



International Criminal Law

International criminal law is a body of law designed to prohibit certain categories of conduct commonly viewed as serious atrocities and to make perpetrators of such conduct criminally accountable for their perpetration. After being dormant for decades, international criminal law was revived in the 1990s to address the war crimes in the Yugoslav Wars and the Rwandan genocide, leading to the establishment of a permanent International Criminal Court in 2001.

Forms of Criminal Responsibility

International law allows for individuals to be held criminally liable not only for the commission of war crimes, crimes against humanity, and genocide, but also for abetting and assisting such crimes. Individual criminal responsibility arises as long as the crime is attributed to an individual.

Armed forces or groups are generally placed under a chain of command where the superiors are responsible for the conduct of their subordinates. Due to this, persons occupying higher positions in the chain of command are held accountable when their subordinates commit violations of international humanitarian law. Additionally, they are held accountable for failing to prevent their subordinates from committing serious violations of international humanitarian law. Thus, they may be held liable although they did not commit those acts themselves.

Traditionally, State representatives were granted immunity from foreign jurisdiction. The purpose of immunity is to allow the State representatives to effectively exercise their official functions and represent the State in international relations. Over the course of time, two types of immunities have evolved: personal immunity and functional immunity. This protects the acts of persons essential to the State's administration, whether in personal or official capacity; and even after their official term ends.

News at a Glance

- In Ntaganda, the Appeal Chambers directed the trial chamber to issue a new [reparation order](#). More information about the case is available [here](#).
- ICC terminated proceedings against [Al-Tuhamy Mohamed Khalid](#) following notification of his demise. More information about his trial can be found [here](#).
- ICC is going to start the [trial](#) against Mahamat Said Abdel Kani on 26th September, 2022 for war crimes committed in the Central African Republic in 2013. More information on the case is available [here](#).
- Ireland is the latest in a series of countries to file a [declaration of intervention](#) before the ICJ for genocide allegations against Russia for the Ukraine conflict. A summary of the case so far is available [here](#).



Summary of the Weekly Session

The session held on 14th September, 2022 was called, 'International Criminal law and the ICC.' Eight primary topics were covered by Manya Singh (III B.A.LL.B.) and Shweta Shukla (IV B.A.LL.B.).

The session began with an analysis of the history of prosecution of individuals for crimes on an international level, the results of World War I, the new set of circumstances brought about by World War II, and how the Nuremberg Trials made the blueprint to be followed to deal with these issues in the future. The speakers then discussed the scope of the law, i.e. the crimes triable by the ICC, individuals who can be brought before it, and how they are charged and prosecuted. They also briefly discussed why soldiers are usually exempt from prosecution, the motive of establishing power to carry out such crimes, and the liability accompanying such power.

While providing a small insight to the working of the ICC, the session covered the structure of the ICC, its jurisdiction, and the limitations of its jurisdiction. To illustrate the overarching problems with the ICC, the speakers analyzed the President Al-Bashir case and even discussed the ICC's bias in prosecuting only leaders from African and Middle Eastern countries.

The session concluded with an open-ended discussion on the core issues plaguing the International Criminal Court:

1. International law is based on the notion of State consent. Should it be non-derogable? Or is the idea of compulsory jurisdiction, which limits the role of consent, and allows prosecution for 'the greater good,' valid/necessary under international law?
2. Is it effective?
3. Does the effectivity render it valid/invalid?

The Nuremberg Trials, 1945 - 1946

The series of trials held in Nürnberg, Germany indicted Nazi leaders. They were tried as war criminals by the International Military Tribunal. The indictment was lodged against them on four counts:

1. Crimes against Peace
2. Crimes against Humanity
3. War Crimes
4. Common Conspiracy

After almost 216 Court sessions, 3 were acquitted, 4 were given prison sentences ranging from 10-20 years, 3 were given life imprisonment, and 12 were given death by hanging. Out of the remaining, 1 committed suicide, and no trial was conducted for the last due to his poor physical and mental condition.

The tribunal, first, held that international law is enforceable against not only a State, but also against individuals committing such crimes. It also held that the acts performed by the perpetrators were already regarded as criminal before World War II.



Extra Reading

For those interested in reading more about the theme for this month, we have curated a special list of articles for you:

- International Criminal Law [Written by: Bruce Zagaris & Chris Ronk; Published in: International Lawyer (ABA) (2006)] [Accessible on [HeinOnline](#) or [here](#)]
- Individual Criminal Responsibility in Article 25 ICC Statute [Written by: Gerhard Werle; Published in: Journal of International Criminal Justice (2007)] [Accessible on [HeinOnline](#) or [here](#)]
- The Nuernberg Verdict [Written by: Harold Leventhal, Sam Harris, John M. Woolsey Jr. & Warren F. Far; Published in: Harvard Law Review (1947)] [Accessible on [HeinOnline](#) or [here](#)]
- The International Criminal Court and the Warrant for Sudan's President Al-Bashir: A Crucial Step towards Challenging Impunity or a Political Decision [Written by: Manisuli Ssenyonjo; Published in: Nordic Journal of International Law (2009)] [Accessible on [HeinOnline](#) or [here](#)]
- Problems, Obstacles and Achievements of the ICTY [Written by: Gabrielle Kirk McDonald; Published in: Journal of International Criminal Justice (2004)] [Accessible on [HeinOnline](#) or [here](#)]

Upcoming Activities

1. CyCon 2023 Call for Papers:

The NATO Cooperative Cyber Defence Centre of Excellence has sent out a call for submissions for the 2023 International Conference on Cyber Conflict. The central theme is 'Meeting Reality', and the submission deadline for abstracts is 15th October 2022. Find the full text of the call [here](#).

2. Nuremberg Forum Conference:

The International Nuremberg Principles Academy is hosting the Nuremberg Forum 2022 Conference from 13th-15th October 2022. The event will be a hybrid event, with free registration. Further details and the link for the registrations can be found [here](#).