

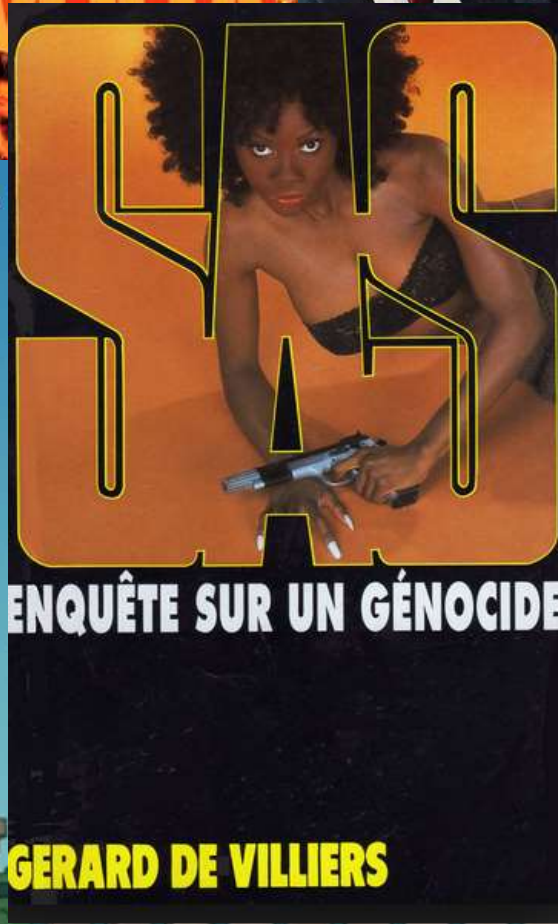
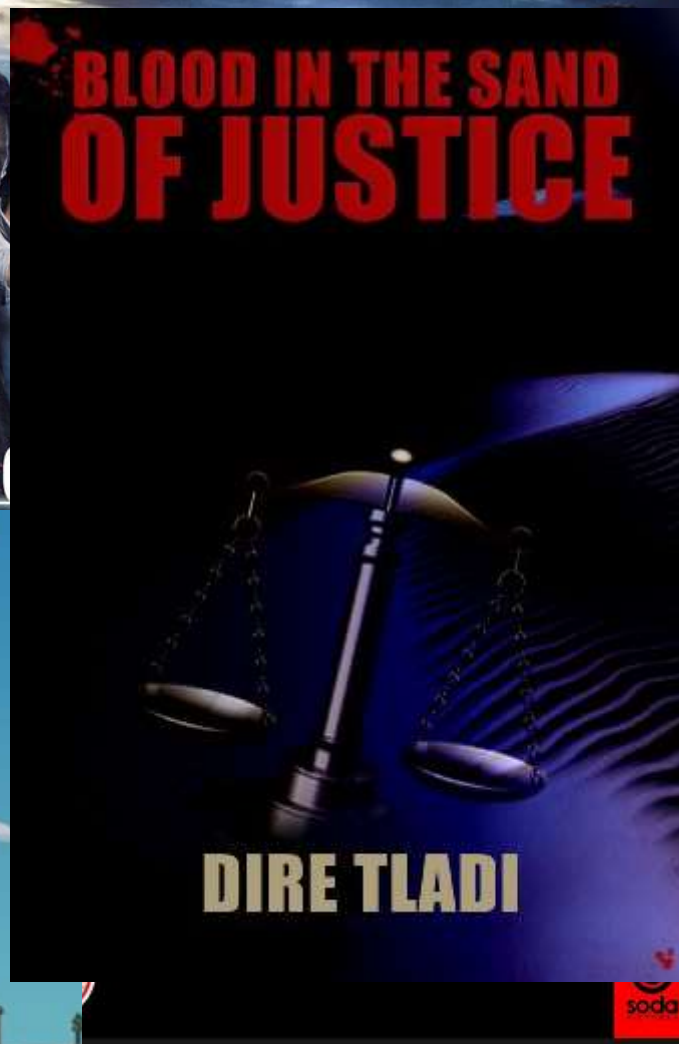
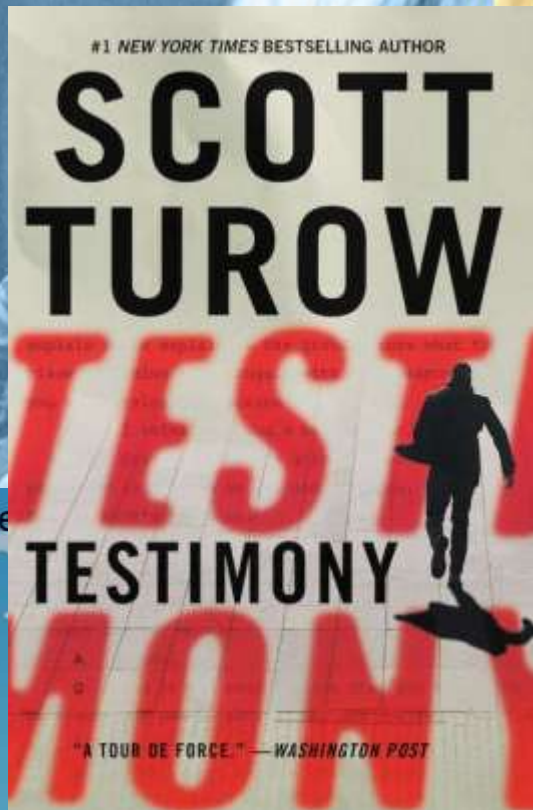


Max Planck Institute
LUXEMBOURG
for Procedural Law

The Variable Landscape of International Criminal Justice

Martyna Fałkowska-Clarys

*Senior Research Fellow
Department of International Law
and Dispute Resolution*

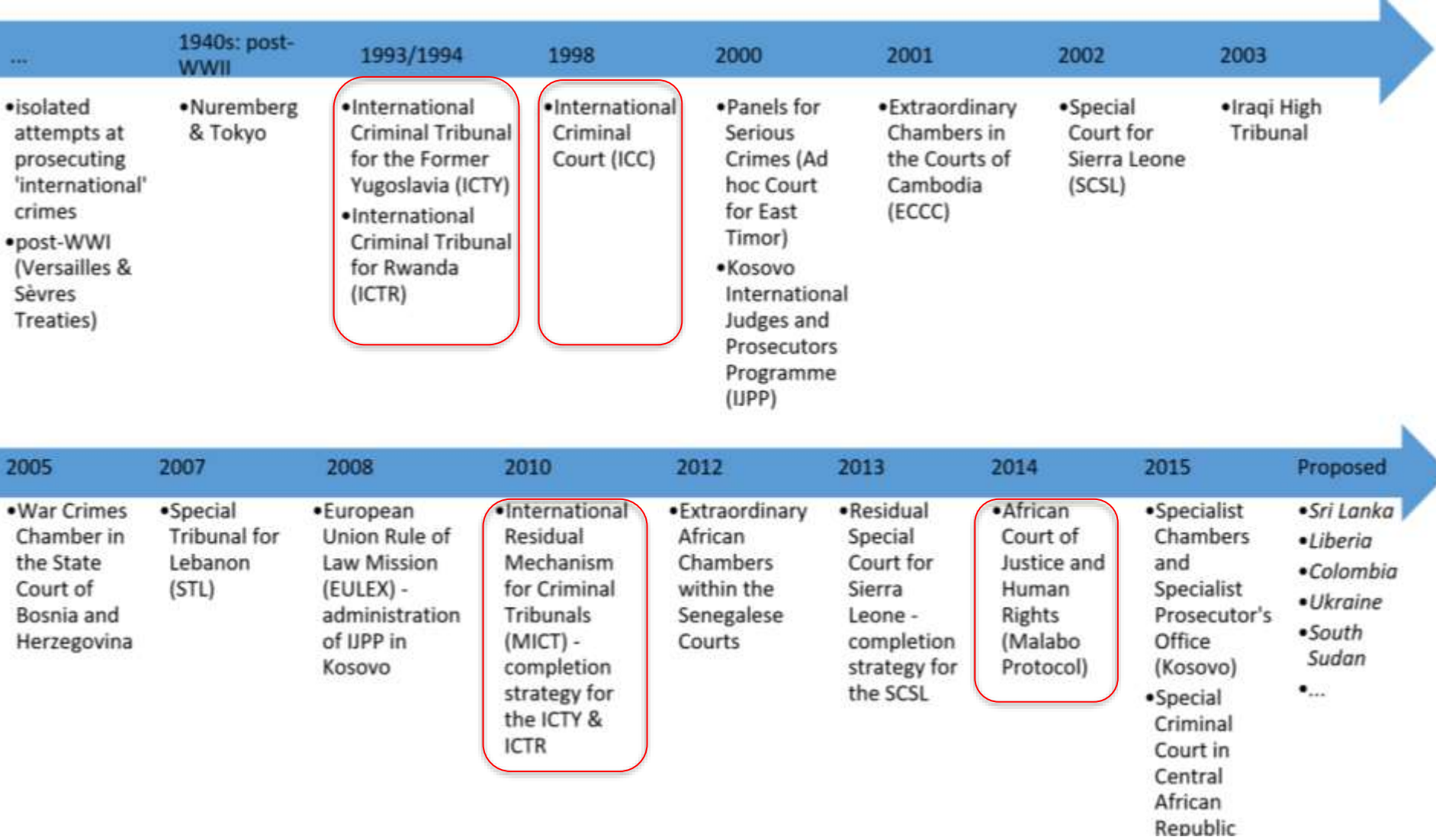


Non-exhaustive Timeline of International Criminal Justice (by date of establishment / conclusion of the founding instrument)

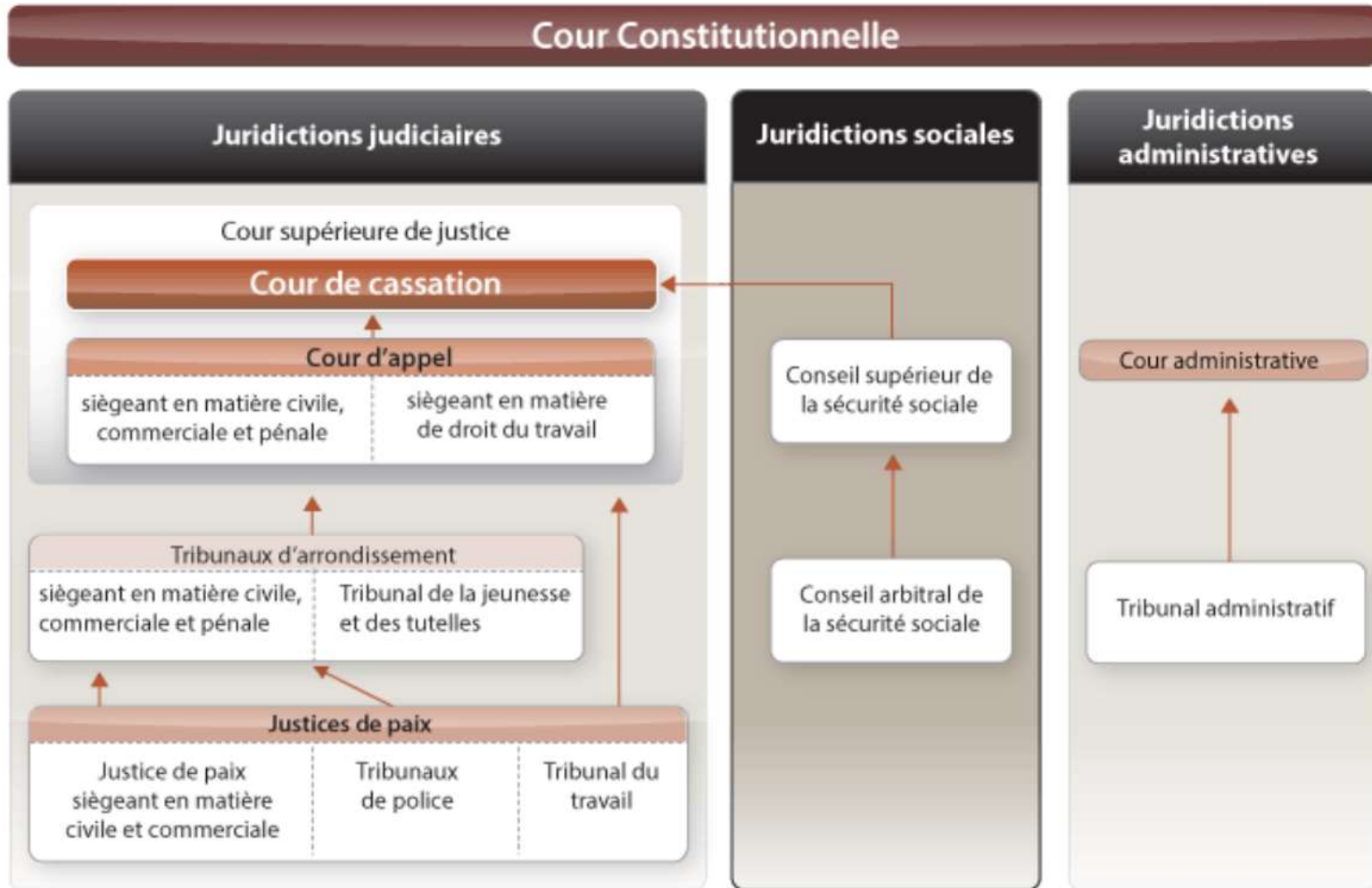
...	1940s: post-WWII	1993/1994	1998	2000	2001	2002	2003	
<ul style="list-style-type: none"> isolated attempts at prosecuting 'international' crimes post-WWI (Versailles & Sèvres Treaties) 	<ul style="list-style-type: none"> Nuremberg & Tokyo 	<ul style="list-style-type: none"> International Criminal Tribunal for the Former Yugoslavia (ICTY) International Criminal Tribunal for Rwanda (ICTR) 	<ul style="list-style-type: none"> International Criminal Court (ICC) 	<ul style="list-style-type: none"> Panels for Serious Crimes (Ad hoc Court for East Timor) Kosovo International Judges and Prosecutors Programme (IJPP) 	<ul style="list-style-type: none"> Extraordinary Chambers in the Courts of Cambodia (ECCC) 	<ul style="list-style-type: none"> Special Court for Sierra Leone (SCSL) 	<ul style="list-style-type: none"> Iraqi High Tribunal 	
2005	2007	2008	2010	2012	2013	2014	2015	Proposed
<ul style="list-style-type: none"> War Crimes Chamber in the State Court of Bosnia and Herzegovina 	<ul style="list-style-type: none"> Special Tribunal for Lebanon (STL) 	<ul style="list-style-type: none"> European Union Rule of Law Mission (EULEX) - administration of IJPP in Kosovo 	<ul style="list-style-type: none"> International Residual Mechanism for Criminal Tribunals (MICT) - completion strategy for the ICTY & ICTR 	<ul style="list-style-type: none"> Extraordinary African Chambers within the Senegalese Courts 	<ul style="list-style-type: none"> Residual Special Court for Sierra Leone - completion strategy for the SCSL 	<ul style="list-style-type: none"> African Court of Justice and Human Rights (Malabo Protocol) 	<ul style="list-style-type: none"> Specialist Chambers and Specialist Prosecutor's Office (Kosovo) Special Criminal Court in Central African Republic 	<ul style="list-style-type: none"> Sri Lanka Liberia Colombia Ukraine South Sudan ...



Non-exhaustive Timeline of International Criminal Justice (by date of establishment / conclusion of the founding instrument)



Organisation of Justice in Luxembourg



Source: <https://justice.public.lu/fr/organisation-justice.html>



Linda E. Carter
Mark S. Ellis
Charles Chernor Jalloh



Copyrighted Material
Edited by
CIDEON BOAS



The International Criminal Court in an Effective Global Justice System



Judge Sang-Hyun Song International Criminal Court

The Emerging System of International Criminal Law

Developments in Codification and Implementation

Lyal S. Sunga



Emerging System of International Justice

Hybrid Justice for Victims of Mass Crimes – Making the System Meaningful

POSTED ON AUGUST 27, 2018

Originally published on Justice in Conflict as part of the Hybrid Justice – A Justice in Conflict Symposium series. Philipp Ambach joins JiC... [READ MORE](#)

24th



Kluwer Law International



...n for Asia and the Pacific (LAWASIA)
...al Hotel, Seoul

16 October 2011



Max Planck Institute
LUXEMBOURG
for Procedural Law

www.mpi.lu

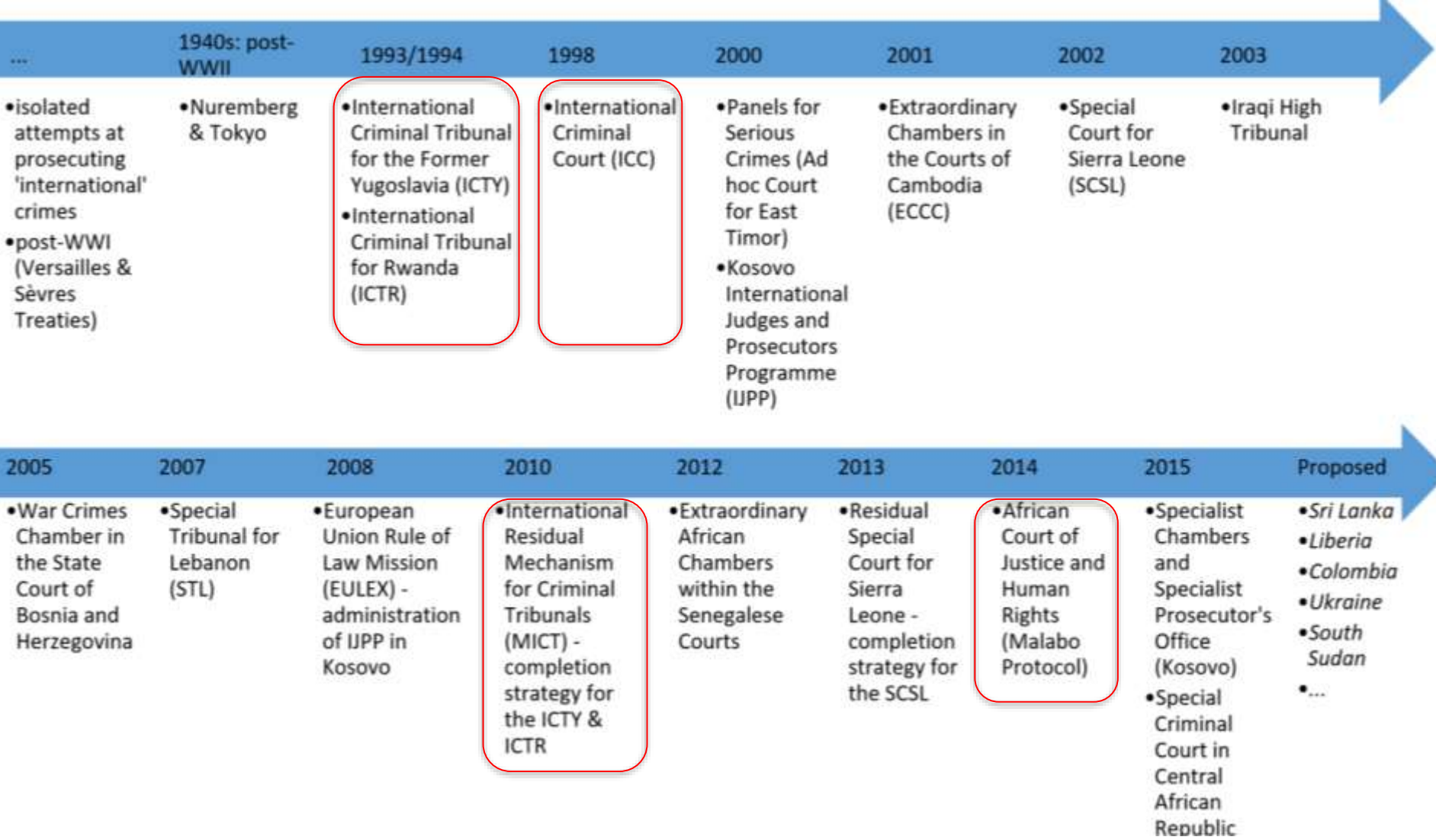
11. A narrow concept of jurisdiction may, perhaps, be warranted in a national context but not in international law. International law, because it lacks a centralized structure, does not provide for an integrated judicial system operating an orderly division of labour among a number of tribunals, where certain aspects or components of jurisdiction as a power could be centralized or vested in one of them but not the others. In international law, every tribunal is a self-contained system (unless otherwise provided). This is incompatible with a narrow concept of jurisdiction, which presupposes a certain division of labour. Of course, the constitutive instrument of an international tribunal can limit some of its jurisdictional powers, but only to the extent to which such limitation does not jeopardize its "judicial character", as shall be discussed later on. Such limitations cannot, however, be presumed and, in any case, they cannot be deduced from the concept of jurisdiction itself.

Source: ICTY, *the Prosecutor v. Dusko Tadic*, IT-94-1, decision on the defence motion for interlocutory appeal on jurisdiction, 2 October 1995.



Non-exhaustive Timeline of International Criminal Justice

(by date of establishment / conclusion of the founding instrument)



OXFORD

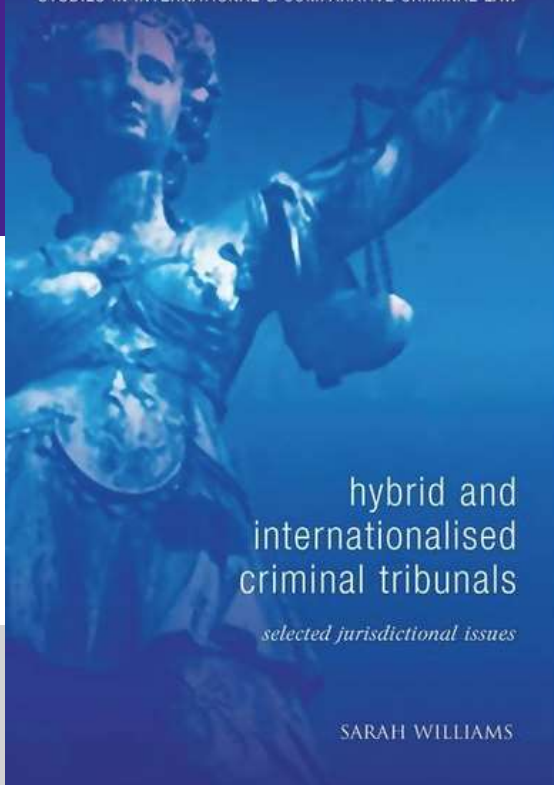


INTERNATIONAL COURTS AND TRIBUNALS SERIES

Internationalized Criminal Courts

Sierra Leone, East Timor, Kosovo, and Cambodia

STUDIES IN INTERNATIONAL & COMPARATIVE CRIMINAL LAW



hybrid and internationalised criminal tribunals

selected jurisdictional issues

SARAH WILLIAMS

UNITÉ MIXTE DE RECHERCHE DE DROIT COMPARÉ DE PARIS (UNIVERSITÉ DE PARIS I/CNRS UMR 8103) Volume 11

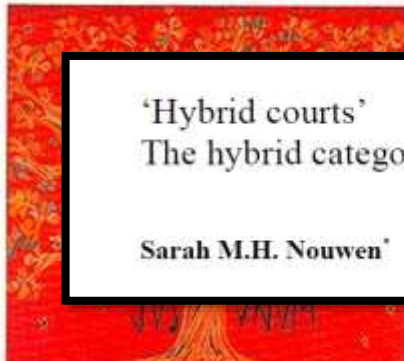
CERDIS (UNIVERSITÉ DE PARIS I)

LES JURIDICTIONS PÉNALES INTERNATIONALISÉES

(Cambodge, Kosovo, Sierra Leone, Timor Leste)

Sous la direction de

Hervé ASCENSIO, Élisabeth LAMBERT-ABDELGAWAD, Jean-Marc SOREL



SOCIÉTÉ DE LÉGISLATION COMPARÉE



'Hybrid courts'

The hybrid category of a new type of international crimes courts

Sarah M.H. Nouwen



F. The 'Mixed' Tribunals

Legal bases

As a result of the increasing internationalization of prosecution of serious human rights crimes, many so-called 'mixed' or hybrid tribunals have been established in several

Prosecutor v Thomas Lubanga Dyilo, No. ICC-01/04-01/06-2901, Decision on Sentence pursuant to Article 76 of the Rome Statute (10 July 2012).

Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui, No. ICC-01/04-01/07-T-80, Trial Chamber II, (24 November 2009). *Germain Katanga and Mathieu Ngudjolo Chui* allegedly jointly committed crimes against persons, within the meaning of Article 25(3)(a) war crimes and crimes against humanity; see <http://www.icc-cpi.int/Menu/ICC/Situations+and+Cases/Situations/Situation+ICC+0104/Related+Cases/0107/Democratic+Republic+of+the+Congo.htm> accessed 18 October 2011.

7. The Security Council mandated the Secretary-General to negotiate an agreement aimed at establishing a tribunal of an **international character** based on the highest international standards of criminal justice. Although the features of such an international character were not specified, the constitutive instruments of the special tribunal in both form and substance evidence its **international character**. The legal basis for the establishment of the special tribunal is an international agreement between the United Nations and a Member State; its composition is mixed with a substantial international component; its standards of justice, including principles of due process of law, are those applicable in all international or United Nations-based criminal jurisdictions; its rules of procedure and evidence are to be inspired, in part, by reference materials reflecting the highest standards of international criminal procedure; and its success may rely considerably on the cooperation of third States. While in all of these respects the special tribunal has **international characteristics**, its subject matter jurisdiction or the applicable law remain national in character, however.

8. The special tribunal for Lebanon is **distinguished from other international criminal tribunals established or assisted by the United Nations** in two respects: (a) in the conduct of the trial process, more elements of civil law are evident than of common law; and (b) the investigative process conducted by the International Independent Investigation Commission constitutes, in fact, the core nascent prosecutor's office.

Source: Report of the Secretary-General on the establishment of a special tribunal for Lebanon,

S/2006/893, 15 November 2006



International Criminal Justice Redux: A New Wave of Hybrid Courts

12

OLIVIA NEDERLANDT ET DAMIEN SCALIA

dinaires au Sénégal pour juger Hissein Habré (C.A.E. — 2012-2013), la Cour pénale spéciale centrafricaine (C.P.S. — 2015) et le Tribunal spécial pour les crimes de guerre commis au Kosovo (2015-2016). L'intérêt grandissant pour cette catégorie de juridictions est illustré non seulement par la création de ces récentes juridictions, mais aussi par les nombreuses propositions qui sont faites en vue d'en créer d'autres: le congrès des États-Unis a proposé de créer une juridiction hybride pour poursuivre les crimes commis en Syrie, dans un pays à la frontière en raison de la poursuite du conflit, des statuts ayant déjà

Hybrid Justice

A Justice in Conflict Symposium

Over the past few years, we have witnessed a renewed and revived interest in creating hybrid tribunals as a means to address situations of mass atrocity. Hybrid courts have been set up in Kosovo, the Central African Republic, and Senegal (to prosecute the crimes

Recognition and Representation — The Continued Relevance of Hybrid Tribunals, by Srinivas Burra

As the Pendulum Swings – The Revival of the Hybrid Tribunal (New Paper!)

Posted on April 26, 2017 by Mark Kersten

New Paper Alert! 'Hybridization – A Spectrum of Creative Possibilities'

Posted on September 12, 2018 by Mark Kersten



Something that came up when I searched "hybridity" in Google images

At a time of great crisis challenge for the International Criminal Court, hybrid tribunals have come roaring back into fashion. But what does it mean to be a hybrid court and how might the very hybridity of such tribunals be designed to address some of the most endemic problems facing the project of international criminal justice? To answer these questions, I have co-authored a paper entitled 'Hybridization – A Spectrum of Creative Possibilities' along with Kirsten Ainley of the London School of Economics.



Max Planck Institute
LUXEMBOURG
for Procedural Law

www.mpi.lu

Having been established by an Agreement between the United Nations and the Lebanese Republic (hereinafter “the Agreement”) pursuant to Security Council resolution 1664 (2006) of 29 March 2006, which responded to the

request of the Government of Lebanon to establish a tribunal of an international character to try all those who are for

Article 2 Applicable criminal law

others: The following shall be applicable to the prosecution and punishment of the crimes referred to with the pr in article 1, subject to the provisions of this Statute:

- The shall source 1. (a) al th (b) Char
- (a) The provisions of the **Lebanese Criminal Code** relating to the prosecution and punishment of acts of terrorism, crimes and offences against life and personal integrity, illicit associations and failure to report crimes and offences, including the rules regarding the material elements of a crime, criminal participation and conspiracy; and
- (b) Articles 6 and 7 of the **Lebanese law** of 11 January 1958 on “Increasing the penalties for sedition, civil war and interfaith struggle”.

Article 3 Individual criminal responsibility

competent persons;

(c) The Government and the Secretary-General shall consult on the appointment of judges;

Source: <https://www.stl-tsl.org/>



Kosovo Specialist Chambers & Specialist Prosecutor's Office

The Specialist Chambers
against human rights
reported

From the Council of Europe
The Council of Europe
system of international
In the area of human rights

The Kosovo Specialist
Kosovo Specialist
Office, follows the
Foreign Affairs
Court, Court of
customary international

The EU has
Turkey, and the

2. The Specialist Chambers shall adjudicate and function in accordance with,
- a. the Constitution of the Republic of Kosovo,
 - b. this Law as the *lex specialis*,
 - c. other provisions of Kosovo law as expressly incorporated and applied by this Law,
 - d. customary international law, as given superiority over domestic laws by Article 19(2) of the Constitution, and
 - e. international human rights law which sets criminal justice standards including the European Convention on Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights, as given superiority over domestic laws by Article 22 of the Constitution.

is
ons

rt
osed of

the
tor's
for
basic
ll as
and,

Source: <https://www.scp-ks.org/>



Gustav Klimt, *Jurisprudence*,
preparatory sketch, circa 1903

