases of each semester

are not exactly the same, which is mainly due to the flexibility of case teaching. Case teaching is mainly implemented according to the following principles:

### **3.1.1. Combination of Guidance of Teacher and Autonomy of Students**

The main responsibility of the teacher is to guide and coordinate. By activating the subjective initiative of the students, the students can independently conduct case analysis and research. Considering that students are not familiar with the teaching methods of case analysis and the jurisprudence of the ICJ, teachers need to provide appropriate preliminary guidance to students at the beginning. The work of teachers includes: formulating course rules, specifying the scope of cases, determining the focus of cases, etc. To use a metaphor, teachers are like the captain of a ship, who are responsible for clarifying the rules of navigation and specifying the direction of navigation; while students are crew members, such as first mates, sailors, helmsmen, etc., who are responsible for operating the ship.

### **3.1.2. Combination of Fixedness and Flexibility**

In the curriculum, there are both chosen cases by the teacher, as well as cases flexibly selected by students. At the beginning of the course, the teacher uses a less difficult case to help students grasp the method of case analysis as soon as possible. Also, the methods of case analysis and the moot court are relatively fixed and formulated by teachers in advance.

Flexibility is mainly reflected in two aspects: first, flexible cases—starting from the second case, the following 3 - 4 cases are all determined by students' independent choice. These are chosen by students based on their learning interests, research preferences, and abilities, and are generally determined by the rule of minority obeying the majority; second, flexible roles—no matter in case analysis or moot court, students can choose their roles and corresponding work independently. For example, students can choose their focus and standpoint independently; another example is in the moot court, students can freely choose the roles they want to play, such as judge, lawyer, jury, etc.

The above teaching principles can not only ensure the stability of the basic teaching mode but also make each semester different, which will help to achieve the effect of teaching without discrimination and teaching students according to their aptitude.

## **3.2. Two Teaching Modes**

Case teaching method is the result of quality education reform (Zheng et al., 2018). Through more than 4 years of teaching experience, the course has formed two different teaching modes, i.e. case analysis and moot court. In order to improve teaching flexibility and stimulate students' interest in learning, the two modes will be combined in the same semester. Since 3 - 4 cases will be covered in each semester, the first 2 - 3 cases will be taught through the case analysis mode, and the last case will be taught through the moot court mode.

### 3.2.1. Case Analysis Mode

Case analysis mode is most frequently used in case teaching. This mode discusses the jurisprudence of the ICJ. Its essence is to break down big problems in the case into small problems so that students can participate in the research and discussion of each small problem. Students can thus learn the legal rules and legal issues contained in the case. The purpose of this mode is to enable students to master the main knowledge in the case and expand their legal thinking. Its main rules are shown in **Table 1** below.

### 3.2.2. Moot Court Mode

The last case of each semester is generally taught in the moot court mode. As the name suggests, the moot court mode is to simulate the actual court proceedings, role division, and application of substantive laws of the ICJ. This method helps students jump out of the thinking of simple knowledge learning, and applies knowledge to reality. Although most of the content is simulated according to the original case, students are not forbidden to put forward their own different understandings in the classroom, so it is possible to carry out certain classroom innovations during the simulation process. Due to the needs of classroom teaching, the court procedure is mainly based on the adversarial court procedure of civil law, but the judge-led procedure of civil law is also carried out, and the jury system that is not available in the ICJ is added. The main content of the moot court is still the discussion and debate around the focus, but it is placed in the court procedure, which adds to the diversity and fun of the teaching mode.

Specific rules of the moot court mode are shown in **Table 2** below.

**Table 1.** The content of case analysis mode.

<b>Group</b>	Group according to the number of focal points contained in the case, with about 2 - 3 people in each group.
<b>Work Allocation</b>	Each team should work together and allocate their work.
<b>Presentation</b>	Each team needs to present its analysis of the case. Team members need to provide evidence and answer questions from all other students.
<b>Time</b>	The time for each presenter is limited to 15 - 20 minutes, and there is no time limit for questions.
<b>Material</b>	Citation of foreign language materials is encouraged.
<b>Response to Questions</b>	The presenter writes down the questions that cannot be answered in the class and then responds in the next class.

**Table 2.** The content of moot court mode.

<b>Court Composition and Duties</b>	
<b>1</b>	Judge: Leads court proceedings, a neutral role, and makes judgments on the legal aspects of the case. During the trial process, the prosecution and the defense cannot be interrupted. Questions can be asked during the intermission.

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**Continued**

Jury: Listen to the court hearing and make judgments on the facts of the case. Questions may be asked of both the prosecution and the defense during the intermission period with the permission of the judge.

Both the prosecution and the defense: Clarify the appeal, prepare evidence, conduct cross-examination and court defense, and strive for the maximum rights and interests of itself.

Clerk: Explain the rules.

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- 2** **Basic mode:** Prosecution and the defense confront each other and the judge coordinates the proceeding.

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**Preparation of Key Issue**

- 3** The prosecution and the defense prepare their own arguments closely related to the facts of the case and submit them to the judge for review. If rejected in whole or in part, the prosecution and the defense continue to prepare arguments until sufficient arguments are provided.

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**Court Proceedings**

- (1) The judge determines an issue.
  - (2) The prosecution and the defense each sent a representative to speak.
  - (3) Representatives of the prosecution and the defense submit evidence to the court.
  - (4) The judge issues a formality review opinion on the submitted evidence.
  - (5) The prosecution and defense exchanged evidence and cross-examined evidence.
  - (6) The judge made a ruling on the results of the cross-examination.
- The prosecution and the defense debate, and each person can express their
- 4** (7) opinions for 5 minutes each time, and they can express their opinions up to 5 times.
- If, after both parties have finished their presentation, the judge or jury believes
- (8) that there is still a question that needs to be addressed by a certain party, the judge or jury may require that party to answer the question.
- After all the speeches and defenses, the judge may request the jury to issue a conclusion on the factual issues. If there is no strong objection, the judge shall
- (9) accept the jury's conclusion and let the judge discuss and make a legal ruling. If there are strong objections, the judge should explain to the jury and ask the jury to discuss again and reach a conclusion.
- (10) Start to discuss the next key issue.

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**Other Rules**

- (1) Before class every week, both the prosecution and the defense need to send their own opinions on the issue to the class.
- After one round of presentation, either the prosecution or the defense can
- 5** (2) unanimously initiate to remove a specific judge. If this initiative is supported by a majority vote of the jury, a specific judge may be removed and replaced by one of the jurors at random.
- (3) The presiding judge rotates among the judges with the changes in the issues. Fairness should be considered by judges and juries.
  - (4) The objecting judge may state his objection in court.
  - (5) The language of the court defense is Chinese.
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## 4. Teaching Methods

In consideration of the characteristics of graduate students, the three major tasks of the course are to stimulate learning interest, master learning methods, and form case analysis thinking. In this course, guided questioning and discussion are at the heart of classroom instruction. Only by realizing real interaction with students, in-depth communication and cultivating an open way of thinking about problems can the teaching become vivid and effective. In the above two teaching model, some specific teaching means or methods are used in this course to realize case study better. In addition to the four methods commonly used, namely the methods of legal interpretation, legal sociology, history, and unifying facts and values (Han, 2005), the characteristic teaching methods of the Course are as follows:

### 4.1. List of Key Issues

The judgments of the ICJ are related to major international situations or events, and often a judgment can reach hundreds of pages, plus the indictment, statement of defense, testimony, evidence, expert opinion, interim ruling, and third-party participation documents, etc. The content is complicated and difficult to grasp. In order to improve teaching efficiency, the key issues of the case are generally sorted out as the teaching framework. Taking *Oil Platforms (Islamic Republic of Iran v. United States of America)* as an example, key issues of the case are listed as follows:

#### ***Focus 1: The Background of Case***

- a) The Respective Behavior of the U.S. and Iran.
- b) The Context of the US-Iraq War.
- c) Iranian Islamic revolution.
- d) Iran-Iraq War (Tanker War).
- e) Water area and geographical information.

#### ***Focus 2: Can the Treaty of Amity, Economic Relations and Consular Rights 1955 between the United States and Iran Become the Basis for the Jurisdiction of the ICJ?***

- a) What are the types of jurisdictions of the International Court of Justice?
- b) Is the 1955 Convention valid? What is the effect of the Islamic Revolution?
- c) Can the principle of change of circumstances negate the effectiveness of a treaty?
- d) Are the diplomatic means and other peaceful solutions stipulated in Article 21.2 necessary pre-obligations?
- e) Are the actions of the US military a violation of Articles 1, 4, and 10 of the 1955 Treaty?
- f) Does Article 20, paragraph 1 exclude the jurisdiction of the court?
- g) Can Article 1 alone serve as a basis for jurisdiction?
- h) Why Iran did not use the general principles of international law or other treaties as the basis for its prosecution?



***Focus 3: Is the Attack of the United States on Oil Platforms Legal? (14:2)***

- a) Can Article 20, paragraph 1(d), be used as a justification for an attack by the United States?
- b) The right of self-defense in international law.
- c) How to understand the necessity and proportionality in the right of self-defense?
- d) Means of war, whether oil platforms are targets that can be attacked (military interests, etc.).
- e) Did the U.S. attack violate Iran's right to free trade?
- f) Will the fact that the U.S. attack directly targets the National Iranian Oil Company instead of Iran affect the judgment of the nature of the act?
- g) Does Article 20(1) exclude force or military action?
- h) Can general international law or the Charter of the United Nations be used to explain the issues in this case?
- i) Are the preventive self-defense measures in advance legal?

***Focus 4: The Court's Attitude and Reasons for the U.S. Counterclaim (15:1)***

- a) Whether diplomatic means are required as a pre-obligation.
- b) Whether it exceeds the scope stipulated in the treaty.
- c) In addition to violating the freedom of trade, whether a counterclaim can be filed for violating the freedom of navigation.
- d) Have new claims been made?
- e) Did Iran's attack on the ship violate the United States' trade and navigation rights?

**4.2. Statement and Presentation**

The student's legal research on the case will be presented to the whole class and there needs to be a Q&A section during the presentation. Three issues are important in the presentation: 1) student-oriented. This course gives full play to the subjective initiative of the students themselves. The selection of the key issues, the preparation of the research results, and the production of presentation slides are all conducted by the students themselves; 2) team cooperation. Generally speaking, each key point is in the charge of at least two students. This requires division of work and cooperation among team members; 3) full responsibility of the students. Students are responsible for any problems that arise in their presentations. If they cannot answer the questions from other students or teachers during the presentation, they need to do research after class and provide responses in the next class.

**4.3. Question-Based Teaching Method**

In the Course, teachers no longer just "present facts and reason" on the podium but use questions to set up course content and respond to students' questions with another question. The method is seen as an empirical Socratic method of teaching. The Socratic teaching method can teach students to respond to prob-

lems and to think about problems by putting themselves in other people's shoes (Huang, 2021). The application of the question-based teaching method in this course is determined based on the characteristics of the course: 1) case content—the international dispute itself consists of one or more major issues, and these major issues can be subdivided into small problems, which are connected with each other and have an internal logic. These questions themselves are the design ideas of the course content; 2) to deal with the questions raised by students, teachers respond by inspiring questions rather than simply providing answers. This is more conducive to enabling communication and discussions. According to the author's experience, each case is analyzed by different student teams, and each will have different ideas.

Compared with undergraduate teaching, postgraduate teaching has changed from one-way output to two-way communication and discussion. Question-based teaching will have a very good effect on this process. This is not only beneficial to cultivate students' problem-thinking capacity, but also conducive to stimulating curiosity and enthusiasm. Good questions and real discussions can effectively motivate students.

## 5. Conclusion

To implement law talent education and training plan 2.0, actively exploring the case study method in law courses is an important way to deepen the reform of law education and improve the quality of legal talent training (Liu & Ji, 2020). The Course, which focuses on two modes of case analysis and moot court, has achieved good results after nearly five semesters of teaching practice. It mobilizes students' enthusiasm for learning and research, strengthens classroom communication and discussion, deepens awareness of rules, and cultivates legal professionalism. Many students in this Course are very comfortable with this case teaching mode. They can actively participate in the work allocation and discuss key issues with independent research. At present, this Course has become one of the most popular courses for graduate students in the Department of International Law and has been widely praised by students. It has also substantively achieved the teaching goal, i.e. enabling students to master the basic knowledge of international dispute settlement mechanisms, case analysis, and court debate; cultivating students' legal thinking and professionalism in theoretical analysis and problem-solving; and increasing students' interest in international law. A considerable proportion of students took the initiative to take other international law courses after studying this course, such as the law of international organizations and International Humanitarian Law, etc.

At present, the course has formed a certain teaching mode and relatively mature teaching methods, but there are still some areas that need to be further improved in order to maximize the teaching effect. In the teaching plan, the author intends to carry out further exploration of teaching reform in the following aspects: First, teachers can strengthen case analysis and knowledge management.

In the author's opinion, the cases discussed in the past 4 years can be compiled into a book, which will be used as a teaching manual for the future. On this basis, more jurisprudence of the ICJ will be gradually added to the manual. In the next two years, it is also possible to add the advisory opinion of the ICJ into the manual in an appropriate manner. Second, more experts will be invited into the classroom. The author plans to invite 1 - 3 experts with practical experience to join the classroom every semester. External experts can join the case analysis session as case reviewers or join the moot court as a judge. The participation of experts is conducive to promoting exchanges and discussions among students. Third, teachers can recommend more talents to participate in the moot courts. With the moot court teaching mode, students of this Course can learn the basic rules of the moot court. Teachers can recommend outstanding students to major moot court competitions, such as International Humanitarian Law Moot Court, Jessup Moot Court, International Criminal Court Moot Court, etc. This course is an important way to cultivate talents for various moot courts. Moreover, teachers can enrich their teaching methods by using online tutorials and providing website links for after-class practical learning. In the cycle of two years, the teaching reform will further explore teaching content and teaching methods of the Course to form a more effective and interesting high-quality course.

### Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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