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PAPER ABSTRACT

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Chair: Dr Ruvi Ziegler

Early Release at the International Criminal Court

In this paper, I address the provision made in the Rome Statute for the early release of individuals convicted by the ICC. The orthodox interpretation of the Statute sees the procedure set out in Article 110(3) as establishing the only avenue of early release – that procedure is not applicable prior to a 2/3rds or 25 year cut-off. I argue that this inflexibility creates two quite different problems – (a) it requires the detention of individuals where, owing to ill-health, the justifying aims of punishment are no longer present; and (b) it forecloses the possibility of what I call political release – the release of high-ranking political figures as part of a wider peace settlement. I argue that there is another plausible interpretation of the relevant provisions, an interpretation which enables the Court to deal with both problems. However, in the case of political release, the challenge is to accommodate what is a political decision within the institutional structure of the ICC.