



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

LL.M. ONE YEAR PROGRAMME

DETAILS OF COURSE OFFERED

ODD SEMESTER – ACADEMIC YEAR : 2022-2023

SL. NO	COURSE CODE	COURSE TITLE	L	T/P	CR	CH
1	2.2 HR OP III	INTERNATIONAL HUMANITARIAN LAW	2 PER WEEK		2	

A. CODE AND TITLE OF THE COURSE: 2.2 HR OP III

INTERNATIONAL HUMANITARIAN 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.

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.

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.

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

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, 2nd ed. 2014
- Emily Crawford and Alison Pert, INTERNATIONAL HUMANITARIAN LAW, 1st 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 , 1sted. 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