

Chanakya National Law University, Patna
B.A., LL.B (Hons.) & B.B.A., LL.B. (Hons.)
SEMESTER- X
Academic Session (2023-2024)

Course Title: Honours – VII “Human Rights” (5 Credits)

Course Overview

The purpose of this module is to examine the history, development, structure and efficacy of human rights law. In this module, students will investigate the legal framework of the United Nations and regional systems relating to the protection and promotion of, inter alia (among other things), the rights of minorities and indigenous peoples, women’s rights, the rights of migrants and refugees, cultural rights, and the emerging field of environmental rights. This Course module expose students about concepts and idea of Human Rights in Indian Constitution and its enforcement in India.

Module I deals with meaning and Concept of Human Rights & its development.

Module II talks about International Instruments for Human Rights.

Module III focuses on protection and promotion of human rights –UN role

Module

IV covers world conferences and international conventions on Human Rights.

Module V emphasizes on regional protection of human rights.

Module VI covers protection of human rights in India.

Learning Outcomes

This course module is prepared with an objective to develop student’s legal acumen in Human Right laws.

On completion of the course, students will be able to:

1. Understand conceptual framework and regulatory framework of Human Right Law and its policies.
2. Improve their ability to think critically, engage in complex reasoning and express their thoughts clearly through their written work
3. Understand the historical background of the international human rights movement
4. Develop their understanding of the different disciplinary approaches to the study of human rights
5. Develop their understanding of the main international human rights legal instruments and institutions
6. Develop a basic understanding of some of the key contemporary challenges in international human rights.

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module I:	INTRODUCTON	10 Lectures
	<ul style="list-style-type: none"> A. Humanism and importance of human rights B. Human Rights concept, kinds, source and history (Evolution) of Human Rights C. International Developments 	
Module II:	INTERNATIONAL INSTRUMENTS	10 Lecture
	<ul style="list-style-type: none"> A. UDHR B. Covenant on Civil and Political Rights,1966 C. Covenant on Economic and Cultural Rights,1966 	
Module III:	PROTECTION AND PROMOTION OF HUMAN RIGHTS –UN ROLE	10 lectures
	<ul style="list-style-type: none"> A. Provisions of UN Charter concerning Human Rights B. UN Bodies primarily concerned with Human Rights 	
Module IV:	WORLD CONFERENCES AND INTERNATIONAL CONVENTIONS ON HUMAN RIGHTS.	8 lectures
	<ul style="list-style-type: none"> A. Conferences: Tehran Conference 1968,Viena Conference 1993,Beijing Conference B. Conventions: C. Conventions relating to Inhuman, Cruel and Degrading Acts. D. Conventions relating to Vulnerable Groups 	
Module V:	REGIONAL PROTECTION OF HUMAN RIGHTS	10 lectures
	<ul style="list-style-type: none"> A. European Convention for the protection of Human Rights and Fundamental Freedom 1950 and other Instruments. B. American Convention on Human Rights,1969 C. African Charter on Human and people’s Rights 1981 D. Other Regional Arrangements for the protection of Human Rights. 	
Module VI:	PROTECTION OF HUMAN RIGHTS IN INDIA	12 lectures
	<ul style="list-style-type: none"> A. Human Rights in India B. Human Rights and Indian Constitution C. The Protection of Human Rights Act,1993 	

RECOMMENDED/REFERENCE TEXT BOOKS AND RESOURCES:**Text Books & Reference Books**

1. H.O. Agarwal, Human Rights, (CLP, 2018)
2. Bhagyashree A. Deshpande, Human rights- Law and Practice, (CLP, 2017)
3. H.O. Agarwal, International Law and Human Rights (CLP, 2019)
4. Justice D M Dharmadhikari, Human Values and Human Rights (Lexis Nexis, 2016)
5. Rashee Jain, Text book on Human Rights Law and Practice (Lexis Nexis, 2016)
6. V. N. Shukla's Constitution of India (Eastern Book Company, 2017)
7. Bruce K Friesen, Moral Systems and the Evolution of Human Rights (Springer Briefs in Sociology, 2014)
8. Manoj Kumar Sinha, Implementation of Basic Human Rights, (Lexis Nexis)
9. Vijay Chitnis et. all., Human Rights and the Law: National and Global Perspective
10. A. N. Dange, Human Rights and International Law Practices (M D Publications Pvt. Ltd. 2011).
11. Rega Surya Rao, International Law & Human Rights (Gogia Law Agency, 2020)
12. Brij Kishore Sharma, Human Rights Covenants and Indian Law (PHI Learning private Ltd.)

Web Resources

<https://cdp-hrc.uottawa.ca/en/partnerships>

<https://www.asil.org/resources/electronic-resource-guide-erg>

<https://www.asil.org/resources/electronic-resource-guide-erg>

<http://www.whatconvention.org/>

<https://en.unesco.org/cultnatlaws/list>

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Signature



Chanakya National Law University, Patna

Syllabus on

International Humanitarian and Refugee Law

Optional – VI: International Humanitarian Law & Refugee Law

5 Credits

B.A. & B.B.A., LL.B. (H), Vth Year – Xth Semester.

2024

Compiled and edited by

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Dr P. P. Rao

I. Introduction - Course Overview

The objective of this paper is to make students aware of the principles of International Humanitarian Law and Refugee Law, making them aware of the protection regime for individuals in situations of conflict and in situations of persecution, means and methods of war and weapons, contemporary challenges, and, the implementation of mechanisms,

subsequently which will enable them to specialize in the field of Human Rights Law and Humanitarian Law, and, specializing in human rights to be acquainted with laws governing the refugees.

Module one deals with **Origin, Definition and Development of International Humanitarian**

Module two focuses on **Application of International Humanitarian Law**

Module three deals with **International Humanitarian Law and Human Rights Law**

Module four covers **Peacekeeping and International Humanitarian Law**

Module five deals with **International Criminal Law Mechanisms for Implementation of IHL**

Module six deals with **Introduction to International Refugee Law: Rights, Obligations and Privileges of Refugee under the Refugee Convention**

Module seven covers **International Humanitarian Law in South Asia**

Module eight focuses on **Indian Approach to Refugee Protection**

Learning Outcomes- by the end of this course, a student should have:

- a) provide an overview of the origins, theoretical foundations of international human rights, international humanitarian law and refugee law;
- b) provide conceptual clarity on foundational concepts, principles and standards of international human rights, international humanitarian law and refugee law;
- c) study and analyse the given provisions of Geneva Conventions Systems;
- d) increased familiarity with global and regional regimes and organisations;
- e) provide an overview of the implementation mechanisms including special procedures;
- f) engage with specific and contemporary issues pertaining to rights of women, children, environmental law, Business & IHL, technology-AI and international humanitarian law, post Covid-19 issues pertaining to IHL etc;
- g) develop critical skill set to undertake further and independent research in the areas of international humanitarian law and refugee law

Pedagogy

In the classroom, lessons are taught through lectures, case studies, and student presentations on weekly topics. It is required of students to read the recommended readings each week.

Students are introduced to the relevant material as Conventions, Declarations, Reports, Cases pertaining to the thematic modules. The class discussion method is followed with students encouraged to interact and share their understanding on the topics through group discussions, where possible. There would be between thirteen and fourteen weeks of teaching for the course. There would be two or three teaching sessions totalling four hours per week.

Evaluation Criteria

Course requirements: Reading the assigned material and providing commentary is expected of the students. Additionally, it is expected of students to show that they can combine readings and arguments/points of view from class lectures. It won't be enough to just reiterate the lecture notes from class or summarize the readings' substance.

Evaluation and Grading of Student Performance: Assessment tasks, activities, exams, presentations, participation in class, viva voce tests, and regular attendance are the basis for evaluation and grading of students.

WEEK 1 Topic Module – I--Origin, Definition and Development of International Humanitarian

The fields of international humanitarian law and refugee law are closely linked but distinct legal fields that are becoming more and more important in today's world of rising internal and cross-border conflicts. While the protection of non-citizens and those who have ceased hostilities, as well as the sick and injured, is the focus of international humanitarian law during times of armed conflict. The focus would be on examining and debating the many international humanitarian principles in order to hold both states and individuals responsible for violating the so-called "law of armed conflict." The roots and development of international law generally can be traced back to the investigation of the origins and development of international humanitarian law, law of war, or law of armed conflict. The International Committee of the

Red Cross's function as well as the historical background and early beginnings of the IHL in many economic, political, social, and cultural situations would be the main topics of discussion. The First Geneva Convention, the Hague Peace Conferences, the Martens clause, and the dichotomy between Jus ad bellum and Jus in bello would all be covered.

PRESCRIBED READINGS REPORT

- International Committee of the Red Cross, Report Titled “International Humanitarian law and the Challenges of Contemporary armed conflicts, 31st International Conference, Geneva 28 Nov-1 Dec2011.
- International Committee of the Red Cross (ICRC) Geneva (Switzerland) publications on “Additional Protocols 1977”

ARTICLES

- *Droege C, The Interplay between International Humanitarian Law and International Human rights Law in situations of Armed Conflict, ISR L Rev. Vol .40 No.2, pp310-355, 2007.*
- *Charles Chernor Jalloh and Andrew Morgan, The Case for a Modest Assessment of the International Criminal Justice Processes in Rwanda, Sierra Leone, and Some Lessons for Liberia Africa Development, Volume XL, No. 2, 2015, pp. 191-256.*
- *Summary map, The Legal Frameworks at a Glance, The International Legal Frameworks for Humanitarian Action: Topic Guide, 2013 www.gsdrc.org*
- *Collective Engagement and Selective Endorsement: India's Ambivalent Attitude Towards Laws of Armed Conflict", in Srinivas Burra and R. Rajesh Babu (eds), 'Locating India in the Contemporary International Legal Order', (Springer, 2018)*

WEEK 2 Topic

Module – II-- Application of International Humanitarian Law

IHL can only be applied in the context of armed conflicts, necessitating a court decision to declare a war to exist. The topic of debate would be the applicable laws as well as the division of armed conflicts into international and non-international categories. Along with these topics, it would also address how Additional Protocol I has changed the definition of international armed conflicts and how internationalized armed conflicts are classified jurisprudentially. As a result, it would also concentrate on the jurisprudence, namely in relation to the Tadic case at the ICTY and the Nicaragua case at the ICJ.

PRESCRIBED BOOKS

- *Dinstein, Yoram, The Conduct of Hostilities under the Law of International Armed Conflict*
- (2nd edn, Cambridge University Press 2010)

- *Fleck, Dieter (ed), The Handbook of International Humanitarian Law (2nd edn, OUP 2008)*

- *Frits Kalshoven and Liesbeth Zegveld, Constraints on the Waging of War: An Introduction to International Humanitarian Law (4th edn, ICRC, Geneva 2011)*

- *Kennedy, David, Of Law and War, (Princeton 2006)*

- *Mani, V.S. (ed), Handbook of International Humanitarian Law in South Asia (OUP 2007)*

- *Sassòli, Marco, Bouvier, Antoine A. and Quinti, Anne, How does Law Protect in War? Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law, (3rd edn, ICRC, Geneva 2011)*

ARTICLES

- *Akande, Dapo, "Classification of Armed Conflicts: Relevant Legal Concepts", in Wilmshurst, E., (ed), International Law and the Classification of Conflicts (OUP, 2012) chapter 3.*

- *Crawford, Emily, "Unequal Before the Law: The Case for the Elimination of the Distinction between International and Non-International Armed Conflicts", Leiden Journal of International Law, vol. 20, no. 2, (2007), pp. 441-465*

- *Grignon, Julia, "The Beginning of Application of International Humanitarian Law : A Discussion of a Few Challenges", International review of the Red Cross, vol. 96, no. 893, (2014), pp. 139-162*
- *Milanovic, Marko, "The End of Application of International Humanitarian Law", International Review of the Red Cross vol. 96, no. 893, (2014), pp. 163-188.*

- *Shereshevsky, Yahli, "Politics by Other Means: The Battle over the Classification of Asymmetrical Conflicts", Vanderbilt Journal of Transnational Law, vol. 49, (2016), pp. 455-498.*
- *Van den hole, Leo, "Towards a Test of the International Character of an Armed Conflict: Nicaragua and Tadic", Syracuse Journal of International Law and Commerce, vol. 32, no. 2, (2004-2005), pp. 269-287.*

WEEK 3 Topic -- Protection of Civilians, Occupation Law and Direct Participation in Hostilities (DPH)

Maintaining a balance between military necessity and humanity—the latter primarily serving to safeguard the victims of armed conflict—is one of the core principles of international humanitarian law. This week's discussion will center on the historical development of the legal framework for protecting civilians during armed conflict. A significant portion of the conversation focuses on situations of occupation in the framework of international armed conflict, with an emphasis on the rights and obligations of the occupying powers as well as the legal standing of the people living in occupied territory. It would also address direct participation in hostilities, one of the most debated topics in IHL in recent years.

PRESCRIBED READINGS ARTICLES

- *Alexander, Amanda, "The Genesis of the Civilian", Leiden Journal of International Law, vol. 20, no.2, (2007), pp. 359–376.*
- *Ferraro, Tristan, "Determining the Beginning and End of an Occupation under International Humanitarian Law", International Review of the Red Cross, vol. Volume 94, no. 885, 2012, pp. 133-163.*
- *Fox, Gregory H., "Transformative Occupation and the Unilateralist Impulse", International Review of the Red Cross, vol. 94, no. 885, 2012, pp. 237-266.*
- *Sassoli, Marco, "Legislation and Maintenance of Public Order and Civil Life by Occupying Powers", European Journal of International Law, vol. 16, no. 4, (2005), pp.695-719.*
- *Scheffer, David J., "Beyond Occupation Law", American Journal of International Law, vol. 97, no. 4, (2003), pp. 842-860.*
- *Slim, Hugo, "Why Protect Civilians? Innocence, Immunity and Enmity in War", International Affairs, vol. 79, no. 3, (2003), pp. 481-501.*

WEEK 4 Topic -- Means and Methods of Warfare

The Hague law, also referred to as the means and methods of warfare, is a significant aspect of international humanitarian law. The following topics will be discussed this week. 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

PRESCRIBED READINGS ARTICLES

- *Clark, Roger S., "Methods of Warfare that Cause Unnecessary Suffering or Are Inherently Indiscriminate: A Memorial Tribute to Howard Berman", California Western International Law Journal, vol. 28, no. 2, (1997-1998), pp. 379-390*
- *Dill, Janina, "The 21st-Century Belligerent's Trilemma", European Journal of International Law, Vol. 26 no. 1,(2015), pp. 83-108.*
- *Fleck, Dieter; "The Protection of the Environment in Armed Conflict: Legal Obligations in the Absence of Specific Rules", Nordic journal of International Law, vol. 82 (2013), pp. 7-20.*
- *Hladik, Jan, "Different Legal Issues Related to the Protection of Cultural Property in Peacetime and Wartime", Proceedings of the annual meeting of the American Society of International Law, No. 106, 2012, pp. 453-462.*
- *Lippman, Matthew, "Aerial Attacks on Civilians and the Humanitarian Law of War: Technology and Terror from World War I to Afghanistan", California Western International Law Journal, vol. 33, no. 1, (2002), pp. 1-67.*

- *McClelland, Justin, "The Review of Weapons in Accordance with Article 36 of Additional Protocol I", International Review of the Red Cross, vol. 85, no. 850 (2003), pp. 397-415.*
- *Wyatt, Julian, "Law-Making at the Intersection of International Environmental, Humanitarian and Criminal Law: The Issue of Damage to the Environment in International Armed Conflict", International Review of the Red Cross, vol. 92, no. 879 (2010), pp. 593-646.*

WEEK 5 Topic: Combatants and Prisoners of War

In terms of international humanitarian law, the status of combatant is crucial since it determines the parameters of direct involvement in hostilities and the level of protection afforded in times of armed conflict. The definition of combatants and non-combatants, the status of those who support the armed forces, civilian contractors, spies, and mercenaries would all be discussed. The status of a combatant in both international and domestic armed conflicts would also be covered.

PRESCRIBED READINGS ARTICLES

- *Chang, Karl S., Enemy Status and Military Detention in the War Against Al-Qaeda, Texas International Law Journal, vol. 47, no.1, 2011-2012, pp. 1-73.*
- *Detter, Ingrid, The Law of War and Illegal Combatants, The George Washington Law Review, vol. 75, no. 5-6, (2007), pp. 1049-1104.*
- *Heller, Kevin Jon, The Law of Neutrality does not Apply to the Conflict with Al-Qaeda, and It's a Good Thing, Too: A Response to Chang, Texas International Law Journal, vol. 47, no.1, 2011-2012, pp. 115-141.*

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Kress, Claus and Mégret, Frédéric, "The Regulation of Non- International Armed Conflicts: Can a Privilege of Belligerency be Envisioned in the Law of Non - International Armed Conflicts?" International Review of the Red Cross vol. 96, no. 893, (2014), pp. 29-66.

- *Murphy, Ray, "Prisoner of War Status and the Question of the Guantanamo Bay Detainees", Human Rights Law Review, vol. 3, no. 2, (2003), pp. 257-278.*
- *Murray, Daragh, "Non-State Armed Groups, Detention Authority in Non- International Armed Conflict, and the Coherence of International Law: Searching for a Way Forward", Leiden Journal of International Law, vol. 30, no. 2, (2017), pp. 435-456.*

WEEK 6 Topic: Grave Breaches

A key element of the Additional Protocol I and the four Geneva Conventions is the regime for grave breaches. Grave violations are considered war crimes that are subject to international law. The many facets of the severe breaches regime found in the four Geneva Conventions, as well as the Additional Protocol I and its applicability, will be discussed this week.

PRESCRIBED READINGS

ARTICLES

- *Fleck, Dieter, "Shortcomings of the Grave Breaches Regime", Journal of International Criminal Justice, vol. 7, no. 4, (2009), pp. 833-854.*
- *Henckaerts, Jean-Marie, "The Grave Breaches Regime as Customary International Law", Journal of International Criminal Justice, vol. 7, no. 4, (2009), pp. 683-701.*
- *O'berg, Marko Divac, "The Absorption of Grave Breaches Into War Crimes Law", International Review of the Red Cross, vol. 91, no. 873, (2009), pp. 163-183.*
- *O'Keefe, Roger, "The Grave Breaches Regime and Universal Jurisdiction", Journal of International Criminal Justice, vol. 7, no. 4, (2009), pp. 811-831.*

- Sandoz, Yves, “*The History of the Grave Breaches Regime*”, *Journal of International Criminal Justice*, vol. 7, no. 4, (2009), pp. 657-682.

WEEK 7 Topic:

Module – III-- International Humanitarian Law and Human Rights Law

Despite their conceptual separation, international human rights law and international humanitarian law are intimately related. The link between these two branches and their contextually contingent *lex specialis* and *lex generalis* character would be the topic of this week's debate. It also emphasizes how well they complement one another.

PRESCRIBED READINGS ARTICLES

- Droege, Cordula, “*Elective Affinities? Human Rights and Humanitarian Law*”, *International Review of the Red Cross*, vol.90, no. 871, (2008), pp.501-548.
- *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*, Report of the Study Group of the International Law Commission, finalized by Martti Koskenniemi, A/CN.4/L.682.
- Hampson, Françoise and Salama, Ibrahim, “*Working Paper on the Relationship between Human Rights Law and International Humanitarian Law*, Economic and Social Council, E/CN.4/Sub.2/2005/14.
- Orakhelashvili, Alexander, “*The Interaction between Human Rights and Humanitarian Law:*
- *Fragmentation, Conflict, Parallelism, or Convergence?*”, *European Journal of International Law*, vol. 19, no.1, (2008), 161-182.

WEEK 8 Topic:

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Module – IV-- Peacekeeping and International Humanitarian Law

One significant way that the UN deploys forces is through peacekeeping missions. The topic of this week's debate will be the nature of peacekeeping operations, the Secretary General's Bulletin, and how IHL relates to them.

PRESCRIBED READINGS ARTICLES

- *Saura, Jaume, "Lawful Peacekeeping: Applicability of International Humanitarian Law to United Nations Peacekeeping Operations", Hastings Law Journal, vol. 58, no. 3, (20062007), pp. 479-531.*
Shraga, Daphna, "The Interplay between Human Rights and International Humanitarian Law in UN Operations", in Erika de Wet and Jann Kleffner (ed), Convergence and Conflicts of Human Rights and International Humanitarian Law in Military Operations, (Pretoria: Pretoria University Law Press, 2014), pp.211-225.
http://www.pulp.up.ac.za/pdf/2014_15/2014_15.pdf
- *Shraga, Daphna, "UN Peacekeeping Operations: Applicability of International Humanitarian Law and Responsibility for Operations Related Damage", American Journal of International Law, vol. 94, no. 2,(2000), pp. 406-412.*
- *Tittmore, Brian, "Belligerents in Blue Helmets: Applying International Humanitarian Law to United Nations Peace Operations", Stanford Journal of International Law, vol. 33, no. 1, (1997), pp.61-117.*

WEEK 9 Topic:

Module-- V---International Criminal Law Mechanisms for Implementation of IHL

In addition to aiming to suppress widespread violations of human rights and mass atrocities, international criminal law offers a way to implement international humanitarian law. Overview of the fundamental idea behind war crime trials Nuremberg and Tokyo Trials: Early War Crimes Trials. The Special War Crimes Tribunals for Rwanda and the Former Yugoslavia Regarding Establishment of an International Criminal Court that Is Permanent

PRESCRIBED READINGS ARTICLES

- *McGoldrick, D (2004), 'Criminal Trials before International Tribunals: Legality and Legitimacy', in D McGoldrick, P Rowe and E Donnelly, The Permanent International Criminal Court: Legal and Policy Issues, Hart, Oxford, 9.*
- *Meron, T (1998), 'Geneva conventions as customary law', in T Meron, War Crimes Law Comes of Age, OUP, Oxford, 154.*
- *Sofaer, A (1988), 'Agora : The U.S. Decision Not to Ratify Protocol I to the Geneva Conventions on the Protection of War Victims (Cont'd)', American Journal of International Law, 82, 784.*

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Robinson, D (2011), 'The Controversy over Territorial State Referrals and Reflections on ICL Discourse', Journal of International Criminal Justice, Vol. 9 No. 2, 355–384.

- *McGoldrick, D (2004), 'Criminal Trials before International Tribunals: Legality and Legitimacy', in D McGoldrick, P Rowe and E Donnelly, The Permanent International Criminal Court: Legal and Policy Issues, Hart, Oxford, 9International Humanitarian Law", International Review of the Red Cross, vol. 88, no. 863, (2006), pp. 613-636.*

WEEK 10 Topic: Women, Armed Conflict and International Humanitarian Law

Despite the fact that women are covered by the IHL's safety net for civilians, it is argued—supported by specific examples—that women suffer the most during armed conflicts and that the current IHL framework essentializes and reflects traditional gendered roles. The conversation this week delves into these arguments by referencing the body of prior research on the subject.

PRESCRIBED READINGS

ARTICLES

- *Argibay, Carmen M., "Sexual Slavery and the "Comfort Women" of World War II", Berkeley Journal of International Law, vol. 21, no. 2, (2003), pp.375-389.*
- *Barrow, Amy, "UN Security Council Resolutions 1325 and 1820: Constructing Gender in Armed Conflict and International Humanitarian Law", International Review of the Red Cross, vol. 92, no. 877, (2010), pp. 221-234*
- *Chinkin, Christine, "Rape and Sexual Abuse of Women in International Law", European Journal of International Law, vol. 5, no. 1, (1994), pp. 326-341.*
- *Durham, Helen and O'Byrne, Katie, "The Dialogue of Difference: Gender Perspectives on International Humanitarian Law", International Review of the Red Cross, vol. 92, no. 877, (2010), pp. 31-52.*

- Gardam, Judith and Charlesworth, Hilary, “Protection of Women in Armed Conflict”, *Human Rights Quarterly*, vol. 22, no. 1, (2000), pp. 148-166.

Gardam, Judith, “A Feminist Analysis of Certain Aspects of International Humanitarian Law”, *Australian Yearbook of International Law*, vol. 12, (1988-1989), p. 265-278.

- Gardam, Judith, “Women and the Law of Armed Conflict: Why the Silence?”, *International and Comparative Law Quarterly*, vol. 46, no. 1, (1997), pp. 55-80.
- Sjoberg, Laura, “Women Fighters and the ‘Beautiful Soul’ Narrative”, *International Review of the Red Cross*, vol. 92, no. 877, (2010), pp. 53-68.

WEEK 11 Topic: Terrorism and International Humanitarian Law

There is a claim that terrorism in the wake of the 9/11 attacks presents fresh difficulties for international law generally, and for IHL specifically. The goal of this week's conversation is to examine these viewpoints in the context of broader discussions about terrorism and international law.

PRESCRIBED READINGS

ARTICLES

- *International Law*, vol. 14, no. 2, (2003), pp.299-312.
- Mégret, Frédéric and Pinto, Frederick, “Prisoners’ Dilemmas’: The Potemkin Villages of International Law?”, *Leiden Journal of International Law*, vol. 16, no. 3, (2003), pp. 467-490.
- Mégret, Frédéric, “Justice in Times of Violence”, *European Journal of International Law*, vol. 14, no. 2, (2003), pp.327-345.
- Modirzadeh, Naz K., “Folk International Law: 9/11 Lawyering and the Transformation of the Law of Armed Conflict to Human Rights Policy and Human Rights Law to War Governance”, *Harvard National Security Journal*, vol. 5, (2014), pp. 225-304.
- Neumann, Gerald L., “Humanitarian Law and Counterterrorist Force”, *European Journal of International Law*, vol. 14, no. 2, (2003), pp.283-298.

- Rona, Gabor; *“Interesting Times for International Humanitarian Law: Challenges from the “War on Terror”*, *the Fletcher Forum of World Affairs*, vol. 27, no. 2, (2003), pp. 55-74.
- Waxman, Matthew C., *“Temporality and Terrorism in International Humanitarian Law”*, *Yearbook of International Humanitarian Law*, vol.14, 2011, pp. 411-417.

WEEK 12 Topic: Contemporary Issues in International Humanitarian Law

This week, concerns about AI- drone strikes, cyberwarfare, and emerging weaponry will be examined in the context of the constraints set by the international humanitarian law framework

PRESCRIBED READINGS ARTICLES

- Blank, Laurie R., *“After “Top Gun”: How Drone Strikes Impact the Law of War”*, *University of Pennsylvania Journal of International Law*, vol. 33, no. 3, (2012), pp. 675-718.
- Dinstein, Yoram, *“The Principle of Distinction and Cyber War in International Armed Conflicts”*, *Journal of Conflict & Security Law*, vol. 17, no.2, (2012), pp. 261-277.
- Drake, Aaron M., *“Current U. S. Air Force Drone Operations and their Conduct in Compliance with International Humanitarian Law : An Overview”*, *Denver Journal of International Law and Policy*, vol. 39, no. 4, (2011), pp. 629-660.
- Orr, Andrew C., *“Unmanned, Unprecedented, and Unresolved, the Status of American Drone Strikes in Pakistan under International Law”*, *Cornell International Law Journal*, vol. 44, no. 3,(2011) pp. 729-752.
- Schmitt, Michael, *“Classification of Cyber Conflict”*, *Journal of Conflict & Security Law*, vol. 17, no.2, (2012), pp. 245-260.
- Turns, David, *“Cyber Warfare and the Notion of Direct Participation in Hostilities”*, *Journal of Conflict & Security Law*, vol. 17, no.2, (2012), pp. 279-297.

WEEK 13 Topic:

Module – V-- Introduction To International Refugee Law: Rights, Obligations And Privileges Of Refugee Under The Refugee Convention

On the other hand, the focus of international refugee law is on the status of individuals who are forced to from their country of origin due to exceptional circumstances. Nonetheless, there is still much disagreement on the definition of a refugee and the rights that should be accorded to them on a global scale. India's distinct geographic location—

no two South Asian nations may communicate without touching its land, sea, or air—as well as its absence of a refugee-related legislative framework—will be the main topics of debate about the country's refugee dilemma.

PRESCRIBED READINGS ARTICLES

- *al-Zuhili, Sheikh Wahbeh, “Islam and International Law”, International Review of the Red Cross, vol. 87, no. 858 (2005), pp. 269-283.*
- *Burra, Srinivas, “India and the Additional Protocols of 1977”, Indian Journal of International Law, Vol. 53,no.3, (2013), pp. 422-450.*
- *Mani, V. S., “International humanitarian law: An Indo-Asian Perspective”, International Review of the Red Cross, no. 841, (2001), pp. 59-76.*
- *Sinha, Manoj Kumar, “Hinduism and International Humanitarian Law”, International Review of the Red Cross, vol. 87, no. 858 (2005), pp. 285-294.*

WEEK 14 Topic:

Module – VI-- International Humanitarian Law in South Asia

International humanitarian law often has its roots in European history. It might be contended, therefore, that South Asia made a unique contribution to the formulation of some basic ideas that apply to armed conflict situations. The readings for this week's discussion will center on the material that is pertinent to the history, development, and current applications of international humanitarian law (IHL) in South Asia.

PRESCRIBED READINGS ARTICLES

- *afJochnick, Chris & Normand, Roger, “The Legitimation of Violence: A Critical History of the Laws of War”, Harvard International Law Journal, vol. 35, no. 1, (1994), pp. 49-95.*
- *Mégret, Frédéric, “From “Savages” to “Unlawful Combatants”: a Postcolonial*

Look at International Humanitarian Law's "Other", in Anne Orford (ed), International Law and its Others, (2006).

- *Normand, Roger & afJochnick, Chris, "The Legitimation of Violence: A Critical Analysis of the Gulf War", Harvard International Law Journal, vol. 35, no. 2, (1994), pp. 387-416.*
- *Sassoli, Marco, and Shany, Yuval, "Should the Obligations of States and Armed Groups under International Humanitarian Law Really be Equal?", International Review of the Red Cross, vol. Volume 93, No. 882, (2011), pp. 425-436.*
- *Takahashi, Yutaka Arai-, "Preoccupied with Occupation: Critical Examinations of the Historical Development of the Law of Occupation", International Review of the Red Cross, vol. 94, no. 885, (2012), pp. 51-80*

WEEK 15 Topic:

Module – VII-- INDIAN APPROACH TO REFUGEE PROTECTION

Refugees' Rights vis-a-vis **ROHINGYAS**, NRC in India

Recommended/Reference Textbooks and Resources:

Textbooks

1. *Guy S. Goodwin – The Refugee in International Law (Oxford, 2000)*
2. *A. Vibeke Eggli, Mass Refugee Influx and the Limits of Public International Law (The Hague: Nijhoff, 2002)*
3. *Jean Pictet 'Development and Principles of International Humanitarian Law' Martinus Nihoff Publishers*
4. *International Humanitarian Law and Non-State Actors: Debates, Law, and Practice, eds. Ezequiel Heffes, Marcos D. Kotlik, and Manuel J. Ventura, Springer, 2020*
5. *International Humanitarian Law: Regulations, Arguments, and Settlements of Issues Arise in Warfare: Foundations of International Law Series 2019: Marco Sassàli*
6. *H McCoubrey 'International Humanitarian Law: modern developments in the limitation of warfare', Ashgate, Dartmouth, 1998*
7. *Geoffry Best 'War and Law since 1945', Clarendon press, Ingrid Detter, The Law of War, (Cambridge, 2000)*

8. *A. Roberts and R. Guelff, eds. , Documents on the Laws of War (Oxford, 2000)*
9. *Legality of the Threat or Use of nuclear weapons, Advisory Opinion, ICJ Reports(1996)*
10. *M.K. Balachandran and Rose Verghese (eds.) – International Humanitarian Law ICRC (1997)*
11. *Ravindra Pratap, “India’s Attitude towards IHL”, in Mani (ed.) International Humanitarian Law in South Asia (Geneva: ICRC, 2003)*

Web Resources

<https://www.icrc.org/in> <https://blogs.icrc.org/law-and-policy/>
<https://pilac.law.harvard.edu/>
[https://pilac.law.harvard.edu/threepathways-to-secure-greater-respect-for-international-law-concerning-war algorithms](https://pilac.law.harvard.edu/threepathways-to-secure-greater-respect-for-international-law-concerning-war-algorithms) <https://pilac.law.harvard.edu/quantum-of-silence-web-version>
<https://www.bloomberg.com/news/articles/2022-12-06/how-war-crimes-and-the-crime-of-aggression-arebeingpursued-against-russia#xj4y7vzkg>
https://icrcndresourcecentre.org/wpcontent/uploads/2018/12/4358_002_Expert_meeting_report_WEB_1.pdf

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Signature

Chanakya National Law University, Patna
B.A., LL.B. (H) / B.B.A., LL.B. (H) 2023-24; SEMESTER-10th

Course Title: Law Relating to Women & Child

Course Overview

This course examines the legal framework for protecting and promoting the rights of women and children in India. Students will analyze key constitutional provisions, social legislation, and judicial pronouncements on issues such as gender equality, discrimination, violence against women, child rights, and juvenile justice. The course will also explore the challenges faced in implementing these laws and potential avenues for reform.

Learning Outcomes

- Understand the historical and socio-cultural context of the legal status of women and children in India.
- Analyze the key constitutional provisions and principles related to gender equality and child rights.
- Examine the legal framework for addressing various forms of violence against women, including domestic violence, sexual assault, and trafficking.
- Critically evaluate the effectiveness of social legislation such as the Dowry Prohibition Act, the Protection of Women from Domestic Violence Act, and the Juvenile Justice (Care and Protection of Children) Act.
- Analyze the role of the judiciary in interpreting and expanding the scope of laws relating to women and children.
- Identify the challenges faced in implementing these laws, such as social stigma, lack of awareness, and inadequate resources.

List of Topics/ Modules

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module I: Introduction	<ul style="list-style-type: none">• Historical and socio-cultural context of the legal status of women and children in India.• Constitutional framework for gender equality and child rights	5

Module II: Violence Against Women	<ul style="list-style-type: none"> • The Protection of Women from Domestic Violence Act, 2005. • Sexual Harassment Laws: Laws combating sexual harassment in the workplace and public spaces. • Cyber Crimes against Women in India. • Trafficking: The Immoral Traffic (Prevention) Act, 1956, and international initiatives. • Honour crimes and dowry deaths: Legal and social perspectives. 	15
Module III: Women and Family Law	<ul style="list-style-type: none"> • Personal laws and their impact on women's rights: Hindu Marriage Act, Muslim Personal Law Sharia Application Act, etc. • Marriage, divorce, maintenance, and custody laws. • Reproductive rights: The Medical Termination of Pregnancy Act, 1971. • Pre-conception and pre-natal diagnostic techniques (Prohibition of Sex Selection) Act, 1994 • Property rights and inheritance: Hindu Succession Act, 2005, and other relevant laws. 	15
Module IV: Child Rights and Juvenile Justice	<ul style="list-style-type: none"> • Definition of child and legal framework for child protection. • Juvenile delinquency and the Juvenile Justice (Care and Protection of Children) Act, 2015. • Child Labour: The Child Labour (Prohibition and Regulation) Act, 1986. • Education rights: The Right to Education Act, 2009, and challenges in implementation. • Child abuse and neglect: Legal framework and social interventions. 	15
Module V: Contemporary Issues and Challenges	<ul style="list-style-type: none"> • Customary practices and their impact on women and children. • Access to justice and legal aid for women and children. • Role of National Commission for Women • Role of National Commission for protection of Child rights • Role of the judiciary in interpreting and enforcing laws. • Activism and advocacy for the rights of women and children. 	10

Recommended/Reference Text Books and Resources:

Text Books: -

1. Manjula Batra, Women & Law with Law Relating to Children in India, Allahabad Law Agency
2. Mamta Rao, Law Relating to Women and Children, Eastern Book Company
3. Lalita Dhar Parihar, Women and Law, Eastern Book Company
4. Cyber Crimes against Women in India, Sage Publications India Pvt Ltd

References: -

- SC Tripathi and Vibha Arora, Law relating to Women and Children, Central Law Publication, 2006
- DK Tiwari & Mahmood Zaidi, Commentaries on Family Courts Act, 1984, Allahabad Law Agency, 1997
- BN Chatteraj, Crime against Women: A Search for Peaceful Solution, LNJNNICFS, 2007
- Nomita Agarwal, Women and Law, New Century Publishing House, 2005

Web Resources: -

<https://wcd.nic.in/>

<https://legalaid.nmims.edu/rights-of-women-and-children-in-india/>

<http://nsw.nic.in/>

<http://ncpcr.gov.in/>

Instructor Details

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Chanakya National Law University, Patna
B.A., LL.B (Hons.) & B.B.A., LL.B. (Hons.)
SEMESTER- X
Academic Session (2023-2024)

Course Title:	Moot Court
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Course Overview

Moot Court basically means a replica of a real court where legal proceedings and trials take place and thus it is also known as a *Mock Court* where students who are studying law, act as professional and take up all the responsibilities and duties according to their role to see their ability to think creatively and answer convincingly when questioned and show their oratory, writing and persuasive skills.

The objective of this subject is to groom the students as a true professional to perform as Lawyer / Judicial Officer.

The subject Moot Court will cover number of drafting such as drafting of Plaint, written statement, Complaint Petition, FIR, Bail Petition, Revision, Appeal, Quashing, Writ Petitions (civil & criminal/Commercial), Civil Miscellaneous application, LPA, Request Case, SLP, Counter Affidavit, Rejoinder, O.A etc. The subject will also cover preparation of written arguments on facts as well as on Law and oral submissions.

The subject Moot Court will also cover the proceeds before Hon`ble High Court and Hon`ble Supreme Court of India.

Sl No.	Particulars		Dead Line
1.	<p><u>Each Students</u> are required to draft 10 petitions and one petition every week, which includes</p> <ol style="list-style-type: none"> 1. <u>Drafting of three petitions (writ petition, CA & Rejoinder.</u> 2. Quashing /Criminal Revision /Criminal Appeal 3. Request Case/SLP <p>Note - The oldest and most recent Judgment of Hon`ble Supreme Court of India be referred</p>	<u>5x3 = 15 number</u>	<p><u>1st petition by 15.01.2024</u></p> <p><u>2nd petition by 25.01.2024</u></p> <p><u>3rd Petition by 05.02.2024</u></p>
2.	<u>Trial by Each Group</u>	<u>20 Number</u>	<u>i-11.01.2024</u>

	<p>Criminal Trial</p> <ol style="list-style-type: none"> i. Preparation of FIR / Complaint Petition ii. Charge Sheet, iii. Case Diary, iv. Bail Petition and Argument by each members of the respective Group v. Framing of Charge vi. Discharge Petition and argument by each members of the group with case law oldest and most recent delivered by Hon`ble Supreme Court of India, reported in AIR/SSC/SSC On Line vii. Recording of Testimony (Examination / Cross Examination) viii. Oral Argument with case law oldest and most recent delivered by Hon`ble Supreme Court of India, reported in AIR/SSC/SSC On Line ix. Submission of Written Argument including Case Law oldest and most recent delivered by Hon`ble Supreme Court of India, reported in AIR/SSC/SSC On Line x. Recording of Order sheet right from beginning to delivering Judgment. 		<p><u>ii. 18.01.2024</u></p> <p><u>iii.18.01.2024</u></p> <p><u>iv-11-18.01.2024</u></p> <p><u>v&vi-18-24</u></p> <p><u>vii-25.0124 to 3.02.2023</u></p> <p><u>viii- 5th Feb to 9th Feb</u></p> <p><u>ix- by 12 Feb</u></p> <p><u>x-16th FEB</u></p>
<p>3.</p>	<ol style="list-style-type: none"> 1. Civil Trial <ol style="list-style-type: none"> i. Preparation of Plaint ii. Written Statement iii. Limitation Petition iv. Amendment petition v. Substitution petition vi. Submission of Documents and marking exhibits. 	<p><u>20</u> <u>Number</u></p>	<p><u>23rd March to 10th April</u></p>

	<ul style="list-style-type: none"> vii. Settlement of issues viii. Recording of testimony (Examination / Cross Examination) ix. Oral Argument citing Judgments the Oldest and the most recent delivered by Hon`ble Supreme Court of India x. Written Argument referring Judgments the Oldest and the most recent delivered by Hon`ble Supreme Court of India xi. Preparation of Entire Order Sheet right from beginning to Delivering Judgments. 		
4.	<p style="text-align: center;"><u>High Court Proceeding by Each Group</u></p> <ul style="list-style-type: none"> i. Civil Writ ii. Criminal Writ iii. LPA iv. Request Case v. Contempt Application vi. Counter Affidavit vii. Rejoinder viii. Argument ix. Written Notes x. Judgments 	<u>20</u> <u>Number</u>	<u>19^t to 10th</u> <u>March</u>
5.	<p style="text-align: center;"><u>Supreme Court Proceeding by Each Group</u></p> Preparation of <ul style="list-style-type: none"> i. Civil Writ challenging validity of act ii. SLP iii. Argument iv. Written submissions v. Judgment 	<u>20</u> <u>Number</u>	<u>13th March to</u> <u>22nd March</u>
7.	Attendance	<u>5</u> <u>Number</u>	

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Chanakya National Law University, Patna
B.A., LL.B (Hons.) & B.B.A., LL.B. (Hons.)
SEMESTER- X
Academic Session (2023-2024)

Course Title: Optional – V “Health Law” (4 Credits)
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Course Overview

Health care industry and law are subjects with an inherent dynamism. There expanding dimensions with enduring research and advancements in technology increases its complexity because it touches socio, legal and ethical contours of human civilization. To understand the intricacies of this nascent field of law needs a comprehensive study with a detailed module comprising all possible and significant health issues of human being. Taking into consideration of the above said issues, module of this Optional paper is developed. The capital idea of this syllabus is to professionally equip students with a detailed understanding of national and international regulatory framework and approaches of Health laws and Health policies.

Module I deals with meaning and Concept of Health, International Instruments and Constitutional Safeguards for Health.

Module II talks about ethical concerns of in Medical Research & Medical Treatment.

Module III focuses on legislative framework for Health Sector in India

Module IV covers laws for regulation of Medical Profession and Medical Education in India.

Module V emphasizes on emerging trends in health sector and their legal and ethical implications

Learning Outcomes

This course module is prepared with an objective to develop student’s legal acumen in health law regime.

On completion of the course, students will be able to:

1. Understand conceptual framework and regulatory framework of Health Law and its policies.
2. Understand the relationship between the legal system, health care providers, and patients;
3. Identify and analyze legal issues in health care industry and its practices
4. Effectively communicate, both orally and in writing, the interpretive understanding of a case, statute, and complex regulatory scheme of Health Law Regime (both national and global).

5. Multi facet and interdisciplinary analysis of any public health policy document.

Topic/ Module	Contents/ Concepts	Sessions / Lectures
Module I:	Health: Meaning and Concept, International Instruments and Constitutional Safeguards for Health	10 Lectures
	<p>1. Introduction:</p> <ul style="list-style-type: none"> ➤ Meaning and Concept of health; ➤ Factors affecting health; ➤ Concept of Public Health; ➤ Health Committees Pre And Post-independence; ➤ National Health Policies. <p>2. International Instruments and Right to Health:</p> <ul style="list-style-type: none"> ➤ Right to health- International Perspectives; ➤ Role of WHO; ALMATA Declaration; ➤ And other important International Human Right Instruments for Right to health. <p>3. Constitutional Framework for Health in India:</p> <ul style="list-style-type: none"> ➤ Entries relating to health under Schedule VII; ➤ Provisions under Directive Principles; ➤ Health as a part of Fundamental Rights & Right to life; ➤ Fundamental duties; 	
Module II:	Medical Ethics in Medical Research & Medical Treatment	10 Lecture
	<p>4. Medical Ethics & Medical Research</p> <ul style="list-style-type: none"> ➤ Medical ethics and Bio ethics ➤ Fundamental notions of Medical ethics ➤ International documents on Medical Ethics and its historical development <p>5. Consent & Medical Treatment</p> <ul style="list-style-type: none"> ➤ Consent in Medical Treatment ➤ Real Consent Vs. Informed Consent ➤ Basic components of consent ➤ Indian law relating to consent 	

	6. Medical Research & Consent <ul style="list-style-type: none"> ➤ Introduction ➤ International ethical codes (Nuremberg Code, Declaration Helsinki, The CIOMS guidelines) ➤ Regulation of medical research in India ➤ Clinical Trial 	
Module III:	Health care regulations in India and public Health Emergency law	25 Lectures
	7. Health care regulations in India and public Health Emergency law <ul style="list-style-type: none"> ➤ Laws relating to Reproductive and Sexual Rights of Women ➤ Organ And Tissue Transplantation ➤ Mental Health ➤ Regulating pharmaceutical, medical devices and healthcare technology ➤ Public Health Emergency Laws ➤ Laws in relation to Occupational Health and Accident Prevention ➤ Other significant legislations 	
Module IV:	Laws for Medical Profession and Medical Education	10 ecture
	8. . Medical Profession and Patient Rights <ul style="list-style-type: none"> ➤ Doctor and Patient relationship ➤ Medical Negligence (Civil and Criminal) ➤ Professional misconduct in medical profession <p>(The Indian Medical Council Act, 1956, Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002 etc.)</p> 7. Medical Education <ul style="list-style-type: none"> ➤ The Medical Council of India (MCI) ➤ The National Medical Commission (NMC)) 	
Module V:	Emerging Trends in health sector and their Legal and Ethical Implications	10 lectures

	<p>8. Emerging trends in health law regime</p> <ul style="list-style-type: none"> ➤ Euthanasia ➤ Bio-technology and Human Health ➤ Gene Patenting : legal and ethical issues ➤ Health Insurance ➤ Human Cloning. ➤ Telemedicine 	
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Evaluation Criteria

COMPONENTS	MARKS ALLOTTED
Attendance	05
Project Report	16
Presentation	4
Mid-Semester Examination	15
End-Semester Examination	60
Total Marks	100

RECOMMENDED/REFERENCE TEXT BOOKS AND RESOURCES:

Text Books & Reference Books

1. Thomas , Alexander , H.C., Arpitha and V.Nandimath Omprakash, Health Law and Ethics: Critical Reflections, (Thomson Reuters,2022)
2. Kannan, K , Medical Jurisprudence and Toxicology (Modi), (LexisNexis, 26th ed.,2021)
3. Bag ,R.K. - Medical Negligence and Compensation, (Eastern Law House,2021)
4. Kannan ,K, Medicine and Law (Oxford Publication.2014).
5. Foster ,Charles ,Medical Law: A Very Short Introduction (Very Short Introductions) ,Oxford,2013
6. Mason Kenyon,and Laurie,Mason and Mc Call Smith- Law and Medical Ethics, oxford ,2013
7. Jogarao ,S. V. - Current Issues in Criminal Justice and Medical Law, (Eastern Law House,1999)
8. Diamond, Bridgit, Legal Aspect of Care in the Community, (Macmillan Press Ltd., London, 1997)
9. Bakshi ,P. M. -Law and Medicine , Institute of Judicial Training and Research, 1993
10. Knight ,Barnard, American Medical Practice, (Churchill Livingstone, London, 1992)

Web Resources

<https://medicineslawandpolicy.org/>

<https://lawjournals.celnet.in/index.php/ijhml/index>

<https://libraryguides.law.pace.edu/c.php?g=319350&p=3146149>

<https://libraryguides.law.pace.edu/c.php?g=319350&p=3146128>

<https://libraryguides.law.pace.edu/c.php?g=319350&p=3146136>

<https://jipmer.edu.in/library/open-access-and-free-medical-e-resources>

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