



INTERNATIONAL  
NUREMBERG  
PRINCIPLES  
ACADEMY

# Conference Report

Nuremberg Forum 2023

“Legally undeniable:  
Criminalising Genocide Denial”



2023



## Acknowledgements

The International Nuremberg Principles Academy (Nuremberg Academy) is pleased to present the post-conference report on the Nuremberg Forum 2023, entitled “Legally undeniable: Criminalising Genocide Denial”, which took place from 19 to 21 October 2023. The event was held in a hybrid format, allowing in-person and online participation. Additionally, each panel began by opening a poll, measuring agreement and disagreement within the audience to a statement relevant to that panel. The polling results, which were collected at the end of each panel, are included in this report.

The Nuremberg Academy acknowledges all those who made the Nuremberg Forum 2023 a success. First and foremost, the success is owed to the directorship of the Nuremberg Academy. Without the guidance and trust of Professor Dr Christoph Safferling and Dr Viviane Dittrich, this conference would not have been possible. Furthermore, we would like to extend a special thank you to our collaboration partners: **Dr Serge Brammertz**, Chief Prosecutor of the United Nations International Residual Mechanism for Criminal Tribunals (IRMCT), Under-Secretary-General and Special Advisor **Alice Wairimu Nderitu** of the United Nations Office on Genocide Prevention and the responsibility to Protect and **Christian Schmidt** the High Representative in Bosnia and Herzegovina. Without our collaboration partners, the success would not have been possible, let alone the event’s occurrence. We would like to thank them deeply for bringing this subject to our attention and we immensely appreciate their guidance and advice throughout the planning process.

Of course, we would also like to thank the Nuremberg Academy team. Every project is a concerted effort by all staff members. Without them, a conference of this scale would not have been possible, and their tireless efforts are the foundation on which the forum was built. Similarly, the continuous support of the Advisory Council and Foundation Board always manifests as a wind in our sails.

Finally, our sincere gratitude goes out to all speakers who composed the substance of the event. Their highly intellectual debates and exchange of ideas made the Nuremberg Forum 2023 as fascinating as it was. In this regard, a notable thank you must go to the genocide survivors who participated. **Munira Subašić** and **Honore Gatera** both participated in the Genocide Survivors Interview. We cannot thank them enough for sharing their experiences and heartfelt stories. Because of them, the audience and speakers left Courtroom 600 rich with stories of survival, defiance and a palpable sense of this Forum’s importance.

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### Disclaimer

This report is a summary version of the full conference proceedings. The full video recordings are available on the YouTube channel of the International Nuremberg Principles Academy. The key recommendations included in this report are not attributable to any individual conference participant nor necessarily reflect the views of the International Nuremberg Principles Academy.

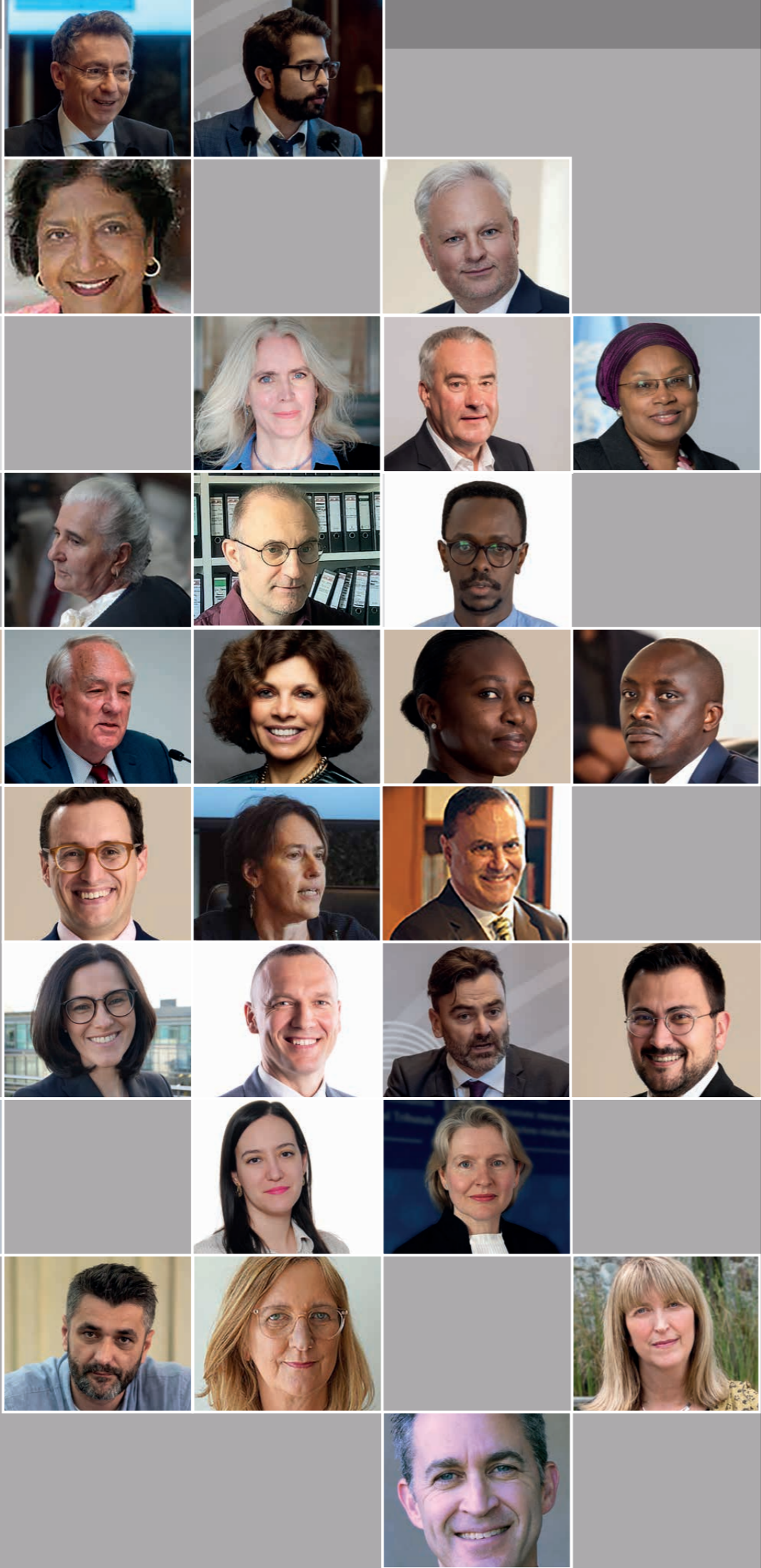
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## Opening Remarks

**Prof. Dr Christoph Safferling**, Director, International Nuremberg Principles Academy

Professor Dr Christoph Safferling began his welcoming remarks by emphasising the severity of the crime of genocide. While in 1945, the court paid particular attention to the crimes against peace and crimes against humanity, Lemkin's brainchild gained immense importance subsequent to its enshrinement in the Genocide Convention. To deny the occurrence or severity of such an atrocity is to distort the truth, history and the immense suffering of the victims. In the face of such an atrocity, it is supremely difficult to reconcile the societies involved. Thus, it is often thought that criminal proceedings, by way of documenting facts independently and by seeking the establishment of truth, build the foundation for the future of a healthy post-genocide society. Genocide denial, therefore, runs counter to this very idea of reconciliation and truth-seeking. Truth is distorted, the victims are harmed and the authority of the court is called into question. As genocide denial occurs within a collective, such negation of tragedy might inflame hatred and prevent reconciliation, thus countering the very aim of criminal proceedings. Considering such a gravitational issue, we must ask ourselves how we deal with it: must we prevent denial from happening and must it thus be criminalised? These are the questions the Nuremberg Forum seeks to discuss. Professor Dr Safferling concluded his opening remarks by welcoming all guests and looked forward to the following days of debate and exchange of ideas on this sombre subject.

**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

In her opening remarks, Dr Navi Pillay welcomed all the guests and drew their attention to the significance of the Nuremberg Principles and their partial incorporation into the Universal Declaration of Human Rights. Against the background of the universality of these principles and as a "genocide judge", Dr Pillay highlighted the significance of the special intent requirement within the crime of genocide. Cautioning against a loose use of the term, she spoke on the importance of freedom of speech and the need to not arbitrarily restrict it, something of key interest in the ICTR's Media case, a case she presided over during her time as a judge. It was pertinent to discuss when to limit and protect freedom of speech in this case.

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

Dr Thomas Dickert recounted the days of him drafting a dossier on the so-called "Auschwitz lie" in the 1990s for the Minister of Justice at the time. The dossier was necessary to inform the ministry of the increasing perpetuation of Holocaust denial. Right-wing groups started denying the Holocaust, both within their party meetings and publicly selling their revisionist agenda through pseudo-scientific methods which sought to contemptuously distort reality and push their ideology forward. Their speeches and events were presented to give the propagandists scientific respectability. They presented their lies as if they were a serious contribution to historical research. Thus, there had been a demand to meet this affront to truth and history through a strong political stance. The German Federal Court of Justice decided that merely denying gas chamber murders cannot be punishable but that insult and defaming of the deceased would be considered a criminal offence. This ruling further ignited calls for regulating and prohibiting genocide denial, both within Germany and internationally. Dr Dickert recalled his condemnation of the wide support for revisionism by politicians and citizens alike at the time of writing the dossier. As was then, he also condemns the rising support for deniers and populist right-wing politicians today. In this spirit, he welcomed all speakers and the ensuing discussions on this matter at the Nuremberg Forum 2023.

**Dr Nasser Ahmed**, City Councillor, City of Nuremberg, representing the Lord Mayor of the City of Nuremberg  
In his opening remarks, Dr Nasser Ahmed highlighted the deeply significant fact that Nuremberg is the city where the National Socialist perpetrators mobilised the masses for the greatest crimes humanity had witnessed. Perhaps more significantly, in spite of this, Nuremberg's history also includes the very courtroom in which the main trial of the Nuremberg trials place. Here, the perpetrators of the aforementioned crimes were held responsible for the commission of their atrocious deeds. During the proceedings, the perpetrators had already denied the commission of their sanguinary deeds. Only if one accepts guilt and comes to terms with it can there be a democratic future and coexistence. Dr Ahmed welcomed all guests to speak about an issue so profoundly connected to the significance of this city.

**Dr Wiebke Rückert**, Director for Public International Law, German Federal Foreign Office  
As the last opening remarks speaker, Dr Wiebke Rückert echoed the sentiments expressed by the previous speakers. Much like Dr Ahmed had mentioned, she too views the subject of this year's Forum as historically tied to the city of Nuremberg and the very meaning of Courtroom 600. In her view, denial does have negative effects and can be harmful, as previously emphasised by Dr Dickert. Despite these harms, regulating such affronts to civil society is complex. She further recalled Germany's joint effort with Israel before the United Nations to have Holocaust denial condemned. In 2022, the General Assembly called on all state and non-state parties to actively combat Genocide denial. Similarly, the European Commission adopted a strategy in 2021, hoping to achieve the same: combatting denial and antisemitism. Despite these efforts, Dr Rückert also expressed concern at rising levels of genocide denial. Genocide tends to be viewed as a matter from days past and so if the crime is not outright denied, it is often diluted by virtue of loose usage. Considering genocide denial being taken seriously on such a high intergovernmental level, she closed by extending her appreciation that the subject is being discussed at the Nuremberg Forum. It is most pertinent to address the political and legal questions entwined with denial at this event.

## Keynote Addresses

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### **Dr Ludwig Spaenle**

Representative for Jewish Life and Against Anti-Semitism, For Remembrance and Historical Heritage, Bavaria

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Dr Ludwig Spaenle told an anecdote of meeting Abba Noar, a 95-year-old Holocaust survivor. After informing him of his upcoming attendance at the Nuremberg Forum, the 95-year-old confessed that he believes the Nuremberg trials are a step in the right direction when addressing the victim's needs. Dr Spaenle further recounted a sentiment once conveyed to him: "You can't believe what a human being can do to another human being". In this sense, Dr Spaenle remarked how unbelievable it is that in this city and in Courtroom 600, where the National Socialists had been held accountable for the atrocities they committed, we now hold a conference under the sign of the United Nations to discuss measures intended to combat the denial of those same atrocities.

Considering this, he expressed the significance of not only discussing Holocaust denial but also Holocaust distortion. Among such distortions are claims that the Jews are to blame for the Holocaust or the minimisation and trivialisation of the atrocity. Such distortion and denial, he claims, are increasingly widespread in our societies, especially via social media. Quoting Yehuda Bauer, Dr Spaenle asserted that "sometimes a half-truth is worse than a full lie". He urged all participants to remember that while denial is particularly pernicious, we must not to forget about distortion in our discussions.

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### **Alice Wairimu Nderitu**

United Nations Under-Secretary-General; Special Adviser on the Prevention of Genocide, United Nations

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Ms Wairimu Nderitu noted the seventy-fifth anniversary of the Genocide Convention. This instrument of international law manifested as a vow to "never again" allow the perpetration of the most heinous crime. Unfortunately, as we know, this promise was never upheld, which led to the genocide in Rwanda and the former Yugoslavia. Upon such failure, her mandate as the Special Advisor on Genocide Prevention was founded. Within her work, Ms Wairimu Nderitu finds that genocide denial and distortion are often overlooked as a serious challenge, especially in post-genocide societies. These issues must be taken seriously and as such she and her office noticed that those that deny the genocide in Rwanda or Bosnia deny it according to the same template as those who deny the Holocaust. So, it is our duty to remind ourselves of the legacy of Nuremberg and undo these patterns.

Ms Wairimu Nderitu further argued that denial and distortion can be legitimately restricted when doing so is necessary to secure the rights and reputation of victims and other affected communities. This should be especially true when propagated by politicians and public officials. In addition to the introduction of criminal laws, the implementation of further instruments is needed to address the roots and motives of genocide denial. These include long-term initiatives in the areas of education, public awareness and sensitisation, which convey accurate historical data and promote open discussions in the light of inclusion, non-discrimination and mutual respect.

Be the restrictions we can place upon such propagators as they may; we must nonetheless restrict their fundamental rights of freedom of expression on a case-by-case basis, with due regard for intent and only with necessity and proportionality. Even well-intentioned laws can have a negative impact if they are not designed with a human rights perspective in mind and supervised with the appropriate checks and balances in place.



## Genocide Survivors Interview

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Moderator:

**Dr Serge Brammertz**, Chief Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals

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Dr Serge Brammertz introduced the subject and argued that genocide denial and the glorification of perpetrators is a form of continuing the crime itself and has seen a rise over the last fifteen years. If the genocidal act is to destroy the group for who they are, then the denial of the crime is an attempt at destroying the memory of the victims. While a legal assessment and discussion of the regulatory landscape is always valuable, it is just as important to lend time and attention to the human dimension of the subject. Further, jurisprudence alone cannot solve the issue of reconciliation. Hence, the Genocide survivor interview.

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**Munira Subašić**, President, Association “Movement of Mothers of Srebrenica and Žepa Enclaves”

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Ms Munira Subašić first acknowledged the innate fragmentation between Bosnia, Serbia, Croatia and the world at large. She emphasised the significance of the atrocities in Bosnia-Herzegovina and noted that she perceives the rampant occurrence of denial as a unique characteristic of the region. She lamented humanity’s lack of learning from the Holocaust and underscored the importance of preventing genocide as well as its denial. These problems are intensified by the regions’ political fragmentation and the perpetrators’ insufficient punishment, which now allows many of those responsible to find themselves in high-ranking positions of power today.

She detailed the unimaginable horrors suffered by her and other victims, including the witnessing of rapes and killings of family members. She lost her son, husband and many other members of her family. The town of Srebrenica is forever marked by the crimes it has experienced. Against this background, it is even more incomprehensible that this city is now in the Republika Srpska and thus in the hands of the perpetrators of atrocities. She vehemently decries genocide denial within her society and holds the world responsible for its inaction on the matter. A resolution must have been passed by the international community outlawing the denial of the atrocities she has experienced. No matter the inaction of the world, it has been the Mothers of Srebrenica who have campaigned strongly for the preservation of history by erecting the Srebrenica Genocide memorial. It is these white gravestones which create an indelible record, standing firmly against the attempted erasure by the denialists. It was the mothers who achieved their goal of raising a new generation of individuals free from desires of revenge.

Lastly, Ms Subašić expressed gratitude for the work of the IRMCT, which has restored hope to survivors and serves as a model of justice for future generations. However, this responsibility now rests with human rights activists, lawyers and academics to continue fighting for justice and truth.

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**Honore Gatera**, Director, Kigali Genocide Memorial

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Mr Honore Gatera, a survivor of the Rwandan genocide, expressed his gratitude and acknowledged the honour of addressing experts and lawyers at the international level. Before delving into his personal experience, he prompts the audience to consider their families, specifically young siblings or children.

Mr Gatera recounts that at 13, during the 1994 Rwandan genocide, he lived with his family at his grandparents’ house. Raised in a society that emphasised ethnic differences, he learned early on that they were considered different from others. School experiences further highlighted this division, with teachers enforcing conformity and punishment based on ethnicity.

The genocide in Rwanda was not a sudden event but a planned mission, prepared through the strategic distribution of data from the last census and weapons. The narrative unfolds with Mr Gatera describing the dehumanisation of the Tutsi population, including himself, as they were referred to as „cockroaches“ and faced discrimination. Ethnic tensions escalated, leading to the genocide.

As the genocide began, he and his family faced perilous circumstances, with his home being targeted for its wealth: the wealth being measured in cows. The story continues with his family hiding in various places, facing the constant threat of discovery. The genocide’s aftermath brought new challenges, including the difficulty of returning to school due to the emotional trauma associated with learning in spaces where family members had been discriminated against. Despite many attempts to discourage him, Mr Gatera decided to become involved in the prevention and education of genocide, especially among students.

Mr Gatera emphasises the enduring impact on survivors, highlighting the struggle to obtain justice and the responsibility of the international community in preventing such atrocities. He spoke of his journey of survival, education and contributing to genocide prevention efforts. In the same way he opened, he also closed his remarks by appealing to the audience’s responsibility to ensure a better future for the youth, preventing them from experiencing similar devastating events.

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**Dr Christoph Thonfeld**, Deputy Director, Dachau Concentration Camp Memorial Site

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Dr Christoph Thonfeld recounted his experience as a student in post- Second World War Germany, where he recognised a remarkable absence of the Holocaust being taught. This prompted him to invest himself as a historian in the matter. In his scholarly pursuit of truth and history, he investigated the testimonies of victims and the statements of denial.

When it comes to fighting denial, he considers it imperative that three essential elements exist: sharing the victim’s experience, a receptive audience and a confirmation of the victim’s experience. Sharing one’s experiences and memories might be a step to countering denial, but it can perhaps, more importantly, also be used to deliberately distort truth. One such example comes from a Holocaust survivor named Frantisek Blaha, who sought to give testimony on the crimes that took place in Dachau. He specifically recounted from memory the number of deaths that occurred in Dachau’s sick bay. Later, he rediscovered his secret notebook, which he had written and hidden during his time at the camp. The number in his notebook was different from the one he gave based on his memory. Deniers often exploit this discrepancy to claim he could not have experienced what he claims he has. Blaha’s mismatched recordkeeping is still taken advantage of by deniers today.

Compounding this issue is the fact that many victims are deeply unsettled by the memories they must now live with. One such example comes from Anita Lasker-Wallfisch, who survived both Auschwitz and Belsen and claimed that all Auschwitz survivors felt as if the world would not be able to believe their testimonies of what happened within the camps. This statement is a testimony to how unimaginable the atrocities have been, enough perhaps to lead some to support the outright negation of that which they cannot, or rather refuse to, comprehend.

The traumatic memory of the victims is additionally challenged by the highly specific inquiries of the courts. Victims were asked to provide specific details of specific days. It seems that the justice system’s pursuit of truth revealed that the victims were, at times, incapable of providing precise evidence due to the severe toll that the suffering took on them. Referring back to Anita Lasker-Wallfisch, Dr Thonfeld emphasised that this realisation made her feel immensely disconnected from her own experience, as the horror of the camps was not recountable to the degree the courts demanded. Only upon meeting a fellow survivor many years after the war had she found herself connected once more to the truth of her own experience. To Dr Thonfeld, this demonstrated the connection between the earlier mentioned victim’s experience, receptive audience and the confirmation of an experience.

With the passing of time, the relevance of remembrance culture increases. Preserving the past through the conservation of architecture and documents becomes ever more important. Additionally, research must continue to seek new insights and these findings must be presented to society through memorials and exhibitions.



# Panel I

## Denial: De facto, De Jure and in Doctrina

In the first panel, Professor Dr Christoph Safferling, Director of the International Nuremberg Principles Academy, Stephen Rapp, former Ambassador at-large for war crime issues and Professor Nadine Strossen, Professor at the New York Law School, dealt with the conceptual nature of the denial. The discussion especially targeted the motivations and ideologies that incite denial and the difficult task of balancing the right of free speech when criminalising denial. The following questions were addressed: Is denial inextricably linked to racism, xenophobia and antisemitism? Is denial driven by ideology? If so, which? Do anti-denial laws infringe unjustifiably upon freedom of speech? Are incitement to genocide and genocide denial two sides of the same coin?

**Professor Nadine Strossen**, Professor of Law, New York Law School, former ACLU President

The persistent efforts of remembering the Holocaust or any atrocity is of supreme importance and while denial surely can count as a form of hate speech, this forum is also dedicated to the debate on what measures to combat hate and denial are most effective. She argues that banning denial is counterproductive to keeping the memory alive and does not constitute an effective tool for countering it and antisemitism. Instead of suppressing and criminalising denial more focus should be placed on initiatives promoting education, information and media literacy. Punishment for denial should only be considered in cases where it serves the preparation of crimes or already constitutes active violence. However, focusing solely on denial itself makes criminalisation seem more like an admission of distrust in one's own population and in the resilience of democratic institutions. Furthermore, it must be noted that although freedom of speech can be extremely dangerous compared to censoring opinions, it represents a far lesser evil. Ultimately, history proves that processes for prosecuting denial offences have regularly been used by the defendants as a platform for further spreading their propaganda, making criminalisation serve not only suppression but also the multiplication of ideologies. She closed her initial remarks with: "More speech, not less, will blaze the trail toward preventing another Holocaust."

**Stephen Rapp**, former US Ambassador-at-large for global criminal justice

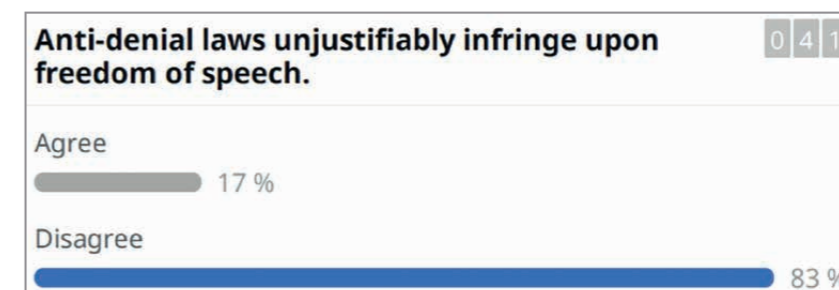
To recognise that denial can be used to incite (genocidal) violence and therefore cause harm is perhaps the essence of Mr Rapp's argument. Denial can be part of a course of conduct intended to and resulting in lawless violence. If such combination of speech and action occurs, it must be investigated and prosecuted. Citing the infamous example of Alex Jones, who denied the extent of a school shooting, he argued that besides criminal law, civil law measures can also be a way forward. Mr Rapp exemplifies that speech can lead to palpable consequences, both for the targets of the speech and for society. Tangentially, the refutation of the accusation that the Soviet Union had genocidally starved three million Ukrainians to death from 1932 to 1933 amounted in Mr Rapp's mind to the same practice- denial of an atrocity. Denial is thus no mechanism for negating sins of the distant past but also a tool to eliminate accusations of the most sinister crimes as they emerge. The Nuremberg Trials demonstrate how nuanced the distinction between punishable incitement and non-punishable speech can be. On the one hand, Fritzsche from the state propaganda ministry was acquitted, while on the other hand, Streicher, "merely" the editor of the anti-Semitic magazine "Der Stürmer" was sentenced to death. To enable a just differentiation, special attention must be paid to the context of the speech. This is especially crucial since antidemocratic regimes can arbitrarily abuse criminalisation to solidify their power.

**Professor Christoph Safferling**, Director, International Nuremberg Principles Academy

The German Constitution is an immediate reaction and a response to the National Socialist Regime, so freedom of speech is a freedom that must be interpreted within this nation's history. The criminalisation of denial thus does not conflict with the freedom of speech. A society binds its values within its national law and where better to enshrine your values if not in the criminal code? The criminalisation of denial is a value borne out of the refutation of the Third Reich and is to be interpreted as a value and a responsibility we balance with the freedom of speech within Germany. They do not stand in conflict with one another. The criminalisation of Holocaust denial was only added to the German Criminal Code in the 1960s. The title of the provision, "Incitement of the masses", shows that in Germany, the impact of speech is relevant to the justification of criminal liability. It is assumed, therefore, that Holocaust denial per se has an inciting effect. In addition, criminalisation is also intended to effectively protect the dignity of the deceased and survivors, which is undermined by the distortion of facts. Against the backdrop of German history, it is perhaps more understandable that this country has opted for a more cautious approach than the USA in dealing with denial. With the increasing number of anti-Semitic incidents, the criminal norm is gaining more significance again.

### Polling Results:

**Note on Polling:** At the onset of the Nuremberg Forum the overwhelming amount of audience members believed that laws criminalising denial do not infringe upon freedom of speech. Forty-one participants voted.







# Panel II

## The Effects of Denialism in Post-Conflict Societies

The second panel consisted of Dr Serge Brammertz, Chief Prosecutor of the IRMCT, Alice Wairimu Nderitu, UN Special Adviser on the Prevention of Genocide, Aimable Havugiryemye, Prosecutor General of Rwanda and Christian Schmidt, High Representative in Bosnia and Herzegovina. The panellists assessed and reflected on the challenges that denial poses in post-conflict societies. Especially the current reality in such societies was examined by looking into the roots of denial and its effect on the victims. The following questions were addressed: What is the on-the-ground reality in these societies? Why is denial occurring? Is criminalisation effective? What is the effect on victims? Can an utterance constitute “denial” within the context of ongoing conflicts?

**Christian Schmidt**, High Representative for Bosnia and Herzegovina, Office of the High Representative

According to High Representative Christian Schmidt in Bosnia and Herzegovina, we find a society filled with all the understandable emotions inherent to those who have suffered through an atrocity like genocide. Any efforts to bring about respect and honour to those recognising the non-existent social cohesion must respect this emotional trauma as well as the tools of the law. Drawing on the German Experience, Mr Schmidt recalled that it was the Americans, after the Second World War, who forced the German people to face their own commission of atrocities. In the same vein, he acknowledges and commits himself to the legislation on genocide denial, which his predecessor, Valentin Inzko, passed. Looking ahead and past what might be deemed repressive criminal law, we shall see its purpose – prevention. To prevent the furtherance of societal disintegration and build a society that is one about the history of its nation requires the use of criminal law. In Bosnia and Herzegovina, the atrocity is disputed, and its denial is politically instrumentalised. Countering it through legal means is necessary for the sake of cohesion. In addition to actively promoting historical knowledge among the general public, possible means include the introduction of a national register of convicted perpetrators and more intensive training for public prosecutors in the areas of denial and hate speech.

**Alice Wairimu Nderitu**, United Nations Under-Secretary-General; Special Adviser on the Prevention of Genocide, United Nations

Ms Wairimu Nderitu emphasised the seriousness of denying genocide, stressing that it serves as preparation for future genocides. She highlighted the importance of understanding how the past impacts the present and informs the future. Genocide denial is used by political actors as a means of spreading their agenda: On the one hand, it is intended to continue to spread fear among victims and survivors. On the other hand, it serves as a means of gaining approval from unpunished perpetrators. Ms Wairimu Nderitu therefore called for acknowledging historical truths to prevent future atrocities. She further underscored the significance of acknowledging the involvement of Holocaust deniers in denying genocides, including the Srebrenica genocide. The arguments used by Holocaust deniers are mirrored in the denials of other genocides, such as the one against the Tutsi in Rwanda. Ms Wairimu Nderitu stressed the importance of recognising this connection and mentioned the importance of preventing Holocaust deniers from participating in the preparation of reports related to these genocides.

**Dr Serge Brammertz**, Chief Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals

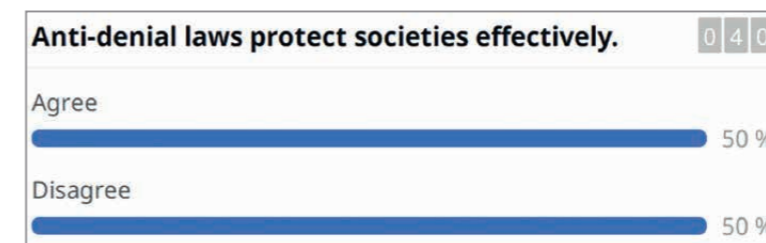
Dr Brammertz addressed the concerning trend of genocide denial in both the former Yugoslavia and Rwanda, attributing it to the perpetrators’ ability to evade accountability. He pointed out that high-level perpetrators often evade individual criminal responsibility by claiming to represent their people, thus complicating prosecution efforts. He recalled a genocide case in Rwanda involving religious sisters who carried out mass killings, highlighting the dehumanisation of victims to justify their actions. This underscored the necessity of holding perpetrators accountable to prevent future atrocities. Dr Brammertz also criticised the normalisation of genocide denial in political discourse, particularly in Bosnia and Herzegovina, where it is mainstream to glorify war criminals and insult victims. Given this context, he further challenged such narratives and advocated for justice, particularly for survivors and victims. Dr Brammertz’s insights underscore the ongoing challenges in addressing genocide denial and the urgent need to combat impunity for perpetrators.

**Aimable Havugiryemye**, Prosecutor General, Rwanda

Prosecutor General Havugiryemye emphasised the grave threat posed by genocide denial to national security, particularly in the context of Rwanda. He traces the historical roots of the genocide against the Tutsi, highlighting the manipulation of social classes into ethnic groups by colonial powers, leading to systemic discrimination and violence against the Tutsi. The genocide, planned and incited between 1990 and 1994, resulted in immense suffering and devastation. Despite the trauma and despair, Rwanda chose a path of resilience and reconciliation, opting to transform suffering into a catalyst for positive change. Policies of unity and reconciliation were implemented to rebuild the nation. Mr Havugiryemye stressed the importance of combating genocide denial, which he views as a political tool to sow division and undermine progress. Refusing to succumb to bitterness, Rwanda remains steadfast in its commitment to justice and remembrance, recognising that denial threatens to revive painful memories and hinder the nation’s healing and progress.

### Polling Results

**Note on Polling:** While 80% of the audience believed that criminalising denial does not pose a problem to freedom of speech, the audience was split on whether such criminalisation was effective to begin with. Forty participants voted.







# Panel III

## Denial, its Regulation and Legal Peculiarities

In the third and last panel of the second day, Professor Belinda Copper, Adjunct Professor at the Columbia University Institute for the Study of Human Rights, Professor Gregory S. Gordon, Professor of Law at the Chinese University of Hong Kong, Teresa Ott, Commissioner of the Bavarian Judiciary for Combating Hate Speech and Professor Dr Almir Maljević, Professor at the University of Sarajevo, discussed the different approaches of various societies in regulating denial. The rights-based discussion focused on the difficult balance between the suppression of denial and protection of free speech and the legal interests that such laws seek to protect. The panel addressed the following questions: How do we diligently and meaningfully balance the suppression of denial with the protection of free speech? What is the legal interest that denial laws seek to protect? Should denial laws be framed around the motivation or the effect of the speech? If so, what motivations or effects should matter?

**Belinda Cooper**, Adjunct Professor, Columbia University Institute for the Study of Human Rights

In her opening statement Professor Belinda Cooper noted that many nations which are at risk of committing genocide tend not to have relevant genocide denial regulation, whereas nations that have either overcome their past or maintain a free society of discussion and culture of defiance against genocide do possess laws prohibiting denial. Adjacent to this matter lies the protected interest of denial criminalisation. What is it exactly that these laws tend to safeguard? Professor Cooper argues that a component of such interest is the human dignity, especially that of the victims of genocide. To protect it, one must define its essence and understanding and the scope of its protection. When seeing its root in one's identity, it must be analysed whether a sufficient link between the genocide and its victims exists, causing the denial to be a direct attack on the victim's dignity. If society is interested in protecting survivors, then it must also determine how long these laws must continue as the significance of past atrocities continuously diminishes. If the main focus lies in the prevention of genocide, then it must be acknowledged that ambitions to criminalise denial must be viewed in their country-specific context. Nobody believes Germany is close to committing another genocide. Similarly, Bosnia finds itself in a significantly different cultural and societal context than Rwanda. Hence, a contextual approach is needed. This also applies to the definition of denial: as our understanding of "harm" changes, our definition of the laws also changes.

**Gregory Gordon**, Professor of Law, Chinese University of Hong Kong; Director, Master of Laws Programme in Legal History, Chinese University of Hong Kong

Professor Gregory Gordon breaks genocides down into three stages, namely the Identification stage, the Action stage and the Execution stage. Getting closer to the Execution stage, priorities change; however, at the early stages, salutary speech that confronts and challenges denial is desirable. As Professor Cooper explained earlier, the First Amendment within the United States Constitution views the act of genocide denial as content and the content of speech cannot be outlawed without there being other relevant factors, such as violent behaviour. Professor Gordon built upon this by arguing that this approach is philosophically built on the metaphor of the Marketplace of Ideas, meaning that one should always prefer salutary speech against inimical speech. Doing so supports us in forming our own views and the future by extending democracy. Outlawing speech prevents societies from seeing the current state of the political climate. While this is the preferable way to manage denial, he calls the functioning of the Marketplace of Ideas into question when considering the age of social media. When contemplating the act of denial itself, we find that it can have several purposes, including as a conspiracy to cover up criminal acts or as an incitement technique, especially if it couples with other manifestations of hate speech. Understanding that denial can be used for several purposes, we should also keep in mind that criminalisation is not always necessary as civil law approaches also exist.

**Theresa Ott**, Public Prosecutor, Office of the Public Prosecutor General in Munich; Commissioner of the Bavarian Judiciary for Combating Hate Speech

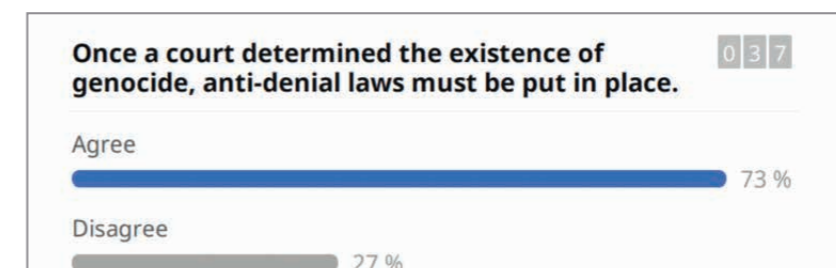
Ms Ott made it clear that denial is not protected under the freedom of speech within Germany. Denial is strictly outlawed and given Germany's history, is to be taken utmost seriously. She argues that only that which is true can be denied and given that the Holocaust or other genocides are historically proven, denial cannot count as an opinion to be covered under the right to free speech. Aside from the fact that denial does not fall within the freedom of speech, it is vital for the courts to know whether something indeed does constitute denial. Within this process, the law on freedom of speech demands that we interpret a defendant's claims in their most favourable light. When we do determine that something constitutes denial, we find two protected legal interests, namely the protection of public peace and the dignity of victims, including the second generation. Hate speech, including genocide denial, is incredibly oppressive for the survivors of atrocities. This is amplified to intolerable levels when multiplied by the factor of social media, where, within a matter of mere moments, hatred can spread like wildfire and remains visible forever.

**Professor Dr Almir Maljević**, Professor of Criminal Law, University of Sarajevo

Professor Dr Maljevic noted in his opening statement that criminal law is a last resort effort in the protection of human rights. Its gravity shall be respected and therefore, only behaviour that can be proven to pose a real threat to other legal interests should be punished. Considering the protected legal interest of these laws, Professor Dr Maljević explained that the criminalisation of denial is found within the Bosnian criminal code section "criminal offences against the freedom and rights of citizens". This is thus a strong suggestion as to what the Bosnian law is primarily interested in: citizens. Referring to the importance of "context", as was mentioned by the other speakers, Professor Dr Maljević also finds that a sentence denying an atrocity so long past, like the Holocaust, has a different effect on society in Germany than uttering a denial of the Srebrenica genocide, which is much closer to us in time. Not only is the effect of such denial different, but the context of the country is also important to keep in mind. In Bosnia Herzegovina, we find politicians and media representatives regularly denying genocide, lending further weight to the situation.

### Polling Results

**Note on Polling:** Unsure as to whether criminalisation was an effective way of combatting denial, 73% of audience members nonetheless held the view that such laws must be enacted following a positive finding of genocide at court levels. Thirty-seven participants voted.







# Panel IV

## Redress, Recognition and Reconciliation

The fourth panel, consisting of Aimable Havugiyaremye, Prosecutor General of Rwanda, Honoré Gatera, Director of the Kigali Genocide Memorial, Maria Wilke, Lead of the EVZ Academy and Samra Čardaković Legal Advisor in Bosnia and Herzegovina, dealt with the different avenues for providing redress for victims and the effect of such measures on them. The panel further examined the challenges that continue to hinder reparative processes, such as an effective determination of factors for reparations and the danger of re-traumatising the victims during court proceedings. The key questions for the panel were: Which factors should be considered in determining the priorities and approaches to reparations for victims of genocide? Which options are available to address the multitude of claims from large numbers of victims in different situations? How can anti-denial measures contribute to guarantees of non-repetition? How can societies dealing with genocide denial ensure that the processes for providing reparations avoid the re-traumatisation of survivors?

**Aimable Havugiyaremye**, Prosecutor General, Rwanda

Prosecutor General Havugiyaremye highlighted the importance of recognising the victims of the genocide against Tutsi in Rwanda. He emphasised that beyond the direct victims who suffered physical and psychological harm, the entire nation has been affected. Recognition involves special attention to victims, acknowledging their suffering, providing justice for the crimes committed against them and recognising the roles of the state, other countries and international organisations in the genocide. Additionally, annual commemorations and the establishment of memorials serve as official acknowledgements of the genocide's victims. Mr Havugiyaremye underscored the significance of these actions in addressing historical injustices and honouring the memory of those who perished.

**Honore Gatera**, Director, Kigali Genocide Memorial

Mr Gatera begins by recounting an experience where visitors from a conflicted nation expressed disbelief in Rwanda's reconciliation efforts due to the magnitude of forgiveness required. Reflecting on this, he emphasised the importance of remembering past atrocities as a deterrent against their repetition. He underscored memorisation as a vital tool for recognition and education, especially for communities recovering from genocide and conflict. Misunderstandings about historical events can lead to denial and perpetuate victimisation. Memorials, like those in Rwanda, serve as educational tools for both local communities and global society, fostering understanding and empathy. He stressed the significance of memorials in the Rwandan context, particularly for its young population, who must grapple with the country's traumatic history. Mr Gatera concludes by highlighting the role of memorials in allowing victims to remember their loved ones and educating both the young and old on the consequences of genocide, ultimately contributing to resilience and reconciliation efforts.

**Maria Wilke**, Academic Consultant to the Board of Directors, Foundation Remembrance, Responsibility and Future

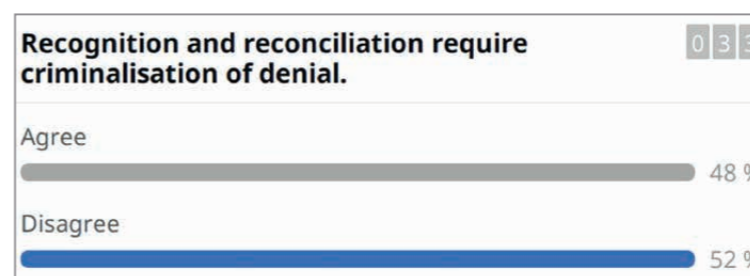
Ms Wilke discussed the complexities of recognising and compensating victims of forced labour during and after the Second World War. She highlighted the delayed recognition of this group, comprising 20 million individuals and emphasised the multifaceted nature of recognition for victims. While reparations are vital, symbolic acknowledgement holds significant importance, providing survivors with a sense of validation and group identity. Ms Wilke illustrated this with examples of former forced labourers from the Soviet Union who faced marginalisation upon returning home, underscoring the importance of symbolic reparations in rectifying historical injustices. She presented contrasting perspectives on compensation practices, illustrating the diverse ways in which survivors perceive reparations. Some view them as inadequate in addressing the profound suffering endured, while others appreciate them as gestures of reconciliation and acknowledgement. This highlighted the nuanced and ambivalent nature of how victims and survivors perceive reparations and recognition, reflecting the complex legacy of historical trauma.

**Samra Čardaković**, Legal Advisor in Bosnia and Herzegovina, TRIAL International (present in personal capacity)

Ms Čardaković expressed her gratitude for the opportunity to participate in the conference, emphasising the personal significance of the topic due to her experiences during the Bosnian genocide. She underscored the importance of addressing genocide denial, highlighting its impact on survivors and their families, as well as the broader Bosnian society. She stressed that true reconciliation requires not only successful criminal proceedings against perpetrators but also comprehensive reparations for victims. She argued that denial prolongs the suffering of survivors and prevents genuine healing and reconciliation. Ms Čardaković referenced a quote from the judgment of Radoslav Kristić to emphasise the universal significance of addressing genocide, asserting that it is a crime against all humanity. She calls for collective efforts to confront denial and ensure that perpetrators are held accountable, underscoring the need to acknowledge the full extent of the harm caused by genocide.

### Polling Results

**Note on Polling:** The results of this poll are particularly intriguing, given the results of panels two and three. 50% of the audience held the view that criminalisation effectively protects societies (panel two) and 73% held the view that denial must be criminalised following a court finding of genocide (panel three). Yet, the audience was split once more as to whether recognition and reconciliation actually required the criminalisation of denial for it to be effective. Thirty-three participants voted.







# Panel V

## How Effective is Anti-Denialism Regulation?

The fifth and last panel of the Nuremberg Forum 2023 consisted of Emir Suljagić, Director of the Srebrenica-Potočari Memorial Center, Professor Dr Charlotte Bühl-Gramer, Professor at the Friedrich-Alexander-Universität Erlangen-Nürnberg, Professor David Kaye, Professor at the University of California and Tali Nates, Founder and Executive Director of the Johannesburg Holocaust and Genocide Centre. The panellists explored plausible solutions and the steps needed to tackle the various challenges presented by denial. Special attention was brought to education and online platforms that play a significant role in combatting denial and the types of multilateral actions that can be enacted to counteract genocide denial. The following questions were addressed: How can education be a driving force in combatting denial discourses? What is the role of transitional justice measures in the fight against genocide denial? What can online platform companies do to tackle genocide denial? Which type of multilateral actions can be enacted to counteract genocide denial?

**David Kaye**, Clinical Professor of Law, University of California, Irvine; former United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

A particular focus worth paying attention to is the challenge social media poses. Professor David Kaye separated this challenge into two key questions: what individuals, such as educators, can do and what actions the social media platforms can take. Academics and educators must actively engage with online platforms, especially those that are known to have issues with disinformation. It becomes more important to carve out a space to share real and truthful stories. When it comes to the social media companies, Professor Kaye acknowledges that a complete eradication of denialist online sentiment will not be possible. Nevertheless, the platforms can take certain action: The first step is to follow basic human rights approaches, including the responsibilities under the UN guiding principles on Human Rights. Secondly, providing context or labelling content as denialist serves the purpose of informing readers of the context in which they find such material. To deliberately use instances of disinformation and denial as spaces for true stories is a promising solution. In the recent past denialists have successfully “wrapped themselves in the flag of free speech”. Instead of restricting this right, it should be implemented as an effective tool in the struggle against denial. Hence, it falls on us to confront their speech with our own historical accurate speech. The main issue that these social media corporations face is the same issue regulators face: the definition of denial.

**Tali Nates**, Founder and Executive Director, Johannesburg Holocaust and Genocide Centre

There must be a concerted effort for better joint endeavours between civil society, the law, memorials and museums, as well as institutes of research and academia. While there are collaborations like these, there should be more and better ones. Ms Nates points out that an improved combined effort requires a nuanced approach to teaching history and human rights abuses in combination with critical thinking. To present nuances through the stories of victims and their collective testimonies would preserve historical memory. To tell stories is the way forward, including the stories of perpetrators. History must be taught in all its complexity and nuances. Additionally, attention must be paid to the markers of denial and hatred. Dehumanising language such as “snakes”, “cockroaches”, or “vermin” are simple indicators of hateful language and it is the role of educators to foster social media literacy. It is a vital duty for educators to support the young generations in identifying denialist content.

**Dr Emir Suljagić**, Director, Srebrenica-Potočari Memorial Center; former Minister of Education and Deputy Minister of Defence, Bosnia and Herzegovina

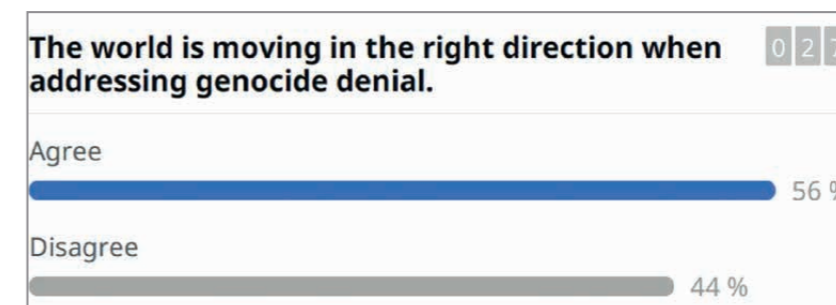
Dr Suljagić reflected on the slow integration of Bosnian conflict studies into formal education despite nearly 30 years passing since the conflict’s end. He discussed the challenges of institutionalising memory through memorial centres, emphasising the importance of research, production and archival preservation. He highlighted the power of archives in shaping narratives and underscored the significance of individual stories and artefacts in educating visitors. Dr Suljagić discusses the complexities of storytelling and the need to avoid imposing neutrality in memorial work. He emphasised the importance of oral history programs and artefact collection in preserving the experiences of survivors and victims. Lastly, he acknowledged the challenges of connecting personal narratives to broader historical contexts and the potential for controversy.

**Professor Dr Charlotte Bühl-Gramer**, Professor of History Didactics, Friedrich-Alexander-Universität Erlangen-Nürnberg

Professor Dr Bühl-Gramer, an educator in history didactics, addressed the prevalence of fake news and emotionalised discourse in contemporary political and social discussions. She expressed concern about the trend towards emotionalising historical education, particularly regarding genocides. Professor Dr Bühl-Gramer emphasised the importance of preserving the evidentiary character of historical sources, including texts, pictures and witnesses, to foster reflective empathy and maintain credibility. She argued against approaches that prioritise emotionalisation over factual accuracy and advocated for augmented reality to enhance access to historical sources while preserving their integrity. Professor Dr Bühl-Gramer concluded by emphasising the need to maintain the credibility of memorials as essential repositories of historical truth. She further made the point that we must not to be entirely neutral as educators but firmly assert that the atrocities perpetrated throughout history were indeed evil.

### Polling Results

**Note on Polling:** With an outlook on the future of this subject, the majority of the audience held the view that the world is moving in the right direction. That is to say that a persevering effort to combat denial criminally by governments and international bodies is desirable. Once again, it is interesting to note that this view is in contrast to the results of poll two, which showed uncertainty on behalf of the audience as to how effective criminalisation is.



## Closing Remarks

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**Professor Dr Christoph Safferling**, Director, International Nuremberg Principles Academy

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In his closing remarks at the Nuremberg Forum 2023, Professor Dr Safferling, as the Director of the institution, expressed appreciation to all participants and organisers for their invaluable contributions to the conference. He acknowledged the importance of addressing genocide despite its limitations in adequately capturing atrocities beyond the Holocaust. Professor Dr Safferling emphasised the significance of solidarity, education and effective communication in combating genocide denial and promoting reconciliation.

Reflecting on the discussions, Professor Dr Safferling underscored the role of memorials in educating society about past atrocities and fostering empathy among individuals. He commended participants for sharing personal stories, which added depth and humanity to the legal discussions. Professor Dr Safferling encouraged continued collaboration among attendees and proposed potential follow-up actions, such as drafting policy papers or model laws, to address the challenges discussed during the forum.

Moreover, he expressed gratitude to the staff and moderators for their dedication in organising the event, highlighting their efforts in ensuring its success. He urged attendees to visit the Documentation Centre Nazi Party Rally Grounds to confront the consequences of hatred and discrimination firsthand, emphasising the importance of resisting narratives that promote division and violence.

Professor Dr Safferling concluded by inviting attendees to maintain contact and engage in ongoing dialogue, emphasising the need for sustained efforts in combating genocide denial and promoting reconciliation. Overall, the closing remarks highlighted the complexities of addressing genocide while underscoring the importance of collective action and remembrance in fostering a more just and compassionate society.

## Annex

### Programme of the Nuremberg Forum 2023

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#### Day 1, 19 October 2023

#### Legally Undeniable: Criminalising Genocide Denial

3 pm–3.40 pm

##### Opening Remarks

**Prof. Dr Christoph Safferling**, 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 Thomas Dickert**, President, Higher Regional Court of Nuremberg  
**Dr Nasser Ahmed**, City Councillor, City of Nuremberg, representing the Lord Mayor of the City of Nuremberg  
**Dr Wiebke Rückert**, Director for Public International Law, German Federal Foreign Office

3.40 pm–4 pm

##### Keynote Addresses

**Dr Ludwig Spaenle**, Representative for Jewish Life and Against Anti-Semitism, For Remembrance and Historical Heritage, Bavaria  
**Alice Wairimu Nderitu**, United Nations Under-Secretary-General; Special Adviser on the Prevention of Genocide, United Nations

4 pm–5 pm

##### Genocide Survivor Interviews

**Moderator: Dr Serge Brammertz**, Chief Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals  
**Munira Subašić**, President, Association „Movement of Mothers of Srebrenica and Žepa Enclaves“  
**Dr Christoph Thonfeld**, Deputy Director, Dachau Concentration Camp Memorial Site  
**Honoré Gatera**, Director, Kigali Genocide Memorial

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## Day 2, 20 October 2023

### Denial: Origins, Impact and Comparative Criminalisation

#### Morning Session

10 am–11.30 am **Panel I: Denial: De Facto, de Jure and in Doctrina**  
 Moderator:  
**Kiran Mohandas Menon**, Senior Officer, International Nuremberg Principles Academy  
 Speakers:  
**Stephen Rapp**, former US Ambassador-at-large for global criminal justice  
**Prof. Dr Christoph Safferling**, Director, International Nuremberg Principles Academy  
**Prof. Nadine Strossen**, Professor of Law, New York Law School  
**Discussion and Q&A**

11.30 am–12 pm **Coffee break**

12 pm–1.30 pm **Panel II: The Effects of Denial in Post-Conflict Societies**  
 Moderator:  
**Darleen Seda**, Senior Officer, International Nuremberg Principles Academy  
 Speakers:  
**Dr Serge Brammertz**, Chief Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals  
**Alice Wairimu Nderitu**, United Nations Under-Secretary-General; Special Adviser on the Prevention of Genocide, United Nations  
**Aimable Havugiyaremye**, Prosecutor General, Rwanda  
**Christian Schmidt**, High Representative for Bosnia and Herzegovina, Office of the High Representative  
**Discussion and Q&A**

1.30 pm–2.30 pm **Lunch**

#### Afternoon Session

2.30 pm–4 pm **Panel III: Denial, its Regulation and Legal Peculiarities**  
 Moderator:  
**Dr Pablo Gavira Díaz**, Project Officer, International Nuremberg Principles Academy  
 Speakers:  
**Prof. Belinda Cooper**, Adjunct Professor, Columbia University Institute for the Study of Human Rights  
**Prof. Gregory S. Gordon**, Professor of Law, Chinese University of Hong Kong; Director, Master of Laws Programme in Legal History, Chinese University of Hong Kong  
**Teresa Ott**, Public Prosecutor, Office of the Public Prosecutor General in Munich; Commissioner of the Bavarian Judiciary for Combating Hate Speech  
**Prof. Almir Maljević**, Professor of Criminal Law, University of Sarajevo  
**Discussion and Q&A**

4 pm–5 pm **Visit to the Memorium Nuremberg Trials (optional)**  
 Introduction by **Dr Imanuel Baumann**, Director, Memorium Nuremberg Trials

7 pm **State Reception by invitation of the Bavarian Ministry of Justice**  
 (by invitation only)

## Day 3, 21 October 2023

### Effect on Victims and Alternative Solutions

#### Morning Session

10.30 am–12 pm **Panel IV: Redress, Recognition and Reconciliation**  
 Moderator:  
**Dr Gurgen Petrossian**, Senior Officer, International Nuremberg Principles Academy  
 Speakers:  
**Aimable Havugiyaremye**, Prosecutor General, Rwanda  
**Honoré Gatera**, Director, Kigali Genocide Memorial  
**Maria Wilke**, Academic Consultant to the Board of Directors, Foundation Remembrance, Responsibility and Future  
**Samra Čardaković**, Legal Advisor in Bosnia and Herzegovina, TRIAL International (present in personal capacity)  
**Discussion and Q&A**

12 pm–1 pm **Lunch**

1 pm–2.40 pm **Panel V: Undeniable and not Unsolvable. Other Ways Forward**  
 Moderator:  
**Laurel Baig**, Senior Appeals Counsel, Office of the Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals  
 Speakers:  
**Dr Emir Suljagić**, Director, Srebrenica-Potočari Memorial Center; former Minister of Education and Deputy Minister of Defence, Bosnia and Herzegovina  
**Prof. Dr Charlotte Bühl-Gramer**, Professor of History Didactics, Friedrich-Alexander-Universität Erlangen-Nürnberg  
**David Kaye**, Clinical Professor of Law, University of California, Irvine; former United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression  
**Tali Nates**, Founder and Executive Director, Johannesburg Holocaust and Genocide Centre

2.40 pm–3 pm **Closing Remarks**  
**Prof. Dr Christoph Safferling**, Director, International Nuremberg Principles Academy

4 pm–6 pm **Guided Tour, Nazi Party Rally Grounds**  
 (by invitation only)

## Biographies of Speakers as of October 2023

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### **Dr Nasser Ahmed**

City Councillor, City of Nuremberg, representing the Lord Mayor of the City of Nuremberg

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Dr 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 2021, he has been Chairman of the local SPD. And since January 2023, he has acted as Vice-Secretary General of the Bavarian SPD. In the City Council of Nuremberg, he works as a specialist for public transportation issues. Dr Ahmed holds a master's degree in political science. He holds a PhD from Friedrich-Alexander-Universität Erlangen-Nürnberg, Germany. His PhD dissertation examined the construction of the political perspectives in the work of Michel Foucault and Ernst Jünger.

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### **Laurel Baig**

Senior Appeals Counsel, Office of the Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals

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Laurel Baig is a Canadian litigator with more than 20 years of international criminal law experience. She is currently the Senior Appeals Counsel in the Office of the Prosecutor of the United Nations International Residual Mechanism for Criminal Tribunals (IRMCT). She previously prosecuted cases before the International Criminal Tribunal for the former Yugoslavia (ICTY) and contributed to a legacy project evaluating the investigation and prosecution of sexual violence crimes. Ms Baig has also advised judges in Chambers at the ICTR and the Special Court for Sierra Leone (SCSL). Ms Baig is a member of the Board of Editors of the Journal of International Criminal Justice.

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### **Dr Serge Brammertz**

Chief Prosecutor, United Nations International Residual Mechanism for Criminal Tribunals

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Serge Brammertz is the Vice-President of the Advisory Council of the International Nuremberg Principles Academy. Serge Brammertz of Belgium is the Chief Prosecutor of the United Nations International Residual Mechanism for Criminal Tribunals (IRMCT). Dr Brammertz serves as the Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), a role he has held since 2008. He has overseen the arrest and prosecution of key political and military leaders, including Radovan Karadžić and Ratko Mladić. From January 2006 to the end of 2007, he served as the Commissioner of the United Nations International Independent Investigation Commission into the murder of former Prime Minister Rafik Hariri. Previously, he was Deputy Prosecutor of the International Criminal Court (ICC).

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### **Prof. Dr Charlotte Bühl-Gramer**

Professor of History Didactics, Friedrich-Alexander-Universität Erlangen-Nürnberg

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Professor Dr Charlotte Bühl-Gramer holds a PhD in History and completed her academic studies in History, German and Italian at Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU) and Julius-Maximilians-Universität Würzburg (JMU). Since October 2010, she has been a Professor of History Didactics at FAU. Her main research interests include visual history, historical cultures, public history, history teaching, visitor research on the former Nazi Party Rally Grounds, transformation processes of city images and local historical culture, history of democracy in historical culture and history lessons and historical places, sites and buildings in a history didactic perspective. Professor Bühl-Gramer is the Chairwoman of the Association for the History of the City of Nuremberg and also serves as the Chairwoman of the Scientific Advisory Board for the Place of Remembrance Former National Socialists Party Rally Grounds Nuremberg.

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### **Samra Čardaković**

Legal Advisor in Bosnia and Herzegovina, TRIAL International

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Samra Čardaković is a Legal Advisor in Sarajevo, Bosnia and Herzegovina. She joined TRIAL International in February 2023. Before that, she worked as a legal advisor/assistant on high-profile war crimes and organised crime cases on the Court of Bosnia and Herzegovina. She has extensive knowledge of war crimes, human rights and the judicial system of Bosnia and Herzegovina. Samra holds a Master's degree in Civil Law of the European Union from the University of Sarajevo. Her working language is Bosnian and English, with a certain knowledge of French.

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### **Prof. Belinda Cooper**

Adjunct Professor, Columbia University Institute for the Study of Human Rights

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Belinda Cooper is an adjunct professor at Columbia University's Institute for the Study of Human Rights and New York University's Center for Global Affairs. She teaches, writes and lectures on human rights and international law, with a particular focus on transitional justice, war crimes tribunals and women's rights. Cooper's experience has included working with East German dissidents before the fall of communism, assisting the lawyers for a German Guantanamo detainee, organizing a project on memorialization of the past in Turkey and coauthoring reports on domestic violence in Tanzania, Armenia and Uzbekistan. She lived in Berlin, Germany, for many years and has contributed to a wide variety of print and other media in both English and German. She is also a translator of German scholarly books and articles, including many texts on National Socialist Germany and the Holocaust, international criminal law and transitional justice. Cooper holds a law degree from Yale Law School. She is co-founder and president of Brooklyn Animal Action, an animal rescue non-profit.

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### **Dr Thomas Dickert**

President, Higher Regional Court of Nuremberg

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Dr Thomas Dickert is the President of the Higher Regional Court of Nuremberg. Dr Dickert represents the Free State of Bavaria on the Foundation Board of the International Nuremberg Principles Academy. From 2011 to April 2018, he was Head of the Budget, Construction, IT, Organisation, Security and Statistics Department 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 High Regional Court of Munich and the Regional Court of Ingolstadt. He studied law at Universität Regensburg and did his legal traineeship in Regensburg.

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### **Alexander Fernandes-Köhler**

Project Lead Nuremberg Forum 2023, International Nuremberg Principles Academy

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Alexander Fernandes-Köhler earned his first-class law degree at The Hague University of Applied Science in International and European law, with a focus on international criminal law. After his law degree, he completed his Master's in Terrorism and Political Violence at the University of St. Andrews in Scotland and graduated first-class with Merit. During his studies, he focused his research on hate speech and blasphemy, the war crime of terror and an integrative approach between law and politics on the persecution of the Uyghur people in China. He has also written papers for the UK non-profit organisation Yet Again on the law of genocide surrounding the Uyghur persecution in China.

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**Honoré Gatera**

Director, Kigali Genocide Memorial

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Honoré has contributed to various projects related to the preservation of the memory of the Genocide against Tutsi and participated in training related to genocide prevention, education towards prevention of Genocide, conflict resolution and peace building in England, USA, Germany and Poland. He has travelled around the world participating in conferences and meetings to raise awareness of genocide, its sad past and the threat it represents for humanity. Since 2010, Honoré has run the Kigali Genocide Memorial on behalf of the Aegis Trust.

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**Dr Pablo Gavira Díaz**

Project Officer, International Nuremberg Principles Academy

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Dr Pablo Gavira Díaz is a Spanish lawyer, specialised in international humanitarian law and international criminal law. He is currently Project Officer at the International Nuremberg Principles Academy, where he contributes to a wide variety of matters, including legal research, policy analysis, event management as well as public dissemination or knowledge in the field of international criminal justice. Dr Gavira Díaz has also worked in academic environments, namely the Walther Schücking Institute for International Law and the European Centre for Minority Issues. In addition, he provided legal support to the Supreme Headquarters of Allied Powers in Europe (SHAPE), which is responsible for the planning and execution of all NATO military operations.

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**Prof. Gregory S. Gordon**

Professor, Chinese University of Hong Kong

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Professor Gregory S. Gordon teaches at the Chinese University of Hong Kong (CUHK) Faculty of Law, where he formerly served as Associate Dean (Development/External Affairs) and Director of the Research Postgraduates Programme. He currently runs CUHK's new Legal History LLM and coaches its Jessup Moot team. Not long after earning undergraduate and law degrees from Berkeley, Professor Gordon served as an International Criminal Tribunal for Rwanda (ICTR) attorney on the landmark "Media" cases, the first international post-Nuremberg incitement prosecutions of media executives, earning a commendation from US Attorney General Janet Reno. He subsequently worked with the US Department of Justice (DOJ), serving, in sequence, as a street crime, white collar crime, organised crime and then human rights prosecutor (the latter for OSI, the so-called "Nazi Hunters Unit"). He was detailed by DOJ to Sierra Leone to conduct a post-civil war justice assessment and served as a Special Assistant US Attorney for the District of Columbia.

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**Aimable Havugiyaremye**

Prosecutor General, Rwanda

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Havugiyaremye Aimable is the Prosecutor General of the Republic of Rwanda. He has held other different positions in public service such as Chairperson of Rwanda Law Reform Commission (RLRC), Rector of the Institute of Legal Practice and Development (ILPD), a Commissioner in the Commission in charge of advising the Parliament in reviewing the Constitution of Rwanda in 2015, Vice-Chairperson of Rwanda Law Reform Commission, Principal State Attorney in the Ministry of Justice of the Republic of Rwanda and a Lecturer in the School of Law at the University of Rwanda. He holds a Master's degree in International Law from the University of Pretoria (South Africa). He also holds a Diploma in leadership from the Institute for National Transformation. He is experienced in different fields, including Criminal Law, Constitutional Law, International Law, Legislative Drafting, Investigation, Access to Justice, Legal Education and Institutional strengthening.

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**David Kaye**

Clinical Professor of Law at the University of California, Irvine; former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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David Kaye is a Professor of Law at the University of California, Irvine, the Director of its International Justice Clinic and a 2023–2024 Fulbright Distinguished Scholar at Lund University's Raoul Wallenberg Institute of Human Rights and Humanitarian Law in Sweden. From 2014 to 2020, he served as the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. He is also the author of *Speech Police: The Global Struggle to Govern the Internet* (Columbia Global Reports, 2019), Independent Chair of the Board of the Global Network Initiative and a Trustee of ARTICLE 19. He writes regularly for international and American law journals and media outlets. David began his legal career with the US State Department's Office of the Legal Adviser, is a member of the Council on Foreign Relations and is a former member of the Executive Council of the American Society of International Law.

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**Prof. Dr Almir Maljević**

Professor of Criminal Law, University of Sarajevo

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Professor Dr Almir Maljević pursued his academic journey at the Faculty of Criminal Justice Sciences at the University of Sarajevo from 1996 to 2000. In 2005, he obtained his Master of Laws degree in Criminal Law from the Faculty of Law at the University of Mostar. Professor Maljević pursued a Doctor of Juridical Sciences degree with the support of a DAAD scholarship. In 2009, he completed his doctoral studies at the Albert-Ludwigs-Universität Freiburg, where he was enrolled in the International Max Planck Research School for Comparative Criminal Law (IMPRS-CC). Since 2001, Professor Maljević has been a member of the Faculty of Criminal Justice Sciences at the University of Sarajevo where he currently teaches criminal law.

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**Kiran Mohandas Menon**

Senior Officer, International Nuremberg Principles Academy

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Kiran Mohandas Menon is Senior Officer at the International Nuremberg Principles Academy. Before re-joining in 2023, he previously worked for the Nuremberg Academy from 2017 to 2021. He has also worked in research and civil society institutions focusing on international law in Ireland, Spain, Greece and Sri Lanka.

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**Tali Nates**

Executive Director, Johannesburg Holocaust and Genocide Centre

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Tali Nates is the Founder and Director of the Johannesburg Holocaust and Genocide Centre (JHGC) and Chair of the South African Holocaust and Genocide Foundation (SAHGF). Ms Nates is a historian who lectures internationally on Holocaust and genocide education, memory, reconciliation and human rights. Born to a family of Holocaust survivors, her father and uncle were saved by Oskar Schindler. She has been involved in the creation and production of dozens of documentary films, curated exhibitions, published articles and contributed chapters to books. She serves on many advisory and academic boards, including the Contested Histories Initiative, the Interdisciplinary Academic Journal of Babyn Yar Holocaust Memorial Center and the Academic Advisory Group of the School of Social and Health Sciences, Monash University (IEMSA), South Africa. Ms Nates won many awards, including the Kia Community Service Award (South Africa, 2015), the Gratias Agit Award (2020, Czech Republic), the Austrian Holocaust Memorial Award (2021) and the Goethe Medal (2022, Germany).

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**Alice Wairimu Nderitu**

United Nations Under-Secretary-General; Special Adviser on the Prevention of Genocide to the United Nations Secretary-General, United Nations

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Alice Wairimu Nderitu of Kenya is the United Nations Under-Secretary-General and the Special Adviser on the Prevention of Genocide. Ms Nderitu is a recognised voice in the field of peacebuilding and violence prevention, having led as a mediator and senior adviser in reconciliation processes. She served as Commissioner of the National Cohesion and Integration Commission in Kenya, as well as Founding Member and Co-Chair of the Uwiano Platform for Peace, a prevention agency linking early warning to early response. She was also one of the founders of the Community Voices for Peace and Pluralism, a network of African women professionals preventing, transforming and solving violent, ethnic, racial and religious conflicts worldwide. Widely published, she is the recipient of awards recognising her commitment to peaceful conflict transformation throughout Africa and her innovative approach to mediation.

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**Teresa Ott**

Hate Speech Commissioner of the Bavarian Judiciary

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Teresa Ott has been the Hate Speech Commissioner of the Bavarian Judiciary since 2022. Ms Ott works at the Munich Public Prosecutor's Office and for the Bavarian Central Office for Combating Extremism and Terrorism, including in the "Justice and Media – Consistently Against Hate" project. In this function, she coordinates and supports the work of the 22 special departments of the local public prosecutor's office concerning the criminal processing of proceedings that deal with hatred and hate speech in its various forms on the Internet. In particular, Ms Ott works towards uniform standards in processing. She conducts prominent investigations herself with her hate speech team at the Munich Public Prosecutor's Office.

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**Dr Gurgen Petrossian**

Senior Officer, International Nuremberg Principles Academy

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Dr Gurgen Petrossian, is a Senior Officer at the International Nuremberg Principles Academy. He holds teaching positions at Friedrich-Alexander Erlangen-Nuremberg University, Catholic University of Eichstätt-Ingolstadt and Yerevan State University. Prior to rejoining the International Nuremberg Principles Academy, Dr Petrossian consulted to one of Germany's largest textile companies, focusing on business and human rights in accordance with the German Act on Due Diligence in Supply Chains. Previously, he worked as the head of the International Criminal Law Research Unit at Friedrich-Alexander Erlangen-Nuremberg University. Dr Petrossian has provided assistance to the Republic of Armenia and the Iraqi Kurdistan Autonomous Region in incorporating international criminal law into their respective legal systems.

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**Dr Navi Pillay**

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

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Dr Navi Pillay served as High Commissioner for Human Rights at the United Nations from 2008 to 2014. She has championed many human rights issues with which she 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, South Africa, Dr Pillay worked on behalf of the victims of racial segregation as a criminal defence lawyer and as an activist for the anti-Apartheid movement. Later, Dr Pillay earned a master's degree at Harvard Law School. She was the first South African to be awarded the degree of Doctor of Juridical Science at Harvard Law School in 1988. 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 Judge to the International Criminal Tribunal for Rwanda (ICTR), where she served for a total of eight years, including four years as President. She later served at the International Criminal Court (ICC) for five years. Dr Pillay is a co-founder of "Equality Now", an international women's rights organisation.

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**Stephen Rapp**

Former US Ambassador-at-large for global criminal justice

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Stephen Rapp was the Chief 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 United Nations 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 in what has been called the „Media Trial“. Before becoming an international prosecutor, he was the United States Attorney for the Northern District of Iowa from 1993 to 2001. Currently he is a Senior Fellow at both the US Holocaust Memorial Museum's Centre for Prevention of Genocide and Oxford University's Institute for Ethics, Law and Armed Conflict.

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**Dr Wiebke Rückert**

Director for Public International Law in the Federal Foreign Office

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Dr Wiebke Rückert was Head of the Division for Human Rights and Gender Issues in the Federal Foreign Office from 2018-2022. She joined the German diplomatic service in 2002. She had postings in the embassies in Brussels and Washington. Dr Rückert served inter alia as member of the German task force for the International Criminal Court (ICC), in the Legal Service of the European Commission and in the division on German policy in the UN Security Council. She served as Deputy Head of the International Law Division from 2014 to 2018.

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**Prof. Dr Christoph Safferling**

Director, International Nuremberg Principles Academy

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Professor Dr Christoph Safferling (Dr jur., LL.M) is a professor of Criminal Law, Criminal Law Procedure, International Criminal Law and Public International Law at Friedrich-Alexander-Universität Erlangen-Nürnberg, Germany. He studied law in Munich and London and received his doctoral degree at Ludwig-Maximilians-Universität München in 1999 and his "Habilitation" at Friedrich-Alexander-Universität Erlangen-Nürnberg in 2006. He is the Director of the International Criminal Law Research Unit at Friedrich-Alexander-Universität Erlangen-Nürnberg. Moreover, he is the Whitney R. Harris International Law Fellow of the Robert H. Jackson Center in Jamestown, New York. In 2018, he was a visiting scholar at the Stanford Center for Human Rights and International Justice.

He has been a member of the Independent Academic Commission at the Federal Ministry of Justice for the Critical Study of the National Socialist Past from 2012 to 2017 and has undertaken a study on the History of the Federal General Public Prosecutor.

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**Christian Schmidt**

High Representative to Bosnia and Herzegovina

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Christian Schmidt has been serving as the High Representative of the International Community for Bosnia and Herzegovina since August 2021. He studied law at Friedrich-Alexander-Universität Erlangen-Nürnberg and Université de Lausanne and worked as a lawyer. From 1990 to 2021, he represented the constituency of Fürth as a directly elected member of the German Bundestag. From February 2014 to March 2018, he served as the Federal Minister of Food and Agriculture. Prior to that, he was the Parliamentary State Secretary at the Federal Ministry of Defence for eight years and briefly at the Federal Ministry for Economic Cooperation and Development. Additionally, since 2006, he has been the President of the German Atlantic Association and, since 2018, the Deputy Chairperson of the Hanns-Seidel Foundation.

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**Darleen Seda**

Senior Officer, International Nuremberg Principles Academy

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Darleen Seda is a Kenyan lawyer with substantial experience working with domestic and international research and policy institutions. She specialises in international criminal law, international human rights law and transitional justice. Presently, she is the Senior Officer for Training and Capacity Building at the Nuremberg Academy. She is also pursuing her doctoral studies at Friedrich-Alexander University Erlangen-Nuremberg (FAU).

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**Dr Ludwig Spaenle**

Representative of the Bavarian State Government for Jewish Life and Against Antisemitism, for Remembrance Work and Historical Heritage

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Dr Ludwig Spaenle has been a member of the CSU Party Board since 2007. Since 2018, he has been the spokesperson for the “Jewish Forum in the CSU”. He has been a member of the State Parliament from 1994 to 2018 and again since May 2020. From 2008 to 2018, he held the position of Minister of Education and Culture or Science. In 2018, he was appointed by the Bavarian State Government as the Commissioner for Jewish Life and Against Antisemitism, for Remembrance Work and Historical Heritage. In 2009, he was awarded the Silver Medal of the Bavarian Constitution, the Bavarian Order of Merit in 2012 and the “München leuchtet” award in Bronze in 2015.

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**Prof. Nadine Strossen**

Professor of Law, New York University; former American Civil Liberties Union President

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Professor Nadine Strossen, a chaired Professor Emerita at New York Law School and past national President of the American Civil Liberties Union (ACLU) from 1991 to 2008, is a Senior Fellow with the Foundation for Individual Rights and Expression (FIRE). She is a leading expert and frequent speaker/media commentator on constitutional law and civil liberties, who has testified before Congress on multiple occasions. She serves on the advisory boards of the ACLU, Academic Freedom Alliance, Heterodox Academy and National Coalition Against Censorship. The National Law Journal has named Professor Strossen one of America’s “100 Most Influential Lawyers” and several other national publications have named her one of the country’s most influential women. In 2023, the National Coalition Against Censorship (an alliance of more than 50 national non-profit organisations) selected her for its Lifetime Achievement Award for Free Speech. She is the author of *HATE: Why We Should Resist It with Free Speech, Not Censorship* (Oxford University Press, 2018) and *Free Speech: What Everyone Needs to Know* (Oxford University Press, 2023).

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**Munira Subašić**

President, Association “Movement of Mothers of Srebrenica and Žepa Enclaves”

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Munira’s son Nermin, husband Hilmo and over 20 close relatives were killed in the Srebrenica genocide. Alongside other mothers whose sons were killed in the Srebrenica genocide, Munira founded the Association “Movement Mothers of Srebrenica and Žepa Enclaves” in 1998. Today it has one office in Potočari, Srebrenica and another one in Sarajevo. Their activism allows the voices of victims to be heard throughout the world.

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**Emir Suljagić**

Director, Srebrenica-Potočari Memorial Center; former Minister of Education and Deputy Minister of Defence, Bosnia and Herzegovina

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Dr Emir Suljagić is the Director of the Srebrenica-Potočari Memorial Center. He holds a Master’s degree in Democracy and Human Rights issued by the University of Sarajevo and the University of Bologna in 2005 and a PhD in Political Science issued by the Institute for Peace Research and Security Studies at the Universität Hamburg in 2010. Dr Suljagić was an interpreter for the United Nations forces stationed in Srebrenica during the war in Bosnia, thanks to which he survived the Srebrenica genocide. He is the author of several books and memoirs, including most notably *Postcards from the Grave* (Saqi Books, 2005), which has been translated into nine languages.

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**Dr Christoph Thonfeld**

Vice Director, Dachau Concentration Camp Memorial Site

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Dr Christoph Thonfeld is a historian. Currently, he is Head of the Research Department and Deputy Director of the Dachau Concentration Camp Memorial Site, in Germany. Between 2003 and 2020, he has done research and/or taught at Universität Bremen, Fern Universität in Hagen and Universität Trier (all in Germany), at Cheng Chi University and National Taiwan Normal University (both in Taiwan, Republic of China) and at University College London (United Kingdom). His main areas of interest are twentieth-century German and European history, especially the National Socialist era and its aftermath (denunciation under National Socialism and Soviet occupation, forced labour under National Socialist rule, perpetrator research, National Socialist trials and media coverage, remembrance of the National Socialist past, research into Holocaust survivor testimonies), oral history and memory studies.

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**Maria Wilke**

Scientific Advisor to the Directorship, Foundation Remembrance, Responsibility and Future

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Maria Wilke has been the Advisor to the Board of Directors of the Foundation Remembrance, Responsibility and Future (EVZ Foundation) since August 2020. As a historian and political scientist, Ms Wilke is an expert on Eastern European history and society, the Holocaust, culture(s) of remembrance, civic education and transitional justice. Before her current position at EVZ Foundation, Ms Wilke worked from 2017 to 2020 in the culture department at the German Federal Foreign Office and from 2011 to 2017 as a researcher in the edition project “Persecution and Murder of European Jews by National Socialist Germany” at the Institute for Contemporary History, especially on the Holocaust in the Soviet Union and Czechoslovakia.

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## Nuremberg Forum 2023 Concept Note

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Title: **Legally Undeniable: Criminalising Genocide Denial**

Dates: **19–21 October 2023**

Venue: **Courtroom 600 + hybrid**

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**The Nuremberg Academy and Forum:** The International Nuremberg Principles Academy (Nuremberg Academy) is a foundation created to pursue the advancement of international criminal law (ICL) and related human rights. Located in Nuremberg, the birthplace of modern ICL, the Nuremberg Academy is in a unique position to advance the legacy of the Nuremberg trials through the further development of ICL. Through its work, the Nuremberg Academy aims to promote accountability for core international crimes, including by providing expertise in ICL.

The Nuremberg Forum is the annual international conference of the Nuremberg Academy. In reflecting on the Nuremberg Academy's efforts to encourage open and high-level dialogue, previous Nuremberg Forums have been dedicated to:

- The peace and justice debate, specifically marking ten years since the 2007 Declaration on Peace and Justice, in 2017;
  - The Rome Statute and its implications for the day-to-day Court practice at the International Criminal Court, marking the twentieth anniversary of the Rome Statute, in 2018;
  - Accountability efforts beyond The Hague and the Rome Statute, in 2019;
  - Reflecting on the common fight against impunity and the Nuremberg Principles, in 2020 and 2021; and
  - Reflecting on the International Criminal Court's past 20 year practice and its future, in 2022.
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**Nuremberg Forum 2023:** Genocide denial plagues many regions and especially in post-conflict societies, it takes on a hateful and society-dividing complexion, interfering with reconstruction and reconciliation. The persistent negation, trivialisation and glorification of atrocities cultivate hatred, foster societal instability and energise threats against vulnerable groups.

The Nuremberg Forum 2023 will address genocide denial as a concept and in context: What is it? How does it manifest? How can it be regulated? The focus of the Forum will be on the denial of three genocides that have been formally recognised by international courts: the Holocaust, the Rwandan genocide and the Srebrenica genocide. Experts will also assess which multilateral and national efforts have been undertaken to address genocide denial, including prevention and punishment. Attention will also be paid to the jurisprudence of international criminal tribunals related to speech crimes, such as incitement to commit genocide and persecution through hate speech, with a particular focus on the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda.

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**Aims and Objectives:** The overarching aim of the Nuremberg Forum 2023 is to thoroughly examine the idea of criminalising genocide denial. As such, the three main objectives are:

1. Understand the nature of genocide denial in concept, practice and law;
2. Examine efforts to prevent, regulate or criminalise genocide denial in Germany, Rwanda, Bosnia and Herzegovina and touch on other regions; and
3. Address multilateral actions taken to address denial and victim roles within the process

To attain these objectives, the Nuremberg Forum 2023 will:

1. Hear from experts in diverse fields concerning the nature of genocide denial: legally, historically and politically;
  2. Share views on the benefits and challenges of laws addressing genocide denial across different states and in international law;
  3. Identify needs and challenges in post-conflict societies including Rwanda and Bosnia and Herzegovina; and
  4. Identify possibilities for survivor participation and opportunities to regulate social media.
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**Target Group:** The conference will be particularly relevant to experts, professionals and students interested in ICL, transitional justice, political and social science, history and philosophy. We particularly invite young scholars, lawyers and practitioners to join our discussion.

**Hybrid Format:** Online participation will be available via a live stream. The online and in-person audience will be able to submit questions to each panel.

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**The Nuremberg Forum 2023 will take place on three separate days.**

**DAY 1:** Opening remarks, keynote addresses and interviews

**DAY 2:** Denial: what is it, what are the reasons for it, how does it manifest, what is its history and what is its impact on free speech? Denial criminalisation around the world, the Holocaust, Rwanda and Bosnia and Herzegovina.

**DAY 3:** How is denial regulated? What are the challenges we face? What is the effect of denial on victims and how can criminalisation of denial help? Which multilateral actions are being undertaken to address this issue?

**Closing Remarks**

**Side Event:** Visit to the Documentation Centre Nazi Party Rally Grounds

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**Panels for Days 2 and 3**

Each panellist will provide a “one-liner” (prior to discussion) which encapsulates their view on the subject matter. This serves as a poignant statement of an idea for the audience. It will flagpole points of discussion and highlight the unique positions our speakers have and will take. The chair will take an active part in furthering debate and discussion.

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## Day 1: Opening Ceremony and Keynote Addresses

### Opening Remarks

### Keynote Addresses

### Genocide Survivor Interviews

### State Reception

## Day 2: Denial – Origins, Impact and Comparative Criminalisation

### Panel I: Denial: De Facto, de Jure and in Doctrina

Before the Forum and its experts delve into strictly legal matters, it is worth establishing first principles. This panel will discuss the conceptual nature of denial. The 2008 EU Council Framework Decision addresses denial within the context of racism, xenophobia and hatred – not mere opinion. It goes further by explicitly prohibiting denial of the 1945 International Military Tribunal Charter’s article 6 crimes in connection with incitement to hatred and violence.<sup>1</sup> Similarly, in 2021 the EU placed denial within its strategy to combat Antisemitism.<sup>2</sup> Within the EU itself there is a notable difference in which ideologies are associated with denial. In Eastern Europe, the crimes of the Communist regimes feature much more heavily than in Central and Western European States.<sup>3</sup> Now, denial rarely comes unaccompanied and usually finds itself in the camaraderie of distortion, trivialisation, glorification, relativisation and even incitement to hatred and violence. Some go so far as to claim that denial is a continuation of genocide.<sup>4</sup> Where there is push-back against accusations of denial, it is done so on the basis of free speech and “revisionism”. The clash with free speech is an obvious one, yet different legal traditions take different stances on where a line must be drawn. The United States does not criminalise denial at all. Perhaps most striking when it comes to the conceptual nature of denial is the distinction between denial and denialism. One speaks to the disagreement of facts; the other to the ideological and systemic drive behind such disagreement.<sup>5</sup>

#### As such, the panel will be looking at these questions:

- Is denial inextricably linked to racism, xenophobia and antisemitism?
- Is denial driven by ideology? If so, which?
- Do anti-denial laws infringe unjustifiably upon freedom of speech?
- Are incitement to genocide and genocide denial two sides of the same coin?

<sup>1</sup> The Council of the European Union, *COUNCIL FRAMEWORK DECISION 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law* (Brussels: Official Journal of the European Union, 2008), Article 1(d), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008F0913&from=EN>, accessed 21 Mar. 2023.

<sup>2</sup> European Commission, *EU Strategy on Combating Antisemitism and Fostering Jewish Life (2021–2030)* (Strasbourg: European Commission, 2021), [https://commission.europa.eu/system/files/2021-10/eu-strategy-on-combating-antisemitism-and-fostering-jewish-life\\_october2021\\_en.pdf](https://commission.europa.eu/system/files/2021-10/eu-strategy-on-combating-antisemitism-and-fostering-jewish-life_october2021_en.pdf), accessed 21 Mar. 2023.

<sup>3</sup> European Parliament, *Holocaust denial in criminal law: Legal frameworks in selected EU Member States* (EPRS, 2021), 4, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698043/EPRS\\_BRI\(2021\)698043\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698043/EPRS_BRI(2021)698043_EN.pdf), accessed 21 Mar. 2023.

<sup>4</sup> A/HRC/27/2, “Summary of the high-level panel discussion dedicated to the sixty-fifth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide: Report of the United Nations High Commissioner for Human Rights”, *United Nations General Assembly* (30 June 2014), 5, para. 15, <https://undocs.org/A/HRC/RES/27/24>, accessed 21 Mar. 2023.

<sup>5</sup> Diethelm, P. & McKee, M., “Denialism: what is it and how should scientists respond?”, *European Journal of Public Health*, 19/1 (2009), 2–4, <https://doi.org/10.1093/eurpub/ckn139>, accessed 21 Mar. 2023.

### Panel II: The Effects of Denial in Post-Conflict Societies

It is not the “regular” type of denial which disturbs and stirs us here. It is, in fact, that these nations suffer from post-conflict troubles. Specifically, Bosnia and Herzegovina and Rwanda suffer from continued ethnic tensions and regulatory troubles. In the case of Bosnia and Herzegovina, the situation has attracted the attention of the Office of the High Representative (set up to monitor the Dayton Peace Agreement) as well as international attention and resulted in the enactment of anti-denial laws in order to curb hostility and hatred. While this might be the law’s ambition, its actual ability to foster peace and reconciliation in a deeply divided society is contested – especially since it was imposed by the OHR.<sup>6</sup> Cambodia, plagued by the history of the Khmer Rouge, also enacted anti-denial laws in 2013. However, this law seems to have done little to curb denial and hatred and has instead attracted the criticism of human rights defenders, who claim that it is a political tool to silence dissenters.<sup>7</sup>

This panel aims to assess and reflect on the state of post-conflict societies and their troubles with denial.

The following questions will be addressed:

- What is the on-the-ground reality in these societies?
- Why is denial occurring?
- Is criminalisation effective? What is the effect on victims?
- Can an utterance constitute “denial” within the context of ongoing conflicts?

### Panel III: Denial, its Regulation and Legal Peculiarities

Within the European Union there are many differences in legislation. The East-West divide is a crucial (substantive) difference which carries significant meaning. While Eastern Europe emphasises the crimes committed by communist States, Western European nations focus predominantly on the crimes of National Socialist Germany.<sup>8</sup> The United States does not prohibit denial at all, as it would be a restriction on the content of speech. Some other countries have struggled with the implementation of anti-denial laws. For example, the Rwandan Supreme Court found the country’s 2003 Law prohibiting denial suffered from a lack of legal specificity where “genocide minimisation” was not clearly defined by the legislature.<sup>9</sup> In the Supreme Court Case of *Uwimana Nkusi and Mukakibibi*, the civil society organisation *Article 19*, argued that the Supreme Court did not uphold the standards of free expression imposed by the International Covenant on Civil and Political Rights, a convention Rwanda is bound by and once again raises the issue of free speech.<sup>10</sup> Should speech be restricted, it must be done so with utmost specificity and indeed protect the interests it is crafted to protect. The Netherlands faces an infringement procedure launched by the European Commission as, in the Dutch courts’ view, denial of historical facts does not in itself demean a certain group and thus has not implemented the 2008 Framework decision.<sup>11</sup>

#### Against this backdrop, panel 3 will address the following questions:

- How do we diligently and meaningfully balance the suppression of denial with the protection of free speech?
- What is the legal interest that denial laws seek to protect?
- Should denial laws be framed around the motivation or the effect of the speech? If so, what motivations or effects should matter?

<sup>6</sup> C. Pistan, “Call it by its right name: *Criminalizing genocide denial in Bosnia and Herzegovina*”, *Verfassungsblog on Matters Constitutional* (23 Aug. 2021), <https://verfassungsblog.de/call-it-by-its-right-name/>, accessed 21 Mar. 2023.

<sup>7</sup> Library of Congress, “Cambodia: Criminalizing Denial of Atrocities”, *Library of Congress* (12 Jun. 2013), <https://www.loc.gov/item/global-legal-monitor/2013-06-12/cambodia-criminalizing-denial-of-atrocities/>, accessed 21 Mar. 2023.

<sup>8</sup> European Parliament, “Holocaust denial in criminal law: Legal frameworks in selected EU Member States”, 4, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698043/EPRS\\_BRI\(2021\)698043\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698043/EPRS_BRI(2021)698043_EN.pdf), accessed 21 Mar. 2023.

<sup>9</sup> Jansen, Y., “Denying Genocide or Denying Free Speech? A Case Study of the Application of Rwanda’s Genocide Denial Laws”, *Northwestern Journal of International Human Rights*, 12/2 (2014), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1172&context=njihr>, accessed 21 Mar. 2023.

<sup>10</sup> Jansen, Y., “Denying Genocide or Denying Free Speech? A Case Study of the Application of Rwanda’s Genocide Denial Laws”, *Northwestern Journal of International Human Rights*, 12/2 (2014), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1172&context=njihr>, accessed 21 Mar. 2023.

<sup>11</sup> European Parliament, “Holocaust denial in criminal law: Legal frameworks in selected EU Member States”, 9, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698043/EPRS\\_BRI\(2021\)698043\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698043/EPRS_BRI(2021)698043_EN.pdf), accessed 21 Mar. 2023.

## Day 3: Effect on Victims and Alternative Solutions

### Panel IV: Redress, Recognition and Reconciliation

It has been suggested that genocide denial can cause tremendous harm to victims and survivors of genocide and may even be considered a continuation of genocide itself. Since there is no one-size-fits-all approach for addressing the needs of victims and given that there has been a general lack of redress for survivors and communities affected by denial, a look at past efforts is worthwhile. In the case of the Holocaust, the utilised restitution measures provide useful precedents for other reparative measures.<sup>12</sup> Similarly, the Gacaca courts in Rwanda can be considered a unique approach to providing symbolic reparations for victims.<sup>13</sup> In order to examine the different avenues for providing redress for victims, panel 4 will cover the reparative measures pursued and utilised after the Holocaust, the Rwandan genocide and the Srebrenica massacre. The panel will also discuss the effect of such measures on victims and the challenges that continue to hinder reparative processes.

#### The key questions for the panel are:

- Which factors should be considered in determining the priorities and approaches to reparations for victims of genocide?
- Which options are available to address the multitude of claims from large numbers of victims in different situations?
- How can anti-denial measures contribute to guarantees of non-repetition?
- How can societies dealing with genocide denial ensure that the processes for providing reparations avoid the re-traumatisation of survivors?

<sup>12</sup> Clemens Nathan Research Centre & Redress, *Reparations for victims of genocide, crimes against humanity and war crimes: Systems in place and systems in the making*, Report of Proceedings (March 2007), 5, <https://redress.org/wp-content/uploads/2018/01/September-Reparations-for-victims-of-genocide-crimes-against-humanity-and-war-crimes-Systems-in-place-and-systems-in-the-making.pdf>, accessed 21 Mar. 2023.

<sup>13</sup> University of Minnesota, "Rwanda", College of Liberal Arts: *Holocaust and Genocide Studies*, <https://cla.umn.edu/chgs/Holocaust-genocide-education/resource-guides/rwanda>, accessed 21 Mar. 2023.

### Panel V: Undeniable and not Unsolvable. Other Ways Forward.

In his memorable opening speech at the Nuremberg trials, Justice Robert Jackson stated that civilisation could not tolerate disregard for crimes of a genocidal nature, as it could not survive their reoccurrence.<sup>14</sup> However, 75 years after the end of the trials responsible for bringing accountability to the major National Socialist war criminals, the world has seen crimes of genocidal nature continue to haunt and harm humankind.<sup>15</sup> As denial may be considered as an integral part of genocide,<sup>16</sup> efforts such as the adoption of anti-denial laws were undertaken. Nevertheless, it has been argued that anti-denial laws alone are insufficient to deter the phenomenon of genocide denial, especially in an ever-increasingly digital world.<sup>17</sup> As the broad reach of information shared online can amplify the harmful effects of "offline" denial, it is unrealistic to discuss ways to tackle the issue without touching upon social media companies' role in this struggle.<sup>18</sup>

Furthermore, it is impossible to combat genocide denial without granting transitional justice and education a central role in this pursuit. Efforts to combat denial may be a first step towards constructing collective memory and national identity, as well as promoting the right to truth, remedy and redress for victims.<sup>19</sup> At the same time, education can ensure remembrance and serve to prevent identity-based violence.<sup>20</sup> Lastly, multilateral actions such as the UN General Assembly Resolution on Genocide Denial were recently taken in order to enhance the efforts against genocide denial, but questions about the effectiveness of such initiatives are not uncommon.<sup>21</sup>

#### Based on the above, the following questions will be addressed:

- How can education be a driving force in combatting denial discourses?
- What is the role of transitional justice measures in the fight against genocide denial?
- What can online platform companies do to tackle genocide denial?
- Which type of multilateral actions can be enacted to counteract genocide denial?

### Side Event

#### Visit to the Documentation Centre Nazi Party Rally Grounds End of Conference

<sup>14</sup> "Second Day, Wednesday, 11/21/1945, Part 04", in Trial of the Major War Criminals before the International Military Tribunal. Volume II. Proceedings: 11/14/1945-11/30/1945. [Official text in the English language.] Nuremberg: IMT, 1947. p. 98.

<sup>15</sup> European Union External Action, "For a United World against Genocide", *European Union External Action* (9 Dec. 2019), <https://www.hrwstf.org/wordpress/wp-content/uploads/2019/08/Genocide-Timeline-2019.pdf>, accessed 20 Mar. 2023.

<sup>16</sup> Üngör, U.U. & Adler, N., "Indonesia in the Global Context of Genocide and Transitional Justice", *Journal of Genocide Research*, 19/4 (2017), 613, <https://doi.org/10.1080/14623528.2017.1393985>, accessed 20 Mar. 2023.

<sup>17</sup> The UN Office on Genocide Prevention in Collaboration with the Jacob Blaustein Institute for the Advancement of Human Rights, "Combating Holocaust and Genocide Denial: Protecting Survivors, Preserving Memory, and Promoting Prevention", *United Nations* (June 2022), 3, [https://www.un.org/en/genocideprevention/documents/publications-and-resources/22-00041\\_OSAPG\\_PolicyPaper\\_Final.pdf](https://www.un.org/en/genocideprevention/documents/publications-and-resources/22-00041_OSAPG_PolicyPaper_Final.pdf), accessed 27 Feb. 2023.

<sup>18</sup> UNESCO, "History under Attack: Holocaust Denial and Distortion on Social Media", *United Nations* (2022), 15, [https://www.un.org/en/genocideprevention/documents/publications-and-resources/22-00041\\_OSAPG\\_PolicyPaper\\_Final.pdf](https://www.un.org/en/genocideprevention/documents/publications-and-resources/22-00041_OSAPG_PolicyPaper_Final.pdf), accessed 27 Feb. 2023.

<sup>19</sup> The UN Office on Genocide Prevention in Collaboration with the Jacob Blaustein Institute for the Advancement of Human Rights, "Combating Holocaust and Genocide Denial: Protecting Survivors, Preserving Memory, and Promoting Prevention", *United Nations* (June 2022), 9–10, [https://www.un.org/en/genocideprevention/documents/publications-and-resources/22-00041\\_OSAPG\\_PolicyPaper\\_Final.pdf](https://www.un.org/en/genocideprevention/documents/publications-and-resources/22-00041_OSAPG_PolicyPaper_Final.pdf), accessed 27 Feb. 2023.

<sup>20</sup> The Permanent Mission of Armenia to the UN and the Global Centre for the Responsibility to Protect, "The Role of Education in Combatting Genocide Denial" [video], United Nations Web TV (9 Dec. 2021), <https://www.globalr2p.org/resources/the-role-of-education-in-combatting-genocide-denial/>, accessed 27 Feb. 2023.

<sup>21</sup> United Nations General Assembly, "Resolution on Holocaust Denial A/76/L.30", *United Nations* (13 Jan. 2022), <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N22/230/12/PDF/N2223012.pdf?OpenElement>, accessed 3 Mar. 2023.



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