



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

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

**DETAILS OF COURSE OFFERED**

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

<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>BL904.9 (INTERNATIONAL LAW, OPTIONAL PAPER- VI)</b>	<b>REFUGEE LAW</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE: BL904.9 (INTERNATIONAL LAW, OPTIONAL PAPER – VI) , REFUGEE 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**

Every individual has the human right to live with dignity and freedom. For all around development it is imperative that human beings be provided with basic necessities of food, clothing and shelter along with education, health care, protection against violence and access to justice. Unfortunately a large section of the world population constitutes of people who are refugees, stateless persons and internally displaced persons who are denied basic human rights. As per the United Nations High Commissioner for Refugees 25.9 million refugees have fled from conflict or persecution. People within their own country though under the protection of their government are displaced owing to human rights violations, armed conflict and natural disasters. According to Internal Displacement Monitoring Centre at the end of 2018, 41.3 million people have been internally displaced. Forced displacements of nationals within their own country make them susceptible to unimaginable exploitation and discrimination. Being denied of nationality by any country renders people stateless who face difficulties in even accessing basic rights and endure lifelong obstacles. Another global phenomenon that is growing in scope, complexity and impact is that of international migration which has drawn the attention of the world community to frame new policies for dealing with concerns arising out of such migration patterns in ever expanding globalizing world. Refugees run from their home; Internally Displaced Persons are on the run at home and Stateless persons have no home. Against this backdrop the course has been designed to explore and examine these vulnerable sections of the world population in the context of their status, rights, causes and consequences and to critically discuss about refugees, stateless persons, internally displaced persons and international migration within the framework of international, regional and Indian perspective.

The objectives of the course are:

- i. To develop comprehensive understanding about the concepts of refugee, stateless person, internally displaced persons and migration.
- ii. To familiarize students with the international and regional legal framework relating to refugees, stateless persons and internally displaced persons.
- iii. To study the causes and consequences of statelessness, internal displacement and migration.
- iv. To explain elaborately the significance and relevance of the law relating to refugee, stateless person, internally displaced persons and migration in contemporary times.
- v. To discuss the role of United Nations High Commissioner for Refugees.
- vi. To acquaint students with the existing international standards relating to migration.
- vii. To critically examine the position of India with regard to refugees, stateless persons, internally displaced persons and migration.

## **2. TEACHING METHODOLOGY**

The teaching methodology shall aim at the generation of critical thinking among the students. For teaching Refugee 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 refugee 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 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 the international and regional legal framework on refugees, stateless persons, internally displaced persons and international migration.
2. Be able to analyze the contemporary problems pertaining to refugees, stateless persons, internally displaced persons and migration 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 law relating to refugees, stateless persons, internally displaced persons and migration at Ph.D. level.

### 4. COURSE EVALUATION METHOD

The course shall be assessed for 200 marks. The Evaluation scheme would be as follows:

Internal assessment: 70% (140 marks)

Semester End Examination: 30% (60 marks)

Sl.	Marks Distribution	
1	Project Work	40 marks
2	Seminar/Group Discussion	20 marks
3	Assignment/Assessment	30 marks
4	Mid-Semester Test	40 marks
5	Attendance in class	10 marks
6	Semester End Examination	60 marks

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

#### MODULE I

## **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

## **MODULE II**

### **STATELESSNESS**

- 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

## **MODULE III**

### **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

## **MODULE IV**

### **INTERNATIONAL MIGRATION**

- Meaning of Migrant
- Concepts of Migration
- Causes and consequences of international migration
- International Organisation for Migration
- United Nations and Migration – Protection of migrants; human rights of migrants; international migration and development; migrant children and adolescents
- International standards
- Special Rapporteur on Human rights of migrants
- International Labour Organisation
- Migration and India

### **6. PRESCRIBED READINGS**

- James C. Hathaway, *The Rights of Refugees under International Law* (Cambridge University Press, 2012) Chapters 2, 3, 4, 5, 6 and 7
- K. Padmaja, *Law of Refugees: Global Perspectives* (The Icfai University Press, 2007) Chapters 2,3,4 and 7
- Michelle Foster, *International Refugee Law and Socio-Economic Rights: Refuge from Deprivation* (Cambridge University Press, 2007) Chapters 2, 3, 5 and 6
- Anneke Smit, *The Property Rights of Refugees and Internally Displaced Persons: Beyond Restitution* (Routledge, 2012) Chapters 1, 2 and 3
- Guy S Goodwin Gill and Jane McAdam, *The Refugee in International Law* (Oxford University Press, 2011) Chapters 1,2,3,4,5,6,7,8,9 and 10
- Veronika Flegar, *Vulnerability and the Principle of Non-Refoulement in the European Court of Human Rights: Towards an Increased Scope of Protection for Persons Fleeing from Extreme Poverty*, [Heinonline citation: 8 Contemp. Readings L. & Soc. Just. 148, 169 (2016)]
- Martina Federica Manfredi, *Non-Refoulement, Interception and Push-back Policies*, 6 *Cogito: Multidisciplinary* [Heinonline citation: Res. J. 44, 52 (2014)]

- Hassan Faruk Al Imran, *An Overview of Development of Gender Based Persecution in Refugee Law under Membership of a Particular Social Group: A Study of Comparative Jurisprudence of Canada, UK & USA* [Heinonline citation: 39 J.L. Pol'y & Globalization 258, 275 (2015)]
- Guy S. Goodwin-Gill, *The Right to Seek Asylum: Interception at Sea and the Principle of Non-Refoulement*, [Heinonline citation: 23 Int'l J. Refugee L. 443, 457 (2011)]
- Mark R. von Sternberg, *Reconfiguring the Law of Non-Refoulement: Procedural and Substantive Barriers for Those Seeking to Access Surrogate International Human Rights Protection*, [Heinonline citation: 2 J. on Migration & Hum. Sec. 329, 360 (2014)]
- Markandey Katju, *India's Perception of Refugee Law*, [Heinonline citation: 1 ISIL Y.B. Int'l Human. & Refugee L. 251, 253 (2001)]
- Alice Farmer, *Non-Refoulement and Jus Cogens: Limiting Anti-Terror Measures that Threaten Refugee Protection*, [Heinonline citation: 23 Geo. Immigr. L.J. 1, 38 (2008)]
- Heather Alexander; Johnathan Simon, *Unable to Return in the 1951 Refugee Convention: Stateless Refugees and Climate Change*, [Heinonline citation: 26 Fla. J. Int'l L. 531, 574 (2014)]
- Jennifer Bond, *Principled Exclusions: A Revised Approach to Article 1(F)(A) of the Refugee Convention*, [Heinonline citation: 35 Mich. J. Int'l L. 15, 78 (2013)]
- Saul Takahashi, *Recourse to Human Rights Treaty Bodies for Monitoring of the Refugee Convention*, [Heinonline citation: 20 Neth. Q. Hum. Rts. 53, 74 (2002)]
- Alysia Blackham, *A Proposal for Enhanced Supervision of the Refugee Convention*, [Heinonline citation: 26 J. Refugee Stud. 392, 415 (2013)]
- Marina Sharpe, *The 1969 African Refugee Convention: Innovations, Misconceptions, and Omissions*, [Heinonline citation: 58 McGill L. J. 95, 148 (2012)]
- Laura Story Johnson, *Environment, Security and Environmental Refugees*, [Heinonline citation: 1 J. Animal & Env'tl. L. 222, 248 (2010)]
- Brittan J. Bush, *Redefining Environmental Refugees*, [Heinonline citation: 27 Geo. Immigr. L.J. 553, 578 (2013)]
- Elena Andreevska, *The Legal Protection of Refugee: Western Balkanas*, [Heinonline citation: 23 Lex ET Scientia Int'l J. 85, 99 (2016)]
- Alex Catalan Flores, *Reconceiving Burden-Sharing in International Refugee Law*, [Heinonline citation: 7 King's Student L. Rev. 40, 51 (2016)]
- Jessica B. Cooper, *Environmental Refugees: Meeting the Requirements of the Refugee Definition*, [Heinonline citation: 6 N.Y.U. Env'tl. L.J. 480, 530 (1998)]
- David C. Baluarte, *The Risk of Statelessness: Reasserting a Rule for the Protection of the Right to Nationality*, [Heinonline citation: 19 Yale Hum. Rts. & Dev. L.J. 47 (2017)]
- David S. Weissbrodt; Kurt A. Meyer, *Nationality and Statelessness under International Law*, [Heinonline citation: 37 Hum. Rts. Q. 817 (2015)]
- Haina Lu; Wanyuan Hao, *Protection of Stateless Persons in China: A Human Rights Perspective*, [Heinonline citation: 12 Frontiers L. China 404 (2017)]

- Laura Van Waas, *Are We There Yet - The Emergence of Statelessness on the International Human Rights Agenda*, [Heinonline citation: 32 Neth. Q. Hum. Rts. 342 (2014)]
- Laura van Waas, *Statelessness: A 21st Century Challenge for Europe*, [Heinonline citation: 20 Security & Hum. Rts 133 (2009)]
- Mark Manly, *UNHCR's Mandate and Activities to Address Statelessness in Europe*, [Heinonline citation: 14 Eur. J. Migration & L. 261 (2012)]
- Paul Weis, *The United Nations Convention on the Reduction of Statelessness, 1961*, [Heinonline citation: 11 Int'l & Comp. L.Q. 1073 (1962)]
- Tamas Molnar, *Remembering the Forgotten: International Legal Regime Protecting the Stateless Persons - Stocktaking and New Tendencies*, [Heinonline citation: 11 US-China L. Rev. 822 (2014)]
- Jay Milbrandt, *Adopting the Stateless*, 39 Brook. J. Int'l L. (2014). (Available at: <http://brooklynworks.brooklaw.edu/bjil/vol39/iss2/4>)
- UN High Commissioner for Refugees (UNHCR), *The Sustainable Development Goals and Addressing Statelessness*, March 2017 (Available at: <https://www.refworld.org/docid/58b6e3364.html>)
- Manoj Kumar Sinha, *Handbook of Legal Instruments on International Human Rights and Refugee Laws* (Lexis Nexis 2014) Sections 11, 12
- Silska, Magdalena, *Protection of Internally Displaced Persons: An International Legal Obligation*, *Polish Yearbook of International Law*, Vol. 34, pp. 249-274; 34 Polish Y.B. Int'l L. 249 (2014)
- Leonard C. Opara, Deon Erasmus & Leah Ndimouwuri, *Enhancing Protection of Internally Displaced Persons through Domestic Law and Policy*, 10 Nnamdi Azikiwe U. J. Int'l L. & Juris. 77 (2019).
- Susan Harris Rimmer, *Reconceiving Refugees and Internally Displaced Persons (IDPS) as Transitional Justice Actors*, 2 Contemp. Readings L. & Soc. Just. 163 (2010).
- Promod Nair, *Towards a Regime for the Protection of Internally Displaced Persons*, 1 ISIL Y.B. Int'l Human. & Refugee L. 183 (2001).
- Edwin Odhiambo Abuya & Charles Ikobe, *Wasted Lives: Internally Displaced Persons Living in Camps in Kenya*, 1 J. Int'l Human. Legal Stud. 233 (2010).
- Thilini Kahandowaarachchi, *Internally Displaced Persons: What Can the UNHCR Do about Them*, 18 Sri Lanka J. Int'l L. 421 (2006).
- Luke T. Lee, *Internally Displaced Persons and refugees: Toward a Legal Synthesis*, 9 J. Refugee Stud. 27 (1996).
- Catherine Phuong, *Internally Displaced Persons and Refugees: Conceptual Differences and Similarities*, 18 Neth. Q. Hum. Rts. 215 (2000).
- Luke T. Lee, *Protection of Internally Displaced Persons in Internal Conflicts*, 3 ILSA J. Int'l & Comp. L. 529 (1997).
- Luke T. Lee, *The Refugee Convention and Internally Displaced Persons*, 13 Int'l J. Refugee L. 363 (2001).
- Nils Geissler, *The International Protection of Internally Displaced Persons*, 11 Int'l J. Refugee L. 451 (1999).
- Iryan Basova, *Internally Displaced Persons and Their Legal Status*, 26 Juridica Int'l 113 (2017).
- Roberta Cohen, *International Protection for Internally Displaced Persons*, 26 Stud. Transnat'l Legal Pol'y 17 (1994).

- Wani, Ibrahim J. International Migration and Human Rights ; *African Yearbook of International Law*, Vol. 16, pp. 197-212; 16 Afr. Y.B. Int'l L. 197 (2008)
- Binod Khadria, Perveen Kumar, Shantanu Sarkar and Rashmi Sharma, *International Migration Policy: Issues and Perspectives for India*, (Available at: lib.jnu.ac.in › pdf › imds\_p › IMDS\_Dec\_2008\_WP\_1)
- Khalid Koser, Introduction: International Migration and Global Governance, 16 *Global Governance* 301 (2010).
- Ina Raluca Tomescu, International Migration: Security Implications, 6 *Res. & Sci. Today* 63 (2013).
- Robert E. B. Lucas, International Migration: Economic Causes, Consequences and Evaluation, 15 *Int'l Migration Rev.* 84 (1981).
- Scott Berridge, International Migration Patterns Amid Globalization, 139 *Monthly Lab. Rev.* 1 (2016).
- Iulia Coman-Cristea, The Evolution of the International Migration System, 16 *Res. & Sci. Today* 72 (2018).
- Justin Gest, Avoiding Evasion: Implementing International Migration Policy, 24 *Geo.Immigr. L.J.* 639 (2010).
- Rogers Brubaker, International Migration: A Challenge for Humanity, 25 *Int'l Migration Rev.* 946 (1991).
- Mary M. Kritz, International Migration Policies: Conceptual Problems, 21 *Int'l Migration Rev.* 947 (1987).
- Rainer Baubock, International Migration, Immobility and Development, 33 *Int'l Migration Rev.* 199 (1999).
- Christopher Mitchell, International Migration, International Relations and Foreign Policy, 23 *Int'l Migration Rev.* 681 (1989).
- United Nations, Department of Economic and Social Affairs Population Division, International Migration 2019 Report (Available at: [https://www.un.org/en/development/desa/population/migration/publications/migration-report/docs/InternationalMigration2019\\_Report.pdf](https://www.un.org/en/development/desa/population/migration/publications/migration-report/docs/InternationalMigration2019_Report.pdf))

### **International and Regional Instruments:**

- 1951 Convention relating to the Status of Refugees
- 1967 Optional Protocol relating to the Status of Refugees
- Universal Declaration of Human Rights
- Convention on the Rights of the Child
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts
- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- The New York Declaration for Refugees and Migrants
- American Declaration on the Rights and Duties of Man
- American Convention on Human Rights



- Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama (Cartagena Declaration)
- African [Banjul] Charter on Human and Peoples' Rights
- OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa
- Arab Charter on Human Rights
- Cairo Declaration on Human Rights in Islam
- European Convention on Human Rights
- Council Regulation EC No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) Guiding Principles on Internal Displacement
- Handbook for Parliamentarians (IPU/UNHCR)
- ICGLR Protocol on the Protection and Assistance to Internally Displaced Persons
- 1954 Convention relating to the Status of Stateless Persons
- 1961 Convention on the Reduction of Statelessness
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- ILO, Migration for Employment Convention (Revised), 1949
- ILO, Recommendation No. 86 concerning Migration for Employment (Revised 1949)
- ILO, Convention No. 143 concerning Migrant Workers
- ILO, Recommendation No 151 concerning Migrant Workers (1975)
- United Nations Convention against Transnational Organized Crime and its Protocols
- Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, 13 December 1985
- Durban Declaration and Programme of Action (2001)
- Recommended Principles and Guidelines on Human Rights and Human Trafficking- Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council- E/2002/68/Add.1
- Resolution of the General Assembly on the protection of migrants, 2012 - A/RES/67/172
- Resolution of the Human Rights Council on the human rights of migrants, 2013 - A/HRC/RES/23/20

## **Resolutions**

### *General Assembly*

A/RES/69/167 Protection of migrants

A/RES/69/229 International migration and development  
A/RES/69/149 Trafficking in women and girls  
A/RES/69/152 Office of the United Nations High Commissioner for Refugees  
A/RES/69/154 Assistance to refugees, returnees and displaced persons in Africa  
A/RES/69/187 Migrant children and adolescents  
*ECOSOC*  
E/Res/2014/23 Strengthening international cooperation in addressing the smuggling of  
migrants (E/2014/30, chap. I, sect. B, draft resolution III, and  
E/2014/SR.45)