

Università degli Studi di Milano – Facoltà di Scienze Politiche

**INTERNATIONAL COURTS AND TRIBUNALS:
ISSUES OF INTERNATIONAL LAW AND ORGANIZATION**

Seminar

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One of the most recent and striking features of contemporary international relations is the flourishing of international courts and tribunals, their transformation and specialization, and the opening to non-state entities (e.g. individuals, legal persons, NGOs, etc.). In the last decade of the twentieth century, almost a dozen international judicial bodies have become active or have been extensively reformed, compared to only about six or seven previously populating the international scene. At the same time, the number of States accepting the jurisdiction of these bodies (either implicitly or, when necessary, by way of expressed statements) has increased, and fora where only states can appear have become the exception rather than the rule.

This seminar articulates on three levels: historical, political and legal. First, it illustrates the way in which the so-called “international judicial system” has expanded to present proportions and which factors have influenced its development. Second, international judicial bodies are presented as international organizations, addressing issues of organization and administration of justice. Third, international judicial bodies are studied as instruments for the implementation, clarification and development of international law. Both normative and procedural issues will be considered.

Lesson 1 (Thursday December 14, 2000, 2 ½ hour)

Introduction and methodology. Explanation of basic concepts and terms

The development of the international judicial system: An overview

- Rekindling of Arbitration: From the Jay Treaties to the Permanent Court of Arbitration
- The institutionalization of international justice: From the Permanent Court of International Justice to the International Court of Justice.
- Specialization of international judicial bodies: Human Rights Courts, the Law of the Sea Tribunal, the General Agreement on Tariffs and Trade/World Trade Organization Dispute Settlement System.
- Regional economic and political integration agreements and their courts: the European Court of Justice model.
- The latest development: International Criminal Courts and Tribunals

Lesson 2 (Friday, December 15, 2000, 2 ½ hour)

Fundamental features of international judicial bodies:

Established by a treaty
Consent to jurisdiction

- Independent Judges
- Predetermined rules of procedure
- Binding Outcome
- International law as proper law
- States and/or International Organizations can be parties

Lesson 3 (Monday, December 18, 2000, 2 ½ hour)

International judicial bodies as international organizations

- Structure
- Judges: how they are chosen and guarantees of their independence.
- Administration: The Registry
- Financing
- Caseload
- Representation before international judicial bodies: the “invisible international bar”

Legal issues

- Typology of jurisdictions
 - Contentious
 - Advisory
 - Appellate
 - Preliminary
 - Administrative
 - Criminal

Locus standi: Access and utilization.

- States
 - Developed and Developing Countries
- International Organizations
- Legal and natural persons
- Non-governmental Organizations

Lesson 4 (Tuesday, December 19, 2000, 2 ½ hour)

Legal issues (contd.)

- Procedure
 - The written and oral pleadings and the hearings
 - Incidental jurisdiction (interim measures, orders, warrants, etc.)
 - Decisions
- Remedies in international judicial bodies
- Execution of decisions

Conclusions

Towards and International “Judicial System”? Advantages and drawbacks
of an anarchical system
New Trends