

LW6184E: SPECIAL TOPICS IN INTERNATIONAL LAW: ICL/IHL

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Special Topics in International Law: ICL/IHL

Subject Code

LW - Law

Course Number

6184E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW5584 Special Topics in International Law: ICL/IHL

Exclusive Courses

LW6584E Special Topics in International Law: ICL/IHL

Part II Course Details

Abstract

This course aims to examine the models and methods of international accountability for crimes involving massive human rights violations; it will review the nature, character and legal elements of the crimes of genocide, serious war crimes, crimes against humanity and the crime of aggression. Students will review the history of international sanctioning bodies and identify jurisdictional constraints and other historical innovations and impediments. The course aims to analyze contemporary international criminal law initiatives in relation to principles of public international law and domestic state practice with regard to both theory and practical applications. Students will be called upon to consider issues such as command responsibility, complementarity jurisdiction, the general principles of criminal law, and the interchange between political power and the judicial process in the international arena. Students will also explore the jurisprudential mix (common law, civil law, international law, domestic law) utilized by the international criminal tribunals.

On completing the course students should understand the nature of vertical international law, the different mechanisms for the trial of international crimes and the constitutive documents that control them, the substantive offenses under international law and the rules and jurisprudence governing the international criminal law bodies. Moreover, students should be able to identify the political ramifications of the international criminal law legal framework and apply what they have learned to modern developments and practices in international relations today.

This course will examine the doctrine of universal jurisdiction and consider the impact, if any, of the *Regina v Bartles* case in the UK. It will examine the constitutive documents of the ad hoc Tribunals for former Yugoslavia and Rwanda as well as those documents creating the international hybrid tribunals of Sierra Leone, Cambodia, Lebanon, and East Timor. The course will conduct a detailed analysis of the Rome Statute of the International Criminal Court and its Rules of Procedure and Evidence. The course will also review some of the leading cases in the international tribunals and identify developing trends in international criminal law.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Describe and analyse the international criminal law mechanisms and evaluate the effectiveness of the different models for ensuring international compliance.	30	x	x	x
2	Analyse the elements of the substantive criminal offenses under international law.	35	x	x	x
3	Identify and analyze jurisdictional constraints of international tribunals, liability assessment, thematic issues in international criminal law and issues of justice, politics and sentencing in the tribunals.	35	x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures	Presentation of the substantive law, legal mechanisms and legal issues on the topics listed in the course syllabus.	1, 2, 3	1
2	Interactive class discussion	Students learn how to identify the norms and law of (international) human rights and how to apply them to relevant cases. Students will also be engaged in discussions and debates to develop a critical view on the issues to be discussed.	1, 2, 3	1
3	Class presentation	Students present on topics designed to stimulate class discussion on material issues. Students defend theories and opinions against cross-examination.	1, 2, 3	1

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Inter-active in-class exercises	1, 2, 3	20	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

20

Examination (%)

80

Examination Duration (Hours)

3

Additional Information for ATs

Examination: The use of Generative AI tools is not allowed.

To enable the full benefit to be obtained from this course, students should attend all of the classes and activities.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in examination and an overall mark of 50% in order to pass the course.

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in examination and an overall mark of 40% in order to pass the course.

Assessment will be formative to enable students to demonstrate their capacity to understand, analyse and apply rules and principles and summative to assess ability to synthesise primary and secondary material to solve novel problems.

Assessment Rubrics (AR)**Assessment Task**

Inter-active in-class exercises (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of oral presentation skills and willingness / ability to answer questions in class.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of understanding of principles, theories and concepts.

Demonstration of ability to identify issues.

Application of knowledge to specific problems and discussion questions.

Ability to engage in argument-based analysis.

Aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Inter-active in-class exercises (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of oral presentation skills and willingness / ability to answer questions in class.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of understanding of principles, theories and concepts.

Demonstration of ability to identify issues.

Application of knowledge to specific problems and discussion questions.

Ability to engage in argument-based analysis.

Aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

International criminal law, genocide, crimes against humanity, war crimes, aggression, law of international human rights, International Criminal Court, ICTY, ICTR, hybrid tribunals, complementarity, child soldiers, transitional justice, terrorism, vertical and horizontal norm, command responsibility, *nullem crimen sine lege*, *nulla poena sine lege*, UN Security Council, Geneva conventions, Hague law, victims' rights.

Detailed Syllabus

- a. Introduction and history of international criminal law
- b. Substantive offenses, international legal basis for international criminal law
- c. International criminal law in the UN charter era

- d. The International Criminal Court: creation, purpose and structure
- e. The International Criminal Court: Pre-Trial, Trial and Appellate divisions
- f. The International Criminal Court: jurisdiction, admissibility
- g. Genocide: Genocide Convention and Rome Statute
- h. Genocide: continued
- i. Crimes against Humanity: definitions, cases, compared to genocide
- j. War Crimes: history of IHL, Hague law, Geneva law, Rome Statute
- k. War Crimes: continued, command responsibility
- l. Crime of Aggression: Kellogg-Briand, Nuremberg, Rome Statute (Kampala conference)
- m. Special Topics in ICL: applicable law, rights of the accused, evidence, victims' rights, sentencing, cases.

Reading List

Compulsory Readings

Title	
1	Nil

Additional Readings

Title	
1	A. Instruments
2	Charter of the United Nations (1945)
3	Rome Statute
4	ICC Rules of Procedure and Evidence
5	Statute of the Special Court for Sierra Leone
6	ICTY Statute
7	ICTR Statute
8	Law of the ECCC
9	Universal Declaration of Human Rights (1948)
10	International Covenant on Civil and Political Rights (1966)
11	International Covenant on Economic, Social and Cultural Rights (1966)
12	B. Reading List
13	William A. Schabas, An Introduction to the International Criminal Court, 4th ed. (2011);
14	Mark D. Kielsgard, Reluctant Engagement: US Policy and the International Criminal Court (2010)
15	Henry Steiner, Philip Alston & Ryan Goodman, International Human Rights in Context: Law, Politics and Morals, 3rd ed., Oxford U Press, 2008;
16	Samantha Power, A Problem From Hell: America and the Age of Genocide (2002);
17	William A. Schabas, The Oxford Commentaries on International Law: The International Criminal Court, A Commentary on the Rome Statute (2010).
18	- Arbitration in Hong Kong: A Practical Guide The Hon. Mr. Justice Ma, Editor-in-Chief Mr. Neil Kaplan CBE QC FCI Arb, General Editor (Sweet & Maxwell Asia)
19	- The Law Reform Commission of Hong Kong - Report on the Adoption of the UNCITRAL Model Law of Arbitration (Topic 17) (Government Printer, Hong Kong)
20	- The Arbitration Ordinance of Hong Kong: A Commentary, Robert Morgan (Butterworths Asia)
21	- Arbitration in Hong Kong: A User's Guide, Michael J Moser and Teresa Y.W. Cheng J.P. (Kluwer Law International)