NEWSLETTER CRIMINOLOGYAND INTERNATIONAL CRIMES

Vol. 9, nr. 1 June 2014

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EDITORIAL

Responsibility to Protect (R2P), Transitional Justice (TJ) and the obligation to prevent Genocide, three interesting concepts to prevent mass-scale atrocities to occur, before anything has happened or as a response to already committed atrocities to prevent re-occurrence. In everyday practice, with quite a few conflict-affected and fragile states being in a continuous cycle of conflicts and atrocities, this distinction seems less important than sometimes thought. Responding to previously committed atrocities is part and parcel of preventing new atrocities to be committed.

Each 'principle' has its own UN special advisor or rapporteur, and all of them seem to do the same: try to find out how to best prevent atrocities to (re)occur. But all face the fact that there are many legal and practical obstacles between the dream of preventing atrocities to occur and the realisation of this dream in practice. Everyday reality is marked by atrocities – in South Sudan, in Central African Republic, in Colombia, in Mali, in Guatemala or wherever in the world.

Maybe it gets about time that these rapporteurs and advisors join forces. The international legal framework obliging the UN and individual countries to act in cases of (threats of) genocide or other atrocities is quite the same. On a practical level, a lot of experiences exist in TJ on how to deal with past atrocities and prevent new ones to be committed: vetting, accountability, truth seeking, inclusiveness and reconciliation. For example, if the special advisor on R2P wants to know what can be done on a practical level – she will write her report this year on the second pillar of R2P: 'capacity building' – I suspect that her findings will not be that different from what has been developed in this TJ discourse.

It may be interesting from an academic perspective to distinguish between the three 'principals', but on the ground, where effective action has to be taken, it is of no interest at all whether this happens as an R2P or a TJ measure or as a measure to prevent genocide.

Roelof Haveman

Since she started the newsletter in 2005, Alette Smeulers has led the editorial board of the newsletter with great enthusiasm. Recently, Alette decided to take a step back. We thank her a lot for all the great work she has done.

We welcome James Nyawo as a new member of the editorial board. During the past few years he has contributed already a lot to the newsletter, and again in this issue you will find a piece by him, on South Sudan.

AGENDA

4-7 July 2014 **Annual Meeting International Society of Political Psychology**, Rome.
Deadline submission: 15 January 2014.
http://www.ispp.org/meetings

6-8 July 2014 **The future of the past: representing the Holocaust Genocide and mass trauma in the 21st Century**, Melbourne.
Deadline: 31 October 2013
https://futureofthepast2014.wordpress.com/

17-19 July 2014: **IAGS Conference**, Winnipeg, Canada. Deadline: 3 February 2014
http://www.genocidescholars.org/Winnepeg2014/

10-14 August 2014 **World Criminology Congress**, Monterrey, Mexico.
Deadline: 1 April 2014.
http://www.criminology2014.com/

10-13 September 2014 **European Society of Criminology (ESC)** – annual conference, Prague, Czech Republic.
http://www.esc-eurocrim.org/conferences.shtml

6-7 November 2014 **Conference – towards a criminology of mass violence and corpse a European perspective.** Deadline: April 30th 2014.
http://www.corpsesofmassviolence.eu/calendar/c2014/workshops-2014/criminology-workshop/

If you organize a conference, workshop or symposium related to international crimes, please inform us
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and we will make a reference on our website and in the newsletter.

THE HAGUE NEWS XII

By: Barbora Hola

This contribution presents a brief summary of the recent developments at the international criminal courts and tribunals in the period from 20 December 2013 until 9 June.

1. ICTY

In February 2014 the Trial Chamber II dismissed Goran Hadzic's Rule 98bis motion for acquittal on eight specific charges contained within counts 2 through 9 of his indictment. Hadzic, former President of the self-proclaimed Republic of Serbian Krajina, was charged with crimes against humanity and war crimes committed in Croatia from June 1991 to December 1993. The judges dismissed Hadzic's submission on the scope of Rule 98bis arguing that motions for acquittals can be considered only with respect to entire counts of the indictment, not specific charges within individual counts. Since the Defence had not challenged any count in its entirety, there was no possibility of acquittal on an entire count. The Chamber nonetheless considered Hadzic's submissions with respect to specific incidents and his participation in joint criminal enterprise. It concluded that, even if it adopted the charges-based approach, the Prosecution had presented sufficient evidence for the eventual findings of guilt.

Similarly, on 15 April 2014, the Trial Chamber I rejected Ratko Mladic's submissions for acquittal under Rule 98bis in their entirety. The Trial Chamber dismissed all his arguments relating to two counts of genocide and particular charges relating to a number of individual crimes in various other counts of the indictment. The Chamber also dismissed the Defence's arguments relating to Mladic's command responsibility for the crimes committed by groups other than the VRS. Judges repeated interpretation of the Hadzic's Trial Chamber on the scope of Rule 98bis, confirming that it was appropriate to consider motions for acquittal only with regard to entire counts, rather than charges within a count. In relation to counts of genocide allegedly committed in various BiH municipalities, the Chamber stated that "there is evidence that acts of genocide took place" in the 15 BiH municipalities charged in the indictment, as well as in Srebrenica, and that the "evidence cited also provides information on the perpetrators' genocidal intent." The Trial Chamber decided that the Accused has a case to answer on all of the counts in the indictment and the defence case was scheduled to begin on 19 May 2014.

In the first half of 2014 the ICTY Appeals Chamber issued two judgments. First, in January a majority of Vlastimil Dordevic's convictions for crimes committed by Serbian forces against Kosovo Albanians during the conflict in Kosovo between 1 January and 20 June 1999 were confirmed on appeal and his sentence reduced from 27 years to 18 years imprisonment. At the time of the Kosovo conflict Dordevic was a former Assistant Minister of the Serbian Ministry of Internal Affairs and Chief of its Public Security Department. The appeals judges confirmed that Dordevic participated in a JCE aimed at changing the ethnic balance of Kosovo to ensure Serbian control over the province and implemented through committing war crimes and crimes against humanity. However, his conviction for aiding and abetting the crimes was reversed since, as judges argued, his criminal conduct is fully reflected in his conviction as participant in the JCE. The Appeals Chamber also reversed some trial chamber's findings related to underlying crimes, such as crime of deportation and a number of specific incidents. Conversely, the appeals chamber granted one Prosecution's ground of appeal regarding sexual assault and found Dordevic guilty of persecutions through sexual assault pursuant to the 3rd category of JCE.

Second, a week later the Appeals Chamber upheld the convictions for crimes committed by Serbian forces in Kosovo between March and May 1999 of other four senior Serbian Officials: Nikola Sainovic, former Deputy Prime Minister of the FRY, Sreten Lukic, former head of the Serbian Ministry of the Interior staff in Priština, Vladimir Lazarevic, Commander of the Yugoslav Army's Priština Corps, and Nebojsa Pavkovic, former

Commander of the 3rd Army of the Army of Yugoslavia. The appeals judges, however, partially granted the defendants' appeals relating to their convictions and sentences and reduced sentences of Sainovic from 22 years to 18, of Lukic from 22 to 20 years, and of Lazarevic from 15 to 14 years. Pavkovic's 22 year sentence was affirmed. The Appeals Chamber limited the scope of convictions of all the appellants and vacated convictions with respect to several municipalities, towns and incidents. Furthermore, the Appeals Chamber granted in part the Prosecution appeal regarding sexual assault crimes. Regarding the appeals from all parties concerning sentencing, the Appeals Chamber agreed with arguments of the Prosecution, Sainovic, and Lukic regarding the failure to individualise the sentences, as well as Lukic's arguments regarding the assessment of his surrender as a mitigating circumstance. Overall, the Chamber stated that "in light of the circumstances of this case, as well as the gravity of the crimes for which the Appellants are responsible, and taking into account the principle of proportionality, a limited reduction in the sentences imposed by the Trial Chamber is warranted in relation to Mr Sainovic, Mr Lazarevic, and Mr Lukic". With respect to the ongoing "specific requirement" discussion in relation to aiding and abetting (see http://humanrightsdoctorate.blogspot.com/2014/01/authoritative-legal-pronouncements-from.html or http://www.ejiltalk.org/the-self-fragmentation-of-the-icty-appeals-chamber/) , the Appeals Chamber presented its conclusions as to Lazarević's arguments that the Trial Chamber had erred in convicting him for aiding and abetting the crimes of deportation and inhumane acts (forcible transfer), since his alleged acts and omissions were not specifically directed to assist these crimes. In contrast to the previous ruling of the Appeals Chamber in Perisic, judges concluded, Judge Tuzmukhamedov dissenting, that "specific direction" is not an element of the aiding and abetting mode of liability. This ruling of the Appeals Chamber prompted the Prosecution to apply for 'reconsideration' of the decision to acquit Momcilo Perisic rendered on appeal in February 2013. The Prosecution motion for reconsideration was largely criticised and ultimately rejected in March by the Appeals Chamber arguing that it lacks any legal basis as pointed out by many commentators. For an insightful commentary on these turbulent developments at the ICTY see e.g. Sergey Vasiliev's piece at http://cicj.org/?p=1810 .

2. ICTR

In the reported period the ICTR Appeals Chamber delivered its judgement in the Military II case and acquitted two high ranking defendants: Augustin Ndindiliyimana, former Chief of Staff of the Rwandan gendarmerie, and François-Xavier Nzuwonemeye, former commander of the Reconnaissance Battalion. Among others, the Appeals Chamber concluded that the trial judges erred in finding that they had effective control over gendarmes committing crimes during the 1994 genocide. Given the 11 year lapse between Ndindiliyimana's arrest and the appeals chamber acquittal, some commentators reiterated discontent about a lack of compensation for defendants acquitted at the ICTs. Their co-defendant Innocent Sagahutu, former commander of Squadron A within the Reconnaissance Battalion, saw some of his conviction reversed on appeal and his 20-year sentence reduced to 15 years. The Appeals Chamber affirmed Sagahutu's criminal responsibility for aiding and abetting and as a superior in relation to the killing of at least two Belgian UNAMIR peacekeepers on 7 April 1994, but reversed the Trial Chamber's finding that he had ordered the killings.

3. ICC

Democratic Republic of Congo

From 10 till 14 February 2014 the confirmation of charges hearing in the case of Bosco Ntaganda was held before Pre-Trial Chamber II. On 9 June judges unanimously confirmed 18 charges of war crimes and crimes against humanity against Ntaganda and committed his case for trial.

On 7 March 2014 the Trial Chamber II convicted Germain Katanga by majority, judge Van den Wyngaert dissenting, of war crimes and crimes against humanity committed during the attack on the village of Bogoro in Ituri on 24 February 2003. The Chamber changed the characterisation of the mode of liability against Katanga – who had initially been charged as principal perpetrator – and convicted him as accessory for contributing "[i]n any other way […] to the commission […] of […] a crime by a group of persons acting with a common purpose". Germain Katanga was thus found complicit to the crimes of murder constituting a crime against humanity and a war crime and the crimes of directing an attack against the civilian population as such or against individual civilians not taking direct part in hostilities, destroying the enemy's property and pillaging constituting war crimes. Katanga was acquitted of all the other charges and the Chamber decided that he should continue to be detained pending sentencing. On 23 May 2014 the Trial Chamber II, by majority, pronounced a sentence of 12 years. In her dissenting opinion, Judge Van den Wyngaert challenged the re-characterisation of Katanga's mode of liability and argued that the change rendered the trial unfair and breached the rights of

the Defence, as it did not receive proper notification of the new charges and was not afforded a reasonable opportunity to conduct investigations in order to mount a defence against them. Katanga was initially tried with Chui, who was acquitted on trial in 2012. Both defence and prosecutor have appealed the judgment.

On 19-20 May the Appeals Chamber held a hearing in the Lubanga case. Next to hearing issues raised by the parties regarding the appeal, the Chamber also heard the testimony of two additional witnesses, witnesses D-0040 and D-0041, as requested by the Defence.

Darfur, Sudan

In view of logistic difficulties Trial Chamber IV decided in April 2014 to vacate the date for the opening of the trial of Abdallah Banda Abakaer Nourain, the only remaining accused in the Haskanita camp case, originally scheduled to start on 5 May 2014. The judges will decide in due course on how to proceed further.

Republic of Kenya

The trial commencement date was also vacated in the case against Uhuru Kenyatta, whose trial was set to start on 5 February 2014. On 31 March 2014, Trial Chamber V(b) set the trial to begin on 7 October 2014. The purpose of the adjournment is to provide the Government of Kenya with a further opportunity to provide certain records, which the Prosecution had previously requested on the basis that the records are relevant to a central allegation to the case. The Chamber rejected the Defence request to terminate the proceedings in this case as well as the Prosecution request to suspend the proceedings indefinitely.

The evidence-related difficulties also continue to hamper the trial of Kenyan Deputy President William Ruto and journalist Joshua Sang. On 14 May the Prosecutor announced that she decided to withdraw a witness considered to be one of the key witnesses in the trial. Following the Prosecutor's decision, the trial was suspended until 16 June.

Central African Republic

In March 2014 Narcisse Arido, the last of the suspects in the case concerning offenses against the administration of justice allegedly committed during the trial of Bemba (as reported in the last issue) made an initial appearance at the ICC.

Côte d'Ivoire

On 27 March 2014, Charles Blé Goudé, the third ICC suspect in the situation in Côte d'Ivoire next to Laurent Gbagbo and his wife Simone, appeared at the ICC after being transferred from Côte d'Ivoire. The date of the beginning of the confirmation of charges hearing was set to 18 August 2014.

Ukraine

In April Ukraine lodged a declaration with the ICC accepting its jurisdiction over alleged crimes committed in relation to violence taking part at its territory between 21 November 2013 and 22 February 2014. The decision to open a formal investigation in Ukraine is in the discretion of the Prosecutor, who opened a preliminary examination following the Ukrainian declaration.

Iraq

On 13 May 2014 the Prosecutor also announced that she has re-opened the preliminary examination of the situation in Iraq relating to the alleged systematic abuse of detainees by British soldiers from 2003 to 2008. In 2006 Moreno Ocampo concluded that he will not seek authorization to open investigation in this situation and argued that the situation does not pass the gravity threshold under the ICC Statute. In January 2014 the ICC received new information from the European Center for Constitutional and Human Rights and the Public Interest Lawyers alleging a higher number of cases of ill-treatment of detainees and providing further details on the factual circumstances and the geographical and temporal scope of the alleged crimes.

4. Special Tribunal for Lebanon - STL

On 16 January 2014, the trial in the Ayyash et al. case started. In February the Trial Chamber ordered to join the case of Hassan Habib Merhi (indicted in October last year) with Ayyash et al. In this connection the Trial Chamber adjourned the trial sessions in order to allow Defence of Merhi sufficient time to prepare for trial. The trial is to resume on 18 June 2014. All the accused are tried in absentia.

In April 2014 the STL made public its decision to charge two journalists and two media organizations with contempt. The charges relate to the broadcasts of information allegedly disclosing confidential witnesses. It is striking that for the first time in the history of international criminal law, corporations are actually alleged to be criminally responsible and charged with contempt.

SHORT ARTICLES

Understanding collective violence: What are the advantages of the macro-micro integrated theoretical model over the rational choice model?

By Olaoluwa Olusanya[1]

While victims of genocide, crimes against humanity and other complex forms of collective violence are necessarily socially located and regarded as members of a targeted group, the same cannot be said for the perpetrators of these crimes. In contrast to victims, perpetrators of collective violence have been depicted as having no significant ties to a national, ethnic, religious or racial group. Under the influence of the concept of methodological individualism and rational choice, many within the international criminal law community have come to simplistically regard perpetrators of collective violence as a collection of self-interested actors who act rationally in order to maximize their own self-interests. For instance, in his opening speech at the Nuremberg trials, Justice Jackson, the chief U.S. prosecutor at the Nuremberg trials made the following relevant statement: 'under the law of all civilized peoples [it has been] a crime for one man with his bare knuckles to assault another. How did it come that multiplying this crime by a million, and adding fire arms to bare knuckles, makes it a legally innocent act?' (quoted in Andreas L. Paulus, 'Peace Through Justice? The Future of the Crime of Aggression in a Time of Crisis'. Wayne Law Review 50 (2004), at 4).

The above statement appears to suggest that collective violence is simply the aggregate of many individuals committing isolated acts of violence. However, we know that this is not the case: genocide is a collective project! This leads us to the following question: In view of the strong evidence for a negative relationship between group size and collective action, why would tens of thousands of rational, self-interested individuals work together towards a common criminal purpose? In this regard it should be pointed out that the empirical evidence demonstrates that 'rational, self-interested individuals will not act to achieve their common or group interests' (see M Olson, The Logic of Collective Action, (Cambridge: Harvard Univ. Press, 1965), at 2). From the perspective of rational choice theory one would expect that rational individuals will free ride on the contributions of others in the genocidal enterprise. In economics, the free rider problem refers to a situation where an individual benefits from services (for example occupying land belonging to Tutsis) without paying for the cost relating to accruing benefit (for example non-participation in the violence against the Tutsis).

So if we accept that rational, self-interested individuals will not act to achieve their common or group interests, how then can we explain the collective nature of the system criminality of mass violence? The macro-micro integrated theoretical model offers an empirically supported alternative explanation. However before discussing this alternative explanation, I shall first provide a brief overview of the MMITM. Essentially the MMITM is a general theory of collective violence. It was developed to explain large scale and complex criminal activities involving heterogeneous social networks characterized by complex webs of relationships between various micro, meso and macro-level actors, however loosely or tightly organized for the benefit of those participating in these criminal activities at the expense of others (for example out-group members). In addition, several features distinguish the MMITM from other theoretical approaches (such as general strain theory, a general theory of crime and rational choice theory). For instance, in contrast to traditional criminological theories, the MMITM recognizes the fact that emotions are essential for flexible and rational decision making and as a result views emotions as complex, dynamic, systems made up of several separate components with different functions: physiological arousal, affect or subjective feelings, cognitive processes and action tendencies. Furthermore, the MMITM postulates that large scale and complex criminal activities undertaken by a multitude of people will be unsuccessful if they are undertaken without emotions.

Returning to the question pertaining to the collective nature of the system criminality of mass violence, in contrast to rational choice theory and its focus on the aggregated effects of individual self-interests, the MMITM posits that social identity is the 'social glue' that binds participants in collective violence together. The theory views social identity as a function of the emotional significance placed on a particular group member-ship and emphasizes the critical role played by emotions in this process. In addition, the MMITM argues that the salience of group membership has a transformative effect on personal self-interests. In other words, it shifts social identity from the self ('my own best interests') to the collective ('our own best interests'), thereby creating a cooperative orientation within the group.

[1] Aberystwyth University, Honorary Visiting Fellow, Anglia Ruskin University, Veterans and Families Institute, Author of Emotions, decision-making and mass atrocities: Through the lens of the macro-micro integrated theoretical model. Farnham, Surrey, UK, Ashgate May 2014. ooo@aber.ac.uk

What implications does the MMITM have for the determination of individual agency and responsibility for collective violence? In this regard, it should be pointed out that the MMITM provides a more nuanced account of agency and responsibility than existing criminological theories. In contrast to criminological theories that seek to homogenize participants in collective violence, for example rational choice theory and consistent with the literature on collective violence, the MMITM postulates that these perpetrators (that is, reluctant executioners, true believers and psychopaths) especially at the outset represent a highly heterogeneous group with different beliefs, emotions and attitudes towards members of a targeted group. In essence: 'the good the bad and the ugly'. These three disparate sub-groups, despite their differences, at some point in the course of destructive events, appear to work together to achieve a common criminal objective. From this perspective, it becomes important to recognize that collective violence involves associations between individuals following different pathways and in addition to appreciate the fact that participants in collective violence are motivated by a variety of different incentives (for example positive stimuli such as monetary incentives, opportunities for rape and plunder; or negative stimuli such as group pressures).

Life after Conviction at International Criminal Tribunals

By Barbora Hola & Joris van Wijk

The functioning of the international criminal courts and tribunals has consistently generated a lot of attention. Commentators have, however, almost entirely neglected the question what happens to an individual convicted by an international criminal tribunal after the guilty verdict is pronounced. The empirical reality of the post-conviction phase at the ICTY, ICTR and SCSL is not exactly an example of a well-functioning system of criminal justice: it is not transparent, conceptually underdeveloped and leads to inequalities in the treatment of international prisoners. International prisoners are incarcerated in various countries around Europe and Africa and it is not clear what considerations, except for political factors, are taken into account when the tribunals decide on the enforcement country. The ICTY prisoners are scattered across 13 European countries and no country holds more than six ICTY convicts. The vast majority of the ICTR prisoners are sent to two countries: Mali and Benin and all the SCSL convicts, except for Charles Taylor who was recently transferred to the UK, are serving their imprisonment terms in Rwanda.

International prisoners are held in different prisons across and within these countries and subjected to largely differing prison conditions. Within Europe they are integrated into domestic inmates' populations and typically serve their time in units with domestic murderers, child molesters, or drug traffickers. They follow similar daily routines and are offered existing rehabilitation programmes. Due to language problems, however, the possibility to partake often remains only theoretical. One might also question whether rehabilitating génocidaires and war criminals in the same way as ordinary delinquents makes much sense. Despite being usually convicted of very serious crimes, the international criminals committed their crimes under very specific (ideological, social, individual) circumstances and arguably this should be duly reflected in designing their rehabilitation programmes. In Africa, international prisoners serve their time in special wings/prisons built or adjusted exclusively for international convicts in order to conform to international prison standards. This, however, creates huge discrepancies in the treatment of international prisoners and domestic prisoners not so "lucky" to be convicted by an international court. Take an example of the Mpanga prison in Rwanda where hundreds (up to six thousand) of génocidaires convicted by Rwandese domestic courts are imprisoned with almost no privacy, sleeping in common dormitories and sharing social facilities. Within the same complex a special wing for international convicts was built, currently exclusively hosting eight SCSL convicts, where each convict has his own cell with attached facilities, they have access to computers and a prison gym and have their own chef who prepares their daily meals.

As of July 2013, almost half of all the international prisoners (55 persons, 45% of all convicts) had already been released: the vast majority was released early generally after serving 2/3 of their sentence (46 individuals, 84% of the released). The tribunals' Presidents consider these individuals rehabilitated from international crimes since they behaved well, attended work activities or language courses in the respective prisons and some of them eventually expressed remorse for their crimes. On the face of it, this high success rate in rehabilitating international prisoners can be considered a demonstration of a successful correctional policy. In how many national jurisdictions does it happen that almost all offenders of serious (conventional) crimes qualify for early release? At the same time, exactly this high 'success rate' begs a number of questions. Are offenders of international crimes really so well behaved and really so easy to rehabilitate as these data suggest? If so, how could that be explained? Perhaps by the nature of the crimes they committed or the nature of their personalities? Or could it be explained by completely other factors? The President is highly

dependent on information provided by the authorities of the enforcing states. Could it be that these enforcement states are somehow more lenient in their assessment of international prisoners' behaviour and levels of rehabilitation compared to serious offenders who are to reintegrate in their own societies?

After their release, the international prisoners simply disappear from the radar of the international community (unless they enter a witness protection programme and cooperate with the tribunals) and there is no supervision of their conduct or any attention paid to their activities. Some go back to their countries of origin and return to political posts they held prior to or during the periods when crimes were committed. Some return as celebrated war time heroes, write a bestselling book justifying their crimes and become public figures frequenting TV shows. Some just go back to their old house, cannot find a job, feel rejected by a society and fight to make a living. Some simply cannot go anywhere since no country is willing to accept them and get stuck in the UN safe house together with those acquitted by the same international criminal tribunal who ended up in the same "limbo" situation.

It might be questioned whether this picture indeed represents what we as the international community envisage by "doing justice". In any case, the inequalities and a lack of principled approach towards the regulation and enforcement of international sentences have clear repercussions for the tribunals' legacy. In addition, the ICC adopted a largely similar approach to the enforcement of its sentences and despite being a permanent international criminal court the post-conviction phase at the ICC largely resembles the system at the international criminal tribunals. This brief overview raised many important and interesting questions and might serve as a starting point for future discussions on the post-conviction stage of the international criminal justice system.

For more detailed overview see http://jicj.oxfordjournals.org/content/12/1/109.abstract.

Dutch extraditions to Kigali underway
By Thijs Bouwknegt

Ukuri, Ubutabera, Ubwiyunge. These almost magical words [truth, justice and reconciliation] have resonated throughout the hills of Rwanda in the past two decades. Although they were advocated in harmony, justice has set the tone. No genocide in world history has met with so much legal reckoning as the 1994 extermination of Rwanda's Tutsi. The numbers are mind-boggling. Over 12.000 judicial forums dealt with more than one million suspected perpetrators.

Justice was rendered at the speed of light, crossing over a dozen borders. From its first trials in December 1996, Rwanda's national courts had nearly tried 10.000 génocidaires in a decade. It is in stark contrast to the 74 Rwandans and one Belgian who were put before judges at the UN's International Criminal Tribunal for Rwanda (UN/ICTR) in Arusha over the course of 18 years. Alongside 'classical' criminal trials, Rwanda reinvented an old practice: Inkiko Gacaca. Blending truth finding and prosecutions, these grassroots tribunals managed to try 1,003,227 people in 1,958,634 cases between March 2005 and June 2012.

Alongside national trials, international justice and Gacaca, a score of Rwandans ended up in the dock in European and North American countries, under the principle of universal jurisdiction. The historic conviction of former intelligence chief Pascal Simbikangwa in March in Paris is the latest example thereof. Unlike France – which argues that the crime of genocide did not exist in Rwandan law in 1994 - some countries chose to send their genocide files back to Rwanda, to be dealt with by a specialised international crimes chamber in Kigali. It currently already deals with the two ICTR monitored trials versus Pastor Jean Uwinkindi and ex-militia leader Bernard Munyagishari, alongside political scientist Leon Mugesera and former businessman Charles Bandora who had been extradited from Canada and Norway.

Many Rwandans in the diaspora are likely to follow, including those in The Netherlands. The debutant may be Jean Claude Iyamuremye, an alleged former Interahamwe member who was arrested by Dutch police in July 2013 in Voorburg on charges of genocide, crimes against humanity and war crimes. Rwanda requested his extradition in September and on 20 December, the District Court in The Hague advised the Justice Minister that there were no legal obstacles to extradite the Rwandan immigrant. If the Supreme Court rejects Iyamuremye's appeal – who argues that as a political opponent he cannot expect a fair trial – the gate is open. Arrested in January, Jean Baptiste Mugimba, the purported ex-CDR Secretary General, prepares for his extradition hearings in late June. He may be next.

Others are in line. On 25 March, The Hague District Court upheld the decision by the Dutch Immigration and Naturalisation Service (IND) to repeal a Rwandan's residence permit and impose an entry ban for ten years. The man is believed to have taken part in preparations and performance of

genocidal acts. Media reports claim that the IND is looking into similar files of at least 14 other Rwandan immigrants. They possibly fall within the meaning of article 1F of the Refugee Convention, which excludes, inter alia, persons suspected of crimes against peace, war crimes or crimes against humanity.

The Netherlands currently has one of the broadest laws on International Crimes (Wet Internationale Misdrijven) in the world. There is a far-reaching universal jurisdiction and the Netherlands Public Prosecution Service (Openbaar Ministerie, OM) works under the principle of complementarity. However, the departure point for prosecutions is that, if possible, the investigation and prosecution should take place in the State where the crimes were committed. This is where the evidence is, where lawyers speak the language and know the culture and backgrounds of the events. Besides, most victims and relatives reside in the countries where the crimes were allegedly committed.

The Dutch shift to sending genocide files to Rwanda follows years of Dutch investments in the Rwandan legal system but also by decisions in Scandinavian countries, the ICTR and the European Court for Human Rights, which ruled that extraditions would not lead to human rights violations. In the case versus Iyamuremye, the Dutch judges followed their foreign colleagues. Careful in their decision and taking note of monitoring reports in the Uwinkindi case that cites several irregularities, they ruled that the right of a fair trial is not likely to be violated. But the Chamber did advise the minister to have Iyamuremye's trial monitored and to press for his right to be represented by an international lawyer.

Iyamuremye, who has argued that his political beliefs and activities are the reason for his prosecution in Rwanda, has appealed the decision. But also, in a separate but tactical move, he filed a criminal complaint – in The Netherlands and in Rwanda – against Rwanda's President Paul Kagame and several other officials, on charges of international crimes. While he was in refuge in the Democratic Republic of Congo in May 1997, Iyamuremye claims that he was a witness of a massacre of Rwandan refugees by Rwandan soldiers at Port Onatra in Mbandaka. He furthermore alleges that his brother and father disappeared in Kigali between 1996 and 1997.

If the Supreme Court upholds Iyamuremye's extradition, there may possibly be no more prosecutions of Rwandans in The Netherlands, thereby closing a long chapter. For years, the Dutch national police have been conducting investigations in Rwanda. It led to the prosecution and convictions of Yvonne Basebya (a.k.a Ntacyobatabara) in 2013 – for incitement to commit genocide – and of Joseph Mpambara in 2011, for war crimes. Other suspects have been transferred to the ICTR, including singer Simon Bikindi and former army officer Ephrem Setako. The ICTR referred the case of Michel Bagaragaza to The Netherlands in 2007, but at that time the Dutch International Crimes Law did not yet allow for prosecutions of genocide crimes committed elsewhere before 2003. Bagaragaza was therefore transferred back to Arusha in 2008. How many Rwandans and who will be sent back to Rwanda from the Netherlands remains unclear

Weighing options for legal accountability for international crimes in South Sudan
By James Nyawo

Since the outbreak of civil war in South Sudan on 15 December 2014 there have been reports and evidence of war crimes, crimes against humanity and genocidal acts committed by both sides to the conflict. The allegations include mass killings around Juba, gender crimes, hate speech used to incite ethnic violence, extra-judicial killings, attacks on UN Peacekeepers bases and the use of cluster bombs. Churches, mosques and hospitals were also attacked and looted. It is clear that the warring parties and their supporters which include foreign army, the Ugandan People's Defence Army (UPDF), Darfuri rebels, the Justice Equality Movement (JEM) and the feared Nuer militia known as the White Army seem to be undeterred and are acting with impunity.

Perhaps this is because those responding to the conflict have failed to demonstrate concrete commitment towards legal accountability for the international crimes being committed in South Sudan. The UN Security Council, the AU Peace and Security Council and Inter-Governmental Authority on Development (IGAD) have issued warnings that those responsible will be personally held accountable. However, they did not articulate how and the appropriate mechanism that would be used to hold the perpetrators legally accountable.

The situation seems to be that the international community is playing a wait and see game for one party to emerge victorious before coming up with a clear plan to pursue international justice. As it stands it seems the situation is complicated as it might be difficult to indict both leaders: President Salva Kiir and the rebel leader Riek Machar. At least the consent of the victorious group would be crucial in setting up the appropriate mechanism for legal accountability.

The ICC does not have jurisdiction over South Sudan – it has not ratified the Rome Statute. In fact President Kiir once described the ICC as being there to 'humiliate Africans'. One way that the ICC can have jurisdiction in South Sudan is through a UNSC referral in accordance with Article 13 of the Rome Statute. This was the case when other non-state parties, Sudan and Libya, were referred to the ICC in 2005 and 2011 respectively.

However, the UNSC has passed two resolutions S/Res/2013 (2013) and S/Res/2155 (2014) on South Sudan without referring it to the ICC. Resolution 2155 outlines four key tasks for the peacekeeping force that is: protection of civilians; monitoring and investigating human rights violations; creating enabling conditions for the delivery of humanitarian assistance; and supporting the implementation of the cessation of hostilities agreement. Still it made no reference to the ICC.

It seems that previous complaints mainly from the AU, that the UNSC was inconsistent in its referral of situations to the ICC played a role in stopping the Security Council from referring the situation in South Sudan. This of course does not completely rule out the possibility for such a referral in the future, especially if the AU changes its stance or the victorious party would decide to invite the UNSC referral. The UNSC's decision not to refer situations in Syria to the ICC appears to have dented its legitimacy as a genuine actor in international criminal justice.

Instead of the ICC's involvement, the attention has been on establishing a hybrid court. The South Sudan Law Society (SSLS) appear to have initiated the idea for the establishment of a hybrid court in January 2014. The idea was taken to the US Global Criminal Justice and Bureau of Democracy, Human Rights and Labour to consider the establishment of an independent hybrid or mixed Court. On 13 May 2014 UN Secretary General Ban Ki moon, added his voice in support of a hybrid court. He suggested that 'a special or hybrid tribunal with international involvement should be considered.'

The AU Commission of Inquiry on South Sudan whose mandate includes coming up with suggestions on 'accountability mechanisms for gross violations of human rights and other egregious abuses to ensure that those responsible for such violations are held to account', also hinted that it would recommend the establishment of a hybrid court. It would be interesting to see how the European Union (EU), which is funding the Commission of Inquiry's activities, would view such recommendations. This is because the EU has made supporting the role of the ICC part of its key foreign policy issue. Will it support an initiative that seems to sideline the role of the ICC?

The current thinking towards legal accountability reflects a clear departure from the views that were expressed by the former South African President Thabo Mbeki and a prominent African Scholar Professor Mahmood Mamdani in a New York Times article/editorial. The two expressed reservations on the usefulness of prosecution or justice in the context of governance crisis.

The record of the AU regarding hybrid courts is not yet impressive. In 2009, Thabo Mbeki's led AU Union High Penal for Darfur recommended the establishment of a hybrid court to deliver justice for the victims of international crimes committed in Darfur. The proposal was rejected by Sudan citing that such arrangement would jeopardise its sovereignty. Therefore, one wonders how what has failed in Sudan would be possible in South Sudan? It might be hard to accept but for such a hybrid court to be effective it requires the UNSC's full political especially in ensuring that states would have obligations to arrest and surrender fugitives who could flee into neighbouring states.

In 2005 during the UNSC negotiations leading to the referral of Sudan to the ICC, the USA made a proposal for the establishment of a hybrid court – Sudan Tribunal. The Tribunal was to be created and mandated by a UNSC resolution and administered by the UN in conjunction with the AU. It was argued that such a Tribunal would allow the AU to continue its leadership role and contribute to the development of AU's overall judicial capacity on the continent. Perhaps this proposal could be revisited in light of South Sudan.

Alternatively, and in accordance with Article 87 of the Protocol Additional to the Geneva Conventions 1977, which requires military commanders to prevent and, where necessary, to suppress and report to competent authorities breaches of Conventions and the protocol, President Kiir and Dr Machar might need to be pressurised to demonstrate that they are supressing the violations within their ranks, as a failure to do so would mean they would be held accountable under the principle of command responsibility, either at a South Sudan Tribunal or the ICC.

SELECTED NEW PUBLICATIONS
Compiled by: Alette Smeulers

BOOKS

Bachman, K. & T. Sparrow-Botero, P. Lamberts (2013) When justice meets politics: independence and autonomy of ad hoc international criminal tribunals, Peter Lang.

Are the ICTY and the ICTR independent actors, who mete out fair and un-biased justice, or instruments of a new world order, which execute the will of the most powerful states? By applying process tracing and frame analysis, this book reveals the interplay between the power politics of states, the agenda setting power of international criminal tribunals and the scope of the autonomy which the tribunals, the prosecutors and judges enjoy – and how they make use of it. The book details the mechanisms that govern judicial behaviour at the ICTY and the ICTR as well as the influence of the media, non-governmental organisations, governments and international organisations on judges and prosecutors. Last but not least, it shows why and how initially controversial frames like those about the «genocide in Srebrenica» and «the Rwandan genocide» became almost undisputed notions which are hardly challenged by anyone today.

Bosco, D. (2014). Rough justice: the international criminal court in a world of power politics, Oxford University Press.

Ten years ago, in the wake of massive crimes in central Africa and the Balkans, the first permanent international criminal court was established in The Hague despite resistance from some of the world's most powerful states. In the past decade, the court has grown from a few staff in an empty building to a bustling institution with more than a thousand lawyers, investigators, and administrators from around the world. Despite its growth and the backing of more than 120 nations, the ICC is still struggling to assert itself in often turbulent political crises.

The ICC is generally autonomous in its ability to select cases and investigate crimes, but it is ultimately dependent on sovereign states, and particularly on the world's leading powers. These states can provide the diplomatic, economic and military clout the court often needs to get cooperation-and to arrest suspects. But states don't expend precious political capital lightly, and the court has often struggled to get the help it needs. When their interests are most affected, moreover, powerful states usually want the court to keep its distance. Directly and indirectly, they make their preferences known in The Hague.

Rough Justice grapples with the court's basic dilemma: designed to be apolitical, it requires the support of politicians who pursue national interests and answer to domestic audiences. Through a sharp analysis of the dynamics at work behind the scenes, Bosco assesses the ways in which powerful states have shaped the court's effort to transform the vision of international justice into reality. This will be the definitive account of the Court and its uneven progress toward advancing accountability around the world.

Checkel, J.T. (ed) (2013). Transnational dynamics of civil war, Cambridge University Press.

Civil wars are the dominant form of violence in the contemporary international system, yet they are anything but local affairs. This book explores the border-crossing features of such wars by bringing together insights from international relations theory, sociology, and transnational politics with a rich comparative-quantitative literature. It highlights the causal mechanisms – framing, resource mobilization, socialization, among others – that link the international and transnational to the local, emphasizing the methods required to measure them. Contributors examine specific mechanisms leading to particular outcomes in civil conflicts ranging from Chechnya, to Afghanistan, to Sudan, to Turkey. Transnational Dynamics of Civil War thus provides a significant contribution to debates motivating the broader move to mechanism-based forms of explanation, and will engage students and researchers of international relations, comparative politics, and conflict processes.

Clapham, A. & P. Gaeta (2014). The Oxford Handbook of International Law in armed conflict, Oxford: Oxford University Press.

Which human rights violations or war crimes allegations result in exclusion from the refugee regime? What human rights protections apply to someone declared an unlawful combatant? Which human rights obligations apply to the actions of armed forces acting abroad? Over the past ten years the content and application of international law in armed conflict has changed dramatically. An authoritative and comprehensive study of the role of international law in armed conflicts, this Oxford Handbook engages in a broad analysis of international humanitarian law, human rights law, refugee law, international criminal law, environmental law, and the law on the use of force. With an international group of expert contributors,

this book has a global, multi-disciplinary perspective on the place of law in war.

The Handbook consists of 35 Chapters in seven parts. Part A provides the historical background and sets out some of the contemporary challenges. Part B considers the relevant sources of international law. Part C describes the different legal regimes: land warfare, air war fare, maritime warfare, the law of occupation, the law applicable to peace operations, and the law of neutrality. Part D introduces crucial concepts in international humanitarian law: weapons and the concepts of superfluous injury and unnecessary suffering, the principle of distinction, proportionality, genocide and crimes against humanity, grave breaches and war crimes, and internal armed conflict. Part E looks at fundamental rights: the right to life, the prohibition on torture, the right to fair trial, economic, social and cultural rights, the protection of the environment, the protection of cultural property, the human rights of the members of the armed forces, and the protection of children. Part F covers important issues such as: the use of force, terrorism, unlawful combatants, the application of human rights in times of armed conflict, refugee law, and the issues of gender in times of armed conflict. Part G deals with accountability issues including those related to private security companies and armed groups, as well as questions of state responsibility brought before national courts and issues related to transitional justice.

Grünfeld, F. & W.N. Vermeulen (2014). Failure to prevent gross human rights violations in Darfur – warning to and responses by international decision makers, Martinus Nijhoff/Brill.

The book looks at the role of states and international organisations in their attempts to prevent the genocide in Darfur (2003-2005); from early warning to limited action in the field of humanitarian assistance, mediation, sanctions and peace-keeping. The book uses several theories to explain how decision-making led to the (absence) of international responses.

Hinton, A.L., T. La Pointe, D. Irvin-Erickson (2014). Hidden genocide: power, knowledge, memory, Rutgers university Press.

Why are some genocides prominently remembered while others are ignored, hidden, or denied? Consider the Turkish campaign denying the Armenian genocide, followed by the Armenian movement to recognize the violence. Similar movements are building to acknowledge other genocides that have long remained out of sight in the media, such as those against the Circassians, Greeks, Assyrians, the indigenous peoples in the Americas and Australia, and the violence that was the precursor to and the aftermath of the Holocaust. The contributors to this collection look at these cases and others from a variety of perspectives. These essays cover the extent to which our biases, our ways of knowing, our patterns of definition, our assumptions about truth, and our processes of remembering and forgetting as well as the characteristics of generational transmission, the structures of power and state ideology, and diaspora have played a role in hiding some events and not others. Noteworthy among the collection's coverage is whether the trade in African slaves was a form of genocide and a discussion not only of Hutus brutalizing Tutsi victims in Rwanda, but of the execution of moderate Hutus as well.

Jalloh, C.C. (2014). The Sierra Leone Special Court and its legacy: the impact for Africa and international criminal law, Cambridge University Press.

The SCSL is the third modern international criminal tribunal supported by the United Nations and the first to be situated where the crimes were committed. This timely, important, and comprehensive book is the first to critically assess the impact and legacy of the SCSL for Africa and international criminal law. The collection, containing 37 original chapters from leading scholars and respected practitioners with inside knowledge of the tribunal, analyses cutting-edge and controversial issues with significant implications for international criminal law and transitional justice. These include joint criminal enterprise; the novel crime against humanity of forced marriage; the war crime prohibiting enlisting and using child soldiers in the first court to prosecute that offense; the prosecution of the war crime of attacks against United Nations peacekeepers in the first tribunal where this offense was prosecuted; the tension between truth commissions and criminal trials in the first country to simultaneously have the two; and the questions of whether it is permissible under international law for states to unilaterally confer blanket amnesties to local perpetrators of universally condemned international crimes, whether the immunities enjoyed by an incumbent head of a third state bars his prosecution before an ad hoc treaty-based international criminal court, and whether such courts may be funded by donations from states without compromising judicial independence.

Farrell, M. (2013) The prohibition of torture in exceptional circumstances, Cambridge University Press.

Can torture be justified in exceptional circumstances? In this timely work, Michelle Farrell asks how and why this question has become such a central debate. She argues that the ticking bomb scenario is a fiction which blinds us to the reality of torture and investigates what it is that that scenario fails to represent. Farrell aims to reframe how we think about torture, and critically reflects on the historical and contemporary approaches to its use in exceptional situations. She demonstrates how torture, from its use in Algeria to the 'War on Terror', has been misrepresented, and appraises the legalist, extra-legalist and absolutist assessments of exception to the torture prohibition. Employing Giorgio Agamben's theory of the state of exception as a foil, Farrell deconstructs these approaches and goes on to propose her own theory of exceptional torture.

De Lint, W., M. Marmo & N. Chazal (2014). Criminal justice in international society, Routledge.

This book adopts a critical criminological approach to analyse the production, representation and role of crime in the emerging international order. It analyses the role of power and its influence on the dynamics of criminalization at an international level, facilitating an examination of the geopolitics of international criminal justice. Such an approach to crime is well-developed in domestic criminology; however, this critical approach is yet to be used to explore the relationship between power, crime and justice in an international setting. This book brings together contrasting opinions on how courts, prosecutors, judges, NGOs, and other bodies act to reflexively produce the social reality of international justice. In doing this, it bridges the gaps between the fields of sociology, criminology, international relations, political science, and international law to explore the problems and prospects of international criminal justice and illustrate the role of crime and criminalization in a complex, evolving, and contested international society.

Kaitesi, Usta (2014). Genocidal gender and sexual violence – the legacy of the ICTR, Rwanda's ordinary courts and gacaca courts, Antwerp: Intersentia.

Genocidal Gender and Sexual Violence tackles an important and highly topical issue. The author examines how the experiences of victims of genocidal gender and sexual violence have been addressed on a theoretical and practical level. This study investigates the contribution of feminist legal theories in naming and addressing gender and sexual violence. It questions the legacy of the ICTR and Rwanda's domestic judicial initiatives from the perspective of the complex realities of victims' experiences.

The research central focus is the question whether the genocidal character of gender and sexual violence in the case of Rwanda has been theorised and judged as such. The author's training for Inyangamugayo – gacaca judges – contributes to a wider understanding of the complexity of victims' experiences. This complex reality is further elaborated on and explored practically through an analysis of the legacy of post-genocide judicial mechanisms for Rwanda in naming and condemning genocidal gender and sexual violence.

Ruvebana, Etienne (2014). Prevention of Genocide under International Law. University of Groningen.

Genocide is the crime of crimes which shocks the conscience of mankind because of the unspeakable damages and pain it causes. This study investigates the topic of prevention of genocide under international law, and more in particular the extent of the obligation to prevent genocide under the Genocide Convention and customary international law. In the recent scholarly debates on this topic, the focus has been on intervention at stages when genocide is about to be committed or is being committed, ignoring prevention at early stages. Yet, the author argues, prevention at early stages seems to be required in order to effectively reduce risks of genocide.

This research puts forward a distinction between primary, secondary and tertiary levels of prevention and analyses and applies the obligation to prevent genocide by states and the UN within that temporal structure of prevention. This book contributes to the clarification of the legal obligation to prevent genocide by filling it with concrete international legal means to be taken by states and the UN at each level, and by suggesting improvements which include the creation of national and international institutions to actively promote and monitor the prevention of genocide.

Vermeulen, G. & E. de Wree, Offender reintegration and rehabilitation as a component of international criminal justice? Available at: https://biblio.ugent.be/record/4253260

Historically, little attention was paid to the execution of sentences passed at the level of international courts and tribunals. Capital punishment was still used, and custodial sanctions were imposed in the relevant states. It was not until the 1990s, with the creation of the ad hoc tribunals, that the execution of sentences also became a task for international tribunals, in cooperation with, and

by means of transferring the sentenced person to, a state which had committed itself to executing the sentence. The basic principles of these vertical transfer, or execution of sentence, procedures, as is also the case at the level of the ICC, are characterized by a system logic, with a limited role for the sentenced person. Nonetheless, minimal human rights and international standards for the execution of sentences (as agreed upon at the level of the UN) are respected.

The authors investigate if and to what extent the interests of the sentenced person could be better pursued and enhanced during vertical procedures for the execution of sentences; they therefore take a clear-cut rehabilitation and social integration perspective. Given the dominant representation of EU member states among states willing to execute sentences passed by international tribunals and courts, the authors moreover wonder whether practice should not evolve towards reflecting the obligatory compliance of these states with, besides the UN standards, additional (sometimes wider, more precise and higher) Council of Europe and EU standards. This would be reflected in the policies of the tribunals and courts (especially the ICC) relating to the conclusion of sentence execution agreements with states, as well as in the actual case-based decisions in which particular sentence execution states are chosen. The authors further plead for the conclusion of a bilateral EU-ICC agreement on the execution of sentences, since this would constitute an important contribution to international justice, and one that is likely to make the reintegration and rehabilitation of offenders (a greater) part of it.

Waters, T.W. (2014). The Milosevic Trial: an autopsy, Oxford University Press.

The Milosevic Trial - An Autopsy provides a cross-disciplinary examination of the most controversial war crimes trial of the modern era and its contested legacy for the growing fields of international criminal law and post-conflict justice.

The international trial of Slobodan Milosevic, who presided over the violent collapse of Yugoslavia, was already among the longest war crimes trials when Milosevic died in 2006. Yet precisely because it ended without judgment, its significance and legacy are specially contested. The contributors to this volume, including trial participants, area specialists, and international law scholars bring a variety of perspectives as they examine the meaning of the trial's termination and its implications for post-conflict justice. The book's approach is intensively cross-disciplinary, weighing the implications for law, politics, and society that modern war crimes trials create.

The time for such an examination is fitting, with the imminent closing of the Yugoslav war crimes tribunal and rising debates over its legacy, as well as the 20th anniversary of the outbreak of the Yugoslav conflict. *The Milosevic Trial - An Autopsy* brings thought-provoking insights into the impact of war crimes trials on post-conflict justice.

Zarkov, D. & M. Glasius (eds.) Narratives of justice in and out of the courtroom – former Yugoslavia and beyond, Springer

This volume considers the dynamic relations between the contemporary practices of international criminal tribunals and the ways in which competing histories and discourses of war, violence and justice are re-imagined and re-constructed in the former Yugoslavia and beyond. There are three innovative aspects of the book. The first is the focus on narratives of justice and their production, the second is its comparative perspective, and the third is its multidisciplinary angle.

While legal scholars have tended to analyse transitional justice and the international criminal tribunals in terms of their success or failure in establishing the facts of war crimes, this volume goes beyond a 'score-card' approach. It investigates how the courts create a symbolic space within which competing narratives of crimes, perpetrators and victims are produced, circulated and contested. It analyses how international criminal law and the courts gather, and in turn produce, knowledge about societies in war, their histories and identities, and their relation to the wider world.

It then proceeds to analyse how this knowledge corresponds to the discourses and practices within these societies. The volume situates narratives of transitional justice both within specific national spaces – such as Serbia, Bosnia and the Netherlands – and beyond them, in the international context of the practices of transitional justice institutions. In this way, this collection considers experiences from other times (the Nuremberg Tribunal) and other countries (Rwanda, Sierra Leone and Liberia) to offer a sounding board for re-thinking the meanings of transitional justice and its institutions within former Yugoslavia.

Finally, the book frames all of those narratives and experiences within the global dynamics of mediated communication, where media practices are as important as practices of law, and where personal testimonies, expert knowledge, and visual images compete in establishing, and contesting, not just the facts of the crimes but also the meanings of those facts.

These original aspects of this book make it an excellent resource for researchers in law, social science and humanities, for those interested in the former Yugoslavia, and for human rights activists and transitional justice practitioners.

Zawati, H.M. (2014). Fair labelling and the dilemma of prosecuting gender-based crimes at the International Criminal tribunals, Oxford University Press.

The first legal analysis to focus on the dilemma of prosecuting and punishing wartime gender-based crimes in the statutory laws of the international criminal tribunals and the ICC in the context of fair labelling. Provides a clear legal argument, theoretical structure, and carefully articulated points about the principle of fair labelling and its significance. Discusses the concept of proportionality between crime and punishment to enable judicial bodies to deliver consistent verdicts and punishments. Contains an extensive selected bibliography to help the reader easily refer to the fundamental sources of arguments, and to foster further research.

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The journal is now a free and open access journal: http://scholarcommons.usf.edu/gsp/?goback=%2Egde_4040739_member_5809202844892418048#%21

The international journal of transitional justice: Vol 8 (1) – March 2014: http://ijtj.oxfordjournals.org/content/current

NEW JOURNAL

Launch of a new journal – Genocide Studies International

The International Institute for Genocide and Human Rights Studies (A Division of the Zoryan Institute)

and the University of Toronto Press are pleased to announce the launch of a new journal, *Genocide Studies International*. The journal is led by a talented and experienced team of editors - Maureen Hiebert, Herbert Hirsch, Roger W. Smith, and Henry Theriault.

In keeping with the objectives of the International Institute for Genocide and Human Rights Studies to raise awareness by being a bridge between academia and civil society, as well as policy-makers, *Genocide Studies International* (*GSI*) is a journal devoted to innovative research, analysis and information. *GSI* is a forum for the academic study and understanding of the phenomena of genocide and the gross violation of human rights and various approaches to preventing them. It strives to raise awareness of the necessity of genocide prevention and the promotion of universal human rights. It serves as a critical voice for analysing governmental and supra-governmental efforts in the prevention of genocide. This peer-reviewed journal is interdisciplinary and comparative in nature. It welcomes submissions on individual case studies, thematic approaches, and policy analyses that relate to the history, causes, impact, aftermath, and all other aspects of genocide."

Genocide Studies International, the official journal of the International Institute for Genocide and Human Rights Studies, will be available in print and online beginning in March 2014. The first issue will deal with "The Failure of Prevention," focusing on Sudan – Darfur, the Nuba Mountains crisis – and on the politics of prevention or the lack thereof.

MISCELLANEOUS

International State Crime Initiative

Coordinated by its Directors, Penny Green and Tony Ward, the International State Crime Initiative (ISCI, statecrime.org) is a cross-disciplinary research centre based in London, UK. Established October 2009, our team incorporates backgrounds in law, criminology, and the social sciences. We aim to introduce new perspectives to the field of human rights research, which has traditionally been focussed on legal theory and mechanisms, but today exists as an intersection of academic fields. ISCI is a community of scholars working to further our understanding of state crime.

By state crime we mean state organisational deviance resulting in human rights violations. This includes crimes committed, instigated, or condoned by state agencies or by non-state entities that control substantial territory. ISCI takes the term 'crime' to include all violations of human rights that are 'deviant' in the sense that they infringe some socially recognised norm. The concept of state crime includes but extends beyond legal categories of human rights abuse and international crime. Our focus is on victims as key actors in defining, exposing and challenging state violence and corruption.

The Initiative draws on its Fellows and Friends in devising its activities and research projects and provides an interdisciplinary forum for research, reportage and debate. Through both empirical and theoretical enquiry we aim to connect rigorous research with emancipatory activism. ISCI is institutionally supported by Queen Mary, University of London and is partnered with Harvard University, the University of Hull and the University of Ulster.

In 2011, Prof Penny Green and Dr Tony Ward were awarded an ESRC Standard Grant of GB£830,000 for a 3-year project entitled: 'Resisting State Crime: A Comparative Study of Civil Society' (RES-062-23-3144). The award enabled ISCI to recruit two Postdoctoral Research Fellows, Dr Thomas MacManus and Dr Ian Patel, and a Research & Policy Manager, Alicia de la Cour Venning. The project investigates the role of civil society organisations in defining, censuring and resisting criminal acts committed, instigated or condoned by state agencies. It is a cross-cultural study which focuses on countries which are all undergoing processes of reconstruction following severe violent conflict, but which have very different levels of economic and political development. The study includes Burma, Colombia, Kenya, Papua New Guinea, Turkey and Tunisia.

The central aims of the study are to: 1) understand the relationship between state violence, organized non-state political and criminal violence and civil society; 2) understand the fluidity of civil society and the processes of change in its relationship to state and non-state violence; 3) understand the role of civil society in defining and censuring criminal, illegal or corrupt behaviour by state officials; and 4) explore both the structural and socio-cultural processes involved in the formation of civil society resistance.

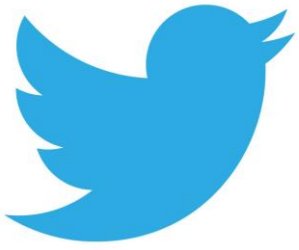
State Crime is the first peer-reviewed, international journal that seeks to disseminate leading research on the illicit practices of states. The concept of state crime is not confined to legally recognised states but can include any authority that exerts political and military control over a substantial territory (e.g the FARC in Colombia). The journals focus is a reflection of the growing awareness within criminology that state criminality is endemic and acts as a significant barrier to security and development. Contributions from a variety of

disciplinary and theoretical perspectives are welcomed. Topics covered by the journal include: torture; genocide and other forms of government and politically organised mass killing; war crimes; state-corporate crime; state-organised crime; natural disasters exacerbated by government (in)action; asylum and refugee policy and practice; state terror; political and economic corruption; and resistance to state violence and corruption.

During the course of the 20th century newly emerging, and well established, states killed and plundered on a grand scale. However, these acts of barbarity have not met silence. Indeed, diverse communities of resistance around the world have, and continue to, censure domestic and foreign governments for trammelling fundamental human rights norms. Although criminology has traditionally ignored the complex dialectic between state crime and resistance, this trend is now in remission owing to successive generations of state crime research. On this website, state crime scholars – with particular regional expertise – present case studies on their research, in language that is free of disciplinary jargon. Each case study gives users access to a rich a range of annotated primary materials and multi-media resources that palpably brings the particular state crime event into focus.

The State Crime Testimony Project (SCTP) aims to enrich understandings of elite deviance through the provision of data and materials that is often marginalised, hidden or destroyed by those in power. The project can be accessed here: http://www.statecrime.org/testimonyproject/

Regular research updates via Twitter



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The newsletter will be sent electronically to all who have signed up on the website. Scholars who conduct research in the field of international crimes, such as genocide, war crimes, crimes against humanity and other gross human rights violations, international (criminal) law or any other relevant subject matter are invited to send us their details and they will be enlisted on the website.

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