



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: B.A., LL.B (HONS.) FYIC

DETAILS OF COURSE OFFERED

ODD SEMESTER (IX) – ACADEMIC YEAR :.....

SL. NO	COURSE CODE	COURSE TITLE	L	T/P	CR	CH
1	BL906.9 (INTERNATIONAL LAW)	INTERNATIONAL HUMANITARIAN LAW	4 PER WEEK	1 PER WEEK	4	

- A. CODE AND TITLE OF THE COURSE: BL906.9, INTERNATIONAL HUMANITARIAN LAW
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)
- C. MEDIUM OF INSTRUCTION: ENGLISH
- D. COURSE COMPILED BY: DR KASTURI GAKUL
- E. COURSE INSTRUCTOR: DR KASTURI GAKUL

1. COURSE OBJECTIVES

Wars around the world have caused untold miseries on humanity. The magnitude of such armed conflicts has inflicted immeasurable suffering upon innocent civilian population, wounded and sick members of armed forces and prisoners of war. In such a situation of humanitarian challenge, International Humanitarian Law seeks to mitigate the effects of war by limiting the choice of means and methods of conducting military operations and by obliging the belligerents not to harm the non-combatants and the civilian population. International Humanitarian law also known as the law of armed conflict is a branch of law which governs situation of armed conflict or war. Armed conflicts both international and non-international are a serious challenge to human race in the 21st century resulting in grave violation of human rights. Hence, it is imperative that the world community- governments, international and regional organizations and individuals pro-actively participate in ensuring the effective implementation and enforcement of International Humanitarian law.

The present course structure is designed to acquaint the students of law with the comprehensive knowledge of International Humanitarian law and its impact on contemporary armed conflicts around the world. The students are motivated to learn about the historical development of the concept of humanitarian law so that they develop an understanding of the reasons behind the emergence of humanitarian law.

The objectives of the course are:

- i. To trace the historical evolution, development and philosophical foundations of humanitarian law in international perspective.
- ii. To develop comprehensive understanding about the internationally recognized Humanitarian law treaties and instruments.
- iii. To study the provisions of humanitarian law pertaining to protection of children, women and cultural property during armed conflict.
- iv. To familiarize students with the international legal framework on humanitarian law prohibiting means and methods of warfare during international and non-international armed conflict.
- v. To explain elaborately the significance and relevance of International humanitarian law in contemporary times.
- vi. To acquaint students with the mechanisms for the effective implementation and enforcement of humanitarian law in national and international sphere.
- vii. To inculcate critical thinking and awareness pertaining to key issues in contemporary humanitarian law.

2. TEACHING METHODOLOGY

The teaching methodology shall aim at the generation of critical thinking among the students. For teaching International Humanitarian Law lecture method along with alternative and supplementary strategies for effective teaching will be utilized, such as permissive style of teaching, brain storming, group discussion, seminar presentation. To develop an understanding on varied topics of international humanitarian law group discussion and brain-storming sessions will be held in the classroom. To encourage self study, individualized instruction and to inculcate study attitudes individual seminar topics shall be allotted to students in advance. The teacher will guide the students in their pursuit of legal learning through application of the planned teaching process which includes introduction of the basic concept, presentation and discussion

of the subject-matter in details, recapitulation on the topic discussed through questioning, clarification of doubts and queries, if any, and suggestions for further readings. The topic for a particular class shall be informed to the students before hand 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. The topics will be taught through projected teaching aids like power point presentation and white board.

3. COURSE LEARNING OUTCOMES

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

1. Understand the nuances of each module and comprehend the intricacies of various International Humanitarian law treaties
2. Be able to analyze the contemporary humanitarian law problems in the light of the concepts learnt and articulate their ideas on the subject matter of the course.
3. Acquire the skill of analytical in-depth research along with a publishable research work
4. Improve their knowledge-base and be encouraged to pursue the subject at the post-graduate level
5. Undertake future research work on humanitarian law at Ph.D. level.

4. COURSE EVALUATION METHOD

The course shall be assessed for 200 marks.

The Evaluation scheme would be as follows:

Sl. No.	Marks Distribution	
1	Seminar Paper	60 marks
2	Seminar Paper presentation	30 marks
3	Moot Memorial	50 marks
4	Moot Oral	50 marks
5	Attendance in class	10 marks
	Total	200 marks

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

MODULE I

INTRODUCTION

Historical Foundations: Concept of Humanitarian Law; Principles of Humanitarian Law; Humanitarian Law in Ancient India; Code of Hammurabi; Religious and Philosophical thought; Sources of International Humanitarian Law

Development of International Humanitarian Law (IHL): Battle of Solferino; Contributions of Henry Dunant; Emergence of International Committee of Red Cross (ICRC); Fundamental Principles of ICRC; Mandate and Functions of ICRC.

Legal Protection during War (1864-1949) – The Convention for the Amelioration of the Condition of the Wounded in Armies in the field, 1864; 1899 and 1907 Hague Peace Conferences; 1899 and 1907 Conventions on the Laws and Customs of War on Land; Liber Code; St. Petersburg declaration; Brussels Declaration; Martens Clause; Prohibition of poisonous gases and Bacteriological methods of Warfare; Diplomatic Conferences and Drafting of the Four Geneva Conventions, 1949.

Human Rights Law and Humanitarian Law: Concept; Convergence of IHL and Human Rights Law; Applicability of IHL and Human Rights Law in Armed Conflicts and Consequences.

MODULE II

FOUR GENEVA CONVENTIONS, 1949 AND THE ADDITIONAL PROTOCOLS

Geneva Conventions

WOUNDED AND SICK IN ARMED FORCES IN THE FIELD – General Provisions; Concept of International Armed Conflict; Application of the Convention; Conflict not of international character (Common Article 3 to the Four Geneva Conventions, 1949); Non-Renunciation of rights; Concept of Protecting Powers and Protected Persons; Protection and care of Wounded and Sick; Medical Units and Establishments; Protection of Personnel and Property; Medical Transport; Provisions relating to the Distinctive Emblem; Execution of the Convention; Repressions of Abuses and Infractions; Denunciation.

WOUNDED, SICK AND SHIPWRECKED MEMBERS OF ARMED FORCES AT SEA– General Provisions Application of the Convention; Conflict not of international character; Non-Renunciation of rights; Activities of the International Committee of the Red Cross; Concept of Protecting Powers and Protected Persons;

Protection and care of Wounded, Sick and Shipwrecked; Protection of Hospital Ships; Protection of Personnel ; Medical Transport; Provisions relating to the Distinctive Emblem; Execution of the Convention; Repressions of Abuses and Infractions; Denunciation.

PRISONERS OF WAR – General Provisions; Application of the Convention; Definition and Concept of Prisoners of War; General Protection of Prisoners of War (Responsibility for the treatment of prisoners, Humane treatment of prisoners, Respect for the person of prisoners, Maintenance of prisoners and Equality of treatment); Captivity – Beginning of Captivity; Internment of Prisoners of War; Quarters, Food and Clothing of Prisoners of War; Hygiene and Medical Attention; Medical Personnel and Chaplains Retained to Assist Prisoners of War; Discipline Rank of Prisoners of War; Transfer of Prisoners of War after their Arrival in Camp; Labour of Prisoners of War; Financial Resources of Prisoners of War; Relations of Prisoners of War with the Exterior; Relations between Prisoners of War and the Authorities; Penal and Disciplinary Sanctions; Termination of Captivity; Information Bureaux and Relief Societies for Prisoners of War and Execution of Convention.

PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR – General Provisions; Application of the Convention; Definition of protected persons; Derogation; General Protection of Populations against certain Consequences of War; Status and Treatment of Protected Persons – Provisions common to the Territories of the Parties to the Conflict and to Occupied Territories, Aliens in the Territory of a Party to the Conflict, Occupied Territories, Regulations for the Treatment of Internees (General Provisions; Places of Internment; Food and Clothing; Hygiene and Medical Attention; Religious, Intellectual and Physical Activities; Personal Property and Financial Resources; Administration and Discipline; Relations with the Exterior; Penal and Disciplinary Sanctions; Transfer of Internees; Deaths; Release, Repatriation and Accommodation in Neutral Countries; Information Bureaux and Central Agency; Execution of the Convention.

Additional Protocols to the Geneva Conventions: Protection of Victims of International Armed Conflict (Protocol I); Protection of Victims of Non-International Armed Conflict (Protocol II); Adoption of an Additional Distinctive Emblem (Protocol III)

MODULE III

Protection of Women and Children during Armed Conflict: Principles; Women as members of Civilian population; Women Combatants and Prisoners of War; Preferential treatment to women; Interned women; Status of Children as combatants and prisoners of war; treatment of children during armed conflict; Repatriation and Internment of Children; Detention of Children and Women during Non-international armed conflict; Convention on the Rights of the Child.

Protection of Cultural Property: Definition of cultural property; Protection and safeguarding cultural property; Respect for cultural property; Military measures; Special protection; Transport of Cultural property; Immunity; Distinctive Emblem;

Application and Execution of the Convention; Conciliation Procedure, Conflicts not of an international character; Sanctions; Additional Protocols to Cultural Property Convention, 1954; Protection of Cultural property under Additional Protocols 1977

Prohibition of Method and Means of Warfare: Biological and Toxic Weapons; Chemical Weapons; Military and Hostile use of Environmental Modification Techniques; Conventional Weapons; Non-detectable fragments; Incendiary Weapons; Mines and Booby-traps; Blinding Laser Weapons; Explosive Remnants of War; Anti-Personnel Mines; Cluster Munitions; Regulation of Small Arms and Large Weapons.

MODULE IV

Implementation of IHL : Means of Prevention; Means of Control; Sanctions; International Enquiry; Fact-finding Commission; Role of ICRC; Role of United Nations; Media.

Invocation and Application of IHL – Courts and Tribunals: Individual Criminal Responsibility; Command Responsibility and Superior Orders; Penal repression of violations of IHL; Nuremberg Tribunal; Tribunal for Rwanda (ICTR) and Former Yugoslavia (ICTY); International Criminal Court; Special Court for Sierra Leone; Hybrid Tribunals.

Regional Mechanisms and IHL: European Court of Human Rights; Inter-American Court of Human Rights; African Union

India and International Humanitarian Law: Geneva Convention Act, 1960; Law relating to Chemical weapons and weapons of mass destruction

6. PRESCRIBED READINGS

- Naorem Sanajoba, ed. A MANUAL OF INTERNATIONAL HUMANITARIAN LAWS, 2004, Part I, 1(*The Historical foundations of Humanitarian action*), pp.3-41; 5, (*Essentials of the law of war*), pp. 89-105; 2(*Significance of the Geneva Conventions for the Contemporary world*), pp.42-55; 3, (*1949 and 1999: Making the Geneva Conventions relevant after the Cold War*), pp. 56-67; 4 (*The 1977 Protocols*), pp. 68-88; 12 (*International Humanitarian Law*), pp. 204-311; 13 (*The Martens Clause and the Laws of Armed Conflict*), pp. 312-324; Part III, 8 (*The International Committee of Red Cross and Humanitarian Assistance—A Policy Analysis*), pp. 664-667; Part III, 2 (*New Wars and New Weapons?*), pp. 546-563; 4 (*Landmines and measures to eliminate them*), pp. 599-616
- Gary. D. Solis, THE LAW OF ARMED CONFLICT: INTERNATIONAL HUMANITARIAN LAW, 2010, 1, 1.3(*Sources of the Law of Armed Conflict*), pp. 11-16; 2 (*Codes, Conventions, Declarations and Regulations*), pp. 38-56; 2(*Codes, Conventions, Declarations and Regulations*), pp. 38-56; 3, 3.8(*The 1949 Geneva Conventions*), pp. 81-106; 4, 4.2 (*The 1977 Additional Protocols*), pp.120-136; 5 (*Conflict Status*), pp.149-185; 15 (*Attacks on Cultural Property*), pp. 556-566; 16

(*The 1980 Certain Conventional Weapons Convention*), pp. 577-593; 17 (*Gas, Biological and Chemical Weapons Treaties*), pp. 600-622

- Robert Kolb and Gloria Gaggioli, ed., *RESEARCH HANDBOOK ON HUMAN RIGHTS AND HUMANITARIAN LAW*, 2013, Part I, 2(*Human Rights law and international humanitarian law between 1945 and aftermath of the Teharan Conference of 1968*), pp. 35-52; 3 (*Theories on the relationship between IHL and human rights law*), pp. 53-64; Part II, 5 (*The relationship between international human rights law and Humanitarian law: an overview*), pp.77-103; Part III (*The need for a Combined approach*), pp. 273-440; 26 (*The International Committee of Red Cross and Human Rights law*), pp. 540-569.
- Larry Maybee and Benarji Chakka, ed., *INTERNATIONAL HUMANITARIAN LAW: A READER FOR SOUTH ASIA*, 2008, 1 (*International Humanitarian Law*), pp.1-92; 5 (*International Humanitarian Law and Human Rights Law*), pp.134-156; 8 (*Protection of Prisoners of War*), pp.197-217; 9 (*Assistance to Civilian Population: the development and Present State of International Humanitarian Law*),pp.218-230; 10 (*The legal situation of Unlawful/Unprivileged Combatants*), pp. 231-257;11 (*Women and War—An Overview*), pp. 258-273
- Orna Ben-Naftali, ed. *INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL HUMAN RIGHTS LAW*, 2011, I, 1(*Introduction—IHL and International Human Rights Law*), pp.3-12; II, 2 (*Human Rights and Humanitarian Law as competing legal paradigms for fighting terror*), pp. 13-33; II, 3 (*The role of Human rights and IHL in new types of Armed Conflict*), pp. 34-94
- V.S. Mani ed., *OXFORD HANDBOOK OF INTERNATIONAL HUMANITARIAN LAW IN SOUTH ASIA*, 2010, Part I, 3 (*International Humanitarian Law in Ancient India*), pp. 25-38.
- Chandra .L. Sriram, O.M. Ortega and J. Herman, *WAR, CONFLICT AND HUMAN RIGHTS THEORY AND PRACTICE*, 2nd ed. 2014, Part 1 (*War and Human Rights: Critical Issues*), pp.1-80
- Brendan Simms and D.J.B. Trim, *HUMANITARIAN INTERVENTION : A HISTORY*, 2011, 1(*Towards a history of humanitarian intervention*), pp.1-24; Part V, 16 (*Humanitarian intervention since 1990 and 'liberal interventionism'*), 365-380; 17 (*Conclusion: Humanitarian intervention in historical perspective*), pp. 381-401
- Hans-Joachim Heintze and Andrej Zwitter, *INTERNATIONAL LAW AND HUMANITARIAN ASSISTANCE: A CROSS CUT THROUGH LEGAL ISSUES PERTAINING TO HUMANITARIANISM*, (*Convergence between Human Rights Law and International Humanitarian Law and the consequences for the implementation*), pp. 83-102
- SAHRDC, *HUMAN RIGHTS AND HUMANITARIAN LAW:DEVELOPMENTS IN INDIAN AND INTERNATIONAL LAW*, 2008, 4, 4.1(*Origin and development of International Humanitarian Law*),pp.139-142; 4.2(*Principles of International Humanitarian Law*),pp.143-151
- J.H. Bhuiyan, L.D. Beck and A.R.Chowdhury, *INTERNATIONAL HUMANITARIAN LAW – AN ANTHOLOGY*, 1st.ed. 2009, Ch.1 (*An Introduction to origin, evolution and development of IHL*), pp. 1-22; Ch.2 (*The Relationship between IHL and Human Rights*), pp. 23-56

- Anne Orford, *READING HUMANITARIAN INTERVENTION: HUMAN RIGHTS AND THE USE OF FORCE IN INTERNATIONAL LAW*, 2008, 1 (*The era of humanitarian intervention*), pp. 1-37; 6 (*The haunting of humanitarian intervention*), pp. 186-219
- David.L.Roberts and S.Subramanian, *HANDBOOK OF INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW*, Ch. 5 (*The International Committee of Red Cross*), pp.193-206
- M.K. Balachandran and Rose Varghese, ed. *INTRODUCTION TO INTERNATIONAL HUMANITARIAN LAW* , 1st ed. 2007, 4 (*Development of International Humanitarian Law*), pp. 112-119; 8(*Protection of Civilian population in the power of the enemy*), pp. 173-193; 9(*The Protection of Women in International Humanitarian Law*), pp. 194-215; 10 (*Captured Child Combatants*), pp. 216-227; 22 (*Abuse of the Red Cross Emblem*), pp. 374-386; 13 (*Implementing International Humanitarian Law*), pp. 250-273; 21 (*National Measures for the implementation of IHL- the Geneva Convention Act, 1960:A Study*), pp.363-373
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- Marko Milanovic, “*A Norm Conflict Perspective on the Relationship between International Humanitarian Law and Human Rights Law*”, *Journal of Conflict & Security Law*, 2009, pp.459-483 (Heinonline citation :Conflict & Sec. L. 459 2009)
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- L.R. Penna, “*Humanitarian Law in Ancient India*”, 1984, pp.235-239 (Heinonline citation: 23 Mil. L. & L. War Rev. 235 1984)
- S.K. Khanna, *WAR & HUMAN RIGHTS*, 2012, 2 (*Protocol Additional to Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict*), pp. 9-99; 3 (*Geneva Convention for the Amelioration of the condition of Wounded, Sick and Shipwrecked members of Armed forces at Sea*), pp.100-126; 4 (*Geneva Convention Relative to the Protection of Civilian Persons in Time of War*), pp.127-209; 5 (*Geneva Convention relative to the Treatment of Prisoners of War*), pp. 210-300; 6 (*Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*), 301-334
- K.Padmaja ed., *HUMANITARIAN LAWS AND OBLIGATIONS*, 1st ed. 2007, 1(*Right and Responsibility*), pp. 1-26; 2 (*Humanitarian Intervention and the State*),

- pp. 27-594 (*International Law and Small Arms and Light Weapons Control: Obligations, Challenges and Opportunities*), pp. 101-135
- K.Padmaja ed., HUMANITARIAN INTERVENTION: A LEGAL APPROACH, 1st ed. 2007, 1(*Humanitarian Intervention and State Responsibility*), pp.1-35; 7 (*International and Non-International Armed Conflicts*), pp. 143-172; 8(*Do UN Peacekeepers have a Duty to prevent Humanitarian Violations?*), pp. 173-190
 - Rene Provost, INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW, 2005, Part I, (*Introduction*), pp.1-13; 1(*Rights and procedural capacity*), pp.16-56; 2 (*Obligations and responsibility*), pp. 57-115; Part II, 3 (*Formation*), pp.127-151; 4 (*Application*), pp.152-181; 5 (*Sanction*), pp.182-235; 6 (*Areas of legal indeterminacy*), pp. 247-276.
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 - Matthew Lippman , “*Humanitarian Law: War on Women*”, 2000, pp.33-119 (Heinonline citation: 9 Mich. St. U.-DCL J. Int'l L. 33 2000)
 - Neil Brodie, “*Why Is No One Talking about Libya's Cultural Destruction?*”, pp.212-217, Near Eastern Archaeology, Vol. 78, No. 3, Special Issue: The Cultural Heritage Crisis in the Middle East (September 2015). (Electronic copy available at: <http://www.jstor.org/stable/10.5615/neareastarch.78.3.0212>)
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 - Giulia Pinzauti, “*The European Court of Human Rights’ Incidental Application of International Criminal Law and Humanitarian Law*”, Journal of International Criminal Justice 6 (2008), pp. 1043-1060 (Heinonline citation: 6 J. Int'l Crim. Just. 1043 2008)
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 - Sylvain Vrte, Protecting Children during Armed Conflict: International Humanitarian Law, (Heinonline citation: 5 Hum. Rts. & Int'l Legal Discourse 14 2011)
 - Valerie Oosterveld, Feminist Debates on Civilian Women and International Humanitarian Law (Heinonline citation: 27 Windsor Y.B. Access Just. 385 2009)
 - Joris D. Kila, Inactive, Reactive, or Pro-Active? Cultural Property Crimes in the Context of Contemporary Armed Conflicts, Journal of Eastern Mediterranean

INTERNATIONAL LEGAL INSTRUMENTS:

- The Convention for the Amelioration of the Condition of the Wounded in Armies in the field, 1864
- Convention (IV) respecting the Laws and Customs of War on Land, 1907
- Instructions for the Government of Armies of the United States in the field, General Order No. 100 (Liber Code)
- Declaration renouncing the use, in time of War, of Explosive projectiles under 400 Grammes Weight. St. Petersburg, 1868
- Brussels Declaration, 1874
- Protocol for the Prohibition of the Use of Asphyxiating, Poisonous gases and Other Gases and of Bacteriological methods of Warfare, 1925
- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949
- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949
- Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949
- Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts. Geneva, 8 June 1977.
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts. Geneva, 8 June 1977.
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 8 December 2005.
- Convention on the Rights of the Child, New York, 20 November 1989.
- Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, New York, 25 May 2000
- Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954.
- First Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954.
- Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 26 March 1999.
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 10 April 1972.
- Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, 10 December, 1976

- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects. Geneva, 10 October 1980.
- Protocol on non-detectable fragments (I), 1980
- Protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices (II), 1980
- Protocol on prohibitions or restrictions on the use of incendiary weapons (III), 1980
- Protocol on Blinding Laser Weapons (Protocol IV to the 1980 Convention), 13 October 1995.
- Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II to the 1980 Convention).
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- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, Paris 13 January 1993.
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- Principles of Nuremberg Trial, 1950
- Statute of International Criminal Tribunal for Rwanda, 1994
- International Tribunal for the Prosecution of Persons responsible for serious violations of International Humanitarian Law committed in the Territory of the Former Yugoslavia since 1991, 1993
- Statute of the International Criminal Court, Rome, 17 July, 1998
- Agreement for and Statute of the Special Court for Sierra Leone, 2002
- Geneva Convention Act, 1960
- Chemical Weapons Convention Act, 2000
- The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005