

SEMINAR: GROWING UP ROUGH: THE BIRTH AND EARLY WORK OF THE INTERNATIONAL CRIMINAL COURT

Course plan and readings

Part I: Creation and institutional evolution of the court

Week 1 (18/10) Introduction

Week 2 (25/10) History of the Rome Statute

- Sewall, Sarah B. and Carl Kaysen (eds) (2000) The United States and the International Criminal Court, Lanham et al.: Rowman and Littlefield, ch. 2, 4, 5 *

Week 3 (1/11) Theories of international institutions

- Finnemore, Martha and Kathryn Sikkink (1998) International Norm Dynamics and Political Change, in International Organization, 52, 4, 887-917.
- Koremenos, Barbara, Charles Lipson and Duncan Snidal (2001) The Rational Design of International Institutions, in International Organization, 55, 4, 761-99.

Week 4 (8/11) Contending theoretical perspectives on the birth of the ICC

- Abbott, Kenneth W. (1999) International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts, in The American Journal of International Law, 93, 2, 361-79.
- Deitelhoff, Nicole (2010) The discursive process of legalization: Charting islands of persuasion in the ICC case, in International Organization 63, 33-65.

Week 5 (15/11) US opposition to and state compliance with the ICC

- Kelley, Judith (2007) Who Keeps international commitments and why? The International Criminal Court and Bilateral Nonsurrender Agreements, in The American Political Science Review, 101, 3, 573-89.
- Ralph, Jason (2005) International Society, the International Criminal Court and American Foreign Policy, in Review of International Studies, 31, 1, 27-44.
- Smith, Charles A. and Heather M. Smith (2009) Embedded Realpolitik? Reevaluating the United States' Opposition to the International Criminal Court, in Steven C. Roach (ed.) Governance, Order, and the International Criminal Court. Between Realpolitik and a Cosmopolitan Court, 29-54. Oxford: Oxford University Press. *

Week 6 (22/11) The ICC's evolving Statute and practice

- Blokker, Niels and Claus Kreß (2010) A consensus agreement on the crime of aggression: Impressions from Kampala, in Leiden Journal of International Law, 23, 889-95.

- Schabas, William A. (2008) Prosecutorial Discretion v. Judicial Activism at the International Criminal Court, in *Journal of International Criminal Justice*, 6, 731-61.

Part II: Normative foundations

Week 7 (29/11) Why punish atrocities?

- Aukerman, Miriam J. (2002) Extraordinary evil, ordinary crime: A framework for understanding transitional justice, in *Harvard Human Rights Law Journal*, 15, 39-97.

Week 8 (6/12) The ICC as a cosmopolitan project

- Franceschet, Antonio (2004) The rule of law, inequality, and the International Criminal Court, in *Alternatives: Global, Local, Political*, 29, 1, 23-42.
- Hayden, Patrick (2004) Cosmopolitanism and the need for transnational criminal justice. The Case of the International Criminal Court, in *Theoria*, August, 69-95.

Part III: The ICC's intended and unintended effects in practice

Week 9 (13/12) Peace v. Justice: The theoretical debate

- Kim, Hunjoon and Kathryn Sikkink (2010) Explaining the deterrence effect of human rights prosecutions for transitional countries, in *International Studies Quarterly*, 54, 939-63.
- Snyder, Jack and Leslie Vinjamuri (2003/04) Trials and Errors. Principle and Pragmatism in Strategies of International Justice, in *International Security*, 28, 3, 5-44.

Week 10 (20/12) The ICC in Uganda

- Allen, Tim (2006) *Trial justice: The International Criminal Court and the Lord's Resistance Army*, London and New York: Zed Books, ch. 4, 5 (skim through ch. 4 for basic facts) *
- Clarke, Kamari Maxine (2009) *Fictions of justice: The International Criminal Court and the challenge of legal pluralism in Sub-Saharan Africa*, ch. 3 *

Week 11 (10/1) The symbolic politics of international tribunals

- Dauphinee, Elizabeth (2008) War Crimes and the Ruin of Law, *Millennium*, 37, 1, 49-67.
- Fehl, Caroline (2011): Responsibility to Pretend? Paradoxien der praktischen Umsetzung eines liberalen Prinzips, draft (skip pp. 9-19).

Week 12 (17/1) The ICC in Darfur

- Nouwen, Sarah M.H. and Wouter G. Werner (2011) Doing justice to the political: The International Criminal Court in Uganda and Sudan, in *The European Journal of International Law*, 21, 4, 941-65.
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[Weeks 13-14 (24/1 and 31/1) Simulation: The ICC and Libya] – possibly alternative weekend]

Week 15 (7/2) Simulation and seminar evaluation

Course requirements

- regular attendance (max. 2 missed weeks)
- literature review essay or classroom presentation with handout
- active participation in the simulation, including collective preparation of one position paper, various smaller working documents and one final reflection paper

Reader

- contains only non-online material with *
- Kopierwerk, Adalbertstr. 21a