

Background

With the establishment of the International Criminal Court and the closing down of the ad hoc tribunals for the former Yugoslavia and for Rwanda, the paradigm of international criminal justice is shifting to national criminal justice. What does the enforcement of international criminal law by domestic courts mean for the system of international criminal justice in terms of its coherence as a legal order? Domestic enforcement comes with legal pluralism. Should we embrace pluralism, accept it as a fact of life, or renounce it and strive for uniformity instead? What does it mean for domestic courts to exercise 'universal jurisdiction'. Does it mean domestic courts act on behalf of the international community, which means they would need to apply international law to the broadest extent, even ignoring well-established domestic criminal law? And to what extent does the principle of complementarity that underlies the International Criminal Court (ICC), dictate the choice of law? Complementarity regulates the division of labour between the ICC and its state parties; the ICC is 'complementary' to domestic justice and only has jurisdiction when a State party is unwilling or unable to investigate and prosecute the crimes listed in the ICC Statute. Is a State 'unwilling' when it applies domestic criminal law to an international crimes case before it? And when courts *do* apply international norms, does the ICC require following the ICC as closely as possible, curbing heterogeneity and interpretative pluralism or is there a margin of appreciation analogous to ECHR practice?

The questions that arise in the context of domestic enforcement of international criminal justice touch on fundamental debates and theories about the right to punish, global justice, cosmopolitanism, universal jurisdiction and legal pluralism. We need to think about jurisdictional authority beyond the assumption that nation-states are the only relevant jurisdictional authorities. As part of that debate we need to rethink, at the global level, relational theories of the right to punish that focus on the bond between community and institution. For instance, in an increasingly fractured yet global world, what is meant by 'international community'? Paul Schiff Berman in his work on legal pluralism has drawn attention to the need to move the debate in international justice towards global justice and cosmopolitanism. He calls on scholarship to think beyond jurisdictional rules premised on physical location and embrace a new way of thinking about punitive authority prompted by cosmopolitanism and.

The paradigm shift from international to national criminal justice is the perfect historical moment to (re)think these issues.

Conference

The School of Law, University of Leeds organizes a 2 day conference on Global Legal Pluralism and International Criminal Justice. On 10 January 2019 Paul Schiff Berman will give a lecture on Global Legal Pluralism. On 11 January, at a roundtable, participants will engage with Professor Berman on the idea of global justice and how to operationalize this in the domestic criminal justice context. Issues that will be discussed: legal pluralism, cosmopolitanism, universal jurisdiction, and the practical issues that come with trying international crimes domestically: trials in absentia, jury trials and how to work in a legal-pluralist environment.

Programme

Day 1 - 10 January

- 1500 Registration
- 1530 Paul Schiff Berman: 'Global Legal Pluralism'
- 1630 Discussion

- 1700 Drinks

Day 2 – 11 January

Panel 1: Global Legal Pluralism: responding to Paul Schiff Berman

- 1000 Jen Hendry, 'A critical-legal perspective on Global Legal Pluralism'
- 1030 Alex Green, 'A Legal-theory perspective on Global Legal Pluralism'
- 1100 Ilias Trispiotis, 'An enforcement/procedural response to Global Legal Pluralism'
- 1130 Discussion

1230-1330 Lunch

Panel 2: Operationalizing a Global-Pluralist Justice system: International Criminal Law

- 1330 Frédéric Mégret: 'Rethinking Universal Jurisdiction'
- 1400 Lachezar Yanev, 'Universal Jurisdiction and the Principle of Legality'
- 1430 Discussion

1530 Tea & Coffee

Panel 3: Pluralist International Practice

- 1600 Ilaria Zavoli, 'Pluralism in International Legal Procedure'
- 1630 Judge Howard Morrison, 'Fair Trial Rights in a Pluralist Legal Context'
- 1700 Discussion

1745 Reception

Speakers:

- Paul Schiff Berman (George Washington University, Washington D.C.)
- Alex Green (University of Hong Kong)
- Jen Hendry (UoL)
- Frédéric Mégret (McGill University)
- Howard Morrison (ICC)
- Ilias Trispiotis (UoL)
- Lachezar Yanev (Tilburg University)
- Ilaria Zavoli (UoL)