

**ESIL Interest Group**  
**“International Criminal Justice”**

**Introductory Report**

The Interest Group (‘IG) on International Criminal Justice has two main foundational purposes: first, to account for the contemporary and peculiar pressures engaging international and transnational criminal law; and second, to stimulate debate on new disciplinary horizons and connect international criminal justice issues with emerging global challenges. Indeed, on the one hand, heterodox approaches to explore international criminal law issues are gaining currency. On the other hand, international criminal law appears more and more entrenched with areas of law once regarded as inherently distinct, such as migration and refugee law, environmental protection and private international law. In this spirit, this IG seeks to intercept the progressive transformation of this area of international law, to foster collaboration and host discussions pertaining to international and transnational criminal law among both ESIL members and the broader international law research community, including across interest groups and research clusters devoted to issues of international and transnational criminal justice within other societies.

**1. Thematic Focus**

In line with ongoing developments within the discipline, this IG aims to generate reflections on what may be characterized as the ‘outer’ and ‘inner’ frontiers of contemporary international criminal justice. The discussion of outer frontiers concerns issues and thematic areas where the role of international criminal justice is yet to be fully conceptualized, while inner frontiers concern areas where the field is well-established but certain fundamental issues remain intractable or appear difficult to revisit. As such, two main interconnected areas are in focus, namely (i) international and transnational criminal law and (ii) international and transnational criminal justice.

*(i) International and Transnational Criminal Law*

The IG provides a platform for discussion on various topics related to international and transnational criminal law, such as, but not limited to:

- a. core principles of international criminal law;
- b. alternative theoretical and methodological approaches to international criminal law (including e.g. TWAIL and Global South perspectives);
- c. changes in the definition and interpretation of specific international crimes brought about by globalizing and transnationalizing contexts;
- d. digital transformation and evidence in criminal proceedings;
- e. the interactions and intersections of international criminal law, with other specialized bodies of international law, including migration and refugee law, international environmental law, international institutional law, international human law, international humanitarian law, and international law on peace and security;
- f. the relationship between international criminal law and domestic legal systems, particularly constitutional and public law;
- g. the relationship between international criminal law and transnational criminal law (such as, for instance, a discussion on the main challenges and their impact on international criminal law);
- h. international cooperation in criminal matters (such as on the double criminality standard) as well as human rights issues that are triggered by international cooperation in criminal matters;

- i. international criminal law institutions and their innovation;
- j. interdisciplinary analysis of international criminal law, including anthropological, sociological, political science and gender studies perspectives;
- k. interconnections between international criminal law, equity and justice (with discussion related to the so called ‘decolonization’ of international criminal law);
- l. compliance with international criminal law and measurement of its impact.

(ii) *International and Transnational Criminal Justice*

The IG also provides a platform for further discussion on the ‘outer’ and ‘inner’ frontiers of justice. In particular:

a) As part of the ‘outer frontiers’, the IG could consider discussions relating, for instance, to the role of international criminal justice in the regulation or use of social media, artificial intelligence, and cyber security, the debate over the Anthropocene, and the debate over the ‘others’ of international law (e.g. the emerging transnational relations among cities), to name but a few examples.

b) As part of the ‘inner’ frontiers, the IG would be open to examine a diversity of issues, such as, but not limited to, the criminal prosecution of the illicit trafficking of natural resources, the criminalization of human rights investigative mechanisms, the nature of perpetrators of international crimes, the scope of immunities *ratione materiae*, and elusive questions of legal theory (e.g. concerning agency and causality).

Cutting across both frontiers, the IG would also examine (i) the limits of international criminal law as a vocabulary for addressing different societal challenges – critically reflecting on how the frontiers of international criminal justice are defined and who is included and excluded from defining such boundaries in practice; and (ii) how the boundaries of international crimes interplay with the outer and inner frontiers of international criminal justice. By doing so, the IG hopes to build a shared knowledge base among ESIL members interested in international criminal justice and its frontiers.

## **2. Core Objectives and Activities**

The IG on International Criminal Justice aims to become a network that attracts academics, including doctoral and post-doctoral researchers, interested in pursuing state of the art research on international and transnational criminal law. It seeks to encourage cooperation and to create synergies between the different research projects undertaken by the ESIL members and the broader international law research community with the view to fostering pluralism.

In this vein, the IG organizes workshops, events, roundtables, and will be involved in the organization of future conferences on its core topics. It will thus arrange side events to the ESIL Annual Conferences and the ESIL Research Fora, as well as additional conferences, workshops and meetings as appropriate. It will liaise with other groups to facilitate cross-regional reflections, which are much needed in this particular area of law, including with other related interest groups in the area, such as the ASIL Interest Group on International Criminal Law, the SLADI-LASIL Interest Group on *Justicia transicional*, or the IBA War Crimes Committee.

IG members are encouraged to suggest activities on topics falling within the IG’s thematic ambit to the Coordinating Committee. The IG is also open to cooperative activities with other thematically proximate research groups and institutions, both within and outside the ESIL framework. The conveners intend to explore new forms of scholarly cooperation and means of conducting the IG’s activities due to the challenges of Covid-19, e.g. through online video conferencing.