

International Criminal Law LW5122 - SEMESTER 1 - Course Outline 2024/2025 -

Objective	The course introduces postgraduate students to the subject of international criminal law, focusing on substantive legal issues. During the course, students will explore the history and development of international criminal law, the established crimes under international law, the mechanisms of international criminal justice and general principles of international criminal law.			
Lecturer(s)	Name	Office	Ext	E-mail
	Prof Shane Darcy	Room 202 Office Hours: By appointment	3947	shane.darcy@universityofgalway.ie
Lecture Times	Day	Time	Venue	
	Semester 1	TBD	TBD	Seminar Room, Irish Centre for Human Rights
Overall Learning Outcomes	<p>On successful completion of this course, you will:</p> <ul style="list-style-type: none"> • have knowledge and understanding of the rules, principles, and institutions of international criminal justice • be familiar with the sources of international criminal law in treaty and customary law • have a general understanding of the applicable concepts of criminal law and the principles established in the major cases of the international tribunals • be able to carry out effective research in the field of international criminal law and be familiar with the major literature and policy documents and legal instruments 			
Format	The course will be taught in eight weekly seminars, each three hours in length. Students are to read all prescribed readings in advance of each seminar, thus requiring independent study of 8-10 hours each week, and will be expected to engage actively in discussion and to participate in various in-class activities. Classes are held in-person.			
Course Material	Syllabus will be available on the website of the Irish Centre for Human Rights (www.nuigalway.ie/human_rights) and can be downloaded from Blackboard at http://blackboard.nuigalway.ie .			
	<p>Required:</p> <ul style="list-style-type: none"> • Robert Cryer, Darryl Robinson and Sergey Vasiliev, <i>An Introduction to International Criminal Law and Procedure</i>, 4th 			

<p>Texts</p>	<p>edn., Cambridge University Press, 2019.</p> <ul style="list-style-type: none"> • <i>Cases and Materials on International Criminal Law</i>, Galway: Irish Centre for Human Rights, 2010, available on Blackboard. <p>Additional:</p> <ul style="list-style-type: none"> • William A. Schabas, <i>Introduction to the International Criminal Court</i>, 6th edn., Cambridge: Cambridge University Press, 2020. • Carsten Stahn, <i>A Critical Introduction to International Criminal Law</i>, Cambridge University Press, 2019. • Antonio Cassese & Paola Gaeta, <i>Cassese's International Criminal Law</i>, 3rd edn., Oxford University Press, 2013. • Alexander Zahar and Göran Sluiter, <i>International Criminal Law</i>, Oxford/New York: Oxford University Press, 2008. • William A. Schabas and Nadia Bernaz, <i>Routledge Handbook of International Criminal Law</i>, Routledge, 2011. • Douglas Guilfoyle, <i>International Criminal Law</i>, Oxford University Press, 2016 • William Schabas, Yvonne McDermott and Niamh Hayes, <i>The Ashgate Research Companion to International Criminal Law: Critical Perspective</i>, Ashgate, 2013.
<p>Resources</p>	<p>Blackboard</p> <p>Course syllabus and certain materials will be posted at http://blackboard.nuigalway.ie. Books are available in the library and most other materials are available online, including through relevant library databases.</p> <p>Journals</p> <p><i>Journal of International Criminal Justice, Criminal Law Forum, International Criminal Law Review, Yearbook of International Humanitarian Law, Journal of Conflict and Security Law etc.</i></p> <p>Websites</p> <p>Website of the International Criminal Court: www.icc-cpi.int</p> <p>Website of the Mechanism of International Criminal Tribunals: https://www.irmct.org/en</p> <p>Website of the International Criminal Tribunal for the former Yugoslavia: www.icty.org</p> <p>Website of the International Criminal Tribunal for Rwanda: www.icttr.org</p> <p>Website of the Special Court for Sierra Leone: www.sc-sl.org</p> <p>Website of the Special Tribunal for Lebanon: www.stl-tsl.org</p> <p>Website of the Extraordinary Chambers in the courts of Cambodia: www.eccc.gov.kh</p> <p>Oxford Reports on International Criminal Law: www.oxfordlawreports.com</p> <p>Oxford Scholarship Online: www.oxfordscholarship.com</p>
<p>Assessment</p>	<p>Evaluation is undertaken through the submission of a written essay</p>

	(5,000 words, including footnotes, excluding table of contents, bibliography etc.). Essays should demonstrate significant research, familiarity with the literature, independent thought, and critical analysis. Essays are to be submitted in hardcopy and electronically via Blackboard. Submission date is set out in the general 'Guidelines for LLM students'.										
Workload hours	<table> <tr> <td>Credit weighting:</td> <td>10 ECTS</td> </tr> <tr> <td>Lecture hours:</td> <td>24</td> </tr> <tr> <td>Associated hours:</td> <td>12</td> </tr> <tr> <td>Independent study:</td> <td>194</td> </tr> <tr> <td>Total Student Effort:</td> <td>230 hours</td> </tr> </table>	Credit weighting:	10 ECTS	Lecture hours:	24	Associated hours:	12	Independent study:	194	Total Student Effort:	230 hours
Credit weighting:	10 ECTS										
Lecture hours:	24										
Associated hours:	12										
Independent study:	194										
Total Student Effort:	230 hours										

Topics

Topic 1: Introduction

Session 1 provides an introduction to the course and its subject matter. It will explore key concepts and institutions of international criminal justice, the sources of international criminal law and contemporary issues and debates. An overview of substantive topics to be covered will be provided.

Required Reading:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapters 1 & 2.
- *Principles of International Law Recognised by the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal*, U.N. Doc. A/1316 (1950), *Cases and Materials*, p. 53.
- 'African leaders plan mass withdrawal from International Criminal Court', *The Guardian*, 31 January 2017.
- 'Scores of countries back ICC in face of US sanctions', *Al-Jazeera*, 24 June 2020.
- 'Ireland and 37 states formally refer reports of atrocities in Ukraine to ICC', *The Irish Times*, 2 March 2022.

Film Recommendation

'Judgment at Nuremberg' (1961)

Topic 2: History & Development of International Criminal Law

This session explores the origins of international criminal law and its development during the 20th century, particularly in the aftermath of the Second World War. It examines key issues in the Nuremberg and Tokyo trials, before turning to the major developments in international criminal justice in the 1990s.

Required Reading:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapters 6 & 7.
- Nuremberg judgment, *France et al. v. Goering et al.*, *Cases and Materials*, pp. 85-

106.

- *United States v. Ohlendorf, Cases and Materials*, pp. 160-179.

Series Recommendation

'Tokyo Trial' (2016)

Topic 3: The International Criminal Court

This session focuses on the establishment, law and practice of the International Criminal Court, the only permanent international criminal tribunal. It considers contemporary cases and situations, as well as the key issues concerning jurisdiction and admissibility before the International Criminal Court.

Required Reading:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapter 8.
- William A. Schabas, *Introduction to the International Criminal Court*, Chapters 3 (51-81), 4 and 5.
- International Criminal Court, 'Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan', ICC-02/17 OA4, Appeals Chamber, 5 March 2020.

Film Recommendation

'The Killing Fields' (1984)

Topic 4: Genocide

This session explores the substantive law of genocide, a core crime in international criminal law. Attention will focus on 'chapeau' elements, including genocidal intent, as well as underlying acts. Key jurisprudential developments concerning this crime will be considered, as well as its limitations and controversies.

Required Reading:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapter 10.
- William A. Schabas, 'Genocide and Ukraine: Do words mean what we choose them to mean?' 20(4) *Journal of International Criminal Justice* (2022) 843-857.
- Denys Azarov, Dmytro Koval, Gaiane Nuridzhanian and Volodymyr Venher, 'Understanding Russia's Actions in Ukraine as the Crime of Genocide' 21(2) *Journal of International Criminal Justice* (2023) 233-264.

Topic 5: Crimes Against Humanity

This session explores the substantive law of crimes against humanity, including its 'chapeau' elements, underlying acts, and key jurisprudential developments. We will also focus on specific crimes against humanity, including the crimes of persecution and apartheid, examining in particular how the latter has been applied beyond South Africa to the context in Palestine.

Required Reading:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapter 11.
- International Law Commission, *Draft Articles on Prevention and Punishment of Crimes against Humanity*, 2019.
- Noura Erakat and John Reynolds, "We Charge Apartheid? Palestine and the International Criminal Court" (*TWAILR: Reflections*, 20 April 2021), available at: <https://twailr.com/we-charge-apartheid-palestine-and-the-international-criminal-court/>.
- Kathleen M. Maloney, Melanie O'Brien and Valerie Oosterveld, 'Forced Marriage and the Crime Against Humanity of 'Other Inhumane Acts' in the International Criminal Court's *Ongwen Case*', *International Criminal Law Review* (2023) 1-26.

Film Recommendation

'Katyn' (2007) / 'Beasts of No Nation' (2015)

Topic 6: War Crimes

This session discusses war crimes, which constitute the oldest category of recognised international crimes. It will consider key elements of war crimes (including the existence of an armed conflict), as well as the evolution of war crimes from Nuremberg to the International Criminal Court, and the role of international courts in interpreting provisions of the 1949 Geneva Conventions and related treaties.

Required Reading:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapter 12.
- *Prosecutor v. Tadic*, Interlocutory Appeal on Jurisdiction, 1995, *Cases and Materials*, pp. 208-225.
- *Rome Statute of the International Criminal Court*, Article 8.
- *Prosecutor v. Ntaganda*, Appeals Chamber, Judgment on the appeal of Mr Ntaganda against the "Second Decision on the Defence's challenge to the jurisdiction of the Court in respect of Counts 6 and 9, Case No. ICC-01/04-02/06 OA5, 15 June 2017.

Film Recommendation

'Official Secrets' (2019)

Topic 7: The Crime of Aggression

The 'supreme international crime', the crime of aggression, is explored in this session. Issues covered will include its prosecution at Nuremberg and Tokyo, the development of a definition of aggression, the activation of the jurisdiction of the International Criminal Court, and the prospects of future prosecutions.

Required Reading:

- Cryer et. Al., *An Introduction to International Criminal Law and Procedure*, Chapter 13.
- *Rome Statute of the International Criminal Court*, Articles 5, 8bis, 15bis, 15ter, 25.
- *Review Conference Resolution on the Crime of Aggression, Cases and Materials*, pp. 536-538.
- *Mary Ellen O'Connell and Mirakmal Niyazmatov*, 'What is Aggression? Comparing the *Jus Ad Bellum* and the ICC Statute', *Journal of International Criminal Justice* 10 (2012) 189-207.
- Adil Haque, 'An Unlawful War', 116 *American Journal of International Law Unbound* (2022).

Film Recommendation

'War Don Don' (2010)

Topic 8: Modes of Criminal Liability

In this session, the modes of criminal liability applied in international criminal trials are explored. Consideration will be given to the various theories that have been deployed to convict individuals for international crimes, with a particular focus on superior responsibility, co-perpetration, and aiding and abetting.

Required Readings:

- Cryer et. al., *An Introduction to International Criminal Law and Procedure*, Chapter 15.
- *Rome Statute of the International Criminal Court*, Articles 25 & 28.
- *Statute of the International Criminal Tribunal for the former Yugoslavia*, Article 7.
- *Prosecutor v. Lubanga*, ICC-01/04-01/06, Trial Chamber, Judgment, 14 March 2012, paragraphs 917-1018.
- *Prosecutor v. Perišić*, Case No. IT-04-81-A, Appeals Chamber, Judgment, 28 February 2013, paragraphs 26-36.
- *Prosecutor v. Bemba Gombo*, Case No. ICC-01/05/-01/08 A, Appeals Chamber, Judgment, 8 June 2018, paragraphs 120-200.

Series Recommendation

'The Devil Next Door' (2019)