DET JURIDISKE FAKULTET
UNIVERSITETET I BERGEN

NOTAT

til

Fakultetsstyret

Jnr. Arkiv	Sak nr. 93/13 Styremøte 10.12.13

FORSLAG OM NYTT SPESIALEMNE JUS288-2-A INTERNATIONAL CRIMINAL LAW

Fakultetet har mottatt søknad fra professor Terje Einarsen om opprettelse av et nytt spesialemne på engelsk. Emnemal er vedlagt.

Studieutvalget behandlet forslaget i sitt møte den 3. desember 2013, og fattet slikt vedtak i sak 81/13:

> SU innstiller overfor fakultetsstyret på at spesialemnet opprettes fra og med høsten 2014.

Til grunn for studieutvalgets vurdering ligger en erkjennelse av at vi trenger engelskspråklige spesialemner for å kunne opprettholde et tilbud til innvekslingsstudenter. Det er dette tilbudet som gjør oss interessant som samarbeidspartner og skaffer studieplasser til våre egne studenter som vil reise ut. Et godt tilbud til innvekslingsstudenter vil selvsagt også gjenspeiles i vår studiepoengproduksjon.

Når det gjelder International Criminal Law er det også uttrykt et ønske om at fakultetets vellykkede satsing innen fagfeltet skal komme til uttrykk i et tilbud også til internasjonale studenter.

I samsvar med det framlagte forslaget inviterer dekan og fakultetsdirektør fakultetsstyret til å gjøre slikt

Vedtak:

Spesialemnet JUS288-2-A International Criminal Law opprettes i overensstemmelse med vedlagte emnemal, med virkning fra høstsemesteret 2014.

Asbjørn Strandbakken
dekan

Øystein Lunde Iversen
fakultetsdirektør

Emnemal JUS288-2-A International Criminal Law

Subject	
Course title	
Code	JUS288-2-A
Course title – bokmål*	International Criminal Law
Course title – nynorsk*	International Criminal Law
Course title – english*	International Criminal Law
Number of credits*	10
Level (BA or MA)	MA
Course leader*	Professor Terje Einarsen
Subject lecturer(s)*	Professor Terje Einarsen
Contact person in the Administration (can be changed by the Admin. without a new decision)	
Combines successfully with	JUS276-2-A Human Rights Law: Special Focus on Economic, Social and Cultural Rights. (JUS275-2-A) (Any public international law course).
For courses in the law programme:	
- Course content**	**Aim and Content** This course provides an opportunity to better understand the contemporary legal frameworks for the prosecution of the most serious crimes, such as war crimes, crimes against humanity, and genocide, for which a person today may be directly responsible under international law. International criminal law (ICL) is a sub-discipline of public international law, historically rooted in the international and national transitional justice cases (including the famous Nuremberg Judgment) effected in the aftermath of World War II. The Charter of the United Nations (1945), the Nuremberg Principles (1946), and the Universal Declaration of Human Rights (1948), jointly created a new paradigm of international law. In particular, the individual person was now seen as a possible subject for legal rights and criminal liability directly under international law. Apart from the Genocide Convention (1948), further ICL-developments were for several decades subdued by the Cold War. Since the establishment of the Yugoslavia and Rwanda tribunals in 1993 and 1994 respectively, and the International Criminal Court (ICC) in 1998, ICL has developed immensely. Yet there are important methodological, institutional and political constraints on the functioning and further developments of ICL. The course revisits the history of international criminal courts, before discussing the institutional, normative and political context and the special nature of the crimes in question. This includes their sometimes uncertain identification or legal basis. Do these crimes have any common features? How do they differ from other crimes? Is ICL basically a response to mass crimes committed by and through organised power structures like states, military organisations, and other especially powerful entities? Should terrorism, piracy, torture and certain other crimes also part of ICL, or does ICL only concern the so-called 'core crimes', such as war crimes, crimes against humanity and genocide? What is the role of the legality principle in this field of law?

	After introducing such broader issues and perspectives the course moves on to a more detailed analysis of the substantive crime elements. It focuses specifically on the objective structures and the required mental element of the core universal crime categories: 'war crimes', 'crimes against humanity' and 'genocide'. The course will also discuss different ways of perpetrating and participating in universal crimes, and hence the need for extended criminal liability through various legal 'modes of participation'. Personal and structural circumstances excluding liability will also be covered, as will the basic principles of fair international criminal trials. Since enforcement of criminal liability may also take place in domestic jurisdictions, the course will discuss the legal principles of domestic jurisdiction applicable to universal crimes prosecution (the territorial principle, etc.), as well as the duty of a state to prosecute such crimes, and possible limitations on domestic prosecution and trials (amnesties, statute of limitations, and immunities). The course includes an assessment of the impact of domestic prosecutions on impunity for participants in universal crimes. It concludes on the potential and limitations of international criminal justice.
- Learning outcome**	The course should enable students to understand the mechanism of international criminal law (ICL) and its key concepts. It should make students aware of important legal issues and current challenges pertaining to contemporary ICL. The course should furthermore enable students to acquire an independent knowledge-base for analysing, discussing, and eventually pursue further advanced studies or do practical work within this field – internationally or domestically. In particular, the course should enable students to solve concrete legal problems relating to the interpretation and application of core substantive law and related principles, by presenting legal arguments in a balanced and reasoned way.
- Literature**	• Antonio Cassese, *Cassese's International Criminal Law*, Third Edition, Oxford University Press, 2013 (Revised by: A. Cassese et. al.), pp. 3-45, 63-130, 161-290, 309-315, 318-322, 347-362. [Altogether 265 pages]. • Terje Einarsen, *The Concept of Universal Crimes in International Law*, TOAEP Oslo, 2012, pp. 19-86, 209-217, 266-274, 306-313. [Altogether 90 pages]. • Terje Einarsen, "New Frontiers of International Criminal Law: Towards a Concept of Universal Crimes", in *Bergen Journal of Criminal Law and Criminal Justice*, Volume 1, Issue 1, 2013, pp. 1-21. • Joseph Rikhof, "Fewer Places to Hide? The Impact of Domestic War Crimes Prosecution on International Impunity", in Morten Bergsmo (ed.), *Complementarity and the Exercise of Universal Jurisdiction for Core International Crimes*, TOAEP Oslo, 2010, pp. 7-21 and 65-80 [30 pages].
Teaching:	
- teaching semester (autumn/spring)*	Autumn
- teaching methods*	Lectures/seminars

- teaching language*	English
- compulsory elements*	None
Admission/admittance regulation:	
- general admittance requirements*	MAJUR – JUSVALG – INTL-JUS
- course admission*	None
- capacity of course participant	Not limited
- private candidate admittance*	Yes
Exam:	
- examination semester (Autumn/Spring)*	Autumn and spring
- type of examination * o semester with teaching o semester without teaching	 Written school exam Written school exam
- duration of exam*	4 hours
- examination language* - the exam question - the answer	 English English
- grade system*	Graded scale with 5 levels from A to E for passes and F for fail, see Section 3-1 no. 2, first sentence of *Studieplanen for masterstudiet I rettsvitenskap ved UiB*.
Remedies permitted in addition to § 3-6	None
Basic admission requirements (including language requirements):	
- compulsory*	Three years of university studies, including criminal law. Good command of Engslish language – written and spoken.
- recommended*	Three years of law studies.
Academic overlap with other courses*	None
Evaluation*	According to university routines
Contact information* - Department/Institute/ Faculty	Contact person in the Administration: **Kjersti.Lillegraven@jurfa.uib.no** Department: **The Faculty of Law** Visiting address: Magnus Lagabøtes plass 1 Office hours: 09.00 – 14.00. Postal address: Postboks 7806 Post number and city: 5020 BERGEN Phone: + 47 55 58 95 00 Fax: + 47 55 58 95 10 E-mail: http://www.uib.no/en/jur Web: http://www.jur.uib.no/
Target group(s)	Law students
The need for adjustment with regard to the target groups	None
Financing of the course	Ordinary
Resources	
- course leader	Internal professor
- teaching resources	Internal/guest
- administrative resources	Internal, ordinary
Relevance of the course	See content. International/universal crimes.