CONCEPT


War crimes trials in East Asia contributed to the formation of transcultural norms of legality and legitimacy, as well as transnationally accepted notions of justice. The aim of this project is to examine the interaction between war crimes trials policy in Europe and Asia after 1945.

The central hypothesis is that Western debates on the rule of law cannot be seen in geographic isolation, but emerged within a broader transcultural space of discourse and related movement of people and ideas between Asia and Europe. The analysis focuses on the Legal Committee of the United Nations War Crimes Commission in London and the Sub-Commission for the Far East at Chongqing, as well as on selected studies of legal developments in East Asia (Dutch/French case, Sino/Soviet legal relations).

From East Asia, discourse on the universality, desirability and typology of legal rule later entered Western legal debates. The aim is to detect the interaction and possible ‘flow-back’ of this Asian experience to the West.

This research group, led by Kerstin von Lingen, consists of 4 PhD projects on selected war crimes trials and one post-doc project on the role of India.

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Cover picture: JRG Transcultural Justice (from left); Valentyna Polunina, Lisette Schouten, Dr. Kerstin von Lingen, Ann-Sophie Schoepfel-Aboukrat, Anja Bihler, Milinda Banerjee
Dr. Kerstin von Lingen

Transcultural Legal Debates: The Legacy of the United Nations War Crimes Commission’s Debates

Between 1943 and 1948, the United Nations War Crimes Commission (UNWCC) concerned itself with legal questions relating to war crimes. This project focuses on the Commission members as actors in the ‘legal flow’ of concepts.

During the war, UNWCC’s Legal Committee in London, which was dominated by exiled European lawyers, made important, but hitherto largely overlooked contributions to the debate about human rights and the establishment of a permanent International Criminal Court. Some of the concepts that were clarified by these debates, such as the concept of ‘crimes against humanity’ and ‘crimes against peace’, still have significance today.

Milinda Banerjee

An Intellectual History of the Tokyo Trial: Judge Radhabinod Pal and Debates on International Justice

While the Tokyo Trial has been extensively studied from perspectives of legal and political-diplomatic history, there remains a significant desideratum in terms of studying the trial from intellectual history angles. The project aims to address this research gap, giving particular attention to the debates on natural and positive law which were thrown up in the course of the trial.

The Indian judge Radhabinod Pal is used to analyse the debates which fragmented the judges and the prosecution team, and to relate these discourses in a global space to the changing foreign policy contexts of the Allied Powers as well as to the domestic intellectual genealogies of thinking about justice.

Valentyna Polunina

Soviet War Crimes Trials Policy in the Far East: Judging Bacteriological Warfare at Khabarovsk (1949)

The contribution of the Soviet Union to the legal framework of the war crimes trials after the Second World War and thus modern international law is nearly forgotten. The aim of the project is to define the role of Soviet war crimes trials policy during the post-war period and the beginning Cold War in Asia, by focusing on the Khabarovsk trial and the charge of bacteriological warfare.

The hypothesis of this project is that, despite the differences between Soviet and Western law concepts, Soviet war crimes policy contributed to the development of International Criminal Law, even if war crimes trials were widely seen in the Soviet Union as a useful political and propaganda tool in pursuing own geo-political goals.

Lisette Schouten

War Crime Trials in Indonesia (1945–1955) and their Impact on Decolonisation

Netherlands East Indies post-war justice took place in a period of great internal turmoil and fast-changing international political relations, entangled between old world order and decolonisation. As a result, the Netherlands’s precarious political position and its double experience with war crimes, both in the motherland and in its colony, different perceptions of what was acceptable in times of war and what was indeed a crime emerged.

Through an analysis of the personal experiences of Dutch legal staff involved, the project wants to examine if the ‘Asian experience’ of trials in Indonesia reshaped the nature of discourse on legality, retribution and war crimes.

Ann-Sophie Schoepfél-Aboukrat

Legal Flows and Decolonization: French War Crimes Trials Policy at Tokyo and Saigon (1945-1951)

After 1945, war crimes trials in Asia became a paradigmatic case for the complex coincidence of overcoming the past war and preparing the future world order. In Indochina, French trials took place in the context of the struggle for decolonization. This historical study examines the interaction between Asia and Europe, confronting the French war crimes trials policy in Southeast Asia with the issue of decolonization in Vietnam. On a global level, it investigates the development of international relations and the legal system from the beginning of the Pacific War to the decline of the French Colonial Empire. On a local level, it reconstitutes the unfolding of the Tokyo Trial and Saigon trials from 1946 to 1951.

Anja Bihler

Chinese War Crimes Trials 1946-1948

When Japan surrendered in 1945, China was left with the painful memory of countless atrocities that had been committed during eight years of war. In an attempt to address the horrors of that period, the Chinese Nationalist government conducted a series of war crimes trials in ten cities on the mainland as well as on Taiwan.

The current research project attempts to offer a comprehensive account of these trials. Two of the main questions the project will seek to answer are what policy the Nationalist government adopted towards Japanese war crime suspects and how the actual war crimes trials managed to implement this policy.