International Criminal Law

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COURSE OUTLINE

This course seeks to examine and explore ideas, themes and practices relating to the concept of international criminal justice. This is particularly relevant given the establishment of the permanent International Criminal Court. With the beginning of its operation in July 2002, there is a need for a greater understanding of the Rome Statute and its impact on States and individuals. The discussion will begin with an examination of the Nuremberg and Tokyo IMTs and the ad hoc International Criminal Tribunals for the former Yugoslavia and Rwanda which preceded the ICC. The main focus however will be the International Criminal Court itself. Alternative mechanisms such as amnesties, truth and reconciliation commissions as well as Hybrid Courts will also be examined in the course of this module.

The birth of international criminal law can probably be said to have occurred with the Nuremberg and Tokyo International Military Tribunals after the Second World War. There has been a lot of criticism made of the Military Tribunals. The validity of these arguments as well as the IMTs’ contribution to the development of International Criminal Law will be explored.

International Criminal Justice is inextricably linked with peace and security. International Criminal Courts operate in post-conflict situations or where peace and security have been disturbed. The Security Council has, in the recent years, widened the notion of peace. The changing concept of peace from simply being the absence of war (negative peace), towards a much more complex, perhaps sophisticated, notion of positive peace in which the underlying injustices are also tackled, has led the Security Council towards establishing international criminal tribunals. These were created as part of its objective to bring lasting peace to the ravaged territories of former Yugoslavia and Rwanda. Over a decade has passed since the creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) and Rwanda (ICTR). Their constitution, operation, achievements and failings will be the focus of this course with the view to using some lessons learnt in the functioning of the permanent International Criminal Court (ICC).

The ICC is the most important international institution created in the past decade in this field. The ICC was created by an international treaty, which was concluded in Rome in 1998, and entered into force on the 1st of July 2002. The Rome Statute numbers one hundred States Parties to it, which is an extraordinary achievement for this type of treaty. The Court has its seat in the Hague and it has jurisdiction over war crimes, crimes against humanity and genocide. The politics behind the Court’s creation, the attitudes of certain States (notably the US) which have been hostile towards the Court and the impact of the Rome Statute on States parties as well as non-parties to it will be examined.

Moreover, the substantive criminal law that is applied by the international criminal tribunals (and national courts prosecuting international crimes, alongside some of the issues of procedure that arise in relation to those prosecutions that occur in international tribunals will be examined. As a result, the course will cover the law relating to genocide, crimes against humanity and war crimes, as well as the general principles of liability that
apply to international crimes, and the defences applicable to them. The course will also investigate the role the Security Council has played in relation to the ICC, alongside the law and practice of international criminal co-operation and the way in which national legal systems cooperate with the international legal order.

The module provides a holistic overview of international criminal justice through the various international criminal justice institutions and explores the legal, political and ideological underpinnings in the effort to end impunity and to promote accountability for the most serious international crimes.

**Seminar List: (18 hours of tuition)**

1. Introduction to International Criminal Law – Nuremberg and Tokyo Military Tribunals
2. The International Criminal Tribunal for the Former Yugoslavia (ICTY) and The International Criminal Tribunal for Rwanda (ICTR): Constitution and Function
3. The International Criminal Court (ICC): An Overview
4. International Criminal Justice and National Legal Systems
5. Genocide
6. Crimes against Humanity
7. War Crimes and Aggression
8. Individual Criminal Responsibility and Defences
9. International Criminal Co-operation

**Aims:**

The option will focus on the emerging international criminal justice system with emphasis on the permanent International Criminal Court. The module aims to develop the analytical skills of students in relation to the function, scope and operation of the international criminal justice system and its likely future development, as well as enabling students to apply the law to various situations. A good understanding of the central issues of international criminal law will therefore be promoted. A sound grasp of the relevant legal principles will be encouraged.

**Learning Outcomes:**

a  **Knowledge and understanding:** The module promotes a good understanding of the international criminal justice system with a sound grasp of the principles governing it.

b  **Intellectual skills:** The module will develop analytical legal skills, particularly with regard to a range of international legal materials.

c  **Professional practical skills:** The module will encourage the development of skills which will assist the participants in dealing with the International Criminal Court in their professional capacity.

d  **Transferable skills:** This course will encourage critical reflection on the application of criminal justice at the international level as well as creative thinking about the institutional design of the international criminal justice system. The module will raise awareness of the legal, political and comparative challenges of inter-governmental co-operation in the construction of an international legal order and the pursuit of international justice.