

SYLLABUS FOR
INTRODUCTION TO INTERNATIONAL CRIMINAL LAW

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Scope, Methods and Objectives of the Course

Scope: This short course provides an introduction to the rapidly-developing field of international criminal law. It will begin with an examination of the International Criminal Court and its predecessors, exploring their origins, structure, and jurisdiction *ratione personae* and *ratione materiae*. In addition to the four “core crimes” of genocide, crimes against humanity, war crimes and aggression, attention will be given to the various “modes of participation” such as incitement, solicitation, “joint criminal enterprise,” and command responsibility, as well as defenses such as self-defense, duress and superior orders.

Because “international criminal law” operates simultaneously on the domestic as well as international levels, the course will also address the various international treaty regimes for prosecution of international crimes in domestic courts, including torture, organized crime, money-laundering and trafficking in drugs, people and cultural objects. We will explore the various treaties requiring states to criminalize and prosecute various crimes of terrorism, as well as the mechanisms of cross-border extradition and “mutual legal assistance.”

Methods: The course will consist primarily of seminar-style discussion (although on occasion, for the sake of efficiency, I will probably undertake some short lectures). Please come prepared to engage in the discussion. In particular, all students are expected to prepare for and to participate actively in the in-class “exercises,” since they are intended to engage you in thinking about how to apply the various principles and doctrines to specific situations, and to provide some experience in how the international criminal law system operates. In addition to some assigned readings, students will be asked to undertake specific research tasks designed to familiarize them with available resources (especially websites and other on-line resources). Students will also have the opportunity to make presentations on topics about which they are writing or are otherwise particularly interested.

Objectives: To become familiar with the concepts, terminology, sources and arenas of the field, in particular the structure and procedures of the International Criminal Court and the substantive “core crimes” within its jurisdiction, as well as a variety of the transnational crimes addressed in multilateral “international criminal law” treaties; to gain a sense of the issues related to domestic implementation (such as “extradite or prosecute” obligations); gain facility in researching and writing in the field.

Reading Materials: All reading materials will be made available on the Materialienseite. No textbook is needed. Some research on the Internet is required, however. The schedule of classes and assignments is set forth below.

Location: Lautenschläger-HS, Jur. Sem.

Schedule of Classes and Assignments

Monday June 3 (9:00 am to 12:00 pm) (3 hr)

Overview of the field of international criminal law; history of war crimes trials, ad hoc tribunals, regional and hybrid courts. In-class exercise (jurisdiction).

Reading:

- (1) What is International Criminal Law? (Read Ch. 1 pp. 1-29)
- (2) What is the purpose of international criminal law?
- (3) Exercise #1: Where should crimes be prosecuted?
- (4) Optional: DM pp. 1256-71.

Tuesday June 4 (2:00 pm to 5:00 pm) (3 hr)

The International Criminal Court: origins, structure, purpose; jurisdiction and admissibility; the "core crimes." In-class exercise (core crimes).

Reading:

- (1) Visit <https://www.icc-cpi.int/>. Review Rome Statute Arts. 1-21.
- (2) Ch. 4 Part III "The International Criminal Court" (pp. 132-161)
- (3) Ch. 5 Part III "The Core Crimes" (pp. 185-238)
- (4) Exercise #2: (1) genocide, (2) crimes against humanity, (3) aggression

Wednesday June 5 (9:00 am to 4:00 pm) (6 hr)

The ICC (cont'd): procedure, modes of participation and defenses; specific cases and decisions; points of controversy; assessment of future challenges.

Reading:

- (1) Rome Statute Arts. 22-33.
- (2) What are the bases of criminal liability?
- (3) Ch. 6 "Modes of Participations and Recognized Defenses" (pp. 239-277)
- (4) Exercise #3: How does a case get started in the ICC?
- (5) Exercise #4: Modes of Participation
- (6) Optional: DM pp. 1283-90.
- (7) Optional: U.S. approach to the ICC (DM pp. 1297-1310)

[Thursday June 6 (no class)]

Friday June 7 (6:00 pm – 8:00 pm) (2 hr)

Exercises and in-class research presentations.

- (1) Exercise #5: Defenses: Duress/Superior Orders/Immunity
- (2) Presentations

[Monday (no class)]

Tuesday June 11 (2:00 pm to 5:00 pm) (3 hr)

Introduction to transnational crimes; international conventions on torture, trafficking in narcotics, organized crime; questions of jurisdiction;

Reading:

- (1) Ch. 7 “Transnational Crimes” (pp. 279-327)
- (2) Exercise #6: Presentations on Treaty Crimes
- (3) Meaning and importance of *aut dedere aut judicare*
- (4) Optional DM pp. 1252-56.

Wednesday June 12 (9:00 am to 4:00 pm) (6 hr)

International conventions on terrorism and cybercrime; exercises and presentations.

Reading:

- (1) Ch. 8 “International Terrorism” (pp. 329-363)
- (2) Exercise #7: Presentations on Terrorism Conventions
- (3) Exercise #8: Cyber Crime

Thursday June 13 (9:00 am to 4:00 pm) (6 hr)

Extradition and mutual legal assistance. Political offense, dual criminality, *non bis in idem*.

Reading:

- (1) Ch. 9 “Extradition and Related Procedures” (pp. 369-426)
- (2) DM pp. 1231-44, 1251-52
- (3) Exercise #9: Obstacles to Extradition
- (4) U.S.-Serbia Extradition Treaty
- (5) Mutual Legal Assistance UN Model GA Res 45/117 (Dec. 14, 1990)

Friday June 13 (9:00 am to 4:00 pm) (6 hr)

Conclusions, Questions, Presentations, Review

Examination: (to be scheduled)

Student Responsibilities: The success of this course will depend in large part on your curiosity and engagement. Each student is expected to attend every class, complete the assigned readings with a critical eye, and participate actively. Class discussion will play a central role, and there will be several exercises and simulations. Effective participation will make the course more rewarding for everyone. Your insights, questions, and challenges to conventional wisdom are welcome.

Student Evaluation: There will be an optional examination for a certificate with a grade. Students who participate in all classes but do not write an essay examination will receive an attendance certificate. Some students may also prepare a paper

Additional Matters

1. *Syllabus.* The syllabus is subject to adjustments to reflect our discussions as we proceed. I will alert students in class of any changes to the syllabus.
2. *CVs/Resumes.* I would appreciate it if, during the first week, you would provide me with a short resume (or your CV) in order to help me to get to know you professionally.
3. *Seating Chart.* It would also assist if you would kindly sign the seating chart by the end of our 2nd day of classes. If you subsequently move to a different seat, please update the seating chart accordingly.
4. *Resources.*

Carsten Stein, A CRITICAL INTRODUCTION TO INTERNATIONAL CRIMINAL LAW (Cambridge 2019) (paper and e-book)

Luban, O'Sullivan, Stewart and Jain, INTERNATIONAL AND TRANSNATIONAL CRIMINAL LAW (West Publishing, 3d ed. 2019) (textbook)

David P. Stewart, INTERNATIONAL CRIMINAL LAW IN A NUTSHELL (West, 2d ed. 2019) (paper and e-book)

Rome Statute of the International Criminal Court, 2187 UNTS 3 (July 17, 1998) - available at https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf.

UN Office of Counter-Terrorism: International Legal Instruments: available at <https://www.un.org/en/counterterrorism/legal-instruments.shtml>