

Course Description – Justice and Accountability for Grave Rights Violations

Instructor: Srinjoy Sarkar

Credits: 4

Duration: 15 weeks

Over the past two decades, international law has witnessed the growth of individual criminal responsibility for grave violations of human rights and humanitarian laws. 1998 was a watershed year for international justice. Almost fifty years since the creation of the Nuremberg trials and the International Military Tribunals of the Far East, the international community established the International Criminal Court on the heels of the U.N. authorized ad-hoc tribunals for Yugoslavia and Rwanda. In the same year, former Chilean Dictator - Augusto Pinochet was arrested under the principle of universal jurisdiction and was denied immunity against allegations of torture during his presidency. Since then, a myriad of special courts and tribunals have been created in Senegal, Bosnia & Herzegovina, Cambodia, Sierra Leone, Kosovo and Bangladesh with jurisdiction to prosecute individuals responsible for mass atrocities.

This course will provide an account of case studies of situations in which individuals have been held accountable for violating grave human rights and humanitarian law. The course will also explore preventive measures to prevent grave human rights violations. The course will commence with an introduction to important substantive aspects of transitional justice, *just post bellum*, and individual criminal prosecutions. The remainder of the course will focus on case studies exploring the roadmap prosecutors and activists adopted for prosecuting alleged criminals. And finally, how such mass atrocities may be avoided – respect, protect, and fulfill doctrine and how R2P may contribute towards this prevention.

Key issues that will be taught:

1. International legal framework relevant to justice and accountability
2. *Pinochet* case in the House of Lords
3. Hissène Habré trial in the Extraordinary African Chambers in the Senegalese courts
4. The Trial of Rios Montt in Guatemala
5. Trials at the International Crimes Tribunal in Bangladesh
6. Baby Doc Duvalier's trial in Haiti,
7. The Charles Taylor trial in the Special Court for Sierra Leone
8. Trials in the War Crimes Chamber of Bosnia and Herzegovina
9. Possible accountability for alleged crimes being committed in the Occupied Territory of Palestine
10. Contemporary efforts at addressing justice for mass atrocities:
 - a. Post-conflict Sri Lanka – a lack of commitment
 - b. Efforts for justice for alleged crimes committed in Syria
 - c. Efforts for justice for alleged crimes committed in South Sudan
11. Respect, protect and fulfil doctrine and R2P

Preliminary Reading List:

Bass, Gary J. "Jus Post Bellum." *Philosophy & Public Affairs*, vol. 32, no. 4, 2004, pp. 384–412. *JSTOR*, <http://www.jstor.org/stable/3557994>. Accessed 6 Sept. 2024.

"Customary International Law in Times of Fundamental Change: Grotian Moments" by Michael P. Scharf – chapter on The International Military Tribunal at Nuremberg

Prosecutor v Dusko Tadic (Challenge to Jurisdiction of the Tribunal)

R v Bow Street Metropolitan Stipendiary Magistrate, Ex Parte Pinochet (I and III)

Leila Nadya Sadat & S. Richard Carden, The New International Criminal Court: An Uneasy Revolution, 88 GEO. L.J. 381 (2000)

Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea - A/HRC/25/63

DAVID BOSCO, ROUGH JUSTICE: THE INTERNATIONAL CRIMINAL COURT IN A WORLD OF POWER POLITICS (Oxford Univ. Press 2014). Pg 1-8

Rome Statute of the International Criminal Court, articles 1-5; 11-17

UNSC Res. 1970 (26 Feb. 2011) (Libya referral)

UNSC Res. 1593 (31 Mar. 2005) (Darfur referral)

Kip Hale, "Mr. President, Here Is a Viable Non-Military Option for Syria," Huffington Post, posted on Sept. 3, 2013, available at http://www.huffingtonpost.com/kip-hale/mr-president-here-is-a-viable-non-military-option-for-syria_b_3845565.html

Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (*South Africa v. Israel*)