

[INSTITUTE FOR INTERNATIONAL LAW AND JUSTICE SCHOLARS SEMINAR](#)

Instructors for Fall 2006 : Professor JHH Weiler; Professor Benedict Kingsbury

Teaching Assistant: Ms Isabel Feichtner

Past Instructors include: Professors Phillip Alston, Eyal Benvenisti and Mattias Kumm

The IILJ Scholars seminar is convened annually in the Fall Semester. It is a required course for, and is restricted to, students enrolled in the [JD/LLM program in international law](#) and other specially designated graduate or fellowship students. The main purpose of the seminar is to facilitate significant writing projects in which students in the program are engaged. This seminar provides an opportunity for robust in-depth discussion of fundamental problems and concepts in contemporary international law. Specific topics for discussion are chosen by the instructors, taking account of student preferences.

This year, the focus was on exploring primary sources on the use of force. The materials examined in detail include the ICJ decisions in the Oil Platforms (Iran v. USA) case and in the case concerning Armed Activities on the Territory of the Congo (DRC v. Uganda); the decisions of the European Court of First Instance on the Security Council's counter-terrorism sanctions; a collection of materials discussing the legality of the Iraq War; excerpts from Gentili's *De Jure Belli* (The Law of War, 1958) on Jus Post Bellum; and the Articles of State Responsibility, particularly in relation to counter measures.

Analysis and discussion of these materials was further enriched by several research scholars, visiting fellows and doctoral candidates at NYU who attended various sessions. On a few occasions the discussion was led by specially invited guests including Iulia Antoanella Motoc, former Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo and Dr Ryan Goodman, Rita E Hauser Professor of Human Right and Humanitarian Law, Harvard Law School. Students were also given the opportunity to attend the [Annual Transitional Justice Lecture](#) by the UN High Commissioner for Human Rights Louise Arbour.

The DRC v. Uganda Project

The case concerning *Armed Activities on the Territory of the Congo (DRC v. Uganda)* was studied in first few weeks of the Seminar. Discussion revealed a number of very interesting aspects of the judgment which had received little attention elsewhere. The course instructors thus suggested that a group of students write case notes on different issues in the judgment; which could then be published separately or together - as an exhaustive commentary on the judgment. The twelve students who were interested in this exercise had to submit (either singly or in pairs) a topic proposal followed by a detailed outline during the fall semester. They were required to complete a first draft of their paper in the first week of February, for presentation to the rest of the group.

The presentation session for the 10 papers was held at the [Castle on the Hudson](#), a historic landmark of Tarrytown, 30 minutes north of Manhattan. The castle was built between 1897 and 1910 by General Carrol and has now been converted into a luxury resort. Set in sprawling acres of gardens and grounds, the castle - and in particular, the grand Caramai Ballroom - offered an ideal venue for the intense 8am - 6pm retreat for discussion and feedback on student papers.

Topics examined by the papers fall into three broad categories: (1) comments on core substantive issues addressed by the case such as the concept of attribution, self-defense against an armed

attack by non-state actors, the standing of cease-fire agreements, and the doctrine of consent; (2) the broader implications of the court's judgments for several different branches of international law - the relationship between human rights law and humanitarian law; the assimilation of state failure in international law; the modification, over time, of the law of occupation and the relevance of the doctrine of permanent sovereignty of natural resources during occupation; and (3) procedural issues relating to the court's own functioning - how fact based disputes may be addressed; the admission and treatment of evidence from different sources; and the manner in which the absence of necessary parties should impact upon the judgment.

The papers were read by all sixteen people who attended the retreat and each paper received oral feedback from several quarters. In addition, each student was made responsible for closely reviewing two other papers and providing detailed comments. Altogether, this exercise resulted in a comprehensive review and critique of all papers. The students now have about six weeks - till the first week of April - to get their final drafts ready; in consultation with the course instructors.