Welcome to International Criminal Law. The information on this syllabus is vital to your success in this course. Please read it carefully.

Course Description:
International Criminal Law is concerned with defining and punishing behavior that the international community deems to violate fundamental human values. Some of these crimes include Genocide, War Crimes, and Crimes against Humanity. This course will explore the history and development of International Criminal Law, the courts and tribunals charged with interpreting it, the elements of international crimes, and potential defenses.

Course Objectives:
- To give students interested in international law topics the opportunity to delve into an area that has witnessed unprecedented expansion in recent years.
- To give students interested in criminal law topics the chance to learn about criminal law in the international context.
- To explore the theoretical bases for this field of the law.
- To consider contemporary transnational crime issues and to understand the concept of extraterritorial jurisdiction.
- To learn about the sources and relevant institutions and to acquire the vocabulary of this field of law.
- To be able to construct and critique arguments involving this field of law.
- To consider what ethical issues might arise in this field of the law.
- To perform well on a mid-semester quiz and an exam involving this field of law.
**Course Materials:**
The Casebook for this course is DAVID LUBAN, JULIE R. O’SULLIVAN, AND DAVID P. STEWART, INTERNATIONAL AND TRANSNATIONAL LAW (2d ed., 2014). In addition, this course has a TWEN site that includes the syllabus, announcements, forums, assignments, and other class materials. All students are required to register for the site. You are required to bring the casebook and any additional assigned materials with you to class each day.

**Attendance and Preparation:**
Like any ethical, competent and courteous lawyer, I expect you to be on time and prepared for every class. You may not leave the room during class time unless you are experiencing an emergency. Do not sign in if you are not prepared to participate. Your participation grade will suffer if you sign in when you are not prepared or if you are late to class.

Under UB’s attendance policy, you are allowed a maximum of five absences. A student who is absent or unprepared for more than five classes may be compelled to withdraw from the course and barred from taking the final exam, resulting in an “F.” UB’s attendance policy is available for your reference at http://law.ubalt.edu/template.cfm?page=267.

**Grades (Exam and Participation):**
Your grade will be based on a mid-semester exam, a final exam, and class participation. The mid-semester exam will be a closed-book, and it will be held during class time on September 29. You will take a three-hour, closed book final exam on Wednesday, December 3 at 1pm. Both examinations will test your knowledge of the subjects covered in this course, as well as your critical thinking, legal analysis, and argument skills.

Your participation in class discussions may help or hurt your grade by up to one step (e.g., B+ to A-, or B- to C+). Participation will be graded by the quality of your contributions to class discussion. High quality participation shows that you have done the work assigned and reflected on the issues therein. Low quality participation shows that you have either not done the assignment or spent insufficient time reflecting on it before coming to class. Being late to class also constitutes low quality participation (because you can’t participate if you are not there!).

**Computers:**
Laptops are permitted for the purpose of note-taking. On occasion, you may be required to close your laptop (e.g., if we are having a guest speaker or a simulation or debate). Consequently, you may want to bring some paper with you to class just in case.

**Class Cancellation:**
If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web page or call the University’s Snow Closing Line at (410) 837-4201. If the University is not closed, students should presume that classes are running on the normal schedule.

**Academic Integrity:**
Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law.
For your reference, the honor code is available at:

Disability Policy:
If you are a student with a documented disability who requires an academic accommodation, please contact Karyn Schulz, Interim Director of Disability Support Services at 410-837-4141 or via email at kschulz@ubalt.edu.

List of Course Topics:
The list of topics and assignments are subject to change to maximize student learning (and we may not cover every topic). I will make every effort to notify you a week in advance of any changes. All changes will be emailed to you and posted on the TWEN site in the Syllabus folder.

UNIT I. INTRODUCTION TO ICL
   A. What is international criminal law?
   B. International Law Preliminaries
   C. International Criminal Tribunals

UNIT II. SOME ISSUES IN TRANSNATIONAL PRACTICE
   A. Comparative Criminal Procedure and Sentencing
   B. Principles of Transnational Jurisdiction
   C. Immunities
   D. Extradition

UNIT III: THE INTERNATIONAL CRIMINAL COURT

UNIT IV: CRIMES, MENS REA, PARTICIPATION, AND DEFENSES
   A. Substantive Crimes
      a. War Crimes
      b. Crimes Against Humanity
      c. Genocide
   B. Mens Rea
   C. Modes of Participation
   D. Defenses
INTERNATIONAL CRIMINAL LAW- LIST OF ASSIGNMENTS

“CB” means casebook. “TWEN” is the course website. Please note that this list of assignments is subject to change to further student learning.

UNIT I. INTRODUCTION TO ICL

A. What is international criminal law?

Class 1 (August 18): What is international criminal law? How is it different from domestic criminal law?
• CB: 1-8, 13-26
• Please fill out, print out, and bring to class the “Student Information Sheet” on the TWEN site under “Course Documents.”
• International/transnational criminal law is a rapidly evolving field and a lot has happened in the last year. Find a news article involving international or transnational criminal law from the last year. Which kind of law is at issue? What did you find interesting about the article? What questions did it raise for you? Be prepared to talk about it.

B. International Law Preliminaries

Class 2 (August 20): International Law Preliminaries
• CB: 27-52
• TWEN: Rome Statute, Article 21 (Applicable Law)
  o The Rome Statute is the treaty that created the International Criminal Court. How do the sources of law listed differ from the International Court of Justice’s Article 38?

C. International Criminal Tribunals: From Nuremburg to the Hague and Beyond

Class 3 (August 25): Nuremburg and Tokyo; Start ICTY
• CB: 73-90
Class 4 (August 27): ICTY; ICTR

- CB: 90-110
- TWEN: ICTR Statute, or you can find it at http://69.94.11.53/ENGLISH/basicdocs/statute.html
- Surf the ICTY website. Find something interesting to share about it.

September 1 – Labor Day – No Class

Class 5 (September 3): ICTR, Hybrid Tribunals

- CB: 110-126
- Reading questions:
  - What are the differences between these different kinds of tribunals? What are the pros and cons to different kinds of tribunals? In what instances is a hybrid tribunal preferable to a purely international tribunal like the ICTY or the ICTR? What about leaving it to local justice?
  - How are the ICTY and the ICTR different? For example, how does jurisdiction differ? How do the crimes in the respective statutes differ?
- Surf the website of the ICTR or a hybrid tribunal. Find something interesting to share about it.
- TWEN: Read Mardelva Case Study

UNIT II. SOME ISSUES IN TRANSNATIONAL PRACTICE

A. Comparative Criminal Procedure and Sentencing

Class 6 (September 8): Comparative Criminal Procedure and Sentencing

- CB: 129-64
- This is a long reading. You only need to skim pages 129-148. You are not expected to know the details of how trials are conducted in different legal cultures. The idea is to give you a sense of differences. For the first part of the reading, focus on thinking about how the Brach trial is different from the typical US criminal trial.
- We will spend most of class talking about the Brach trial and the materials found on pages 148-64.

B. Principles of Transnational Jurisdiction

Class 7 (September 10): Overview of Jurisdiction, Territorial, Nationality

- CB: 165-169 (up to Report on Extraterritorial Crime)
- CB: 174-180 (up to US v. Ricardo)
- CB: 188-96
Class 8 (September 15): Passive Personality, Protective Jurisdiction, Begin UJ

- CB: 196-206
  - In *Prosecutor v. Eichmann*, what is the state interest that the Court says justifies Israel’s application of its law to *Eichmann*? Are you convinced by the Court’s reasoning?
- What is the difference between subsidiary and pure universal jurisdiction? What kind of jurisdiction does the Convention Against Torture require states to exercise?
- TWEN: Materials on Hissène Habré case

Class 9 (September 17): Universal Jurisdiction

- CB: 206-222
  - In *Case Concerning the Arrest Warrant of 11 April 2000 (DRC v. Belgium)*, what is each judge’s opinion on whether Belgium may apply its laws to Yerodia? Why or why not? Which view is most persuasive to you?

September 18-19: Center for International and Comparative Law Symposium on International Courts and Legitimacy. 20th Anniversary of the CICL.

- You must attend at least one session. Here are some options:
  - Thursday, September 18 from noon to 1:30 pm Dean Yuval Shany, Hebrew University, “Increasing the Effectiveness of International Human Rights Law: the Treaty Body Strengthening Process” – includes lunch
  - Other sessions that day are at 2 pm or 4:15 pm. After the 4:15 pm session, there will be a reception for the UB community, including UB alumni, and conference participants. You are all invited!
  - On Friday, September 18, you may attend sessions at 9 am or at 11 am.
  - This replaces class on Monday, October 20.

C. Immunities

Class 10 (September 22): Immunity I

- CB:259-82 (Immunity: Diplomatic, Consular, International Organizations)
  - Read Preamble, articles 1(e), 29-32
- *Pinochet case*: Where does Head of State Immunity come from? Why should former Heads-of-State get immunity? How did the Law Lords respond to the question whether acts of torture are official acts? Why is this case important?

Class 11 (September 24): Immunity II/Begin International Extradition

- CB: 282-93
  - *Arrest Warrant case*: Why is Yerodia entitled to immunity in the Court’s majority opinion? What is Van den Wyngaert’s critique of the Court’s approach? Is her argument convincing to you?
- CB, 391-94
Class 12 (September 29): International Extradition (Political Offense Exception)
• CB: 415-24
• In-class mid-semester exam.

UNIT III: THE INTERNATIONAL CRIMINAL COURT
For this entire unit, please be sure to look up relevant articles in the Rome Statute as you read.

Class 13 (October 1): ICC I (Background, Jurisdiction, Admissibility, Security Council Referrals)
• CB: 779-94
• Look at the Rome Statute provisions on jurisdiction, admissibility and Security Council referrals referred to in the readings. Look also at the preamble.

Class 14 (October 6): ICC II (Selecting Cases; Start Sudan Case Study)
• CB: 794-809; 825-31

Class 15 (October 8): ICC III (Sudan Case Study cont’d)
• CB: 831-48

Class 16 (October 13): ICC IV (Some Procedural Issues; Wrap up ICC; Should the US join?)
• CB: 848-59
• Go back and review your notes on the ICC. Write down two reasons why the US should or should not become a party to the Rome Statute.

UNIT IV: CRIMES, MENS REA, PARTICIPATION AND DEFENSES

A. Substantive Crimes

Class 17 (October 15): War Crimes I
• CB: 1083-1101
• TWEN: Rome Statute, article 8
• TWEN: Elements of Crimes, Article 8 (skim to get a sense of war crimes)
• Go to http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp for more information about the Geneva Conventions and the ICRC, the organizations called the “Guardian of International Humanitarian Law”

Class 18 (October 20): NO CLASS; This class is replaced by your attendance at the CICL 20th Anniversary on September 18-19.

Class 19 (October 22): War Crimes II
• CB: 1101-1115
Class 20 (October 27): War Crimes III (attacks that foreseeably cause disproportionate “collateral” damage)
- CB: 1115-28

Class 21 (October 29): Crimes Against Humanity
- CB: 1005-1026; 1031-32
- TWEN: Rome Statute, articles 7 and 9
- TWEN: Elements of Crimes, article 7, Introduction, 7(1)(a), 7(1)(h)
- What are the majority and the dissent in the Situation in Kenya case disagreeing about? Who is right? In Kupreskic, what kinds of conduct qualify as the Crime Against Humanity of Persecution? What \textit{mens rea} does it require?
- Optional: 1032-34

Class 22 (November 3): Genocide I
- CB: 1039-61 (up to Krstic)
- TWEN: Rome Statute: Article 6
- TWEN: Elements of Crimes, Article 6 (skim to get a sense of elements)

\textit{B. Mens Rea and Modes of Participation}

Class 23 (November 5): Genocide II/ Mens Rea I
- CB: 1061-1066; 1074-82
- CB: 955-64 (post WWII case studies). These case studies are intended to get you thinking about the challenges of how to charge people for mass atrocity crimes. Are the various protagonists in these case studies principals? Aiders and abettors?

Class 24 (November 10): Mens Rea II
- 883-901 (modes of participation; mens rea),
- What’s the difference between recklessness and \textit{dolus eventualis}? Should \textit{dolus eventualis} be used for international crimes?
- TWEN: Rome Statute, articles 25, 28, 30

Class 25 (November 12): Mens Rea III
- 902-25 (objective or material elements: committing a crime as a perpetrator);
- TWEN: Rome Statute, articles 25, 28, 30
- What are the different kinds of JCE liability? Is it fair to assign individual criminal responsibility based on JCE?
- How do the approaches to modes of participation differ? Which make the most sense to you and why? Which best capture those who are morally culpable?

Class 26 (November 17): Command Responsibility
- CB: 937-55
- TWEN: ICC Statute, Articles 25, 28, 30
C. Defenses

Class 27 (November 19): Defenses I
• CB: 965-86
• On Course Website: Rome Statute, Articles 31-33
• Turn in review questions by Sunday, November 24 at 11:59 pm for November 27 review session.

Class 28 (November 24): Defenses II; Wrap Up and Review Session
• Review CB: 986-99; Rome Statute, Articles 31-33

Dec. 3, at 1pm: FINAL EXAM: You will be allowed to bring in one piece of regular-sized (8.5X11) paper with whatever you want on it. You are allowed to use both sides. You must turn in your piece of paper with your exam. You will be provided with the Rome Statute in its entirety.