

Interdisciplinary

Academic year 2021-2022

Accountability for Atrocity Crimes: Current Issues

MINT197 - Autumn - 3 ECTS

Wednesday 18h15 - 20h00

Course Description

This course examines how accountability for mass atrocities can be pursued, by reviewing the respective contributions of different mechanisms, including the International Criminal Court and international commissions of inquiry.

It provides an opportunity to study the definition of atrocity crimes (or the so-called “core” international crimes: war crimes, crimes against humanity, genocide); review the contribution of domestic/national courts and of international criminal courts in fostering accountability for these crimes; examine how international fact-finding support accountability; and discuss the potential of transitional justice, for instance the importance of reparations for victims.

This course combines discussions of legal concepts and of practical examples, with a focus on current or emerging issues.

> PROFESSOR

[Cécile Aptel](#)

[Office hours](#)

By Appointment

> ASSISTANT

[Office hours](#)

Syllabus

Assessment

Final paper (50%), in-class presentation of a case study (30%), and class participation (20%).

Students are expected to read all assigned readings listed below in advance of each session and to participate actively in the discussions and debates. Students will be assigned a specific case-study to research and succinctly present in one of the classes (starting from class 2).

The readings listed below are subject to change, to ensure that the developing issues and the most current scholarship are incorporated. Please consult moodle to ascertain the final readings and assignments for each class.

SESSION 1

Defining atrocity crimes

Readings:

Schabas, W. A. (2009). International crimes. In *Routledge Handbook of International Law* (pp. 294-306). Routledge.

Scheffer, D. (2009). Atrocity crimes framing the responsibility to protect. In *Responsibility to Protect* (pp. 77-98). Palgrave Macmillan, New York.

Corn, G., Watkin, K., & Williamson, J. (2018). The law in war: a concise overview, Chapter 12 (War Crimes and Accountability), pp 272-290.

Statute of the International Criminal Court, Articles 5, 6, 7, 8 and 8 *bis*.

Additional recommended readings:

1948 Convention on the Prevention and Punishment of the Crime of Genocide

Gaeta, P. (2014) "War Crimes and Other Core Crimes", in Clapham, Gaeta (eds) *The Oxford Handbook of International Law in Armed Conflict*, Oxford University Press.

Copelon, R. (2000). Gender crimes as war crimes: Integrating crimes against women into international criminal law. *McGill LJ*, 46, 217.

Drumbl, M. (2010). 'Accountability for System Criminality', 8 *Santa Clara Journal of International Law*, pp. 373-382.

Stahn, C. (2018). 'Individual and Collective Responsibility', in *A Critical Introduction to International Criminal Law*, pp. 117-158

Schabas, W. A. (2012). "Introduction", in *Unimaginable Atrocities: Justice, Politics, and Rights at the War Crimes Tribunals*. Oxford University Press.

SESSION 2

Accountability for atrocity crimes at the national level, including through universal criminal jurisdiction

Readings:

Cassese, A., Gaeta P. (2013) *Cassese's International Criminal Law* (3rd ed.), Chapters 15 (The repression of international crimes in domestic jurisdictions) and 17 (Legal Impediments to the Exercise of Criminal Jurisdiction).

Van Steenberghe, R. (2011). The Obligation to Extradite or Prosecute: Clarifying its Nature *J Int Criminal Justice*, 9 (5): 1089-1116.

Additional recommended readings:

Tomuschat, C. (2014). "State Responsibility and the Individual Right to Compensation Before National Court", in Clapham, Gaeta (eds) *The Oxford Handbook of International Law in Armed Conflict*, Oxford University Press.

Sadat, L. N. (2000). Redefining universal jurisdiction. *New Eng. L. Rev.*, 35, 241.

Fletcher, G. P. (2003). Against universal jurisdiction. *J. Int'l Crim. Just.*, 1, 580.

SESSION 3

International criminal accountability for atrocity crimes

Readings:

Corn, G., Watkin, K., & Williamson, J. (2018). *The law in war: a concise overview*, Chapter 11 (International Justice and compliance), pp. 251-271.

Schabas, W. (2011) *An introduction to the ICC*, 4th edition, Cambridge University Press, Chapters 4 (Triggering the Jurisdiction) and 5 (Admissibility), pp. 157-205.

Additional recommended readings:

Giulia Pecorella, William A. Schabas, "Preconditions to the exercise of jurisdiction" in: Kai Ambos, Otto Triffterer (Ed.), *The Rome Statute of the International Criminal Court, A Commentary*, 3. Edition 2016, pp. 672-689.

Dennis Paul Ardis, 'How Much Is Enough? The ICC's Territorial Reach over Cross-Border Crimes' (2018) *North Carolina Journal of International Law* 189

Payam Akhavan, 'The Radically Routine Rohingya Case: Territorial Jurisdiction and the Crime of Deportation under the ICC Statute' (2019) 17(2) *Journal of International Criminal Justice* 325

Aptel. "Prosecutorial discretion at the ICC and victims' right to remedy: Narrowing the impunity gap." *Journal of International Criminal Justice* 10, no. 5 (2012): 1357-1375.

PBS. *I Came to Testify*. <https://www.youtube.com/watch?v=ayMCtiVzG2s>

SESSION 4

Fact-finding and atrocity crimes

Readings:

Boutruche, T. (2011). Credible fact-finding and allegations of international humanitarian law violations: challenges in theory and practice. *Journal of Conflict & Security Law*, 16(1), 105-140.

Hayner, P. B. (2010). *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. Routledge, 2nd edition, Chapter 3 (Why a Truth Commission?) and 6 (What is the Truth?).

Additional recommended readings:

Yasmin Sooka, Dealing with the past and transitional justice: building peace through accountability, IRRC, Volume 88, Number 862, June 2006.

Selimovic, Johanna Mannergren. "Making peace, making memory: peacebuilding and politics of remembrance at memorials of mass atrocities." *Peacebuilding* 1, no. 3 (2013): 334-48.

Kris Brown, 'What It Was Like to Live through a Day': Transitional Justice and the Memory of the Everyday in a Divided Society, *IJTJ* (2012) 6 (3): 444-466

Sikkink, Kathryn. *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. New York: W.W. Norton, 2011. Introduction, Ch. 4, Ch. 8

Peruse a few examples of online memorials, such as:

Srebrenica: <http://srebrenica360.com>

US Holocaust Memorial Museum Online Exhibitions:

<https://www.ushmm.org/information/exhibitions/online-exhibitions>

SESSION 5

Transitional justice and atrocity crimes

Readings:

David, R. (2017). What we know about transitional justice: Survey and experimental evidence. *Political Psychology*, 38, 151-177.

Michel, N. and Del Mar K. (2014). "Transitional Justice." *The Oxford Handbook of International Law in Armed Conflict*, edited by Clapham A. and Gaeta P. Oxford: Oxford University Press.

Powers, K. L., & Proctor, K. (2017). Victim's Justice in the Aftermath of Political Violence: Why Do Countries Award Reparations?. *Foreign Policy Analysis*, 13(4), 787-810.

Additional recommended readings:

Kochanski, A. (2018). "The 'Local Turn' in Transitional Justice: Curb Your Enthusiasm." *International Studies Review*: 1-25.

Torpey, J. (2015). "The Political Field of Reparations." In *Historical Justice and Memory*, edited by Klaus Neumann and Janna Thompson. Madison: University of Wisconsin Press.

SESSION 6

Atrocity crimes and children

Readings:

Aptel C. and Ladisch V. (2011), *Through a New Lens: A Child-Sensitive Approach to Transitional Justice*, ICTJ.

S. Parmar, M. J. Roseman, S. Siegrist and T. Sowa (Eds.), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation*, Harvard University Press, March 2010, pgs.1-30 and 67-114.

Atiba-Davies, G. (2020). Justice for Children Affected by Political Violence. *Handbook of Political Violence and Children: Psychosocial Effects, Intervention, and Prevention Policy*, 474.

Additional recommended readings:

Cole E. A. (2007), Transitional Justice and the Reform of History Education *IJTJ*, 1 (1): 115-137.

Aptel, C. (2016). "Child slaves and child brides." *Journal of International Criminal Justice* 14, no. 2: 305-325.

Aptel, C. (2013). "Unpunished Crimes: The Special Court for Sierra Leone and Children", *The Sierra Leone Special Court and Its Legacy: The Impact for Africa and International Criminal Law*, Cambridge University Press.