

**SALZBURG LAW SCHOOL on International Criminal Law  
First Summer Session, 15 – 27 August 1999**

The two-week course on international criminal law, international humanitarian and human rights law consists of lectures à 45 min., in general in the morning, with time for discussion (3 hours with coffee break) and practical units, in general in the afternoon, (3 hours of workshops, case studies or discussions between participants and speakers) held by acknowledged scholars and legal practitioners in these fields. A social programme is available for those afternoons and the weekend without academic programme.

The first week is dedicated to the study of the general framework of international criminal law and sets the basis for the second week, which deals in detail with key aspects of the International Criminal Court (ICC)

**PROGRAMME OVERVIEW**

**First Week:**

**A. General Framework of International Criminal Law, Humanitarian Law and Human Rights**

I. Substantive Law

1. *Introduction*
2. *Historical development*
3. *Sources and present situation*
4. *"Core crimes"*
5. *General principles*
6. *International criminal law – ideal and reality*

II. Enforcement

1. *International tribunals, Direct Enforcement Model*
2. *Prosecution by national courts, Indirect Enforcement Model*
3. *International standards of due process*
4. *Alternatives to prosecution and punishment?*

**Second Week:**

**B. The International Criminal Court**

I. Necessary steps to get the Court into operation

II. The Court in action: Possibilities and limits

III. Special aspects

1. *Complementarity*
2. *Trigger mechanism and preconditions to the exercise of jurisdiction*
3. *Fair trial before the International Criminal Court*
4. *Rights and protection of victims and witnesses*
5. *International cooperation and judicial assistance*

**C. Closing Session: Final discussion and evaluation**

**ACADEMIC PROGRAMME:**

**SUNDAY 15 August 1999, Afternoon 15.00-22.00:**

Welcome and registration of participants and lecturers at the Kolpinghaus (Adolph-Kolpingstrasse, Ph.: xxxx or xxxx (Tobias Triffterer, Executive Director)

Lectures will take place at the Law Faculty (in the Old Town), Churfürststrasse 1, Toskana Trakt, Room HS 209 (Plenary); Workshop-sessions will take place in HS 201, 204, 205, 209 at the Law Faculty (exact schedule of some workshops will be announced later)

**MONDAY, 16 August 1999**

**9.00 a.m., Sala Terrena (Law Faculty)**

**Opening Ceremony of the SALZBURG LAW SCHOOL on International Criminal Law**

Welcome by the Vice-President of Salzburg University, Prof. Dr. Brigitte Winklehner

Welcome by the Dean of the Law Faculty, Prof. Dr. Walter Berka

Introduction to the academic programme, by Prof. Dr. Otto Triffterer

**First Session: 10.15-11.15, HS 209**

**A. General framework of international criminal law, international humanitarian and human rights law**

**I. Substantive Law**

**1. *Introduction***

**Speakers: Prof. Roger Clark, Prof. Otto Triffterer:**

- a) Survey on interrelation between international humanitarian law, human rights and international criminal law
- b) Basic doctrines and conceptual framework of international criminal law, including jurisdiction and procedure
- c) Relationship of international criminal law to national legal systems

**Coffee Break 11.15-11.45**

**Second Session: 11.45-13.15, HS 209**

**2. *Historical development***

**Speaker: Prof. Otto Triffterer:**

- a) Endeavours in the last century and up until the First World War
- b) Nuremberg: Affirmation and retreat
- c) Post war codification efforts and post war conventional law: The failure of national enforcement, amnesties and impunity during the Cold War
- d) Increased national and international efforts towards the end of the Cold War: The two Ad Hoc International Tribunals, ICTY and ICTR
- e) Establishing the International Criminal Court

- (aa) The ILC Draft Statute 1994
- (bb) The Ad-hoc Committee 1995 and the endeavours of non-governmental organisations, especially the Updated Syracuse Draft 1996
- (cc) The Preparatory Committee 1996 - 1998
- (dd) The Rome Conference 15 June - 17 July 1998
- (ee) The Preparatory Commission 1999-2000

**Lunch: 13.15-14.15, Cafeteria of the Law Faculty**

**Third Session: 14.15-17.15, HS 209 (with coffee break)**

**3. *The sources (of international criminal law, humanitarian and human rights law) and present situation***

**Speakers: Prof. Wolfram Karl:**

- a) Treaty and international customary law and their interrelation
- b) General principles of law recognized by the community of nations
- c) *Jus cogens* and *obligations erga omnes*
- d) Origins and basic principles of international criminal law and international humanitarian law
  - (aa) The 'Hague' and 'Geneva' law for the regulation of armed conflict
  - (bb) Is a conflict internal or international?
  - (cc) Common Article 3 and Additional Protocol II for internal armed conflicts
  - (dd) Prevention and punishment of grave breaches
- e) Human rights and international criminal law
  - (aa) Procedural guarantees
  - (bb) Derogation in states of emergency?
- f) **Prof. Nicolas N. Kittrie:** Internal vs. international conflict: The political offender
- g) **Prof. Roger Clark:** Universal jurisdiction in treaty and customary law
- h) **Prof. Otto Triffterer:** Accountability for serious human rights violations.

**Dinner : 17.30-18.30, Kolpinghaus**

**TUESDAY, 17 August 1998**

**Fourth Session: 9.30 - 13.00, HS 209 (with coffee break)**

**4. "Core crimes"**

- a) **Prof. Roger Clark, Prof. Otto Triffterer:** What makes a 'core crime'? Contrasting piracy, slavery, and treaty crimes with "the most serious crimes of concern to the international community as a whole" according to the Rome Statute
- b) **Prof. William Schabas:** Crimes against humanity and Genocide

- c) **Michael Cottier:** War crimes
- d) **Prof. Otto Triffterer:** Aggression/ Crimes against Peace
- e) **Prof. William Schabas:** Penalties available

**Lunch: 13.00-14.00, Cafeteria**

**Fifth Session: 14.00- 17.00, HS 209 (with coffee break)**

**5. *General principles of International Criminal Law and their development***

**Speakers: Prof. Roger Clark, Prof. William Schabas, Prof. Otto Triffterer:**

- a) Individual responsibility and irrelevance of official capacity, articles 25 and 27 Rome-Statute
- b) Command responsibility, article 28 Rome Statute
- d) Superior orders and prescription of law, article 33 Rome Statute
- e) Immunity?
- f) Statutes of limitations, defences, and other principles, especially articles 29-32 Rome Statute

**Dinner: 17.30-18.30, Kolpinghaus**

**WEDNESDAY, 18 August 1999**

**Sixth Session: 9.30-13.00, HS 209 (with coffee break)**

**6. *International Criminal Law – Ideal and Reality***

- a) **Bruce Broomhall:** International Criminal Law and frictions between reality of international politics and relations. The power of law vs. the law of power in the post-Cold War era. Is the contemporary world ready for the rule of law?

**Prof. Nicolas N. Kittrie (excurs to II. 4.):**

- b) The purpose and value of prosecution vs. "soft" remedies (amnesties, lustration, reconciliation etc.). Justice and reconciliation, truth commissions and the ICC. A contradiction?
- c) Examples of national prosecution, especially in the USA
- d) **Michael Cottier** Main Tendencies in the Preparatory Commission after its Second Session 26 July – 13 August 1999

**Lunch: 13.00-14.00, Cafeteria**

**Afternoon: FREE, social programme or time at the disposal of participants**

**Dinner: 17.30-18.30, Kolpinghaus**

**THURSDAY, 19 August 1999****Seventh Session: 9.30-13.00, HS 209 (with coffee break)****II. Enforcement****1. *International jurisdiction, Direct Enforcement Model*****Speakers: Prof. Roger Clark, Prof. William Schabas, Prof. Otto Triffterer:**

- a) The Nuremberg and Tokyo Trials
- b) The International Tribunal for the Former Yugoslavia (ICTY)
- c) The International Tribunal for Rwanda (ICTR)
- d) The Rome-Statute of the ICC
- e) New ad-hoc and regional international tribunals?

**Lunch 13.00.-14.00, Cafeteria****Eighth Session: 14.00-16.00 Workshops:****2. *Prosecution by national courts, Indirect Enforcement Model***

- a) **Bruce Broomhall** (topic will be announced later), HS 204
- b) **Michael Cottier**: Common bases and differences between national and international criminal jurisdiction: A study of Swiss Cases, HS 209

**Dinner: 17.30-18.30 at Kolpinghaus****FRIDAY, 20 August 1999****Eighth Session (continued) 9.30-11.00, HS 209**

- c) **Prof. William Schabas**: Ideal and Reality in Rwanda (examples of jurisprudence), HS 209
- d) **Prof. Otto Triffterer**: Cases of national prosecution in Austria and Germany, HS 204

**Coffee break : 11.00-11.30****Ninth Session: 11.30-13.00, HS 209****3. *International standards of due process*****Speakers: Prof. Roger Clark, Prof. William Schabas, Prof. Otto Triffterer:**

Fair trial, including the development of procedural guarantees in international humanitarian and human rights law in the 50 years after Nuremberg

**Lunch: 13.00-14.00, Cafeteria**

**Tenth Session: 14.00-16.00 Workshops:**

Comparative case study and analysis: especially *Eichmann*, *Demjanjuk*, *Finta*, *Sawaniuk*, *Lockerbie* and *Pinochet*

**David Donat Cattin**, HS 209

**Michael Cottier**, a comparison of Swiss Cases, HS 204

**16.30–17.15 Conclusion and discussion of Workshops in plenary, HS 209:**

**David Donat Cattin, Michael Cottier:**

Universal jurisdiction in national courts - challenge and chance for unification and rapprochement

**Dinner: 17.30-18.30, Kolpinghaus**

**Saturday 21 and Sunday 22 August:**

**FREE, social programme or time at the disposal of participants**

**MONDAY, 23 August 1999****Eleventh Session: 9.30.-11.15, HS 209****B. The International Criminal Court****I. Necessary steps to get the Court into operation****Speakers:**

- a) **Prof. Otto Triffterer:** Conditions and expectations
- b) **Dr. Peter Wilkitzki:** Cooperation of States to achieve the Implementation and Operation of the ICC

**II. The Court in action**

- a) **David Tolbert, Senior Legal Officer, ICTY:** Making the Court work - perspectives from inside the ICTY. Managing an international criminal jurisdiction

**Coffee break: 11.15-11.45**

**11.45-13.00, HS 209**

- b) **Prof. Gerhard Hafner:** The principle of sovereignty and the ICC

**Lunch: 13.00-14.00 at the Cafeteria**

**Eleventh Session (continued): 14.00-15.00**

- c) **Prof. Daniel Nsereko:** Implementing the ICC in Southern Africa, especially in Botswana and jurisdictional questions

**Twelfth Session: 15.15-17.00: Workshops**

**Prof. Gerhard Hafner:** The ICC: an incentive for national enforcement? HS 209

**Dr. Peter Wilkitzki:** National and international aspects in the context of the prosecution of political leaders. HS 204

**David Donat Cattin:** The political dynamics in ratification and implementation, workings of the Assembly of States Parties. How will the Assembly of States Parties enforce co-operation? HS 205

**Dinner: 17.30-18.30, Kolpinghaus**

**TUESDAY, 24 August 1999****Thirteenth Session: 9.30-11.00, HS 209****III. Special Aspects****1. Complementarity**

**Speakers: Bruce Broomhall, Prof. Daniel Nsereko:**

- a) Standards and procedures on jurisdiction and admissibility
  - (aa) 'Unwillingness' and 'inability' of national authorities
  - (bb) Deferral and the preservation of evidence
- b) Lack of prosecution by national authorities and the problem of amnesties

**Coffee break: 11.00-11.30**

**Fourteenth Session: 11.30.-13.00, HS 209****2. *Trigger mechanisms and preconditions to the exercise of jurisdiction***

**Speakers: David Donat Cattin, Prof. Daniel Nsereko:**

- a) State-Court interactions at the initiation of an investigation
- b) Jurisdiction, preconditions to its exercise and "Preliminary rulings regarding admissibility", article 18 Rome-Statute
- c) The role of the Security Council  
(The focus will be - inter alia - on the dynamics of the Court, in particular the independent role of the Prosecutor, the flexibility of State-Court interactions, and the role of the Security Council and of non-States Parties.)

**Lunch: 13.00-14.00, Cafeteria**

**Fourteenth Session (continued): 14.00- 14.45, HS 209**

- d) **Patricia Sellers:** Possibilities and limits for Prosecutors according to the ICTY and ICTR Statutes

**Fifteenth Session: 14.50-15.30, HS 209****3. *Fair trial before the ICC*****Speakers: David Donat Cattin**

- a) Conduct of investigations and the rights of the defence
- b) Arrest and surrender
- c) Trial preparation including the right to disclosure
- d) The trial
- e) Appeal and review

**Coffee break: 15.30.-16.00****Workshops: 16.00 - 17.00****Prof. Otto Lagodny:** Rules relating to fair trial, the rights of defence, HS 204**Patricia Sellers, Prof. Otto Triffterer:** Defence and prosecution strategies, HS 209**17.00-17.30:****David Donat Cattin, Prof. Otto Lagodny, Patricia Sellers, Prof. Otto Triffterer:**

Conclusion and discussion of Workshops in plenary: The media and the right to a fair trial

**Dinner: 18.00 - 18.30, Kolpinghaus****WEDNESDAY, 25 August 1999****Sixteenth Session: 9.30-11.00, HS 209****4. *Rights and Protection of victims and witnesses; crimes of sexual violence*****Speakers: David Donat Cattin**

- a) Protection of victims and witnesses
- b) Victims: participation and compensation

**Coffee break: 11.00-11.30**



**Sixteenth Session (continued): 11.30 - 13.00, HS 209**

- c) **Patricia Sellers:** Prosecution of sexual offences and jurisprudence of the ICTY and the ICTR (inter alia protection of victims and witnesses; the right to confront vs the anonymity of the witness; 'public' trial vs exclusion of the media/testimony through video; the need for cultural context through the role of victims' representatives before the Court; other gender issues)

**Lunch: 13.00-14.00, Cafeteria**

**Seventeenth Session: 14.00-16.00 Workshops (with coffee break)**

**Patricia Sellers, HS 209:** Experiences of an ICTY-Prosecutor: problems with the preservation of evidence (example: Bosnia) and prosecution of sexual crimes. Effectiveness in situations of crisis (example: Kosovo).

The obligation to cooperate with *ad hoc* Tribunals and international measures to ensure the enforcement of the duty to cooperate. Rules of Procedure and Evidence for the ICTY and ICTR, Rule 61

**Prof. Daniel Nsereko, HS 204:** Relationship between national enforcement & international jurisdiction - a comparison between implementing national legislation and the demands of the Ad-hoc Tribunals

**Dinner: 17.30-18.30, Kolpinghaus**

**THURSDAY, 26 August 1999****Eighteenth Session: 9.30-11.00, HS 209*****5. International Cooperation and judicial assistance*****Speakers:**

- a) **Prof. Otto Lagodny:** Vertical and (traditional) horizontal cooperation  
 b) **Bruce Broomhall:** Implementation procedures: The role of NGOs in ICC-related proceedings at the national and international level

**Coffee break: 11.00-11.30**

**Nineteenth Session 11.30-13.00, HS 209****David Donat Cattin**

- c) The Assembly of States Parties  
 d) Special problems: Amendments and review of the Rome-Statute

**Lunch : 13.00-14.00**

**Twentieth Session, 14.00-15.00, HS 209:**

**Speaker: Benjamin Ferencz, a former Chief Prosecutor at Nuremberg:** The ICC: A new dimension of international criminal law - An appeal to future generations. Discussion

FREE, social programme or time at the disposal of participants

**Final Dinner: 17.30-18.30**

**FRIDAY, 27 August 1999**

**C. Closing Session: 10.00-12.00**

Final discussion and evaluation of the outcome of the SALZBURG LAW SCHOOL on International Criminal Law; future plans

**Departure of participants**