



**South Asian University
Faculty of Legal Studies
LLM
2023-2025**

Winter Semester (2024)
(Second Semester)

Course Information

PART I

Course Title:	International Humanitarian Law (IHL)
Course Code:	LW006
Course Instructor:	Nafees Ahmad/Srinivas Burra
Course Duration:	One semester
Credit Units:	4
Medium of Instruction:	English
Prerequisites:	Nil
Precursors:	Nil
Equivalent Courses:	N/A

PART II

Course Overview

The course structure is designed to cover origins of IHL, law relating to protected persons and protected objects, means and methods of warfare within the framework of Geneva Law and The Hague Law, and contemporary issues such as war on terror, cyber warfare and drone attacks. The course content also includes literature which would help students to critically evaluate the origin, development and application of IHL. South Asian experiences in terms of State practice and implementation of IHL constitutes an important part of the discussion on all topics.

The course would involve 12/13 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 suggested weekly readings.

PART III

Course Aims

The course is intended to offer students a comprehensive view of the subject of international humanitarian law (IHL) or the law of armed conflict and its broad interrelationship with some of the other branches of international law. It is also intended to lay a basic foundation for studying international criminal law which would be offered in the next semester.

Part IV

Evaluation criteria

Course requirements: Students are expected to read and comment on the assigned reading material. Students are also expected to demonstrate a capacity to integrate arguments/views drawn from the class lectures with the readings. Mere repetition of class lecture notes or summarization of the content of the readings will not suffice.

Grading of Student performance: Evaluation/Grading is based on student performance in assessment tasks/activities/exams/presentations/class participation/viva voce test/regular attendance.

PART V

Course Syllabus

WEEK 1

Introduction and Definition of International Humanitarian Law

Exploration of origins and development of International humanitarian law or law of war or law of armed conflict traces back to the origin and development of international law in general. The discussion would focus on the historical background and early origins of the IHL in various economic, political, social and cultural contexts, including the role of the International Committee of the Red Cross. It would deal with the First Geneva Convention, Hague Peace Conferences, Martens clause and the *Jus ad bellum* and *jus in bello* distinction.

WEEK2

Application of International Humanitarian Law

Application of IHL takes place only in the context of armed conflicts and therefore the need for legal determination of the existence of an armed conflict. The discussion would deal with the classification of armed conflicts into international and non-international and the applicable law.

It would also focus on the developments in the definition of international armed conflicts through Additional Protocol I and the jurisprudential classification of internationalised armed conflicts. Thus it would also focus on the jurisprudence particularly of the *Nicaragua case* of the ICJ and the *Tadic case* of the ICTY.

WEEK 3

Protection of Civilians, Occupation Law and Direct Participation in Hostilities (DPH)

One of the fundamental tenets of international humanitarian law is to maintain balance between military necessity and humanity, the latter being essentially to protect the victims of armed conflict. This week's discussion would focus on legal framework for the protection of civilians in situations of armed conflict as it developed historically. Situations of occupation in the context of international armed conflict constitute an important component of the discussion, focussing on legal status of the population in occupied territories and the rights and duties of the occupying powers. It would also deal with one of the contentious issues of IHL in the recent past i.e., direct participation in hostilities.

WEEK 4

Means and Methods of Warfare

Significant component of IHL deals with the means and methods warfare, otherwise known as the Hague law. This week's discussion will cover the following issues.

Means of combat

- The principle of prohibition of unnecessary suffering
- Explicit prohibitions or restrictions on certain weapons
- Conventional weapons
- Development of new weapons

Methods of Combat

- Military objectives
- Protection of civilian objects
- Protection of works and installations containing dangerous forces
- Protection of environment during armed conflicts
- Protection of cultural property during armed conflicts
- Ruses of war and the prohibition against perfidy
- Reprisals

WEEK 5

Combatants and Prisoners of War

The status of combatant is of extreme importance in international humanitarian law as it decides the boundaries of direct participation in hostilities and the protection available in situations of armed conflict. The discussion would cover the definition of combatants and non-combatants, status of persons accompanying the armed forces, civilian contractors, spies and mercenaries. It would also deal with the status of combatant in international and non-international armed conflict situations.

WEEK 6

Grave Breaches

Grave breaches regime constitutes an important component of the four Geneva Conventions and the Additional Protocol I. Acts amounting to grave breaches constitute war crimes inviting universal jurisdiction. This week's discussion would cover the various dimensions of the grave breaches regime in the four Geneva Conventions and the Additional Protocol I and their application.

WEEK 7

International Humanitarian Law and Human Rights Law

IHL closely interacts with international human rights law despite the conceptual position that they are applicable in two different situations. This week's discussion would deal with the relationship between these two branches and their contextually contingent *lex specialis* and *lex generalis* nature. It also focuses on the complementarity between them.

WEEK 8

Peacekeeping and International Humanitarian Law

Peacekeeping operations constitute an important form of deployment of forces by the United Nations. This week's discussion would deal with the nature of peace keeping operations, Secretary General's Bulletin and applicability of IHL to peacekeeping operations.

WEEK 9

Private Military and Security Companies

Private military and security personnel are engaged in conflict/post conflict situations in the recent past and this practice is continuing to grow. Thus it becomes necessary to determine the status of these personnel in such conflict/post conflict situations for the purpose of extending the IHL framework to them. The discussion revolves around the status of these personnel under international law.

WEEK 10

Women, Armed Conflict and International Humanitarian Law

Despite women falling into the protection net of the IHL extended to civilians, it is argued, based on concrete examples, that women undergo worst forms of suffering during armed conflicts and the existing IHL framework essentialises and reflects the mainstream gendered roles. This week's discussion goes into these debates relying on the existing literature on the topic.

WEEK 11

Terrorism and International Humanitarian Law

It is argued that post 9/11 incidents terrorism poses new challenges to international law in general and more so in the case of IHL. This week's discussion intends to interrogate these views in the light of general arguments on terrorism and international law.

WEEK 12

Contemporary Issues in International Humanitarian Law

During this week, issue relating to cyber warfare, drone attacks and new weapon technologies would be discussed in the light of limitations imposed by the framework of international humanitarian law.

WEEK 13

International Humanitarian Law in South Asia

Origins of international humanitarian law are generally traced to the European context. However, it is arguably asserted that South Asia in its own way contributed to the development of certain fundamental principles applicable in situations of armed conflict. This week's discussion would focus on the relevant literature on the origin and development of IHL principles in South Asian context and the contemporary application of IHL in South Asia.

WEEK 14

Critical Appraisal of International Humanitarian Law

IHL claims neutrality in its application to the parties to an armed conflict. However, it is argued that certain situations, possibly qualified as armed conflicts, are excluded from the application of the IHL. It is also argued that IHL legitimises certain forms of violence. This topic is intended to engage in critical evaluation of the origin, development and application of IHL.