

International Criminal Law and Justice

Thomas Skouteris

1. Overview

How does international law respond in the face of mass atrocities and political transitions? From the depths of history to contemporary times, from South Africa to Rwanda, from Argentina to the Arab Spring, this question has sparked significant debate. This subject explores the legal institutions of criminal prosecution and truth commissions in post-conflict situations. Providing case studies of transitions and criminal responsibility, it provides in-depth knowledge of the various models of transitional justice, the paradigms of international criminal law, and role of human rights movements in addressing accountability, memory and justice, peace, and social order .

In this subject we not only delve into the legal institutions of criminal prosecution and truth commissions in post-conflict scenarios, but we also pay significant attention to the role of historical narrative in shaping the overall social function of international criminal law. By bridging the past with the present, we aim to uncover the intricacies of how historical events influence modern legal practices. Principal topics will include:

- The interplay of responsibility, memory, and historical narratives in law and trauma studies.
- Legal responses to mass atrocities, from the destruction of European Jewry during World War II to the aftermath of the Holocaust and the Rwandan genocide.
- Models of transitional justice: Criminal justice, truth commissions and testimonial justice
- Institutions of transitional justice: Case studies, including Rwanda, Argentina, and South Africa
- The evolution and expansion of international crimes: Understanding the emerging jurisprudence from ad hoc criminal tribunals to the International Criminal Court, and discussing the potential to introduce new crimes, such as those related to environmental degradation.

2. Intended Learning Outcomes

A student who has successfully completed this subject should be able to:

- Identify and explain the multi-faceted nature of international criminal justice, especially in the context in post-conflict transitions, and discern the role of legal institutions in addressing mass atrocities.
- Recognize the pivotal role that international criminal justice plays in the creation and maintenance of contemporary cultures of memory and legal accountability.

- Analyze the various meanings of historical narratives and memory in international criminal justice.
- Assess the roles and limitations of key transitional justice tools such as criminal prosecution and truth commissions, including their possibilities for redress, reconciliation, and transitional justice.
- Survey and interpret the classification of crime within international criminal justice and the creation of novel categories of crime to deal with unprecedented atrocities.
- Critically appraise at least one case study that demonstrates the legal aftermath of conflict and criminal injustice, and its implications for our understanding of responsibility, trauma, and memory in international criminal law.

3. Eligibility and requirements

Prerequisites: None

Corequisites: None

Recommended background knowledge:

Applicants without legal qualifications should note that subjects are offered in the discipline of law at an advanced graduate level. While every effort will be made to meet the needs of students trained in other fields, concessions will not be made in the general level of instruction or assessment. Most subjects assume the knowledge usually acquired in a degree in law (LLB, JD or equivalent). Applicants should note that admission to some subjects in the Melbourne Law Masters will be dependent upon the individual applicant's educational background and professional experience.

4. Course Outline

Session	Topic
1	Foundations I: Reducing Atrocity to Law
2	Foundations II: Between Impunity and Show Trials
3	Foundations III: Memories of War and Wars of Memory
4	Foundations IV: Engaging International Criminal Law
5	Doctrines I: Legality
6	Doctrines II: Jurisdiction
7	Doctrines III: Liability
8	Doctrines IV: Sanction
9	Crimes I: The Legacy of WWII
10	Crimes II: From Enemy States to Enemies of Mankind
11	Crimes III: Transnational, Organized and Other Crimes
12	Crimes IV: Defining 'Ecocide' (Guided Collaboration)
13	Places I: The City and The Field

14	Places II: Rwanda
15	Places III: South Africa
16	Places IV: Gaza 2023
17	Guided Collaboration: Preparing Arguments
18	Guided Collaboration: Rehearsing Arguments
19	Guided Collaboration: Moot Court Trial
20	Takeaways, Assignment Q&A, and Teary Farewells

5. Teaching Style

A range of instruction styles will be used, such as lecturing, Socratic, ‘flipping the classroom’, impromptu debates, simulations, case studies, audiovisual means (images and movies), cartoons, live polls and questionnaires, live use of AI, & a moot court competition.

7. Materials

Course materials are divided in two categories.

- Prescribed Reading describes the minimum reading for course preparation. Prescribed materials comprise book chapters, journal articles, cases, and other documents. They are all included in the Printed Materials package or are easily accessible online (electronic links provided). It is essential that prescribed materials are studied before the teaching of a topic.
- Further / Background Reading describes materials that are optional for the purposes of course preparation and point to seminal works, alternative approaches, and/or specific aspects of a topic. Such texts are not included in the package.
- Each topic is followed by a list of Questions for Reflection. These questions are a companion to reading and point to aspects of the topic that will be highlighted in the classroom

8. Reading List

Foundations (I-IV)

Session 1 ‘Reducing Atrocity to Law’

A. Session overview

International Criminal Law and Justice | Thomas Skouteris Page 4 of 29 4 Introductions to the course and to each other; determining the (proper?) object of the course and of the disciplines of international criminal law and justice; what is ‘atrocity’; atrocity and legal regulation; from adjudication to amnesty; the Holocaust and other ‘never again’ moments; Gaza 2023; Reading Guide Q&A

B. Prescribed Reading

- Payam Akhavan, *Reducing Genocide to Law: Definition, Meaning, and the Ultimate Crime* (CUP, 2012) vii-x & 1-11 (15 pages, excerpt).
- Mark Drumbl, 'Histories of the Jewish 'Collaborator': Exile, Not Guilt' in Immi Tallgren & Thomas Skouteris (eds), *The New Histories of International Criminal Law: Retrials* (Oxford University Press 2019) 237- 251 (15 pages).(*)
- Niels Christie, 'Conflict as Property', 17 *The British Journal of Criminology* 1 (1977), 1-15 (15 pages, excerpt) (*).

C. Further/ Background Reading (Optional)

- George P Fletcher, 'Introduction: Basic Concepts' in *The Grammar of Criminal Law: American, Comparative, and International Volume Two: International Criminal Law* (Oxford University Press 2007) 1-17.
- Ronnie DeFalco, *Invisible Atrocities: The Aesthetic Biases of International Criminal Justice* (Cambridge University Press 2022) (Introduction) (*)

D. Audiovisual Resources (Optional)

- "Die Wannseekonferenz" (1984) [TV Movie, English subs]. Access here (accessed: 4 November 2023).
- 'State Department Spokesman Christine Shelly Discussing the Situation in Rwanda. April 28, 1994' (1994) [footage] Access here (accessed: 4 November 2023)

E. Questions for Reflection

- In what ways does the legal system grapple with the enormity of 'unprecedented' atrocities, and what are the inherent difficulties in encapsulating such acts within the confines of ICL?
 - Can the codification of atrocity in legal terms lead to a disconnect between the actual experience of those atrocities and their portrayal within the legal narrative?
 - Drumbl's analysis of 'the Jewish collaborator' narrative disrupts conventional notions of culpability. In what ways does this disrupt the legal classification of conduct in times of atrocity?
 - Considering Christie's concept of 'Conflict as Property,' how might this perspective influence the pursuit of justice and reconciliation in the aftermath of atrocities?
 - Reflect on the role of historical events, such as the Holocaust and recent events in Gaza, in shaping the objectives and methods of ICL. How do these events inform the legal and moral imperatives of the discipline?
 - How does Akhavan's work on reducing genocide to law contribute to our understanding of the legal mechanisms available to address the 'ultimate crime'?
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- In light of the prescribed readings and audiovisual resources, discuss the tension between the need for legal adjudication of atrocities and the potential for alternative forms of justice, such as amnesty.

Foundations (I – IV)

Session 2: ‘Between Impunity and Show Trials’

A. Session overview

The tension between impunity and the ‘spectacle’ of show trials; assumptions and ideological underpinnings of ICL; the privilege and limitations of international criminal law; the four corners of ICL discourse; faith and disillusionment.

B. Prescribed Reading

- Martti Koskenniemi, ‘Between Impunity and Show Trials’, 6 Yearbook of the United Nations (2006), 1-25 (25 pages, excerpt).
- David Koller, ‘The Faith of the International Criminal Lawyer’, 40 New York University Journal of International Law and Politics (2008), 1019- 1031 (12 pages, excerpt) (*).

C. Further / Background Reading (Optional)

- Steinke, *The Politics of International Criminal Justice* 1-64 (2012) (*).
- ICTY, App. Ch. IT-06-90-A, Prosecutor v Ante Gotovina & Mladen Markač [Access here](#).

D. Audiovisual Resources (Optional)

- ‘International Justice: Between Impunity and Show Trials - SOAS, University of London’ (2013). [Access here](#).
- ‘Hague War Court Acquits Croat Generals Gotovina and Markač’ (17 November 2012), Newsreel, BBC, [Access here](#).

E. Questions for Reflection

- Foundational Assumptions: In light of Koskenniemi's critique, what are the foundational assumptions underpinning the necessity of international criminal justice, and how do these assumptions shape the system's objectives?
- Social Outcomes: Considering the goals articulated by ICL proponents, what social outcomes does the system aspire to achieve, and how might these ambitions influence its structural and functional design?

- Heroism vs. War Crimes: Reflect on Koskeniemi's discourse on the thin line between war crimes and national heroism. How does ICL address this dichotomy, and what are the potential repercussions for the administration of justice?
- Ideological Framework: Analyze the ideological underpinnings of ICL as inferred from Koller's discussion. How does this ideology manifest within the practices and principles of ICL? International Criminal Law and Justice | Thomas Skouteris Page 6 of 29 6
- Historical Roots and Significance: Debate the historical inception points of ICL—1918, 1945, or 1993. What does each date signify, and why is this chronological framing important for understanding the development and current challenges of ICL?

Foundations (I – IV)

'Memories of War / Wars of Memory'

A. Session Overview

History, memory & trauma; 'Liberty square'; the multiple meanings of trauma; the role of trauma in the project of ICLJ; trauma and memory; memory and historiography; history as a mnemonic framework; mnemonic wars

B. Prescribed Reading

- Didier Fassin and Richard Rechtman, *The Empire of Trauma: An Inquiry into the Condition of Victimhood* (Princeton University Press 2009) 1-11, 15-23 (23 pages, excerpt).
- Jenny Edkins, *Trauma and the Memory of Politics* (Cambridge University Press 2003) 1-9 (9 pages, excerpt).
- PestBuda (August 3, 2022), 'A Forgotten Monument' [Access here](#).
- Immi Tallgren and Thomas Skouteris (eds), 'Editors' Introduction' in *The New Histories of International Criminal Law: Retrials* (Oxford University Press 2019) 1-6 (6 pages, excerpt).

C. Further / Background Reading (Optional)

- Browning CR, *Collected Memories: Holocaust History and Postwar Testimony* (The University of Wisconsin Press 2003).
- Heller KJ and Simpson G (eds), *The Hidden Histories of War Crimes Trials* (Oxford University Press 2013).
- Stolk S, 'The Victim, the International Criminal Court and the Search for Truth: On the Interdependence and Incompatibility of Truths about Mass Atrocity' (2015) 13(5) *Journal of International Criminal Justice* 973– 994(*).
- Trouillot M-R, *Silencing the Past: Power and the Production of History* (Beacon Press 1995) (*).

D. Questions for Reflection

- Monuments and Memory: Reflect on the significance of Budapest's Liberty Square as a *place* where monuments symbolize contrasting traumas and memories. How do spatial representations influence public memory and the collective understanding of past atrocities?
- Trauma as a Legal Construct: How does the concept of trauma inform and shape calls for action? Reflect on the implications of recognizing trauma as a condition of victimhood in the pursuit of justice.
- Memory and Historiography: In what ways do memory and historiography intersect in the construction of historical narratives? International Criminal Law and Justice | Thomas Skouteris Page 7 of 29 7 Discuss the role of ICLJ in mediating and validating certain memories over others within the context of mnemonic wars.
- Mnemonic Frameworks: Considering the Editors' Introduction in 'The New Histories of International Criminal Law: Retrials', how does history serve as a mnemonic framework, and what are the potential conflicts that arise when legal systems interact with these frameworks?
- Battles of Memory: How do mnemonic battles—conflicts over the remembrance of past events—manifest in the legal realm, particularly in the processes and outcomes of ICLJ? Consider the role of ICLJ in either exacerbating or reconciling these battles.

Foundations (I – IV)

Session 4: 'Engaging with the Discourse of ICLJ'

A. Session Overview

Exploration of dichotomies within ICL; contrasting 'mainstream' legal narratives with 'critical perspectives'; The Hague and 'the dark corners of the world'; the views from the margins.

B. Prescribed Reading

- Christine Schwöbel, ed, *Critical Approaches to International Criminal Law: An Introduction* (Routledge 2014), 1-9 (8 pages, excerpt).
- Tor Kvever, 'International Criminal Law: An Ideology Critique' (2013) 26 *Leiden Journal of International Law* 701-722 (21 pages, excerpt) (*).
- Antony Anghie, B.S. Chimni, 'Third World Approaches to International Law and Individual Responsibility in Internal Conflicts', *Chinese Journal of International Law* (2003) 88-96 (8 pages, excerpt) (*).

C. Further / Background Reading (Optional)

- Franzki, Hannah C. (2018) *Criminal trials, economic dimensions of state crime, and the politics of time in international criminal law : a German- Argentine constellation*. [Thesis] (Unpublished), ORBIT - Online Repository of Birkbeck Institutional Theses, [Access here](#).
- Gerry J. Simpson, *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity Press 2007).
- John Reynolds and Sujith Xavier, 'The Dark Corners of the World: TWAIL and International Criminal Justice', (2016) 14 *Journal of International Criminal Justice* 959(*).
- Frédéric Mégret, 'The Politics of International Criminal Justice', (2002) 13 *European Journal of International Law* 1261.
- Vasuki Nesiah, 'Theories of Transitional Justice: Cashing in the Blue Chips' in *The Oxford Handbook of Theories of International Law* (Oxford University Press 2016) (*).
- Rajagopal B, 'Invoking the Rule of Law in Post-conflict Rebuilding: A Critical Examination' (2008) 49(4) *William & Mary Law Review* 1287 (*).
- Wolfgang Kaleck, *Double Standards: International Criminal Law and the West* (Torkel Opsahl Academic EPublisher 2015).

Questions for Reflection

- How do 'mainstream' ICL perspectives differ from 'critical' approaches, and what are the implications of these differences for the administration of justice?
- In what ways might the 'view from The Hague' be considered hegemonic, and how does this view potentially marginalize or silence 'peripheral' perspectives?
- Reflect on the role of power dynamics in shaping the discourse of ICL. How do critical approaches challenge the established narratives and propose alternative understandings?
- Considering the readings, how do critical theorists like Schwöbel and Krever conceptualize the ideological underpinnings of ICL, and what critiques do they offer?
- Anghie and Chimni's work on Third World Approaches to International Law (TWAIL) introduces the concept of individual responsibility in internal conflicts. How does this perspective shift the focus from traditional ICL narratives, and what does it reveal about the global order's influence on legal processes?

Doctrines (I – IV)

Session 5: 'Legality'

A. Session overview

Exploring the Legality Principle in International Criminal Law; the codification of international crimes; the legacy of Nuremberg and Tokyo; the Tadić case and customary law; the tension between legality and justice.

B. Prescribed Reading

- George P. Fletcher, 'Chapter 12' in *Basic Concepts of Criminal Law* (Oxford University Press 1998) 206-214 (8 pages, excerpt).
- Hans Kelsen, 'Why does the Judgment in the Nuremberg Trial Constitute a Precedent in International Law', (1947) 1 ILQ, 154-171 (17 pages, excerpt).
- International Military Tribunal, *Trial of the Major War Criminals before the International Military Tribunal Nuremberg*, 14 November 1945 - 1 October 1946 (1947) Nuremberg 218-223 (5 pages, excerpt).
- International Military Tribunal for the Far East, 'Dissentient Judgment of Justice Pal' (Tokyo, Kokusho-Kankokai, Inc. 1999) 5-18 (13 pages, excerpt).

C. Further / Background Reading (Optional)

- ICTY, Prosecutor v Tadić (IT-94-1) Appeals Decision' (15 July 1999) [Access here](#) (focus on the preliminary objections raised by the defense on jurisdiction).
- Jessica Lynn Corsi, 'An Argument for Strict Liability in International Criminal Law' (2018) 49 Georgetown Journal of International Law 1321(*).
- Vivek Pinto, 'Justice Radhabinod Pal and the Tokyo War Crimes Tribunal: A Political Retrospective of His Historic Dissent' in International University Publications, 3-A, Asian Cultural Studies (35) (2010) 179-196.
- Antonio Cassese, 'Balancing the Prosecution of Crimes Against Humanity and Non-Retroactivity of Criminal Law' (2006) 4 Journal of International Criminal Justice 410-419.
- Shklar, Judith N, *Legalism: Law, Morals, and Political Trials* (Harvard University Press 1986) (*).

D. Audiovisual Resources (Optional)

- Tokyo Trials (IMDb, 2016) <https://www.imdb.com/title/tt4040530/>

E. Questions for Reflection

- How does Fletcher conceptualize the dichotomy between justice and legality, and what are the implications of negative versus positive legality in this context?

- Evaluate the adherence to the principle of legality during the Nuremberg and Tokyo trials. Analyze Justice Pal's application of the principle of legality within his dissenting judgment.
- Discuss whether the principle of legality should be applied uniformly across domestic and international legal systems.
- Consider the extent to which the statutes of the ICTY, ICTR, and ICC embody customary international law and the significance of this alignment for the principle of legality.

Doctrines (I – IV)

Session 6: 'Jurisdiction'

A. Session Overview

Jurisdictional thinking; the 'ownership' of international crimes; the 'proper forum' for addressing post-conflict justice; universal jurisdiction; the tension between state immunity and jurisdictional reach; reflections from 'Eichmann in Jerusalem'.

B. Prescribed Reading

- Sundhya Pahuja, 'Laws of Encounter: A Jurisdictional Account of International Law' (2013) 1 *London Review of International Law* 63-71 (8 pages, excerpt).
- Henry A. Kissinger, 'The Pitfalls of Universal Jurisdiction' (2001) 80 *Foreign Affairs* 1-11 (10 pages).
- ICC, Prosecutor v Omar Hassan Ahmad Al-Bashir (Judgment in the Jordan Referral re Al-Bashir Appeal) No ICC-02/05-01/09 OA2, 6 May 2019, 50- 66 [Access here](#) (accessed 4 November 2023) (16 pages, excerpt).

C. Further Background Reading (Optional)

- Trial International, *Universal Jurisdiction Annual Review of 2023* [Access here](#) (accessed 4 November 2023).
- Aisling O'Sullivan, *Universal Jurisdiction in International Criminal Law: The Debate and the Battle for Hegemony* (Routledge 2017) (*).
- International Center for Transitional Justice, *Handbook on Complementarity: An Introduction to the Role of National Courts and the ICC in Prosecuting International Crimes* [Access here](#).
- Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (1st edn, Viking Press 1963).
- Megret, Frederic, 'In Defense of Hybridity: Towards a Representational Theory of International Criminal Justice' (2005) 38 *Cornell International Law Journal* 725.

D. Audiovisual Resources (Optional)

- 'Eichmann' (2007) [Access here.](#)
- 'Hannah Arendt' (2012) [Access here.](#)
- The Trial of Adolf Eichmann' (1997) [Access here](#)

E. Questions for Reflection

- What implications arise from jurisdictional thinking within ICL?
- How should the international community determine the appropriate venue for prosecuting international crimes?
- Who “owns” an international crime?
- What are the arguments for and against limitations on Universal Jurisdiction?

Doctrines (I – IV)

Session 7: 'Liability'

A. Session Overview

Agency and international crimes; contrasting organizational versus individual deviation; the concept of the perpetrator as a rational, autonomous entity; comparing the criminology of international versus domestic crimes; the systemic element in international crimes; the modes of liability; differentiating principal and accessory liability; addressing the criminalization of organizational deviation; examining joint criminal enterprise and analogous frameworks; the potential need for rethinking ICL's liability paradigms

B. Prescribed Reading

- George Fletcher, Basic Concepts of Criminal Law (1998), Chapter 11 (Perpetration v Complicity) 188-203 (15 pages, excerpt).
- ICC Statute, Arts. 22-33, [Access here.](#)
- Robert Cryer, Darryl Robinson, and Sergey Vasiliev, An Introduction to International Criminal Law and Procedure (4th edn, Cambridge University Press 2019), Chapter on Modes of Liability (29 pages). International Criminal Law and Justice | Thomas Skouteris Page 11 of 29 11
- ICTY, Prosecutor v. Tadić, Case No. IT-94-1-A, Ap. Ch, Judgment, 15 July 1999, para. 191 (1 page)

C. Further Reading (Optional)

- Extraordinary Chambers in the Courts of Cambodia, Pre-Trial Chamber, Public Decision on the Appeals Against the Co-Investigative Judges Order on Joint Critical Enterprise, Criminal Case File 002/19-09-2007- ECCC/OCIJ (PTC38), 20 May 2010, esp. 30-59.
- Rothe, D. and Mullins, C. (2009) 'Toward a Criminology of International Criminal Law: An Integrated Theory of International Criminal Violations', 33 International Journal of Comparative and Applied Criminal Justice. (*)
- Chouliaras, T. (2010) 'State Crime and Individual Criminal Liability', in C. Burchard, O. Triffterer and J. Vogel (eds.), The Review Conference and the Future of the ICC, Proceedings of the First AIDP Symposium, Kluwer Law International, pp. 191-214. (*)
- Ranieri, S. (2016) 'Extended Joint Criminal Enterprise in International Criminal Law: From Foreseeability, to Intention, to Control over the Crime', The Journal of Criminal Law, 80(6), pp. 436-445.
- Nollkaemper, A. and Van der Wilt, H. (eds.) (2009) System Criminality in International Law, Cambridge University Press.
- Badar, M. (2006) "'Just Convict Everyone!': Joint Perpetration, from Tadic to Stakic and Back Again", 6 International Criminal Law Review, pp. 293-302.
- Danner, A.M. and Martinez, J.S. (2005) "Joint Criminal Responsibility, Command Responsibility, and the Development of International Criminal Law", 93 California Law Review, pp. 75-139.

D. Audiovisual Resources (Optional)

- 'The Wave: A School Experiment Gone Wrong,' [Access here](#).

E. Questions for Reflection

- How does Fletcher's distinction between perpetration and complicity challenge or reinforce traditional notions of liability in ICL?
- In what ways do the ICC Statute's articles on modes of liability reflect the complexity of assigning criminal responsibility in the context of international crimes?
- Considering the Tadić case, how has the jurisprudence of joint criminal enterprise evolved, and what are its implications for individual liability in ICL?
- How do the criminological theories presented by Rothe and Mullins inform our understanding of the motivations behind international crimes and the appropriate modes of liability?
- Reflect on the relationship between state crime and individual criminal liability as discussed by Chouliaras. How does this relationship affect the prosecution of international crimes?

- In light of Badar's critique, to what extent should the doctrine of joint perpetration be applied in ICL, and what are the risks of overextension?
- Analyze the development of command responsibility within ICL as explored by Danner and Martinez. How does this principle adapt to the realities of modern warfare and organizational structures?
- How do the sociological experiments depicted in the audiovisual resources, such as 'The Wave' and 'The Milgram Experiment,' provide insights into the psychological underpinnings of obedience and liability within the context of ICL?

Doctrines (I – IV)

Session 8: 'Sanction'

A. Session Overview

Nulla poena sine lege; the penology of international crimes; the potential purposes of criminal sanction in post-conflict situations; the economy of sanction; between the death penalty and amnesty.

B. Prescribed Reading

- Van Schaack, Beth, 'Crimen Sine Lege: Judicial Lawmaking at the Intersection of Law and Morals' (2008) Santa Clara Law Digital Commons, Faculty Publications, 121-158 (37 pages, excerpt), [Access here](#).

C. Further Reading (Optional)

- Joseph W Doherty and Richard H Steinberg, 'Punishment and Policy in International Criminal Sentencing: An Empirical Study' (2016) 110 American Journal of International Law 49-81.
- Gerry J Simpson, 'Objective Responsibility: Show Trials and War Crimes Trials' (2007) 4 International Commentary on Evidence.
- M Cherif Bassiouni, 'The Penal Characteristics of Conventional International Criminal Law' (1983) 15 Case Western Reserve Journal of International Law 27. (*)
- Dawn Rothe and Christopher Mullins, 'Toward a Criminology of International Criminal Law: An Integrated Theory of International Criminal Violations' (2009) 33 International Journal of Comparative and Applied Criminal Justice. (*)

D. Audiovisual Resources (Optional)

- Final judgement read at Nuremburg Trials (1946), Newsreel, [Access here](#).
- PM Tojo and Aides Sentenced For War Crimes (1948), Newsreel, [Access here](#).
- The Execution Of Hideki Tojo, Japan's WW2 Prime Minister (Documentary), [Access here](#).

E. Questions for Reflection

- How does the principle of "nulla poena sine lege" (no penalty without a law) influence the determination and application of sanctions in ICL?
- Considering Van Schaack's discussion, how might judicial lawmaking at the intersection of law and morals affect the consistency and predictability of sanctions in ICL?
- Reflect on the various potential purposes of criminal sanctions in post- conflict situations as suggested by the prescribed readings. How do these purposes align or conflict with the broader goals of ICL?
- Analyze the 'economy of sanction' within the context of ICL. How do factors such as political will, resources, and international cooperation impact the enforcement of penalties?
- Discuss the ethical and legal implications of the range of sanctions in ICL, from the death penalty to amnesty. What principles should guide the choice of sanctions?
- Drawing from Doherty and Steinberg's empirical study, what insights can be gained about the policy considerations that shape sentencing in international criminal tribunals?
- Simpson's work on 'Objective Responsibility' raises questions about the nature of guilt and responsibility in show trials and war crimes trials. How does this concept challenge traditional notions of sanction in ICL?
- Bassiouni discusses the penal characteristics of conventional international criminal law. How do these characteristics inform the development of sanctions in ICL, and what challenges do they present?
- Rothe and Mullins propose an integrated theory of international criminal violations. How might this theory influence the understanding and application of sanctions in ICL?
- Reflect on the historical audiovisual resources provided. How do the outcomes of these historical trials inform contemporary approaches to sanctions in ICL?

Crimes (I – IV)

Session 9: 'The Legacy of WWII'

A. Session Overview

This session delves into the legal landscape of the 1940s and 1950s, examining the jurisprudence of the Nuremberg and Tokyo tribunals. We will discuss the focus on war crimes and crimes against peace, reflecting on the fact that the concept of genocide was only legally defined after these trials. The session will explore the legal and moral imperatives that guided the establishment of 'core crimes' and how these foundational decisions have shaped the trajectory of international criminal law from the shock of World War II to the early Cold War period.

B. Prescribed Reading

- Charter of the United Nations, [Access here](#).
- 1950 Principles of International Law Recognized in the Charter of the Nuremberg Tribunal, [Access here](#).
- ICTY Statute, Articles 1-5, [Access here](#).
- ICTR Statute, Articles 1-4, [Access here](#).
- ICC Statute, Articles 5-10, [Access here](#).
- GA Res 3314 (Definition of Aggression), [Access here](#).

C. Further Reading (Optional)

- Schick, Wolfgang (1948) 'ICL Facts and Illusions' 11 Modern Law Review 290, 305.
- Bridge, John (1964) 'The Case for an International Court of Criminal Justice and the Formulation of International Criminal Law' 13 International and Comparative Law Quarterly 1255.
- Schwelb, Egon (1946) 'Crimes Against Humanity' British Yearbook of International Law 23.

D. Audiovisual Resources (Optional)

- The Trial of Adolf Eichmann (Documentary, Final portion, 44 mins), [Access here](#).
- Eichmann Case, Session no. 1 (35 mins), [Access here](#).

E. Questions for Reflection

- How did the Nuremberg and Tokyo tribunals address the atrocities of World War II within the framework of war crimes and crimes against peace, prior to the legal definition of genocide?
- What were the legal and moral considerations that led to the prioritization of war crimes and crimes against peace at the Nuremberg and Tokyo trials?
- Reflect on the absence of genocide as a prosecutable crime during the Nuremberg and Tokyo trials. How might this have influenced the proceedings and judgments?
- In what ways did the outcomes of the Nuremberg and Tokyo trials pave the way for

- the eventual recognition and definition of genocide as a crime?
- Discuss the significance of the 1948 Genocide Convention in the evolution of international criminal law. How did it build upon the legal foundations laid by the Nuremberg and Tokyo tribunals?
 - How did the perception of international criminal law change in the immediate post-WWII era, particularly with the introduction of the Genocide Convention?
 - Considering the historical context, what role did the crime of aggression play in the statutes of the Nuremberg and Tokyo tribunals, and why was it considered a 'core crime'?
 - Should the prosecution of war crimes and crimes against peace be limited to the leadership or include any perpetrator? How does this compare to the later inclusion of genocide in international law?

Crimes (I – IV)

Session 10: 'From Enemy States to Enemies of Mankind'

A. Session Overview

Session 10 explores the evolution of state crimes in international law. Historically, the state was seen as a defense against chaos, with law adherence being a civic duty. However, Nazi Germany's actions challenged this view, leading to the Nuremberg trials where aggression was the primary crime. Today, atrocities like genocide and war crimes are central to state crime discussions. This shift has blurred traditional legal distinctions, such as between criminals and enemies, or policing and warfare, leaving international criminal law in a complex position.

B. Prescribed Reading

- Douglas, Lawrence, 'From the Sentimental Story of the State to the *Verbrecherstaat*, Or, the Rise of the Atrocity Paradigm', in Immi Tallgren, and Thomas Skouteris (eds), *The New Histories of International Criminal Law: Retrials, The History and Theory of International Law* (Oxford, 2019) 54-71 (17 pages) (*).
- 1948 Convention on the Prevention and Punishment of the Crime of Genocide, [Access here](#).
- Ferencz, Ben (2000) 'The Evolution of ICL A Bird's Eye View' 18 Security and Peace

C. Further Reading (Optional)

- Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation – Analysis of Government – Proposals for Redress* (Washington DC, 1944).
- M. Cherif Bassiouni, *Crimes Against Humanity: Historical Evolution and Contemporary Application* (Cambridge University Press, 2014), esp. 133- 146.

- International Law Commission, *Draft articles on Prevention and Punishment of Crimes Against Humanity*. Adopted by the International Law Commission at its seventy-first session, in 2019, and submitted to the General Assembly as a part of the Commission's report covering the work of that session (A/74/10) [Access here](#).
- Sands, Philippe (2003) *From Nuremberg to The Hague* (Cambridge University Press).

D. Audiovisual Resources (Optional)

- Raphael Lemkin about the origin of the word genocide, Video, [Access here](#).
- Ben Ferencz on Raphael Lemkin, [Access here](#).
- ICTR, Akayesu Judgment (Footage), [Access here](#).
- Rwanda Genocide Documentary (15 mins), [Access here](#).
- Hotel Rwanda (Movie) (Hutu Tutsi Problem Explained) (2 mins), [Access here](#).

E. Questions for Reflection

- Has the focus on prosecuting war crimes and aggression shifted towards a greater emphasis on genocide and crimes against humanity? If so, why might this be the case?
- Considering the historical context, why might there have been hesitancy in the Rome Statute and subsequent discussions to define and prosecute the crime of aggression?
- How does the evolution from state aggression to state-sponsored atrocities reflect changes in the international legal order?
- In what ways has the shift from aggression to atrocity crimes affected the legal and moral responsibilities of states?
- What implications does the blurring of lines between criminals and enemies have for the future of international criminal law?

Crimes (I – IV)

Session 11: 'Transnational, Organized, and Other Crimes'

A. Session Overview

In this session, we will explore the delineation and conceptualization of 'transnational', 'organized', and other crimes in juxtaposition with core international crimes, delving into their unique historical contexts and legal frameworks. The intricate task of defining terrorism, the jurisdictional challenges posed by piracy, and the unequivocal ban on torture will be scrutinized. Our discourse will uncover the pronounced divergence between transnational crimes and the atrocity paradigm, underscoring the complex interplay of legal classification, state sovereignty, and international normativity.

B. Prescribed Reading

- R. Cryer et al., *International Criminal Law* (3rd edn, Cambridge University Press 2019) (Chapter 14, *Transnational Crimes*) 319-341 (22 pages).
- M. Sornarajah, 'Transnational Crimes: The Third Limb of the Criminal Law' (2004) 22 *Singapore Journal of Legal Studies* 390-402 (12 pages, excerpt) (*).
- Lan Cao, 'The Transnational and Sub-National in Global Crimes' (2004) 22 *Berkeley Journal of International Law* 59-67 (8 pages, excerpt) (*).

C. Further Reading (Optional)

- R. M. Paulose, 'Beyond the Core: Incorporating Transnational Crimes into the Rome Statute' (2012) 21 *Cardozo Journal of International & Comparative Law* 77.
- Cassese, 'The Multifaceted Notion of Terrorism in International Law' (2006) 4 *Journal of International Criminal Justice* 963.
- Michael J. Kelly, 'The Pre-History of Piracy as a Crime & Its Definitional Odyssey' (2013) 46 *Case Western Reserve Journal of International Law* 1.

D. Questions for Reflection

- Are there 'differences' between core, transnational, organized, and other internationalized crimes? What are the criteria for categorizations?
- Considering the absolute prohibition of torture under international law, what justifications, if any, exist for not classifying it as an international crime?
- Given the historical and legal complexities of defining terrorism, should there be a reevaluation of its exclusion from the list of core international crimes?
- How do the jurisdictional challenges of piracy contribute to the debate on its status as an international crime?
- What are the implications of including transnational crimes within the scope of core international crimes, and how might this reshape the current legal paradigm?
- Reflect on the resistance by states to categorize transnational crimes as international crimes. Is this resistance purely a matter of preserving state sovereignty, or are there other substantive legal considerations at play?

Crimes (I – IV)

Session 12: ‘Defining “Ecocide”’

A. Session Overview

In this session, we will engage in a guided collaborative thought experiment to define an international crime of 'ecocide'. This term, increasingly recognized in legal discourse, refers to systematic and severe environmental destruction. The purpose of the session is to explore the challenges inherent in crystallizing complex human behaviors into legal definitions and doctrines. The session aims to confront the dilemmas of 'reducing' multifaceted conduct to 'law', similar to the initial session on genocide. Students will be tasked with considering all aspects of the crime, from its constitutive elements to modes of liability and sanctions, reflecting on the broader implications of such legal categorizations.

Students may leverage AI tools during preparation and during class to facilitate their work and assist them with drafting and research. Students will be randomly divided into small groups and shall be given 40 minutes to coordinate and synthesize their views and present their findings during the remainder of the session via one or more spokespersons. Advance preparation is necessary for this session to work. Students should refer to the literature below as well as existing codifications of other international, transnational, and other crimes as a foundation. Teams will be asked to explain their choices. The readings below are selected to provide students with a starting list of sources, but they are not listed in any order of priority. Students are encouraged to conduct their own research.

B. Background Reading (optional):

- Mehta and P Merz, 'Ecocide—a new crime against peace?' (2015) Environmental Law Review.
- MA Gray, 'The international crime of ecocide' (1995) California Western International Law Journal.
- A Greene, 'The campaign to make ecocide an international crime: Quixotic quest or moral imperative' (2018) Fordham Environmental Law Review.
- LG Minkova, 'The fifth international crime: Reflections on the definition of “Ecocide”' (2023) Journal of Genocide Research.
- J Hellman, 'The fifth crime under international criminal law: Ecocide?' in 'Regulating corporate criminal liability' (Springer, 2014).
- P Higgins, D Short, and N South, 'Protecting the planet: a proposal for a law of ecocide' (2013) Crime, Law and Social Change.
- DAB Neto and TCFM Alverne, 'Ecocide: Criminalizing Policy of International Environmental Crimes or a Crime Itself' (2018) Brazilian Journal of Public Policy.
- Z McDonnell-Elmetri, 'The crime of ecocide: the answer to our environmental emergency' (2020) University of Otago, New Zealand.

- MJ Lynch, A Fegadel, and MA Long, 'Green criminology and state- corporate crime: the ecocide-genocide nexus with examples from Nigeria' in 'The Genocide-Ecocide Nexus' (Taylor & Francis, 2022).
- SUW Prakasa, 'Ecocide crimes & omnibus law: Review of international law and its implications on Indonesia law' (2021) *Dinamika Hak Asasi Manusia*.
- D Hotz, 'Ecocide as the Missing Fifth Crime under International Criminal Law?' (2021) *Zeitschrift für die gesamte Strafrechtswissenschaft*.

Questions for Reflection:

- What legal and moral considerations should inform the definition of 'ecocide' as an international crime?
- How can international law balance the need for environmental protection with the interests of state sovereignty and economic development?
- In what ways might the concept of 'ecocide' challenge or reinforce existing principles of international criminal law?
- What modes of liability should apply to the crime of 'ecocide', and how might they differ from those associated with other international crimes?
- Is there a definition of an existing crime that one could use as a foundation? Why?

Places (I-IV)

Session 13: 'The City and The Field'

A. Session Overview

The Hague as “the Legal Capital of the World”; the construction of “The Field” as the place where atrocity takes place; narratives of place; the role of places in the salience of the project of international criminal justice.

B. Prescribed Reading

- Ruud Hisgen, Thimo de Nijs, *The Hague Cultural Capital of Europe 2018 – Our Bid: City Without Walls - Haven for Free Thought* (2012-2018) (Pamphlet)
- Department of Information and External Relations of Den Haag, *The Hague Guide to International Organizations* (Pamphlet)
- Department of Information and External Relations of Den Haag, *City of the Hague - International City of Peace & Justice* (2012) (Pamphlet).
- Guilfoyle, D. J. A. (2016). Reading 'The City and the City' as an international lawyer: reflections on territoriality, jurisdiction, and transnationality. *London Review of International Law*, 4(1), 195 – 207(*).

C. Further / Background Reading (Optional)

- Foucault, Michel, 'Of Other Spaces' (1986) 16(1) *Diacritics* 22.
- Goodrich, Peter, *Legal Emblems and the Art of Law* (Cambridge University Press, 2013) pp 1-126. (*)
- Cassese, A, 'Living and Working in The Hague', in Vriesendorp, R. (ed.), *The Hague Legal Capital? Liber in Honorem W. Deetman* (Hague Academic Press, The Hague, 2013).
- Calvino, Italo. *Invisible Cities*. Translated by William Weaver. Vintage Classics, 2019 (1972).

D. Questions for Reflection

- Reflect on how The Hague's self-portrayal as a "City Without Walls" and a "Haven for Free Thought" aligns with or diverges from the mainstream narrative about the conditions needed for the proper exercise of criminal justice.
- Identify and discuss the various 'places' within the international criminal justice system. How do they interact and what do they symbolize?
- Contrast "The Field" with "The Legal Capital of the World." How do these spaces inform our understanding of international criminal justice?
- Explore the role of place-based narratives in shaping confidence and belief in the international criminal law project. How do these narratives influence perceptions of justice and legality?
- Consider the implications of the physical and symbolic spaces of international criminal justice on the broader quest for global peace and justice. How do they contribute to or detract from this mission?

Places (I-IV)

Session 14: 'Rwanda'

A. Session Overview

Rwanda as a site of atrocity; the narratives of genocide; the institutional responses; the ICTR Statute; reducing genocide to law; international and traditional-national justice; Ad Hoc criminal tribunals.

B. Prescribed Reading

- Mamdani, Mahmood. *When victims become killers: Colonialism, nativism, and the genocide in Rwanda*. Princeton University Press, 2020. Chapter 7 "The Civil War and the Genocide" 185-233. (*)

- United Nations International Residual Mechanism for Criminal Tribunals, Statute Creation of the ICTR, [Access here](#)

C. Further / Background Reading (Optional)

- Viebach, J. 'The evidence of what cannot be heard: Reading trauma into and testimony against the witness stand at the International Criminal Tribunal for Rwanda' (2017) 6(1) *International Journal for Crime, Justice and Social Democracy* 51–72.
- Breed, Ananda, and Astrid Jamar. 'Competing Narratives and Performances in Rwanda's Gacaca Courts' in *Rwanda Since 1994: Stories of Change* (2019) 62-82. (*)
- Moyn, Samuel. "On a Self-Deconstructing Symposium." *American Journal of International Law* 110 (2016): 258-262.
- Mutua, Makau. "Never again: Questioning the Yugoslav and Rwanda tribunals." *Temp. Int'l & Comp. LJ* 11 (1997): 167.
- Drumbl, MA. 'Law and atrocity: settling accounts in Rwanda' (2005) 31 *Ohio N.U. L. Rev.* 41.
- Graybill, Lyn. 'To punish or pardon: A comparison of the international criminal Tribunal for Rwanda and the South African truth and reconciliation commission' (2001) 2(4) *Human Rights Review* 3-18.
- Van den Herik, Larissa. *The contribution of the Rwanda tribunal to the development of international law* (Brill, 2005).
- Schabas, William A. 'Genocide trials and gacaca courts' (2005) 3(4) *Journal of International Criminal Justice* 879-895.

D. Audiovisual Resources (Optional)

- Terry George (dir), *Hotel Rwanda* (United Artists 2004), [Access here](#).
- Raoul Peck (dir), *Sometimes in April* (HBO Films 2005), [Access here](#).
- Michael Caton-Jones (dir), *Shooting Dogs* (BBC Films 2005) [Access here](#).
- Roger Spottiswoode (dir), *Shake Hands with the Devil* (Barna-Alper GProductions 2007) [Access here](#).

E. Questions for Reflection

- How does Rwanda's history of colonialism and nativism as discussed by Mamdani contribute to understanding the complexities behind the genocide?
- Reflect on the role of the ICTR in addressing the atrocities committed during the Rwandan genocide. What are the strengths and limitations of such an ad hoc tribunal?
- In what ways does the legal codification of genocide in the ICTR Statute both clarify and constrain our understanding of the events in Rwanda?

- Consider the interplay between international criminal justice mechanisms and traditional-national approaches in Rwanda. How do these different systems complement or conflict with each other?
- How do the narratives presented in the prescribed audiovisual resources compare with the academic perspectives on the Rwandan genocide?
- Analyze the impact of trauma on the ability to bear witness and provide testimony, as discussed in Viebach's work. What are the implications for justice and historical record?
- Breed and Jamar discuss the performances in Rwanda's Gacaca Courts. Reflect on the role of these local courts in the reconciliation process. How do they challenge or reinforce the narratives of genocide?
- Moyn and Mutua offer critiques of the ICTR and similar tribunals. Reflect on their arguments concerning the effectiveness and legacy of these institutions.
- Drumbl and Graybill explore different responses to atrocity, such as punitive justice versus pardon. Discuss the potential outcomes of these approaches in the context of Rwanda.
- Considering Van den Herik's and Schabas's analyses, how has the Rwanda tribunal contributed to the development of international law, and what are the implications for future genocides and international criminal justice?

Places (I-IV)

Session 15: 'South Africa'

A. Session Overview

This session delves into the establishment, objectives, and the broader implications of the Truth and Reconciliation Commission (TRC) in South Africa. We will explore the TRC's role as a pivotal element of the transitional justice project, examining its successes and challenges. The session will also address the inherent tensions between truth and reconciliation, particularly in the context of the 'amnesty for truth' practice.

B. Prescribed Readings

- Ash, T. G. (1997) 'True Confessions', *New York Review of Books*, 44(12), 17 July.
- Ash, T. G. (1997) 'The Curse and Blessing of South Africa', *New York Review of Books*, 44(13), 14 August.
- Asmal, K., et al. (1997) 'Reconciliation Through Truth: A Reckoning of Apartheid's Criminal Governance', 2nd ed, pp. 1-5, 6-11, 207-216.
- Krog, A. (2003) 'The Choice of Amnesty: did political necessity trump moral duty?', in Villa-Vicencio, C. and Doxtader, E. (eds) *The Provocations of Amnesty: Memory, Justice and Impunity*, Africa World Press, pp. 115- 120.

- *The AZAPO Case* (1996), in Cornell, D. and Muvangua, N. (eds) (2012) *Ubuntu and the Law: African Ideals and Postapartheid Jurisprudence*, Fordham University Press, pp. 103-122.

C. Further/Background Readings

- Villa-Vicencio, C. and Doxtader, E. (eds) (2003) *The Provocations of Amnesty: Memory, Justice and Impunity*, Africa World Press.
- Krog, A. (1998) *Country of My Skull: Guilt, Sorrow and the Limits of Forgiveness in the New South Africa*, Times Books.
- Ross, F. C. (2003) *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa*, Pluto Press.
- Mbembe, A. (2001) *On the Postcolony*, University of California Press.
- Wilson, R. A. (2001) *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State*, Cambridge University Press, chs 4, 6, & 8.

D. Audiovisual Resources

- *In My Country* (2004), directed by John Boorman, a film based on Antjie Krog's book *Country of My Skull*.
- United States Institute of Peace - Truth Commission Digital Collection: [USIP Digital Collection](#)

E. Questions for Reflection

- Analyze the timeframe of the TRC's jurisdiction and its significance.
- Discuss the legal features of the TRC's establishment and its role in the transition.
- Evaluate Kader Asmal's intentions for the TRC against its outcomes.
- Debate the ethical and practical implications of 'amnesty for truth'.
- Reflect on the concept of reconciliation in the aftermath of systematic terror and abuse.

F. Truth & Reconciliation on the Web

- South African Truth and Reconciliation Commission: [Official Website](#)
- Truth and Reconciliation Commission of South Africa - Report: [Access here.](#)

Places (I-IV)

Session 16: 'Gaza 2023'

Session Overview

As of November 2023, the evolving circumstances in Gaza present a critical moment for reflection within the field of international criminal law (ICL) and justice.

The current events in Gaza, marked by atrocity, compel us as scholars and practitioners of ICL to question the applicability and relevance of our discipline. How do we apply the principles and frameworks of ICL to the situation? To what extent do the International Criminal Court (ICC) and the broader discourse of International Criminal Law and Justice (ICLJ) inform our understanding and engagement with the events in Gaza?

The readings provided below serve as preliminary points of departure. They do not purport to take a position on the questions raised but rather to initiate a scholarly inquiry. It is anticipated that by the time of our class discussions, new developments and resources will have surfaced, necessitating an updated and informed engagement with the situation.

- ICC, Situations under Investigation, State of Palestine, [Access here](#).
- Multiple Authors, 'The Effect of Palestine's Recognition of the International Criminal Court's Jurisdiction', 18 February 2010, [Access here](#).
- Gross, A. 'Decolonizing the ICC: The Situation in Palestine and Beyond.' *Just Security* 28 (2021).
- ICC, Situations under Investigation, State of Palestine, [Access here](#).
- Michelle Burgis, 'The Ungovernance of Gaza', *Opinio Juris* (November 2023) [Access here](#).
- Tyler McBrien (October 16, 2023), Where Does the ICC Palestine Investigation Stand?, *Lawfare*, [Access here](#).

Guided Collaboration and Conclusion

Sessions 17-19: Guided Collaboration

Students will be organized into collaborative teams, each assuming the roles of the Prosecution, the Defense, and the Trial Chamber for a simulated moot court exercise. This interactive learning experience will unfold over three distinct sessions:

Preparation Session: In the initial gathering, students will convene within their designated groups to develop their respective arguments and strategies. This session is dedicated to research, discussion, and the initial drafting of arguments. The subject coordinator will be present to offer expert guidance, ensuring that each group's approach is grounded in applicable legal principles and case law.

Rehearsal Session: The subsequent meeting will serve as a rehearsal stage, where students will refine their presentations and advocacy skills. During this period, teams will have the opportunity to practice their oral arguments, receive constructive feedback, and make necessary adjustments under the continued mentorship of the subject coordinator. Emphasis will be placed on the clarity of arguments, the persuasiveness of delivery, and adherence to legal protocols.

Moot Court Performance: The final session will be the live moot court simulation, where each group will present their case in a setting that mimics an authentic courtroom environment. This performance will allow students to engage in real-time legal discourse, testing their ability to articulate arguments, respond to questions, and adapt to the dynamic nature of legal proceedings. The subject coordinator, along with invited faculty members, may serve as judges to evaluate the presentations, providing immediate feedback on both the substance of the legal arguments and the effectiveness of the delivery.

AI: Students may leverage AI tools for their preparation on the condition that in the debriefing session will engage with the strengths and weaknesses of the use of AI for the purposes of preparation.

This three-part exercise is designed to immerse students in the practical aspects of international criminal law, enhancing their understanding through active participation and experiential learning.

8. Online Resources for further Research

- United Nations Digital Library: The central portal for all UN documents, including resolutions, treaties, and reports. <https://digitallibrary.un.org/>
- International Court of Justice (ICJ): Official website with a repository of case law, advisory opinions, and court proceedings. <https://www.icj-cij.org/>
- Peace Palace Library: Offers an extensive online catalogue specializing in international law and relations. <https://www.peacepalacelibrary.nl/>
- Oxford Bibliographies Online: Contains peer-reviewed annotated bibliographies on international law subjects. <https://www.oxfordbibliographies.com/>
- Max Planck Encyclopedia of Public International Law: Provides detailed articles on every aspect of public international law. <https://opil.ouplaw.com/>
- American Society of International Law (ASIL): A comprehensive source for international law resources and publications. <https://www.asil.org/>
- European Society of International Law (ESIL): Offers resources, networks, and information on the latest in European international law. <https://esil-sedi.eu/>
- EJIL Talk!: The blog of the European Society of International Law, featuring commentary on current issues in public international law. <https://www.ejiltalk.org/>
- UN Audiovisual Library of International Law: A multimedia resource with historic archives and a lecture series on international law. <https://legal.un.org/avl/>
- International Criminal Court (ICC): The official website with access to court cases, legal texts, and other resources related to international criminal justice. <https://www.icc-cpi.int/>
- International Criminal Law Bureau: A network of international criminal law professionals offering case law, news, and commentary.

<http://www.internationallawbureau.com/>

- International Justice Resource Center: Provides resources and training on international human rights law, international criminal law, and international humanitarian law. <https://ijrcenter.org/>
- JURIST: A web-based legal news and real-time legal research service powered by a mostly volunteer team of over 60 part-time law professors. <https://www.jurist.org/>
- International Law Reporter: A blog that tracks recent scholarly articles and books, conferences, and jobs related to international law. <http://ilreports.blogspot.com/>
- Global Legal Information Network (GLIN): A public database of official texts of laws, regulations, judicial decisions, and other complementary legal sources. <https://www.glin.gov/>
- International Law Association (ILA): Provides information on the development and codification of international law. <https://www.ila-hq.org/>
- International Law Students Association (ILSA): Hosts the Philip C. Jessup International Law Moot Court Competition and offers resources for students. <https://www.ilsa.org/>
- Case Matrix Network: Offers tools and resources for international crimes case analysis and documentation. <https://www.casematrixnetwork.org/>
- Legal Tools Database: A collection of documents and resources for criminal law practitioners and researchers managed by the ICC. <https://www.legal-tools.org/>
- International Criminal Law Services (ICLS): An independent non-profit organization specializing in the training and education of international criminal law. <http://www.iclsfoundation.org/>
- International Law Institute (ILI): Provides training and technical assistance in international law, international economics, and other aspects of international relations. <http://www.ili.org/>
- Lawfare: A blog dedicated to the discussion of hard national security choices, which includes topics on international law and security. <https://www.lawfareblog.com/>
- Opinio Juris: A forum for informed discussion and lively debate about international law and international relations. <http://opiniojuris.org/>
- Critical Legal Thinking: A platform for critical legal scholars and allies to publish theoretically informed commentaries on current events. <http://criticallegalthinking.com/>
- Harvard International Law Journal: Offers cutting-edge articles and discussions on international law from leading scholars. <https://www.harvardilj.org/>
- Just Security: An online platform that provides rigorous analysis of U.S. national security law and policy. <https://www.justsecurity.org/>
- International Review of the Red Cross: A peer-reviewed journal covering international humanitarian law, policy, and action. <https://international-review.icrc.org/>

- The Hague Justice Portal: A gateway to information, news, and research on the Hague organizations in the fields of international peace, justice, and security. <http://www.haguejusticeportal.net/>
- International Nuremberg Principles Academy: A research and education center dedicated to the promotion of international criminal justice and human rights. <https://www.nurembergacademy.org/>
- The Public International Law & Policy Group (PILPG): A global pro bono law firm providing free legal assistance to parties involved in peace negotiations, drafting post-conflict constitutions, and war crimes prosecution/transitional justice. <https://www.publicinternationallawandpolicygroup.org/>

10. Print Reference Materials

- Bassiouni, M. Cherif, *Crimes Against Humanity: Historical Evolution and Contemporary Application* (Cambridge University Press 2011).
- Boas, Gideon et al., *International Criminal Law Practitioner Library: Volume 1, Forms of Responsibility in International Criminal Law* (Cambridge University Press 2008).
- Caruth, Cathy, *Unclaimed Experience: Trauma, Narrative, and History* (Johns Hopkins University Press 1996).
- Cassese, Antonio, *International Criminal Law* (Oxford University Press 3rd ed, 2013).
- Charlesworth, Hilary and Chinkin, Christine, *The Boundaries of International Law* (Juris Publishing 2000).
- Clark, Roger S. and Madeleine Sann, *Crimes of State / War Crimes Law: The Development of International Law* (Cambridge University Press 2018).
- Cryer, Robert et al., *An Introduction to International Criminal Law and Procedure* (Cambridge University Press 4th ed, 2019).
- Douglas, Lawrence, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (Yale University Press 2001).
- Drumbl, Mark A., *Atrocity, Punishment, and International Law* (Cambridge University Press 2007).
- Evans, Malcolm (ed), *International Law* (Oxford University Press 4th ed, 2014).
- Felman, Shoshana and Laub, Dori, *Testimony: Crises of Witnessing in Literature, Psychoanalysis, and History* (Routledge 1992).
- Guilfoyle, Douglas, *International Criminal Law* (Oxford University Press 2016).
- Hartman, Geoffrey H., *The Longest Shadow: In the Aftermath of the Holocaust* (Indiana University Press 1996).
- Kennedy, David, *Of Law and War* (Princeton University Press 2009).
- Klabbers, Jan, *International Law* (Cambridge University Press 2013).
- Koskenniemi, Martti, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press reissue with new epilogue, 2007).

- Koonz, Claudia, *The Nazi Conscience* (Belknap Press 2003).
- Orford, Anne, *International Authority and the Responsibility to Protect* (Cambridge University Press 2011).
- Pahuja, Sundhya, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge University Press 2011).
- Sands, Philippe, *East West Street: On the Origins of Genocide and Crimes Against Humanity* (Weidenfeld & Nicolson 2016).
- Schabas, William A., *An Introduction to the International Criminal Court* (Cambridge University Press 5th ed, 2017).
- Shklar, Judith N., *Legalism: Law, Morals, and Political Trials* (Harvard University Press 1986).
- Simpson, Gerry, *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity Press 2007).
- Skouteris, Thomas, *The Notion of Progress in International Law Discourse* (The Hague: Asser Press/CUP/Springer 2010).
- Tallgren and Skouteris, Thomas, *The New Histories of International Criminal Law: Retrials* (Cambridge University Press 2021).
- Todorov, Tzvetan, *Facing the Extreme: Moral Life in the Concentration Camps* (Henry Holt and Co. 1996).
- Werle, Gerhard and Florian Jessberger, *Principles of International Criminal Law* (Oxford University Press 4th ed, 2020).
- Zelizer, Barbie, *Remembering to Forget: Holocaust Memory through the Camera's Eye* (University of Chicago Press 1998).

11. Useful Abbreviations

- CIL – Customary International Law: International obligations arising from established state practice, as opposed to obligations arising from formal written conventions and treaties.
- erga omnes – Obligations owed towards all: Legal obligations by which all states have a legal interest in their protection and fulfilment.
- ex aequo et bono – According to what is just and good: The power of the ICJ to decide cases based on principles of equity, rather than on existing law.
- ICJ – International Court of Justice: The principal judicial organ of the United Nations, situated at The Hague.
- ICL – International Criminal Law: A body of law that prohibits certain categories of conduct viewed as serious atrocities and holds individuals accountable for such conduct.
- ILC – International Law Commission: A body of experts tasked with developing and codifying international law.
- jure gestionis – Acts of state management: Non-sovereign or commercial acts performed by a state that do not enjoy immunity from legal proceedings.

- *jure imperii* – Acts of state authority: Sovereign acts performed by a state that are immune from legal proceedings in foreign courts.
- *jus ad bellum* – Law of war: The set of legal norms regulating the conditions under which a state may resort to armed force.
- *jus in bello* – Law in war: The set of legal norms regulating how wars are conducted, encompassing international humanitarian law.
- *jus cogens* – Peremptory norms: Fundamental principles of international law from which no derogation is permitted.
- *lex ferenda* – Law in the making: Norms that are evolving and have not yet reached the status of binding law.
- *lex lata* – Law as it exists: The current and binding law.
- *opinio juris* – Opinion of law: The belief that an action was carried out as a legal obligation.
- *pacta sunt servanda* – Agreements must be kept: The principle that treaties are binding on the parties and must be executed in good faith.
- PCIJ – Permanent Court of International Justice: The predecessor to the ICJ, which was dissolved in 1946.
- ICJ, which was dissolved in 1946.
- PIL – Public International Law: The legal system governing the relationship between sovereign states and international entities.
- *rebus sic stantibus* – Things thus standing: A doctrine allowing for treaties to become inapplicable due to a fundamental change of circumstances.
- *terra nullius* – Land belonging to no one: A territory that is not subject to the sovereignty of any state.
- *travaux préparatoires* – Preparatory work: The official records and documents that trace the drafting history of a treaty.
- *uti possidetis* – As you possess: A principle in international law that territory and property remain with the possessor at the end of a conflict, unless otherwise stipulated by treaty.
- VCLT – Vienna Convention on the Law of Treaties: An international agreement regulating treaties between states, adopted in 1969 and entered into force in 1980.
- ICC – International Criminal Court: A permanent international tribunal to prosecute individuals for genocide, crimes against humanity, war crimes, and the crime of aggression.
- ICTY – International Criminal Tribunal for the former Yugoslavia: A body of the United Nations established to prosecute serious crimes committed during the Yugoslav Wars.
- ICTR – International Criminal Tribunal for Rwanda: An international court established by the United Nations for the prosecution of offenses committed in Rwanda during the genocide.
- ECCC – Extraordinary Chambers in the Courts of Cambodia: A court established to try serious crimes committed during the Khmer Rouge regime 1975–1979.

- SCL – Special Court for Lebanon: An international court established to try those accused of carrying out the assassination of former Lebanese Prime Minister Rafik Hariri.
- STL – Special Tribunal for Lebanon: Another term for the Special Court for Lebanon.
- R2P – Responsibility to Protect: A global political commitment to prevent genocide, war crimes, ethnic cleansing, and crimes against humanity.
- IHL – International Humanitarian Law: A set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict.