



**NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM**

**PROGRAMME: LL.M.**

**DETAILS OF COURSE OFFERED**

**EVEN SEMESTER – ACADEMIC YEAR 2022-23**

SL. No	COURSE CODE	COURSE TITLE	L	T	P	CR	CH
1.	2.2 IL OP-III	LAW OF INTERNATIONAL CRIMES AND CRIMINAL TRIBUNALS	2			2	2

**A. CODE AND TITLE OF THE COURSE: 2.2 IL OP-III LAW OF INTERNATIONAL CRIMES AND CRIMINAL TRIBUNALS**

**B. COURSE CREDIT: 2 (TOTAL MARKS 100)**

**C. MEDIUM OF INSTRUCTION: ENGLISH**

**D. COURSE COMPILED BY: DR. GITANJALI GHOSH**

**E. COURSE INSTRUCTOR: DR. GITANJALI GHOSH**

## **1. OBJECTIVE OF STUDY**

The objectives of the course are as follows:

- To provide students with an understanding of the development of international criminal law
- To introduce students to the principles of jurisdiction, elements of crimes, modes of liability, justifications and excuses, immunities under international criminal law
- To elucidate on the international crimes of war crimes, genocide, crimes against humanity, aggression, torture and terrorism
- To discuss various international criminal tribunals and courts including Nuremberg Tribunal, Tokyo Tribunal, ICTY, ICTR, ICC and mixed tribunals

## **2. COURSE LEARNING OUTCOME**

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

## **3. DETAILED STRUCTURE OF THE COURSE**

### **Module 1**

#### **Fundamentals of International Criminal Law**

Main features of International Criminal Law

Sources of International Criminal Law

Notion of International Crimes

Principle of Legality- Substantive Justice and Strict Legality

#### **Historical Evolution of International Criminal Law**

Early Attempts

Nuremberg and Tokyo Tribunals

Cold War Period

ICTY and ICTR

ICC

Hybrid or Mixed Courts

#### **International and National Jurisdiction**

Direct and Indirect Enforcement

Exclusive jurisdiction (Nuremberg Model)

Precedence of International Criminal Tribunals (UN Ad hoc Tribunals Model)

Precedence of Domestic Courts

Complementarity (ICC model)

## Module 2

### Elements of International Crimes

Objective Element  
Subjective Element  
Intent  
Special Intent (*Dolus Specialis*)  
Recklessness  
Knowledge  
Gross Negligence  
Negligence

### Modes of Criminal Liability

Perpetration  
Joint Criminal Enterprise  
Indirect Perpetration  
Co-perpetration  
Conspiracy  
Attempts  
Aiding and Abetting  
Ordering  
Planning and Preparation  
Instigating  
Inchoate Crimes  
Superior Responsibility  
Command Responsibility

### Circumstances excluding Criminal Liability

Self-defence  
Necessity and Duress  
Mistake of Fact  
Mistake of Law  
Intoxication  
Mental Incapacity  
Superior Orders

### Immunities

Classes of immunities  
Functional and personal immunities  
Lifting of immunities in cases of international crimes

## Module 3

### International Crimes

War Crimes  
Crimes Against Humanity  
Genocide  
Aggression  
Torture  
Terrorism

### **International Criminal Trials**

International Criminal Investigation  
Initiation of Proceedings  
Preparations for Trial  
Trial Proceedings  
Evidence  
Appeal  
Enforcement of Sentences

### **Status of Victims**

Victim Participation in International Criminal Proceedings  
Forms of Reparation

## **Module 4**

### **International Criminal Court**

Creation of the Court  
Jurisdiction of the Court  
Structure and administration of the Court  
Investigation, pre-trial, trial and appeal  
Punishment and its execution

### **UN ad hoc tribunals**

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 (ICTY)  
International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 (ICTR)

### **Hybrid or Mixed Tribunals**

Special Court for Sierra Leone  
Special Panels in the District Courts of Dili, East Timor  
Extraordinary Chambers in the Courts of Cambodia  
War Crimes Chamber for Bosnia and Herzegovina  
Special Tribunal for Lebanon

War Crimes Tribunal of Bangladesh  
Iraqi High Crimes Tribunal

#### **4. PRESCRIBED READINGS**

- ANTONIO CASSESE, INTERNATIONAL CRIMINAL LAW (2nd ed. OUP 2008).
- ILIAS BANTEKAS, INTERNATIONAL CRIMINAL LAW (4th ed. Hart Publishing 2010).
- ROBERT CRYER (et al), AN INTRODUCTION TO INTERNATIONAL CRIMINAL LAW AND PROCEDURE (Cambridge University Press 2007).
- WILLIAM A. SCHABAS AND NADIA BERNAZ (eds), ROUTLEDGE HANDBOOK OF INTERNATIONAL CRIMINAL LAW (Routledge 2011).
- WILLIAM A. SCHABAS, AN INTRODUCTION TO THE INTERNATIONAL CRIMINAL COURT (4th ed. Cambridge University Press 2011).