



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

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

**DETAILS OF COURSE OFFERED**

**ODD SEMESTER (VII) – 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>BL703.7 CRIMINAL LAW OPTIONAL PAPER- I</b>	<b>INTERNATIONAL CRIMINAL LAW-I</b>	<b>4 PER WEEK</b>	<b>1 PER WEEK</b>	<b>4</b>	

- A. CODE AND TITLE OF THE COURSE: BL703.7( CRIMINAL LAW  
OPTIONAL LAW – I) , INTERNATIONAL CRIMINAL LAW -I**
- B. COURSE CREDIT: 4 (TOTAL MARKS 200)**
- C. MEDIUM OF INSTRUCTION: ENGLISH**
- D. COURSE COMPILED BY: DR. GITANJALI GHOSH**
- E. COURSE INSTRUCTOR: DR. GITANJALI GHOSH**

## **1. COURSE OBJECTIVES**

Criminal law is generally perceived of being in the municipal domain. However, starting from Nuremberg to the International Criminal Court, there is an entire regime governing international crimes that needs to be thoroughly studied as well.

In the light of the growing importance of international criminal law, it is not only desirable but also imperative for students to have a thorough knowledge of the subject. Hence, the primary objective of this course is to generate and sustain an interest to study international criminal law in the minds of the students.

As the students are already familiar with the basics of criminal and international law, this course will take their study one notch higher.

The objectives of the course, in particular, are as follows:

- Provide students with an understanding of the development of international criminal law
- Introduce students to the principles of jurisdiction, elements of crimes, modes of liability, justifications and excuses, immunities under international criminal law
- Elucidate on the international crimes of war crimes, genocide, crimes against humanity, aggression, torture and terrorism

## **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. Movie reviews substantiating their importance to the course syllabus is a novel feature of this class.

## **3. COURSE LEARNING OUTCOMES**

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 criminal 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 criminal law for further studies

#### 4. COURSE EVALUATION METHOD

The Course shall be assessed out of 200 marks. The impetus is on Continuous Assessment. The Evaluation scheme is as follows:

Internal Assessment :70% (140 marks)

Semester End Examination :30% (60 marks)

Sl. No.	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

##### 1.1 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

##### 1.2 Historical Evolution of International Criminal Law

Early Attempts  
Nuremberg and Tokyo Tribunals  
Cold War Period  
ICTY and ICTR  
ICC  
Hybrid or Mixed Courts

##### 1.3 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 II**

### **2.1 Elements of International Crimes**

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

### **2.2 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

### **2.3 Circumstances excluding Criminal Liability**

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

### **2.4 Immunities**

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

## **MODULE III**

### **3.1 War Crimes**

Notion of the offence

Origin of the offence

Link between the offence and armed conflict- international or non-international

Objective Elements of the offence

Subjective Elements of the offence

### **3.2 Crimes Against Humanity**

Notion of the offence

Origin of the offence

Objective Elements of the offence

Subjective Elements of the offence

### **3.3 Genocide**

Notion of the offence

Origin of the offence

Objective Elements of the offence

Subjective Elements of the offence

Genocide Convention

## **MODULE IV**

### **4.1 Aggression**

Notion of the offence

Origin of the offence

Objective Elements of the offence

Subjective Elements of the offence

### **4.2 Torture**

Notion of the offence

Origin of the offence

Objective Elements of the offence

Subjective Elements of the offence

Torture under international human rights law

### **4.3 Terrorism**

Notion of the offence

Origin of the offence

Efforts to codify

Diverse forms

## 6. PRESCRIBED READINGS

- Antonio Cassese, *International Criminal Law* (2nd edn, OUP 2008) Chapters 1, 2, 14, 15 and 16.
- Gerhard Werle and Florian Jessberger, *Principles of International Criminal Law* (3rd edn, OUP 2014) Part One (A, B, D, F, G, H)
- Ilias Bantekas and Susan Nash, *International Criminal Law* (3rd edn, Routledge-Cavendish 2007) Chapters 1 and 4.
- Ilias Bantekas, *International Criminal Law* (4th edn, Hart Publishing 2010) Chapter 1.
- Mohamed M. El Zeidy, *The Principle of Complementarity in International Criminal Law: Origin, Development and Practice* (Martinus Nijhoff Publishers 2008).
- Robert Cryer (et al), *An Introduction to International Criminal Law and Procedure* (Cambridge University Press 2007) Chapters 1, 2, 3 and 4.
- Robert Cryer, *Prosecuting International Crimes* (Cambridge University Press 2005) Chapter 1.
- Ronald C. Slye and Beth Van Schaack, *International Criminal Law* (Wolters Kluwer Law & Business 2009) Chapters 1, 2, 3, 4 and 5.
- Christopher Stephen, 'International Criminal Law: Wielding the Sword of Universal Criminal Justice', (2012) 61(1) INTERNATIONAL AND COMPARATIVE LAW QUARTERLY 55-89.
- Antonio Cassese, *International Criminal Law* (2nd edn, OUP 2008) Chapters 3, 9, 10, 11, 12 and 13.
- Geert-Jan Alexander Knoops, *Defences in Contemporary International Criminal Law* (2nd edn, Martinus Nijhoff Publishers 2008).
- Gerhard Werle and Florian Jessberger, *Principles of International Criminal Law* (3rd edn, OUP 2014) Part Two (A, B, C, D, E, F, G, H)
- Ilias Bantekas and Susan Nash, *International Criminal Law* (3rd edn, Routledge-Cavendish 2007) Chapters 2, 3 and 4.
- Ilias Bantekas, *International Criminal Law* (4th edn, Hart Publishing 2010) Chapters 2, 3, 4 and 5.
- Robert Cryer (et al), *An Introduction to International Criminal Law and Procedure* (Cambridge University Press 2007) Chapters 15 and 16.
- Robert Cryer, *Prosecuting International Crimes* (Cambridge University Press 2005) Chapter 6.
- Ronald C. Slye and Beth Van Schaack, *International Criminal Law* (Wolters Kluwer Law & Business 2009) Chapter 10.
- William A. Schabas and Nadia Bernaz (eds), *Routledge Handbook of International Criminal Law* (Routledge 2011) Chapters 15 and 22.
- Beatrice Krebs, 'Justifications and Excuses in Article 31(3) of the Rome Statute' (2013) 2(3) CAMBRIDGE JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW 382-410.
- Antonio Cassese, *International Criminal Law* (2nd edn, OUP 2008) Chapters 4, 5, 6, 7, 8, 20 and 21.
- Gerhard Werle and Florian Jessberger, *Principles of International Criminal Law* (3rd edn, OUP 2014) Parts Three, Four, Five, Six
- Ilias Bantekas and Susan Nash, *International Criminal Law* (3rd edn, Routledge-Cavendish 2007) Chapters 5, 6, 7, 8, 10, 17 and 18.

- Ilias Bantekas, *International Criminal Law* (4th edn, Hart Publishing 2010) Chapters 7, 8, 9, 10, 12, 13, 21 and 22.
- John F. Murphy, “Challenges of the new terrorism” in David Armstrong (ed), *Routledge Handbook of International Law* (Routledge 2009) Chapter 19.
- Robert Cryer (et al), *An Introduction to International Criminal Law and Procedure* (Cambridge University Press 2007) Chapters 10, 11, 12, 13, 14, 17 and 18.
- Robert Cryer, *Prosecuting International Crimes* (Cambridge University Press 2005) Chapter 5.
- Ronald C. Slye and Beth Van Schaack, *International Criminal Law* (Wolters Kluwer Law & Business 2009) Chapters 6, 7 and 8.
- Sergey Sayapin, *The Crime of Aggression in International Criminal Law* (Springer 2014).
- William A. Schabas and Nadia Bernaz (eds), *Routledge Handbook of International Criminal Law* (Routledge 2011) Chapters 7, 8, 9, 10, 11, 17, 18, 20 and 25.
- William Schabas, “International Crimes” in David Armstrong (ed), *Routledge Handbook of International Law* (Routledge 2009) Chapter 18.
- Christian Much, ‘The International Criminal Court (ICC) and Terrorism as an International Crime’ (2006) 14 MICHIGAN STATE JOURNAL OF INTERNATIONAL LAW 121-138.
- Guglielmo Verdirame, ‘The Genocide Definition in the Jurisprudence of Ad hoc Tribunals’ (2000) 49 INTERNATIONAL AND COMPARATIVE LAW QUARTERLY 578-598.
- Mary Ellen O'Connell & Mirakmal Niyazmatov, ‘What is Aggression?’ (2012) 10 JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE 189-207.
- Massimo Renzo, ‘Crimes Against Humanity and the Limits of International Criminal Law’ (2012) 31 LAW AND PHILOSOPHY 443-476.

### **International Statutes**

- Charter of the International Military Tribunal
- Charter of the International Military Tribunal for the Far East
- Statute of the 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
- Statute of the 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
- Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90.