



**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.	2.3 (IL)	INTERNATIONAL HUMAN RIGHTS LAW				2	

**A. CODE AND TITLE OF THE COURSE: 2.3 (IL) INTERNATIONAL**

**HUMAN RIGHTS LAW**

**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. COURSE OBJECTIVES**

The course is designed to acquaint the students with the comprehensive and in-depth knowledge of human rights law in international and regional perspective. The students are motivated to learn about the historical development of the concept of human rights so that they develop an understanding of the reasons behind the emergence of human rights law in international as well as regional level.

Human rights law has pervaded all legal disciplines from public law, family, immigration, housing to actions against police, employment, challenging discrimination and defending the rights and freedoms of ordinary people and organizations. International human rights legal regime endeavours to achieve the universal recognition and implementation of human rights standards and norms. The promotion and protection of human rights is further supplemented by the development of regional human rights mechanisms, which is one of the most dynamic developments in the field of human rights law.

The objectives of the course are:

- To trace the historical evolution, development and philosophical foundations of human rights law in international and regional perspectives
- To familiarize students with the international legal framework and regional mechanisms for promotion and protection of human rights
- To develop comprehensive understanding about the internationally recognized human rights instruments and standards
- To explain elaborately the human rights treaty bodies system at the international level and their relevance in the implementation and enforcement of human rights standards
- To aid students in identifying the relevance of human rights standards in influencing the development of law and policy in both international and regional level

## **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.

## **3. EXPECTED OUTCOMES OF THE COURSE**

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

- Comprehend the subject matter of the course
- Be able to analyze contemporary international human rights 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 examinations shall be closed book.

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

##### **Module 1**

Historical Development of Human Rights

Obligations upon States under Customary International Law

Obligation of States to conform to international human rights standards

State responsibility for the violation of international human rights

Reservations and withdrawal of reservation to human rights treaties

##### **Module 2**

Charter based bodies and procedures for the promotion and protection of human rights

- UN General Assembly
- UN Security Council
- UN Economic and Social Council
  - Commission on the Status of Women
  - Commission on Human Rights
  - Sub-Commission on Prevention of Discrimination and Protection of Minorities, later renamed as Sub-Commission on the Promotion and Protection of Human Rights
  - Procedures for dealing with Gross Violations of Human Rights
    - 1235 Procedure
    - 1503 Procedure
- Human Rights Council
  - Institution-building of the United Nations Human Rights Council
    - Universal Periodic Review
    - Special Procedures
    - Advisory Committee
    - Complaint Procedure

Office of the High Commissioner for Human Rights (OHCHR)

### Module 3

International conventions and other instruments for the protection of human rights

- Racial Discrimination
- Civil and political rights
- Economic Social and Cultural Rights
- Women
- Children
- Torture
- Migrant Workers
- Persons with Disabilities
- Enforced Disappearance

Treaty bodies- Powers and functions

### Module 4

Regional Perspective on Human Rights – Historical Background, Treaties and other instruments, Institutions

- European system of Human Rights America
- American system of Human Rights
- African Regional system on Human Rights
- Arab system of Human Rights
- Asian system of Human Rights

#### 6. PRESCRIBED READINGS

- Henry J. Steiner, and Philip Alston, *International Human Rights in Context* (2nd edn, OUP 2000) 137-157, 214-222, 592-778, 987-1081, 1306-1361. 592-704. 159-211, 237-320, 512-537, 705-778.
- Philip Alston, *The United Nations and the Human Rights: A Critical Appraisal* (OUP 1992) 1-21, 620-675. 339-545.
- Philip Alston and James Crawford, *The Future of UN Human Rights Treaty Monitoring* 1-11 (2000).
- Robert Jennings and Arthur Watts, *Oppenheim's International Law Vol I* (OUP 1992) 499-539, 896-983.
- Robert Jennings and Arthur Watts, *Oppenheim's International Law Vol II* (OUP 1992) 983-1020.
- Sir Nigel Rodley 'International Human Rights Law' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 783-820.
- Thomas Buergenthal, 'The Evolving International Human Rights System' (2006) 100(4) AMERICAN JOURNAL OF INTERNATIONAL LAW 783-807.
- Thomas Buergenthal, 'The Normative and Institutional Evolution of International Human Rights' (1997) 19(4) HUMAN RIGHTS QUARTERLY 703-723.

- Naomi Roht-Arriaza, 'State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law' (1990) 78(2) CALIFORNIA LAW REVIEW 451-513.
- Elena A. Baylis, 'General Comment 24: Confronting the Problem of Reservations to Human Rights Treaties' (1999) 17(2) BERKELEY JOURNAL OF INTERNATIONAL LAW 277-329.
- Philip Alston, *The United Nations and the Human Rights: A Critical Appraisal* (OUP 1992) 25-336.
- Sir Nigel Rodley 'International Human Rights Law' in Malcolm D. Evans (ed), *International Law* (4th edn, OUP 2014) 783-820.
- Howard Tolley, Jr., 'The Concealed Crack in the Citadel: The United Nations Commission on Human Rights' Response to Confidential Communications' (1984) 6(4) HUMAN RIGHTS QUARTERLY 420-462.
- Mathew Davies, 'Rhetorical Inaction? Compliance and the Human Rights Council of the United Nations' (2010) 35 ALTERNATIVES 449-468.
- Patrizia Scannella and Peter Splinter, 'The United Nations Human Rights Council: A Promise to be fulfilled' (2007) 29 HUMAN RIGHTS QUARTERLY 41-72.
- Rhona Smith, 'To See Themselves as Others see them: The Five Permanent Members of the Security Council and the Human Rights Council's Universal Periodic Review' (2013) 35(1) HUMAN RIGHTS QUARTERLY 1-31.
- Philip Alston and James Crawford, *The Future of Human Rights Treaty Monitoring* (Cambridge University Press 2000).
- Ineke Boerfijn, *Towards a Strong System of Supervision: The Human Rights Committee's Reforming the Reporting Procedure under Article 40 of the Convention on Civil and Political Rights*, 17, HUMAN RIGHTS QUARTERLY, 766-793 (1995).
- Philip Alston and Gerard Quinn, *The Nature and Scope of State Parties' Obligations under the International Covenant on Economic, Social and Cultural Rights*, 9, HUMAN RIGHTS QUARTERLY, 156-222 (1987)
- Drew Mahalic, Joan Gambee Mahalic, *The Limitation Provisions of the International Convention on the Elimination of All Forms of Racial Discrimination*, 9, HUMAN RIGHTS QUARTERLY, 74-101 (1987)
- William F. Felice, *The United Nations Committee on the Elimination of All Forms of Racial Discrimination: Race and Economic and Social Human Rights*, 24, HUMAN RIGHTS QUARTERLY, 205-236 (2002)
- Alice Edwards, *The Optional Protocol to the Convention against Torture and the Detention of Refugees*, 57, INTERNATIONAL AND COMPARATIVE LAW QUARTERLY, 789-826 (2008)
- Manfred Nowak, 'What Practices constitute Torture? US and UN Standards' (2006) 28 HUMAN RIGHTS QUARTERLY 809-841
- Andrew Byrnes and Eleanor Bath, 'Violence against Women, the Obligation of Due Diligence, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women- Recent Developments' (2008) 8(3) HUMAN RIGHTS LAW REVIEW 517-533.
- Michael Freeman, 'Why it remains important to take Children's Rights Seriously' (2007) 15 INTERNATIONAL JOURNAL OF CHILDREN'S RIGHTS 5-23.
- Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran, *International Human Rights Law*, (2nd edn, 2014) 398-413, 416-438, 441-456.

- Philip Alston and Ryan Goodman, *International Human Rights– The Successor to International Human Rights in Context: Law, Politics and Morals* (2013), 891-976, 978-1024, 1025-1046.
- Rhona K.M. Smith, *Textbook On International Human Rights* (4th edn, 2010) 84-93, 94-115, 116-133, 134-148.
- Theodor Meron, *Human Rights in International Law: Legal and Policy Issues* (2011) 439-487, 495-535.

### **International Conventions and Protocols**

- Charter of the United Nations (adopted 24 October 1945) I UNTS XVI.
- Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.
- International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195.
- International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.
- Optional Protocol to the International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.
- Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty (adopted 15 December 1989, entered into force 11 July 1991) A/RES/44/128.
- International Covenant on Economic, Social and Cultural Rights, (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (adopted 5 March 2009) A/RES/63/117.
- Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (adopted 6 October 1999, entered into force 22 December 2000) 2131 UNTS 83.
- Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (adopted 16 March 2001, entered into force 18 January 2002) A/RES/54/263.
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (adopted 25 May 2000, entered into force 12 February 2002) A/RES/54/263.
- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure 2011 (adopted 19 December 2011, entered into force 14 April 2014) A/RES/66/138.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85.
- Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 9 January 2003, entered into force 22 June 2006) A/RES/57/199.

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3.
- Convention for the Protection of All Persons from Enforced Disappearance (adopted 20 December 2006, entered into force 23 December 2010) 2716 UNTS 3.
- Convention on the Rights of Persons with Disabilities (adopted 24 January 2007, entered into force 3 May 2008) 2515 UNTS 3.
- Optional Protocol to the Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) A/RES/61/106.

## Europe

- European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 (adopted 4 November 1950, entered into force 03 September 1953) ETS No. 005
- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 20/3/1952, entered into force 18 May 1954) ETS No. 009
- Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions (adopted 6/5/1963, entered into force 21 September 1970) ETS No. 044
- Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention (adopted 6 May 1963, entered into force 21 September 1970) ETS No. 045
- Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto (adopted 16 September 1963, entered into force 2 May 1968) ETS No. 046
- Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention (adopted 20 January 1966, entered into force 20 December 1971) ETS No. 055
- Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty (adopted 28 April 1983, entered into force 1 March 1985) ETS No. 114
- Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 22 November 1984, entered into force 1 November 1988) ETS No. 117
- Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 19 March 1985, entered into force 1 January 1990) ETS No. 118
- Protocol No. 9 to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 6 November 1990, entered into force 1 October 1994) ETS No. 140
- Protocol No. 10 to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 25 March 1992) ETS No. 146
- Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby (adopted 11 May 1994, entered into force 1 November 1998) ETS No. 155
- Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 2000, entered into force 1 April 2005) ETS No. 177
- Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (adopted 3 May 2002, entered into force 1 July 2003) ETS No. 187

- Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (adopted 13 May 2004, entered into force 1 June 2010) ETS No. 194
- Protocol No. 14bis to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 27 May 2009, entered into force 1 October 2009) ETS No. 204
- Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 24 June 2013, entered into force 1 August 2021) ETS No. 213
- Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 2 October 2013, entered into force 1 August 2018) ETS No. 214

#### America

- American Convention on Human Rights, 1969 (adopted 22 November 1969, entered into force 18 July 1978)
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988 (adopted 14 November 1988, entered into force 16 November 1999)

#### Africa

- African Charter on Human and Peoples' Rights, 1981 (adopted 17 June 1981, entered into force 21 October 1986)
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (adopted 10 June 1998, entered into force 25 January 2004)
- Protocol on the Statute of the African Court of Justice and Human Rights (adopted on 1 July 2008)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003 (adopted 11 July 2003, entered into force November 2005)

#### Arab

- Arab Charter on Human Rights, 2004 (adopted on 22 May 2004, entered into force 16 March 2008)

#### Asia

- Asian Human Rights Charter, 1998
- Association of Southeast Asian Nations Human Rights Declaration, 2012

#### **Resolutions**

- International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, November 2001, Supplement No. 10 (A/56/10), chp.IV.E.1.
- UNGA Res 56/83 'Responsibility of States for internationally wrongful acts: Resolution adopted by the General Assembly' (28 January 2002) A/RES/56/83.
- UN Commission on Human Rights, Resolution 2005/35 on Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of

International Human Rights Law and Serious Violations of International Humanitarian Law (19 April 2005) E/CN.4/RES/2005/35.

- Economic and Social Council Resolution 1235 (XLII), 42 U.N. ESCOR Supp. (No. 1) at 17, U.N. Doc. E/4393 (1967)
- Economic and Social Council Resolution 1503 (XLVIII), 48 U.N. ESCOR (No. 1A) at 8, U.N. Doc. E/4832/Add.1 (1970):
- UNGA Res 60/251 'Human Rights Council' (15 March 2006) A/RES/60/251.
- UN Human Rights Council Res<sup>[L]</sup><sub>[SEP]</sub>5/1 'Institution-building of the United Nations Human Rights Council' (18 June 2007) A/HRC/RES/5/1.