



NATIONAL LAW UNIVERSITY AND JUDICIAL ACADEMY, ASSAM

PROGRAMME: B.A.LL.B.(HONS.)

DETAILS OF COURSE OFFERED

ODD SEMESTER – ACADEMIC YEAR 2022-23

SL. No	COURSE CODE	COURSE TITLE	L	T	P	CR	CH
1.	7.4/.5 IL.1	PRINCIPLES OF INTERNATIONAL CRIMINAL LAW	4 PER WEEK	1 PER WEEK		5	5

A. CODE AND TITLE OF THE COURSE: 7.4/.5 IL.1 PRINCIPLES OF

INTERNATIONAL CRIMINAL LAW

B. COURSE CREDIT: 5 (TOTAL MARKS 100)

C. MEDIUM OF INSTRUCTION: ENGLISH

D. COURSE COMPILED BY: DR. GITANJALI GHOSH

E. COURSE INSTRUCTOR: DR. GITANJALI GHOSH

1. COURSE OBJECTIVES

Traditionally, international law was the law that governed the conduct of States in their relations with each other. Gradually, international law has also come to govern individuals, international organizations and even corporations. In today's globalizing world, it has emerged as one of the significant subjects for study. It is not an exaggeration to state that international law affects every person living on the globe.

In the light of the growing importance of international 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 law in the minds of the students.

As the students are already familiar with the basics of international law, this course will take their study one notch higher with the introduction of a very important branch of international law i.e. international criminal law.

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
- Provide students with an understanding of international criminal trials
- Discuss various international criminal tribunals and courts including Nuremberg Tribunal, Tokyo Tribunal, ICTY, ICTR, ICC and mixed tribunals

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. EXPECTED OUTCOMES OF THE COURSE

At the completion of the course, it is 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 international law for further studies

4. COURSE EVALUATION METHOD

The course shall be assessed for 100 marks. There shall be mid-semester examination for 30 marks and an end-semester examination for 70 marks. The examinations shall be closed book.

5. DETAILED STRUCTURE OF THE COURSE

Module 1

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 2

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

Module 3

3.1 International Crimes

- War Crimes
- Crimes Against Humanity
- Genocide
- Aggression
- Torture
- Terrorism

3.2 International Criminal Trials

- International Criminal Investigation
- Initiation of Proceedings
- Preparations for Trial
- Trial Proceedings
- Evidence
- Appeal
- Enforcement of Sentences

3.3 Status of Victims

- Victim Participation in International Criminal Proceedings
- Forms of Reparation

Module 4

4.1 International Criminal Court

- Creation of the Court
- Jurisdiction of the Court

Structure and administration of the Court
Investigation, pre-trial, trial and appeal
Punishment and its execution

4.2 UN ad hoc tribunals

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 (ICTY)

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 (ICTR)

4.3 Hybrid or Mixed Tribunals

Special Court for Sierra Leone
Special Panels in Dili District Court, East Timor
Extraordinary Chambers in the Courts of Cambodia
War Crimes Chamber for Bosnia and Herzegovina
Special Tribunal for Lebanon
War Crimes Tribunal of Bangladesh
Iraqi High Crimes Tribunal

6. PRESCRIBED READINGS

BOOKS

- ANTONIO CASSESE, INTERNATIONAL CRIMINAL LAW (2d ed. OUP 2008).
- GERHARD WERLE & FLORIAN JESSBERGER, PRINCIPLES OF INTERNATIONAL CRIMINAL LAW (3d ed. OUP 2014).
- ILIAS BANTEKAS & SUSAN NASH, INTERNATIONAL CRIMINAL LAW (3d ed. Routledge-Cavendish 2007).
- ILIAS BANTEKAS, INTERNATIONAL CRIMINAL LAW (4th ed. Hart Publishing 2010).
- 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).
- ROBERT CRYER, PROSECUTING INTERNATIONAL CRIMES (Cambridge University Press 2005).
- RONALD C. SLYE & BETH VAN SCHAACK, INTERNATIONAL CRIMINAL LAW (Wolters Kluwer Law & Business 2009).
- GEERT-JAN ALEXANDER KNOOPS, DEFENCES IN CONTEMPORARY INTERNATIONAL CRIMINAL LAW (2d ed. Martinus Nijhoff Publishers 2008).
- ROUTLEDGE HANDBOOK OF INTERNATIONAL CRIMINAL LAW (William A. Schabas & Nadia Bernaz eds., Routledge 2011).
- SERGEY SAYAPIN, THE CRIME OF AGGRESSION IN INTERNATIONAL CRIMINAL LAW (Springer 2014).

- THE LEGAL REGIME OF THE INTERNATIONAL CRIMINAL COURT (Jose Doria et al. eds., Martinus Nijhoff Publishers 2009).
- WILLIAM A. SCHABAS, AN INTRODUCTION TO THE INTERNATIONAL CRIMINAL COURT (4th ed. Cambridge University Press 2011).

INTERNATIONAL INSTRUMENTS

CRIMES

- Convention on the Prevention and Punishment of the Crime of Genocide
- Definition of Aggression, United Nations General Assembly Resolution 3314 (XXIX).

IMT'S

- Charter of the International Military Tribunal
- Charter of the International Military Tribunal for the Far East

UN AD-HOC TRIBUNALS

- 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

ICC

- Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90.
- Rules of Procedure and Evidence of the International Criminal Court
- Regulations of the International Criminal Court

HYBRID TRIBUNALS

- The International Crimes (Tribunals) Act, 1973
- Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea
- Memorandum of Understanding between the Republic of Indonesia and the United Nations Transitional Administration in East Timor regarding Cooperation in Legal, Judicial and Human Rights Related Matters
- Regulation No. 2000/11 on the Organization of Courts in East Timor
- Regulation No. 2000/30 on Transitional Rules of Criminal Procedure
- Law of the Supreme Iraqi Criminal Tribunal
- UNMIK Regulation No. 2000/64 on Assignment of International Judges/Prosecutors and/or Change of Venue
- Statute of the Special Tribunal for Lebanon
- Lebanese Criminal Code
- Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone

- Statute of the Special Court for Sierra Leone
- Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone

CASES

ICC

- The Prosecutor v. Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15
- The Prosecutor v. Omar Hassan Ahmad Al Bashir, ICC-02/05-01/09
- The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08
- The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido, ICC-01/05-01/13
- The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé, ICC-02/11-01/15
- The Prosecutor v. Germain Katanga, ICC-01/04-01/07
- The Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06
- The Prosecutor v. Bosco Ntaganda, ICC-01/04-02/06

ICTR

- Prosecutor v. Jean Paul Akayesu, ICTR-96-04
- Prosecutor v. Jean Kambanda, ICTR-97-23
- Prosecutor v. Nahimana et al., ICTR-99-52
- Prosecutor v. Bizimungu et al., ICTR-99-50
- Prosecutor v. Nyiramasuhuko et al., ICTR-98-42
- Prosecutor v. Jean Uwinkindi, ICTR-01-75
- Prosecutor v. Karemera et al., ICTR-98-44

ICTY

- Prosecutor v. Tadić, IT-94-1
- Prosecutor v. Mucić et al., IT-96-21
- Prosecutor v. Furundžija, IT-95-17/1
- Prosecutor v. Kunarac et al., IT-96-23 & 23/1
- Prosecutor v. Krstić, IT-98-33