



IMPACT OF INTERNATIONAL CRIMINAL PROCEDURES ON DOMESTIC CRIMINAL PROCEDURES IN MASS ATROCITY CASES

A Conference Organized by DOMAC

Thursday 30 September and Friday 1 October 2010

University of Amsterdam

The **DOMAC Project** focuses on the actual interaction between national and international courts involved in prosecuting individuals in mass atrocity situations. It explores what impact international procedures have on prosecution rates before national courts, their sentencing policies, award of reparations and substantive procedural legal standards. The project is aimed to issue recommendations to the EU and other national and international actors that would strengthen the co-operation between national and international courts functioning in the aftermath of mass atrocity situations.

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The **DOMAC Partners** are Hebrew University, Reykjavik University, University College London, and University of Amsterdam.



PROGRAM*

Thursday 30 September

14:00

Opening, Thordis Ingadottir, Reykjavik University, DOMAC Director

14:15-15:45

I. Reparations: Claims before domestic courts relating to international mass claims processes for reparations to victims of mass atrocities

This panel explores the impact that international reparations mechanisms in mass atrocity situations have had on domestic courts, for example through domestic lawsuits challenging international mechanisms; implementation of international reparations norms into domestic legislation; and domestic compliance with decisions of international and regional courts.

Chair: Prof. Andre Nollkaemper, Amsterdam University, DOMAC

1. Edda Kristjánsdóttir, Amsterdam University, DOMAC: *Reparations for Mass Atrocities: Waivers, Exclusion and Statements of Interest*
2. Prof. Mia Swart, Leiden University: *The Khulumani Support Group's Efforts to Obtain Reparations as Case Study of a Mass Claims Process*
3. Ruben Carranza, Director, Reparative Justice Program, International Center for Transitional Justice: *Everywhere and Nowhere: Litigating and Legislating Reparations for Victims of the Marcos Dictatorship*

COFFEE BREAK

16:15-18:00

II. The role of the International Court of Justice and human rights tribunals in enforcement of international humanitarian law and protection of human rights in mass atrocity situations

This panel explores the impact that the International Court of Justice and regional human rights tribunals have had on investigations and prosecutions at the national level in mass atrocity situations. Have they had some impact in this field? Has there been compliance with their decisions at the national level? Are there some jurisdictional hurdles preventing these courts from playing a more significant role?

Chair: Prof. Geir Ulfstein, University of Oslo

1. Dr. Silvia Borelli, University College London, DOMAC: *The ECHR and domestic prosecutions of serious violations of human rights*
2. Prof. Ximena Medellin-Urquiaga, CIDE, Mexico City: *Here come the courts!: The comeback of transitional justice in Latin America – New lessons from national judicial processes related to mass atrocities and international crimes*
3. Marko Milanovic, Cambridge University: *The ICJ and mass atrocities in the former Yugoslavia*

Commentator: Judge Bruno Simma, International Court of Justice



PROGRAM*

Friday 1 October

9:30-11:00

III: The interaction between international criminal tribunals and domestic jurisdictions as a catalyst for the improvement of international criminal law (normative impact)

This panel seeks to explore whether and if so, to what extent, domestic jurisdictions have been influenced by the process of standard-setting at the international level in respect of international crimes. Are national legislators and courts inclined to follow the prescriptions on elements of crimes, concepts of criminal responsibility and justifications and excuses, as developed by the international criminal courts and tribunals? Or do they rather prefer to establish and apply their own doctrines and concepts?

Chair: Prof. Elies van Sliedregt, Free University, Amsterdam

1. Prof. Harmen van der Wilt, Amsterdam University, DOMAC Steering Committee: *Prosecution and trial of African suspects of international crimes by Western jurisdictions: Lessons learned from good and bad practices*
2. Antonietta Trapani, J.S.D candidate (Amsterdam University), DOMAC: *Normative impacts of international tribunals on domestic jurisdictions: A look at DRC, Rwanda and the Balkans*
3. Dunia P. Zongwe, J.S.D. candidate (Cornell University): *Taking leaves out of the Rome statute: The interpretation of Congolese military cases in the light of international criminal law*

Commentator: Judge Alphons M.M. Orie, International Criminal Tribunal for the former Yugoslavia

COFFEE BREAK

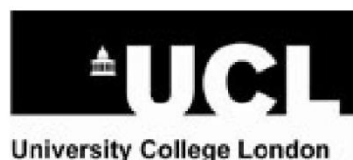
11:15-13:00

IV. Capacity development in international criminal justice

In post-conflict situations, the domestic justice system may be in a state of collapse. Doubts often exist as to whether alleged perpetrators of international crimes would be prosecuted effectively, or as to whether they would receive a fair trial. International penal interventions are therefore envisaged as the way to assure individual accountability for international crimes. Yet it has become increasingly clear that these international or "internationalized" tribunals lack themselves the capacity to deal with the vast majority of alleged perpetrators. If their impact is to be enhanced, they would need to rely on support by the national legal system. The way out of this circle, it is now often suggested, is for the international or internationalized court to rebuild, enhance or develop the capacity of local legal systems to handle international crimes cases effectively. The focus of this panel is to examine whether, and in what ways, these international or "internationalized" tribunals have contributed to the capacity of domestic legal systems. The panel looks at the different needs, means employed, and emphasis, and assess the successes and shortcomings of existing approaches to capacity development in the area of international criminal justice.

Chair: Ruth Mackenzie, School of Law, University of Westminster, DOMAC Steering Committee

1. Dr. Alejandro Chehtman, University College London, DOMAC: *Assessing the impact of international criminal tribunals on the capacity of local courts: a comparative analysis of BiH, Sierra Leone and Colombia*
2. Patrícia Pinto Soares, PhD candidate (European University Institute): *Positive complementarity and the law enforcement network – Drawing lessons from the ad hoc tribunals' completion strategy*



3. Prof. Martin Mennecke, University of Aarhus, Denmark: *Positive complementarity – Closing the impunity gap?*

Commentator: Mr. Richard Karegyesa, Chief of Prosecutions, International Criminal Tribunal for Rwanda

LUNCH

14.30-16.15

V. Impact on national procedures: Comparative perspectives

This panel seeks to discuss future modalities of interaction between internationalized and national responses to mass atrocity situations. In particular, it addresses questions relating to the identity of the coordinative actors – to what degree should the courts themselves serve as agents of interaction, and to what degree other regional and global actors could serve a role in this regard. The role of the EU in fostering and encouraging cooperation and coordination between the different response levels is given special attention.

Chair: Prof. Yuval Shany, Hebrew University, DOMAC Steering Committee

1. Yael Ronen, Hebrew University: *Case study analysis – The interplay between national courts of Bosnia-Herzegovina and the ICTY*
2. Sofia Candeias, PhD candidate (Stanford University): *Understanding the impact of the ICC presence in the DRC on Congolese judicial institutions and policy towards international crimes*

Commentator: Prof. Diane Orentlicher, American University – Washington College of Law

COFFEE BREAK

16:30-18:00

VI. The need for a comprehensive approach: The way forward (Roundtable)

Chair: Thordis Ingadottir, Reykjavik University, DOMAC Director

Albin Eser, Philippe Sands, Shireen Fisher, Daniel Nsereko (tbc), Ruth Mackenzie, Andre Nollkaemper, Yuval Shany, Harmen van der Wilt, Edda Kristjansdottir.

*The Program is subject to change

