

## Interview – Courtney Hillebrecht

Written by E-International Relations

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Courtney Hillebrecht is Samuel Clark Waugh Distinguished Professor of International Relations and director of the Forsythe Family Program on Human Rights and Humanitarian Affairs at the University of Nebraska, Lincoln. She is the author of *Saving the International Justice Regime: Beyond Backlash against International Courts* (Cambridge University Press, 2021) and *Domestic Politics and International Human Rights Tribunals: The Problem of Compliance*, (Cambridge University Press, 2014). Her work has been published in *Democratization*, *The European Journal of International Relations*, *Foreign Policy Analysis*, *The Harvard International Law Journal*, *Human Rights Quarterly*, *Human Rights Review*, *International Interactions*, *The Journal of Human Rights*, *The Journal of Peace Research* and *The Law and Society Review*, among other outlets. Dr. Hillebrecht received her MA and Ph.D. from the University of Wisconsin-Madison and her BA from Middlebury College.

### Where do you see the most exciting research/debates happening in your field?

I have always been drawn to interdisciplinary research, and I continue to be really excited about scholarship that sits at the intersection of international law and international relations. At this moment, there are three research agendas that I find particularly exciting. (1) Research on transnational threats and national responses: e.g., how does a state-based global governance system address transnational threats such as the Covid-19 pandemic, climate change, and misinformation on social media? (2) Research on the resilience and vulnerabilities of human rights institutions and global governance structures in the face of attack. The war in Ukraine is clearly a prime example — how will organisations such as NATO, the EU, the UN, and the ICC respond? (3) Research on attacks on human rights defenders. We have only begun to scratch the surface of what we know about constraints on human rights defenders and the implications of this repression for the functioning of the international justice regime.

### How has the way you understand the world changed over time, and what (or who) prompted the most significant shifts in your thinking?

The longer that I do this work, the more I come to realise that bureaucracies and bureaucrats matter. This should, of course, be obvious, but sometimes, I think that we as international relations scholars are so focused on macro-level factors that we miss the small but critically important details. While I was doing fieldwork for my most recent book, I noticed that interviewees were mentioning the same individuals time and again as being the “influencers” of the international justice regime. Those bureaucrats being identified as shaping the course of international justice were not household names, and they often represented small countries otherwise on the margins of global governance. Nevertheless, as individuals, these policymakers were clearly passionate about international justice and very skilled at convincing other, more powerful actors to support them. IR theory is generally silent about individual-level mechanisms, and by ignoring the ability of individuals to influence change, we are missing and misunderstanding big pieces of the story about international justice.

### In your recent book *Saving the International Justice Regime*, you analyse the impact of backlash politics on international courts and institutions. What is backlash politics, and what are its implications if it continues?

I understand backlash to be sustained attacks on the structural, adjudicative, and moral authority of international

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courts. I suggest that backlash is not just “bad behaviour,” but rather, a systematic effort to undermine the ability of international courts to hand down rulings and uphold justice norms. As I understand it, backlash can manifest in a number of ways, from withdrawals from international courts to the creation of alternative justice mechanisms, as well as bureaucratic and budgetary restrictions, and doctrinal challenges. Left untended, backlash threatens to erode the international justice regime. International human rights and criminal courts always have faced threats. Normative discontent is baked into their structure, their founding documents, and their operational procedures. When this discontent tips over into an intentional dismantling of these courts, the consequences are far-ranging.

First, backlash can undermine the very human rights and accountability norms that the courts are meant to uphold. Second, backlash can render the courts incapable of holding perpetrators accountable, and if severe enough, backlash can turn international courts into tools of the oppressors rather than tools of the oppressed. Third, and most importantly, backlash can stop victims from getting the recourse and justice they deserve. It is important to remember that behind each case at a human rights or criminal tribunal are real people, many of whom have experienced great suffering. The international community owes it to these victims and survivors to uphold the institutions designed to provide them recourse and support.

**You are currently working on launching the *Women’s Rights Recommendation Digital Database (WR2D2)*. What is the WR2D2, and why is it important?**

The Women’s Rights Recommendation Digital Database is part of a broader project that I am working on with Dr. Jillienne Haglund (University of Kentucky). It examines the quality of recommendations that states receive from international human rights institutions and how states comply with these recommendations. In addition to the WR2D2, we have compiled the Women’s Rights Compliance Database (WRCD), which tracks compliance with over 2,500 women’s rights recommendations. The two datasets are designed to be used either individually or in tandem. They enable scholars and practitioners alike to get a nuanced picture of: (1) *what* international human rights institutions ask states to do; (2) *how robust* these recommendations are; and (3) *how and why* states comply with these recommendations. In addition to this nuanced and complex empirical picture, this project (funded by the National Science Foundation) asks scholars to rethink states’ commitment to human rights institutions long after the ratification phase, and to reconceptualise compliance as a process, rather than an outcome.

**Are international laws less enforceable than those on the national level? How often do jurisdictional complications factor into the process?**

Yes. If my research on international human rights and criminal tribunals has taught me anything, it is the following: international courts are some of the strongest enforcement mechanisms we have on the international level, but compliance and cooperation with these courts is still an entirely domestic affair. Unlike national-level laws, which can be upheld by both enforcement agencies (e.g. the police) and domestic courts, international law is, ultimately, optional. I suggest that scholars and practitioners alike would be better off if we accepted, rather than ignored, this reality.

Jurisdictional complications can, of course, play into these challenges. Namely, opponents to international law can hold up complications as evidence of the fact that international law is biased or ineffectual. Similarly, opponents can *create* these complications to delay and deter international legal proceedings. All that said, I would continue to advocate for international law. It is certainly a better option than violence and war.

**The International Court of Justice recently took on a case filed by The Gambia, the first of its kind. The ICJ will investigate and rule on the claim that Myanmar violated provisions of the Genocide Convention in its treatment of the Rohingyas. What does this development mean for the future of the international justice system?**

This has been a fascinating case to watch. As you say, it really is the first of its kind. This is true for several reasons. First, this case is unique because The Gambia does not have a clear connection to Myanmar’s attacks on the Rohingya community. Instead, it is drawing on the ICJ’s previous jurisprudence that declares that *all* states party to

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the Genocide Convention have a right and a responsibility to uphold the principles therein. This stresses the universality of the anti-genocide norm and reinforces the idea that the norm against genocide is indeed a peremptory norm that can and should be upheld anywhere and everywhere.

Beyond that, this case has the potential to show the strength of overlapping jurisdictions. For example, while the ICJ case takes aim at the state apparatus of Myanmar, ICC proceedings can focus on individual criminal accountability. I view these different court proceedings as complementary, rather than competitive. Finally, on its broadest level, this case demonstrates that international law is a living, breathing entity that evolves over time. As I mentioned earlier, although international law is imperfect, it is important and should not be dismissed or discounted.

**The international justice regime is not often at the forefront of priorities when considering humanitarian interventions and aid. How important is the regime in these efforts?**

The international justice regime is usually a secondary or tertiary concern in humanitarian intervention initiatives and foreign aid packages. In many ways, this is short-sighted. The international justice regime can be an important complement to many military and economic efforts. I know that the saying “no peace without justice” has been overused, but the reality is that justice initiatives *are* critical to peace. Beyond that, the more that key international players can reinforce the importance of the international justice regime, the more powerful the regime becomes, and the more of a deterrent it will be for would-be perpetrators.

**What is the most important advice you could give to young scholars of International Relations?**

There is so much to say, but I would offer three things: (1) Read widely. No single author or discipline is the final word on any given topic. (2) Find mentors and advocates. Despite evidence to the contrary, good scholarship is a team sport, and you and your scholarship will benefit by having a network of friends, colleagues, mentors, and advocates to support you. (3) Find a topic that truly speaks to you. You will be living with this topic for many years to come. I would caution against choosing a research question based on what you think will be “in” when you go on the academic job market. Similarly, avoid questions that you think are unimportant to the world beyond academia. When you are in the thick of researching and writing, there will be moments when you really need to care deeply about your topic to keep going.