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School of Diplomacy and International
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Spring 2008

DIPL 6008 NA International Criminal Law

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DIPL 6008 NA Spring 2008
Whitehead School of Diplomacy and International Relations
Seton Hall University
Professors Wanda Akin Brown & Raymond M. Brown

This class meets each Thursday from 6:15 – 8:25. The readings for this course will consist of:

- (1) A volume entitled "A Problem from Hell" America and the Age of Genocide by Samantha Power (hereafter "Power");
- (2) A volume entitled Rwanda's Genocide: The Politics of Global Justice by Kingsley Moghalu (hereinafter "Moghalu");
- (3) A Binder which contains a numbered set of handouts (hereafter Binder);
- (4) A small number of Supplemental Handouts to be supplied; and
- (5) The Rome Statute (ICC Treaty). You are to download a copy of the statute and have it available at each class for referrals to same. The statute is available at the ICC website http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf. You can print the statute and keep the hardcopy with you or download it to a laptop that you plan on having in class with you. You can also obtain the Rome Statute at www.un.org/law/icc.

We expect you to bring all material to each class and to keep up with the assigned reading. It is also required that you read the New York Times *each day*. It is available free of charge online at <http://www.nytimes.com/>.

There will be a midterm exam, a final exam and a paper, each of which will constitute 25% of your grade. An additional 25% of your final grade will be based on attendance and the quality of your class participation. The schedule of readings and class discussion topics follows.

CLASS 1 INTRODUCTION & "ICL MATTERS"

Binder

Handout # 1 Discourse on International Law & American Legitimacy

A) America's Crisis of Legitimacy

Robert Kagan *Foreign Affairs*, March/April 2004

B) The Sources of American Legitimacy

Robert W. Tucker and David C. Hendrickson
From *Foreign Affairs*, November/December 2004

C) A Matter of Record

Robert Kagan
From *Foreign Affairs*, January/February 2005

D) Iraq and America's International Law

Noam Chomsky From *The Politic.org* May 8, 2004

E) I Into Thou: American Resistance To Narratives Of International Humanitarian Law Violations

Raymond M. Brown 28 T. Jefferson L. Rev. 1, Summer 2005

F) In Truth, Peace Message of His Holiness Pope Benedict XVI for the Celebration of World Day of Peace 1 January 2006

Handout # 12 Scot Free PEOPLE MAGAZINE, September 28, 1998

Power

"About the Author"

Preface I-XXI

CLASS 2 SOURCES OF INTERNATIONAL CRIMINAL LAW & HOW TO READ A CASE

Binder

Handout # 21 *Read through Section C entitled The Leipzig Trials in "From Versailles to Rwanda in Seventy-Five Years: The Need to Establish a Permanent International Criminal Court" Bassiouni, M. Cherif Harvard Human Rights Journal Spring 1997*

Handout # 18 Laws And Customs Of War On Land (Hague, IV) [Excerpts]

Handout # 17 Instructions For The Government Of Armies Of The United States In The Field [Lieber Code] [Excerpts]

Handout # 13 Statute of the International Court of Justice - Article 38

Handout #14 The Paquete Habana

Handout # 15 US Constitution [Excerpts]

Handout # 16 25 Categories Of International Criminal Law

Handout #35 (We will revisit this handout throughout the semester.)

A Situation in Darfur, Sudan Decision on the Applications for Participation in the Proceedings of Applicants a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 (Pre-Trial Chamber I, 6 December 2007)

B Situation in Darfur, Sudan Corrigendum to Decision on the Applications for Participation in the Proceedings of Applicants a/0011/06 to a/0015/06, a/0021/07, a/0023/07 to a/0033/07 and a/0035/07 to a/0038/07 (Pre-Trial Chamber I, 14 December 2007)

Power

Chapter 1 "Race Murder"

Chapter 2 "Crime Without a Name"

Supplemental Handout

"Victims Participation in ICC Cases Jeopardised" Institute for War and Peace Reporting, December 20, 2007. (See Course Documents on Blackboard)

CLASS 3 THE ARMENIAN 'GENOCIDE' & LEIPZIG"

Binder

Handout # 25 "International Regulation of Armed Conflict" Leslie C. Green [Excerpt]

Handout # 27 Leipzig Note [Dover Castle & Landover Castle cases] [Excerpts]

Handout # 28 Versailles Treaty [Excerpts]

Handout # 26 "Crimes Against Humanity" Bassiouni [Excerpt]

Handout # 23 The Case of The SS Lotus France v Turkey [Excerpts]

CLASS 4 "THE NUREMBERG TRIAL"

Binder

Handout # 21 *Read through Section H. The Far Eastern Commission and the International Military Tribunal for the Far East at Tokyo in*

"From Versailles to Rwanda in Seventy-Five Years: The Need to Establish a Permanent International Criminal Court" Bassiouni, M. Cherif Harvard Human Rights Journal Spring 1997

Handout # 4 Charter of the International Military Tribunal [London Charter] [Excerpts]

Handout # 29 IMT "Sentencing Chart"

Handout # 30 Anatomy of the Nuremberg Trials Taylor, Telford 1-115

Handout #32 – "The American Perspective on Nuremberg: A Case of Cascading Ironies"
Raymond M. Brown

Handout # 24 "The Crime Against Peace" Bassiouni & Ferencz [Excerpts]

Power

Chapter 3 "Crime With a Name"

CLASS 5 "THE NUREMBERG LEGACY"

Binder

Handout # 6 Convention on the Prevention and Punishment of the Crime of Genocide

Handout # 7 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Handout # 8 Geneva Conventions of 1949 [Excerpts] and Protocols Additional I and II

Handout # 5 Telford Taylor, Final Report to the Secretary of the Army on the Nuremberg War Crimes Trials under Council Control Law No 10 (1949) [Excerpt]

Handout # 22 Israel v Eichmann 36 Int'l L. Rep. 5 (1962)

Handout # 3 Charter of the United Nations [Excerpts]

CLASS 6 "HUMAN RIGHTS" & "INTERNATIONAL HUMANITARIAN LAW"

Binder

Handout # 33 Universal Declaration of Human Rights (Excerpts)

CLASS 7 IN CLASS - MID TERM EXAMINATION

CLASS 8 "THE AD HOC TRIBUNALS" & "MIXED TRIBUNALS" ["HYBRID COURTS"]

Binder

Handout # 21 *Read through the end*

"From Versailles to Rwanda in Seventy-Five Years: The Need to Establish a Permanent International Criminal Court" Bassiouni, M. Cherif Harvard Human Rights Journal Spring 1997

Handout #31 – "Justice on the Cheap" Wanda M. Akin, 28 T. Jefferson L. Rev. 19, Summer 2005

Power

Chapter 6 Cambodia "The Helpless Giant"

Chapter 9 Bosnia: "No More than Witnesses at a Funeral"

Chapter 11 Srebrenica: "Getting Creamed"

Chapter 10 Rwanda: "Mostly in a Listening Mode"

CLASS 9 "THE INTERNATIONAL CRIMINAL COURT"

Binder

Handout # 9 Rome Statute of the International Criminal Court [Excerpts] and Ratification Table

Handout # 11 The Statute Of The Iraqi Special Tribunal [Excerpts]

Supplemental Handout

Power

Chapter 8 Iraq: "Human Rights and Chemical Weapons Use Aside"

CLASS 10 GENOCIDE & THE DARFUR

Handout # 10 Security Council Resolution 1593 (2005) (Darfur Referral)

Supplemental Handout [To Be Supplied]

CLASS 11 **"WHAT IS 'TERRORISM'?"**

"Defining Terror" Johnathan Weinberger, Seton Hall Journal of Diplomacy and International Relations, Winter/Spring 2003

Supplemental Handout [To Be Supplied]

CLASS 12 **THE FUTURE**

Handout # 2 The UN's Discourse at a "Fork in the Road"

A More Secure World: Our Shared Responsibility
Report of the Secretary-General's High-Level Panel on Treats, Challenges
& Change 2004 [Excerpts]

In Larger Freedom: Towards Development, Security, and Human Rights for All
Report of the Secretary-General 3-21-05 [Excerpts]

Handout # 20 "In Larger Freedom": Decision Time at the UN By Kofi Annan, Foreign Affairs,
May/June 2005

Supplemental Handout [To Be Supplied]