

2005

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Recommended Citation

Elizabeth M. Bakalar, *Learning International Criminal Law: One Law Student's Experience in a Team-Taught Course*, 31 Brook. J. Int'l L. (2005).

Available at: <https://brooklynworks.brooklaw.edu/bjil/vol31/iss1/4>

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LEARNING INTERNATIONAL CRIMINAL LAW: ONE LAW STUDENT'S EXPERIENCE IN A TEAM-TAUGHT COURSE

Elizabeth M. Bakalar*

I. INTRODUCTION

In their collaborative article *Co-teaching International Criminal Law: New Strategies to Meet the Challenges of a New Course*, Professors Stacy Caplow and Maryellen Fullerton describe the myriad rewards of team teaching International Criminal Law for the first time at Brooklyn Law School in the spring of 2004.¹ Both professors address the difficult and more daunting aspects of sharing the classroom with a colleague,² but ultimately conclude that their course was a success.³ The authors write that they are “converts both to the subject matter [of International Criminal Law] and to collaborative teaching,”⁴ and that, “without doubt,” they want to teach the course again.⁵

This Essay is a three-part response to Professors Caplow and Fullerton, and an overall analysis of my experience as one of their sixty students in International Criminal Law.⁶ Part II of the Essay provides background on my personal perspectives and expectations upon enrolling in the class. Part III details my initial impressions of the class, charts the course's development throughout the semester, and offers a critique of some of the course's structural elements. Part IV responds directly to some of the professors' observations about student impressions, their differing teaching styles, and team teaching in general, and offers specific suggestions for more effective handling of certain elements of the course in the future. The Essay concludes by agreeing with Professors Caplow and Full-

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1. Stacy Caplow & Maryellen Fullerton, *Co-teaching International Criminal Law: New Strategies to Meet the Challenges of a New Course*, 31 BROOK J. INT'L L. 103, 104–05 (2005).

2. The professors note, *inter alia*, the challenges of increased preparation time, necessity of mutual decision-making, adjustments in teaching habits, and reconciliation of dissimilar teaching styles. *Id.* at 109, 114–15.

3. *Id.* at 127.

4. *Id.* at 105.

5. *Id.* at 126.

6. *See id.* at 114.

erton that International Criminal Law is a valuable discipline,⁷ and concurring that their team-taught class at Brooklyn Law School merits a “next time.”⁸ However, in my estimation, the class should not be offered again without some significant changes and adjustments, both to the team-teaching structure and the overall organization of course material.

II. PERSONAL PERSPECTIVES AND EXPECTATIONS OF THE CLASS

I enrolled in International Criminal Law during the spring semester of my second year of law school for several reasons.⁹ First, the class satisfied a requirement of my first year of membership on the *Brooklyn Journal of International Law* that all students take at least one international law course per semester. Second, the class was being taught by two professors with whom I already had established relationships. Professor Fullerton taught my first year Civil Procedure course, and gave generously of her time in helping me with some of its more difficult concepts. She also acted as the faculty advisor on my student note, and we worked closely together during the previous semester in developing it. I had not yet taken a class with Professor Caplow, but was friendly with her in the context of Brooklyn Law School’s Edward V. Sparer Public Interest Fellowship program. Professor Caplow was a member of the Fellowship’s faculty committee, and I was one of several dozen fellows in the program. Monthly lunches and periodic symposia sponsored by the program had given us the opportunity to get to know one another outside the classroom. The prospect of taking a class with both professors at once was thus a big draw. Third, the subject matter of the class fascinated me. I took the basic Criminal Law course during my first year and completed the introductory International Law course that past fall. The extent of my knowledge in these respective areas of the law was essentially limited to these two courses, and I looked forward to harmonizing the disciplines. Finally, the class credits and timing fit my scheduling needs.

I was certainly excited about the material, but, like Professors Caplow and Fullerton, I was not entirely sure of what to expect from the semester.¹⁰ The prospect of a team-taught course—particularly where the team was composed of two popular, tenured professors—had generated sig-

7. *Id.* at 103.

8. *Id.* at 126.

9. The professors write that they “assumed . . . that, with a few exceptions such as those students who might have selected the course because it met at a convenient time, most students would be as excited about the subject matter as [they] were” *Id.* at 109.

10. The professors did not know what to expect regarding the total enrollment of the course or the baseline knowledge of the students. *Id.* at 109.

nificant buzz among my student peers. What would the classroom dynamic be like? How would the professors reconcile their differing teaching styles? How (if at all) would they divide the material? How would they evaluate our performance? Students enrolled in the course wondered aloud about these questions and more. There seemed to be some skepticism that an unconventionally-structured class such as this could really work, but everyone seemed willing to give it a chance.¹¹

Personally, I find it apt that one of Brooklyn Law School's few team-taught courses was International Criminal Law. International law is, by definition, a cooperative discipline. The pillars of international law are treaties between nations, United Nations resolutions, and international custom and consensus on how we should live and govern ourselves in a global society.¹² International Criminal Law embodies this spirit even more soundly—consensus and cooperation are imperative to developing universal standards of behavior and effective international law enforcement.¹³ A course based on material so fundamentally “cooperative” in nature seemed to naturally lend itself to a partnership in instruction.

11. As the professors note in their article, the Brooklyn Law School administration was initially reluctant to offer International Criminal Law as a co-taught course, and “joint teaching by full-time faculty is rare.” *Id.* at 104, 106.

12. See JEFFREY L. DUNOFF ET AL., INTERNATIONAL LAW: NORMS, ACTORS, PROCESS 1 (2002) (“International law, in one form or another, dates back thousands of years, and reflects the felt need of most independent political communities for agreed norms and processes to regulate their interactions.”).

13. According to the introduction of our casebook:

[International Criminal Law] has undergone an enormous expansion in recent years. This expansion is a result both of (a) increasing “globalization” of criminal conduct and consequently of national criminal law, and (b) increasing reliance on criminal sanctions to enforce norms of international law, especially norms of international human rights and humanitarian law

. . . .

. . . [International Criminal Law] in its original sense also can be regarded as including, by extension, on the one hand, exceptions from criminal jurisdiction . . . and, on the other, forms of transnational cooperation . . . that enable states to circumvent the ordinary restrictions on their power to enforce criminal law outside their own borders.

EDWARD M. WISE & ELLEN S. PODGOR, INTERNATIONAL CRIMINAL LAW: CASES AND MATERIALS 1–2 (2000).

III. INITIAL AND ONGOING IMPRESSIONS OF THE CLASS

A. Initial Impressions of Co-teaching and the Classroom Environment

I was immediately engaged by the first class.¹⁴ I remember distinctly that the hour flew by, and I left the classroom that day feeling the semester would be “easy” in terms of being able to remain attentive during class. For me, one of the biggest challenges of law school was staying focused on one person discussing and analyzing dense legal documents for hours at a time. Because I was very interested in the material, and the course was being taught by two professors, I knew this would be less of a problem.

However, I was somewhat surprised that Professors Caplow and Fullerton chose to divide up the class meetings so that each professor would teach particular topics and classes.¹⁵ In retrospect, I think the bifurcated approach made the most practical sense, but it was different from what I envisioned. I did not realize that each class would be so completely dominated by one professor. I had pictured more of a dual role for the professors, with both standing at the front of the room and teaching at the same time. As it turned out, the professors alternated classes with one teaching and one sitting in the back of the room, which was probably the more realistic arrangement given the large class size.

I agree wholeheartedly with the decision not to limit the class size and to teach the class as a three-credit survey course rather than a seminar.¹⁶ Professors Caplow and Fullerton did a good job of creating a smaller-feeling environment within the context of a large lecture hall. The first day of class, students scattered themselves throughout the amphitheater, but the professors asked everyone to move up to the front and to one side of the aisle. Condensing the room in this way gave the class a more inti-

14. See Caplow & Fullerton, *supra* note 1, at 114.

15. During the preparation phase, before the semester began, Professor Caplow advocated that each professor should “take responsibility for particular classes or topics,” while Professor Fullerton argued for more “collegial debate in class.” *Id.* at 112.

16. *Id.* at 109. While seminar classes are intimate and lend themselves to more collegiality and flexibility, they can also have the unwanted effect of alienating students. Although I have not personally experienced this phenomenon, some of my classmates have been shut out of popular and topical classes that they desperately wanted to take because of their interest in the subject matter, their need for the course credits, or both. Often, these specialized seminar courses are offered only once during a student’s law school career. Whether or not their feelings are justified, students who are prohibited from enrolling in the courses of their choice harbor resentment toward faculty, administrators, and the law school as a whole. With few exceptions, I believe that enrollment in law school classes should generally be unlimited.

mate feel, even though we were sitting in one of the largest classrooms in the law school's main building.

In creating this atmosphere, I think the professors obviated the need to bifurcate the classes so strictly. While it may have been impractical or distracting to have both professors sharing the floor point-for-point, it was probably equally unnecessary for one professor to remain almost totally silent while the other led the class. In the future, I propose more collaboration and dialogue between the professors during class, perhaps with one professor presiding over a given class but leaving room for the other to contribute more actively.

B. Ongoing Impressions: Unconventional Teaching Tools

As the semester wore on, any classroom difficulties borne of a first-time team-teaching effort were mitigated by the use of unconventional teaching tools such as guest speakers and films. Guest lectures and the use of film are not appropriate for every class. When utilized improperly, these methods can give students the impression that a professor is shirking his or her teaching responsibilities or is not diligently conveying the subject matter of the course.

In International Criminal Law, however, the guest lectures and films were the most memorable classes of the semester and had the greatest impact on my understanding of the issues in this burgeoning discipline. The four guest speakers in particular did an excellent job of illuminating various aspects of International Criminal Law's history and future.¹⁷ The films were all topical and poignant, and the class was almost always struck silent by the powerful events depicted.¹⁸ Students did not rustle their backpacks and papers or hurry out of the room at the end of the films, but remained (uncharacteristically) seated, taking in the enormity of what they had just watched.

17. As professors Caplow and Fullerton mention, the four guest speakers were David N. Kelley, the former United States Attorney for the Southern District of New York, Benjamin B. Ferencz, a former prosecutor at the Nuremberg Trials, Maxine I. Marcus, a Brooklyn Law School alumnus and a Prosecutor for the Special Court for Sierra Leone, and Justice Gustin L. Reichbach, New York Supreme Court (Kings County), who served as an international judge on the United Nations tribunal in Kosovo. *See id.* at 110 n.15.

18. Two particularly memorable and moving films dealt respectively with the Israeli hostage crisis at the 1972 Munich Olympics, *ONE DAY IN SEPTEMBER* (SONY Pictures Classics 2001), and Nazi Adolf Eichmann's capture in Argentina followed by his subsequent trial in Israel, *LANDMARK WAR CRIMES TRIALS: THE TRIAL OF ADOLF EICHMANN* (Choices 2000).

IV. DIRECT RESPONSES TO PROFESSORS CAPLOW AND FULLERTON

A. Teaching Styles

Both professors write that they were “mystified by the students’ anecdotal responses that [their] classroom methods are different,”¹⁹ remain puzzled by the perceived variations, and characterize their teaching styles as essentially uniform.²⁰ I find it fascinating that Professors Caplow and Fullerton have trouble seeing what a totally different experience it is to be a student in each of their respective classes.²¹ Perhaps the difference can be explained by the fact that Professor Fullerton regularly teaches large lecture classes and Professor Caplow often teaches in a smaller clinical setting.²² Whatever the explanation, Professors Caplow and Fullerton each generate totally different feelings among students in the classroom.

Professor Fullerton runs the class at a determined clip. When she asks a question, she seems to be eliciting a very precise answer. For example, she walks up and down the aisles calling on students at random, and when a response is not quite what she is looking for, she says something to that effect and moves quickly to the next student until the point she is trying to make is drawn out. She frequently speaks with her hands, moving them back and forth in a gesture that seems intended to invoke the correct response to a question, or at least the response that will lead to a particular point or principle. No feeling is worse than seeing Professor

19. Caplow & Fullerton, *supra* note 1, at 116.

20. The professors evaluate their teaching as follows:

It is true that one of us tends to walk up and down the aisles, and the other tends to stick closer to the podium, but both of us spend a portion of the class behind the podium, and both of us are out in front of it in each class. We both use the blackboard to generate quick outlines and to create visual images to reinforce the topic. We both used Power Point presentations at several junctures and both were apologetic about our lack of technological savvy. One of us tends to speak in a louder voice and in a somewhat more formal manner, but we both talk with our hands and use self-deprecating humor. We have thought about the differing student perceptions a lot, and they remain a puzzle.

Id. at 116.

21. Perhaps, part of the explanation for this is the period of years that separates most law students from their professors. Indeed, the professors make note of this divide, observing that “world events that seem recent to us are faint historical references for our students.” *Id.* at 109.

22. *Id.* at 108. Professor Fullerton comments on the sense of “intellectual solitude” she often feels in the classroom, whereas Professor Caplow writes: “As a clinician, I don’t experience isolation. Many of my clinic classes are co-taught, usually around a table so that the atmosphere is more relaxed.” *Id.*

Fullerton fix her gaze on you and hearing her say, “What do *you* think, Ms. so-and-so?” and, having allowed one’s attention to wander off for a moment or simply not knowing what she is after, being forced to meet her challenge with silence and a blank and clueless stare. And heaven help you if you forget to turn off your cellular phone during class. Even though Professor Fullerton’s teaching tactics are sometimes intimidating, I think they are ultimately very productive, because they encourage students to come to class prepared and pay attention. I also found it very gratifying to deliver the point that she would be looking for—she gives her students an equal number of opportunities to feel smart and insightful in the classroom.

Professor Caplow’s teaching style seems informal by comparison.²³ The class feels much more like a round-table discussion. Professor Caplow is more willing to let the conversation and classroom dialogue take its natural course—she appears to have a less rigid agenda, and relies mostly on volunteers to round out the discussion. Like Professor Fullerton’s teaching style, Professor Caplow’s also has its pros and cons. One downside to the more informal atmosphere is that the same students tend to contribute again and again, and it is not clear whether the non-participants are attuned to what is happening in class. Professor Fullerton’s more “Socratic” method serves as a check on preparedness and understanding. However, a big advantage to Professor Caplow’s style is that there is more room for flexibility and dialogue, and when the class discussion would veer off in an interesting direction, there were many more opportunities to pursue it. There is also less tension about being caught off guard, so it is a bit easier to relax and talk freely about some of the concepts.

B. Teaching Tools: Effective Use of Information Technology

I agree with the professors’ characterization of the web course page as something of a “hindrance,”²⁴ and think “barrage” an apt word to describe the influx of document postings.²⁵ Many professors at Brooklyn Law School utilize a Westlaw or Lexis web course to supplement hard copy materials.²⁶ In my experience, however, these web pages become

23. Professor Caplow characterizes Professor Fullerton as a “demanding teacher,” and feels that she herself, by contrast, lets students “off the hook easily.” *Id.* at 121. I think this is something of an overstatement, but it does acknowledge the different atmosphere each professor creates in class.

24. *Id.* at 118–19.

25. *Id.*

26. I have taken numerous courses with other professors who have used a web course. These included a Federal Litigation Clinic and companion seminar, International Law,

troublesome when they take on a central function in a course. Those classes where professors simply use a Westlaw or Lexis web page to post syllabi or class handouts or to host a question and answer discussion board represent the most effective use of web courses. Completing the assigned reading in International Criminal Law, however, became an exercise in information technology proficiency, rather than one in International Criminal Law. I spent the first twenty minutes of every assignment engaged in an online treasure hunt to access the assigned materials. Once I had deduced from the syllabus what we were supposed to read, located it on the web course, converted the assignment from HTML, Word Perfect, or PDF format into Microsoft Word (sometimes a requirement to print the document), printed it out, and fastened all the pages together, I had lost enthusiasm for its actual contents!

While acknowledging unanticipated hardware problems,²⁷ Professors Caplow and Fullerton express disappointment that students waited until the actual day of class to read the assigned materials and did not access the web course before that time.²⁸ Yet, reading shortly before class is, inevitably, the *modus operandi* of almost every law student I know. I consider myself to be good with time management and rarely skipped reading for class, but in order to prepare for a full course load in a given week, carving out the few hours before a class meets to prepare for that class often could not be helped. Unfortunately, it is simply unrealistic for any law professor to regularly expect more advance preparation than that.

Having to jump through technological hoops gave some students the impression that the course was more disorganized than I believe it actually was. While advance photocopying was apparently not feasible for International Criminal Law assignments on the first go-around,²⁹ I think it is imperative to the future success of the course. With the exception of "current events" type articles and materials, a course packet of the rele-

Corporations, Administrative Law, Trusts and Estates, Family Law, Criminal Procedure, and Federal Income Taxation.

27. *Id.* at 119 ("We had not realized that many of the students—though technologically much more capable than us—faced hardware-imposed problems that we did not.")

28. Professors Caplow and Fullerton write:

We often heard from students around 11:00 a.m. on those days that they were having trouble accessing LexisNexis, meaning, of course, that they were getting around to the reading shortly before class. We knew, since we also had been on the web page regularly, that there hadn't been any problems the day or the evening before!

Id. at 119 n.25.

29. *Id.* at 118 n.24.

vant treaties, supplemental cases, and similar documents could be compiled at the beginning of the semester and a one- or two-page syllabus could assign students the reading for each class. Additional documents could be handed out one class in advance and then posted to the web course for those who did not receive a copy during class.

C. Evaluating Students

I was among those students who opted to take the three-hour final exam rather than write a term paper.³⁰ I was interested to read that each professor had written one of the two exam questions.³¹ To highlight another difference between the two professors, I immediately suspected which professor wrote each question. As mentioned earlier, I had already taken two semesters of Civil Procedure with Professor Fullerton and was familiar with her signature “evolving fact-pattern” style of exam writing. Despite—or perhaps because of—that familiarity, I thought that the two professors’ distinct voices came through clearly on the final exam. Professor Fullerton’s question—like her classes—appeared designed to lead the student down a charted path, while Professor Caplow’s left more room for creativity or alternatives.

Of course, what a law professor thinks when he or she writes or evaluates an exam question remains a mystery, so I cannot be sure I accurately matched each question with its author or identified her intent. The entire law school examination process—from start to finish—remains stubbornly opaque, despite tenacious attempts by generations of law students to crack the code. In my own experience, it was often impossible to tell how I had fared on a given examination. Exams about which I had felt the most confident were often the ones where I was the most disappointed by my grade. On other exams, I was certain I had failed, but ultimately excelled. In the case of International Criminal Law, I felt secure in my performance on the final exam. This feeling turned out to be justified, but it could have just as easily gone the other way.

For this reason, I fully support the professors’ decision to offer students a paper option.³² The chance to write a paper rather than sit for an exam gives law students more control over the evaluation process. Paper-writing engages students in a way that a three-hour exam simply cannot, and it may be a more reliable measure of their grasp of the course mate-

30. Professors Caplow and Fullerton offered students the choice between taking a traditional final exam and writing a term paper. *Id.* at 115.

31. *Id.* at 121 (“Ultimately, we each created one question, which the other read and adjusted, that comprised fifty percent of the exam.”).

32. *Id.* at 115.

rial. Further, the process of developing a paper permits students to hone in on specific areas of individual interest and explore them in depth throughout the semester, with the professor's feedback on drafts giving the student some idea of his or her progress. Although I did not personally opt for the paper in International Criminal Law,³³ I feel strongly that this option should remain a part of the course in the future and wish that more law school courses would give students this alternative.

V. CONCLUSION

Overall, my experience in International Criminal Law was quite positive. I left the class fully persuaded that the discipline is increasingly significant, and I hope that Brooklyn Law School will continue to offer the class to its students. The guest lectures, films, substantive course material, and techniques for evaluating students are all "keepers." I also appreciate the theory and underlying philosophy of team teaching law students, and I am confident that this form of instruction has a great deal of potential. After all, much of a lawyer's work is collaborative in practice, and promoting or showcasing a teamwork environment can only work to the law student's benefit. However, some practical factors—at least in the context of this particular course—definitely merit revision.

First, where a class is co-taught, I think the professors should work more visibly as a team. One professor could still take the lead in alternating classes, but the other should have a more developed role in front of the students. Second, the course web page should supplement—not replace—a hard-copy course packet available for purchase in the school bookstore. Sending students scavenging online for required reading blunts enthusiasm for the material and excuses unpreparedness. Of course, neither of these perceived flaws is fatal. For a first-time effort, International Criminal Law earns high marks, and some significant procedural adjustments will strengthen the course immeasurably.

33. I chose the exam because writing a term paper during this particular semester would have been too time-intensive. A heavy course load combined with the fact that I was already writing a note for the *Brooklyn Journal of International Law* made another research project unrealistic.