

Values of the Justice System



Section 5

International Rights and Responsibilities

Section 5 – International Rights and Responsibilities

Activity 5.1: The Convention on the Rights of the Child

Time: 225-300 minutes

Description:

This multi-faceted activity, under the broader umbrella of the Universal Declaration of Human Rights, emphasizes and familiarizes students with the origins and development of children’s rights, and the nature, scope and current state of those rights. The main part of the activity is a research investigation and presentation on child labour. The culminating activity for this unit is the development of an action plan to address specific concerns about child labourers. These activities are designed to prepare students for a visit by a legal or other expert (e.g., Amnesty International, Human Rights Watch, Free the Children) on the subject of international law and human rights.

Overall Expectations:

- ICV.04 -** explain what it means to be a “global citizen” and why it is important to be one.
- PCV.03 -** analyse responses, at the local, national, and international levels, to civic issues that involve multiple perspectives and differing civic purposes.
- ACV.01 -** apply appropriate inquiry skills to the research of questions and issues of civic importance.

Specific Expectations:

- IC4.01 -** analyse contemporary crises or issues of international significance (e.g. health and welfare, disasters, human rights, economic development, environmental equality, terrorism).
- IC4.02 -** summarize the rights and responsibilities of citizenship within the global context, as based on an analysis of the United Nations Universal Declaration of Human Rights (1948) and Convention on the Rights of the Child (1989).
- IC4.03 -** evaluate civic actions of individuals and non-governmental organizations that have made a difference in global affairs (e.g. Cardinal Émile-Paul Léger, Jean Vanier, Nelson Mandela, Mother Theresa, Jody Williams, Craig Kielburger, David Suzuki, Stephen Lewis, The International Federation of Red Cross and Red Crescent Societies,

Doctors Without Borders / Médecins Sans Frontières, YWCA / YMCA and YWHA / YMHA, Greenpeace, Inuit Circumpolar Conference).

- PC1.01** - describe fundamental beliefs and values associated with democratic citizenship (e.g. rule of law, human dignity, freedom of expression, freedom of religion, work for the common good, respect for the rights of others, sense of responsibility for others).
- PC1.02** - explain how democratic beliefs and values are reflected in citizen actions (e.g. Remembrance Day services, Montreal unity rally, National Aboriginal day, December 6 commemorations of the Montreal Massacre, White Ribbon campaign).
- PC3.02** - demonstrate an understanding of a citizen's role in responding to non-democratic movements and groups (e.g. fascism, Stalinism, supremacist and racist organizations) through personal and group actions (e.g. the actions of individuals such as Medgar Evers, Emily Murphy, Norman Bethune, Alexander Solzhenitsyn, Simon Wiesenthal and those granted the title "Righteous Among the Nations," of groups such as the Canadian Civil Liberties Association).
- PC3.03** - describe examples of human rights violations (e.g. Nuremburg Laws, hate crimes, torture, genocide, political imprisonment, recruitment of child soldiers, gender-based discrimination) and assess the effectiveness of response to such violations (e.g. media scrutiny, political responses, military intervention, international tribunals, pressure from non-governmental organizations).
- PC3.04** - analyse the evolution of Canada's participation in international tribunals (e.g. the Nuremburg trials after World War II, the international Court of Justice's prosecution of war crimes, formation of the International Criminal Court).
- AC1.01** - formulate appropriate questions for inquiry and research, locate relevant information in a variety of sources (e.g. texts, reference materials, news media, maps, community resources, the Internet); and identify main ideas, supporting evidence, points of view and biases in these materials.

Planning Notes:

- Although the full text of the Convention on the Rights of the Child is available in some of the Civics textbooks in use, a "non-legalese" version is included in [Appendix 5.1](#).

- The small group research activity must be carefully planned so that students have sufficient time to research and organize their material for the brief presentations which will follow. Following the introductory activity in Part 1, students should be given a week to do their research and organization. During this time, teachers will conference with student groups to ensure time-line goals are being met.
- Teachers may wish to have on hand textual or other materials to assist in the brainstorming exercise about the types and sources of child labour. The ideas developed in the brainstorming session will provide the focus for the students' research and the group presentations.
- One period should suffice for the five-minute presentations, however, one additional period should be set aside for any presentations not completed on day one. This second class should be used to consolidate the recommendations and practical strategies students made in their presentations and should be used to develop a class action plan for dealing with the problems they identified.
- A short list of print and non-print materials to support the research investigation is provided in the "Resources" section below.

Prior Knowledge Required:

It will be useful for the teacher to review basic research, organizational and presentation techniques with the class.

Teachers should also emphasize the need for student groups to develop:

1. A clear plan that includes specific responsibilities for each group member.
2. A time-line for their research.
3. A schedule for group meetings to enable students to organize and prepare for the presentation.

Teaching/Learning Strategies:

Part 1: Introduction: 100 minutes

1. Inform the class that the purpose of this lesson is to provide an in-depth investigation into the "real world" of children's rights. Indicate that the intention is to extend their understanding of the state of children's rights, and to develop an action plan for the class to address the concerns their research will reveal. The teacher can generate interest in children's rights and provide a context for further discussion by asking questions such as: Why are children's rights important? What rights do grade 10 students have? Do you consider

yourselves to be children? How would your rights be different without legal safeguards?

2. Distribute copies of the Appendix 5.1 *Convention on the Rights of the Child*. Briefly review the introductory material on the origins and development of the children's rights movement.
3. Have students label each of the rights according to the applicable category:
 - Survival Rights** ensure that children survive and grow.
 - Developmental Rights** enable children to develop the varied aspects of themselves.
 - Protection Rights** protect children from harmful treatment and influences.
 - Participation Rights** allow children to express what they think and to play an active part in society at large.
4. Initiate a brief discussion on the state of these rights in Canada and worldwide. Students will likely suggest problems of inadequate food. (Millions of children are among the approximately 36 million people who continue to die annually from malnutrition. This has occurred in spite of the United Nations-sponsored, Rome Declaration on World Food Security (1996), which committed signatories to reducing the number of malnourished people by 50% by 2015).

Students may mention the millions of children who are dead or dying of AIDS, the millions more devastated by on-going wars, or the millions of children who receive no formal education. Students might also make reference to the additional problem of the illegal abduction and/or purchase and transportation of children for various illegal purposes, including cheap labour and sexual exploitation. (A recent report from the Solicitor General of Canada indicates that this practice takes place here too, involves 8,000 to 16,000 people a year, and generates \$120 to \$160 million.) A further indication that Canada mirrors the world situation to some degree can be found in a recent government sponsored survey entitled, *A Canada Fit for Children*, in which the top two concerns identified by children across the country were "poverty" and "abuse and violence".

5. Whether or not it is mentioned in the foregoing discussion, one of the major problems afflicting children worldwide is child labour. This will be the focus of the students' group research investigations. Teachers should indicate that the International Labor Organization, a U.N. agency, estimates that 250 million children between the ages of 5 and 14 are working in developing countries. Half of these children work full time. If the number of "hidden" or unreported child workers and street children were added to this figure, it is estimated that the number of children working as child labourers would climb to well over half a billion.

6. Discuss the meaning of “child labour”. Although working children may be different ages in one or another geographic location, the main principle is that they are young people working full or part time for long hours for little or no pay at jobs that are often dangerous, unhealthy, and are not in their best interest.
7. Conduct a brainstorming exercise on the types (and sources) of child labour that exist, indicating that these topics will form the basis of their research. Types that will emerge include: street kids, sex workers, child soldiers, agricultural workers (both for the family and for commercial purposes), factory workers, migrant workers, minority group workers, work that involves girls in particular (and the special problems girls face in developing countries), bonded labour, and the role of globalization in generating child labour. Child labour in developed countries could form a distinct topic or could be blended into one or more of the others.
8. Divide students into groups of two or three and have them choose a topic for their research and presentation.
9. Ask students to indicate the names of the members of the group, their topic, a time-line for their research, a schedule of their group meetings and a date to meet with the teacher to review their progress. The teacher should emphasize that there are three main parts to each topic and that students must provide:
 - (a) evidence of the existence/prevalence of the type of child labour they are investigating;
 - (b) a clear description of what life is actually like for the children doing this type of labour; and
 - (c) one or two practical “doable” suggestions for improving or doing away with this type of labour.

This will be the focus of their short, clear, five-minute presentations.
10. Discuss with students the implications of a five-minute presentation. Emphasize the need for organization both of their material and the responsibilities of presenters and the need to know exactly how and when visual or other aids are to be used, if they choose to use them.
11. Review the basis for evaluation using an Oral Presentation Rubric (as can be found in the *ESL/ESD Resource Guide for CIVICS CHV20*, Toronto District School Board, February, 2001, Handout 3.17.)

Part 2: Presentations: 75-90 minutes

12. As the presentations are made, make an ongoing list of the suggestions for addressing each of the types of child labour.

Part 3: Follow up and Development of Action Plan: 45 – 60 minutes

13. Introduce the action plan phase of the activity with materials that demonstrate how individuals and groups are fighting successfully to promote human rights and those of children through national and international actions. Examples can be found in Civics textbooks. Additional information about the work of the recent winners of the John Humphrey Freedom Award can be found in [Appendix 5.2](#). This material also demonstrates the supporting work of human rights NGOs such as *Rights and Democracy* which may be taken into account in developing a class action plan.
14. Review, with the students, the recommendations for action contained in the presentations. Develop a class consensus on what practical, “doable” action the class should take. This may take the form of letter writing to a government official, a human rights organization or an individual human rights promoter. It might also involve forming or participating in an existing human rights group to monitor on-going developments in the area of child labour.
15. The final activity in this section involves inviting a representative from a human rights or international law organization to come and speak to the class. Teachers might try contacting someone for Amnesty International, Human Rights Watch, Free the Children or another organization that focuses on the problems of child labour. To ensure a successful class teachers should:
 - (a) Prepare the speaker by specifying the topic and the objective of the presentation. Inform the speaker of the knowledge the class has gained from completing this unit and indicate any follow-up activities the class has decided upon. The teacher should also indicate the length of the class and provide details about the size of the class and the academic ability of the students.
 - (b) Provide students with background information about the organization and the speaker. Encourage students to prepare some questions in advance and to have their list of concerns about child labour prepared to discuss with the “expert”. The class may decide to make a priority list of two or three possible actions and address them to this international law/human rights “expert” for final advice.

- (c) Ensure that any equipment the speaker requests functions and is available.

Assessment/Evaluation Techniques

Formative assessment of class discussion.

Summative evaluation of group research and presentations.

Print Resources:

Bequele, A. and W. Myers. *First Things First in Child Labour: Eliminating Work Detrimental to Children*. Geneva: UNICEF and ILO, 1995.

Black, Maggie. *In the Twilight Zone: Child Workers in the Hotel, Tourism and Catering Industry*. ILO, 1995.

Challis, James and David Elliman. *Child Workers Today*. Quartermain House, 1979.
Development and Change, Special Issue on Child Labour. 13:4, 1982.

Ennew, Judith. *Exploitation of Children*. Hove, East Sussex: Wayland, 1996.

Ennew, Judith. *The Sexual Exploitation of Children*. Cambridge: Polity Press, 1986.

ESL/ESD Resource Guide for CIVICS CHV20, Toronto District School Board, February, 2001, Handout 3.17.)

Freedman, Russell. *Kids at Work: Lewis Hine and the Crusade Against Child Labour*. New York: Clarion, 1994.

Fyfe, Alec. *Child Labour*. Cambridge: Polity Press, 1989.

Harvey, Pharis J. and Lauren Riggan. *Trading Away the Future: Child Labor in India's Export Industries*. Washington, D.C.: International Labor rights Education and Research Fund, 1994.

Human Rights Watch Children's Rights Project. *The Small Hands of Slavery: Bonded Child Labor in India*. New York: Human Rights Watch, 1996.

ILO. *Child Labour: Targeting the Intolerable*. Geneva: ILO, 1996.

Kielberger, Craig & Mark Kielberger, *Take Action*. Toronto: Gage Learning: 2002.

Lavalette, Michael. *Child Employment in the Capitalist Labour Market*. Aldershot: Avebury, 1994.

Lee-Wright, Peter. *Child Slaves*. London: Earthscan, 1990.

Machel, Graca. *Impact of Armed Conflict on Children*. Report of the Expert of the Secretary-General. United Nations, 1996.

Marcus, Rachel and Caroline Harper. *Small Hands: Children in the Working World*. London: Save the Children, 1996.

Moran, Kerry. *Displaced Carpet Children: A Case Study of the UCEP/AAFLI Joint Programme*, Katmandu: UNICEF, 1995.

Myers, William E., ed. *Protecting Working Children*. London and New Jersey: Zed Books (with UNICEF), 1991.

Nieuwenhuys, Olga. *Children's Lifeworlds: Gender, Welfare and Labour in the Developing World*. London and New York: Routledge, 1994.

Reiter, Ester. *Making Fast Food: From the Frying Pan into the Fire*, 2nd ed. Montreal and Kingston: McGill-Queen's University Press, 1996.

Sawyer, Roger. *Children Enslaved*. London and New York: Routledge, 1988.
Springer, Jane. *Listen to Us: The World's Working Children*. Toronto: Douglas and McIntyre, 1997.
UNICEF. *State of the World's Children*, 1997.
Weiner, Myron. *The Child and the State in India*. Princeton: Princeton University Press, 1991.

Selected Websites:

Amnesty International: www.amnesty.org
Amnesty International: list of all public documents relating to the International Criminal Court: http://web.amnesty.org/web/web.nsf/pages/fact_sheets
Amnesty International Canada: www.amnesty.ca
Canadian Government's Department of Foreign Affairs and International Trade: <http://www.dfait-maeci.gc.ca/>
Casa Alianza: <http://www.casa-alianza.org/EN/index-en.shtml>
Child Workers in Asia: <http://www.cwa.tnet.co.th/>
Human Rights Watch: www.hrw.org , www.hrw.org/french/
International Criminal Court: <http://www.icc.int/>
International Human Rights Law Group: <http://www.hrlawgroup.org/>
Kids Can Free The Children: www.freethechildren.com
Save the Children: www.savethechildren.ca , www.savethechildren.ca/fr/index.html
United Nations: www.un.org
United Nations High Commissioner for Human Rights: <http://www.unhchr.ch>
The Universal Declaration of Human Rights: <http://www.un.org/Overview/rights.html> ,
Programme focal sur le travail des enfants: IPEC
<http://www.ilo.org/public/french/standards/ipec/index.htm>
Unicef : www.unicef.org
NI – Child labour (No.292, July 1997)
<http://www.newint.org/issue292/contents.html>
Infosud Agence de presse
<http://www.infosud.org/showArticle.php?article=258>
Fédération international – terre des hommes
<http://www.terredeshommes.org/fr/activities/default.asp>
Fédération internationale des Travailleurs du Textile, de l'Habillement et du Cuir
<http://www.itglwf.org/focus.asp?Issue=CHL&Language=FR>

Appendix 5.1

The Convention on the Rights of the Child

Background:

Beginning in the 1880's, an international social movement began for the purpose of giving children basic civil rights, primarily because of concern for their safety in the workplace. Important milestones in this movement included: the formation in 1919, in the aftermath of World War I, of *Save the Children* by Englishwoman Eglantyne Jebb; in 1924, Jebb's seven point *Charter of the Rights of the Child* was adopted by the League of Nations, forerunner of today's United Nations.

Several groups within the United Nations spent many years working on what is now the most widely ratified Convention – the Convention on the Rights of the Child. This document was unanimously approved by the United Nations General Assembly in 1989 and came into force in September, 1990 when 149 countries ratified it. It came into force in Canada on January 12, 1992. Only two countries have not ratified this document: the United States and Somalia. Neither country has indicated any willingness to ratify.

The Convention is now part of international law and is used as a guide to interpret national laws. Every country that has ratified it is bound to develop programs and policies that will respect the rights set out in the Convention. In Canada, the Convention does not have the same legal effect as if enacted in a statute, but the government must ensure that its policies and laws comply with the Convention or face embarrassing political criticism by its own citizens and other member nations.

For more information on the Convention, as well as the full text, see: <http://www.unicef.org/crc/crc.htm> (<http://www.unicef.org/french/crc/crc.htm>)

The Convention (in non-legal language)

1. A child is any person under 18.
2. All the rights in the Convention apply to all children equally and regardless of race, colour, gender, language, religion, place of birth or any other factor.
3. Children have the right to express opinions about things that affect them personally.
4. Children have the right, if disabled, to special care and training which will help enable them to lead a dignified, independent and active life.
5. Children who belong to a minority group, have the right to have their own culture, practice their own religion and speak their own language.
6. Children have the right to meet with other children and to join and create clubs, groups, and associations.
7. Children have the right to be protected from abuse of any kind.
8. Children have the right to the best health care available.
9. Children have the right to benefit from money given by the government to their parents and guardians to assist in their upbringing.
10. Children have the right to a name and nationality.
11. Children have the right not to be tortured or to be treated or punished in a cruel, unkind, or humiliating way.
12. Children have the right to be protected from unjustified interference with privacy, family, home, or correspondence.
13. Children have the right to freely communicate views to others through various media (e.g., through letters, posters, petitions, artwork).

14. Children have the right to access information and ideas from various sources, but also to be protected from written and other materials that might affect them in a harmful way.
15. Children have the right not to be exploited for purposes of money-making (e.g., doing dangerous work or working long hours for little pay).
16. Children have the right to have fun, to play, and to join in leisure and cultural activities.
17. Children have the right to an education that considers their real needs and develops their talents and abilities.
18. Children have the right to living standards and conditions that will enable their growth and maturity (e.g., enough food, warm clothing, money, good housing).
19. Children have the right to be protected from drugs or practices that endanger their health.
20. Child refugees and children deprived of their families have the right to special assistance and protection.
21. Children have the right to be protected from ill-treatment by parents and others who are responsible for them.
22. Children have the right to life.
23. Children have the right to their own thoughts and beliefs and, if religious, to practice their faith.
24. Children have the right not to be recruited into the armed forces or to fight in wars.

Appendix 5.2

Fighting for Human Rights and the Rights of Children

A Nigerian Citizen, Ayesha Imam, fights Discriminatory, Anti-democratic Laws.

Each year the International Centre for Human Rights and Democratic Development awards the *John Humphrey Freedom Award* to an individual who has demonstrated exceptional achievement in the promotion of human rights. The award was named after Canadian citizen, John Humphrey, who prepared the first draft of the Universal Declaration of Human Rights. In 2002, the award, which includes a \$25,000 grant and a speaking tour of Canada, was endowed to Ayesha Imam founding director of the Nigeria women's rights group BAOBAB for her exemplary contribution to the movement to protect the rights of women and girls from the restrictive and discriminatory criminal laws recently enacted in Nigeria. The award was presented to Ms. Imam, in Montreal, on International Human Rights Day, Tuesday, December 10, 2002.

The human rights situation in Nigeria has become pivotal in determining the success or failure of its newly emerging democratic system. Nigeria is a populous and multi-ethnic country constitutionally recognized as a secular state. Its secular nature has been challenged in recent times and tensions are rising as Muslims claim a right to implement the Sharia (or strict religious) criminal legal code. For the past two years, in Northern Nigeria, 12 of the 19 states have begun implementing the controversial judicial system, which has led to judicial killings, amputations, deaths by stoning, and other human rights abuses.

For twenty-one years Ayesha Imam, through her human rights association BAOBAB (for more information, see http://www.whrnet.org/partners_baobab.htm <http://www.whrnet.org/fr/index.html>), has courageously protested against violations of the rights of women and girls whether under Islamic, secular, or customary laws. She has mobilized organizations across the country to show how conservative religious laws have been used in some Muslim countries to perpetuate violence against women. Through her advocacy work, she has also brought international attention to the discriminatory application and conservative nature of Nigerian Sharia law through such notable cases as that of Bariya Ibrahim Magazu, sentenced to 100 strokes of the cane for having a baby out of wedlock; Hafsatu Abubakar, sentenced to death by stoning (on appeal by BAOBAB, the conviction was quashed); and Safiya Hussein, who was sentenced to death by stoning for adultery while the alleged partner was set free.

Ayesha Imam has risked her life to ensure that women's voices are heard. Her life and the lives of BAOBAB staff have been threatened and she has often been derided and abused. She has been accused of being anti-Muslim for using her knowledge of Islam

to challenge conservative interpretations of Sharia; however, Ms. Imam's work in interpreting the Qu'ran from a female viewpoint and exposing male-dominant interpretations of it has drawn attention to the plight of women and girls not only in Nigeria, but also of women living under Muslim, secular and customary laws around the world.

For more information, see: <http://www.ichrdd.ca/frame.iphtml?langue=0>
<http://www.ichrdd.ca/frame.iphtml?langue=1>

Canadian Human Rights Organization Supports Human Rights Fighter

Rights and Democracy (International Centre for Human Rights and Democratic Development; <http://www.ichrdd.ca/flash.html>) is a Canadian institution with an international mandate to promote, advocate, and defend the democratic and human rights set out in the International Declaration of Human Rights. On June 27, 2002, Interim President of Rights and Democracy, Kathleen Mahoney, wrote to the Honourable Bill Graham, Canada's Minister of Foreign Affairs, on a matter of serious concern. In part, her letter reads as follows:

I am writing to express my concern regarding the recent intimidation of Dr. Sima Samar, former Deputy Prime Minister and Minister of Women's Affairs of the Afghan Interim Administration.

A formal charge of blasphemy against Dr. Samar was dismissed by the Supreme Court of Afghanistan on Monday, 24 June, 2002, after a letter to the editor in a weekly newspaper published by Jamiat-e Islami, Payman-e Muhajid ("message of holy warrior"), had previously alleged that Dr. Samar told a Canadian newspaper that she did not believe in sharia. The name of the Canadian newspaper was withheld. The writer had demanded that she be given "appropriate punishment" and the judicial authorities carry out an investigation. After Dr. Samar complained to President Karzai, the court dropped the charge on June 24, saying that it was not supported by sufficient evidence. However Deputy Chief Justice, Fazel Ahmad Manawi, was quoted by the BBC as saying, "Maybe, if we get stronger evidence, we will reopen the case".

The blasphemy charge is connected to reports of political repression and threats during the loya jirga. During the loya jirga, Dr. Samar and other female delegates were targeted for intimidation on several occasions. According to Human Rights Watch, the blasphemy allegation was repeatedly highlighted by warlords threatening Dr. Samar and helped to marginalize Dr. Samar during and after the loya jirga.

I urge you to call on President Karzai to carry through on his promise to investigate all cases of intimidation during the loya jirga, and to ensure security for those who report such abuses.

As you may know, Dr. Samar was the recipient of the 2001 *John Humphrey Freedom Award* for her efforts to strengthen the human rights of women and girls in Afghanistan and in refugee camps on the Northern border of Pakistan. Last December she traveled across Canada on a speaking tour. She also met privately with Prime Minister Chretien who assured her of Canada's commitment to support women's rights in Afghanistan.

Dr. Samar has recently been appointed as President of the Human Rights Commission of Afghanistan. We count on the Canadian Government to support Dr. Samar's new mandate and urge President Karzai to ensure that she will be able to carry out her functions in a climate of peace, security and respect for human rights.

Please do not hesitate to call on me if *Rights and Democracy* can be of assistance to the Canadian government on these important matters.

I look forward to hearing from you.

Kathleen Mahoney, Interim President of Rights and Democracy

Source: <http://www.ichrdd.ca/frame.iphtml?langue=0>

Activity 5.2: The International Criminal Court

Time: 75 minutes

Description:

This activity focuses on the establishment of the most recent international tribunal, the International Criminal Court. Teachers should begin this lesson by reviewing twentieth century developments in international criminal law based on the Nuremberg Trials, the Geneva Conventions and the International Criminal Tribunals instituted to deal with the war crimes that occurred in Rwanda and the former Yugoslavia. Students will then examine and discuss material related to the development of the International Criminal Court. The purpose of this activity is to weigh the arguments given by supporters of the Court, such as Canada, against the arguments made by countries such as Iran, Iraq, Israel, Russia and the United States who oppose it. Students will then write a persuasive “editorial” about the necessity of the International Criminal Court based on their own perspective.

Overall Expectations:

ACV.01 - apply appropriate inquiry skills to the research of questions and issues of civic importance.

Specific Expectations:

PC3.04 - analyse the evolution of Canada’s participation in international tribunals (e.g. the Nuremberg trials after World War II, the international Court of Justice’s prosecution of war crimes, formation of the International Criminal Court).

AC1.01 - formulate appropriate questions for inquiry and research, locate relevant information in a variety of sources (e.g. texts, reference materials, news media, maps, community resources, the Internet), and identify main ideas, supporting evidence, points of view and biases in these materials.

Planning Notes:

- Teachers may wish to use the websites listed below to develop brief materials dealing with the Nuremberg trials, Geneva Convention, International Court of Justice and International Criminal Court.
- Opinion pieces on the support and opposition to the International Criminal Court continue to appear in most newspapers. An online search will readily

provide samples of both perspectives. These can either be provided to students or, preferably, obtained by students and brought to class.

Prior Knowledge Required:

Earlier activities in this package will have introduced students to some of the basic concepts of international law.

Teaching/Learning Strategies:

1. Review the concept of international law by referring to the work of Louise Arbour, the former Chief Prosecutor of the International Criminal Court for the former Yugoslavia and Justice of the Supreme Court of Canada, and currently the United Nations High Commissioner for Human Rights, or refer to the work of other international legal figures.
2. Ask students why some international law proponents began to argue for a permanent international tribunal. (Students will likely note the inadequacy of temporary tribunals or tribunals devoted to a specific situation. They will likely argue that these tribunals were not objective, but were dictated by the “winners” or the most powerful.)
3. Provide students with a brief overview of the development of the International Criminal Court and the role played by Canada. (Canada is not only a signatory and ratifier of the 1998 founding Rome Treaty, but an important member of the Preparatory Commission which did the legal “leg work” that led to the establishment of the International Criminal Court in July, 2002. Philippe Kirsch, a Canadian, is also the first President of the International Criminal Court.)
4. Provide students with examples of countries that have signed and ratified the Rome Treaty and of those that have not. Remind students that ratification of, and not merely the signing of, the Treaty is necessary for the Court to apply to a particular country. Examine and discuss with students the differing perspectives on the desirability/workability of such a Court.
5. Have students write an “editorial” in which both sides of the argument are presented and in which students argue, ultimately, for or against the Court based on their own perspective.

Assessment/Evaluation Techniques:

Formative assessment of class discussion.

Summative evaluation of student “editorials.”

Resources:

The Geneva Convention: <http://www.unhchr.ch/html/menu3/b/92.htm>
http://www.icrc.org/fre/parties_cg

International Criminal Court: <http://www.icc.int/>

International Criminal Tribunal for the Former Yugoslavia: <http://www.un.org/icty/>
<http://www.un.org/icty/index-f.html>

International Criminal Tribunal for Rwanda: <http://www.icttr.org/>
<http://www.icttr.org/wwwroot/french/index.htm>

The Nuremberg Trials (historical accounts):
<http://history1900s.about.com/cs/nurembergtrial/index.htm?terms=Nuremburg+Trials>
http://fr.encyclopedia.yahoo.com/articles/sy/sy_930_p0.html
http://www.espace-citoyen.net/site_justice/version/intro/photosemaine6.htm

Appendix 5.3

The International Criminal Court

1. What is the International Criminal Court?

The International Criminal Court (ICC) will be a permanent independent judicial body created by the international community of states to prosecute the gravest possible crimes under international law: genocide, other crimes against humanity and war crimes.

2. When was the ICC established?

The Rome Statute of the International Criminal Court established the ICC on 17 July 1998, when 120 States participating in the Rome Conference adopted the Statute. This is the first ever permanent, treaty based, international criminal court established to promote the rule of law and ensure that the gravest international crimes do not go unpunished.

The Statute sets out the Court's jurisdiction, structure and functions and it provides for its entry into force 60 days after 60 States have ratified or acceded to it. The 60th instrument of ratification was deposited with the Secretary General on 11 April 2002, when 10 countries simultaneously deposited their instruments of ratification. Accordingly, the Statute entered into force on 1 July 2002. Anyone who commits any of the crimes under the Statute after this date will be liable for prosecution by the Court.

3. Why is the Court necessary?

Although, over the past half century the international community has created international and regional systems of human rights protection, millions of people have continued to be the victims of genocide, crimes against humanity and war crimes.

Shamefully, only a handful of those responsible for these crimes have ever been brought to justice by national courts - most perpetrators have therefore committed these crimes in the knowledge that it was extremely unlikely they would be brought to justice for their actions.

The ICC will serve the following purposes :

- It will act as a deterrent to people planning to commit grave crimes under international law;
- It will prompt national prosecutors - who have the primary responsibility to bring those responsible for these crimes to justice - to do so;
- Victims and their families will have the chance to obtain justice and truth, and begin the process of reconciliation;
- It will be a major step towards ending impunity.

4. What effect will the ICC have on national courts?

The national courts will always have jurisdiction over such crimes. Under the principle of "complementarity," the ICC will only act when the national courts are unable or unwilling to do so. For example, a government may be unwilling to prosecute its own citizens, especially if they are high ranking, or where the criminal justice system has collapsed as a result of an internal conflict, there may be no court capable of dealing with these types of crimes.

5. When can the court prosecute individuals suspected of committing grave crimes under international law?

The court has jurisdiction to prosecute individuals when :

- Crimes have been committed in the territory of state which has ratified the Rome Statute;
- Crimes have been committed by a citizen of a state which has ratified the Rome Statute;
- A state which has not ratified the Rome Statute has made a declaration accepting the court's jurisdiction over the crime;
- Crimes have been committed in a situation which threatens or breaches international peace and security and the UN Security Council has referred the situation to the Court pursuant to Chapter 7 of the UN Charter.

6. Will the Court be able to prosecute individuals for crimes committed before the Court's establishment?

No. The Court will only have jurisdiction over crimes committed after the Rome Statute enters into force (after the 60th ratification).

7. Who will decide which cases the Court will prosecute?

The Rome Statute provides that cases can originate in the Court three different ways :

1. The Court's Prosecutor can initiate an investigation into a situation where one or more of the crimes has been committed, based on information from any source, including the victim or the victim's family, but only if the Court has jurisdiction over the crime and individual (see questions 4 and 5).

2. States which have ratified the Rome Statute may ask the Prosecutor to investigate a situation where one or more of the crimes has been committed, but only if the Court has jurisdiction.

3. The UN Security Council can ask the Prosecutor to investigate a situation where one or more of the crimes has been committed. Unlike methods 1 and 2, the ICC will have jurisdiction when the UN Security Council refers the situation to the Prosecutor, even if

the crimes occurred in the territory of a state which has not ratified the Rome Statute or was committed by the national of such a state.

In each of these situations, however, it is up to the Prosecutor, not the states or the Security Council, to decide whether to open an investigation and, based on that investigation, whether to prosecute, subject to judicial approval.

8. Why is it essential that as many countries as possible ratify the Rome Statute

The Prosecutor can only initiate an investigation where the crime has been committed in the territory of a state party to the Statute or the accused person is a citizen of a state party to the Statute, unless the Security Council refers a situation to the Court. The reluctance of the Security Council to establish *ad hoc* international criminal tribunals for situations other than the former Yugoslavia and Rwanda suggests that it is not likely to refer many situations to the Court. Therefore, to a great extent, the court's effectiveness will be measured by how many states ratify the Statute.

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