



The Hebrew University of Jerusalem

Syllabus

International Criminal Law - 62585

Last update 05-05-2024

HU Credits: 2

Degree/Cycle: 2nd degree (Master)

Responsible Department: Law

Academic year: 0

Semester: 2nd Semester

Teaching Languages: English

Campus: Mt. Scopus

Course/Module Coordinator: Att. Yael Vias Gvirsman

Coordinator Email: yaelgman@gmail.com

Coordinator Office Hours: prescheduled basis please

Teaching Staff:

Course/Module description:

The course examines the rules, concepts, principles, institutional architecture, and enforcement of international criminal law or international criminal justice. We focus on the evolution of international criminal law in the past 200 years within the Rule-Based International Order (RBIO) we know today. We also examine current turbulences threatening the RBIO and the role of international criminal law within global governance. The focus of the course is the area of international criminal law concerned with four of the core crimes, namely, war crimes, crimes against humanity, genocide, and the crime of aggression; its institutional implementation by different International Criminal Courts and Tribunals (ICCTs), and in different context situations. Finally, through a particular focus on international criminal trials and proceedings (case law), we will deal with the most current challenges and topics of International Criminal Law, including and of the following topics and more: the interplay between ICL and other fields of international law; Strategic Litigation for Victims of International Crimes; Universal Jurisdiction in the 21 century; Corporate accountability for International Crimes; Gender and ICL including Sexual and Gender-Based Violence; Crimes against Children, Human Trafficking; Counter-terrorism and ICL; Cybercrimes and cyber-attacks; the evolving crime of Ecocide; A draft Convention on Crimes Against Humanity; The Ljubljana – The Hague Convention on International Cooperation in the Investigation and Prosecution of Genocide, Crimes against Humanity, War Crimes and other International Crimes; The course is structured under three pillars: Pillar 1 discusses the evolution of ICL from The Hague Conventions, Nuremberg to The Hague with the International Criminal Court; Pillar 2 deals with core notions of ICL, namely norms and crimes; ICCTs; jurisdiction, admissibility, interests of justice, modes of liability, victims and defense. Pillar 3 examines current challenges in the implementation of ICL, as mentioned above.

Your grade in the course will be based on a take-home exam and upon completion of four reading summaries (max. 2 pages), based on the guiding questions provided each week (you have an optional 4 out of 12 weeks). At least 80% attendance in class is usually obligatory, however, consideration will be given due to the current situation and depending on the Faculty rules at any given time. Active and constructive participation in class can positively affect your final grade, subject to the lecturer's sole discretion and according to the Law Faculty rules.

Below, you may find the course outline, list of lecture topics, and sample readings. Use the list to familiarize yourself with the range and type of materials that will be used. Please note that the full reading lists and tutorial discussion questions will be provided however, they may be subject to change throughout the course, with due notice.

Course/Module aims:

Learning outcomes - On successful completion of this module, students should be able to:

At the end of the course, students should be able to:

- Master the definition of the four international core crimes, know what distinguishes them from one another and what makes them international;
- Understand the main developments of ICL in the past two centuries and the interplay between Law and Power; ICL and other fields of law;
- Understand the rationale behind the creation of ICL and the purposes it should serve;
- Critically assess the role of ICL in global governance; and in different mass atrocity crimes in the world;
- Critically evaluate ongoing developments in international criminal law;
- Understand some of the political and philosophical dilemmas surrounding the decision to convene war crimes trials;
- Have a comparative view of mass atrocity situations; including the interplay between international and domestic justice mechanisms;
- Understand basic notions of international criminal law and the International Criminal Court (ICC), namely, jurisdiction, admissibility and 'the interests of justice'

Attendance requirements(%):

80

Teaching arrangement and method of instruction:

Course/Module Content:

We will meet during 12 sessions. Topics for each session will appear in Module and will include reading material and guiding questions for your 4 out of 12 summaries of choice (max 2 pages each)

Required Reading:

Reading materials will be provided before the start of the course via moodle

Additional Reading Material:

Good ICL references:

Robert Cryer, Hakan Friman, Darryl Robinson, Elizabeth Wilmshurst, *An Introduction to International Criminal Law and Procedure*, 3rd ed (Cambridge University Press,

2014).

M. Cherif Bassiouni, *International Criminal Law, Volume 1: Sources, Subjects and Contents*, Third Edition 2008

Cassese, *International Criminal Law* (2nd 2008)

Cassese, Gaeta and Jones (eds), *The Rome Statute of the International Criminal Court: A Commentary* (2002)

Cassese (ed), *The Oxford Companion to International Criminal Justice* (2009)

Cryer et al, *An Introduction to International Criminal Law and Procedure* (2nd ed 2010)

Mettraux, *International Crimes and the Ad Hoc Tribunals* (2005)

Ratner, Abrams and Bischoff, *Accountability for Human Rights Atrocities in International Law. Beyond the Nuremberg Legacy* (3rd ed 2009)

Schabas, *An Introduction to the International Criminal Court* (4th ed 2017)

Schabas, *The UN International Criminal Tribunals: The Former Yugoslavia, Rwanda and Sierra Leone* (2006)

Schabas, *The International Criminal Court. A Commentary on the Rome Statute* (2010)

Werle, *Principles of International Criminal Law* (2nd ed 2009)

General reading on ICL and ICL Theory

Anne Orford, *International Authority and the Responsibility to Protect*

Anne Orford (ed) *International Law and its Others*

Carl Schmitt's *The Nomos of the Earth*;

Chris Reus-Smit's *The Moral Theory of the State*;

Christine Schwobel, *Critical Approaches to International Criminal Law: An Introduction* (2015)

Crawford and Koskeniemi, *The Cambridge Companion to International Law* (2012)

David Kennedy's *Of Law and War*, "Spring Break" and "The Move to Institutions"

David Luban, "After the Honeymoon: Reflections on the Current State of International Criminal Justice" *J Int Criminal Justice* (2013) 11 (3): 505-515

Fleur Johns et al, *Events: The Force of International Law*

Gary Bass, *Stay the hand of vengeance: the politics of war crimes tribunals* (2000)

Gerry Simpson, "Atrocity, Law, Humanity" in *Cambridge Companion to Human Rights Law* (eds. Gearty and Douzinas), 2013.

Gerry Simpson's, *Great Powers and Outlaw States* (2004);

F. Jessberger and J. Geneuss, "Down the Drain or Down to Earth? International Criminal Justice under Pressure" *J. Int Criminal Justice* (2013) 11 (3): 501-503

James Crawford's *The Creation of States*;

Judith Shklar, *Legalism*, (1964)

Kevin Jon Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (2011).

Kenneth Anderson, 'The Rise of International Criminal Law: Intended and Unintended Consequences' 20 (2) *European Journal of International Law* (2009) 331 at www.ejil.org

Kirsten Sellars, "Delegitimizing Aggression: First Steps and False Starts after the

First World War" *J Int Criminal Justice* (2012) 10 (1): 7-40
Mark Osiel, *Making Sense of Mass Atrocity*, Cambridge University Press, 2009.
Martin Wight's "Western Values";
Maurice Hankey, *Politics, Trials, Errors* (1950)
Martti Koskenniemi's *From Apology to Utopia: The Structure of International Legal Argument*, (1989) and (2007, which contains an indispensable epilogue) and his *The Gentle Civiliser of Nations* (2002)
Naomi Roht-Arriaza "Just a 'Bubble'? Perspectives on the Enforcement of International Criminal Law by National Courts" *J Int Criminal Justice* (2013) 11 (3): 537-543
Payam Akhavan, "The Rise, and Fall, and Rise, of International Criminal Justice" *J Int Criminal Justice* (2013) 11 (3): 527-536
Philip Allott, *Eunomia* (1997);
Sam Moyn, *The Last Utopia*, (2010) Mark Lewis, *The Birth of the New Justice: The Internationalization of Crime and Punishment, 1919-1950* (2014).
Sundhya Pahuja's *Decolonising International Law* (2011)
Susan Marks' *The Riddle of all Constitutions* (2003);
Susan Marks (ed), *International Law on the Left*
Tom Franck's *Fairness in International Law* (1995);
Tony Anghie's *Sovereignty*
William A. Schabas "The Banality of International Justice", *J. Int Criminal Justice* (2013) 11 (3): 545-551

(1) Source Material

International Legal Materials (ILM) is published six times a year with a wide variety of contemporary documents; the *International Law Reports (ILR)* contains the English text of most major cases; there are notes on Australian practice in the *Australian Yearbook of International Law*, British State practice in the *British Year Book of International Law (BY)*, on United States practice in the *American Journal of International Law (AJ)* and on contemporary issues in the 'Current Developments' section of the *International and Comparative Law Quarterly (ICLQ)*.

(2) Periodicals and Law Reports

Journal of International Criminal Justice at <http://jicj.oxfordjournals.org/>

The principal general international law periodicals to which reference will be made are:

AJ *American Journal of International Law* [AMER] (also available electronically)

BY *British Year Book of International Law* [K 1 BRIT]

CLJ *Cambridge Law Journal* [CAMB] (available electronically)

EJIL *European Journal of International Law* [EURO] (also available electronically)

ICLQ *International and Comparative Law Quarterly* [INTE] (also available electronically)

LQR *Law Quarterly Review* [LAW]

LRIL *London Review of International Law*

MJIL *Melbourne Journal of International Law* [MELB]

(3) Websites

Dozens of websites provide information on international law but the following are particularly useful:

ICTY: www.icty.org

ICC: <https://www.icc-cpi.int/>

The Hague Justice Portal <http://www.haguejusticeportal.net/index.php?id&eq;1974>

United Nations: <http://www.un.org>

International Court of Justice: <http://www.icj-cij.org>

American Society of International Law: <http://www.asil.org>

Lauterpacht Research Centre: <http://www.law.cam.ac.uk/rcil/home>

European Journal of International Law: <http://www.ejil.org>

(4) Blogs:

Justice in conflict at <https://justiceinconflict.org/>

Opinio Juris at <https://opiniojuris.org/>

Just Security at <https://www.justsecurity.org/>

EJILTalk! At <https://www.ejiltalk.org/>

iLawyer at <http://ilawyerblog.com/>

IntLawGrrls at <https://ilg2.org/>

Course content is subject to change. Last updated: May 2024.

Grading Scheme:

Essay / Project / Final Assignment / Home Exam / Referat 95 %

Submission assignments during the semester: Exercises / Essays / Audits / Reports / Forum / Simulation / others 5 %

Additional information: