



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: LL.M.

DETAILS OF COURSE OFFERED

ODD SEMESTER – ACADEMIC YEAR 2022-23

SL. No	COURSE CODE	COURSE TITLE	L	T	P	CR	CH
1.	1.5 (IL) SP-I	INTERNATIONAL HUMANITARIAN AND REFUGEE LAW	2 PER WEEK			2	2

- A. CODE AND TITLE OF THE COURSE: 1.5 (IL) SP-I INTERNATIONAL
HUMANITARIAN AND REFUGEE LAW**
- B. COURSE CREDIT: 2 (TOTAL MARKS 100)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: DR. GITANJALI GHOSH**
- E. COURSE INSTRUCTOR:**

1. COURSE OBJECTIVES

Traditionally, international law was the law that governed the conduct of States in their relations with each other. Gradually, international law has also come to govern individuals, international organizations and even corporations. In today's globalizing world, it has emerged as one of the significant subjects for study. It is not an exaggeration to state that international law affects every person living on the globe.

In the light of the growing importance of international law, it is not only desirable but also imperative for students to have a thorough knowledge of the subject. Hence, the primary objective of this course is to generate and sustain an interest to study international law in the minds of the students.

As the students are already familiar with the basics of international law, this course will take their study one notch higher with the introduction of a very important branch of international law i.e. international humanitarian and refugee law.

The objectives of the course, in particular, are as follows:

- Provide students with an understanding of the development of international humanitarian and refugee law
- Introduce students to the concepts of refugee, internally displaced persons and stateless persons
- Elucidate on the rights of the refugee, internally displaced persons and stateless persons

2. TEACHING METHODOLOGY

The teaching methodology shall aim at the generation of critical thinking among the students. The topic for a particular class shall be informed to the students beforehand and readings shall be assigned to them for the said topic. They are expected to have a basic idea about the topic prior to the class. Subsequent to a brief lecture on the topic, there shall be class discussion on the same as well as on the readings assigned. Pursuant to the class discussion, the teacher shall substantiate the issues raised and answer any questions posed or left unanswered. Topics shall also be assigned to be students for presentation in class to develop their teaching learning abilities. Movie reviews substantiating their importance to the course syllabus is a novel feature of this class.

3. EXPECTED OUTCOMES OF THE COURSE

At the completion of the course, it is expected that the students shall:

- Comprehend the subject matter of the course
- Be able to analyze contemporary international humanitarian and refugee law problems in the light of the concepts learnt
- Be able to articulate their ideas on the subject matter of the course
- Produce at least one research paper of publishable quality
- Desire to take up international law for further studies

4. COURSE EVALUATION METHOD

The course shall be assessed for 100 marks. The students shall write a seminar paper for 70 marks followed by a presentation and viva voce for 30 marks.

5. DETAILED STRUCTURE OF THE COURSE (SPECIFYING COURSE MODULES AND SUB-MODULES)

Module 1

1.1 Historical Development of International Humanitarian Law

- Henri Dunant and the Battle of Solferino
- 1864 Geneva Convention
- Lieber Code 1863
- 1868 St Petersburg Declaration
- 1868 Additional Articles, 1874 Brussels Declaration, 1880 Oxford Manual
- 1899 and 1907 Hague Conventions
- 1949 Geneva Conventions
- 1977 Additional Protocols
- Other IHL instruments
- Development of international criminal law – the ICTY and ICTR, the ICC, and the hybrid and ad hoc courts and tribunals

1.2 Fundamental principles of the law of armed conflict

- The principle of distinction
- Military necessity
- The principle of proportionality
- The prohibition on causing unnecessary suffering and superfluous injury
- The principle of neutrality
- The principle of humanity

1.3 Types of armed conflicts

- International armed conflicts
- Non-international armed conflicts
- Internationalised armed conflicts
- Transnational armed conflicts

1.4 Individual status in armed conflict

- Combatant status – criteria, privileges and responsibilities
 - Early rules on combatant status – the US Civil War to the Geneva Conventions of 1949
 - Members of the armed forces
 - Partisan and resistance fighters
 - National liberation and guerrilla fighters under Protocol I

- Levée en masse
- Participants in non-international armed conflicts
- Non-combatants entitled to POW status and treatment
- Irregulars in hostilities not entitled to combatant status- Spies, Mercenaries, Unlawful combatants, Private military and security contractors, Civilians taking direct part in hostilities
- Prisoner of war status

1.5 Protection of the wounded, sick and shipwrecked

- Origins of the protection of the hors de combat in armed conflict
- Rules regarding respect for and care of the wounded, sick and shipwrecked
- Provisions on the dead and missing
- Medical personnel and the protection of medical goods and objects, including hospitals, ambulances and hospital ships
- The protective emblems: the Red Cross, Red Crescent and Red Crystal

Module 2

2.1 The law of occupation and the protection of civilians

- General protections for civilians
- Beginning of occupation
 - Protected persons
 - Administration of occupied territory
 - Rules on protected persons and persons deprived of their liberty
 - End of occupation
 - Problems regarding long-term occupation
- Rules on the treatment of civilians in non-international armed conflicts

2.2 Targeting

- Article 48 of Additional Protocol I
- Military objects and objectives
- Additional rules on targeting military objectives
 - Indiscriminate attacks
 - Proportionality
 - Precautions in attack and defence
- Specific rules on targeting certain types of objects
 - Cultural property
 - The environment
 - Medical facilities
 - Works and installations containing dangerous forces
 - Objects necessary for the survival of the civilian population
 - Civil defence, non-defended localities and demilitarised zones

2.3 Means and Methods of Warfare

- General rules- the prohibitions on causing unnecessary suffering and superfluous injury, and on indiscriminate means and methods
- The obligation to assess the legality of new means and methods of warfare
- Specifically prohibited weapons and restricted weapons
 - Explosive and dum-dum bullets
 - Mines and booby-traps
 - Incendiary weapons
 - Non-detectable fragments
 - Blinding laser weapons
 - Explosive remnants of war
 - Cluster munitions
 - Chemical weapons and poison
 - Biological and bacteriological weapons
- Prohibited methods of warfare
 - Orders of “no quarter”
 - Perfidy
 - Siege warfare and starvation of civilians
 - Pillage
 - Other rules relating to methods of warfare- Belligerent reprisals, Mercenaries, Parachutists in distress, Espionage
- Means and methods of warfare of indeterminate or contested status
 - Depleted uranium
 - White phosphorus
 - Nuclear weapons
 - Cyber warfare
 - Targeted killing and drone warfare

2.4 Accountability through international criminal law

- Individual responsibility for violations of the laws of armed conflict
- Command responsibility

Module 3

3.1 Evolution of Refugee law

- International aliens law
- International protection of minorities
- League of Nations codifications of refugee rights
- Convention relating to the Status of Refugees
- Post-Convention sources of refugee rights

3.2 Structure of entitlement under the Refugee Convention

- Definition of Refugee
- Attachment to the asylum state
- General standard of treatment

- Exceptional standards of treatment
- Prohibition of discrimination between and among refugees
- Restrictions on refugee rights

3.3 Rights of Refugees

- Rights of refugees physically present
- Rights of refugees lawfully present
- Rights of refugees lawfully staying

3.4 Durable Solutions

- Voluntary repatriation
- Local integration
- Resettlement

Module 4

4.1 Stateless persons

- State sovereignty, nationality and statelessness
- Statelessness as an international legal concept and the challenge of identification
- Preventing statelessness
- Reducing statelessness
- Protecting stateless persons
- 1954 Convention relating to the Status of Stateless Persons
- Statelessness, migration and forced displacement

4.2 Internally displaced persons

- Defining internally displaced persons
- Legal regime governing internally displaced persons
- Guiding Principles on Internal Displacement
- Institutional framework of protection for the internally displaced

6. PRESCRIBED READINGS

BOOKS

- GARY D. SOLIS, THE LAW OF ARMED CONFLICT (Cambridge University Press 2010).
- EMILY CRAWFORD AND ALISON PERT, INTERNATIONAL HUMANITARIAN LAW (Cambridge University Press 2015).
- ROBERT KOLB AND RICHARD HYDE, AN INTRODUCTION TO THE INTERNATIONAL LAW OF ARMED CONFLICTS (Hart Publishing 2008).
- JAMES C. HATHAWAY, THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW (Cambridge University Press 2005).
- MICHELLE FOSTER AND HÉLÈNE LAMBERT, INTERNATIONAL REFUGEE LAW AND THE PROTECTION OF STATELESS PERSONS (OUP 2019).

- CATHERINE PHUONG, *THE INTERNATIONAL PROTECTION OF INTERNALLY DISPLACED PERSONS* (Cambridge University Press 2005).

INTERNATIONAL INSTRUMENTS

- Statute of the Office of the United Nations High Commissioner for Refugees, Dec. 14, 1950, A/RES/428(V).
- Convention relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137.
- Protocol relating to the Status of Refugees of, Jan. 31, 1967, 606 U.N.T.S. 267.
- United Nations Declaration on Territorial Asylum, Dec. 14, 1967, A/RES/2312(XXII).
- Guiding Principles on Internal Displacement, Feb. 11, 1998.
- Convention relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117.
- Convention on the Reduction of Statelessness, Aug. 30, 1961, 989 U.N.T.S. 175.
- Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.
- Convention for the Amelioration of the Condition of the Sick and Wounded in Armed Forces in the Field, Aug. 12, 1949, 75 U.N.T.S. 31.
- Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 75 U.N.T.S. 85.
- Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 75 U.N.T.S. 135.
- Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287.
- Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, 1125 U.N.T.S. 3.
- Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), June 8, 1977, 1125 U.N.T.S. 609.
- Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), Dec. 8, 2005.