

**CRIME PREVENTION
THROUGH CRIMINAL LAW
& SECURITY STUDIES**

International Spring Course, Dubrovnik, Croatia, 26-31 March 2012

**"Law and Politics of Transnational Justice:
The Past, Present and Future of International Criminal Justice"**

Info on Course Lecturers

with short biography, lecture summary,
and recommended/further readings

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 - ~ Prof. Dr. Maja Seršić ~
- ~ Dr. Anna-Maria Getoš, LL.M. ~

~ Welcome and Introduction ~
Prof. Dr. Davor Derenčinović*

Institutional Affiliation of Lecturer:

Course Director, Full Professor and Head of the Chair for Criminal Law at Zagreb University's Faculty of Law, and President of the Croatian Association for Criminal Law Sciences and Practice

Lecture Summary:

The lecture will first provide for a brief overview of the history of the Dubrovnik Spring Course on "Crime Prevention Through Criminal Law & Security Studies" and introduce its general concept as well as this year's participating fellow course directors: Prof. Dr. Farkas, Dr. Getoš, and Dr. Kilchling. The course was founded in 2009 and titled "The Future Unchained - Terrorism between Law and Politics", followed by the 2nd edition titled "Raising Awareness on Human Trafficking in South-Eastern Europe and Beyond", and the 3rd edition of the course titled "Fighting Corruption – Are We On the Road to Nowhere?". The main part of the lecture will focus on the key questions of this year's course topic - 4th edition of the course titled "Law and Politics of Transnational Justice: The Past, Present and Future of International Criminal Justice". Goal of the lecture is to introduce the participants to the course, its concept and history, and at the same time to raise some basic questions regarding transnational and international criminal law and justice.

Recommended/Further Readings:

- Course web page: <http://www.pravo.unizg.hr/KP/crimeprevention>
- Derenčinović & Horvatić (Eds.). *The Theory of Joint Criminal Enterprise and International Criminal Law – Challenges and Controversies*, Zagreb 2011.

* **Lecturer's Background:** Founder of the Course. He has graduated at the Zagreb Faculty of Law (Croatia) in 1995 and acquired first LLM in 1998., and than PhD in 2000 (master thesis on anticorruption). Fulbright researcher in 2004/2005 at the International Human Rights Law Institute, DePaul University, Chicago. Annual Award for the best young scientist in social sciences (2001). President of Croatian Association for Criminal Law Sciences and Practice. Secretary General of Croatian Academy of Legal Sciences. Consultant of United Nations Office for Drugs and Crime. Member of Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA). Member of Parliamentary Committee for Legislation and State Attorneys Council. [e-mail: davorderen@yahoo.com]

~ Experiences from the Perspective of the Judges' Bench ~

Prof. Dr. Dr. h.c. mult. Albin Eser, M.C.J.*

Institutional Affiliation of Lecturer:

Director Emeritus at the Max Planck Institute for Foreign and International Criminal Law (Freiburg/Germany), and Former Ad Litem Judge at the ICTY (The Hague/The Netherlands)

Lecture Summary:

The presentation will concentrate on the merits and deficits of international criminal justice, as in particular experienced by a judge at the ICTY.

Recommended/Further Readings:

- Albin Eser, The „Adversarial“ Procedure: A Model Superior to Other Trial Systems in International Criminal Justice? Reflections of a Judge In: Thomas Krüssmann (ed.), *ICTY: Towards a Fair Trial?*, Neuer Wissenschaftlicher Verlag, Wien 2008, S. 207-227 = www.freidok.uni-freiburg.de/volltexte/6317; reprinted in: Albin Eser, *Transnationales Strafrecht / Transnational Criminal Law. Ausgewählte Beiträge / Collected Publications*. Berliner Wissenschaftsverlag (BWV), Berlin 2011, pp. 612-632.
- Albin Eser, *Procedural Structure and Features of International Criminal Justice: Lessons from the ICTY*. In: Bert Swart/Alexander Zahar/Göran Sluiter (eds.), *The Legacy of the International Criminal Tribunal for the Former Yugoslavia*, Oxford University Press, Oxford 2011, S. 108-148.

* **Lecturer's Background:** Born 1935 in Leidersbach/Germany, studied law at the University of Tübingen, the Free University of Berlin, the University of Würzburg (where he received his Dr. iur.), and at New York University (where he earned a Master of Comparative Jurisprudence). In 1970 he became a full professor of German and comparative criminal law at the Faculty of Law of the University of Bielefeld. In 1974 he moved to the University of Tübingen and in 1982 to the University of Freiburg. From 1982 to 2003 he was Director of the Max Planck Institute for Foreign and International Criminal Law. From 1971 to 1988 he served as an Associate Judge of the Higher Regional Court, first in Hamm/Westphalia and later on in Stuttgart/Baden-Wuerttemberg. From 1977-1983 he was member of the Senate of the German Research Foundation and from 1989-1992 one of its Vice-Presidents. From 1994-1997 he chaired the Humanities and Social Science Section of the Max-Planck-Society. From 2004-2006 he served as Judge at the International Criminal Tribunal for the former Yugoslavia in The Hague. In the summer term of 2008 he lectured as Visiting Professor at Ritsumeikan University College of Law at Kyoto/Japan, in the winter term of 2009 at the Saint Louis University in St. Louis/USA, in the winter term of 2010 at University of Haifa, and in the summer term of 2011 at the University of Tasmania in Hobart/Australia. He holds honorary doctorates from the Universities of Crakow/Poland, Peruana Los Andes Hyancayo/Peru, and Waseda Tokyo/Japan. His main areas of research include German, Comparative and International Criminal Law and Procedure, and Medical Law. [e-mail: a.eser@mpicc.de]

~ Sentencing and International Criminal Justice ~

Prof. Dr. Dr. h.c. Hans-Jörg Albrecht*

Institutional Affiliation of Lecturer:

Director at the Max Planck Institute for Foreign and International Criminal Law (Freiburg/Germany), Honorary Professor and Faculty Member at Freiburg University's Faculty of Law, Guest Professor at the Center for Criminal Law and Criminal Justice at the China University of Political Science and Law, and at the law faculties of Hainan University, Renmin University, Wuhan University and Beijing Normal University/China

Lecture Summary:

The presentation will summarize developments in sentencing theory and practices before International Courts. Particular attention will be drawn to criticism that has been raised with respect to the lack of a comprehensive framework of sentencing rules and a still experimental stage of international criminal justice and sentencing practices not rooted in well-established traditions and guided by informal rules which tend to develop in systems of sentencing. International criminal justice then is faced with three particulars: a system of ordinary criminal penalties which shall be applied to exceptional crimes, an input of cases which represents a selection of the most serious international crimes and small case numbers which makes it difficult to establish sentencing tariffs (and sentencing routines).

Recommended/Further Readings:

- Ambos, K., Nemitz, J. C.: Judgement, Sentence and Plea of Guilty. In: Klip / Sluiter (Eds.): Annotated Leading Cases of International Criminal Tribunals - ICTR 1994-1999 (2001). 2001, pp. 835 - 840.
- Bassett, M.R.: Defending International Sentencing: Past Criticism to the Promise of the ICC. Human Rights Brief 16(2009), pp. 22-28.
- Clark, J.J.: Zero to Life: Sentencing Appeals at the International Criminal Tribunals for the Former Yugoslavia and Rwanda. The Georgetown Law Journal 96(2008), pp. 1685 – 1723.
- Drumbl, M.A.: Atrocity, punishment and international law. Cambridge 2007.
- Ewald, U.: "Predictably Irrational" – International Sentencing and its Discourse against the Backdrop of Preliminary Empirical Findings on ICTY Sentencing Practices. International Criminal Law Review 10(2010), pp. 365-402.

* **Lecturer's Background:** Born in 1950 in Esslingen, Germany, Prof. Albrecht studied at the University of Tübingen and later at the University of Freiburg, where he was awarded his doctorate in 1979. In 1991, Prof. Albrecht completed his post-doctoral lecturing qualification with a Habilitation on criminal law, juvenile criminal law, criminology, and prison law. Between 1977 and 1991, Prof. Albrecht worked as a research fellow at the Max Planck Institute in Freiburg. In 1991, he accepted an offer to lecture criminal law and criminology at the University of Konstanz. In 1993, he ascended to the Chair for Criminal Law, Juvenile Criminal Law, and Criminology at the University of Dresden, a position which he held until 1997 when he returned to the Institute. In 1997, Prof. Albrecht was appointed director at the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany. In addition to his position at the Institute, he also lectures on criminal law, criminal justice, and criminology at the University of Freiburg. In recent years, Prof. Albrecht has been awarded the status of guest professor at a number of foreign universities and leading academic research centers including the Center for Criminal Law and Criminal Justice at the China University of Political Science and Law (2000 + 2008), the Law Faculty of Hainan University, China (2001), the Law Faculty of Renmin University, China (2004), the Law Faculty of Wuhan University, China (2005), and the Law Faculty of Beijing Normal University (2006). In 2003, he was bestowed the honor of a life membership at Clare Hall College, University of Cambridge, and in 2004 he accepted a UT-professorship and received permanent faculty membership at the Law Faculty of Qom Higher Education Center, University of Teheran. In 2005, Prof. Albrecht was awarded an honorary doctorate from the University of Pécs, Hungary. In May 2010, Prof. Albrecht was made an honorary member of the Hungarian Society of Criminology for his activities in the development of Hungarian criminology and criminal policy. In September 2010, he was appointed as an honorary member to the Serbian Society of Criminology (SCS). Prof. Albrecht is the spokesperson of the International Max Planck Research School on Retaliation, Mediation and Punishment (REMPP). [e-mail: sek-albrecht@mpicc.de]

- Hoel, A.: The Sentencing Provisions of the International Criminal Court: Common Law, Civil Law, or Both? Faculty of Law, Monash University, Research Paper No 2007/17, 26 February 2009 (paper can be downloaded without charge from the Social Science Research Network electronic library at: <http://ssrn.com/abstract=1349410>).
- Leinwand, J.: Punishing Horrific Crime: Reconciling International Prosecution With National Sentencing Practices. *Columbia Human Rights Law Review* 40(2009), pp. 799 – 803.
- Meernik, J.: Sentencing Rationales and Judicial Decision Making at the International Criminal Tribunals. *Social Science Quarterly* 92(2011), pp. 588 – 608.
- Nemitz, J.C.: *Strafzumessung im Völkerstrafrecht. Ein Beitrag zur Strafzwecklehre und zur Strafzumessungsmethode unter besonderer Berücksichtigung des Römischen Statuts.* Freiburg, 2002.
- Nemitz, J. C.: Sentencing in the Jurisprudence of the International Criminal Tribunals for the Former Yugoslavia and Rwanda. In: Fischer / Kreß / Lüder (Eds.): *International and National Prosecution of Crimes Under International Law: Current Developments.* Berlin 2001, pp. 605 - 625.
- Schabas, W. A.: Sentencing by International Tribunals: A Human Rights Approach. In: *Duke Journal of Comparative & International Law* 7(1997), pp. 461 – 517.
- Sieber, U. et al: *The Punishment of Serious Crimes. A comparative analysis of sentencing law and practice.* Freiburg, 2004.

**~ Interrogating the Dynamics of Law and Transformation:
Questioning the Law of Genocide ~
Dr. Maja Munivrana Vajda, LL.M.***

Institutional Affiliation of Lecturer:
Assistant Professor at Zagreb University's Faculty of Law

Lecture Summary:

The presentation will deal with the dichotomy between change and continuity in international criminal law in general and, more precisely, with the creation and development of the crime of genocide. The aftermath of the Second World War was clearly a turning point in the evolution of international criminal law and international criminal judiciary. The extent and horror of the crimes committed begged for a change in comprehension of the role of international criminal law and of the concept of state sovereignty. While other international crimes had their roots in existent international documents and, at least to an extent, in international customary law, the definition of genocide was drafted as a direct response to the shocking reality of World War Two. However, although the international community shared the vision that genocide and other international crimes should never occur again, their visions differed regarding the exact elements of this new crime. Convention on the Prevention and Punishment of Genocide was therefore, as every other international instrument, a result of a political compromise which had important ramifications for the definition of the crime.

Even if the Genocide Convention presented an adequate response in times of its creation, today, sixty-three-years from its adoption, one wonders if the existing definition of genocide still reflects socio-political reality and demands of the global community. Some argue against any potential amendments for reasons of continuity and stability, pointing out that genocide should remain strictly construed in order to preserve its unique stigma of 'crime of all crimes'. Others are in favor of adjusting the norm or at least interpreting it progressively, thus making the prohibition of genocide more applicable to modern challenges - instead of serving merely a symbolic function as a reminder of Holocaust.

Perhaps following the latter line of reasoning, some national legislators have broadened the scope of the offence in comparison to international law, especially with regard to the range of protected groups and incrimination of ethnic cleansing as genocide. This is the case in Croatia seen in article 157 of the Croatian Criminal Code, which incriminates forceful transfer of population as an additional form of *actus reus* of genocide. In line with such legislation, Croatian courts have repeatedly relied on the practice of ethnic cleansing to find the defendants guilty of genocide. This presentation will question the justifiability of Croatia's approach and inquire into some of the challenges posed by existence of different notions of genocide at the international and national level.

Recommended/Further Readings:

- Cassese, A., On the Use of Criminal Law Notions in Determining State Responsibility for Genocide, 5 J. Int'l Crim. Just. 875 (2007)

* **Lecturer's Background:** Maja Munivrana Vajda (Dr. iur. Zagreb, LL.M. Yale) is an Assistant Professor, teaching Criminal Law and International Criminal Law at the Faculty of Law, University of Zagreb. After graduation, she first worked as a research assistant on the project „Croatia and International Criminal Judiciary“ (2004-2005). From 2007 until 2009 she was Croatian national reporter on the Principle of Universal Jurisdiction for the AIDP's 18th International Congress of Penal Law and from 2010 she has been a member of the Young Penalists Committee of the AIDP. Her publications include one book, several papers and a number of reviews, mostly in the field of international criminal law. [e-mail: maja.munivrana@pravo.hr]

- Greenawalt, A.K.A., Rethinking Genocidal Intent: The Case for a Knowledge-Based Interpretation, 99 Colum. L. Rev. 2259 (1999)
- Heller, K.J., The Majority's Problematic Interpretation of Genocide's Contextual Element, *Opinio Juris*, <http://opiniojuris.org/2009/03/06/the-majoritys-problematic-interpretation-of-genocides-contextual-element/>
- Kreß, C., The Crime of Genocide under International Law, 6 *International Criminal Law Review* 461 (2006)
- Lemkin, Raphaël, *Axis Rule in Occupied Europe*, Carnegie Endowment for International Peace, Washington, 1944. (Chapter IX) available at <http://www.preventgenocide.org/lemkin/AxisRule1944-1.htm>
- Schabas, W. A., *Convention on the Prevention and Punishment of the Crime of Genocide*, United Nations Audiovisual Library of International Law, available at http://untreaty.un.org/cod/avl/pdf/ha/cppcg/cppcg_e.pdf

~ The Future of Internationalized Criminal Courts ~

M.Sc. Marin Bonačić*

Institutional Affiliation of Lecturer:

Assistant at Zagreb University's Faculty of Law

Lecture Summary:

In the field of international criminal law the first decade of the XXI century is marked by the establishment of internationalized criminal courts. Internationalized criminal courts (also called hybrid or mixed criminal courts), which contain a mixture of international and national judges, differ from both national and international criminal courts. As a model they designed to overcome many perceived shortcomings of ad hoc international criminal tribunals, such as high costs of establishment and functioning, trials held outside the state where the crimes were committed, poor capacity building of domestic justice systems, etc.

Almost simultaneously with the establishment of internationalized criminal courts, International Criminal Court, which is first permanent, treaty based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community, was established. After the entry into force of the Rome Statute in 2002, the question of relations between the internationalized courts and ICC, and their future arose. The presentation will consider their possible future in situations where ICC has no jurisdiction over crimes committed and in situations where ICC has jurisdiction. In situations where ICC has no jurisdiction *ratione materiae*, temporal jurisdiction or territorial jurisdiction, internationalized courts can be used to try perpetrators of international crimes. On the other hand, it will be argued that internationalized criminal courts can support the fight against impunity for the most serious crimes and help achieve the goals of post-conflict justice even in situations where ICC has jurisdiction.

Recommended/Further Readings:

- Nouwen, M.H. Sarah, „Hybrid courts“: The hybrid courts of a new type of international crimes courts; Utrecht Law Review, Vol. 2/2006, No. 2, p. 190-214. Available at: <http://www.utrechtlawreview.org/index.php/ulr/article/viewFile/32/32>
- Raub, Lindsey, Positioning Hybrid Tribunals in International Criminal Justice, International Law and Politics, Vol. 41/2009, No. 4, str. 1013-1053. Available at: http://www.law.nyu.edu/ecm_dlv3/groups/public/@nyu_law_website__journals__journal_of_international_law_and_politics/documents/documents/ecm_pro_064132.pdf
- Romano, P.R. Cesare; Nollkaemper, André; Kleffner, K. Jann (eds), Internationalized Criminal Courts and Tribunals: Sierra Leone, East Timor, Kosovo, and Cambodia, New York, 2004.

* **Lecturer's Background:** Marin Bonačić is an Assistant at the Chair of Criminal Procedural Law. He graduated at Faculty of Law, University of Zagreb in 2005. After graduation, he worked as a junior-researcher on the project “Croatia and International Criminal Judicature” (until 2009). In 2010 he was a local project leader of international project “Documenting the past of Croatia: establishment of digital database on war crimes“. In academic year 2010-2011 he did research for his advanced master thesis “Internationalized criminal courts: basic issues and legal solutions” at University of Vienna (Austria). He is a contributor to one book. [e-mail: marin.bonacic@pravo.hr]

~ The Future of International Criminal Justice: A Cautionary Vision ~

Prof. Dr. Richard P. Farkas*

Institutional Affiliation of Lecturer:

Course Director and Professor of Political Science at DePaul University Chicago

Lecture Summary:

The presentation will examine the many challenges and impediments to an expanding role of international criminal justice. It leans heavily on a political and practical vision of the complexity and speed of the issues international criminal justice attempts to address. Simply, the realm will look and function very differently in the near future. This lecture is meant to be heuristic.

Recommended/Further Readings:

- no specific recommendation

* **Lecturer's Background:** Lecturer in the seminar for three years. Forty years of University teaching in the US. Guest lectures in fourteen countries and honorary degree from what today is Corvinus University in Budapest. Most recent book is entitled: Democratization in the Balkans. Most recent project: The Chicago Initiative for a New BiH. This has involved creating a radically new political architecture for Bosnia. Nominated for Outstanding Teaching, National Society of Collegiate Scholars. 2008 Honorary degree for "contributions to East-West International Relations" by the faculty of Karl Marx University in Budapest on December 14, 1985. Areas of expertise: former Communist societies, Adriatic/Balkan countries, revolution & terrorism, countries in political transition. [e-mail: dfarkas@depaul.edu]

**~ Models of Victim Participation
in National and International Criminal Court Trials ~
Dr. Michael Kilchling***

Institutional Affiliation of Lecturer:

Course Director, Senior Researcher at the Max Planck Institute for Foreign and International Criminal Law (Freiburg/Germany), and Lecturer at Freiburg University's Faculty of Law

Lecture Summary:

Criminal justice systems provide different options for victims of crime to participate in trial. Whereas in common law systems the victim impact statement model is widespread which defines the role of the victim rather passively, civil law jurisdictions have developed concepts that give space for more active participation and interactive intervention by the victim. The first part of the paper will provide a comparative analysis of such models, its advantages and deficits. Special focus will be on the German *Nebenklage* model. The second part will discuss the position of the victim at international courts. As opposed to the rules of the International Criminal Tribunal for the Former Yugoslavia (ICTY) which is strongly based on the common law system the procedure at the International Criminal Court (ICC) is much more open. The hybrid procedure can be seen as an experiential ground for approximation, providing for significantly better options for victim participation in trial.

Recommended/Further Readings:

- Eser, A.: Procedural Structure and Features of International Criminal Justice: Lessons from the ICTY. In: B. Swart, A. Zahar & G. Sluiter (eds.): *The Legacy of the International Criminal Tribunal for the Former Yugoslavia*. Oxford 2011 (Oxford University Press), pp. 108-148.
- Kury, H. & Kilchling, M.: Accessory Prosecution in Germany: Legislation and Implementation. In: E. Erez, M. Kilchling & J.-A. Wemmers (eds.): *Therapeutic Jurisprudence and Victim Participation in Criminal Justice. An International Perspective*. Durham 2011 (Carolina Academic Press), pp. 41-65.
- Wemmers, J.-A.: Where do they belong? Giving victims a place in the criminal justice process. *Criminal Law Forum* 2009, pp. 395-416.
- Wemmers, J.-A.: Victims' Rights and the International Criminal Court: Perceptions within the Court Regarding the Victims' Right to Participate. *Leiden Journal of International Law* 2010, pp. 629-643.
- Wemmers, J.-A. & de Brouwer, A.-M.: Globalization and Victims' Rights at the International Criminal Court. In: R. Letschert & J.J.M. van Dijk (eds.), *The New Faces of Victimhood*. Studies in Global Justice 8, Dordrecht etc. 2011 (Springer), pp. 279-300.
- The Rome Statute of the International Criminal Court: <http://untreaty.un.org/cod/icc/statute/rome.htm>
- International Criminal Court: Rules of Procedure and Evidence: http://www.icc-cpi.int/NR/rdonlyres/F1E0AC1C-A3F3-4A3C-B9A7-B3E8B115E886/140164/Rules_of_procedure_and_Evidence_English.pdf

* **Lecturer's Background:** Besides his affiliation as researcher at the Max Planck Institute Dr. Kilchling is also a lecturer at the Faculty of Law at the University of Freiburg covering the areas of criminology, penology, prison law, and juvenile justice law. Since 2007 he also delivers lectures on international anti-money laundering law at UMAC Macau. His main research interests include penal sanctions and sanctioning systems, juvenile justice, victim/offender mediation and other forms of restorative justice, victimology, organized crime, money laundering and the financing of terrorism, confiscation and asset recovery. He was a member of several international expert groups at the Council of Europe and the EU Commission; at the Council of Europe he was a member of the Group of Specialists on Assistance to Victims and Prevention of Victimization at the Council of Europe which prepared the Recommendation R(2006)8 on Assistance to Crime Victims. In 2005, he has been visiting expert on European legislation on asset confiscation with the International Monetary Fund. Since its start-up he is also a course director of the International Spring Course 'Crime Prevention through Criminal Law and Security Studies' in Dubrovnik. Besides his academic activities, he volunteers as secretary of the board of the European Forum for Restorative Justice (EFRJ), and member of the scientific councils of Victim Support Europe (VSE) and the German association of victim support groups (ado). [e-mail: m.kilchling@mpicc.de]

~ The European Human Rights System and its Influence ~

Dr. Johanna Rinceanu, LL.M.*

Institutional Affiliation of Lecturer:

Senior Researcher at the Max Planck Institute for Foreign and International Criminal Law (Freiburg/Germany) and Lecturer at Freiburg University's Faculty of Law

Lecture Summary:

The presentation on „The European Human Rights System and its influence“ gives an overview of the European Human Rights System. It complements the international jurisdiction of the ICTY and the ICC which mainly focus on prosecution as a further aspect of the protection of human rights. It draws the attention to current problems and presents main reforms, in particular Protocol No. 14, the Lord Woolf Report and the Wise Persons' Report. Finally, the presentation illustrates the influence of the jurisprudence of the European Court of Human Rights on national law.

Recommended/Further Readings:

- *Thomas Pogge*, The international significance of human rights, in: *The Journal of Ethics*, Vol. 4, No. 1/2, Rights, Equality, and Liberty Universidad Torcuato Di Tella Law and Philosophy Lectures 1995-1997 (Jan. - Mar., 2000), pp. 45-69.

* **Lecturer's Background:** Johanna Rinceanu was born in Bucarest/Romania. She moved to Freiburg im Breisgau/Germany in 1977. After her final secondary-school examinations in 1993 in Freiburg, she studied law at the Albert Ludwigs University in Freiburg. During her studies, Johanna Rinceanu worked (1996–1998) as a research assistant at the Institute of Public Law V for Professor Dr. Friedrich Schoch at the Albert Ludwigs University. In 1998, she finished her studies successfully with the First State Examination. In the same year, she was awarded a Fulbright Scholarship to study in the United States. In 1998 and 1999, she studied at the George Washington University Law School in Washington D.C., USA. After obtaining her LL.M. in international law, Johanna Rinceanu worked (1999–2000) as a consultant at The World Bank, Legal Department, Washington D.C. She completed her Legal Clerkship (Referendariat, 2000–2002) at the Oberlandesgericht Zweibrücken/Germany and successfully passed her Second State Examination in 2002. Johanna Rinceanu completed her doctorate at the Humboldt University in Berlin with a dissertation entitled „International Criminal Law in Romania“ in 2007. Since 2002, Johanna Rinceanu has worked as an attorney in Freiburg with a focus on criminal law and human rights law. From 2002 to 2008, she worked as a researcher and senior researcher and, since 2009, as head of the section Romania at the Max Planck Institute for Foreign and International Criminal Law in Freiburg. As of the winter semester 2007/2008 she is a lecturer at the University of Freiburg. Besides German and Romanian, Johanna Rinceanu speaks fluent English, Italian, and French. [e-mail: j.rinceanu@mpicc.de]

~ Challenges of International Investigations and Prosecutions ~

Prof. Dr. Serge Brammertz*

Institutional Affiliation of Lecturer:

Prosecutor of the the ICTY (The Hague/The Netherlands)

Lecture Summary:

The proliferation of international criminal justice initiatives over the past two decades has been a welcome and long-awaited development. The UN Security Council's decision in 1993 to establish the International Criminal Tribunal for the Former Yugoslavia (ICTY), sparked a wave of similar initiatives and we have also seen a multitude of international investigative commissions being deployed to address serious violations of human rights in many parts of the world. While there is cause for optimism that the concept of international justice is here to stay, there are many challenges that still confront us if we are to develop a fully coherent and efficient approach to accountability for war crimes, crimes against humanity and genocide. In his lecture, ICTY Prosecutor, Serge Brammertz, will draw on his experience over the past nine years working at the international level to highlight five key challenges confronting international investigations and prosecutions: 1. how to ensure the rapid and effective deployment of international investigation teams ; 2. promoting a principled approach to the selection of situations to address, and of persons to prosecute, at the international level; 3. securing state and international cooperation for international justice initiatives; 4. striking a rational balance between full accountability and expeditious justice; and 5. moving from the international to the local: ensuring that international justice initiatives have a positive impact on the affected communities. A theme connecting many of these challenges is the relationship between international justice and politics. Where does international justice end and politics begin? While international justice must not be politically driven, the reality is that politics have a bearing on the success of international justice in many ways. The Prosecutor will underscore the need to stay focused on international justice, while at the same time using *Realpolitik* where possible to promote better outcomes in our work.

Recommended/Further Readings:

- no specific recommendation

* **Lecturer's Background:** Born in 1962, Eupen, Belgium. Prosecutor of the ICTY since 1 January 2008. Before his appointment as Prosecutor of the International Criminal Tribunal for the former Yugoslavia, Serge Brammertz of Belgium was the Commissioner of United Nations International Independent Investigation Commission into the murder of the former Prime Minister Rafik Hariri, a post he held from January 2006 until the end of 2007. Previously, he was Deputy Prosecutor of the International Criminal Court, in charge of the Investigations Division of the Office of the Prosecutor when the investigations of crimes committed in Uganda, the Democratic Republic of Congo and Darfur were initiated. Before his election as Deputy Prosecutor, he was the head of the Federal Prosecution of the Kingdom of Belgium where he supervised numerous investigations and trials related to cases of organised crime, terrorism and violations of international humanitarian law. From 1997 to 2002, as a national magistrate, Serge Brammertz was in charge of coordinating at the national and international level investigations in the fields of international drug trafficking and trafficking of human beings. During this period, he also worked for the European Commission, the Council of Europe and the International Organisation for Migration as an expert on these and related issues. From 1989 to 1997, he served as Deputy Prosecutor, then Chief Deputy Prosecutor at the Court of First Instance in Eupen (Belgium), before becoming Deputy to the Prosecutor-General at the Liège Court of Appeal. Mr. Brammertz was a professor of law at the University of Liège and an author on organised crime and international cooperation in criminal matters who has published extensively in European and international academic journals. He holds a law degree from the University of Louvain-la-Neuve, a degree in Criminology from the University of Liège and a PhD in international law from the Albert Ludwig University in Freiburg, Germany. [e-mail: bosman@un.org]

~ Legal Transplants - Traditional Models Against Criminal Collectives ~

Dr. Almir Maljević*

Institutional Affiliation of Lecturer:

Assistant Professor at Sarajevo University's Faculty of Criminal Justice Sciences

Lecture Summary:

The extension of criminalisation to include the early preparatory stages of the commission of criminal offences represents one of the most debatable issues in modern criminal law. In response to some of the most complex forms of crime usually committed by criminal collectives (such as terrorism, organised crime, or economic crime), different legal systems have developed diverse legal models to address the problem. All in all there are two main models. Countries of the continental criminal law tradition usually rely on the 'participation in a criminal organisation/association' model, whereas countries of the common law tradition utilise the 'conspiracy' model. These models, although having similar functions (to criminalise the early preparatory stages of the commission of criminal offences), are very different in their constitutive elements.

In this lecture, we will explain the differences between the two types of models and points out the process of transfer of their elements from traditional models (Germany and England and Wales) to the international models (UN), and furthermore to transitional models (e.g. Bosnia and Herzegovina and/or Croatia and/or Serbia).

Recommended/Further Readings:

- United Nations Convention against Transnational Organized Crime (Articles 2, 3, and 5, in particular)

* **Lecturer's Background:** Almir Maljević, national of Bosnia and Herzegovina, has obtained his PhD at the Faculty of Law, University of Freiburg i. Br. and the Max-Planck Institute for Foreign and International Criminal Law (Freiburg i. Br., Germany). He works as an Assistant Professor of Criminal Law and Comparative Criminal Justice Systems at the Faculty of Criminal Justice Sciences, University of Sarajevo. His research focuses primarily on criminal law and juvenile criminal law, co-operation within criminal justice systems, criminal collectives and criminal conspiracy, organised criminal activities, terrorism, and police corruption. Since 2001 Almir Maljević has been providing services either as researcher, legal expert, consultant or project manager for numerous governmental and international organisations such as the Council of Ministers of Bosnia and Herzegovina, UN Office on Drugs and Crime, UNDP Bosnia and Herzegovina, Transparency International Bosnia and Herzegovina, Open Society Fund Bosnia and Herzegovina, Max-Planck Institute for Foreign and International Criminal Law, Open Society Institute New York, Central European University, K.U. Leuven. [e-mail: amaljevic@fkn.unsa.ba]

**~ International Standards versus Domestic Law:
The Case of Organized Crime in Italy ~**
Dr. Attilio Nisco*

Institutional Affiliation of Lecturer:

Senior Researcher at the Department of Law (*Dipartimento di Scienze Giuridiche*), Lecturer in criminal law for Prof. Filippo Sgubbi at the University of Bologna, and Attorney

Lecture Summary:

The presentation on “International Standards versus Domestic Law: The Case of Organized Crime in Italy” deals with the latest trends in the fight against organized crime in Italy. After illustrating some fundamental features of the Italian criminal legislation about Mafia, the presentation analyses the influences of the international law on this legislation. This influence follows the implementation of the United Nations Convention against Transnational Organized Crime, signed in Palermo in 2000. Special attention is drawn to the relationship between offences of “associating” that are typical in Italian criminal law, and the concept of “organized criminal group” which derives from the United Nations Convention against Transnational Organized Crime. Finally, some problems and current risks in the application of the law are presented.

Recommended/Further Readings:

- Militello V. (ed.), Towards a European criminal law against organised crime, Ed. iuscrim, Max-Planck-Inst. für Ausländisches und Internationales Strafrecht, Freiburg, 2001.
- Paoli L., The Paradoxes of Organized Crime, in: *Crime, Law & Social Science*, 37: 51-97, 2002;
- Obokata T., *Transnational Organised Crime in International Law*, Oxford, 2010.

* **Lecturer’s Background:** Attilio Nisco was born in Ariano Irpino/Italy in 1979. After the final secondary-school examinations in 1998, he studied law at the University of Bologna. In 2003 he finished his studies with full marks. In the same year he became research assistant for Prof. Filippo Sgubbi at the University of Bologna. Attilio Nisco completed his doctorate in 2007 at the University of Bologna with a dissertation entitled “Controls on the financial market and criminal responsibility”. Since 2006 he is a visiting scholar at the Max Planck Institute for Foreign and International Criminal Law in Freiburg. In 2010 and 2011 he was awarded an Alexander von Humboldt Foundation Scholarship. At present he is researching on the protection of psychological integrity in criminal law. Since 2011 Attilio Nisco works as attorney in Bologna with a focus on criminal law and corporate criminal law. Besides Italian he speaks German and English. [e-mail: attilionisco@libero.it]

~ Transnational Justice on the Example of Countering the Financing of Terrorism in the USA and in Europe ~

Dr. István László Gál*

Institutional Affiliation of Lecturer:

Assistant Professor at the Pécs University's Faculty of Law (Hungary) and Guest Professor at the Zagreb University's Faculty of Law

Lecture Summary:

For the execution of terrorist attacks financial resources are needed. If the perpetrators do not have sufficient capital, then they have to get the missing money from an external source. If somebody helps them in this, if somebody supports terrorists or terrorist organizations, then this behavior is already qualified as a crime in the Hungarian criminal law since 2003. Although „terrorist financing” is not yet a separate crime in Hungary just a formation of terrorist act, it is not impossible that we will regulate it also as a separate crime on the basis of the normative foreign trends.

In my lecture I'm going to look for the answer to the question: what is the financial need of a terrorist attack and on the other side what damages a terrorist attack can cause. Furthermore I will examine the techniques of terrorist financing today, and how criminal law reacts to this new phenomenon with its own means. At last I will examine the efficiency of the European and Hungarian regulation against terrorist financing.

Recommended/Further Readings:

- Countering th Financing of Terrorism (Edited by Thomas J. Bierstecker and Sue E. Eckert) London and New York, 2008.
- Sean S. Costigan – David Gold: Terronomics ASHGATE, Printed in Great Britain, 2007.
- Jae-myong Koh: Supressing Terrorist Financing and Money Laundering Springer Berlin-Heidelberg, 2006.
- R. Barry Johnston and Oana M. Nedelescu: The impact of terrorism on financial markets (=Journal of Financial Crime Vol. 13 No. 1, 2006.)
- Steven Mark Levy: Federal Money Laundering Regulation (Banking, Corporate, and Securities Compliance) New York, 2003.

* **Lecturer's Background:** István László Gál is assistant professor at the University of Pécs, Faculty of Law, Department of Criminal law in Hungary. Beside his law degree he is economist, and expert lawyer in the field of economic criminal law and European law. He is the Chairman of the Committee of Economic and Legal Sciences of the Regional Committee of the Hungarian Academy of Sciences in Pécs. He is a member of Hungarian Economic Society since 1998, the Hungarian Statistical Society since 2006, the Hungarian Society of Criminal Law since 2007. He is deputy Chairman of Embusen Karate Association in Hungary since 2004. He has published three books with the title of „Money laundering“, „Economic criminal law for economists“ and „Announcement or denunciation?“. He is also author of more than 70 other publications. He awarded two prizes of the Hungarian Academy of Sciences. In his spare-time he often goes hunting. [e-mail: gal@ajk.pte.hu]

~ Joint Criminal Enterprise and International Customary Law ~

Prof. Dr. Maja Seršić*

Institutional Affiliation of Lecturer:

Full Professor and Head of the Chair for International Law at Zagreb University's Faculty of Law

Lecture Summary:

The joint criminal enterprise doctrine has since its first appearance in the Tadic case in 1999 become a routine in the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY), although the Tribunal did not offer necessary evidence that the institute of the joint criminal enterprise, which was not provided for in the Statute of ICTY, became part of customary international law.

Recommended/Further Readings:

- Derenčinović & Horvatić (Eds.). *The Theory of Joint Criminal Enterprise and International Criminal Law – Challenges and Controversies*, Zagreb 2011;
- W. Schabas, "Mens Rea and the International Criminal Tribunal for the Former Yugoslavia", *New England Law Review* 2003, sv.37, str.1030 et seq
- S. Powles, Joint Criminal Enterprise- Criminal Liability by Prosecutorial Ingenuity and Judicial Creativity?, *Journal of International Criminal Justice* 2004, sv.2, br.2, str. 606 et seq

* **Lecturer's Background:** Head of Department of International Law; author/co-author of 6 books and over 40 articles on various international law topics; University *Education:* B.A. (1980), M.A. (1987) and Ph.D. (1991) at the Faculty of Law, University of Zagreb; *Specialization and Research Visits:* Halifax (Canada), The Hague (The Netherlands), Heidelberg (Germany), Luxembourg, Nijmegen (The Netherlands), Thessaloniki (Greece); *Intergovernmental Conferences and Meetings:* participated in amending process of the Barcelona Convention and its related Protocols and the Mediterranean Action Plan (1994-1995, 2002-2003), revision of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1995-1999) and Meetings of the States Parties to the UN Convention on the Law of the Sea (1995-1998); Membership in International Bodies: 1997 - Member of the Advisory Body of Experts on the Law of the Sea (ABE-LOS) of the Intergovernmental Oceanographic Commission (IOC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO); 1998-2008- Member of the European Commission against Racism and Intolerance (ECRI) of the Council of Europe; 2002 – Permanent Court of Arbitration – Arbitrator under Optional Rules for Arbitration of Disputes relating to Natural Resources and/or Environment; 2003-2006 - Member of the Board of Directors of the European Law Faculty Association (ELFA), (2004.-2006. Vice-president); 2004-2006 – Member of the European Science Foundation; Standing Committee for the Social Sciences. 2007. Co-Agent of the Republic of Croatia before the International Court of Justice in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia). [e-mail: maja.sersic@pravo.hr]

**~ Final Discussion and Course Conclusions on Law and Politics of
Transnational and International Criminal Justice ~**
Dr. Anna-Maria Getoš, LL.M.*

Institutional Affiliation of Lecturer:

Course Director, Assistant Professor at Zagreb University's Faculty of Law and Lecturer at
the Split University's Study Centre for Forensic Sciences

Lecture Summary:

The presentation shall provide for a general overview regarding the main topics discussed during the course week, including lecture findings, as well as participant presentations. The basic terms and key findings will be presented and summarized, together with an outline of the most disputed issues discussed. This part of the lecture may be regarded as delivering the 'course conclusions' on law and politics of transnational and international criminal justice. Based on these 'course conclusions' the principal aim of the lecture is to provoke and facilitate one final and overall course discussion, bringing together all the different topics and reaching one common course conclusion on the future of international criminal justice in light of law and politics.

To conclude with, the presentation will highlight lecturers' and participants' own course impressions gathered during the course week. This shall also serve as a common course evaluation by pinpointing strengths and weaknesses in order to further improve the course for its 5th edition.

Recommended/Further Readings:

- Bassiouni, M. Cherif (2000). Searching for Justice in the World of Realpolitik. Pace International Law Review, Paper 213. Available at: <http://digitalcommons.pace.edu/pilr/vol12/iss2/1>;
- Bassiouni, M. Cherif (1999). The Future of International Criminal Justice. Pace International Law Review, Paper 138. Available at: <http://digitalcommons.pace.edu/intlaw/138>;
- Cassese, Antonio (1998). Reflections on International Criminal Justice. Modern Law Review, Vol. 61 Issue 1, p.1-10.
- Christie, Nils (2005). Wieviel Kriminalität braucht die Gesellschaft? (German translation of 'A Suitable Amount of Crime'. London, New York: Routledge, 2004) München: C. H. Beck. (Chapter 7 - Antworten auf Greuelataten: Blind, taub und ohne Erinnerung; Wenn Gerechtigkeit geübt wird; Die Hinrichtung einer Idee; Blockade des Verstehens; Wenn Straffreiheit herrscht; Quisling; Die Säuberung; Das Verhindern privater Rache; Narvik, Oktober 2002; Das Denkmal; Spätfolgen der Bestrafung; Internationale Strafgerichtshöfe und Tribunale; Wahrheitsfindungskommissionen; Versöhnung; Von der Wichtigkeit, keine Antworten zu haben) English book partially available at: <http://books.google.com>

* **Lecturer's Background:** Anna-Maria Getoš is Assistant Professor at the Chair for Criminal Law of Zagreb University's Faculty of Law, where she teaches courses in criminology and victimology with criminal law basics since 2005. She studied in Zagreb and at the Freiburg University's Faculty of Law, where she acquired her LL.M. (2004) and her Dr. jur. (2010). Fields of research interest and expertise include: general criminology and victimology, Croatian criminological history, phenomenology of (political) violence (in the Balkans), 'criminal law & criminology under one roof', fear of crime & punitivity, crime statistics, and process analysis of criminal law creation & (d)evolution. She worked for the Ministry of Science, Education and Sports of Croatia and for the Max Planck Institute for Foreign and International Criminal Law. Received the Annual Award for the best young scientist in social sciences in 2006 by the Society of University Professors and other Scientists of the Zagreb University. She is full member of the Croatian Academy of Legal Sciences and member of a number of international professional associations. Author of 2 books, 3 book chapters, co-author of 1 book, (co-)author of 8 journal articles. Fluent in English, German, and Croatian. [e-mail: agetos@pravo.hr]