

Course Code: SS-832

Title: “International Law in Armed Conflict (Elective)”

Credit Hours: 3

Course Description

The course intends to expose students to the value, scope, and standing of international humanitarian law in international politics. Use of force is the perennial character of global politics. Nevertheless, International Humanitarian Law is evidently influencing this particular pattern of state behavior. The course contents will subsume the evolution, development, and current status of International Humanitarian Law. It will, then, objectively debate the strength and fragility of the law against various instances and events of international politics. In this way, students will be able to enhance their understanding and appreciation in relation to the subject matter. The course will focus the global politics and the humanitarian decisions about them, which can make the difference between war and peace, between safety and grave danger for people around the world. This course will give students an understanding of the global efforts to control conflicts and to sustain peace. The course covers policy tools from treaties and diplomacy to sanctions and war. Students will learn to use an integrated risk-informed approach to assessing policy options when difficult choices need to be made in the face of large uncertainties.

Course Outcomes

The purpose of this course is to comprehend the international humanitarian scenario. At the end of the course, students will:

- Evaluate the advantages and difficulties of international humanitarian law.
- Understand the distinction of jurisdiction between International and national law.
- Discuss critically, and write knowledgeably about contemporary events and historical processes and role of international law in it.
- Possess the means to show how theory and practice intertwine in constituting the basis of international humanitarian law.

- Learn how to think and write critically about key debates in the domain of international humanitarian law and use of force.

Course Objectives

The main objectives of the course are:

- To enable students to assess the contributions and shortcomings of international humanitarian law.
- To interrogate how 'the international law' has been constructed as a field of study.
- To connect with the theoretical debates, both methodological and theoretical, those have been germane to the formation of international humanitarian law.
- How, when and to what extent the use of force can be legitimize under humanitarian principles and what enforcement mechanisms need to be addressed in this regard.
- To demonstrate how theory provides a road map or lens by which to examine international events and processes.

Course Contents

Week 1: Introduction to International Law (IL)

- Understanding the basic principles of International Law
- The role of International Law in governing the conduct of states and non-state actors
- Key distinctions between public and private International Law
- Overview of major international institutions involved in the enforcement of IL

Week 2: Crisis in International Law / Stability and Changes in IL

- Identifying and analyzing the crises affecting the global legal order
- The evolving nature of IL in the face of globalization, technological change, and non-state actors
- Key challenges and opportunities for reforming IL
- Examining the adaptability of IL in times of international conflict

Week 3:

History and Development of International Law

- A historical overview of the origins of International Law
- The evolution of IL from early practices to modern conventions
- Important milestones in the development of IL
- The influence of war, peace treaties, and global diplomacy on IL

Week 4: Sources of International Law

- Understanding the primary sources of IL: Treaties, customary law, general principles of law, judicial decisions, and scholarly writings
- The role of the United Nations and other international organizations in shaping IL
- How states create and adopt new international norms
- The role of state consent in binding international law

Week 5: Jurisdiction and Basis of Law

- Concepts of jurisdiction in international law (territorial, personal, and universal jurisdiction)
- The basis of law in relation to the sovereignty of states and international governance
- The intersection of domestic law and international law
- Legal principles regarding extraterritoriality and cross-border issues

Week 6: International Treaties in the Defence and Security Issue Areas

- The role of treaties in international security
- Key treaties in the context of defense and security (e.g., UN Charter, Geneva Conventions)
- The impact of arms control, disarmament agreements, and collective security arrangements
- How states use treaties to regulate and limit the use of force

Week 7: Settlement of International Disputes and the Use of Force

- Mechanisms for peaceful dispute resolution in IL (diplomacy, mediation, arbitration, and adjudication)
- The role of the United Nations in conflict resolution and peacekeeping
- The principles governing the use of force under the UN Charter
- Just war theory and its implications for modern conflicts

Week 8: War in International Law

- The legal framework governing armed conflict: International Humanitarian Law (IHL)
- Distinctions between jus ad bellum (the right to go to war) and jus in bello (the law in war)
- The protection of non-combatants, prisoners of war, and civilians during armed conflict
- The role of international courts in regulating the conduct of war

Week 9: Belligerent Occupation

- Legal issues surrounding belligerent occupation during armed conflict
- The responsibilities of occupying powers under IHL
- The treatment of civilians and the administration of occupied territories
- Case studies on belligerent occupation and its legal consequences

Week 10: Neutrality and Right of Angary

- The concept of neutrality in armed conflict and its legal implications
- The rights and duties of neutral states during times of war
- The right of angary: A principle in maritime law and the use of neutral ports and shipping
- The consequences of violating neutrality in international law

Week 11: War Crimes

- Defining war crimes under International Criminal Law (ICL)
- The role of the International Criminal Court (ICC) and ad hoc tribunals in prosecuting war crimes
- Types of war crimes (e.g., targeting civilians, torture, and destruction of cultural property)

- Case studies of war crimes and their prosecution

Week 12: Piracy

- Legal definitions and the international response to piracy
- The difference between piracy and other forms of maritime crime
- International legal instruments combating piracy (e.g., United Nations Convention on the Law of the Sea)
- Case studies of modern piracy and enforcement actions

Week 13: Diplomatic Immunity

- Understanding diplomatic immunity and its legal basis
- The Vienna Convention on Diplomatic Relations and its provisions
- Limitations and controversies surrounding diplomatic immunity
- The role of diplomatic immunity in international law and state sovereignty

Week 14: Asylum/ Extradition

- The right to asylum under international law
- Legal frameworks governing the granting of asylum and refugee status
- The principle of non-refoulement and its exceptions
- Extradition laws and their role in international criminal justice
- Conflicts between asylum and extradition obligations

Week 15: Human Rights

- The relationship between International Humanitarian Law and Human Rights Law
- The role of the United Nations and other bodies in the promotion and protection of human rights
- Key human rights treaties (e.g., Universal Declaration of Human Rights, International Covenant on Civil and Political Rights)
- Case studies on the protection of human rights during armed conflicts

Week 16: Final Review and Exam Preparation

Readings Material

- International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect*, Vols I and II, International Development Research Centre, 2001.
- Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, Volume 1: Rules, ICRC, Cambridge, Cambridge University Press, (2005).
- Gutman, and Reif, (eds.), *Crimes of War* (2nd. Ed), New York: Norton and Co., 2007.
- Kolb and Hyde. *An Introduction to the International Law of Armed Conflicts*, UK, Hart Publishers (2008).
- Rogers, *Law on the Battlefield*, (2nd ed.), Manchester, Manchester University Press, (2004).
- Sassòli and Bouvier, *How Does Law Protect in War* (Vols. 1, 2 and 3) (3rd ed.), Geneva, ICRC, (2011)
- Sylvain Vité, 'Typology of armed conflicts in international humanitarian law: legal concepts and actual situations', *International Review of the Red Cross*, Vol. 91 No. 873, March 2009, pp. 69-84. (available online www.icrc.org)
- Geneva Conventions I, II, IV (1949).
- *The Manual of the Law of Armed Conflict*, UK Ministry of Defence, Oxford University Press (2004).
- Wills, *Protecting Civilians – The Obligations of Peacekeepers*, Oxford: OUP, (2009).
- Report of the Secretary-General pursuant to General Assembly resolution 53/35 - The fall of Srebrenica, General Assembly A/54/549, 15 November 1999.
- Minimum Humanitarian Standards, Report of the Secretary-General, Doc.E/CN.4/1998/8, 5 January 1998.
- J-F Quéguiner, 'Precautions under the law governing the conduct of hostilities', *International Review of the Red Cross*, Vol. 88, No. 864, (2006), pp. 793-821
- Michael Barnett, "The United Nations and Global Security: The Norm Is Mightier than the Sword," *Ethics and International Affairs* 9 (1995): 37–54.

- H.L.A. Hart, *The Concept of Law*, 2nd ed. (Oxford, UK: Clarendon, 1994), p. 94.
- Christine Chinkin, "The Challenge of Soft Law: Development and Change in International Law," *International and Comparative Law Quarterly* 38 (1989): 850–866;
- Prosper Weil, "Toward Relative Normativity in International Law," *American Journal of International Law* 77 (1983): 413–442.
- Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford, UK: Clarendon, 1994).
- Georges Scelle, *Precis de droit des gens: principes et systematique* (Paris: Librairie du Recueil Sirey, 1932).
- Koh, Honju, "Transnational Legal Process," *Nebraska Law Review* 75 (1996): 181. 11. Slaughter, Anne-Marie, "The Real New World Order," *Foreign Affairs* 76 (1997): 103. 12. Krasner, "Structural Causes and Regime Consequences."
- Louis Henkin and John Lawrence Hargrove, *Human Rights: An Agenda for the Next Century* (Washington, DC: American Society of International Law, 1994).
- Christian Wiktor, *Multilateral Treaty Calendar, 1648-1995* (Dordrecht, Netherlands: Martinus Nijhoff, 1998), which contains 6,000 treaties.
- Thomas M. Franck, *The Power of Legitimacy Among Nations* (New York: Oxford University Press, 1990).