



The Hebrew University of Jerusalem

Syllabus

War Crimes: The Evolution of International Criminal Law since 1914 - 39853

Last update 23-08-2021

HU Credits: 2

Degree/Cycle: 2nd degree (Master)

Responsible Department: History

Academic year: 0

Semester: 2nd Semester

Teaching Languages: English

Campus: Mt. Scopus

Course/Module Coordinator: Prof. Eckart Conze

Coordinator Email: conze@uni-marburg.de

Coordinator Office Hours: By appointment only

Teaching Staff:

Prof Eckart Conze

Course/Module description:

The history and politics of International Criminal Law will be at the center of this course. Covering the time between the First World War and the present, the course will analyze the political and judicial efforts to deal with violations of international humanitarian law and mass atrocities. Putting an accent on the role of Germany in this process, it will scrutinize the attempts to prosecute individuals (among them high-ranking political representatives) for war crimes, crimes against humanity, the crime of aggression and genocide. While the years after the First World War saw the first trials of this kind (dealing with German war crimes and the Armenian genocide), it was the Second World War and German macro-criminality which triggered international efforts to incorporate International Criminal Law into the post-1945 global order (Nuremberg and Tokyo trials, UN efforts). The Cold War brought these dynamics to a standstill, and it was only after 1990 and against the background of mass crimes in former Yugoslavia and Ruanda that International Criminal Law re-emerged as a central object of international politics (culminating in the years around 2000 with the establishment of the International Criminal Court (ICC) in The Hague. The course will analyze this development not as a success story, but as complex process full of obstacles and tensions (e.g. between the principles of international justice and national sovereignty). It will also put the evolution and implementation of International Criminal Law in the wider analytical context of Transitional Justice (addressing for example the question to which degree judicial measures contribute to peace and reconciliation or to the prolongation of conflict). With regard to Germany, it will explore the role of judicial efforts (war crimes trials) in the broader context of dealing with the Nazi past.

Course/Module aims:

Students will be made familiar with the evolution of International Criminal Law as a major development of 20th century international history and politics. They will read basic texts (primary sources and research literature) in order to contextualize the emergence, but also the problems of International Criminal Law as an international normative order. They will be made sensitive for the politicity of international law and acquire a basic understanding of dealing with international legal history in the broader frame of international politics. By putting the topic into the context of Transitional Justice research, the students will also explore the use and value of social science approaches for historical research. Finally, they will get familiar with the complex part of Germany in the evolution and implementation of International Criminal Law, and they will analyze the central significance of Germany's Nazi past in this context.

Learning outcomes - On successful completion of this module, students should be able to:

- * analyze and understand the interplay of international politics and international (criminal) law based on primary sources (documents) and relevant literature;
- * assess the dynamics and problems of Transitional Justice (after massive violations of human rights and humanitarian law);
- * understand the historical roots of 21st century International Criminal Law, its implementation and problems.

Attendance requirements(%):

95%

Teaching arrangement and method of instruction: In this course we will read primary sources (documents) and research literature dealing with the history and evolution of International Criminal Law since the First World War. Preliminary readings for each session will be circulated and must be prepared in advance. In the seminar, class room discussions, group work and student presentations will alternate.

Course/Module Content:

1. Introduction – program – presentations
2. War Crimes Trials after World War I: The Cases of Germany and Turkey
3. Prosecuting Nazi Crimes: From the United Nations War Crimes Commission (UNWCC) to the London Charter, 1943-1945
4. Nuremberg 1945/46 (I): Defendants and Indictment
5. Nuremberg 1945/46 (II): Trial and Verdicts
6. Successor Trials: The Nuremberg Military Tribunal 1946-1949
7. The United Nations and International Criminal Law after 1945: Nuremberg Principles and Genocide Convention

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8. *The United Nations and International Criminal Law after 1990: The International Criminal Courts for former Yugoslavia and Rwanda (ICTY ICTR)*
 9. *Global Justice and National Sovereignty: The International Criminal Court (ICC) in The Hague*
 10. *Concluding discussion: International Criminal Law and Transitional Justice*

Required Reading:

The required reading (documents, articles, book chapters) will be determined in relation to the specific subjects of the course. Therefore, a detailed bibliography will be posted in due course. All items of the required reading will be posted on the moodle page for the seminar in due course according to the seminar program.

Additional Reading Material:

General reading:

- Daniele Archibugi / Alice Pease: *Crime and Global Justice. The Dynamics of International Punishment*, Cambridge 2018;
- Gary J. Bass: *Stay the Hand of Vengeance. The Politics of War Crimes Tribunals*, Princeton/Oxford 2000;
- M. Cherif Bassiouni: *Introduction to International Criminal Law*, Ardsley 2003;
- Donald Bloxham: *Genocide on Trial. War Crimes Trials and the Formation of Holocaust History and Memory*, Oxford 2001;
- David A. Blumenthal / Timothy McCormack (eds.): *The Legacy of Nuremberg. Civilizing Influence or Institutional Vengeance*, Leiden 2008;
- Eckart Conze / Christoph Safferling (eds.): *The Genocide Convention Sixty Years after its Adoption*, The Hague 2010;
- George Ginsburgs / Vladimir N. Kudriavtsev (eds.): *The Nuremberg Trial and International Law*, Dordrecht 1990;
- Kevin J. Heller: *The Nuremberg Military Tribunal and the Origins of International Criminal Law*, Oxford 2012;
- Arie H. Kochavi: *Prelude to Nuremberg*, Chapel Hill 1998;
- Mark Lewis: *The Birth of the New Justice. The Internationalization of Crime and Punishment*, Oxford 2014;
- Kim C. Priemel: *The Betrayal. The Nuremberg Trials and German Divergence*, Oxford 2016;
- Kim C. Priemel / Alexa Stiller: *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives, and Historiography*, New York 2012;
- William Schabas: *Genocide in International Law. The Crime of Crimes*, Cambridge 2009;
- Bradley F. Smith: *The American Road to Nuremberg*, Stanford 1982;

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- Ronen Steinke: *The Politics of International Criminal Justice. German Perspectives from Nuremberg to The Hague*, Oxford 2012;
 - Ruti Teitel: *Transitional Justice*, Oxford 2000;
 - Annette Weinke: *Law, History, and Justice. Debating German State Crimes in the Long Twentieth Century*, New York 2018;
 - Gerhard Werle / Florian Jessberger (eds.): *Principles of International Criminal Law*, Oxford 2014;
 - James F. Willis: *Prologue to Nuremberg. The Politics and Diplomacy of Punishing War Criminals of the First World War*, Westport 2014;

Course/Module evaluation:

End of year written/oral examination 0 %
Presentation 0 %
Participation in Tutorials 5 %
Project work 90 %
Assignments 0 %
Reports 0 %
Research project 0 %
Quizzes 0 %
Other 5 %
preparations of reading requirements

Additional information:

The course is open for MA students and advanced BA students (last year). Some knowledge of the German language is a benefit, but not required. However, active participation, the willingness to read in advance of each session and the submission of an essay of 2000 words until 31 August 2022 is essential to pass. The seminar is given by a guest lecturer (Prof. E. Conze) and will take place in March-April-May 2022 on Mondays.

Two or three additional meetings will be scheduled in coordination with the students.