



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

**LL.M. ONE YEAR PROGRAMME**

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER – ACADEMIC YEAR : 2023-2024**

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

**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 KASTURI GAKUL**

**E. COURSE INSTRUCTOR: DR KASTURI GAKUL**

## 2. COURSE OBJECTIVES

The objectives of the course are:

- To trace the historical evolution, development and philosophical foundations of humanitarian law in international perspective.
- To develop comprehensive understanding about the internationally recognized Humanitarian law treaties and instruments.
- To familiarize students with the international legal framework on humanitarian law prohibiting means and methods of warfare during international and non-international armed conflict.
- To acquaint students with the mechanisms for the effective implementation and enforcement of humanitarian law in national and international sphere.

## 3. COURSE LEARNING OUTCOMES

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

- Understand the nuances of each module and comprehend the intricacies of various International Humanitarian law treaties
- 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.
- Acquire the skill of analytical in-depth research along with a publishable research work and improve their knowledge-base and be encouraged to pursue the subject at the post-graduate level
- Undertake future research work on humanitarian law at Ph.D. level.

## 4. DETAILED STRUCTURE OF THE COURSE

### 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.

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

**Enforcement of IHL:** 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.

## **MODULE IV**

**Refugee Law:** Meaning and Concept of Refugees; Status and Rights of Refugees; International Refugee Law; Regional Legal Framework – Europe; Africa and Latin America; Role of United Nations High Commissioner for Refugees (UNHCR); Human Rights and Refugees; Principle of Non-Refoulement; Environmental Refugees ; Global Compact on Refugees; Global Humanitarian Response Plan COVID-19; Refugee Law and India

**Stateless Persons:** Definition of Stateless Person; Causes and Consequences of Statelessness; International Framework on Statelessness – Identification; Prevention; Reduction and Protection; Rights of Stateless Persons; Role of UNHCR and Statelessness; Sustainable development and Statelessness; Statelessness and India

**Internally Displaced Persons:** Meaning and Concept of Internally Displaced Persons (IDPs); Causes and Consequences of Internal Displacement; Legal Framework on IDPs – International Human Rights Law; International Humanitarian Law and International Criminal Law; Guiding Principles on Internal Displacement; International Institutional Legal Framework - Collaborative response mechanisms; The cluster approach and United Nations Peacekeeping Operations and Integrated Missions; Regional Instrument on IDPs; IDPs and India

### **5. PRESCRIBED READINGS**

- Brendan Simms and D.J.B. Trim, HUMANITARIAN INTERVENTION : A HISTORY, 2011
- Chandra .L. Sriram, O.M. Ortega and J. Herman, WAR, CONFLICT AND HUMAN RIGHTS THEORY AND PRACTICE, 2<sup>nd</sup> ed. 2014
- Emily Crawford and Alison Pert, INTERNATIONAL HUMANITARIAN LAW, 1<sup>st</sup> ed. 2015
- Gary. D. Solis, THE LAW OF ARMED CONFLICT: INTERNATIONAL HUMANITARIAN LAW, 2010
- Illas Banteks and Lutz Oette, INTERNATIONAL HUMAN RIGHTS LAW AND PRACTICE, 2013,
- Larry Maybee and Benarji Chakka, ed., INTERNATIONAL HUMANITARIAN LAW: A READER FOR SOUTH ASIA, 2008
- M.K. Balachandran and Rose Varghese, ed. INTRODUCTION TO INTERNATIONAL HUMANITARIAN LAW , 1<sup>st</sup> ed. 2007
- Naorem Sanajoba, ed. A MANUAL OF INTERNATIONAL HUMANITARIAN LAWS, 2004
- Orna Ben-Naftali, ed. INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL HUMAN RIGHTS LAW, 2011

- Robert Kolb and Gloria Gaggioli, ed., RESEARCH HANDBOOK ON HUMAN RIGHTS AND HUMANITARIAN LAW, 2013
- V.S. Mani ed., OXFORD HANDBOOK OF INTERNATIONAL HUMANITARIAN LAW IN SOUTH ASIA 2010