

7th Summer Session, Sunday 7 – Friday 19 August 2005

**First Decisions of the Security Council and the
Organs of the Court – Shaping and Paving the Roads towards
"Peace, Security and the Well-being of the World"?**

The Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights Law is an annual course under the academic supervision of Prof. Otto Triffterer, editor of the Commentary on the Rome Statute of the International Criminal Court. This year's Seventh Summer Session will focus on three major areas.

First, the situations currently under scrutiny by the Office of the Prosecution (OTP). Since the formal establishment of the ICC on 1 July 2002, the Prosecutor has received more than 1000 communications on possible investigations. Three States Parties to the Rome Statute (the Republic of Uganda, the Democratic Republic of Congo and the Central African Republic) have referred a situation to the OTP according to article 13 litera (a) Rome Statute. All three situations have been assigned to Pre-Trial Chambers, the Prosecutor has opened two formal investigations on the Republic of Uganda and the Democratic Republic of Congo, whereas the Pre-Trial Chamber has already held a Status Conference for the latter. The budgetary needs to open a third investigation have been granted by the Third Assembly of States in September 2004. Only recently by Resolution 1593 (2005) the Security Council referred the situation of Darfur (Sudan) to the OTP. The SLS will deal with all these situations, provide background information on the conflict situations, analyze their political and legal dimensions, their substantive and procedural basis but will also discuss future ways to proceed within the framework of the Rome Statute.

Second: The Seventh Session of SLS will draw upon the various ways to enforce international criminal law, not only through national and international courts, but in particular through hybrid and mixed courts and tribunals (such as e.g. the Special Court for Sierra Leone, the special mixed Panels for East Timor, or the new Special Tribunal for Cambodia), as well as through Truth and Conciliation Commissions. Taking into account the growing number of such enforcement organs we will emphasize on the question of concurrent jurisdictions, with a special view to the Complementarity Regime of the Rome Statute.

Third: This year's course will concentrate on the interrelation of international judiciary organs, in particular the ICC, with the system of the United Nations. Possible conflicts of competence with the Security Council do not only still need to be solved with regard to the conditions under which the Court can exercise its jurisdiction over the crime of aggression. Also the recent Security Council Resolution 1593 (2005) raises fundamental questions with regard to existing international criminal law and regulations of the Rome Statute.

Next to these areas of focus the Seventh Session of SLS will cover latest developments of the jurisdiction of the ad-hoc Tribunals, the position of the United States with regard to the ICC, the so called "war on terror" and the question of detention in Guantanamo as well as torture and other inhumane and degrading treatment in Abu Ghraib, but also in many States of the EU during the basic training time of "draftees".

Astrid Reisinger Coracini
Executive Director SLS

ACADEMIC PROGRAMME

Due to the availability of some lecturers their presentations had to be anticipated or postponed, regardless whether they fit at the respective day precisely into the systematic content of the Course.

If necessary, additional changes will be announced on a day to day basis.

SUNDAY, 7 August 2005

Welcome and registration of participants and lecturers at the Hotel Kolpinghaus, Adolf - Kolping - Straße 10, A- 5020 Salzburg, Ph.: +43/662/46610.

Lectures will take place at the Law Faculty (in the Old Town), Churfürststrasse 1, Toskana Trakt, Room HS 209 (Plenary), Workshops HS 208 and 209; exact locations and schedule of additional workshops will be announced later.

Please bring your Rome Statute, Elements of Crimes and Rules of Procedure and Evidence and Regulations of the Court

The cafeteria of the Faculty of Law, Salzburg is located directly besides the lecture hall.

MONDAY, 8 August 2005

10.00 a.m., Opening Ceremony, Landkartengallerie der Fakultätsbibliothek Rechtswissenschaften (Gallery of Maps of the Law Faculty Library), Toskana Trakt, Churfürstenstraße 1

Welcome: **President of Salzburg University**, o. Univ.-Prof. Dr. Heinrich Schmidinger
Dean of the Faculty of Law, o. Univ.-Prof- Dr. Kurt Schmoller

10.30 a.m. Key note, Seventh Summer Session 2005

From Foca to Srebrenica to Darfur: Evolving Definitions of Genocide and Crimes Against Humanity

Professor William Schabas, Professor of Human Rights Law, National University of Ireland Galway, Eire, Director Irish Centre for Human Rights, Member of the Sierra Leone Truth and Reconciliation Commission

Questions and discussion

11.45 a.m. Introduction into the academic programme

Professor Otto Triffterer, Austria, Professor for Austrian and International Criminal Law and Procedure, University of Salzburg

12.15 a.m. Reception

Lunch: 13.00 - 14.00, Cafeteria

First Session: 14.00 – 17.45, HS 209 (with coffee break and discussion)

The legacy of Nuremberg, aspirations and accomplishments

Professor Benjamin Ferencz, Adjunct Professor of International Law at Pace University and founder of the Pace Peace Center; Former Prosecutor at the Nuremberg War Crimes Trial (Einsatzgruppen Case); observer at the Rome Conference

The notion and concept of international criminal law

Professor Roger Clark, Board of Governors Professor, Rutgers University School of Law, Washington; member of the Samoan delegation to the Rome Conference; key-note speaker SLS 2002

Dinner: 18.30 - 19.00, Hotel Kolpinghaus

TUESDAY, 9 August 2005

Second Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

The relationship of courts to Truth and Reconciliation Commissions: the experience of Sierra Leone
Professor William Schabas

First decisions of the Court on articles 56 and 57 Rome Statute

Gilbert Bitti, Chief of the Victims Participation and Reparations Unit, ICC, Deputy Chief of the Legal Advisory and Policy Section, Office of the Prosecution ICC; member of the French delegation to the Rome Conference

Lunch: 13.00 - 14.00, Cafeteria

Afternoon: FREE, guided city tour available,
 or time at the disposal of participants

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

WEDNESDAY, 10 August 2005

Third Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

The principle of complementarity and the trend towards ‘hybrid’ tribunals: solutions to concurrent jurisdictions of national and international organs (the ICC, Sierra Leone, East Timor, Kosovo, Cambodia, Iraq)

Professor Colonel Charles Garraway, Stockton Professor of International Law, Naval War College; member of the British delegation to the Rome Conference

Mental and material elements shaping the definitions of crimes

Professor Roger Clark
Professor Otto Triffterer

Lunch: 13.00 - 14.00, Cafeteria

Fourth Session: 14.00 – 17.00, HS 209 (with coffee break and discussion)

Workshop on Command Responsibility – articles 7 (3) ICTY-, 6 (3) ICTR- and 28 Rome Statute

- ***“Superior responsibility” under customary international law – “beyond any doubt” without causality as a separate element?***
- ***Causality Requirement and superior responsibility for crimes of their subordinates, shaped by changing paradigms***
- ***Prosecution according to article 7 (3) ICTY and article 6 (3) ICTR Statute***

Professor Charles Garraway
Professor Otto Triffterer

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

THURSDAY, 11 August 2005

Fifth Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

Experiences from drafting the Statute of the Iraqi Special Tribunal

Professor Charles Garraway

Can Saddam get a fair trial?

Professor Michael P. Scharf, Professor of Law, Case Law School and Director, Frederick K. Cox International Law Center

Lunch: 13.00 - 14.00, Cafeteria

Sixth Session: 14.00 - 17.00, HS 209 (with coffee break and discussion)

Do former leaders have an international right to self-representation in war crimes trials?

Professor Michael Scharf

Latest developments regarding the crime of aggression, an end in sight?

Professor Roger Clark

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

FRIDAY, 12 August 2005

Seventh Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

Further limitations of procedural and civil rights to fight international terrorism?

Lieutenant Colonel William Lietzau, US Marine Corps, Director, Navy-Marine Corps Appellate Government Division

The United States [op]position vis à vis the ICC

Lieutenant Colonel William Lietzau

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

Eighth Session: 14.00 - 17.00, HS 209 (with coffee break and discussion)

Remarks on the investigation, prosecution and adjudication of “core crimes” (and other serious crimes) before the Ad Hoc Human Rights Court (Indonesia) and the Special Panels for Serious Crimes (Timor-Leste) and recent developments relevant to the Extraordinary Chambers (Cambodia)

Salim A. Nakhjavani, Secretariat, Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste in 1999; former Assistant Legal Advisor, OTP-ICC

Consideration of selected issues of international criminal law, procedure and policy arising from the May 2005 Report of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste in 1999

Salim A. Nakhjavani

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

SATURDAY, 13 August 2005

FREE, social programme or time at the disposal of participants

SUNDAY, 14 August 2005

FREE, social programme or time at the disposal of participants

MONDAY, 15 August 2005

Ninth Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

Common basis and difficult tasks of assigned counsels, stand-by counsels and amici curiae before international courts and tribunals

Steven Kay, Queens Counsel, Barrister UK, Assigned Counsel ICTY for Slobodan Milosevic

Challenges of the defence before international courts

Steven Kay, QC

Lunch: 13.00 - 14.00, Cafeteria

Tenth Session: 14.00 - 17.00, HS 209 (with coffee break and discussion)

Latest developments with regard to state responsibility in international law

Professor Gerhard Hafner, Professor of International Law, University of Vienna; former Member of the ILC; head of the Austrian delegation to the Rome Conference; chairman of the *Ad-Hoc* Committee on Jurisdictional Immunities of States and Their Property

The ICC and third States

Professor Gerhard Hafner

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

TUESDAY, 16 August 2005

Eleventh Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

Three 'African situations' currently under review by the Prosecutor of the ICC

Professor Daniel Ntanda Nsereko, Professor of Law, University of Botswana

Goals of the Rome Statute and cooperation of the ICC with the United Nations, the European Union, the African Union and other international organisations

Dr. David Donat Cattin, Researcher for International Law, University of Teramo, Senior Programme Officer & European Coordinator for International Law & Human Rights Programme, Parliamentarians for Global Actions; NGO representative at the Rome Conference

Lunch: 13.00 - 14.00, Cafeteria

Twelfth Session: 14.00 - 17.00, HS 209 (with coffee break and discussion)

Victims' rights and international criminal justice: in particular, the duty of the ICC to "establish principles relating to reparations", article 75, paragraph 1

Dr. David Donat Cattin

Time for additional workshops and exams

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

WEDNESDAY, 17 August 2005

Thirteenth Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

The relationship between the ICC and the UN Security Council

Professor Daniel Ntanda Nsereko

The preventive effect of the ICC: can "deterrence" apply to "international crimes"?

Dr. David Donat Cattin

Lunch: 13.00 - 14.00, Cafeteria

Fourteenth Session: 14.00 - 17.00, HS 209 (with coffee break and discussion)

Tasks and Challenges of the Appeals Chamber at the pre-trial stage

HE Navanethem Pillay, Judge International Criminal Court, Former President International Criminal Tribunal for Rwanda

Time for additional workshops and exams

Dinner: 18.00 - 19.00, Hotel Kolpinghaus

THURSDAY, 18 August 2005

Fifteenth Session: 9.00 – 13.00, HS 209 (with coffee break and discussion)

Challenging the registries of international criminal tribunals – theory and practice

Dr. A. Sam Muller, Director, Hague Institute for the Internationalisation of Law (HIIL)

The ICTR Media Decision

HE Navanethem Pillay,

Lunch: 13.00 - 14.00, Cafeteria

Sixteenth Session: 14.00 – 15.30, HS 209 (with coffee break and discussion)

Round Table: Facing the First Review Conference: Challenges for substantive and procedural law – consequences for the Rules and the Regulations?

Dr. David Donat Cattin

Dr. A. Sam Muller

Professor Daniel Ntanda Nsereko

Professor Otto Triffterer

Closing Session, 15.45 – 17.00, HS 209

Final Discussion with the speakers

Evaluation of the outcome of the SALZBURG LAW SCHOOL 2005

Future plans

Chair: Prof. Otto Triffterer

Distribution of Certificates

Closing reception

Dinner: 18.00 - 19.00, Hotel Kolpinghaus and **farewell party**

FRIDAY, 19 August 2005

Departure of participants