

Tribunals Lesson Fall 2008

GOAL:

Introduce the stages of research to use when investigating whether to use a particular tribunal or understanding disparate tribunal outcomes. Call students' attention to the kinds of questions to ask when investigating an individual tribunal (pre-class homework) and when studying an array of tribunals either for scholarly research or to decide in which one to bring a case.

METHOD:

1. Pass around scenario pages [*scroll down to read the scenarios*] and have students pick one and apply it to their homework tribunal. (They can pick all that they think their tribunal might hear. If they did a special prosecutorial tribunal such as ICTY, they can consider whether a similar tribunal would be a good match for any of these scenarios.) Think about why your tribunal would have jurisdiction and, if it would have jurisdiction, whether it would be good or bad. List all of the reasons that your tribunal would not only have jurisdiction, but also would be particularly good for the case. If your tribunal is simply not suitable for any of these, pick one scenario and use your imagination to identify the characteristics of your dream tribunal—the best possible forum in which to resolve this matter (from whichever point of view you choose.)
2. Have students raise hands if they picked scenario 1. Ask which tribunal they had. Do this with each Scenario. Point out that there is typically a choice of tribunals to deal with an international law problem.
3. Ask students to raise hands if none of these scenarios would be heard by their tribunal. Get them to tell the criteria they devised for their dream tribunal.
4. (Have one student write those on the board.) Then point out that this is the kind of stuff they really want to find out when they do tribunal research. (timing, expertise, enforcement, public attention, etc...). Now, show them how to find out about those issues while investigating the array of tribunals that might be available to them for any given scenario.

NEXT - Present the stages and sources using PowerPoint.

Tribunals PowerPoint notes:

1. The first thing you question is which tribunals might deal with a case. You might think of a tribunal off the top of your head and examine it the way you did for the homework assignment. But there might be other tribunals that are better for this particular matter. To identify those other tribunal options, look through professional literature for short news-like reports about cases.
2. (Show several slides of examples: ILM, BNA products, yearbooks, organizations' news briefs...)
3. As you investigate the various tribunals for both litigation and ADR, be sure to research the ways that different tribunals will handle a situation and the potential effects of having had the case handled there.

Specifically, you want to know:

- what kind of public attention the case will get and whether that attention will serve your cause
- whether there's any likelihood of enforcing the tribunal outcome
- how long it will take to conduct the case
- how much expertise this tribunal will have

TRIBUNAL SCENARIOS

(Consider these as examples for applying research techniques in the tribunal lesson.) As you look at each scenario, what research questions come to mind and where do you think you would get answers to those?

I.

The British government has authorized creation of a mixed oxide fuel manufacturing plant. Ireland seeks to dispute the construction of this manufacturing plant because its proposed location would obviously result in leaking and dumping radioactive waste into the already polluted and semi-enclosed Irish Sea. Ireland contends that the British government, in authorizing the plan for the manufacturing plant, did not fulfill its investigatory and due diligence obligations under the UN Convention on the Law of the Sea.

II.

A military leader in small underdeveloped country needed soldiers for fight in border dispute with neighboring country. He lead raids on schools and neighborhoods to round-up boys of any age who looked capable of using guns or other weapons. The border dispute now over, where should he be tried for violating statutory and customary international law regarding conscription, use, treatment, and return of these child soldiers.

III.

Twenty-five sculptures by Japanese artists of the late nineteenth and early twentieth centuries, on loan from the Japanese government's official sculpture collection to the National Gallery of the U.S. for a special exhibition, were seized by the U.S. President during the exhibition as reparations for damage done to Hawaiian cultural sites in the attack on Pearl Harbor. Japan seeks return of the sculptures.

IV.

Twelve Romanian political dissenters made their way to Paris where they stowed away in a container ship sailing under the Greek flag and bound for the United States. The stowaways, hoping to be granted refugee status and the opportunity to become citizens in the U.S., caused damage to cargo and to the container in which they began the journey. (They cut their way out of the container four days into the voyage.) This is the hundredth desperate act, this year, by refugees leaving Romania and claiming that their basic human rights were violated in the home country. In what tribunal might countries affected by these fleeing Romanians bring a claim against Romania?

THE HOMEWORK COMPLETED PRIOR TO THIS LESSON:

Tribunal Investigation

Answer these six questions about the international tribunal of your choice:

1. Where can you find its decisions? (List all print and electronic sources you can identify).
2. Describe the way its procedural rules are organized. Are they divided into sections according to stages of procedure? Are they in alphabetical order? Explain this in a few sentences as if you were telling someone how to most efficiently begin to search through the rules.
3. What international agreements generally apply to or authorize its work? You should be able to ascertain this by looking through the “about us” section of the tribunal’s Web site. Otherwise, look to see if their documents section includes the authorizing agreements. Just tell the names of the agreements; don’t include copies or links.
4. What are two of its publications that sound interesting to you? In one or two sentences, describe these and why they interest you.
5. State one fact about the tribunal’s library. If this tribunal does not have a library, ANALYZE the choice of links to other resources that you can access from its Web page.
6. Summarize the topic in the tribunal’s latest news release.