Consider the ICC: is it “needed” and why?

Crimes in violation of human rights
There is no int’l forum to adjudicate
Individuals have no int’l standing
“Rule of law” appears desirable

Why might the ICC be unwanted (by some)?

States favor domestic laws & courts
States don’t wish to be defendants
State agents may be tried (POWs)
States cannot control proceedings

Yet the Statute of Rome has become international law: why?

Crimes committed in “other” places
Deterrent against invasion (power)
Broadens legal system & culture
The ICC was creation of a coalition of states and social movements

As a group, states were unwilling to create the ICC

Collective action problem: the hegemon was skeptical & the benefits were (and are) uncertain

The wars and genocides of the 1990s raised public awareness

Creation of special tribunals—Former Yugoslavia, Rwanda, etc.—took place in an ad hoc fashion, without full legitimacy

Growing movement of INGOs, human rights activists, legal scholars emerged in support of ICC

Movement organized, wrote documents, mobilized public, and pressured states to support—American opposition helped
Where does “regulation from below” fit into int’l politics?

“Society”

Civil associations

Organized groups with social or functional goals

Bowling leagues, interest groups, religious, educational, civic

Social movements

Collective action, organized or not, with political goals

Businesses, corporations, associations, banks, etc.

Civil Rights, Feminist, Anti-globalization, Salafist jihadi
What is their relationship to state and market?

- Feudal political units were not separated into state, market, society.
- Social hierarchies were organized around economy and rule.
- Early capitalist societies began to separate subsistence from production.
- Growing numbers of urban subjects made livings through goods and services.
- Feudal society was gradually replaced by market-based society.
- Those with property and money sought protection against unjust seizure.
The bourgeoisie allied with those who would protect property rights

- Sometimes they allied with landlords in clashes with the sovereign over new rights
- Sometimes they allied with the sovereign in clashes with landlords over old rights

Ultimately, the sovereign transferred political rights over property from the state to holders of property

- Bourgeois civil associations sought to maintain new rights, e.g., the political vote
- Bourgeois-led social movements fought for new rights, e.g., worker’s right to form unions
Hence, state, society and market exist in uneasy tension.

- The state has the authority to “create” new rights.
- Generally in the form of new property rights, including human rights.
- Actors in the market seek new things to privatize.
- Private property is generally carved out of the “commons.”
- Civil society seeks to protect its interests.
- This may involve protecting some property rights while commodifying others.
- Social movements try to restructure rights.
- This can involve social activism, protests, civil disobedience, even violence.
Social movements arise in the absence of institutionalized practices

These tend to originate with dissatisfied, bourgeois intellectuals

They see or experience something for which there is no recognized redress

They “frame” the issue and use it to mobilize political opposition through print or electronic media, and mass

Such opposition is generally regarded first as marginal, illegitimate and a threat to be suppressed

Some movements are revolutionary (Bolsheviks), some nationalism (Facism), some destructive (Al Qaeda), some are absorbed (unions), some vanish (temperance), some are cyclical (religious)