



## Program

International Nuremberg  
Principles Academy

International Conference

## **70 Years Later: The International Military Tribunal for the Far East**

17–19 May 2018

Courtroom 600, Nuremberg Palace of Justice  
Bärenschanzstraße 72, 90429 Nuremberg



INTERNATIONAL  
NUREMBERG  
PRINCIPLES  
ACADEMY





## International Conference

### 70 Years Later: The International Military Tribunal for the Far East

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#### Welcome Address

On behalf of the International Nuremberg Principles Academy, we would like to personally welcome you to the international conference “70 Years Later: The International Military Tribunal for the Far East”.

The conference marks the 70th anniversary of the delivery of the judgment of the International Military Tribunal for the Far East (IMTFE), informally also known as the Tokyo Tribunal. The final reading of the last part of the judgment was concluded on 12 November 1948. The aim of this high-level academic conference is to highlight the historical importance and lasting relevance and impact of the judgment in terms of substantive law and the trial with regard to procedural challenges and advancements. As a foundation dedicated to the promotion, development and application of international criminal law, the International Nuremberg Principles Academy is mindful of the significance of the legacies of the trials held in Nuremberg and in Tokyo in building invaluable foundations of the edifice of modern international criminal law. Revisiting these first trials and deepening their understanding allows to better shape the present and the future of international criminal law.

The trial in Tokyo was noteworthy in many respects and has remained a landmark reference for the development of international criminal law. With this conference we aim to provide an interdisciplinary forum for dialogue, scholarly exchange and critical discussion on the occasion of the 70th anniversary of the Tokyo judgment. The conference, to date the largest event of its kind held in 2018, provides a platform for Japanese and other scholars and a forum of exchange and dialogue. It brings together more than 30 international experts from different disciplines, including law, history and the social sciences, to discuss key aspects of the Tokyo judgment and the trial. The focus is on substantive law and procedural law, obstacles and lessons learned and the lasting impact that the judgment and trial have had on current international criminal law issues. It is also planned that a post-conference publication will capture the important discussions highlighted throughout the conference.

To organize a conference of this magnitude requires dedication, commitment and tireless work. Special thanks go to Professor Kerstin von Lingen whose expertise and engagement in accompanying this event has been invaluable and greatly appreciated. We would like to thank the speakers and panel chairs, coming from near and far, and all guests for their participation in the conference. It is held in Courtroom 600, an ideal setting to advance matters related to accountability and the fight against impunity and address the past, present and future of international criminal law.

Klaus Rackwitz  
Director

Dr. Viviane Dittrich  
Deputy Director





## Afternoon Session

17:30–18:00

### Opening Remarks

**Klaus Rackwitz**, Director, International Nuremberg Principles Academy

**Dr. Navi Pillay**, President, Advisory Council of the International Nuremberg Principles Academy; former High Commissioner, United Nations High Commission for Human Rights; former Judge, International Criminal Tribunal for Rwanda and International Criminal Court

**Dr. Michael Koch**, Ambassador, Legal Adviser and Director-General for Legal Affairs, Federal Foreign Office; Chairman, Foundation Board of the International Nuremberg Principles Academy

**Dr. Thomas Dickert**, President, Higher Regional Court of Nuremberg

**Nasser Ahmed**, City Councilor, City of Nuremberg, representing the Mayor of the City of Nuremberg

18:00–18:30

### Keynote Address

**Professor Yuma Totani**, Professor of History, University of Hawaii

“Historiography of the Tokyo trial: The past, the present and the future”

18:30–19:15

### Opening Dialogue

**Professor Yasuaki Onuma**, Professor Emeritus, University of Tokyo (video message)

**Professor Robert Cryer**, Professor of International and Criminal Law, University of Birmingham

**Professor Urs Matthias Zachmann**, Professor of Modern Japanese History and Culture, Freie Universität Berlin

19:15–20:15

### Reception





## Morning Session

09:30–11:00 **Panel I – The Tokyo Judgment: Origins and Relevance**

Chair: **Dr. Annette Weinke**, Assistant Professor of History, Friedrich-Schiller-Universität Jena

Speakers:

**Professor Kerstin von Lingen**, Professor of History, Universität Wien; Ruprecht-Karls-Universität Heidelberg: “Establishing the Tokyo Tribunal: Transcultural justice at Tokyo”

**Dr. Beatrice Trefalt**, Associate Professor of Japanese Studies, Monash University:

“Remembering the Tokyo trials, then and now: The Japanese domestic context of the IMTFE”

**Professor Diane Orentlicher**, Professor of Law, American University: “Genesis: The Tokyo tribunal’s legal origins and contributions to international jurisprudence as illustrated by its treatment of sexual violence”

11:00–11:30 **Coffee Break**

11:30–13:30 **Panel II – Comparative Analysis: The Nuremberg and Tokyo International Military Tribunals**

Chair: **Professor Diane Marie Amann**, Emily & Ernest Woodruff Chair in International Law and Faculty Co-Director of the Dean Rusk International Law Center, University of Georgia

Speakers:

**Professor David M. Crowe**, Presidential Fellow, Chapman University; Professor Emeritus of History and Law, Elon University: “The Tokyo and Nuremberg IMT trials: Origins, proceedings and verdicts”

**Professor Gerry Simpson**, Professor of International Law, London School of Economics and Political Science: “Tokyoberg”

**Professor David Cohen**, WSD Handa Professor in Human Rights and International Justice and Professor of Classics, Stanford University: “Nuremberg and the Tokyo double standard”

**Dr. Zachary D. Kaufman**, Senior Fellow, Harvard University: “Modern implications of the Tokyo tribunal’s subject matter omissions”

**Professor Robert Cryer**, Professor of International and Criminal Law, University of Birmingham: “Now and then: The contemporary relevance of the Nuremberg and Tokyo IMT”

13:30–14:30 **Lunch**

## Afternoon Session

14:30–16:00 **Panel III – Crimes within the Tokyo Charter: Crimes against Peace, War Crimes and Crimes against Humanity**

Chair: **Dr. Nobuo Hayashi**

Speakers:

**Professor Philipp Osten**, Professor of Criminal Law and International Criminal Law, Keio University: “Definition and Scope of Crimes in the Tokyo Charter”

**Professor Donald M. Ferencz**, Visiting Professor, Middlesex University: “Criminalizing aggression: From Nuremberg to Tokyo to The Hague”

**Dr. Wolfgang Form**, Lecturer in Political Science, Criminology and Peace and Conflict Studies, Philipps-Universität Marburg: “War crimes and crimes against humanity at the IMTFE”

16:00–16:15 **Short Break**

16:15–16:45 **Presentation of Courtroom 600**

**Henrike Claussen**, Director, Memorium Nuremberg Trials

16:45–17:30 **Visit of the Memorium Nuremberg Trials**



## Morning Session

9:15–10:45

### Panel IV – Crimes Specifically Addressed within the Tokyo Judgment

Chair: **Judge Raul Pangalangan**, International Criminal Court

Speakers:

**Professor Marina Aksenova**, Professor of Comparative and International Law, IE University: “Crimes adjudicated in the Tokyo judgment”

**Professor Robert Cribb**, Professor of Asian History, Australian National University: “Treatment of prisoners-of-war and civilian internees in the Tokyo trial”

**Professor Urs Matthias Zachmann**, Professor of Modern Japanese History and Culture, Freie Universität Berlin: “Japanese responses to the concept of individual criminal responsibility during the IMTFE”

10:45–11:15

### Coffee Break

11:15–12:45

### Panel V – Procedural Obstacles Faced by the Tribunal

Chair: **Judge Sang-Hyun Song**, Member, Advisory Council of the International Nuremberg Principles Academy; former President and Judge, International Criminal Court

Speakers:

**Professor Elizabeth Borgwardt**, Associate Professor of History and Law, Washington University in St. Louis: “The power of process at the Tokyo trial: Whose evidence, whose atrocity?”

**Professor Kayoko Takeda**, Professor of Translation and Interpreting Studies, Rikkyo University: “Trial and error in the interpreting and translation procedures during the Tokyo trial”

**Lisette Schouten**, Researcher, Ruprecht-Karls-Universität Heidelberg: “The selection of judges and Dutch representations at the IMTFE”

**Dr. Milinda Banerjee**, Research Fellow, Ludwig-Maximilians-Universität München: “Decolonization in transnational optics: India and the Tokyo trial”

12:45–13:45

### Lunch

## Afternoon Session

13:45–15:15

### Panel VI – Judgment and Post-Judgment Developments

Chair: **Professor Wenqi Zhu**, Professor of International Law, Renmin University

Speakers:

**Professor Sandra Wilson**, Professor and Academic Chair of History, Murdoch University: “Clemency for war criminals convicted in the Tokyo trial”

**Dr. Narrelle Morris**, Senior Lecturer, Curtin University: “Constructing the historical legacy of the IMTFE”

**Valentina Polunina**, Researcher, Ruprecht-Karls-Universität Heidelberg: “Soviet riposte to the Tokyo trial: The Khabarovsk trial and Japanese biological warfare”

**Dr. Franziska Seraphim**, Associate Professor of History, Boston College: “Loser’s justice”

15:15–15:30

### Short Coffee Break

15:30–17:00

### Panel VII – Marking the Ongoing Impact: From Tokyo to The Hague

Chair: **Ambassador Stephen J. Rapp**, Robert F. Drinan, S.J., Visiting Professor of Human Rights, Georgetown University; Global Prevention Fellow, Simon-Skjoldt Center for the Prevention of Genocide

Speakers:

**Judge Daqun Liu**, United Nations Mechanism for International Criminal Tribunals: “The impact of the Tokyo trial on the jurisprudence of the ICTY”

**Judge Kuniko Ozaki**, International Criminal Court: “The Tokyo trial in the ICC jurisprudence”

**Professor Keiko Ko**, Professor of International Law, Nanzan University: “The Japanese accession to the Rome Statute and the Tokyo tribunal”

17:00–17:15

### Closing Remarks

**Professor Christoph Safferling**, Vice-President, Advisory Council of the International Nuremberg Principles Academy; Professor of Criminal Law, Criminal Procedure, International Criminal Law and Public International Law, Friedrich-Alexander-Universität Erlangen-Nürnberg

**Dr. Viviane Dittrich**, Deputy Director, International Nuremberg Principles Academy

### Opening Remarks

**Klaus Rackwitz**

Director, International  
Nuremberg Principles Academy

Klaus Rackwitz studied law at the University of Cologne and was appointed as a judge in 1990, where he presided over criminal and civil cases at courts of first instance and at courts of appeal. He was one of the first judges in Germany heading a task force which was established to improve the use of computers in judicial work of judges and prosecutors. Mr. Rackwitz's experience in modern technology for courts led to his engagement in the Advance Team of the International Criminal Court in The Hague in 2002; subsequently from January 2003 until September 2011, he served as the Senior Administrative Manager of the Office of the Prosecutor of the ICC, responsible for all administrative and support matters. From 2011 until September 2016, he served as Administrative Director of Eurojust, the European Union's Judicial Cooperation Unit. He has lectured for several years on civil law, commercial law and IT law at the Universities of Köln and Düsseldorf and the Technical Academy of Wuppertal.

**Dr. Navi Pillay**

President, Advisory Council of  
the International Nuremberg  
Principles Academy; former High  
Commissioner, United Nations  
High Commission for Human  
Rights; former Judge, International  
Criminal Tribunal for Rwanda  
and International Criminal Court

Dr. Navi Pillay served as High Commissioner for Human Rights at the United Nations from 2008 to 2014. Aside from that, she has championed many human rights issues with which she herself had direct experience, having grown up as a member of the non-white majority under the Apartheid regime in South Africa. After studying law in Natal, Dr. Pillay worked on behalf of the victims of racial segregation as a criminal defense lawyer and as an activist for the anti-Apartheid movement. Later, Dr. Pillay earned a Master's degree under a graduate program at Harvard Law School. In 1988, she became the first South African to be awarded the degree of Doctor of Juridical Science at Harvard Law School. In 1995, after the end of Apartheid, she was appointed to the Supreme Court of South Africa as a limited term judge. In the same year, she was appointed as a judge to the International Criminal Tribunal for Rwanda, where she served for a total of eight years, including four years as President. Later she served at the International Criminal Court in The Hague for five years. Dr. Pillay plays an active role in numerous human rights organizations. Among other roles, she is the co-founder of "Equality Now", an international women's rights organization.

**Dr. Michael Koch**

Ambassador, Legal Adviser  
and Director-General for  
Legal Affairs, Federal Foreign  
Office; Chairman, Foundation  
Board of the International  
Nuremberg Principles Academy

Dr. Michael Koch has been appointed Legal Adviser and Director-General for Legal Affairs at the Federal Foreign Office in July 2015. He studied law at the Universities of Tübingen and Bonn, completed first state exam in 1978, second state exam in 1981. He worked as Research Assistant at the Institute for International Law, University of Kiel, and in 1990 he obtained his Ph.D. at the University of Bonn. Dr. Koch joined the Federal Foreign Office in 1986 and since then he held different positions: Desk Officer subdivision "European Community", Consulate General San Francisco, Personal Private Secretary of the Coordinator for German-American Cooperation, Deputy Head of Mission at the German Embassy Rangoon, Head Task Force for Internal Reforms of the Foreign Service in the Central Department, Head of the Political Department at the German Embassy New Delhi, Head of the Special Task Force Afghanistan, German Ambassador to Pakistan, and Special Representative of the Federal Government for Afghanistan and Pakistan.





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**Dr. Thomas Dickert**

President, Higher Regional  
Court of Nuremberg

Dr. Thomas Dickert is President of the Higher Regional Court of Nuremberg. He represents the Free State of Bavaria in the Foundation Board of the International Nuremberg Principles Academy. From 2011 until April 2018, he was Head of the Department of Budget, Construction, IT, Organization, Security and Statistics at the Bavarian State Ministry of Justice. Prior to this position, Dr. Dickert held several other positions at the Bavarian State Ministry and at different courts in Bavaria, including the Higher Regional Court of Munich and the Regional Court of Ingolstadt. He studied law at the University of Regensburg and did his legal traineeship in Regensburg.

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**Nasser Ahmed**

City Councilor, City of Nuremberg,  
representing the Mayor of the  
City of Nuremberg

Nasser Ahmed was, prior to running for the City Council in 2014, Chairman of the Jusos in Nuremberg – the Social Democratic Party's (SPD) Youth Division. Since 2015, he is Vice-Chairman of the local SPD. In the City Council of Nuremberg he acts as a specialist for issues of public transportation and is Senior Advisor to his faction on sports policy. Mr. Ahmed holds a Master's degree in Political Science. Since late 2015, he is doing a Ph.D. at Friedrich-Alexander University Erlangen-Nuremberg, Germany. His project examines the construction of the political in the work of Michel Foucault and Ernst Jünger.

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**Professor Yuma Totani**

Professor of History, University  
of Hawaii

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## Keynote Address

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Professor Yuma Totani is a historian of modern Japan and a researcher of World War II in Asia and the Pacific. She currently holds the positions of Professor at the University of Hawaii and Visiting Fellow at the Hoover Institution, Stanford University. Professor Totani undertakes a series of multi-year research and book publications that seek to illuminate the causes, conditions and consequences of World War II in Asia and the Pacific, and that consider their implications to our understanding of the principles of international justice, accountability, and the rule of law. Her representative publications include *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (2008); *Justice in Asia and the Pacific Region, 1945–1952: Allied War Crimes Prosecutions* (2015) and David Cohen and Yuma Totani, *The Tokyo War Crimes Tribunal: Law, History, and Jurisprudence*, forthcoming (2018).

**“Historiography of the Tokyo trial: The past, the present and the future”**

Professor Totani revisits the historical trajectory of the studies of the Tokyo trial since 1946 through the present and considers the future direction of this field of study. It highlights the significant contributions that researchers in Japan have made in defining the parameter of this field and building the foundational knowledge about the Tokyo trial. Those who have assumed the leading role in this field are historians, who delved deeply into archives across the world since the late-1970s, brought to light voluminous internal records of the International Prosecution Section, internal memoranda of the IMTFE judges and the Allied diplomatic records, and carried out empirical, well-grounded research using these vast archival materials. The keynote address will pay tribute to their accomplishments, discuss the areas that remain under-explored and consider the merit of research collaboration between the disciplines of law and history going forward.

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## Opening Dialogue

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**Professor Yasuaki Onuma**

Professor Emeritus, University of Tokyo (video message)

Professor Yasuaki Onuma is Professor Emeritus at the University of Tokyo. He has studied and taught in various universities and research institutions such as Harvard, Yale, Princeton, Cambridge, Paris, Peking, Tsinghua, Jawaharlal Nehru, and Max Plank Institute for Foreign and International Criminal Law in Freiburg, Germany. His specialization areas are international law, law and politics in international society, human rights, Tokyo War Crimes Trial, Japanese war, and colonial guilt. His publications include: *International Law in a Transcivilizational World* (Cambridge UP); *Le droit international et le Japon* (Pedone); *A Transcivilizational Perspective on International Law* (Martinus Nijhoff); *A Normative Approach to War* (ed.) (Clarendon Press); *The Tokyo War Crimes Trial* (eds.) (Kodansha International); *Senso sekinin ron josetsu* (Prolegomena to the Responsibility for War, Tokyo UP) and *Tokyo saiban, senso sekinin, sengo sekinin* (Tokyo War Crimes Trials, Japanese War Guilt and Postwar Responsibility of Japan, Toshindo, Chinese ed., Song Zhiyong).

**Professor Robert Cryer**

Professor of International and Criminal Law, University of Birmingham

Professor Robert Cryer is Professor of International and Criminal Law at the University of Birmingham. His expertise is in international law and criminal law. He has written and spoken on both areas extensively, amongst other places, in the UK, China, Australia, New Zealand, and Germany. He has also published on the law of war crimes in Asia, in particular, he is the co-author (with Neil Boister) of *The Tokyo International Military Tribunal: A Reappraisal* (Oxford University Press, 2008); and co-editor (with Neil Boister) of *Documents on the Tokyo International Military Tribunal* (Oxford University Press, 2008) and of various articles on international crimes, criminal law and international law more generally.

**Professor Urs Matthias Zachmann**

Professor of Modern Japanese History and Culture, Freie Universität Berlin

Professor Urs Matthias Zachmann is Professor of Modern Japanese History and Culture at the Free University of Berlin since 2016. Before that, he was the Handa Professor of Japanese-Chinese Relations at the University of Edinburgh, Scotland (2011–2016). He is a graduate from Heidelberg Law School (1998) and obtained a Ph.D. (Heidelberg 2006) and Habilitation (Ludwig Maximilian University Munich 2010) in Japanese Studies. He is also a trained advocate and member of the German Bar since 2002. His fields of specialization are the history of Northeast Asia's international and transcultural relations, the history of political ideas and the history of law, particularly international law in this region. In 2013, he published a monograph (in German) on the development of international legal thought in Japan, 1919–1960. He is currently preparing an extended study of Japan's engagement with international law during the 19th and 20th century for an English-speaking public.

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### Panel I: The Tokyo Judgment: Origins and Relevance

Panel I explores the origins and relevance of the IMTFE from different perspectives. This introductory panel thus offers background information with regard to its establishment, an overview of the jurisdiction, and the composition of the tribunal. It also addresses the functioning of the tribunal and the relevance of the judgment in general – including the impact in the region.

November 2018 marks precisely 70 years after the verdicts of the Tokyo judgment and therefore symbolizes a milestone in the process that was undertaken against 28 Japanese military and political leaders. Starting already in December 1945, lawyers from 11 Allied countries gathered in Tokyo to investigate more than 100 individuals before narrowing down the number to the final 28 accused. The majority of the counts charged within the indictment concerned the crimes against peace charges. The opening statement of the Prosecution team began on 4 June 1946 which marked a process of officially holding leaders as individuals criminally responsible and exploring applicable principles of the then nascent international criminal law. This panel aims to foreground the accomplishments of this complex and novel undertaking of ensuring accountability and to enhance the understanding of the issues and emergent challenges in Tokyo.

Key questions of the panel include: How was the IMTFE created? What was its jurisdiction? What was the composition and structure of the court? How was the trial conducted, under what conditions and circumstances? Who were the judges, and what powers did they obtain under the Tokyo Charter? What impact did the IMTFE have and what implications did the trial have in the region?

This panel will set the scene for in-depth discussions going forward. Illuminating various facets of the Tokyo tribunal is critical to proving a fuller picture of the legal, political and social dimensions and enabling a greater understanding of the IMTFE overall.

### Chair

**Dr. Annette Weinke**  
Assistant Professor of History,  
Friedrich-Schiller-Universität Jena

P.D. Dr. Annette Weinke is Assistant Professor/Privatdozentin at the History Department of Friedrich-Schiller-University in Jena, Germany, and Co-Director of the Jena Center of 20th Century History. She is the author and editor of seven books, among them *Die Nürnberger Prozesse* (2015, 2nd ed.); *A Comprehensive History of the Ludwigsburg Agency for Nazi Crimes Investigations* (2009, 2nd ed.) and co-author of the study *Das Amt und die Vergangenheit* (The German Foreign Office and the Nazi Past). She has published extensively on themes like the history of war crimes tribunals, human rights and international criminal law. In her latest book *Gewalt, Geschichte, Gerechtigkeit* (2016), she takes a fresh look at the latter topic by examining the transnational debates on German state criminality in a *longue durée* perspective, starting from World War I to the post Cold War era. Dr. Weinke was Visiting Professor at the University of Massachusetts and taught courses in Modern European History at several US universities. In 2015/16, she was Fellow at the History Department of Princeton University, where she was working on a collective biography of emigrated human rights lawyers and legal activists in the 20th century. She is also a co-founder and member of the working group “Human Rights in the 20th Century” (Arbeitskreis Menschenrechte im 20. Jahrhundert), which has been sponsored by the Fritz Thyssen Foundation since 2012.



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## Speakers

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**Professor Kerstin von Lingen**

Professor of History, Universität Wien; Ruprecht-Karls-Universität Heidelberg

P.D. Dr. Kerstin von Lingen is a historian and a researcher. Currently, she is the 2017/18 Visiting Professor at the Institute for Contemporary History at the University of Vienna. From 2013–2017, she led an independent research group at Heidelberg University at the Cluster of Excellence “Asia and Europe in a Global Context” entitled “Transcultural Justice: Legal Flows and the Emergence of International Justice within the East Asian War Crimes Trials, 1946–1954” supervising four doctoral dissertations on the Soviet, Chinese, Dutch, and French war crimes trial policies in Asia, respectively. She published books in English and German and edited several volumes. Her latest book is *Transcultural Justice at the Tokyo Tribunal: The Allied Struggle for Justice, 1946–48* (Brill, 2018).

**Dr. Beatrice Trefalt**

Associate Professor of Japanese Studies, Monash University

Dr. Beatrice Trefalt is Associate Professor of Japanese Studies in the School of Languages, Cultures, Literatures and Linguistics at Monash University, Australia. A co-author with Wilson, Cribb and Aszkielowicz of *Japanese War Criminals: the politics of justice after World War II* (Columbia University Press, 2017), she has written also on the French prosecution of war crimes trials, the repatriation of Japanese war criminals from the Philippines, Japanese veterans and the battlefield experiences of Japanese civilians in the Pacific. She is currently working on the impact of post-war repatriation on early post-war domestic politics in Japan.

**Professor Diane Orentlicher**

Professor of Law,  
American University

Professor Diane Orentlicher is Professor of International Law at American University. She has been described by the Washington Diplomat as “one of the world’s leading authorities on human rights law and war crimes tribunals.” She has lectured and published widely on issues of transitional justice, international criminal justice, business and human rights, and other areas of public international law. Her recently-published book, *Some Kind of Justice: The ICTY’s Impact in Bosnia and Serbia* (Oxford University Press 2018), provides an in-depth account of how an international criminal tribunal influenced national communities that were directly affected by its work, as well as the factors that account for its shifting impact over time. Professor Orentlicher has served in several public positions, including as Deputy for War Crimes Issues in the U.S. Department of State (2009–2011); United Nations Independent Expert on Combating Impunity (on appointment by the UN Secretary-General) and Special Advisor to the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe. In 2005 she updated the *UN Set of Principles for the protection and promotion of human rights through action to combat impunity*, a leading reference for states in their efforts to combat impunity for human rights violations.

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### Panel II: Comparative Analysis: The Nuremberg and Tokyo International Military Tribunals

Panel II is a roundtable discussion dedicated to the comparative analysis between the respective tribunals created immediately after World War II, the International Military Tribunal (IMT) in Nuremberg and the IMTFE in Tokyo. Despite a very similar mandate, establishment and also overall purpose, these tribunals encountered different challenges on their way while facing similar obstacles. Since both are considered primary sources, so-called “founding” tribunals for what is today known as modern international criminal law as well as exemplary sources for judicial institutions, a more in-depth comparative analysis is warranted.

With a focus on comparing similarities of these two tribunals this panel aims to broaden and deepen the understanding of the lessons and legacies of the Tokyo trial with respect to international criminal law. The roundtable format deliberately provides a unique opportunity to bring diverse perspectives together, exchange views and critically discuss the origins, proceedings and verdict, legacies and perceptions of these tribunals, including critiques levied – and legitimacy behind any criticism. The panel also takes note of alleged crimes that went unaddressed under both tribunals before carving out the contemporary relevance of these tribunals.

Key questions of the panel include: What are the differences between the respective IMT in terms of, for example, the statutory establishment and crimes covered or jurisdictions given? What were the similar difficulties and challenges faced by these tribunals?

This roundtable discussion will offer a comparative analysis of the creation and operation of these tribunals and promote an understanding of their similarities in terms of judicial challenges and critiques in order to advance critical reflection on accountability and justice, in Nuremberg and Tokyo, and beyond.

#### Chair

**Professor Diane Marie Amann**  
Emily & Ernest Woodruff  
Chair in International Law and  
Faculty Co-Director of the  
Dean Rusk International Law Center,  
University of Georgia

Professor Diane Marie Amann holds the Emily & Ernest Woodruff Chair in International Law and is Faculty Co-Director of the Dean Rusk International Law Center at the University of Georgia School of Law. To further her scholarship on the roles women played in the postwar trials at Nuremberg, she is currently Visiting Researcher at the Oxford University Faculty of Law’s Bonavero Institute of Human Rights and Visiting Fellow at Oxford’s Mansfield College. In January 2018, she served as the inaugural Breslauer, Rutman and Anderson Research Fellow at the University of Southern California Shoah Foundation Center for Advanced Genocide, and in March 2018, as External Scientific Fellow at the Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law. A Counselor and past Vice-President of the American Society of International Law, she also serves as the International Criminal Court Prosecutor’s Special Adviser on Children in and affected by Armed Conflict.

#### Speakers

**Professor David M. Crowe**  
Presidential Fellow,  
Chapman University;  
Professor Emeritus of History  
and Law, Elon University

Professor David M. Crowe is Presidential Fellow at Chapman University and Professor Emeritus of History and Law at Elon University. He is currently writing *Raphael Lemkin: The Life of a Visionary*, while his *Stalin’s Soviet Justice: ‘Show’ Trials, War Crimes Trials, and Nuremberg* will be published by Bloomsbury later this year. His other recent publications include “MacArthur, Keenan and the American Quest for Justice at the IMTFE,” in K. von Lingen, ed., *Transcultural Justice at the Tokyo Tribunal* (Brill, 2018); “The Allied Occupation of Germany and Japan,” in J. Cho, ed., *Transnational Encounters between Germany and East Asia since 1900* (Routledge, 2018) and “The German Plunder and Theft of Jewish Property in the General Government,” in J. Michalczyk, ed., *Nazi Law: From Nuremberg to Nuremberg* (Bloomsbury, 2018). Other recent publications include *Da tu-sha gen-yuan li-shi yu yubo* (Shanghai Peoples’ Publishing House, 2015) and *War Crimes, Genocide, and Justice: A Global History* (Palgrave Macmillan, 2014).

**Professor Gerry Simpson**

Professor of International Law,  
London School of Economics  
and Political Science

Professor Gerry Simpson is Professor of International Law at the London School of Economics and Political Science (LSE). He is the author of *Great Powers and Outlaw States* (Cambridge, 2004) (which was awarded the American Society of International Law's annual prize in 2005 for "Pre-eminent Contribution to Creative Legal Scholarship" and translated into several languages) and *Law, War and Crime: War Crimes Trials and the Reinvention of International Law* (Polity, 2008). Recent publications include *The Hidden Histories of War Crimes Trials* (ed. with Kevin Heller) (Oxford University Press, 2013); *Beyond Victor's Justice: The Tokyo War Crimes Trial Revisited* (ed. with Yuki Tanaka and Tim McCormack) (Martinus Nijhoff, 2011) and *Who's Afraid of International Law* (eds, Raimond Gaita and Gerry Simpson) (Monash University Press, 2017). Professor Simpson's current research projects include an ARC-funded project on *Cold War International Law* (with Matt Craven, SOAS) and Sundhya Pahuja, (Melbourne) and a counter-history of International Criminal Justice. He is currently also writing about the literary life of international law; an exploratory essay – "The Sentimental Life of International Law" – was published in 2015 in *The London Review of International Law*.

**Professor David Cohen**

WSD Handa Professor in  
Human Rights and International  
Justice and Professor of  
Classics, Stanford University

Professor David Cohen is Director of the WSD Handa Center for Human Rights and International Justice at Stanford University, where he is WSD Handa Professor in Human Rights and International Justice and Professor of Classics. He publishes in the fields of human rights, international criminal law and transitional justice. Professor Cohen taught at the University of California, Berkeley from 1979-2012 as the Ancker Distinguished Professor for the Humanities and served as the founding Director of the Berkeley War Crimes Studies Center, which moved to Stanford in 2013 and became the Handa Center. He also serves as Advisor to the Human Rights Resource Center for ASEAN, based in Jakarta, leading the Center's research projects. Current initiatives in South-East Asia include a multi-country project to improve data collection and analysis on human trafficking at the regional, national and local level. His latest book, *The Tokyo War Crimes Tribunal: Law, History, and Jurisprudence*, co-authored with Professor Yuma Totani, will appear in October 2018 at Cambridge University Press.

**Dr. Zachary D. Kaufman**

Senior Fellow,  
Harvard University

Dr. Zachary D. Kaufman is Senior Fellow at the Harvard University John F. Kennedy School of Government's Carr Center for Human Rights Policy and Lecturer in Law at the Stanford Law School. He has served in three war crimes tribunals (the International Criminal Court, the UN International Criminal Tribunals for Rwanda and for the former Yugoslavia) and in all three branches of the U.S. Government (including at the Supreme Court, the Senate Foreign Relations Committee, and the Departments of State and Justice). Dr. Kaufman is the author or editor of three books: *United States Law and Policy on Transitional Justice* (2016); *Social Entrepreneurship in the Age of Atrocities* (2012) and *After Genocide* (2009). He received his D.Phil. (Ph.D.) and M.Phil., both in International Relations, from Oxford University (Marshall Scholar); his J.D. from Yale Law School (Editor-in-Chief of the *Yale Law & Policy Review*) and his B.A. in Political Science from Yale.

**Professor Robert Cryer**

Professor of International  
and Criminal Law,  
University of Birmingham

Professor Robert Cryer is Professor of International and Criminal Law at the University of Birmingham. His expertise is in international law and criminal law. He has written and spoken on both areas extensively, amongst other places, in the UK, China, Australia, New Zealand, and Germany. He has also published on the law of war crimes in Asia, in particular he is the co-author (with Neil Boister) of *The Tokyo International Military Tribunal: A Reappraisal* (Oxford University Press, 2008); and co-editor (with Neil Boister) of *Documents on the Tokyo International Military Tribunal* (Oxford University Press, 2008) and of various articles on international crimes, criminal law and international law more generally.

### Panel III: Crimes within the Tokyo Charter: Crimes against Peace, War Crimes and Crimes against Humanity

Panel III examines the law of the IMTFE and the crimes under its jurisdiction. Turning to substantive law and focusing on the law of the IMTFE as set out in its Charter as well as the crimes specified, it highlights the definitions of the crimes against peace, the conventional war crimes and crimes against humanity as laid out in Article 5 of the Tokyo Charter. The panel focuses on the reasoning behind the selection of these crimes, looks into whether any modification to these crimes was undertaken, and addresses the ultimate scope of these crimes. More specifically, this panel explores the reasons behind the particularities in the definitions and the importance of this for the future of international criminal law. As an example, the issue of the dependency of the crimes against peace charges *vis-à-vis* the indictment and selection of the accused merits further discussion.

Key questions of the panel include: How were the crimes defined? What was the definition of aggression and did it have any distinct elements? Were charges of crimes against humanity addressed in the end? What implications did this all have on modern international criminal law?

The panel will shed light on the reasons behind the choices made at the time of the creation of the Tokyo tribunal. Legal consequences concerning the applicability of this legal framework, including the contemporary scholarly debate about its impact in the region as well as on the international criminal justice system is very topical. Modern international criminal law has recently been revisiting relevant questions, including the scope of crimes against peace in form of the crime of aggression as well as work on an international convention on crimes against humanity.

#### Chair

##### Dr. Nobuo Hayashi

Dr. Nobuo Hayashi specializes in international humanitarian law, international criminal law, *jus ad bellum*, international weapons law, and public international law. He has produced significant work on military necessity, as well as the law and ethics of nuclear weapons. Dr. Hayashi regularly teaches at university faculties, defence establishments, government seminars, and professional workshops. Major positions held include: Visiting Lecturer, United Nations Interregional Crime and Justice Research Institute; Senior Legal Advisor, International Law and Policy Institute; Researcher, PluriCourts, University of Oslo; Visiting Professor, International University of Japan; Researcher, Peace Research Institute Oslo; Legal Advisor, Norwegian Centre for Human Rights; Legal Officer, Office of the Prosecutor, International Criminal Tribunal for the former Yugoslavia.

#### Speakers

##### Professor Philipp Osten

Professor of Criminal Law  
and International Criminal Law,  
Keio University

Professor Philipp Osten (Dr. iur., Humboldt University, Berlin) is Professor of Criminal Law and International Criminal Law at Keio University, Tokyo. He received his legal education at Humboldt University, Berlin and at Keio University, Tokyo. His main field of research is international criminal law. He has conducted research on the history of international criminal trials and published a book on the Tokyo International Military Tribunal (*Der Tokioter Kriegsverbrecherprozeß und die japanische Rechtswissenschaft* (2003) – Japanese translation by the author forthcoming). His recent research focuses on the International Criminal Court and he has published widely on issues pertaining to general principles of criminal law in the Rome Statute, and its domestic implementation. Professor Osten was Visiting Scholar at the Law School and the History Department of the University of Hawaii (Fukuzawa Memorial Fellow, 2011/2012) and the Institute for Criminal Law and Procedure at the University of Cologne (Alexander von Humboldt Research Fellow, 2012/2013).





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**Professor Donald M. Ferencz**

Visiting Professor,  
Middlesex University

Professor Donald Ferencz is Visiting Professor at Middlesex University School of Law in London and Research Associate at the Oxford University Faculty of Law's Centre for Criminology. He was a nongovernmental advisor to the ICC Assembly of States Parties' working group on the crime of aggression. Following the Kampala Review Conference, he convened the Global Institute for the Prevention of Aggression, partnering with the Mission of Liechtenstein to the United Nations, in organizing the ongoing Global Campaign for Ratification and Implementation of the Kampala Amendments on the Crime of Aggression. In 2018, he was commissioned by the University of California Los Angeles School of Law's Human Rights Project, in partnership with the Office of the Prosecutor of the ICC, and separately by Torkel Opsahl Academic EPublisher (TOAEP) to publish suggested policy considerations pertaining to the upcoming activation of the ICC's jurisdiction over the crime of aggression (see <http://iccforum.com/aggression#Ferencz> and <http://www.toaep.org/pbs-pdf/88-ferencz>).

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**Dr. Wolfgang Form**

Lecturer in Political Science,  
Criminology and Peace  
and Conflict Studies, Philipps-  
Universität Marburg

Dr. Wolfgang Form is Lecturer in Political Science, Criminology and Peace and Conflict Studies at the Universities of Marburg, Kiel and Wolfenbüttel. In 2003, he co-founded the International Research and Documentation Center for War Crimes Trials in Marburg and has served as its Research Director since then. He has written extensively on political, criminal, and military justice, the history of international criminal law, peace and conflict studies, and local and regional histories of National Socialism.

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**Presentation of Courtroom 600**

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**Henrike Claussen**

Director, Memorium  
Nuremberg Trials

Henrike Claussen is a historian and Director of the Memorium Nuremberg Trials. She studied history and art history at the University of Cologne, where she received her M.A. with focus on German history after World War II. She worked as Research Associate at the Documentation Centre Nazi Party Rally Grounds in Nuremberg and the White Rose Foundation in Munich. From 2007, Ms. Claussen worked as Project Coordinator and Curator for the establishment of the Memorium Nuremberg Trials, which was opened in November 2010 by the City of Nuremberg.

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**Visit of the Memorium Nuremberg Trials**

### Panel IV: Crimes Specifically Addressed within the Tokyo Judgment

Panel IV delves into the actual crimes committed during the relevant time period and adjudicated within the jurisdiction of the IMTFE. The judgment is voluminous, and so are the separate and dissenting opinions accompanying the judgment. The list of these crimes is immense, including, *inter alia*, crimes of torture, murder, rape, and ill-treatment of prisoners. A critical discussion is necessary of the judgment's findings on cruelties described as most inhumane and barbarous in nature, being secretly ordered by the government or individual members thereof. The panel aims to elucidate the crimes that the judgment specifically covered, compared to the alleged crimes that were not adjudicated. Given the nature of the crimes perpetrated and responsibility attributed to the government, the focus on prisoners of war and civilian internees is considered for a more in-depth analysis. Moreover, the Tokyo judgment was among the first judgments to address the issue of individual criminal responsibility with respect to the obligations arising under international law. This panel analyzes the challenges concerning the individualization of responsibility for international crimes and addresses the situation and critiques during the time of the ongoing trial.

Key questions of the panel include: What crimes were adjudicated? Who were the crimes committed by and how did the judgment address the nexus between war and peace? Who was found guilty of which crimes? How was the question of direct individual criminal responsibility handled during the trial?

This panel will examine some of the legal particularities related to the scope of the crimes addressed and lessons learned and legacies arising from the judgment. The aim of this panel is to clarify and advance the understanding of the scope of the crimes adjudicated within the Tokyo judgment.

### Chair

**Judge Raul Pangalangan**  
International Criminal Court

Judge Raul Cano Pangalangan was elected to the International Criminal Court in 2015. Until then he taught constitutional law and public international law as Professor of Law and Law Dean at the University of the Philippines. He has also taught, *inter alia*, at Harvard Law School and The Hague Academy of International Law and has lectured on international humanitarian law for the International Committee of the Red Cross. He has been a member of the Philippine Bar since 1984. He was a Philippine delegate in the drafting of the Rome Statute in 1998 and co-chaired the national campaign for ratification by the Philippines. He studied at Harvard, where he received his LL.M. (winning the Laylin Prize in international law) and S.J.D (winning the Sumner Prize for best dissertation on international peace). He holds the Diplôme of The Hague Academy of International Law.



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## Speakers

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**Professor Marina Aksenova**  
Professor of Comparative and  
International Law, IE Univesity

Professor Marina Aksenova is Professor of Comparative and International Criminal Law at IE University in Madrid. She previously held positions as Postdoctoral Research Fellow at the Centre of Excellence for International Courts (iCourts) at the University of Copenhagen and Visiting Research Fellow at the Institute for Advanced Study of the Central European University in Budapest. Professor Aksenova holds a Ph.D. from the European University Institute (2014), an M.Sc. from the University of Oxford (2010) and an LL.M. from the University of Amsterdam (2005). Her Ph.D. thesis “Complicity in International Criminal Law” was published with Hart in 2016. In addition to her academic qualifications, Professor Aksenova worked for the defence teams at the International Criminal Tribunal for the former Yugoslavia, Trial Chamber at the Extraordinary Chambers in the Courts of Cambodia and in an arbitration department of White and Case LLC. She is on the list of assistants to counsel at the International Criminal Court.

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**Professor Robert Cribb**  
Professor of Asian History,  
Australian National University

Professor Robert Cribb is Professor of Asian History at the Australian National University. He has previously taught at the University of Queensland, Leiden University and Griffith University. His research includes a focus on mass violence, both in wartime and in the context of civil conflict. He has worked especially on Indonesia, but has interests in other parts of Asia, including Japan, Myanmar, and Mongolia. He is the author (with Sandra Wilson, Beatrice Trefalt and Dean Aszkielowicz) of *Japanese War Criminals: the Politics of Justice after the Second World War* (2017) and (with Helen Gilbert and Helen Tiffin); *Wild Man from Borneo: A Cultural History of the Orangutan* (2014). He is currently working with Sandra Wilson on a history of Japanese wartime atrocities.

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**Professor Urs Matthias Zachmann**  
Professor of Modern Japanese  
History and Culture,  
Freie Universität Berlin

Professor Urs Matthias Zachmann is Professor of Modern Japanese History and Culture at the Free University of Berlin since 2016. Before that, he was the Handa Professor of Japanese-Chinese Relations at the University of Edinburgh, Scotland (2011–2016). He is a graduate from Heidelberg Law School (1998) and obtained a Ph.D. (Heidelberg 2006) and Habilitation (Ludwig Maximilian University Munich 2010) in Japanese Studies. He is also a trained advocate and member of the German Bar since 2002. His fields of specialization are the history of Northeast Asia’s international and transcultural relations, the history of political ideas and the history of law, particularly international law in this region. In 2013, he published a monograph (in German) on the development of international legal thought in Japan, 1919–1960. He is currently preparing an extended study of Japan’s engagement with international law during the 19th and 20th century for an English-speaking public.

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### **Panel V: Procedural Obstacles Faced by the Tribunal**

Panel V is dedicated to the procedural obstacles faced by the IMTFE. Apart from the wealth of the substantive jurisprudence, the Tokyo trial highlighted and addressed numerous procedural challenges that arose during and throughout the Tokyo tribunal's functioning and trial, in particular due to the novelty of the establishment, uncertain and not fully defined mandate, status and other limitations that it came with.

This panel focuses on the legal procedural obstacles rather than any political entanglements. First of all, the Tokyo trial was amongst the first tribunals that set out safeguards of procedural fairness that are well-fought for as guarantors of fair process. To that end, and interesting from the perspective of legal practitioners, the treatment and usage of evidence and evidentiary bases is observed. Moreover, with a view to the sociological dimension as well as accuracy of the trials and observance of fair trials guarantees, the multilingual setting deserves attention. Given the multiplicity of actors in the courtroom, number of the defendants, and diversity of the judges, this panel sheds light onto the complexities behind the scene. Indeed, questions have arisen as to the procedure behind the selection of judges, the obstacles along the way and final working arrangements that were put in place to manage this novelty in prosecuting alleged war criminals.

Key questions of the panel include: What were the evidentiary bases and how did they change over time? How were the translation challenges addressed and what can be gleaned from the Tokyo trial experience? How were judges selected, what was their role, and what were the rules and practices with respect to voting, quorum and how was the potential window for dissents addressed?

This panel will provide a behind-the-scenes look of the work of the Tokyo tribunal. It will focus on providing a better picture of the obstacles faced at that time in order to illuminate key dynamics or tensions and critically draw out any lessons.

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### **Chair**

#### **Judge Sang-Hyun Song**

Member, Advisory Council of the International Nuremberg Principles Academy; former President and Judge, International Criminal Court

Judge Sang-Hyun Song is Member of the Advisory Council of the International Nuremberg Principles Academy. He was President and Judge of the International Criminal Court from March 2009 through March 2015. For more than thirty years, Judge Song has taught as a professor of law at Seoul National University Law School, beginning in 1972. He also held visiting professorships at a number of law schools, including Harvard, New York University, Melbourne and Wellington. Judge Song started his legal career as a judge-advocate in the Korean army and later as a foreign attorney in a New York law firm. He has served as a member of the advisory committee to the Korean Supreme Court and the Ministry of Justice. He is Co-Founder of the Legal Aid Centre for Women and of the Childhood Leukemia Foundation in Seoul, and President of UNICEF/KOREA. Judge Song is also author of several publications.

## Speakers

- Professor Elizabeth Borgwardt** Associate Professor of History and Law, Washington University in St. Louis
- Professor Elizabeth Borgwardt is Associate Professor of History and Law at Washington University in St. Louis. She served as the Richard and Anne Pozen Visiting Professor of Human Rights at the University of Chicago in 2012 and in 2013 she was Cummings Foundation Fellow at the Center for Advanced Holocaust Studies at the US Holocaust Memorial Museum Archives. She has held a Fulbright chair with the Heidelberg Center for American Studies at the University of Heidelberg, where she remains a permanent faculty affiliate. Her book, *A New Deal for the World: America's Vision for Human Rights* (2005), has been recognized by many awards, including as the best book in the History of Ideas (Merle Curti Book Award), from the Organization of American Historians. Professor Borgwardt is currently working on several publications including *The Nuremberg Idea: Crimes against Humanity in History, Law and Politics* (under contract with Alfred A. Knopf); and Kurt Steiner's *The Tokyo Trial and the Progressive Development of International Law* (editor and author of introduction). She has a Ph.D. from Stanford, a J.D. from Harvard Law School and an M.Phil. in International Relations from Cambridge University. She clerked for the Federal Ninth Circuit Court of Appeals and is a member of the California Bar.
- Professor Kayoko Takeda** Professor of Translation and Interpreting Studies, Rikkyo University
- Professor Kayoko Takeda is Professor of Translation and Interpreting Studies at the College of Intercultural Communication at Rikkyo University, in Tokyo, Japan. She received an M.A. in Translation and Interpretation from the Middlebury Institute of International Studies at Monterey (United States) and a Ph.D. in Translation and Intercultural Studies from Universitat Rovira i Virgili (Spain). Her main research interests lie in historical, social and political aspects of translation and interpreting, especially in the context of linguistic mediation in international conflict and war. She is the author of *Interpreting the Tokyo Trial* (University of Ottawa Press); co-editor of *New Insights in the History of Interpreting* (John Benjamins) and the Japanese translator of *The Origins of Simultaneous Interpretation: Nuremberg Trials* by Francesca Gaiba. She has also published a number of book chapters and peer-reviewed articles. Her current research project concerns wartime interpreters who were convicted as war criminals at Class B and C war crimes trials against the Japanese.
- Lisette Schouten** Researcher Ruprecht-Karls-Universität Heidelberg
- Lisette Schouten is completing her Ph.D. in History at the Cluster of Excellence "Asia and Europe in a Global Context" of Heidelberg University. Her research focuses on Dutch war crime trial policy in the Netherlands East Indies and Japan, 1945–1955. She also holds an M.A. from Leiden University. She is the author of "From Tokyo to the United Nations: B.V.A. Röling, International Criminal Jurisdiction and the Debate on Establishing an International Criminal Court, 1949–1957", in Bergsmo, Cheah and Yi (eds.), *Historical Origins of International Criminal Law*, Vol. 2 (Torkel Opsahl, 2014); "Colonial justice at the Netherlands Indies war crimes trials", in Kirsten Sellars (ed.), *Trials for International Crimes in Asia* (Cambridge University Press, 2016); and "Netherlands East Indies' War Crime Trials in the Face of Decolonization", in Kerstin von Lingen (ed.), *War Crimes Trials in the Wake of Decolonization and Cold War in Asia, 1945–1956: Justice in Time of Turmoil* (Palgrave, 2016).
- Dr. Milinda Banerjee** Research Fellow, Ludwig-Maximilians-Universität München
- Dr. Milinda Banerjee is Ludwig Maximilian University Research Fellow from 2017 to 2019, as well as Assistant Professor at the Department of History at Presidency University Kolkata, India. He defended his Ph.D. at Heidelberg University (2014). His dissertation, which offered an intellectual history of concepts and practices of rulership and sovereignty in colonial India (with a primary focus on Bengal, ca. 1858–1947), has been published as *The Mortal God: Imagining the Sovereign in Colonial India* (Cambridge University Press, 2018). His research project at Ludwig Maximilian University of Munich offers a global intellectual history of the Tokyo trial, focusing on debates about legal philosophy in contexts of imperial transfiguration, decolonization and the Cold War. Dr. Banerjee specializes in the intersections of South Asian and global intellectual history, and is the author of two other monographs on modern Bengali intellectual history, several journal articles and book chapters, as well as the co-editor of the volume, *Transnational Histories of the 'Royal Nation'* (Palgrave, 2017).

### Panel VI: Judgment and Post-Judgment Developments

Panel VI turns from the judgment itself to the post-judgment developments. It elucidates what happened immediately after the issuance of the judgment in order to sketch the post-judgment impact of the Tokyo trial. Sentencing was a protracted process and continued for a month and there were subsequent trials that sourced from the jurisprudence and direction of the IMTFE, including its findings. Furthermore, despite the fact that the sentences granted during the IMTFE were considered definitive, the issues of clemency, pardons and amnesties arose in this period. Against this background, the panel looks into the procedure as to how sentences were ensured. The panel also broadens the focus and addresses the prosecutions and crimes addressed post-judgment in subsequent trials. Beyond the 28 military and political leaders brought before the IMTFE, other individuals were charged with crimes in separate trials convened by Australia, China, France, the Netherlands, the Philippines, the United Kingdom and the United States. This panel sheds light on some of these prosecutions with a focus on procedure. In addition, the question of the impact of this period in Japan arises. In this respect, changes in legislation, developments in social mobilization, and the creation of memory culture deserve further exploration.

Key questions of the panel include: What was the role of pardons, amnesties, and clemency during the time and post-Tokyo trial era? What was the scope of crimes covered in the subsequent trials? How was universality aimed for by prosecutions in domestic proceedings? What impact did the Tokyo judgment have on the military courts established by the countries of the region?

This panel will map the interplay of legal and political imperatives in the immediate aftermath of the judgment and explore the importance for international criminal law and contemporary tribunals. It will do so by elucidating what happened immediately following the issuance of the judgment in order to sketch the post-judgment developments and will explore the wider impact in Japan and beyond.

### Chair

**Professor Wenqi Zhu**  
Professor of International Law,  
Renmin University

Professor Wenqi Zhu is Professor of International Law at Renmin University of China, Beijing, as well as Director of the Institute of International Criminal Law and the International Humanitarian Law Institute. He holds a doctoral degree in international law from the University of Paris II (1987). In relation to international criminal law and humanitarian law, he published many books in Chinese. From 1995–2002, he was Legal Advisor in the Office of the Prosecutor at the International Criminal Tribunals for the former Yugoslavia and that for Rwanda. Professor Zhu was previously a diplomat in the Chinese Ministry of Foreign Affairs (1988–1994), in part acting as Deputy Director of their International Public Law Division that is in charge of legal issues of the United Nations as well as of international criminal justice and humanitarian law.

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## Speakers

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### **Professor Sandra Wilson**

Professor and Academic  
Chair of History,  
Murdoch University

Professor Sandra Wilson is Professor and Academic Chair of History at Murdoch University, and Fellow of the Asia Research Centre. She is a specialist on modern Japan, with a research focus on Japanese society and politics in the 1930s and 1940s, the history of Japanese nationalism, and Japanese war crimes. She is the co-author, with Robert Cribb, Beatrice Trefalt and Dean Aszkielowicz, of *Japanese War Criminals: the Politics of Justice After the Second World War* (Columbia University Press, 2017) and the author of *The Manchurian Crisis and Japanese Society, 1931–33* (Routledge, 2002). She is currently working with Robert Cribb on the question of why the Japanese military committed war crimes in the Pacific between 1941 and 1945.

### **Dr. Narrelle Morris**

Senior Lecturer,  
Curtin University

Dr. Narrelle Morris is Senior Lecturer in the Curtin Law School, Curtin University, and Honorary Research Fellow in the Asia Pacific Centre for Military Law, Melbourne Law School. She is the principal legal researcher on the project *Australia's Post-World War II War Crimes Trials of the Japanese: A Systematic and Comprehensive Law Reports Series*. Dr. Morris also holds an Australian Research Council Discovery Early Career Researcher Award (2014–2017) to conduct research for a monograph on the Australian war crimes investigator and jurist Sir William Flood Webb. She is an editor and contributor to *Australia's War Crimes Trials 1945–51* (Leiden, Brill Nijhoff, 2016), which was shortlisted in 2017 for the New South Wales Premier's Award for Australian History. She is the author of the forthcoming *Australia's War Crimes Investigations and Prosecutions arising out of the Pacific Theatre of WWII: A Comprehensive Guide to Commonwealth Records* (Canberra, National Archives of Australia).

### **Valentyna Polunina**

Researcher, Ruprecht-Karls-  
Universität Heidelberg

Valentyna Polunina completed her Ph.D. at the Cluster of Excellence "Asia and Europe in a Global Context" at Heidelberg University, where she studied the Soviet war crimes trial at Khabarovsk and the question of prosecuting bacteriological warfare after World War II. She holds an M.A. in International Relations from Kiev State University and in Peace and Conflict Studies from Marburg University. She taught in the Russia-Asia Studies Department of the Ludwig Maximilian University of Munich and currently works at the magazine *Der Spiegel* in Washington D.C.

### **Dr. Franziska Seraphim**

Associate Professor of History,  
Boston College

Dr. Franziska Seraphim is Associate Professor of History at Boston College and the author of *War Memory and Social Politics in Japan, 1945–2005* (Harvard, 2006). Her research on public memory, historical justice and social movements in Asia in comparative and global perspectives has been supported by the Japan Foundation, National Endowment for the Humanities, Social Science Research Council, American Council of Learned Societies, the National Humanities Center, among others. Recent publications include "Carceral Geographies of Japan's Vanishing Empire: War Criminals Prisons in Asia" in Kushner, ed. *The Dismantling of the Japanese Empire in East Asia* (Routledge, 2016) and "A 'Penologic Program' for Japanese and German War Criminals after World War II" in Cho et al., eds. *Transnational Encounters and Comparisons between Germany and Japan, 1860s–2000s* (Palgrave, 2015). Her current book manuscript is entitled "Geographies of Justice: Japan, Germany, and the Allied War Crimes Program".

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### Panel VII: Marking the Ongoing Impact: From Tokyo to The Hague

Panel VII addresses the ongoing impact of the Tokyo trial and its legacies with regard to modern international criminal law and the contemporary international criminal tribunals. It sheds light on the specific role that the IMTFE played in light of the new era of accountability and the fight against impunity.

The ad hoc International Criminal Tribunals for the former Yugoslavia and for Rwanda (ICTY and ICTR), the first such tribunals following the Nuremberg and Tokyo tribunals, sourced from the jurisprudence of the IMTFE, especially in the early stages of their creation. These tribunals analyzed the IMTFE's case law and jurisprudence in order to gain a better understanding of the meaning behind the scope and definition of crimes, including the intentions of this inclusion, as well as the forms of liability and fair trial guarantees. The permanent International Criminal Court (ICC) also sourced from the ad hoc tribunals, which includes the sourcing and reliance back to the IMTFE. The new inclusion of the crime of aggression also gives an opportunity for the ICC to look into the IMTFE Charter and to review the jurisdiction in this light. Moreover, in order to fully mark the ongoing impact of the IMTFE, taking stock of the developments in Japan provides insights into the evolution of the field of international criminal and humanitarian law in the region. In 2007, Japan signed and implemented the Rome Statute. The road towards this signing brought to the fore the interplay of national and international law. This panel examines the steps that Japan has undertaken in order to be able to fulfill its obligations arisen from the Rome Statute.

Key questions of the panel include: What role did the IMTFE play *vis-à-vis* the establishment of the ad hoc tribunals and the ICC? How was the Tokyo judgment used as precedence at these courts? What has been the impact of the IMTFE on modern international criminal law? How has this impacted the development of this branch of law in Japan and what have been the recent developments?

Providing a forward-looking perspective, the panel will address questions weaving together the past, present and future of international criminal law. This last panel will explore the legacies of the Tokyo tribunal and trial pertaining to the topical relevance and ongoing importance with regard to the current issues in the field of international criminal law.

### Chair

#### Ambassador Stephen J. Rapp

Robert F. Drinan, S.J., Visiting Professor of Human Rights, Georgetown University; Global Prevention Fellow, Simon-Skjodt Center for the Prevention of Genocide

Ambassador Stephen J. Rapp is Robert F. Drinan, S.J., Visiting Professor of Human Rights at Georgetown University and Global Prevention Fellow at the Simon-Skjodt Center for the Prevention of Genocide. He serves as Chair of the Commission for International Justice and Accountability (CIJA). From 2009 to 2015, he was Ambassador-at-Large heading the Office of Global Criminal Justice in the U.S. State Department. In that position he coordinated US Government support to international criminal tribunals, including the International Criminal Court, as well as to hybrid and national courts responsible for prosecuting persons charged with genocide, war crimes, and crimes against humanity. Ambassador Rapp was Prosecutor of the Special Court for Sierra Leone from 2007 to 2009, where he led the prosecution of former Liberian President Charles Taylor. From 2001 to 2007, he served as Senior Trial Attorney and Chief of Prosecutions at the International Criminal Tribunal for Rwanda, where he headed the trial team that achieved the first convictions in history of leaders of the mass media for the crime of direct and public incitement to commit genocide. Before becoming an international prosecutor, he was the United States Attorney for the Northern District of Iowa from 1993 to 2001.



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## Speakers

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### Judge Daqun Liu

United Nations Mechanism  
for International Criminal  
Tribunals

Judge Daqun Liu is Judge at the United Nations Mechanism for International Criminal Tribunals, former Vice-President and Judge of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia, member of the Permanent Court of Arbitration, member of the Institut de Droit International, former Vice-President of the Asian Society of International Law, and Professor at the Centre of Cooperative Innovation and Judicial Civilization of China's University of Political Science and Law. He was the former Chinese Ambassador to Jamaica and Deputy Director General of the Treaty and Law Department of China's Foreign Ministry.

### Judge Kuniko Ozaki

International Criminal Court

Judge Kuniko Ozaki was appointed to the International Criminal Court in 2010, for a term of eight years and two months, and was assigned to the Trial Division. Between 2015 and 2018, she served as Second Vice-President of the Court. Judge Ozaki is currently sitting on the case of *Bosco Ntaganda* and will continue to sit on this bench until the completion of the case. Previously, she sat on the case of *Jean-Pierre Bemba Gombo*, as well as two Kenya cases as Presiding Judge (*Kenyatta and Ruto and Sang*). Prior to joining the International Criminal Court, Judge Ozaki served as Director for Treaty Affairs for the United Nations Office on Drugs and Crime. Earlier in her career, she worked for the Japanese Government in a number of positions, including Ambassador and Special Assistant to the Foreign Ministry. Judge Ozaki taught international law at the Tohoku University Graduate School of Law and other universities and has written extensively on international criminal law, refugee law and human rights law.

### Professor Keiko Ko

Professor of International Law,  
Nanzan University

Professor Keiko Ko is Professor of International Law at Nanzan University and a Refugee Examination Counselor in Japan. She has been a member of the Committee on the Elimination of Racial Discrimination since January 2018. She received her LL.B. and LL.M. at Sophia University, Japan. She was Visiting Scholar at Columbia Law School in 2002 (Abe Fellow) and in 2008 (Fulbright Scholar). She also served as Former Advisor to the Japanese Delegation to the Special Working Group on the Crime of Aggression, Assembly of State Parties to the International Criminal Court. Her publications include "How Do States Join the International Criminal Court? The Implementation of the Rome Statute in Japan", (co-authored with Jens Meierhenrich), *Journal of International Criminal Justice*, Vol. 7 (2009) and "The Tokyo Judgement on Crimes against Peace and the Crime of Aggression", in *Japan and Germany – 150 Years of Cooperation Dynamics of Traditional Research Societies in a Rapidly Changing World* (München, Iudicium, 2013).

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## Closing Remarks

**Professor Christoph Safferling**  
Vice-President, Advisory Council  
of the International Nuremberg  
Principles Academy;  
Professor of Criminal Law, Criminal  
Procedure, International Criminal  
Law and Public International Law,  
Friedrich-Alexander-Universität  
Erlangen-Nürnberg

Professor Christoph Safferling (Dr. iur., LL.M.) is Professor of Criminal Law, Criminal Procedure, International Criminal Law and Public International Law at Friedrich-Alexander University Erlangen-Nuremberg, Germany. He is also Director of the University's International Criminal Law Research Unit. Moreover, he is the Whitney R. Harris International Law Fellow of the Robert H. Jackson Center in Jamestown, N.Y. Since 2012, he is member of the Independent Academic Commission at the German Federal Ministry of Justice for the Critical Study of the National Socialist Past. He is Vice-President of the Advisory Council of the International Nuremberg Principles Academy. His main fields of research are: contemporary legal history, international criminal law and the subjective elements of the crime. Professor Safferling has published several articles and books in the field of criminal law, international law and human rights law, *inter alia*, *International Criminal Procedure* (2012) and *The Nuremberg Trials: International Criminal Law since 1945* (2006); and is a co-editor of the *German Law Journal* and the *Rivista Internazionale di Diritto Penale*. Professor Safferling studied law in Munich and London and received his doctoral degree at the University of Munich in 1999.

**Dr. Viviane Dittrich**  
Deputy Director,  
International Nuremberg  
Principles Academy

Dr. Viviane Dittrich is Deputy Director of the International Nuremberg Principles Academy. She is also Visiting Fellow at the Centre for International Studies at the London School of Economics and Political Science (LSE), and Honorary Research Associate at Royal Holloway, University of London. Previously, she has been Visiting Researcher at iCourts (Centre of Excellence for International Courts), University of Copenhagen. Dr. Dittrich has broad teaching and research experience and has published on the notion of legacy and legacy building at the international criminal tribunals. Drawing on extensive field research, her work comparatively investigates the ICTY, ICTR, SCSL, ECCC, ICC and IMT (Nuremberg). Her research interests lie at the intersections of politics and international law, focusing on international organizations, international criminal law and the politics of memory. After studies in France, England and the United States (Wellesley College) she received an M.Sc. in International Relations from the LSE and a Master's degree from Sciences Po Paris. She holds a Ph.D. from the LSE.





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