



AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 110

April 2016

NO. 2

CONTENTS

PAGE

Symposium on the International Criminal Tribunals for the Former Yugoslavia and Rwanda

Editors' Introduction *Michael J. Matheson and Natalie L. Reid* 171

The Creation of the Tribunals *Michael J. Matheson and David Scheffer* 173

The creation of the Yugoslav and Rwanda Tribunals, spurred on by actions of the United States government, involved making fundamental choices concerning the Tribunals' authority, method of creation, basic structures and procedures, and jurisdiction. These tribunals revived international prosecution as a means of providing justice in the wake of atrocities, managing conflicts, and deterring future crimes.

The Tribunals and the Renaissance of International Criminal Law: Three Themes *Darryl Robinson and Gillian MacNeil* 191

The international criminal tribunals for Yugoslavia and Rwanda reshaped international criminal law. This article highlights three themes permeating these changes: contemporary values, collective criminality, and fundamental principles of justice. Situating the tribunals within the broader trajectory of the field, the article suggests that the formal design of the tribunals influenced their substantive contribution.

Speaking of Legacy: Toward an Ethos of Modesty at the International Criminal Tribunal for Rwanda *Sara Kendall and Sarah M. H. Nouwen* 212

Even before the formal end to the International Criminal Tribunal for Rwanda's operations, there was much talk about its legacy. This article demonstrates a sharp contrast between the ambiguities of what is and can be known about the Tribunal's legacy. Building on social theorist Zygmunt Bauman's work on "bids for immortality," it identifies the phenomenon of "legacy talk," that is, attempts to consolidate a set of interpretations about the substance and value of what remains prior to the departure of the legator.

The Impact of the ICTY on the Former Yugoslavia: An Anticipatory Postmortem *Marko Milanović* 233

As a series of public opinion surveys indicate, the International Criminal Tribunal for the Former Yugoslavia seems not to have persuaded populations in the various successor countries that the findings in its judgments are true. These surveys highlight strong relationships between the respondents' ethnicity, their perception of the ICTY's bias against their group, and their distrust of the ICTY and of its findings.

In Memoriam	<i>Donald McRae</i>	260
John H. Jackson (1932–2015)		

Notes and Comments

International Law in Chinese Courts During the Rise of China	<i>Congyan Cai</i>	269
The Paris Climate Change Agreement: A New Hope?	<i>Daniel Bodansky</i>	288

International Decisions

Edited by David P. Stewart

<i>Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); Construction of a Road in Costa Rica Along the San Juan River (Nicaragua v. Costa Rica)</i> (Jacob Katz Cogan)		320
International Court of Justice decisions on competing claims to part of the border area and on due diligence regarding transboundary environmental harm		
<i>Charanne B.V. v. Spain</i> (Björn Arp)		327
Stockholm Chamber of Commerce tribunal award on expropriation and fair and equitable treatment claims owing to revocation of incentives for renewable energy investment		
<i>National Commissioner of the South African Police Service v. Southern African Human Rights Litigation Centre</i> (James Thuo Gathii)		333
Constitutional Court of South Africa ruling on duty of South African police to investigate alleged torture by Zimbabwean police in Zimbabwe against its citizens		
<i>"Treaty Override"</i> (Klaus Ferdinand Gärditz)		339
Federal Constitutional Court of Germany judgment on whether national statutory law can displace preexisting treaty obligations under the German Constitution		

Contemporary Practice of the United States Relating to International Law

Edited by Kristina Daugirdas and Julian Davis Mortenson

United States Achieves Progress in Iran Relations with Nuclear Agreement Implementation, Prisoner Swap, and Hague Claims Tribunal Resolutions		347
European Union and United States Conclude Agreement to Regulate Transatlantic Personal Data Transfers		360
After Lengthy Delay, Congress Approves IMF Governance Reforms That Empower Emerging Market and Developing Countries		368
United States Joins Consensus on Paris Climate Agreement		374
United States and Eleven Other Nations Conclude Trans-Pacific Partnership		384

Recent Books on International Law

Edited by Richard B. Bilder

Book Reviews

Rothwell, Donald R., Alex G. Oude Elferink, Karen N. Scott, and Tim Stephens (eds.). <i>The Oxford Handbook of the Law of the Sea</i> (K. J. Keith)		390
Kolb, Robert. <i>Peremptory International Law—Jus Cogens: A General Inventory</i> ;		
Weatherall, Thomas. <i>Jus Cogens: International Law and Social Contract</i> (Dinah Shelton)		398
Mälksoo, Lauri. <i>Russian Approaches to International Law</i> (William E. Butler)		402
Cismas, Ioana. <i>Religious Actors and International Law</i> (Christina M. Cerna)		406
Fakhri, Michael. <i>Sugar and the Making of International Trade Law</i> (Sergio Puig)		415

Books Received

419

International Legal Materials. Contents, Vol. 55, No. 2

424