



**South Asian University
Faculty of Legal Studies
LLM**

**Monsoon Semester-2019
Course Information**

Part I

Course Title:	International Criminal Law
Course Code:	LW00
Course instructor:	Srinivas Burra
Course Duration:	One semester
Credit Units:	4
Medium of Instruction:	English
Prerequisites:	Nil
Precursors:	Nil
Equivalent Courses:	N/A

Part II

Course Objectives

The course structure is designed to cover origins of international criminal law, its progressive development in terms of substantive law since the Second World War, and the progress made towards the establishment of permanent International Criminal Court. It would comprehensively cover substantive aspects and crimes that constitute the core of the present international criminal law. South Asian experiences in terms of State practice constitute an important part of the discussion on all topics.

The course would involve 13/14 weeks of teaching. Each week there would be four hours of teaching, divided into two/three teaching sessions. Class room teaching involves lecture mode, case studies and presentations by students on selected topics of the week. Students are expected to come read the relevant portions of the compulsory readings every week.

The course is intended to give students a comprehensive understanding of international criminal law (ICL) and its broad interrelationship with some of the other branches of international law, particularly international humanitarian law and international human rights law.

Course Syllabus

Week-1

Introduction

This week's discussion would introduce students to the structure of the course along with providing a historical introduction to the concept of individual criminal responsibility under international law which would include developments within the League of Nations and the work of the International Law Commission. It would cover the notion of international crimes, individual criminal responsibility and sources of international criminal law. It would also focus on the distinction drawn by international law between state responsibility and individual criminal responsibility.

Week-2

Enforcement of International Criminal Law: Nuremberg and Tokyo tribunals

This week would cover the establishment of the Nuremberg and Tokyo tribunals at the end of the Second World War, their contribution to the development of individual criminal responsibility under international law and their legacy for the future developments in the field of international criminal law.

Week-3

Adhoc and hybrid/mixed tribunals

In 1990s, after a long gap, a momentum was initiated in the field of international criminal law with the establishment of the adhoc tribunals to deal with the specific situations of former Yugoslavia and Rwanda. This topic would cover the establishment of the adhoc tribunals i.e., International Criminal Tribunal for former Yugoslavia (ICTY) and the International criminal Tribunal for Rwanda (ICTR), their statutes and jurisdiction. Apart from these international tribunals there are a few other tribunals which were established in the contexts of Sierra Leone, East Timor, Kosovo and Cambodia. These tribunals were established at the domestic level with certain international elements. The discussion on the topic would attempt to provide an understanding of the nature and functioning of these hybrid/mixed tribunals.

Week-4

International Criminal Court

This topic would cover the establishment of the court, structure and administration of the court, relationship with the United Nations, the Presidency, The chambers, office of the prosecutor, assembly of States parties and review conference. It would further cover, jurisdiction of the court, complementarity, admissibility, investigation, pretrial, trial, appeal and punishment and enforcement of punishments. It would also cover victims of crimes and their concerns.

Week-5

International Criminal Court (Contd.)

Week-6

War crimes

This topic would cover the nature of war crimes, the need for a link between the offence and the armed conflict, evolution of war crimes from Nuremberg Tribunal charter to the present, classification of armed conflicts, war crimes in internal armed conflicts.

Week-7

Crimes against humanity

The crime against humanity would be discussed from its initial conceptualization in the Nuremberg Tribunal charter, its incorporation in the ICTY and the ICTR Statutes and finally its inclusion in the ICC Statute. Its evolutionary growth and constitutive elements are elaborated. Work towards adopting a convention on crimes against humanity will be dealt with.

Week-8

Genocide

The notion of genocide, the 1948 convention on genocide, destruction of a group 'in whole or in part', the specific intent (*Dolus specialis*) required for genocide, acts constituting genocide, incitement to commit genocide and developments in the case law on genocide would be covered.

Week-9

Crime of aggression

The discussion would be focused on the crime of aggression as it evolved over a period of time, i.e., from its inclusion as crime against peace in the Nuremberg Tribunal charter till its inclusion in the Rome Statute of the International Criminal Court during the Statute's review conference in Kampala in 2010.

Week-10

Other international crimes

Apart from the crimes which have been criminalized by the ICC Statute, there are certain other acts which are criminalized by various other international treaties. These acts include torture, transnational organized crime and terrorism. This week's discussion will deal with these crimes.

Week-11

Modes of criminal liability

This week's discussion would include perpetration, co-perpetration, joint criminal enterprise, aiding and abetting, incitement, attempt, planning, conspiracy, ordering, inchoate crimes and superior and command responsibility.

Week-12

Victim participation in international criminal proceedings

Victims can send information to the Prosecutor of the ICC for initiating an investigation. ICC system also provides for the victim participation in two important ways. For the first time in the history of international criminal justice, victims have the right to participate in proceedings and request reparations. This means that victims' role is not just confined to being witnesses, but they may also present their views and concerns at different stages of the proceedings. This

week's discussion will focus on the participation of victims in international criminal proceedings in general with a special focus on the ICC system.

Week-13

National jurisdiction on international crimes, amnesties, other forms of justice and immunities

Individual criminal responsibility in South Asia

This topic would cover the issues relating to the prosecution of international crimes by national jurisdictions, dispensability of criminal accountability model and the adoption of truth commissions and amnesties with a view to establishing restorative justice in a post conflict reconstruction process. The discussion would also cover the functional and personal immunities provided for in customary international law and lifting of functional immunities with respect to international crimes. The discussion would primarily focus on South Asian experiences in dealing with grave crimes.

Week-14

Critical evaluation of international criminal justice system and contemporary challenges

International criminal justice system through individual criminal responsibility under international law gained momentum in the recent past. There has been a considerable scholarship critically evaluating the legal framework dealing with individual criminal responsibility in its conceptual and practical dimensions. Thus, the discussion would focus on certain critical perspectives of international criminal law. The discussion would also extend to the challenges posed to the international criminal justice in the form of recent attempts by some States to withdraw from the Rome Statute.