

International Criminal Law
Law 606
Course Memorandum
Fall 2019
T-Th, 9:55-10:55, Room 103

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Office Hours: Whenever door is open & T-Th 2:00-4:30

1. Course Overview and Objectives

This course will focus on four aspects of international criminal law. First, we will begin the semester with a general introduction to the historical evolution of international criminal law over time. This will include a discussion of the development of the four primary crimes of “international concern” – war crimes, crimes of aggression, crimes against humanity, and genocide. This discussion will also include a description of the international tribunals established to prosecute these crimes of international concern, including the Nuremberg Tribunal and the International Criminal Court in The Hague. This introductory portion of the course will also focus on fundamental issues related to international criminal law, such as sources of international law, what crimes are international, and how is jurisdiction established over international crimes.

Second, the course will cover certain U.S. domestic statutes that criminalize international conduct. These will include laws covering narcotics and money laundering, piracy, terrorism, torture, and human trafficking.

Third, we will examine the application of the U.S. Constitution and U.S. rules of criminal procedure to international criminal cases. This will include examination of the 4th, 5th, and 6th Amendments, international evidence gathering tools, extradition, and abduction (renditions).

Fourth, towards the end of the semester, we will examine more closely the evolution of international tribunals to prosecute crimes of “international concern” and learn more about the elements of these four fundamental international crimes.

The materials covered in this course will be vital to those planning to undertake any type of criminal law career, whether with a domestic or international focus. As you will see as we move through the materials, criminal law and criminal prosecutions have become globalized in the last decade and almost any criminal law career will now include cases with international components.

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

- Understand what the term “international criminal law” encompasses, along with understanding the sources of international law, what crimes are international, and

how jurisdiction is established over international crimes.

- Have a sophisticated understanding of the historical development of the four core crimes of international concern – war crimes, crime of aggression, crimes against humanity, and genocide—and the tribunals established to prosecute them.
- Have a working knowledge of U.S. criminal laws that apply internationally.
- Understand how U.S. criminal procedure applies to international criminal investigations and prosecutions.
- Obtain an individual and in-depth understanding of a chosen topic pertaining to international criminal law. Write a publication-quality paper and give a professional presentation on the topic.

2. Course Materials

The text for this class is Podgor, Clark, Devan, *International Criminal Law: Cases and Materials* (4th ed. 2016). We will also use the TWEN page in this course. The hard copy of the book is available for purchase or rental online via Amazon and other retailers. You can also purchase or rent an online version of the book through RedShelf at <https://www.redshelf.com>. I am using this book for the first time this semester. I selected it because of its focus on transnational crimes and international criminal procedure.

3. Course Approach and Philosophy

As you no doubt noticed on the semester class schedule, this course is designated for senior writing credit, although it is not a senior writing seminar. Rather than focusing on a single 7500-word scholarly article, the course requires three writing assignments and one classroom presentation from each student. Although the amount of work will, in the end, be about the same as writing a 7500-word paper, the grading will be spread out among several assignments.¹ There will be no final examination.

The material we cover is fascinating. It incorporates multiple sources of law, including customary law, treaties, and statutes. Sometimes the material is, by its nature, frustrating; there are not always correct answers in the realm of international criminal law. The intersection of law, public policy, and *realpolitick* makes this subject particularly interesting and relevant. For example, the United Nations has outlawed war and aggression, nearly all of its signatory nations agree philosophically that war is wrong and peace is best, and yet as we can all see, the news features a never-ending stream of armed conflicts—international, internal, and involving a variety of both state and non-state actors.

¹ If you intend to use this course to satisfy the International Law Specialization, you will need to produce a 7500-word paper and will have to coordinate this separately with the Specialization Director, Interim Dean and Professor of Law Cindy Buys. In other words, you'll have to write a paper that is 3000 words longer than the final paper requirement for this course. I am happy to read and grade a longer paper if you want to write one, but I can't give you extra credit for it; your reward is the specialization. Nor will I substitute a longer paper for the anonymously graded shorter writing assignments; this would not be fair to the other students in the class.

Our classroom discussions are an important component of the class. If you've read the materials and thought through the Notes at the end of each section, you'll be well prepared for our class sessions.

4. Grading and Evaluation

This course will be graded as follows:

- a. Problem Memorandum #1 (15% of final grade). This assignment will be a take-home, timed, 1500-word-limited memorandum (somewhat similar to an MPT) answering a hypothetical problem that will be provided to you, along with instructions and any necessary supplementary materials, at the appropriate time in the course. It will be graded anonymously. On the day the memorandum is due, we will not have class.
- b. Problem Memorandum #2 (15%). This assignment will be a take-home, timed, 1500-word-limited memorandum (somewhat similar to an MPT) answering a hypothetical problem that will be provided to you, along with instructions and any necessary supplementary materials, at the appropriate time in the course. It will be graded anonymously. On the day the memorandum is due, we will not have class.
- c. Research Paper (60%). You'll write a 4500-word research paper on an approved topic of your choice. This paper consists of six graded components: (1) a topic submission memorandum, with sources; (2) a Zeroth draft (combination outline/first draft); (3) a first complete submission; (4) a peer review of another student's first submission; (5) a final submission; and (6) a presentation to the class on your paper. I will separately provide a guidance memorandum on the TWEN page that covers all components of this assignment, including due dates.
- d. Class Preparation and Participation (10%). I believe class participation is important to a successful learning experience. From a pedagogical perspective, nothing is better than a classroom in which students have read the material and are engaged in the classroom experience; conversely, few things are worse than the reverse.

I will assign 100 raw points for classroom preparation and participation. These will be scaled to be worth 10% of the final grade. Everyone starts out with 80 points. You can earn up to an additional 20 points through consistent superior preparation and performance in classroom discussions throughout the semester; this determination is in my sole discretion and is not appealable. You can also lose points and go below 80 for a consistent lack of preparation and participation. At the end of the semester, I will ask each of you to turn in a self-evaluation memorandum explaining what grade you believe you should earn from classroom preparation and participation, supported by a sound narrative explanation and evidence. I will then compare your notes and mine and assign total points for this area of assessment.

5. Workload and Assignments

I plan on covering about 30-40 pages of material per class, which translates into about 60-80 pages per week. **I will adjust this depending on how our class discussions go.** I am more interested in good discussions than in covering every page in the book.

The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session and 6 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of **9 hours per week (3 in class and 6 preparing for class) on course-related work.** This time also includes work on your research paper.

Make sure you read and understand this paragraph. If you take a careful look at the schedule, you’ll note that we meet 120 minutes each week, rather than the 150 minutes for a typical 3-credit course: 60 minutes each on Tuesday and Thursday. This means we need to make up the equivalent of an additional class session every two weeks, for a total of 7 additional class sessions. Because this is a senior writing seminar, I am authorized to cancel up to 8 class sessions to give you time to write. What I’ve decided to do is treat the time we would otherwise have been required to make up as research and writing time, as permitted by our rules. In addition, I will cancel an additional session to help give you time to research and write your topic proposal memorandum. This brings us to the total of 8 sessions I’m authorized to cancel.

6. Computers in the Classroom

Professionals—particularly attorneys—listen respectfully to other people, refrain from rude or distracting behavior, and contribute positively to the environment around them. Most people do not multi-task as well as they think they do. This is particularly true in the law. Companies are beginning to recognize the productivity and etiquette challenges posed by people who cannot tear themselves away from the internet, cellphones or digital assistants; many Silicon Valley companies now ban such devices entirely from meetings. There is a movement afoot in the legal academy to ban internet-capable devices from the classroom, and some professors at this institution have already done so (for example, I banned computers from first-year criminal law course).

Computers are permitted in this class so long as you act like a professional. If computer misuse becomes a problem in class, I reserve the right to deduct class participation points from offending individuals and/or ban computers on a collective or individual basis.

7. Attendance

I will pass around an attendance sheet every day. You can miss up to four (4) classes without penalty or explanation. Beyond that, I will deduct points in accordance with school policy. When major components of your writing assignments are due, I will cancel classes to give you time to work on the assignments. This will all be laid out on the detailed reading and assignment schedule you will receive at the end of the first week.

8. Students with Disabilities

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. <http://disabilityservices.siu.edu/>. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

9. Emergency Procedures

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety's website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

10. Saluki Cares

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, <http://salukicare.siu.edu/index.html>. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

11. Reading Schedule and Assignment Due Dates

Because I am using this book for the first time, I am not quite sure how much material we should cover per class session. I will assign readings on a few weeks at a time, as below:

Week One:

- Tuesday, August 20. Read pages 1-38 of the text and be prepared to discuss in class.
- Thursday, August 22. No reading assigned. Guest lecturer, Professor Doug Lind. Topic: Researching International Criminal Law topics.

Week Two (no class this week; I will be in Mombasa, Kenya):

- Tuesday, August 27, 2019. Read Chapter 2, pages 39-64. We will cover this material either by a live Zoom session with me in Kenya and you on your own computer, or I will assign a podcast to cover the material. I will let you know in class on Tuesday, August 20.
- Thursday, August 29, 2019. Canceled class. Work on researching your topic selection memorandum. Memorandum is due, submitted on TWEN on September 7 by 11:59 pm.

Week Three:

- Tuesday, Sep. 3. Read Chapter 3, pages 65-96.
- Thursday, Sep. 5. Chapter 3, pages 97-130.

Important assignment due dates are listed below.

- September 7, 11:59 PM. Topic selection memo due (see Paper Topics and Expectations memo on TWEN).
- Saturday, October 5, 11:59 PM. Zeroth draft due.
- Thursday, October 10. Class canceled. MPT-style memorandum #1 (on TWEN).
- Saturday, November 9, 11:59 PM. First submission due.
- Thursday, November 7. Class canceled. MPT-style memorandum #2 (on TWEN).
- Saturday, November 16, 11:59 PM. Peer Reviews Due.
- 19 and 21 November. In-class. Presentations.
- Second Submission. Friday, December 13, 11:59 pm.