Class Meetings: Tuesdays and Thursdays: 3:40 - 4:55 pm

Room 382

Office: No. 332G

Office Hours: TBA and by appointment

Required Texts: Handouts, TWEN postings and internet-accessible materials from sources like WESTLAW

Introduction:

This is the syllabus for Theory and Practice of International Courts and Tribunals. The course meets twice weekly, every Tuesday and Thursday from 3:00 pm to 4:15 pm, except on scheduled breaks and holidays.

Few developments since the creation of the United Nations have had as profound an impact on the establishment and dissemination of international legal norms as has the proliferation of international courts and tribunals.

The ability to navigate successfully this increasingly complex web of hybrid, regional, and international courts and tribunals has become an invaluable tool set in any international lawyer’s arsenal. Knowing what courts and tribunals have jurisdiction over particular claims; knowing how to identify correctly the subjects versus the objects of international law; and possessing the professional sophistication to recognize the specific capacities and limitations of the forum in question involves more than a passing knowledge of what we will refer to doctrinally as the theory and practice of international courts and tribunals.

Conceptual structure

Conceptually, this course should be viewed as an extension of both International Law and Public International Law. While the juridical focus of those courses centered primarily on the jurisprudence of the (a) the International Court of Justice and select international tribunals, as well as (b) domestic courts and their relationship to international law, this course traces the emergence and proliferation of international criminal, commercial and
human rights justice mechanisms more broadly.

**Course content: general overview**

The course begins with an examination of the Nuremberg Tribunals that were convened at the close of World War II to try indicted war criminals of war crimes and crimes against humanity. Central inquiries here examine the institutional capacity of the Tribunals, related jurisdictional questions, and the impact the Tribunals have had in establishing binding international norms.

A more recent development involves the capacity of the United Nations Security Council to create so-called *ad hoc* international criminal tribunals. The Security Council utilized this power in the wake of the atrocities in the Former Yugoslavia and Rwanda to create special international criminal tribunals, and collaborated with the government of Sierra Leone to create the Special Court for Sierra Leone.

We will also examine the controversial International Criminal Court (the I.C.C.) and its enabling statute, the Rome Statute of the International Criminal Court. As a relatively new court, it is perhaps too early to reach any definitive conclusions on the I.C.C.’s impact I.C.C. thus far. But it does not take a great deal of imagination, given the I.C.C.’s broad mandate, to appreciate the court’s potential to create new and transformative paradigms in the fields of international criminal procedure, gender and reproductive rights, and “reparational” justice.

We will of course examine some of the procedural aspects of the International Court of Justice (ICJ) and look at ICJ case law in the contentious case and advisory opinion contexts. World Trade Organization (WTO) related-disputes and truth and reconciliation commissions will also be explored.

Finally, special attention will be given to regional courts in the Americas (the Organization of American States Inter-American Commission on Human Rights and the Inter-American Court) and in Africa (the African Union Court of Human and People’s Rights).

**Supplemental materials**

In order to develop a better sense of the complex and often interrelated global frameworks that underscore the disputes heard by the various courts and tribunals we will examine, I suggest that you subscribe to the New York Times. Those of you who wish to explore more aggressively and in greater detail the broader range of international economic, policy and organizational problems are encouraged to consult journals like *Foreign Policy, The Economist, ILSA Quarterly* and *Africa Confidential*, all of which are available for review at the library or in the Center for International Law and Justice (CILJ).

**Class Participation and Grading:**

I encourage and strongly recommend your active and thoughtful class participation. Class
participation in this course will comprise 20% of your final grade. Please note that I often conduct class sessions like a seminar, albeit one that frequently relies on the Socratic Method. Please observe that students with 4 or more unexcused absences will not be permitted to sit for the final examination, absent written approval from the Dean.

Please do your utmost to arrive to class on time. I do not look kindly on latecomers, and I reserve the right to bar your entrance to class if you arrive more than 10 minutes late. Also, please do not “surf the web”, text friends, or send emails during class. Not only is this a sign of profound disrespect to me. Such behavior suggests that you do not take the class, your classmates, or the readings seriously. If I catch you engaged in any of these activities, I will ask you to leave my class.

Grading consists of two components: class participation and the final examination. Course Grades will be calculated using the following point spread:

Class participation: 20%
Final examination: 80%

I will say more about the final as the semester progresses.

Office Hours:

I will hold regular office hours during the semester, as outline above. All that I ask is that you try not to visit me during the hour immediately before class begins: like you (I hope), I use that time to prepare. My office number is 332G.

Reading Assignment Adjustments

Reading levels will be brisk but manageable, averaging approximately 60-80 pages per week, or 30-40 pages per class session. Understand that these figures are merely aspirational. Actual progress will vary based on the complexity and importance of the materials under consideration.

Please note that I reserve the right to make adjustments to the READING ASSIGNMENT list in order to fulfill the course objectives noted above.

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READING ASSIGNMENTS

Weeks 1 and 2: A review of public international law
Read the following materials:


**Week 3: The Nuremberg International Military Tribunal (handout)**

Read the following materials:

- The Charter of the International Military Tribunal

- Judgment of the International Military Tribunal

**Weeks 4 - 7: Ad Hoc Courts under the aegis of the United Nations Security Council**

**A. The International Criminal Tribunal for the Former Yugoslavia**

- The entire UN Charter. Devote special attention to the Articles contained in Chapter VII of the Charter

- The Statute for the International Criminal Tribunal for the Former Yugoslavia

- *Prosecutor v. Tadic* (also reference *Blaskic* and *Erdemovic*)

**B. The International Criminal Tribunal for Rwanda**

- The United Nations Security Council Resolution for the Creation of the International Criminal Tribunal for Rwanda

- The Statute for the International Criminal Tribunal for Rwanda

- Judgment against *Jean Paul Akayesu* (HO)

**[C. The Special Court for Sierra Leone**


- *Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*

- Special Court Agreement, 2002 (Ratification) Act (2002)

- Decision on Immunity from Jurisdiction, *Prosecutor v. Charles Taylor*, SCSL-03-01-1-059 (2004)]
Weeks 8 and 9: The International Criminal Court (I.C.C.)

A. An introduction to the I.C.C.

• The Rome Statute of the International Criminal Court


• Film supplement on the I.C.C. (The Reckoning)(TBD)

B. Relevant decisions and supplemental materials

• *Decision: The Prosecutor v. Thomas Lubanga Dyilo*, No.: ICC-01/04-01/06 (July 10, 2012)


[• *Warrant of Arrest for Omar Hassan Ahmad Al Bashir*]

Weeks 10 and 11: The International Court of Justice

• The Statute of the International Court of Justice

• Chapter XIV of the U.N. Charter (Arts. 92-96)

[• Rules of the Court (background reading)]

A. Textual readings (HO pp. 298-337)


B. Advisory Opinion jurisdiction (HO pp. 298-337)


Week 12: Global trade disputes and the World Trade Organization (WTO)

• Introductory materials on WTO structure and procedure (handout)
• WTO Organizational Chart

• Annex 2: *Understanding on Rules and Procedures Governing the Settlement of Disputes*

• Doha Round Declaration


**Week 13 - 14: Regional justice mechanisms**

**A. The Inter-American Court of Human Rights**

• The Statute of the Inter-American Court


**B. The African Court on Human and Peoples’ Rights (additional readings TBD)**