

THE INTERNATIONALIST TOOLBOX IN DEFENCE OF COMMON INTERESTS

30-31 AUGUST 2023

FACULTY OF LAW, ECONOMICS AND BUSINESS STUDIES

COORDINATION : ALINA MIRON AND BENJAMIN SAMSON



THE INTERNATIONALIST TOOLBOX IN DEFENCE OF COMMON INTERESTS

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THEME 1 :

STRATEGIC LITIGATION CONCERNING MASS CRIMES

THEME 2 :

UNILATERAL “SANCTIONS”: DECENTRALISED REACTIONS
TO VIOLATIONS OF JUS COGENS OR A TOOL FOR PROJECTING
POWER ?

THEME 3 :

STRATEGIC ENVIRONMENTAL LITIGATION

THEME 1 :

STRATEGIC LITIGATION CONCERNING MASS CRIMES

Coordination : Bérangère Taxil and Coralie Klipfel

Salle du Conseil

This theme is organised in conjunction with the “[Sexual violence and childhood in war](#)” research project (VSEG, 2022-2025) funded by the French National Research Agency (ANR)

2-3:30PM. WORKSHOP 1.

TAKING LEGAL ACTION – *OPENING THE PROCEEDINGS TO THIRD PARTIES*

CHAIR : Bérangère Taxil and Béatrice Bonafé

OPENING REMARKS : “Strategies of Third Countries and Private Players in Making Countries More Accountable : What Questions Should be Answered?” Coralie Klipfel

DISCUSSANTS : Beatrice Bonafé, Yuval Shany and Luke Vidal

Discussion 1. Prosecution, Before Which Third-Party Fora and by Whom?

- ◇ “The Litigation Strategies of Third-Party States Faced with Mass Crimes in Armed Conflicts” **Aude Brejon**

Discussion 2. The Strategies of Non-State Actors in the Fight Against Impunity for Mass Crimes

- ◇ Actions of the Dr. Denis Mukwege Foundation and Presentation of the “Guidebook on State Obligations for Conflict-Related Sexual Violence” **Katrien Coppens**
- ◇ Actions of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) **Maria Pimentel Biscaia**

3.30-5PM. WORKSHOP 2.

COMPENSATING DAMAGE – *“EN ROUTE POUR LE MILLIARD” : WHAT REPAIRS AND FOR WHOM?*

CHAIR : Bérangère Taxil and Olivier Corten

OPENING REMARKS : “Evolution and Diversity of Reparation Methods for Mass Crimes : What Questions Should Be Answered?” Bérangère Taxil

DISCUSSANTS : Olivier Corten, Erin Farrell Rosenberg and Pierre-Olivier Savoie

Discussion 3. Compensation for Victims of Mass Crimes

- ◇ “From Determining to Distributing Reparations to Victims Of mass Crimes” **Agathe Niveleau**

Discussion 4. Interim Reparations, Anticipated Reparations: When to Compensate, What to Compensate, Who to Compensate?

- ◇ Global Survivors Fund (GSF), “Co-Creation of Reparation and State Administrative Reparation Programmes” **Esther Dingemans**

THEME 2 :

UNILATERAL “SANCTIONS” : DECENTRALISED REACTIONS TO VIOLATIONS OF JUS COGENS OR A TOOL FOR PROJECTING POWER?

Coordination : Romain Foucart and Daniel Müller

Room 12

This theme is organised jointly with the Jean Monnet UniPaix Centre of Excellence, co-funded by the University of Nantes and the European Union.

2-3:30PM. WORKSHOP 3.

UNILATERAL “SANCTIONS”, TOOLS FOR PEACE?

CHAIR : Samantha Besson

OPENING REMARKS : Romain Foucart

DISCUSSANT : Julie Bédard

Discussion 1. Unilateral “Sanctions” and Multilateralism

- ◇ “Unilateral, Multilateral, and Collective Enforcement: The Role of Sanctions” **Antonios Tzanakopoulos**
- ◇ “Recent Sanctions and Implications for the Rule of Law” **Khawar Qureshi KC**

Discussion 2. The Legality of Unilateral “Sanctions”

- ◇ “Challenges of Legality in a World of Unilateral Sanctions” **Alena Douhan**
- ◇ “Sanctions of Confiscating Frozen Assets from the Perspective of *Jus in Bello*” **Ysam Soualhi**
- ◇ “The War in Ukraine and the Legality of Unilateral Sanctions” **Asada Masahiko**

3.30-5PM. WORKSHOP 4.

UNILATERAL “SANCTIONS” AND THE JUDGE OR THE ARBITRATOR

CHAIR : Catherine Kessedjian

OPENING REMARKS : Daniel Müller

DISCUSSANT : August Reinisch

Discussion 3. Legal Challenges against Unilateral “Sanctions”

- ◇ “The International Court of Justice: false trail or a possible judge of unilateral sanctions?” **Jean-Marc Thouvenin**
- ◇ “May Sanctions be Submitted to Investment Arbitration?” **Gustavo Laborde**

Discussion 4. The Effects of “Sanctions” on Private Relationships

- ◇ “The Effects of Sanctions on International Arbitration: Legal and Practical Considerations” **Ndanga Kamau**
- ◇ “Unilateral ‘Sanctions’: Legal Impossibility or Overriding Mandatory Rules” **Mohamed Shelbaya**
- ◇ “European Sanctions Law as a Possible Threat to the Legal Profession and to the Rule of Law Principles *de Lege Lata* and *de Lege Ferenda*” **Gabriel Lansky and Anna Zeitlinger**

THEME 3 :

STRATEGIC ENVIRONMENTAL LITIGATION

Coordination : Joseph Reeves and Benjamin Samson

Room 13

2-3:30PM. WORKSHOP 5.

STRATEGIC ENVIRONMENTAL LITIGATION :
MAPPING THE DISORDER

CHAIR : Bogdan Aurescu

DISCUSSANT : Makane Moïse Mbengue

Discussion 1. Strategic Litigation for Environmental Protection

- ◇ "Sea-Level Rise: Is the ILC Setting the Bar for Dynamic Interpretation too High?" **Bogdan Aurescu**
- ◇ "Strategic Litigation in National Courts for Environmental Harms Caused by Multinational Companies" **Tibisay Morgandi**
- ◇ "Litigation to Ensure Compliance by the Defendant State with its Climate Commitments" **Elena Lazar**

Discussion 2. Strategic Litigation Against the Environment?

- ◇ "Investment Arbitration: Justice Against the Environment?" **Chin Leng Lim**
- ◇ "The Role of the World Trade Organization's Dispute Settlement Body in Environmental Strategic Litigation" **Georgios Andriotis**

3.30-5PM. WORKSHOP 6.

STRATEGIC ENVIRONMENTAL LITIGATION :
A TOOL FOR ENVIRONMENTAL PROTECTION?

CHAIR : Laurence Boisson de Chazournes

DISCUSSANT : Anne Peters

Discussion 3. The Role of International Justice in Strategic Environmental Litigation

- ◇ "Using Human Rights Rules to Protect the Environment" **Mónica Pinto**
- ◇ "The Proliferation of Advisory Proceedings before International Courts and Tribunals" **Alina Orosan**
- ◇ "The Potential Impacts on the International Legal Order of the future ICJ's and ITLOS' Advisory Opinions on Climate Change" **Lesther Antonio Ortega Lemus**
- ◇ "Interim Measures in the Environmental Context" **Stephen Fietta KC**

Discussion 4. Obstacles to the Development of Strategic Environmental Litigation?

- ◇ "Rethinking Legal Standing in Light of Global Climate Harm" **Joseph Reeves**
- ◇ "Evidence and Causation in Environmental Litigation" **Alexandra van der Meulen**
- ◇ "The Fullness of Full Reparation for Flora and Fauna" **Jason Rudall**

PLENARY SESSION

Amphithéâtre Bodin

5-6.30 PM.

CHAIR :

Diego Colas,
Director of Legal Affairs, Ministry of Europe
and Foreign Affairs of the French Republic

DISCUSSANTS :

Alina Miron,
Professor, University of Angers
Partner, FAR Avocats

Surya Subedi KC,
Professor, University of Leeds, Barrister
(Three Stone Chambers), IDI Member

Jutta Brunnée,
Dean, Professor and James Marshall Tory
Dean's Chair, University of Toronto,
IDI Member

Gerard Niyungeko,
Professor, University of Burundi, former
Member and President of the African
Court on Human and Peoples' Rights, IDI
Member



LIST OF ORGANIZERS AND SPEAKERS

Georgios Andriotis, Director of Legal Publishing, Jus Mundi

Bogdan Aurescu, Professor, University of Bucarest, Member of the International Law Commission of the United Nations, Adviser for Foreign Policy to the President of Romania, former Minister for Foreign Affairs of Romania

Julie Bédard, Partner, Skadden, Arps, Slate, Meagher & Flom

Samantha Besson, Professor, Fribourg University and Collège de France, IDI Member

Laurence Boisson de Chazournes, Professor, University of Geneva, IDI Member

Béatrice Bonafé, Professor, Sapienza University of Rome

Aude Brejon, PhD, University Paris-Panthéon-Assas

Jutta Brunnée, Dean, Professor and James Marshall Tory Dean's Chair, University of Toronto, IDI Member

Diego Colas, Director of Legal Affairs, Ministry of Europe and Foreign Affairs of the French Republic

Katrien Coppens, Executive Director, Dr. Denis Mukwege Foundation

Olivier Corten, Professor, Université libre de Bruxelles, IDI Member

Esther Dingemans, Executive Director, Global Survivors Fund

Alena Douhan, United Nations Special Rapporteur on Unilateral Coercive Measures, Professor, State University of Belarus

Stephen Fietta KC, Partner, Fietta LLP

Romain Foucart, Assistant Professor, University of Angers

Ndanga Kamau, Arbitrator and Founder, Ndanga Kamau Law

Catherine Kessedjian, Emerita Professor, University Paris-Panthéon-Assas, IDI Member

Coralie Klipfel, PhD, University Paris 1 Panthéon-Sorbonne, Post-Doctoral Researcher of the VSEG Project

Gustavo Laborde, Partner, Laborde Law

Gabriel Lansky, Partner, Lansky, Ganzger, Goeth, Frankl & Partner

Elena Lazar, Assistant Professor, University of Bucarest

Chin Leng Lim, Professor, Chinese University of Hong Kong, IDI Member

Asada Masahiko, Professor, Doshisha University, Emeritus Professor, University of Kyoto, IDI Member

Makane Moïse Mbengue, Professor, University of Geneva, IDI Member

Alexandra van der Meulen, Counsel, Freshfields Bruckhaus Deringer

Alina Miron, Professor, University of Angers, Partner, FAR Avocats

Tibisay Morgandi, Assitant Professor, Queen Mary University of London

Daniel Müller, Partner, FAR Avocats

Agathe Niveleau, PhD Candidate, University of Angers

Gerard Niyungeko, Professor, University of Burundi, former Member and President of the African Court on Human and People's Rights, IDI Member

Alina Orosan, General Director for Legal Affairs, Ministry for Foreign Affairs of Romania

Lesther Antonio Ortega Lemus, Chargé d'Affaires, Embassy of Guatemala in the Netherlands

Anne Peters, Director, Max Planck Institute for Comparative Public Law and International Law of Heidelberg, IDI Member

Maria Pimentel Biscaia, Head of UNITAD Gender and Children Crimes Unit

Mónica Pinto, Emerita Professor, University of Buenos Aires, IDI Member

Khawar Qureshi KC, Partner, McNair International

Joseph Reeves, PhD, University of Angers

August Reinisch, Professor, University of Vienna, IDI Member

Erin Farrell Rosenberg, Professor, University of Cincinnati

Jason Rudall, Assistant Professor, Grotius Centre for International Legal Studies, Leiden University

Benjamin Samson, Assistant Professor, Catholic Institute of Paris

Pierre-Olivier Savoie, Partner, Savoie Arbitration

Yuval Shany, Member of the Human Rights Committee, IDI Member

Mohamed Shelbaya, Partner, GBS Disputes

Ysam Soualhi, PhD Candidate, University of Angers

Surya Subedi KC, Professor, University of Leeds, Barrister (Three Stone Chambers), IDI Member

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Jean-Marc Thouvenin, Professor, University Paris Nanterre, Secretary General, The Hague Academy of International Law, Partner, Sygna Partners, IDI Member

Antonios Tzanakopoulos, Professor, Oxford University

Luke Vidal, Partner, Askolds

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AURELIUS COTTA

