

International Conference

PAST AND FUTURE ISSUES AND CHALLENGES OF PREVENTION OF INTERNATIONAL CRIMES AND RISE OF INTOLERANCE

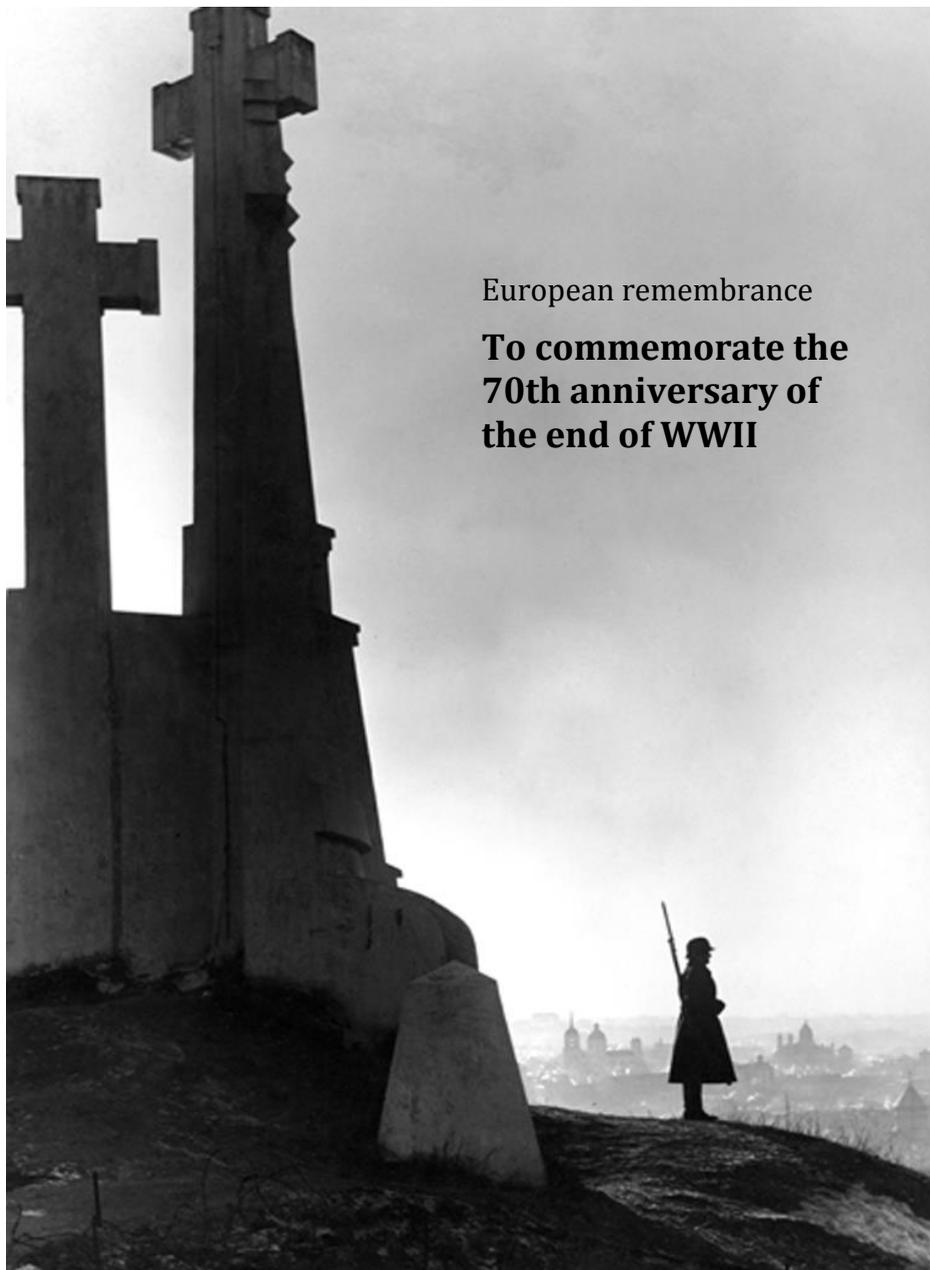
10-11 December 2015

Mykolas Romeris University (I-414)
Ateities st. 20, Vilnius, Lithuania

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European remembrance
**To commemorate the
70th anniversary of
the end of WWII**

Lithuanian Guard of Honor near the Three Crosses in 1939, Vilnius, Lithuania.
Photographer: I. Girčys

PROGRAMME

FRIDAY 11 DECEMBER 2015

8:30-9:00 **Registration**

9:00-9:20 **Introduction**

PROF. DR. REGINA VALUTYTĖ, leader of the WISE project

Welcome remarks

PROF. DR. LYRA JAKULEVIČIENĖ, dean of the Faculty of law

Plenary 1. Then and Now: Lessons Forgotten and Learned

Chair: **PROF. DR. LYRA JAKULEVIČIENĖ**, Mykolas Romeris University

9:20-9:40 **DR. RADHA D'SOUZA**, University of Westminster (Great Britain)

The Colonial Peoples in World War II: Victor's History?

9:40-10:00 **DR. PARESH KATHRANI**, University of Westminster (Great Britain)

Similarities and Parallels: Second World War and Contemporary European Refugees

10:00-10:20 **PROF. DR. DAINIUS ŽALIMAS**, Vilnius University (Lithuania)

The Lessons of WWII and Annexation of Crimea

10:20-10:40 **Discussions**

10:40-11:00 Coffee break

Plenary 2. Then and Now: a Gift of International Criminal Justice

Chair: **PROF. DR. JUSTINAS ŽILINSKAS**, Mykolas Romeris University (Lithuania)

PROGRAMME

FRIDAY 11 DECEMBER 2015

- 11:00-11:20** **PROF. HABIL DR. BARTLOMIEJ KRZAN**, University of Wrocław (Poland)
International Criminal Court facing the Peace vs. Justice Dilemma
- 11:20-11:40** **DR. IGNAZ STEGMILLER**, Giessen University (Germany)
The International Criminal Court – A success Story of State Cooperation?
- 11:40-12:00** **DR. DAVID KOHOUT**, Charles University in Prague (Czech Republic)
The Prosecution of Nazi Criminals in the Post-WW II Period as a Lesson for Re-defining the Concept of Statute of Limitation in Cases of Crimes under International Law
- 12:00-12:20** **Discussions**
- 12:20-14:00** Lunch break
- Chair: **PROF. HABIL DR. BARTLOMIEJ KRZAN**, University of Wrocław (Poland)
- 14:00-14:20** **PROF. DR. FULVIO MARIA PALOMBINO**, University of Naples Federico II (Italy)
Cumulation of Offenses in International Criminal Law: A Troublesome Inheritance of the Second World War
- 14:20-14:40** **PROF. DR. JUSTINAS ŽILINSKAS**, Mykolas Romeris University (Lithuania)
Vasiliauskas v. Lithuania Case: Battle or the War Lost?

PROGRAMME

FRIDAY 11 DECEMBER 2015

14:40-15:00 **DR. FRANCESCO DE SANTIS**, University of Naples Federico II (Italy)
Civil action for damages caused by war crimes: scope and constraints

15:00-15:20 Discussions

15:20-15:40 Coffee break

Plenary 3: Then and Now: Human Rights in Offence

Chair: **PROF. DR. REGINA VALUTYTĖ**, Mykolas Romeris University

15:40-16:00 **DR. MARINE TOULLIER**, Rouen University (France)
Effectiveness of the Lessons Learned from WW2 by the ECtHR: the Example of the Control over States' Participation to Armed Conflicts

16:00-16:20 **DR. NATALIA BUCHOWSKA**, Adam Mickiewicz University in Poznań (Poland)
Protection of Women's Rights in Armed Conflict - any Lessons from World War II?

16:20-16:40 **TOMASZ LEWANDOWSKI**, Adam Mickiewicz University in Poznań (Poland)
Responsibility to Protect. Balancing National Interests and International Values

16:40-17:00 Discussions
Closing

Plenary 1

Then and Now: Lessons Forgotten and Learned

Chair: **PROF. DR. LYRA JAKULEVIČIENĖ**
Mykolas Romeris University (Lithuania)

DR. RADHA D'SOUZA

University of Westminster (Great Britain)

The Colonial Peoples in World War II: Victor's History?

Summary. Britain mobilised millions of soldiers from the colonies to fight in World War II. As the largest empire, Britain's capacity to mobilise human, monetary and material resources of the colonies played a critical role in the Allied victory. The role of the colonies in World War II is at best footnoted in the histories of the war and largely forgotten in the memorialisation of it. The dominant narratives of the war are 'victor's history' in that they write-out the contributions of the colonies. This paper examines the human, monetary and material contributions of South Asia in World War II. It argues that a more inclusive history of the war could make a contribution in addressing the xenophobic anti-immigrant sentiment that appears to be on the rise in Britain and Europe more generally.

Dr. Radha D'Souza is a Reader in Law at the University of Westminster, London. Radha's research interests include global and social justice, social movements, International Law & Development, colonialism and imperialism, socio-legal studies, law and technology, public international law, international organisations, resource conflicts in the Third World, in particular, water and land conflicts, comparative philosophy and social theory. She has published academic books and articles on the above subjects. Her most recent work titled *What's Wrong With Rights?: Social Movements, Law and Liberal Imaginations* will be published by Pluto Press in 2016. Radha practiced as barrister at the High Court of Mumbai. She is a social justice activist from India where she worked in labour and democratic rights movements first as organizer and later as activist lawyer. Radha is a writer, critic and commentator and has worked with solidarity movements in the Asia-Pacific region and internationally.

DR. PARESH KATHRANI

University of Westminster (Great Britain)

Similarities and Parallels: Second World War and Contemporary European Refugees

Summary. War naturally results in the movements of refugees across international borders and in doing so, brings to light both the moral and legal obligations of sovereign states. It was felt that lessons were learnt following the large refugee movements during the Second World War; but this is currently being challenged by contemporary refugee issues.

Dr. Paresh Kathrani is a Senior Lecturer in Law and PhD Coordinator at Westminster Law School. He has extensive experience working in a law firm environment and also teaching and researching human rights law, amongst other fields. Whilst working in a prominent west London law firm, he assisted many asylum seekers with their human rights claims. He completed his PhD in refugee law and was later appointed a full time member of staff at Westminster Law School. He has participated in a number of research-led initiatives, including with the School of Advanced Studies, University of London - and is currently the UK Project Manager of an EU Tempus funded project with a consortium of Universities in Europe and North Africa looking at a human rights based approach to higher education in the Maghreb and also part of the EU WISE Project led by MRU, Lithuania. He is the Module Leader of Criminal Law at Westminster Law School.

PROF. DR. DAINIUS ŽALIMAS

Vilnius University (Lithuania)

The Lessons of WWII and Annexation of Crimea

Summary. The presentation makes an assessment of the “reunification of Crimea with Russia” from the viewpoint of contemporary international law and examines the arguments used by Russian legal scholars to justify the annexation of Crimea. Parallels are drawn between the annexation of Crimea and certain annexations committed by the Third Reich and the USSR in the period of World War II. The author also reveals similarities between the strategies of argumentation exploited by the then ideologists and today’s Russian lawyers in order to justify territorial ambitions. In this respect, particular consideration is given to the “Russian world” conception, revisionist attitude towards the breakup of the USSR, as well as manipulation of international law in seeking to produce an interpretation of international legal norms that is favourable to the political interests of the Russian Federation.

Prof. dr. D. Žalimas is a renowned expert of international law and a professor at Vilnius University Faculty of law, the president of the Constitutional Court of Lithuania. His research interests lie primarily in the field of public international law, diplomatic and consular law, law of international organizations, human rights law and international humanitarian law. Prof. D. Žalimas took part in EU and other international research projects related to human rights, democratization and honouring the memory of victims of totalitarian crimes, as well as provided expert opinions, worked as Lithuania's representative to the Permanent Court of Arbitration in The Hague. He has significantly contributed to the research of the international and constitutional legal basis for the restoration of Lithuania's independence on March 11, 1990, and made major contribution in the area of Lithuania's NATO integration.

Plenary 2

Then and Now: a Gift of International Criminal Justice

Chairs:

PROF. DR. JUSTINAS ŽILINKAS

Mykolas Romeris University (Lithuania)

PROF. HABIL DR. BARTŁOMIEJ KRZAN

University of Wrocław (Poland)

PROF. HABIL DR. BARTLOMIEJ KRZAN

University of Wrocław (Poland)

International Criminal Court Facing the Peace vs. Justice Dilemma

Summary. International criminal justice has always been a highly selective tool of addressing the atrocities. The aim of the presentation is to define the role to be played by the UN Security Council in the context of the permanent ICC.

Habil. dr. Bartłomiej Krzan is associate professor of international and European law at the Faculty of Law, Administration and Economics, University of Wrocław. His main interests include international criminal law, law of international responsibility, the UN, and the external relations of the EU.

DR. IGNAZ STEGMILLER

Giessen University (Germany)

The International Criminal Court – A Success Story of State Cooperation?

Summary. The International Criminal Court (ICC) has been labeled a success story of State cooperation, but the institution has recently been very much criticized for focusing its prosecution activities on the African continent. First, the speaker will differentiate between the establishment of the ICC and its operational activities. Secondly, the ICC's Office of the Prosecutor (OTP) operates on the basis of a strict procedural setting. Last but not least, the speaker will distinguish different spheres of legitimacy vis-à-vis the ICC.

Since December 2012 Dr. Ignaz Stegmiller has been working as the Coordinator for International Programs of the Faculty of Law at the Franz von Liszt Institute for International and Comparative Law, Department for Public Law, International Law and EU Law. Before, he worked as a Technical Advisor of GIZ Germany for the Cambodian Human Rights Action Committee (CHRAC) in Cambodia, focusing on the Extraordinary Chambers in the Courts of Cambodia. He holds a Doctor juris degree from the Georg August University of Goettingen (summa cum laude). His research topic was "The Pre-Investigation Stage of the International Criminal Court – Criteria for Situation Selection".

DR. DAVID KOHOUT

Charles University in Prague (Czech Republic)

The Prosecution of Nazi Criminals in the Post-WW II Period as a Lesson for Re-defining the Concept of Statute of Limitation in Cases of Crimes under International Law

Summary. The presentation will look at the lengthy and variable process of dealing with Nazi criminals after the WW II. Among other principal challenges the prosecuting officers (as well as the courts and the legislators) had to deal with the issue of the statute of limitation in cases of the crimes, which were (as time passed by) often perpetrated several decades earlier. This topic is still actual as we may recently observe in Germany perhaps the last attempts of the prosecuting authorities to bring the deemed perpetrators of the Nazi crimes before the courts. Not only in the well covered John Demjanjuk case we could witness an attempt of the German courts to re-define the statutory limitations through a new approach to the institute of accessory to murder under the German Criminal Code. However, this shift in the German case law has not been confirmed by higher courts yet and is sometimes also subjected to criticism by legal scholars. Thus it seems that the legacy of WWII and its legal repercussions are still far from being obsolete even in the year 2015.

Dr. David Kohout holds his Ph.D. in legal history since 2013. In his doctoral thesis ("Legal-Historical Aspects of Prosecution of Nazi Criminals in the Context of the Adolf Eichmann Trial") he put an emphasis on the comparative analysis of different national as well as international approaches towards retributive justice over Nazi criminals. Currently he is a researcher at the Interdisciplinary Centre for the Development of Lawyering Skills of the Faculty of Law, Charles University in Prague. Besides the area of the international criminal justice in its historical perspectives his research interests aim mainly at the area of Sports Law.

PROF. DR. FULVIO MARIA PALOMBINO

University of Naples Federico II (Italy)

Cumulation of Offenses in International Criminal Law: A Troublesome Inheritance of the Second World War

Summary. Under the statutes of all international criminal courts and tribunals in operation, more than one penal provision may punish the same conduct. Murder, for example, is punishable as a war crime, as a crime against humanity and as genocide. In this case, the question arises as to whether the act that breaches several criminal provisions in reality violates only one. The approach followed in case law is a very formal one, which ends up providing no limiting effects to cumulative convictions. Plausibly, this is a consequence of a line of thought that emerged in the aftermath of the Second World War and advances a primarily 'retributive' idea of punishment for serious international crimes, where there is no room for the perpetrator's rehabilitation. In this author's view, bearing in mind the dramatic development of human rights' protection over the years, such an idea should be revised, going so far as to favor a more substantive approach to the matter of cumulation.

Prof. Dr. Fulvio Maria Palombino currently serves as full professor of international law at the Department of law, where he teaches Public International Law and International Trade Law. He is the author of two monographs dealing with international adjudication broadly understood, and of several contributions to journals of international reputation, among them the Leiden Journal of International Law, the Heidelberg Journal of International Law and the Journal of International Criminal Justice. He is one of the founding chairpersons of the ESIL (European Society of International Law) Interest Group on International Courts and Tribunals.

PROF. DR. JUSTINAS ŽILINSKAS

Mykolas Romeris University (Lithuania)

Vasiliauskas v. Lithuania Case: Battle or the War Lost?

Summary. In the recent case *Vasiliauskas v. Lithuania* ECtHR Grand Jury has found that Lithuania has breached ECHR while applying responsibility for the genocide towards former soviet repressive structures officials who persecuted and killed members of anti-Soviet armed resistance (partisans) as political group. However, the judgment was adopted with close margin (9 to 8 votes), it also contains a number of controversies and questions that still have not been answered.

Dr. Justinas Žilinskas currently serves as professor at the Department of International and EU Law, where he currently teaches the course of International Humanitarian Law. He is a member of the National IHL Implementation Commission under the Ministry of Defense since 2003 and a member of the International Humanitarian Fact-Finding Commission since 2012. He is also Member or acting as an expert for various Government-level working groups on International Law, Criminal Law, Human Rights Law.

DR. FRANCESCO DE SANTIS

University of Naples Federico II (Italy)

Civil Action for Damages Caused by War Crimes: Scope and Constraints

Summary. Civil actions for war crimes serve, among others, the purposes of obtaining a public acknowledgment of the tort and that of reaffirming the legal binding force of the rules protecting fundamental human rights. However, two main obstacles arise in such actions since the defendant is a State: immunity from jurisdiction and the doctrine of “acte de Gouvernement”. The interaction among ECtHR, ICJ and Italian Supreme Courts provide a clear example of the achievements and the remaining challenges in this field.

Francesco De Santis holds a Ph.D. from University of Naples “Federico II” where he is currently working as a research fellow in Civil Procedural Law and a lecturer of International Procedures for the Protection of Human Rights. He acts as an expert on Human Rights protection and efficiency of Justice with the Council of Europe and has previously worked as a Lawyer with the Registry of the European Court of Human Rights.

Plenary 3

Then and Now: Human Rights in Offence

Chair: **PROF. DR. REGINA VALUTYTĖ**
Mykolas Romeris University

DR. MARINE TOULLIER

Rouen University (France)

Effectiveness of the Lessons Learned from WW2 by the ECtHR: the Example of the Control over States' Participation to Armed Conflicts

Assoc. prof. dr. Marine Toullier holds her Ph.D. from University Paris I Pantheon-Sorbonne since 2001. Since 2007, Director of the International Relations of the Law Faculty. Since 2005 Senior Lecturer at Rouen University, mostly on European Protection of Human Rights, European Union Litigation and European Convention on Human Rights litigation, Legal Methodology (Erasmus Mundus students), Fundamental Rights and Freedoms, Freedoms and liberties, graduate and post-graduate. Extensive teaching abroad, namely in the Consortium universities, but also in Italian universities (she is a trilingual French, English and Italian).

DR. NATALIA BUCHOWSKA

Adam Mickiewicz University in Poznań (Poland)

Protection of Women's Rights in Armed Conflict - any Lessons from World War II?

Summary. Throughout the history, wars were accompanied by mass violations of human rights. Women were particularly vulnerable to all forms of such violations, in particular - becoming victims of various forms of violence. Women were treated as spoils of war for the victorious armies, and rape was seen as a cruel, but also an inevitable consequence of war. Not only the WWII was one of the most outrageous examples in this cruel scheme, but it also brought new phenomena, such as the casus of comfort women - massive sexual slavery committed by the Japanese army. The aim of the presentation is to answer the question of whether the painful experiences of the WWII, brought any change for the better in this respect? The presentation will trace the evolution of the international legislation having as object the protection of women in armed conflicts. In addition, examples of the most typical violations of women's rights during armed conflicts will be provided.

Assist. Prof. Dr. N. Buchowska is a director of Postgraduate Studies of Foreign Service and International Law at Faculty of Law and Administration. Her research concentrates on public international law, with special focus on the protection of women's rights, gender stereotypes and the law of international organizations, particularly law-making competences of international organizations. Recently she has served as the legal expert for EEA grants financed interdisciplinary project "Gender and the textbooks". She also is an external examiner of human rights course at Faculty of Law, The University of the West Indies, Barbados. Dr. N. Buchowska has extensive teaching experience and has been repeatedly invited by for delivering lectures and papers on women's rights in Poland, Lithuania and the USA. She is also an academic supervisor of students' scientific interest group of public international law and diplomacy "Inter Gentes" and of Poznan International Model UN - POZIMUN.

TOMASZ LEWANDOWSKI

Adam Mickiewicz University in Poznań (Poland)

Responsibility to Protect. Balancing National Interests and International Values

Summary. Responsibility to Protect is yet another step in post war evolution of international response against genocide, war crimes, crimes against humanity and ethnic cleansing. Author analyses the notion of R2P concept through the lens of balancing national interests of EU member states (state security, human security, budgetary balance, independence), regional interests of EU with international values (solidarity, human rights, peace, security). Author underlines that European responses and actions towards preventing and ending mass atrocities still lack comprehensive and unified approach. With different interests of Member States European Union has problems dealing with consequences of atrocities which no longer appear outside of Europe but considerably affect its external and internal policies.

Tomasz A. Lewandowski is a PhD candidate and teaching assistant at the Faculty of Law and Administration, Adam Mickiewicz University in Poznan. His research area focuses on the international protection of human rights, constitutional law and IHL. Lewandowski conducts research project on the relation between sovereignty and R2P funded by National Science Centre of Poland. His publications cover constitutional rules on the use of force and the contemporary meaning of sovereignty. Lewandowski was awarded scholarships from the Kulczyk Family Fund and the Adam Mickiewicz University Foundation in Poznan. He also finds interest in oenology, Greek mythology and the works of G. Bizet.

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