



Philosophical Foundations of International Criminal Law: Its Intellectual Roots, Related Limits and Potential

co-organised by

the Centre for International Law Research and Policy, the Indian Law Institute, University of Delhi Campus Law Centre, the Indian Society of International Law, National Law University, Delhi, O.P. Jindal Global University, Asian-African Legal Consultative Organization, Peking University International Law Institute, Waseda University Law School, the Grotius Centre for International Legal Studies, the University of Nottingham, and the Institute for International Peace and Security Law,

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at the Indian Law Institute, New Delhi, 25-26 August 2017.

This new research project a) analyses foundational concepts in international criminal law, b) correlates the teachings of leading philosophers of law and scholars with international criminal law, and c) explores, against this background, the potential and limits of international criminal law. By generating such knowledge and perspectives, the project i) seeks to clarify and deepen the intellectual roots of the discipline of international criminal law. Such anchoring in older and more diverse schools and traditions of thought should contribute towards maturing international criminal law as a discipline, and cement the consensus around its basic building blocks. On the basis of a) and b) above, the project also ii) aims to offer reflections on how the discipline of international criminal law should evolve further, what its perceivable outer limits may be, and which gentle civilizers other than international criminal law should

begin where its reach necessarily ends. In his recent study,¹ Professor Anthony T. Kronman, long-time Dean of Yale Law School, offers a learned lawyer's reminder of the limits of the reach of law.

There has been an apparent flourishing of international criminal law since the early 1990s. *States* have led the way by establishing and sustaining special war crimes jurisdictions – international, internationalised and national – and by negotiating the legal infrastructure of the permanent International Criminal Court, setting it up, funding it, and being patient with it. *Non-governmental organizations* have cheered states along, advocating certain benchmarks when states designed the jurisdictions, and subsequently offering assistance to the courts and tribunals, in particular their prosecution services. *Practicing judges and lawyers within the war crimes jurisdictions* commenced the detailed analysis, interpretation and writing about the applicable international criminal law. It took several years for *academics* to catch up with what had become a rapidly expanding, state- and practice-led field. But they have since made their contributions in considerable numbers, generating a dense literature of articles, monographs, commentaries and blogs.

This body of *doctrinal or dogmatic* literature – texts on doctrines, rules, offences, elements or other norms and provisions of international criminal law – has not only accumulated and matured, but perhaps started to saturate in some areas of the discipline. We see early signs of a will to dogmatize that could soon go beyond the actual needs of the practice of criminal justice for core international crimes – this would reflect a well-known lawyerly inclination towards 'Überdogmatisierung'. Similarly, the literature on the *relational or socio-political role* of the practice of international criminal law (that is, criminal justice for core international crimes²) has become abundant, in particular in the context of so-called transitional justice. We may well be approaching a point where the international community in general has adequate access to expertise on international criminal law and its possible application during transitions towards peace and stability, away from armed conflict. Needless to say, such adequacy of expertise would not equate with a stronger will by governments to actually use criminal justice for core international crimes.

Whereas the discipline of international criminal law could soon be partially over-dogmatized and it concurrently lacks a crystallized sub-discipline of philosophy of international criminal law, we will recognize and build on the work done by a few individual authors on more theoretical aspects of the discipline. As there is no clear line between doctrinal or dogmatic and philosophical approaches to international criminal law, our project invites contributions also on this exact question. As stated above, the latter should focus on foundational concepts or categories, including, but obviously not limited to, 'punishment', 'responsibility', 'accountability', 'retribution', 'mental state', 'intent', 'harm', 'Rechtsgut', 'legally protected interest', 'humanity', 'humane', 'integrity', 'deterrence', 'prevention', 'sovereignty', 'territoriality', and discretionary markers such as 'reasonable', 'proportional' and 'necessity'. Emerging terms like 'reconciliation' and 'unity' are included in the project.

The rules and tests that make up legal doctrines, and are subjected to doctrinal writing, are usually built over long periods of time, with contributions from law-makers, judges, prosecutors, counsel, and publicists. The foundational concepts on which rules, tests and principles are based are older yet, and have been given meaning also by philosophical, religious and other actors, from across the globe. This project would like to correlate their relevant texts – which may at the time have addressed criminal law, public international law more broadly, or philosophy or religion – with foundational concepts of contemporary international criminal law. Relevant thinkers include – but are not in any way restricted to – Hugo Grotius, Thomas Hobbes, Emmerich de Vattel, Immanuel Kant, Georg W.F. Hegel, Jeremy Bentham, John Stuart Mill, Raphael Lemkin, Hannah Arendt and Jürgen Habermas.

The original call for papers in this project – on 17 November 2016 – coincided not only with UNESCO's World Philosophy Day, but also the publication of Cambridge Professor Philip Allott's policy brief 'How to Make a Better World: Human Power and Human Weakness', in which he argues

¹ Anthony T. Kronman, *Confessions of a Born-Again Pagan*, Yale University Press, 2016, 1,161 pp.

² For the purposes of this project, the term 'core international crimes' refers to genocide, war crimes, crimes against humanity, and crimes of aggression.

that the “high social function of philosophy must be restored”,³ a sentiment that also permeates Professor Kronman’s *Confessions*. Allott writes: “Law cannot be better than the society that it serves. But lawyers have a duty to try to make the law as good as it can be. Nowhere is this more necessary than in international society. We have inherited an international legal system that was rationalised in the eighteenth century as a system for the piece-meal reconciling of the self-interest of states, as represented by their governments”.⁴ The third dimension of the present research project – exploring the further potential and limits of international criminal law – invites a future-oriented rationalisation of the discipline, assessing whether its foundational concepts impose clear limits for the further development of its content and ways of enforcement. Can and should international criminal law become a common criminal law of mankind, extending beyond wrongdoing in armed conflict and similar exceptional situations, to mainstream problems such as serious harm to the environment, public health or financial markets? Does international criminal law in its present, rudimentary form fail to protect *Rechtsgüter* or interests that reflect common contemporary or emerging values? Do the intellectual roots of international criminal law imply common enforcement or jurisdictional mechanisms that are even more binding than those already vested in the International Criminal Court?

³ Philip Allott, ‘How to Make a Better World: Human Power and Human Weakness’, FICHL Policy Brief Series No. 75 (2016), Torkel Opsahl Academic EPublisher, Brussels, 2016, para. 33 (<https://www.legal-tools.org/doc/a35654/>). The policy brief – which is published in English, Chinese and Arabic – builds on his 2016 study *Eutopia: New Philosophy and New Law for a Troubled World*, Edward Elgar Publishing, 2016, 368 pp.

⁴ *Ibid.*, para. 31.

Programme:

Friday, 25 August 2017:

Host: Professor **Manoj Kumar Sinha**⁵ (Director, Indian Law Institute)

09:00 Opening remarks:

- Honourable Mr. Justice **Madan B. Lokur**⁶ (Supreme Court of India)
- H.E. Judge **William David Baragwanath**⁷ KNZM QC (Special Tribunal for Lebanon)
- H.E. Ambassador Dr. **Martin Ney**⁸ (German Embassy in Delhi)
- Professor **Ranbir Singh**⁹ (Vice-Chancellor, National Law University, Delhi)
- H.E. Judge **Hanne Sophie Greve**¹⁰ (Gulating Court of Appeal)
- Professor **Narinder Singh**¹¹ (International Law Commission)

⁵ Professor **Manoj Kumar Sinha** is Director of the Indian Law Institute in Delhi, on leave from his position as Professor of Law, West Bengal National University of Juridical Sciences, Kolkata, India. He was Visiting Professor at the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Lund, Sweden (2004–05). He served as Director of the Indian Society of International Law (2006–09). He holds a doctorate in international law from Jawaharlal Nehru University. Among his most recent publications are *Business and Human Rights* (2013), *Implementation of Basic Human Rights* (2013), and *International Criminal Law and Human Rights* (2010).

⁶ Honourable Mr. Justice **Madan B. Lokur** (मदन भीमराव लोकर) is a judge of the Supreme Court of India since June 2012. He was educated at the Modern School, New Delhi; St. Stephen's Collegiate, Allahabad for ISC examination; History (Hons.) from St. Stephen's College, Delhi University; and law degree from Faculty of Law, Delhi University. He was enrolled at the Bar in 1977 and practised in the Supreme Court of India and at the Delhi High Court. He qualified for the Advocate-on-Record (AoR) examination and was enrolled as an AoR of the Supreme Court in 1981. He also served as the Editor of the Indian Law Review (Delhi Series) from February 1983. Justice Lokur was appointed Permanent Judge of the Delhi High Court in July 1999. He was transferred as the Chief Justice of Gauhati High Court from June 2010 to November 2011, and High Court of Andhra Pradesh from November 2011 to June 2012.

⁷ H.E. Sir **William David Baragwanath** KNZM QC is an appeals judge of the United National ('UN') Special Tribunal for Lebanon (President, 2011-2015; judge since March 2009). He attended Auckland Grammar School, followed by University of Auckland Law School. A Rhodes Scholar, he earned a Bachelor of Civil Law from the University of Oxford. He was appointed Queen's Counsel in 1983 and is an Overseas Bencher of the Inner Temple. He was the former president of the New Zealand Law Commission, a New Zealand member of the Permanent Court of Arbitration in The Hague, and a member of the Court of Appeal of Samoa. In the 2011 New Year Honours, Judge Baragwanath was appointed a Knight Companion of the New Zealand Order of Merit.

⁸ H.E. Ambassador Dr. **Martin Ney** has been the German Ambassador to India since July 2015. He was formerly The Legal Adviser of the German Foreign Office. He started his diplomatic career in the Legal Department of that Office in 1986, and subsequently served the Office in various positions, including in Bangkok, Washington, D.C., Tokyo, in the German unification negotiations, as Head of its Political Department, as Deputy Director General of Legal Affairs, and as Deputy Permanent Representative of Germany to the United Nations in New York. He holds a law degree from the University of Würzburg and an M.A. from Oxford University, where he was as a Rhodes scholar. From 1983 until 1986, he taught constitutional and public international law as a junior lecturer at Würzburg University, where he received his doctorate in international law in 1985.

⁹ Professor **Ranbir Singh** is the founding Vice-Chancellor of National Law University, Delhi, established by the Government of Delhi in 2008. He is an advisor to the Prime Minister. He was the founding Vice-Chancellor of Nalsar University of Law, Hyderabad, established by Andhra Pradesh State Government, where he served for ten years (*India Today* rated the University one of the best in India). He obtained B.Sc., LL.B., LL.M. and Ph.D. degrees from Kurukshetra University, where he was a faculty member until 1978. He then moved to Maharshi Dayanand University at Rohtak until 1996 in various capacities as Professor, Head, Dean and Proctor. He served as Professor of Law at the National Law School of India University, Bangalore (NLSIU) during 1996-97. He has made very significant contributions to the redesigning of legal education in India, also in his capacity as a member of the Legal Education Committee of the Bar Council of India. He has more than 50 research publications. He was a member of the Shri Soli Sorabjee Committee appointed by the Ministry of Home Affairs to draft the New Police Act.

¹⁰ H.E. Judge **Hanne Sophie Greve** is Vice President of the Gulating Court of Appeal, Norway (one of Scandinavia's oldest existing courts, based in Bergen, seat of her family for generations), and a member of the International Commission against the Death Penalty. She was previously Judge at the European Court of Human Rights and a Member of the UN Commission of Experts for the Former Yugoslavia established pursuant to UN Security Council resolution 780 (1992). She has also served as UNHCR Assistant Protection Officer (1979–1981, duty station Bangkok) and as a Mediator for the UN Transitional Authority in Cambodia (1992–1993, duty station Phnom Penh).

¹¹ Ambassador **Narinder Singh** was formerly the Legal Adviser of the Ministry of External Affairs of India and Chairman of the UN International Law Commission. He is a Professor at Maharishi Law School, Maharishi University, Noida. He

- Professor **Surinder Kaur Verma**¹² (Indian Society of International Law)
- Deputy Head of Mission **Hanne Meldgaard**¹³ (Royal Norwegian Embassy in Delhi)
- Professor **Morten Bergsmo**¹⁴ (CILRAP)

10:30 Tea and photography

Part I:

Intellectual Roots: Correlating Leading Thinkers with International Criminal Law

11:00 **Section A:**¹⁵

From Plato to Suárez:

Chair: Professor Narinder Singh¹⁶

1. **Emiliano J. Buis:**¹⁷
Suppressing the Emotional Bias? The Platonic Theory of Punishment and its Contribution to the Philosophical Development of International Criminal Law
2. **Pedro Lopez Barja de Quiroga:**¹⁸
The Ciceronian Foundations of Modern 'Feindstrafrecht'

has also served as Secretary-General of the Indian Society of International Law; in the Legal and Treaties Division of the Ministry of External Affairs, Government of India (1984-2012, Head of the Legal and Treaties Division since 2002, and retired as Additional Secretary and The Legal Adviser in 2012); as Legal Adviser to the Permanent Mission of India to the United Nations (1998-2002); Agent for India in the Bay of Bengal Maritime Boundary Arbitration (Bangladesh vs. India); Co-Agent for India in the Kishenganga Arbitration under the Indus Waters Treaty (Pakistan vs. India); Vice President, Meeting of States Parties to the UN Convention on Law of the Sea (2001); Vice President, UNIDROIT Diplomatic Conference on Intermediated Securities (September 2009); Vice-Chairman, Ad Hoc Committee on Jurisdictional Immunities of States and their Property (2002); President of Asian African Legal Consultative Organisation (2006 and 2008); Member of the Group of Coordinators of the Meetings of Legal Advisers of the Member States of the United Nations (2002-2011); Vice-Chairman, Drafting Committee, IAEA Diplomatic Conference on Amendment to the Convention on Physical Protection of Nuclear Material (4-8 July 2005); Chairman, BIMSTEC Joint Working Group on Counter Terrorism (October 2008); OPCW Roster of Experts for providing legal assistance on matters relating to the Chemical Weapons Convention; and Chairman, SAARC Meeting on Promotion and Protection of Investments and Arbitration (March 2004).

¹² Professor Dr. **Surinder Kaur Verma** is the Secretary-General of the Indian Society of International Law. She is retired as a Professor of Law at the University of Delhi where she was the former Dean and Head of the Law Faculty. She was Director, Indian Law Institute (1998-2004); Director, Indian Society of International Law (2009-2012); President of the International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP, 2001-2003); and worked as the Team Leader and Consultant, EU-India Trade and Investment Development Program (TIDP) – IPR Component (2006-2007). She holds LL.B. and LL.M. degrees from the Banaras Hindu University, an LL.M. from UC Berkeley Law School, and an S.J.D. from Harvard Law School.

¹³ **Hanne Meldgaard** is Minister Counsellor, Deputy Head of Mission, of the Royal Norwegian Embassy in Delhi.

¹⁴ **Morten Bergsmo** is [Director, Centre for International Law Research and Policy](#) (CILRAP), and [Visiting Professor, Peking University Law School](#).

¹⁵ There will be 20 minutes for questions and discussion at the end of the session.

¹⁶ See footnote 9 above for biography.

¹⁷ **Emiliano J. Buis** received his Ph.D. from the University of Buenos Aires, Argentina, and is Adjunct Professor of Public International Law, International Humanitarian Law, the Origins of International Law in Antiquity and Ancient Greek Language and Literature at the University of Buenos Aires and the Central National University in Azul, Argentina. He is also a Researcher at the National Research Council for Science and Technology. He is a former fellow at the Department of Classics, Brown University, the Max-Planck Institut für europäische Rechtsgeschichte, the Harvard University Center for Hellenic Studies, and the Alexander S. Onassis Public Benefit Foundation.

¹⁸ Dr. **Pedro Lopez Barja de Quiroga** is Senior Lecturer in Ancient History at the Universidad de Santiago de Compostela.

3. **Kaius Tuori:**¹⁹
Roman Jurists and the Idea of International Criminal Responsibility: Ulpian and the 'Cosmopolis'
4. **Hanne Sophie Greve:**²⁰
The Foundations of International Criminal Law and the Writings of Ambrose, Augustine, Aquinas, Vitoria and Suarez

12:45 Lunch

13:30 **Section B:**²¹

From Grotius to Hegel:

Chair: Professor Manoj Kumar Sinha²²

5. **Pablo Kalmanovitz:**²³
Hugo Grotius on Punishment, War, and the Difference Sovereignty Makes
6. **Kirsten Sellars:**²⁴
The Duty of Allegiance – Hobbesian Themes at the Red Fort Trial and the Tokyo Tribunal

¹⁹ Dr. **Kaius Tuori** is Associate Professor for European Intellectual History at the Network for European Studies at the University of Helsinki. He is a scholar of legal history involved in research projects on the understanding of tradition, culture, identity, memory and the uses of the past. While the subject areas of these projects have been very diverse (dealing with archaeology, intellectual history, the history of Rome and its later influence, legal history, the history of ideas and anthropology), there is a strong unifying link between them: the connections between ancient and modern through culture and tradition. He is currently PI of the ERC Starting Grant Project Revisiting the Foundations of European Legal Culture 1934-1964, which focuses on the idea of the common European legal tradition. His books *Ancient Roman Lawyers and Modern Legal Ideals* (Klostermann, 2007), *Lawyers and Savages* (Routledge, 2014) and *Emperor of Law* (OUP, 2016) delve into different aspects of the use of the past in the European legal tradition and the role of narratives in forming social convictions. He is the author of five books, two edited volumes and numerous articles.

²⁰ See footnote 9 above for biography.

²¹ There will be 20 minutes for questions and discussion at the end of the session.

²² See footnote 5 above for biography.

²³ **Pablo Kalmanovitz** is Research Professor in international studies at the Centro de Investigación y Docencia Económicas (CIDE), Mexico City. He was previously Associate Professor of political science at the Universidad de los Andes in Bogotá; post-doctoral fellow in the law department at the European University Institute in Florence; and post-doctoral fellow in the political science department at Yale University. He earned his Ph.D. in political science from Columbia University. His current research focuses on the historical and theoretical foundations of international humanitarian law, on which he has published articles in *Political Theory*, *American Political Science Review*, and *International Theory*. His book on the intellectual history of regular warfare is forthcoming with OUP. He has also written on post-conflict justice, most recently on the balance between human rights and humanitarian law in transitions from war to peace, and previously on the tensions between imperatives of distributive and corrective justice in transitions. He is co-editor (with Morten Bergsmo and others) of *Law in Peace Negotiation* and *Distributive Justice in Transitions*, both published by the Torkel Opsahl Academic EPublisher.

²⁴ **Kirsten Sellars** is Assistant Professor at the Chinese University of Hong Kong. Her route into academia began with journalism, having written on international affairs for newspapers and publications including *The Times*, *Guardian*, *New Statesman*, *Spectator*, and *Los Angeles Times*. Her first book, *The Rise and Rise of Human Rights* (2002), was nominated as one of the books of the year in the *New Statesman*. Her latest books, the monograph *'Crimes Against Peace' and International Law* (2013 and 2015), and edited volume, *Trials for International Crimes in Asia* (2015), are published by Cambridge University Press. She holds a Ph.D. from the School of Law, University of Aberdeen.

7. **Daniel N. Clay:**²⁵
An Analysis of Lockean Philosophy in the Historical and Modern Contexts of the Development of and the Jurisdictional Restraints Imposed by the Statute of the International Criminal Court
8. **Elisabetta Fiocchi Malaspina:**²⁶
«L'ami de toutes les Nations»: Punishment and Universal Jurisdiction in Emer de Vattel's Law of Nations
9. **Alexander Heinze:**²⁷
Kant, Cosmopolitan Law and the Rome Statute as a Constitution
10. **Gunnar Ekeløve-Slydal:**²⁸
Jeremy Bentham's Legacy: A Vision of an International Law for the Greatest Happiness of All Nations

15:50 Tea

16:15 **Section C:**²⁹

Twentieth Century Thinkers:

Chair: Mrs. Anuradha Bakshi³⁰

11. **Abraham Joseph:**³¹
Gandhism and International Criminal Law
12. **Jaroslav Větrovský:**³²
Mens Rea, Behaviourism, and Wittgenstein's Philosophy of Psychology

²⁵ **Daniel N. Clay** is a tenure-track Assistant Professor at Elmira College, Division of Social and Behavioral Sciences, Department of Criminal Justice. He holds a Bachelor of Arts in Criminology and Political Science from Drury University (2011), a Master of Science in Crime and Justice Studies from Suffolk University (2015), a Juris Doctor from Suffolk University Law School (2015), and a Master of Laws in International Criminal Law and Justice from the University of New Hampshire School of Law (2016). Previously, he served with the Rhode Island Supreme Court and the United States Court of Appeals for the First Circuit (J. Torruella). He also serves on the Board of Directors of an innovative, free online legal research platform targeting United States federal law.

²⁶ **Elisabetta Fiocchi Malaspina** is an Assistant Professor (legal history) at the University of Zurich. She holds a Ph.D. in Law from the Università degli Studi di Genova on Vattel, and her law degree from the Università degli Studi di Milano.

²⁷ Dr. **Alexander Heinze**, LL.M. (TCD) is Assistant Professor at the Department for Foreign and International Criminal Law at the Georg-August Universität Göttingen.

²⁸ **Gunnar M. Ekeløve-Slydal** is the Deputy Secretary General, Norwegian Helsinki Committee, and a Lecturer at the University College of South East Norway. He studied philosophy at the University of Oslo. He worked for many years for the Norwegian Centre for Human Rights at the University of Oslo. He has written extensively on human rights, international institutions, and philosophical themes, including textbooks, reports, and articles.

²⁹ There will be 20 minutes for questions and discussion at the end of the session.

³⁰ **Anuradha Bakshi** is Principal Legal Officer of the Asian-African Legal Consultative Organization (AALCO). After completing her education in law from the University of Delhi in 1984, she practiced with an eminent lawyer and a retired Judge of the Delhi High Court until she joined AALCO in 1990. She has worked with both the organisational and substantive matters on the agenda of the Organization, which covers a broad gamut of subjects, including the status and treatment of refugees, the establishment and functioning of the International Criminal Court, extraterritorial sanctions imposed against third parties, and international humanitarian law. She has contributed to various publications of AALCO.

³¹ **Abraham Joseph** is a Ph.D. candidate in international criminal law from National Law School of India University (NLSIU), Bangalore, working on a doctoral dissertation entitled 'Contempt of Court and Offences against the Administration of Justice in International Criminal Law', and currently working as Assistant Professor in School of Law, Ansal University, Gurgaon, Delhi. He holds an LL.M. in Human Rights Law from NLSIU Bangalore (Gold Medallist in international humanitarian law in 2012).

³² **Jaroslav Větrovský** is an Assistant Professor of international law at Pan-European University in Bratislava (Slovak Republic) and a lecturer in international law at the University of West Bohemia in Pilsen (Czech Republic). His teaching and research activities mainly relate to philosophical inquiries into general concepts of public international law as well as to theoretical and practical aspects of the European system of protection of human rights. He is also a director and a practising lawyer within the Association for Legal Issues of Immigration, a Czech NGO dealing with asylum and immigration matters.

13. **Dorđe Dorđević:**³³
Arendt on Prevention and Guarantees of Non-Recurrence
14. **Gregory S. Gordon:**³⁴
Transnational Governmentality Networking: A Neo-Foucauldian Account of International Criminal Law

³³ **Dorđe Dorđević** is Sustaining Peace Advisor at the United Nations Development Program, UNHQ, where he was previously Rule of Law, Justice, Security and Human Rights Advisor, and Transitional Justice Advisor. He holds, *inter alia*, a Ph.D. on Hannah Arendt from New School for Social Research, and an M.Phil. on Kant from the University of Cape Town.

³⁴ **Gregory S. Gordon** is Associate Professor and Director/Assistant Dean (Ph.D.–M.Phil. Programme) at the Faculty of Law, Chinese University of Hong Kong.

Saturday, 26 August 2017:

**Part II:
Some Foundational Concepts of International Criminal Law**

Host: Professor **Manoj Kumar Sinha**³⁵

08:30 **Section A:**³⁶

Territoriality, Sovereignty, Complementarity, Globality:

Chair: Dr. Vesselin Popovski³⁷

15. **Christoph Burchard:**³⁸

Normative Openness: Coming to Terms with Normative Pluralism and Fragmentation in International Criminal Justice

16. **Christopher Mahony:**³⁹

The Prince and the People: Sovereignty in International Criminal Law's Philosophical Foundations

17. **Juan Paulo Branco Lopez:**⁴⁰

Hobbes and the International Criminal Court: Towards a Global Social Contract?

18. **Milinda Banerjee:**⁴¹

Towards Global Criminal Justice?

10:10 Tea

³⁵ See footnote 5 above for biography.

³⁶ There will be 20 minutes for questions and discussion at the end of the session.

³⁷ **Vesselin Popovski** is Professor at Jindal Global Law School, and Vice Dean and Executive Director of its Centre for the Study of United Nations. He holds an M. A. (including B.A.) from Moscow State Institute of International Relations; Post-Graduate Diploma European Law, King's College, London; M.Sc., London School of Economics; and a Ph.D. from King's College.

³⁸ Prof. Dr. **Christoph Burchard**, LL.M. (NYU) is [Professor for 'Straf- und Strafprozessrecht, Internationales und Europäisches Strafrecht, Rechtsvergleichung und Rechtstheorie' at the Goethe-Universität Frankfurt am Main.](#)

³⁹ **Christopher Mahony** is [Research Fellow at the Centre for International Law Research and Policy](#). He is also Strategic Policy Advisor at the UN Development Program (where he was formerly Rule of Law, Justice, Security and Human Rights Advisor), Visiting Research Fellow at Georgetown University Law Center, and Political Economy Advisor at the Independent Evaluation Group at the World Bank. He holds Bachelor of Commerce (B.Com.) and of Laws (LL.B.) degrees from the University of Otago, and a Master's in African Studies (M.Sc.) and a D.Phil. in Politics from the University of Oxford.

⁴⁰ **Juan Paulo Branco Lopez** (Juan Branco) is a Doctor in Law from l'Ecole normale supérieure (Ulm). He was formerly Visiting Researcher at Yale Law School and Sapienza University, and visiting full faculty at Yale's Department of French. He has taught at La Sorbonne and been a Senior Research Fellow at the Max Planck Institute Luxembourg for International Law. Recruited after an internship as an interim special assistant to the Prosecutor of the International Criminal Court, he left the institution in 2011 to join the French Ministry for Foreign Affairs. He has since worked on the ground in Tunisia, Central African Republic and North Kivu as a researcher on mass violence and its relationship to political theory.

⁴¹ **Milinda Banerjee** is LMU Research Fellow and Assistant Professor in the Department of History at Presidency University (Kolkata, India). He holds a Ph.D. from Heidelberg University (his thesis offered an intellectual history of concepts and practices of rulership and sovereignty in colonial India, with a primary focus on Bengal, 1858-1947). His research project at LMU is titled 'Sovereignty versus Natural Law? The Tokyo Trial in Global Intellectual History'. He specializes in the intersections of South Asian and global intellectual history, and is the author of several journal articles and book chapters, and the co-editor of the volume *Transnational Histories of the 'Royal Nation'* (Palgrave, 2017).

10:30 **Section B:**⁴²

Criminal Responsibility, Punishment, Impunity, Truth:

Chair: Professor Surinder Kaur Verma⁴³

19. **Javier Dondé Matute:**⁴⁴

International Criminal Responsibility as a Foundational Principle of International Criminal Law

20. **CHAO Yi:**⁴⁵

The Concept of International Criminal Responsibility for Individuals and the Foundational Transformation of International Law

21. **Barrie Sander:**⁴⁶

Why Punish International Crimes? A Critical Account of Justificatory Theories of Punishment in the International Criminal Context

22. **Maxim A. Pensky:**⁴⁷

Impunity: A Philosophical Analysis

23. **Shannon Fyfe:**⁴⁸

Truth, Testimony and Epistemic Injustice in International Criminal Law

12:30 Lunch

13:00 **Section C:**⁴⁹

Fundamental Legal Goods Protected by International Criminal Law:

Chair: Professor Usha Tandon⁵⁰

24. **Ioanna N. Anastasopoulou:**⁵¹

Collective Rechtsgüter and International Criminal Law

⁴² There will be 20 minutes for questions and discussion at the end of the session.

⁴³ See footnote 11 above for biography.

⁴⁴ **Javier Dondé Matute** is [Professor of International and Comparative Criminal Law, National Institute of Penal Sciences \(INACIPE\)](#), Mexico City. He holds a Ph.D. from the University of Aberdeen, an LL.M. from the University of Georgia, and an LL.B. from the Autonomous Technological Institute of Mexico (ITAM).

⁴⁵ **CHAO Yi** is a doctoral (DCL) candidate at McGill University Faculty of Law. He holds an LL.M. (2016) in International Law and LL.B. (2014) from Peking University Law School, and has studied international law and human rights at Columbia University Law School (2015). His research interests include international criminal law, public international law, and refugee law. He was previously the Executive Editor-in-Chief of Peking University International and Comparative Law Review and the research assistant of Peking University Institute of International Law.

⁴⁶ **Barrie Sander** is a Fellow at FGV Direito Rio. He obtained his Ph.D. earlier this year at the Graduate Institute of International and Development Studies (IHEID), Geneva. He is the Co-Founder of Just Innovate.

⁴⁷ **Maxim A. Pensky** is [Professor of Philosophy, Binghamton University](#).

⁴⁸ **Shannon Fyfe** is currently a Ph.D. candidate in philosophy at Vanderbilt University, where she obtained her J.D. in 2010. Her prior work includes the American Society of International Law's Arthur C. Helton Fellowship for international human rights law in Tanzania, and a fellowship with the Syria Justice and Accountability Centre. She recently published *International Criminal Tribunals: A Normative Defense* (with Larry May) with Cambridge University Press, 2017.

⁴⁹ There will be 10 minutes for questions and discussion at the end of the session.

⁵⁰ **Usha Tandon** is Professor and Head, Campus Law Centre, University of Delhi. She has 28 years of teaching experience, and is a recognised scholar in human development, focusing on women empowerment and environmental protection.

⁵¹ **Ioanna Anastasopoulou** received her education at the National University of Athens, School of Law and the Ludwig Maximilian University of Munich (LL.M., and Dr. juris.). Her doctoral dissertation was on 'Deliktstypen zum Schutz kollektiver Rechtsgüter' (Beck, 2005), with Professor Claus Roxin as supervisor). She is a member of the Athens Bar Association, the Hellenic Criminal Bar Association, and the European Criminal Bar Association (ECBA). Since 2010, she lectures on criminal law at the Law Faculty of the University of Athens in her capacity as Special Scientific Associate. She has been a Counsellor of the General Secretariat of the Greek Government (2009) and a member of the Delegation of the Ministry of Justice in the Greek Presidency of the European Union (2014). She has published in German and Greek on matters of European and international criminal law.

25. **SONG Tianying**:⁵²
Legal Goods Protected by War Crimes
26. **Susan R. Lamb**:⁵³
The Legal Good of 'Humanity' Protected by Crimes Against Humanity
27. **Morten Bergsmo**:⁵⁴
Rechtsgüter Protected by International Crimes of Genocide

14:30 **Section D**:⁵⁵

Emerging Legal Goods in International Criminal Law:

Chair: Professor Morten Bergsmo⁵⁶

28. **William David Baragwanath**:⁵⁷
'Reconciliation' as a Philosophical Foundational Concept in International Criminal Law
29. **Salim A. Nakhjavani and Melody Mirzaagha**:⁵⁸
On 'Unity' as an Emerging Legal Good in International Criminal Law
30. **Surabhi Sharma**:⁵⁹
'Humanity' and 'Unity': Indian Thought and Collective Legal Goods Protected by International Criminal Law
31. **Kafayat Motilewa Quadri**:⁶⁰
Communitarianism and 'Unity': Forging a Modern African Perspective on 'Unity' as a Collective Legal Good in International Criminal Law

⁵² **SONG Tianying** is a Ph.D. candidate at the European University Institute. She was formerly a Legal Adviser at the ICRC East Asia Delegation in Beijing. She has co-edited several books on international criminal law and published several articles and book chapters.

⁵³ **Susan R. Lamb** is an international criminal and humanitarian law practitioner with almost twenty years of experience with various United Nations International Criminal Tribunals, including the International Criminal Tribunal for Yugoslavia, the International Criminal Tribunal for Rwanda, and the Extraordinary Chambers in the Courts of Cambodia. In recent years, she has worked on accountability efforts in relation to atrocity crimes committed in the course of the Syrian crisis. Before commencing her United Nations career, she undertook doctoral studies in public international law at Balliol College, Oxford University, as a Rhodes Scholar. She is a graduate in law and politics from Otago University, New Zealand, and is admitted to legal practice in New Zealand.

⁵⁴ See footnote 13 above for biography.

⁵⁵ There will be opportunity for questions and discussion during the Concluding remarks segment.

⁵⁶ See footnote 13 above for biography.

⁵⁷ See footnote 7 above for biography.

⁵⁸ **Salim A. Nakhjavani**, B.C.L. LL.B. (McGill), LL.B. (UNISA), LL.M. (Cantab); Advocate of the High Court (South Africa); Adjunct Professor and Legal Research and Writing Expert, School of Law, University of the Witwatersrand (South Africa). **Melody Mirzaagha** is a Research Fellow and International Program Manager with the Institute for Studies in Global Prosperity. She holds a J.D. from Osgoode Hall Law School, with a specialization in international, comparative and transnational law and a B.A. (Hons.) in History and Literature from Queen's University in Canada.

⁵⁹ **Surabhi Sharma** is a student at Symbiosis Law School, Pune.

⁶⁰ **Kafayat Motilewa Quadri** is a Barrister and Solicitor of the Supreme Court of Nigeria, and a Research Fellow and faculty member at the Nigerian Institute of Advanced Legal Studies, University of Lagos. She holds an LL.B. from Obafemi Awolowo University (Ile-Ife), Barrister-at-Law qualification from the Nigerian Law School (Abuja Campus), an LL.M. (thesis on Comparative Criminal Law) and a Ph.D. (International Criminal Law) from the International Islamic University Malaysia. She was a recipient of the Graduate Research Assistant Scholarship for two years during her Ph.D. studies, and was a Research Assistant to the Dean of the Faculty of Law from 2013 to 2015.

16:30 Conclusion:

Chair: Professor **Manoj Kumar Sinha**⁶¹ (Director, Indian Law Institute)

- Honourable Mr. Justice **Arjan Kumar Sikri**⁶² (Supreme Court of India)
- H.E. Judge **William David Baragwanath**⁶³ KNZM QC (Special Tribunal for Lebanon)
- H.E. Judge **Hanne Sophie Greve**⁶⁴ (Gulating Court of Appeal)
- Professor **Gregory Gordon**⁶⁵ (Chinese University of Hong Kong)
- Professor **Morten Bergsmo**⁶⁶ (CILRAP)

⁶¹ See footnote 5 above for biography.

⁶² Honourable Mr. Justice **Arjan Kumar Sikri** is a judge of the Supreme Court of India since April 2013. Earlier, he had served as the Chief Justice of the Punjab and Haryana High Court. He completed his B.Com. (Hons.) from Shri Ram College of Commerce, Delhi; LL.B. from the Faculty of Law, University of Delhi (gold medal); and LL.M. from Delhi University (stood first). He was enrolled as an advocate in 1977 and he started practising in Delhi. He was also a part-time lecturer in Campus Law Centre, Delhi University during 1984-89. He was designated as a Senior Advocate by the Delhi High Court in 1997. He was appointed as Judge of the High Court of Delhi in July 1999, and was elevated as the Chief Justice of Punjab and Haryana High Court in September 2012. He was Chancellor of the National Law University, Delhi. He is Secretary, International Law Association (Indian Branch), and Member, Governing Council of the Indian Law Institute.

⁶³ See footnote 7 above for biography.

⁶⁴ See footnote 9 above for biography.

⁶⁵ See footnote 33 above for biography.

⁶⁶ See footnote 13 above for biography.