

# **International Criminal Law Course Memorandum Fall 2025**

Professor Christopher Behan

## **Course Overview and Learning Objectives**

International criminal law is the body of law developed to criminalize violations of public international law and international humanitarian law. Although there has always been a body of law regulating armed conflict and dealing with violations of recognized governing principles, the post-World War II era has been particularly active in the development of international criminal law. Beginning with the Nuremberg and Tokyo tribunals and continuing with the ad-hoc tribunals and eventually the International Criminal Court, the nations of the world have struggled to find a way to prosecute these offenses while still preserving state sovereignty and the prerogatives of domestic law, a struggle that continues today. This course explores the origins of international criminal law, jurisdiction over violations of international criminal law, the tribunals available for prosecution, and the substantive crimes and defenses generally thought to comprise international criminal law.

The material we cover in this course is fascinating. It incorporates multiple sources of law, including customary law, legal scholarship, treaties, and domestic 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 *realpolitik* makes this subject particularly interesting and relevant. For example, the United Nations has outlawed war and aggression. Nearly all 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, regional, and involving a variety of both state and non-state actors.

By the end of the course, students will:

- Understand the fundamental concepts of international criminal law, including sources of international law and jurisdiction over alleged violations.
- Identify and apply the elements of the four core crimes of international concern: war crimes, crime of aggression, crimes against humanity, and genocide.
- Explain the historical and procedural evolution of international, domestic, and hybrid tribunals for prosecuting violations of international criminal law.
- Understand and apply fundamental prosecutorial modes of liability and available defenses to factual scenarios involving alleged violations of international criminal law.

- Analyze and critique current forums and practices involving alleged violations of international criminal law, including impunity of certain nations and actors, national and ethnic biases in charging and enforcement, sovereignty and self-determination, and the rights of victims.

## Course Materials

The text for this class is Van Schaack and Slye *International Criminal Law and Its Enforcement* (4th ed. 2020). The book is available through the SIU Bookstore Follett My Materials program. You should have received an email from the bookstore telling you how and where to pick up the book. If you opted out of the program, you'll need to purchase or rent the book on your own. In either case, there is no need to purchase a statutory supplement.

## Course Meetings

The course meets on Tuesdays and Thursdays in Room 102 from 3:00-4:15 pm. The first class is Tuesday, August 19, and the final class is Thursday, November 20. On a few occasions this semester, I may be out of town for conferences or mock trial competitions. We will either hold class remotely via MS Teams on those days (I'll provide a link on the D2L page) or I will post a podcast.

## Contact Information

a. *General.* My office is Room 254. Telephone number is 618-453-8722. E-mail address is [cbehan@siu.edu](mailto:cbehan@siu.edu). I prefer text messages to calls. If you text, identify yourself in the text. I likely won't know who you are if you don't!

b. *Office Hours.* My office hours are M-W from 1:30-3:30. You may also drop in without an appointment if my office door is open, or you can schedule an appointment for an in-person or MS Teams meeting. I try to be responsive to student requests for meetings. I will post a MS Bookings link on the D2L page so you can set up appointments during office hours and a QR code to access the link on the bulletin board outside my office and here:



c. *Electronic Communication.* Check your e-mail regularly. I will use D2L to send messages pertaining to class. Make sure you check the actual email address you used to register for D2L. The School of Law has adopted a rule requiring students to use their assigned siu.edu email address for law school-related business. Thus, excuses such as, “well, I use my Gmail account and that’s why I never got your email,” are unacceptable.

d. *Problems and Issues.* Despite the best efforts of professors and students, class is not always perfect. Sometimes a lecture or concept is unclear. Sometimes a fellow student will do or say something insensitive or inappropriate that is not fully resolved by the professor in the classroom. You may experience personal frustration with something I do or say in the classroom. If you experience a problem or identify an issue in the class, please see me so we can discuss it and resolve it. Some of my best growth and development as a professor has come from students taking the time to alert me to issues or problems of which I had not previously been aware.

## **Workload**

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, averaged out over the full semester, and including studying for and taking the final examination. 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.

## **Class Structure and Rhythm**

The class follows a predictable structure and rhythm:

- (1) *Before Class.* There is a reading assignment for each class session. The reading assignments will typically include cases, notes following the cases, and problems and hypotheticals in the textbook. You are expected to read the assignment, brief and understand the cases, and work out proposed solutions to any of the problem cases on your own prior to class.
- (2) *During Class.* We will discuss the cases, note cases, discussions, questions, and problem cases from the book in class.
- (3) *Periodic Guest Speakers.* I am in the process of arranging guest speakers. On guest speaker days, there will not be a traditional reading assignment from the case book, although some guest speakers may elect to provide materials to read in preparation for their presentations.
- (4) *Synthesis Days.* There are two synthesis days during the semester. On those days, we will not cover new material, but instead will work on multiple-choice questions, MPT-

style essays, or negotiations in class to review and consolidate understanding of the material; an ancillary benefit is that these activities prepare you for the final examination.

## **Attendance**

Attendance is required. In accordance with law school rules, you may miss no more than six (6) class sessions during the semester without having to withdraw from the class or face the grade penalty under the School of Law rules. You are responsible for managing your own absences and, as an adult and a professional, should realize that if you take all absences early in the semester and run into a problem later in the semester, you will have created a problem for yourself from which no one else is obligated to rescue you. Also, if you are assessed an absence for inadequate preparation, that absence counts towards your total. If you exceed the number of absences (including absences assessed for inadequate preparation), you are subject to penalties in School of Law Rule 5(g). These include involuntary withdrawal from the course, a grade reduction, or failing the class.

I will take roll via the You Attend app on the D2L page. At the beginning of each class, I will provide the class with an attendance PIN that you can use to log your attendance on the app. You may not provide the PIN to anyone who was not physically present in the classroom at the moment of taking attendance; to do so is a violation of the Honor Code.

## **Class Preparation and Participation**

Beginning the second week of the semester, panels of students designated as subject-matter experts of the day (SME) will be primarily responsible for the day's discussion. You'll get to choose your fellow panel members and sign up in advance for your designated SME day(s). However, I will also cold call on other students to join in the discussion and engage with the SME panels. When I call on the SME panel or other students, anything in the assigned reading is fair game for questioning, including the primary case, note cases, discussion materials, and problem cases.

Class preparation and participation are not only keys to successful learning, but they are also an integral part of this course. I believe class participation is critical 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 expect you to listen and be mentally engaged in class. Active, sustained listening is a critical skill for lawyers. I use a minimal number of slides in the class; they do not substitute for good note-taking practices by students.

In addition to participating in class when called on, I expect you to listen respectfully to others. Attempts to dominate classroom discussions, interruptions of myself or others, eye-rolling or disruptive body language and behavior, or other unprofessional classroom behaviors will result in class participation grade reductions and/or assessed absences.

## **Policy on Recording Class**

You are not authorized to make your own audio or video recordings of my classes. The class will be recorded by the School of Law IT department. Generally, I do not make recordings available unless necessary to accommodate a disability or unless you request and receive my approval.

## **Plagiarism, Collaboration, and Use of Artificial Intelligence Resources**

Unless otherwise indicated in the assignment instructions, any work product that you turn in during this class must be entirely your own. Although you are encouraged to study together and to prepare for class with others, you cannot turn in another person's work product and claim it as your own. When you turn in assignments on the D2L dropbox, you attest that you are complying with this policy for that assignment.

You are not authorized to use artificial intelligence resources such as ChatGPT for class assignments unless assignment instructions specifically permit you to do so.

## **Grading and Evaluation**

Your grade will consist of the following components:

- Subject-Matter Expert (SME) Discussion and Materials. (20%). Class members will form SME of the Day panels using a sign-up sheet posted on D2L. Beginning the second week of the semester, each class session, panels of students will serve as subject-matter experts (SME) for the day. The sign-up sheet for SME of the Day will be posted on D2L. SME panel duties are as follows:
  - By noon on the team's SME Day, turn in a memo containing a short outline of the day's cases and materials and a thoughtful multiple-choice question. I will grade these using a rubric provided to you in advance. This memo satisfies the writing across the curriculum requirement for the course. The multiple-choice question partially satisfies the bar assessment requirement for the course.
  - During class, respond to questions and assist in leading a class discussion on the assigned materials.
  - Explain the issues and solutions for the multiple-choice questions created by the SME panel.
- Final examination (80%). Comprehensive and open book, covering the entire semester. More details about format and administration of the examination will be provided later in the semester.

## **Law School and University Policies**

See the supplemental policies that are posted under the Syllabus Content folder in D2L.

## Reading and Assignment Schedule

The schedule for Week One is posted below. After guest speaker arrangements are finalized, I'll post the remainder of the schedule for the semester, as well as the SME of the Day sign-up sheets and instructions.

Week	Class	Date	In-Class Topic	Pages
1	1	19 Aug.	--What is International Criminal Law	Skim pages 1-18 for general familiarity with background concepts  Carefully read 19-31, including the problem on pages 31-32
	2	21 Aug.	International Jurisdiction	33-79  --Last names beginning A-L: concentrate on pages 33-54  --Last names beginning M-Z: concentrate on pages 54-79