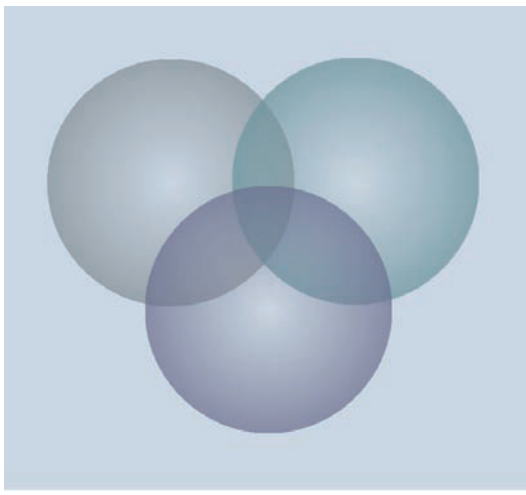
Max-Planck-Institut
für ausländisches und
internationales Strafrecht

International Max Planck Research School on Retaliation, Mediation and Punishment 2010



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IMPRS REMEP 

MAX-PLANCK-GESELLSCHAFT

Preface

The International Max Planck Research School on Retaliation, Mediation and Punishment (IMPRS REMEP) was founded in 2008 and is now entering its third year. Looking back on the development of the research school during the past two years, I am very pleased to see that the school has established a vibrant, high profile research and training environment. It has attracted eleven new, highly skilled PhD students from Canada, China, Costa Rica, Hungary, Latvia, and the Netherlands who have joined the ranks of the "first generation." The international student body now comprises a total of twenty two young, very promising researchers. They are all conducting research on the role of retaliation, mediation, and punishment for the (re)establishment of peace and social order.

2008/09 was characterized by a broad range of workshops and seminars that introduced the students to the various disciplines related to REMEP as well as to relevant theoretical and methodological approaches. All five PhD students based at the Max Planck Institute for Social Anthropology spent up to a year conducting field work in Afghanistan, Cameroun, South Africa, Swaziland, and Sudan, respectively. A considerable number of our other PhD students collected empirical data by conducting interviews and surveys in, for instance, Bosnia Herzegovina, Germany, Guatemala, Honduras, Mongolia, and Taiwan. In addition, our PhD students successfully presented their research results at international conferences and/or published them in peer reviewed academic journals. A key aspect of the school continues to be the REMEP Guest Lecture Series featuring internationally renowned experts, such as Dr. Serge Brammertz, current Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, who addressed the specific challenges of international criminal investigations conducted by international tribunals. A point well worth mentioning is that the IMPRS REMEP has also entered into a partnership with the Bern Graduate School of Criminal Justice in Switzerland this cooperation is sure to provide for an even broader academic exchange among the PhD students and senior researchers.

The booklet, in its second edition, will give you further insights into the research projects on retaliation, mediation and punishment that are conducted by our highly motivated and excellent young researchers who currently form the IMPRS REMEP's international student body. You will also get an idea of the teaching and training program and will get to know the internationally renowned faculty and PhD supervisors.

I hope that you enjoy exploring the IMPRS REMEP and invite you to engage with us in further discussions on retaliation, mediation and punishment.

Prof. Dr. Dr. h.c. Hans Jörg Albrecht

Freiburg, 16 January 2010

Background Information

The International Max Planck Research School on Retaliation, Mediation and Punishment (IMPRS REMEP) is a research and teaching network between the Max Planck Institute for Comparative Public Law and International Law (Heidelberg), the Max Planck Institute for European Legal History (Frankfurt), the Max Planck Institute for Foreign and International Criminal Law (Freiburg) and the Max Planck Institute for Social Anthropology (Halle) as well as the University of Freiburg and the Martin Luther University of Halle Wittenberg.

The IMPRS REMEP is one out of currently 57 International Max Planck Research Schools under the umbrella of and funded by the Max Planck Society for the Advancement of Science. The IMPRS REMEP is unique in its set up, as it builds on the capacities of four institutes and two universities creating synergies necessary to conduct first class interdisciplinary research on the multi faceted and cross cultural area of study on retaliation, mediation and punishment.

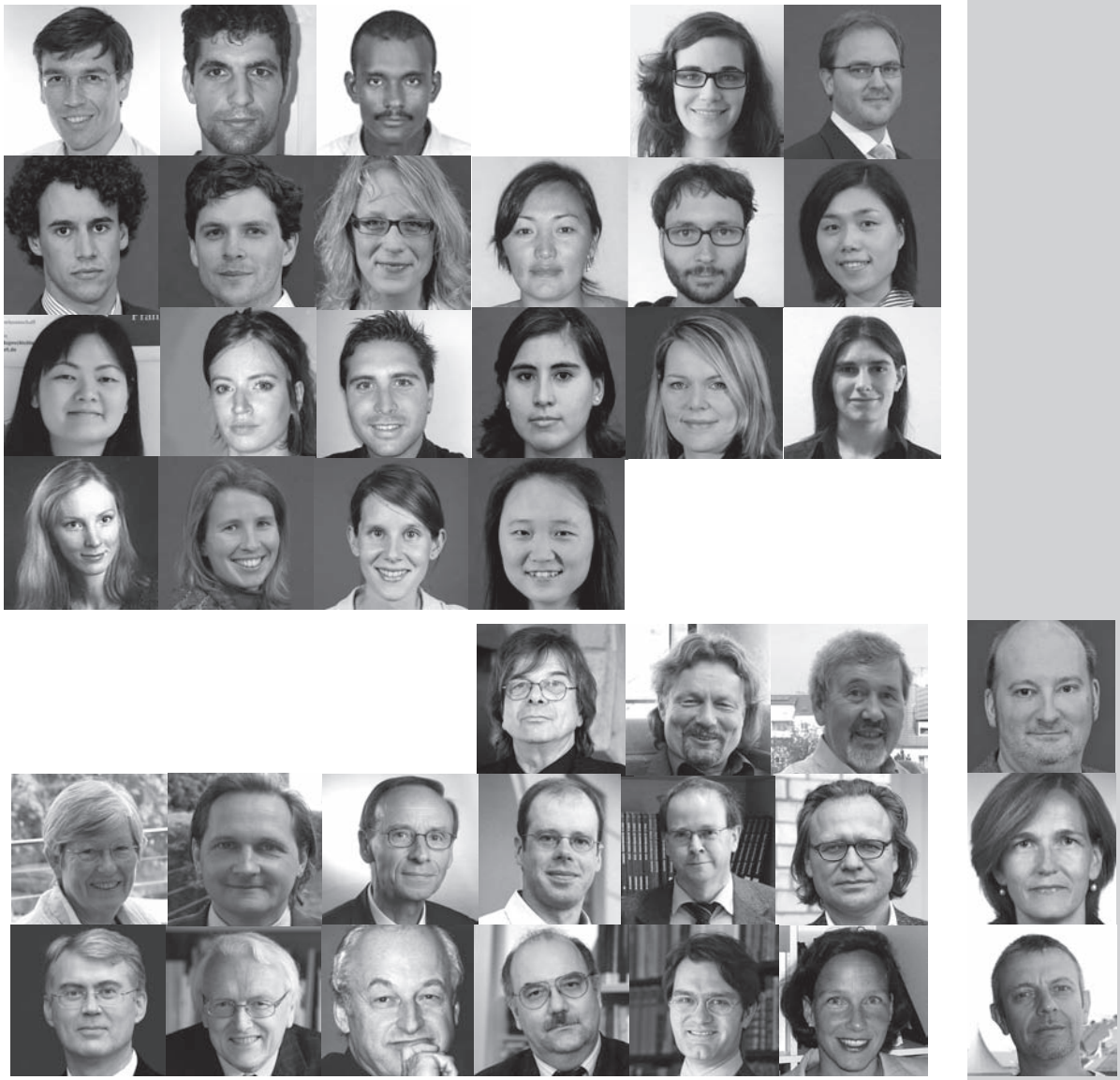
Since the Max Planck Society for the Advancement of Science does not confer PhD degrees and titles, all REMEP students are doctoral candidates at the partner, other German or even home universities as in the case of some of our foreign students.

The new and exciting study of retaliation, mediation and punishment requires a multidisciplinary approach drawing from the research areas of legal history, sociology, social and legal anthropology, criminology and jurisprudence. The IMPRS REMEP provides exactly this framework. Contemporary and historical comparative research combines research and theoretical analysis at the interface of micro and macro levels of social organization. Such a disciplinary constellation allows for an exceptionally broad inquiry into the connections and discontinuities between social and legal developments.

Bringing together so many disciplines and different cultural backgrounds in a research and training network promotes interaction and assessment not only of the current state of knowledge about retaliation, mediation and punishment for the role of social order and peace in society but it will also provide a stimulus for further applied research and innovation in exploring new directions for policy formulations regarding conflict management strategies in the 21st century.

Prof. Dr. Dr. h.c. Hans Jörg Albrecht, Director at the Max Planck Institute for Foreign and International Criminal Law and Speaker of the International Max Planck Research School on Retaliation, Mediation and Punishment

I. Short Outline of the IMPRS REMEP



I. Short Outline of the IMPRS REMEP

The research agenda of the IMPRS REMEP focuses on the role of punishment, mediation and retaliation for social order and peace in society, which constitutes a fundamental question common to the fields of sociology, social anthropology, history, jurisprudence and political science.

In line with this, the social sciences involved in the IMPRS REMEP study social integration and conflict as well as the social causes and consequences of crime, criminal behavior, and in lieu thereof, the development and impact of laws. Alongside the social sciences, the fields of jurisprudence participating in the IMPRS REMEP concentrate on the purpose, structure, and application of criminal law, constitutional law and public international law in addition to the history of social communication about law. Both, social sciences and jurisprudence are incorporated in the IMPRS REMEP to explain the significance of retaliation, mediation and punishment for social order in today's world.

In contemporary society, despite the dominance of the nation state in establishing and maintaining social order, other social actors are also effectively forming and upholding social order. At the same time, in the course of globalization with its worldwide dynamics of interacting, normative projections have to be coordinated within a global background. Moreover, the social agents that participate in the local process of social ordering are no longer acting on the local field alone but interacting with a multitude of others on the global level, and thus being exposed to new problems of governance and legitimacy.

Researchers of the various disciplines involved analyze from their theoretical standpoint and with their methodological canon how the different social agents such as international organizations, the State, the church, non governmental organizations, local communities, families and neighborhoods make strategic use of retaliation, mediation and punishment.

Corresponding to this approach, research of the participating disciplines depicts specific functions of retaliation, mediation and punishment in the varying forms of interactions to establish and maintain social order, in terms of intensity and scope, time and space. This will provide a fertile basis for comparative analysis about the relative significance of retaliation, mediation and punishment in establishing and maintaining social order today. All doctoral research projects address these core questions by engaging in theoretical and empirical research.

The IMPRS REMEP provides excellent integrated and innovative training and research opportunities for around twenty highly qualified German and foreign university graduates who wish to work towards a doctoral degree in the fields of criminology, criminal and international law, legal history, sociology and social anthropology. The IMPRS REMEP sponsors doctoral students for a maximum period of three years, during which students benefit from the outstanding research facilities of the various partner institutes and universities. Embedded in the scientific and social life of his or her partner institute, the doctoral student carries out his or her research project under the supervision of two professors, and is coached by a so called day to day supervisor, who are themselves senior researchers. Each student has a Thesis Advisory Committee, which monitors the progress of the student on a regular basis.

The training offered by the IMPRS REMEP is broad and interdisciplinary. Mandatory scientific workshops are conducted at the various partner institutes several times during the academic year. Internationally renowned researchers and practitioners are invited as guest lectures and keynote speakers. The aim is to provide insights into the distinct disciplines involved and to promote an interdisciplinary approach to the overall research agenda; i.e. doctoral students will acquaint themselves with the empirical methods and theoretical backgrounds not only of their own discipline but also of the other fields of research involved. Soft skills training modules are an integral part of the training concept.

II. Doctoral Students 2010

II. Doctoral Students 2010

Currently, twenty two doctoral students are en rolled with the IMPRS REMEP. The students come from various countries including Austria, Canada, China, Costa Rica, France, Germany, Hungary, Latvia, Mongolia, The Netherlands, Peru, Spain, Sudan and Taiwan. Fourteen of them are located in Freiburg, one in Frankfurt and two in Heidelberg. Another five doctoral students are based in Halle.

Name	Provenance	Supervisor (1./2.)	Project (working title)	Entry
1. Armborst, Andreas	Germany	Albrecht/Sieber	Jihadism and the Rationale of Jihadi Violence	01.04.08
2. Drent, Ab	Netherlands	K. von Benda Beckmann/Schlee	Moving between Laws and Identity	01.04.08
3. Elsayed, Ghefari F.	Sudan	Rottenburg/Schlee	Dispute and Dispute Settlement in Post War South Kordofan, Sudan	01.04.08
4. von Frankenberg, Kiyomi	Germany	Hefendehl/ Albrecht	Consensual Resolution of Conflicts	01.05.08
5. Gebhard, Julia	Germany	Wolfrum/N.N.	The Use of Human Rights Law in International Criminal Justice	01.08.08
6. György, Csaba	Hungary	Hefendehl/ Albrecht	Criminal Law as a Means of Regulation: the Interplay between Legal, Economic and Political Rationalities in the Regulation of Corporate Crime	01.07.09
7. Hiéramente, Mayeul	France	Sieber/Perron/ Wolfrum	International Arrest Warrants in ongoing Conflicts the Legal Framework of Criminal Law Interventions by External Actors	01.10.08
8. Jensen, David	Costa Rica	Albrecht/Perron	Maras: A Study of Their Origin, International Impact, and the Meas ures Taken to Fight Them	01.11.08
9. Kasselt, Julia	Germany	Albrecht/Perron	The Social and Legal Construction of Honour Killings in Germany	01.05.09
10. Kh. Erdem Undrakh	Mongolia	Albrecht/Perron	The Mongolian Penal System from the Perspective of the German Criminal Law	01.04.08
11. Lenart, Severin	Austria	K. von Benda Beckmann/ Rottenburg	Reconsidering Law and Society Dynamics of Conflict Manage ment in Plural Legal Settings in South Africa and Swaziland	01.04.08
12. Lin, Jing	China	Albrecht/ Hefendehl	A Comparative Study on Anti money Laundering through Financial Institutions and their Staff in China, Germany and the USA	01.09.09
13. Lien, Meng Chi	Taiwan	Albrecht/ Hefendehl	Victim Offender Mediation and the Role of the Public Prosecutor A Comparison of Germany, Taiwan and China	01.04.08
14. Mugler, Johanna	Germany	Rottenburg/N.N.	Organization and Administration of Criminal Justice in Post Apartheid South Africa	01.04.08
15. Cañizares Navarro, Juan Benito	Spain	Härter/Masferrer Domingo (Univ. of Valencia, Spain)	The Protection of the Honor and Dignity of the Convicted in Europe Specific Comparative Historical Approach between the Penal Regulations in France and Spain	01.04.08

Name	Provenance	Supervisor (1./2.)	Project (working title)	Entry
16. Bedoya Sánchez, Shakira	Peru	Albrecht/ Koskenniemi (Univ. of Helsinki/ Finland)	The Politics of Order An Analysis of Punishment in International Law	01.04.08
17. Jennifer Schuetze Reymann	Canada	Sieber/Perron	International Criminal Justice on Trial: the Legal Implications of the Referral Practice of Cases from International to National Justice Mechanisms the ICTY/ICTR Experience and its Possible Relevance for the ICC	01.04.09
18. Stahlmann, Friederike	Germany	Schlee/K. von Benda Beckmann	Debating Social Control from Bottom Up An Analysis of the Contested Mandates for Retaliation, Mediation and Punishment at Sites of Dispute Resolution in Afghanistan	01.04.08
19. Inga Švarca	Latvia	Wolfrum/N.N.	The Role of the ECtHR and its Procedure for Transitional Justice in Latvia	01.03.09
20. Carolijn Terwindt	Netherlands	Albrecht/Fagan, Povinelli, Rich man, Fletcher (Co lumbia University)	Criminal Intervention in Major Political Conflicts: The Contentious Process of Prosecutorial Qualification In depth Case Studies of the United States, Spain, and Chile	01.08.09
21. Vujinović, Lejla	Germany	Albrecht/Eser/ Vest (University of Bern)	The Contribution of War Crime Trials to Reconciliation in Bosnia and Herzegovina	01.09.08
22. Zhao, Chenguang	China	Albrecht/Eser	China and the ICC: Status and Prospects from the Perspective of Legal Culture	01.07.09

All personal homepages start with:
http://remep.mpg.de/remep/en/pub/people projects/student body/

Andreas Armborst (*1980) studied Sociology at the Univer sity of Trier and the University of Nebraska in Lincoln, USA (2000 2006). In Lincoln he par ticipated in the Survey Research and Methodology Program of the GALLUP Organization and completed a 4 month internship at the Crime Commission on Law Enforcement and Criminal Justice. Between 2004 and 2006, Mr. Armborst was a research assistant for two institutes at the University of Trier (ASW and ZENTRAS). In 2006 he gradu ated in sociology with his thesis "Criminal behavior in different urban settings." Thereafter he received a Master's degree in International Criminology at the University of Hamburg. In 2008 Mr. Armborst worked for the Research Center on Terrorism and Extremism of the BKA in Wiesbaden as an intern. There he was admitted as a member of the European Expert Network on Terrorism Issues (EENeT).

Since April 2008 he has been a doctoral student at the IMPRS REMEP at the Max Planck Insti tute for Foreign and International Criminal Law in Freiburg i. Br.

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Andreas Armborst

Jihadism and the Rationale of Jihadi Violence

Subject of the study

In terrorist conflicts the adverse actors utilize violence as a means to assert their antagoniz ing views of the ideal social order. Both actors construe a corresponding narrative of how the application of violence is legitimate, functional, and necessary. This research project investi gates the narrative of jihadi violence together with its terrorist dimension.

One reason why terrorist violence is sometimes placed in the realm of megalomania and psy chotics is that most terrorists (arguably jihadist) indeed have a fundamental different worldview and perception of current affairs and are there fore acting on different cognitive premises. However this biased perception is not due to psychological or neuronal deficiencies but is the result of socialization, steady influence of different worldviews and sometimes indoctri nations and ad hoc religious education. Apart from that flawed perception even extremist be havior (terrorism) is rational and consequent.

Jihadism is an illustrative case of contemporary terrorism. It can be described as a recent form of (Sunni) Islamic fundamentalism that oppos es secular influences through violent activism (namely jihad). Jihadi violence can be defined as physical harm against persons committed by actors who thereby execute the doctrine of ji had (according to the heterodox interpretation of jihadism). In other words, jihadi violence is violence motivated through and inspired by the ideology of jihadism. This definition is subjec tive because it is characterized by motivation rather than by clear cut behavioral criteria violence is considered jihadi when the actor claims it to be so. However, this subjectivity is intrinsic to jihadi violence: While orthodox Muslims condemn most aspects of jihadism as heretic, jihadists claim to be the guardians of true Islam.

Research Design

The study analyzes public statements of al Qaeda and affiliated groups with a focus on the question: "What do jihadi discourses say about motivation (cause), justification, and expected outcome/utility (functionality) of violent ac tion?" In a second step the doctrine of jihadism is compared with its actual implementation in regional conflicts by analysing claims of respon sibility for terrorist/military operations.

The empirical material (video/audio speeches, communiqués and statements of AQ and af filiated groups) is sampled from the archive of the SITE Intelligence Group, a commercial intelligence provider that closely monitors vari ous kinds of media from the jihadi movement. Through inductive content analysis (using the software MAXQDA) open and latent patterns in the data shall be identified and described.

Status of the project

Literature from Islamic and oriental studies, anthropology, criminology and terrorist studies has been reviewed in order to draw a descrip tive profile of jihadism and to clarify the term. Likewise, an analytical definition of terrorism has been drafted by compiling relevant contri butions from the literature on the topic.

Armborst, A (2009): A profile of religious fun damentalism and terrorist activism. In: De fence against Terrorism Review, Vol.2, No.1, pp.51 71.

Armborst, A (2009): Jihadism, terrorism and the state. In: Research in Brief (forthcoming).

Ab Drent

Moving between Laws and Identities

The project deals with conflicts between nomadic Fulani and settled populations in three different areas. In the Extreme North of Cameroon many nomadic Fulani practice a relatively constant form of transhumance since approximately 60 years. Though conflicts are frequent and recurrent every year, they are often small in scale, between individuals. Nowadays, farmer pastoralist conflicts are daily reported upon in the news and often framed in terms of religion and ethnicity, turning local tensions into national conflicts. Many policy makers and scientists believe that at the base of these conflicts is environmental scarcity caused by a combination of breakdown of traditional symbiotic institutions, increasing competition and decreasing rain. However, it seems justified to doubt about the linear causal chain between population growth, degradation, and conflicts. The following aspects will therefore be important in my research to analyze conflicts. In some cases, degradation has been uncovered as a policy discourse for settling down mobile pastoralists. The conceptualisation of "conflict"; It is a container term covering a wide range of interactions between pastoralists, from conflict of interest, to competition, to violent conflict on a local to regional scale. There are few studies using adequate definitions and time series data to confirm "the conventional wisdom" that increasing competition leads to more violence (Hussein 1999). Sharing common land can induce a permanent occurrence of low level conflicts to negotiate social integration and a common definition of the landscape like in the case of the Extreme North of Cameroon. In controlled and contained conditions conflict might even be a means of integration into the wider socio political environment of a new area (Dafinger 2002). A critical historical perspective is needed for an adequate definition of conflict parties. Since many traditions have been rather "constructed" and ethnic cultures "reified" during (post)colonialism, ethnic and cultural boundaries should be critically considered and analysed with a historical approach. There will also be in depth local analyses of the present day social relations. In the Extreme North of Cameroon, relationships are often multi stranded and an understanding is necessary to explain the presence or absence of informal institutions of mediation and resolutions. Finally, in contrast to processes of sedentarization, migration of pastoralists has been neglected in (conflict) research. Following the New Rangeland Paradigm (Scoones 1994), mobility is nowadays considered as a functional long term effective way of managing unpredictable resources but it is also a factor in conflicts over access to land between farmers and nomadic pastoralists. Having to recur to forced migration as an avoidance strategy depends for a large part on the degree of success in defining an identity as part of a "strong local group". Inclusion and exclusion processes play an important role in this, allowing for wider or narrower identities within an aspect, like religion (Schlee 2004). Next to the juggling with identities, nomadic Fulbé encounter many (overlapping) legal and normative systems next to their own internal normative one. Like the struggle over inclusion and exclusion, pastoralists and farmers each have their own discourses to justify their acts and interests and their success depends on the selection of the proper forum to back their discourse (Houtzager 2001). Furthermore, countless plural legal versions exist in a single location and nomads have to exploit these on the way.

Ab Drent was born in 1977 in Groningen, the Netherlands. After high school he undertook one voluntary year as a social worker for people with a mental handicap in France, followed by 2 years education.

In 1998 he did his undergraduate degree in Development Studies at Wageningen University. He continued to study Anthropology and the Ecology of Natural Resource Management doing different practical courses abroad.

For his masters he followed nomadic Fulbe in Cameroon during ten months to study their mobility. The resulting thesis was awarded with the Wageningen University Thesis Prize in 2005.

After graduating from university he worked as a consultant for an "Art Science" project in Cameroon and Nigeria, organizing fieldwork and filming.

Since April 2008 he has been a PhD candidate at the IMPRS REMEP at the Max Planck Institute for Social Anthropology in Halle.

albert klaas drent.htm
[Complete URL see p. 11]

Ghefari F. Elsayed

Dispute and Dispute-Settlement in Post-War South Kordofan, Sudan

Ghefari Elsayed (*1970) obtained a Master of Philosophy in Anthropology of Development from the University of Bergen, Norway in 2006. His MA dissertation was entitled "The politics of difference and boundary making among the Nuba and the Baggara of Southern Kordofan State, Sudan".

From 1993 99 he studied economics and sociology at the University of Khartoum, Sudan. Mr. Elsayed possesses ample field work experience (various field trips to the South Kordofan State as part, e.g., of the Christian Michelson Research Institute Programme: Micro Macro Issues in Peace building). His research interests focus on political anthropology, identity, inter ethnic relations and conflict.

Mr. Elsayed has been a doctoral student at the IMPRS REMEP at the Max Planck Institute for Social Anthropology in Halle since April 2008.

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The most important recent development in South Kordofan was the Civil War (1983 2005), which was part of the ongoing Sudanese national state crisis. After the Comprehensive Peace Agreement (CPA) of 2005, new sorts of conflicts developed. It is reported that more than 100 different areas are shaped by conflict or tension all over South Kordofan. Applying customary mechanisms of conflict resolutions is recommended by Civil Society Organisations and international actors like NGOs as part of the crisis management in the disturbed region.

This study focuses on dispute and dispute settlement in post war South Kordofan. Besides dispute resolutions at local courts, where different legal repertoires come together, also other institutions, networks, and narratives relevant to conflict and conflict management will be examined. The customary laws that will be examined have been objects of negation, manipulation, and accommodation during various historical periods, political regimes, and ideological orientations on the local, the national, and the international level.

The last civil war led to the emergence of opposed political units defined by ethnic criteria. The sense of ethnic unity and distinctiveness among the Nuba became much more pronounced during the difficult war years. The political struggle against Arab domination and political Islam reached a decisive moment when some of the Nuba leaders, many of them Muslims, decided to join the Sudan People's Liberation Movement/Army (SPLM/A) in its war against the Islamic government of Sudan in 1984. Afterwards, most of the Nuba became supporters to this secular movement led by southerners fighting to establish the "New Sudan" as a modern, democratic, secular, and federal state. While this war was taken to the north of Bahr El Arab, the government distributed automatic weapons to the Baggara Arabs, presented itself as their protector, and staged all this as its „Islamic Project". In this context the ethnic category „Hawazma" slowly emerged as a political unit engaged in a struggle for power sharing.

While it is hard to establish the exact beginning of state failure in the Sudan, this process became obvious after 1989. Nowadays, the state fails to mobilise the legitimate use of power within its borders. The police and other state institutions are either weak or more or less completely absent, as in South Kordofan. Accordingly, other political units and mechanisms emerge and constitute semi autonomous social fields of non state actors. It is in this context that conflict management and dispute resolution are the persisting questions in South Kordofan today. Part of the problem is that the political units constitute themselves as ethnic units founded on autochthony.

This study aspires to contribute to the current debate on the functions and interrelations of retaliation, mediation, punishment, and reconciliation in a post war situation, where people not able to rely on a functioning state want to and have to find ways of overcoming the wounds they have inflicted upon each other through enormous atrocities. In this context, questions of collective responsibilities are raised and these, in turn, are often defined ethnically. Thereby, tragically, former acts of hostility are after the event attributed to local actors, tribes, and ethnic groups, when in fact they were caused by political parties, religious networks, and the government.

Some of the concrete questions of this study are the following: What exactly are the traditional conflict management mechanisms and how were they developed through out different historical periods? What is the impact these mechanisms have on inter group relations? How does legal pluralism affect these traditional mechanisms? How are these mechanisms relating to the state, identity politics, and competition over scarce resources?

Kiyomi von Frankenberg

Consensual Resolution of Conflicts

Topic and goal

A main question of my project is the impor tance consent may have for resolving penal conflicts in the modern German legal system and in societies without central power. As such, I concentrate on the importance of informal procedural rules for the development of penal order. My work is supposed to reveal structu ral principles and the normative groundwork of consensual negotiations in penal conflicts, where the legal code of practice seems to be unable to cope with the difficulties of commer cial criminal law.

While there is an intense debate on theoretical questions evolving from penal practice, there is little empirical research on plea bargaining in German criminal proceedings. However, since it is known that plea bargaining takes place outside of the terms of the code of criminal procedure, it would be of interest to learn what else provides the normative groundwork for plea bargaining. Therefore, a main purpose of my study is to provide an insight into the pre cise course of plea bargaining negotiations in order to reveal the normative order that under lies plea bargaining proceedings in commercial criminal law.

Hypotheses

Consensual resolutions come to the fore when there are serious difficulties in putting the regu lar criminal proceeding into practice. Obstacles to the regular proceedings can, for instance, result from intricate facts of the case or very complex (commercial) criminal law norms.

In order to enforce criminal law, legal practitio ners might change the pure legal mode of deci sion making in an effort to open the proceeding up to informal communication. Beyond the code of criminal procedure there exists a set of informal norms for negotiating in consensu al decision making. Plea bargaining and other ways of consensual negotiations are a method to impose sentences in intricate legal cases in a more rational way. The frank communica tion atmosphere of plea bargaining provides an opportunity to cope with the complexity of commercial criminal cases without neglecting fundamental legal values of the criminal pro ceeding.

Both in plea bargaining negotiations and in tra ditional consensual negotiations, trust among the participants and mutual respect for the de mands of the legal system and the participants‘ interests are crucial for bargaining consent.

Method

The core of my project is an empirical analy sis of plea bargaining in major German com mercial criminal law proceedings. By means of case related interviews with the participants of plea bargaining negotiations, I want to reveal the normative frame of reference of consensual resolution in these proceedings.

An ethnological secondary data analysis of consensual resolutions of penal conflicts in systems where law is not separated from, but intertwined with religious or political authori ties shall point out structural principles and the importance of consent for dispute settlement, when there is no possibility to make authorita tive decisions.

A comparison of the processes of the finding of consent in traditional and differentiated legal systems serves to show how the enforceability of legal norms is related to the importance of collective affiliations.

Julia Gebhard (*1981) is a research fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany.

Ms. Gebhard studied German Law, Anglo American Law, European Law and Public International Law at the University of Trier (Germany) and the University of Uppsala (Sweden). Additionally, she holds a LL.M. in International Human Rights Law from the University of Lund/ Raoul Wallenberg Institute of Human Rights and Humanitarian Law (Sweden).

In 2004, she worked as a legal intern at the UN International Criminal Tribunal for Rwanda in Arusha (Tanzania). From January to March 2010, she worked as a Visiting Professional at the International Criminal Court.

Her research interests focus on international criminal law and international human rights law, particularly minority rights law, and gender issues in human rights.

She entered the IMPRS REMEP at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg in August 2008.

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[Complete URL see p. 11]

Julia Gebhard

The Use of Human Rights Law in International Criminal Justice

Implementing a Human Rights Approach in International Criminal Law

The topic of this research project is the influence of human rights law in international criminal law. The relationship between international criminal law and human rights law is not established conclusively. On the one hand, international criminal courts and tribunals need clearly defined crimes in order to live up to the principle of nuella poena/nullum crimen sine lege (no punishment/crime without law). On the other hand, the acts punishable under international criminal law are at many occasions clearly influenced by the requirements set out in human rights treaties. The Rome Statute of the International Criminal Court provides several clear examples of this in the so called 'treaty crimes' crimes which were enshrined in international human rights treaties but the customary nature of which was not established beyond doubt.

From this, Bassiouni identifies five different stages of emergence and development of human rights as a logical development from the shaping of shared values, the emergence of non binding commitments with resepct to them and the elaboration of specific normative prescriptions towards enforcement. As the fifth and final stage, he identifies the penalization of violations of these shared values. According to Bassiouni, international criminal proscriptions are the final model of enforcing internationally protected human rights.

Following on from this, the research project examines the practical influence of human rights in the jurisprudence of international criminal courts and tribunals. The underlying research question is what role human rights law plays in the development and practical application of international criminal law. The dissertation scrutinizes the extent of direct "use" of human rights law as interpretational guidance by the respective courts and tribunals, as well as the influence which the idea of human rights protection generally had and still has on the development of international criminal law. Specifically, the areas which are scrutinized are minority rights law, women's and children's rights and gender issues as well as the prohibition of torture. In relation to these, the project examines if and how this influence is mirrored in crimes punishable under substantive international law. The project will focus on the Rome Statute and the judgments and decisions of the International Criminal Court, but it will also consider the jurisprudence of the ad hoc and "hybrid" courts.

Apart from generally examining the interrelation between human rights law and international criminal law (Part I) and creating an inventory of the use of human rights law in the practical application of international criminal law (Part II), the research project primarily aims at pointing out areas in which synergies between international criminal law and human rights law exist and demonstrates how those can be used in order to strenghten the impact of international criminal law (Part III).

Csaba György

Criminal Law as a Means of Regulation: the Interplay between Legal, Economic and Political Rationalities in the Regulation of Corporate Crime

Research topic

The aim of the project is to map the interplay between legal, economic and political rationali ties in the criminalization of corporate crime. The research foresees a criminological analysis of their interaction with the broader theoretical framework provided by the system theory, espe cially the theoretical problem of the „regulatory trilemma“: a legal regulation which entirely dis regards the inherent logic of the economy risks irrelevance; a legal regulation that supresses the self regulatory pontential in economic en tities, such as corporations, destroys the very safeguards of its implementation; and a legal regulation which entirely succumbs to the in herent logic of the economy loses its integrity. Therefore, it is suggested that the rationale of the criminalization of certain econominc ac tivities, drawing the line between criminal and administrative law and sanctions, lies in the maintenance of a particular economic order, and criminal law is considered to be a means of such regulation. This consideration opens up the field for arguments about the effectiveness and feasibility of criminalization much more than in the case of the so called “core crimes”, which are also regarded as breaches of moral norms.

The research being a criminological study on criminal policy and not a critical analysis of le gal norms regulating corporate crime will also incorporate an analysis of the political rationali ties that shape criminal policy and regulation.

Theoretical framework

The broader theoretical framework of the re search is provided by the system theory, espe cially the analysis of the theoretical problems of the “regulatory trilemma” developed by Gunther Teubner, and the empirical and theo retical works on corporate crime and regulation by John Braithwaite.

Methodology

The research involves an analysis on the basis of a few selected case studies (particular crimes: policy concepts, legal regulation, the practice of law enforcement, case law) from both civil law and common law jurisdictions.

Csaba György (*1980) studied law, sociology and philosophy at ELTE University Budapest and at Humboldt Universität Berlin. He graduated with a JD from ELTE University in Budapest in 2005. Thereafter he worked as a researcher at ELTE University, Faculty of Law, Department of Criminology until 2008, and as a university lecturer (2008/09), teaching criminology. 2007/08 he did research at the Institute of Criminological Research at the University of Hamburg on a DAAD scholarship. In 2008 he became assistant professor of criminal law at the Széchenyi University Faculty of Law in Györ, Hungary. Mr. György has published in the field of international criminal law, research methodology, theoretical criminol ogy and social theory. His textbook “Introduction to Criminology” (in Hungarian) is due to be published in 2010.

Besides his academic activities, Mr. György also worked for Amnesty International as a legal advisor in Brussels and Budapest.

He entered the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i. Br. in July 2009.

csaba gyoery.htm
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Mayeul Hiéramente (*1983) studied law, with a special focus on international and EC law, at the University of Hamburg and the Université Paris X Nanterre (2002 2008). He completed a 2 month internship at the Ger man Embassy in Yaoundé, Cam eroon, and worked for four years as an assistant at the Institute for Peace and Security Studies in Hamburg.

After having finished his first state exam (1. Staatsexamen), he entered the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i. Br. in October 2008.

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Mayeul Hiéramente

International Arrest Warrants in ongoing Conflicts – the Legal Framework of Criminal Law Interventions by External Actors

The Arrest Warrants in the Northern Uganda Case and the Darfur Case at the ICC

The dissertation project focuses on a norma tive approach to the (regrettably) often termed "justice vs. peace dilemma", better described as a conflict between the need (or will) to pun ish perpetrators of international crimes and the need to end hostilities, thus preventing com bats and the commission of new crimes. The project aims at establishing normative criteria (with a focus on public international law in general) to resolve the above mentioned con flict where the political framework conditions impede the simultaneous pursuit of criminal prosecution and the implementation of peace agreements. The newly created International Criminal Court (ICC) will be the focus of the dissertation project since in two of the situa tions Northern Uganda and Sudan (Darfur) this conflict occurs, inter alia, due to the on going nature of the conflict. The arrest warrants issued against the Ugandan rebel leader Joseph Kony and the sitting president of the Repub lic of Sudan, Omar Al Bashir, are the source of contentions in the current political and legal debate. The dissertation aims to assess which international obligations are pertinent to the conflict arising from the issuance of these inter national arrests warrants. Even a cursory review of relevant sources reveals conflicting obliga tions and rights. On the one hand, international conventions (like Art. IV of the Genocide Con vention) and customary international law (e.g. punishment of crimes against humanity) set out an obligation or at least a right to punish the main perpetrators, while on the other hand, international law (especially the UN Charter, a number of human rights treaties, as well as the concept of "Responsibility to Protect") favour the prevention of future crimes and hostilities.

The primary aim of the dissertation is to evalu ate whether international law (either in abstrac to or in concreto) favors one of these in these situations contradictory legal obligations or rights. Therefore, the dissertation project will focus on the concept of jus cogens and Article 103 UN Charter and will treat the question of the legal relevance of the concept of "Respon sibility to Protect" in order to show if there is a hierarchy of norms in international law and if this hierarchy is pertinent to the cases exam ined in the dissertation. It will also address oth er aspects of the theory of conflicts of norms.

Based on this analysis, the dissertation pro ceeds with the procedural consequences of the anticipated assessment that there is no valid claim for primacy of the criminal law ap proach in international law. For this reason, the dissertation project will address the concrete decisions which were and are to be taken in the cases of Northern Uganda and Sudan (Dar fur). It evaluates the possibilities de lege lata of the Office of the Prosecutor and the Pre Trial Chamber of the ICC to take into account the normative indicators when deciding if an arrest warrant should be issued (Art. 57 III (a) of the Rome Statute) or withdrawn, or an investigation opened/closed (Art. 53 II (c), III (a) (b) of the Rome Statute). It gives an analysis of the pos sibility of the UN Security Council to act under Article 16 of the Rome Statute or even on the sole basis of Chapter VII of the UN Charter. To conclude, the dissertation will address the legal consequences of the decisions for future national or international criminal proceedings (esp. the doctrine of "abuse of process") and will give a short overview on the feasability of possible compromises.

For this purpose, international conventions, national and international jurisprudence, lit erature and written media sources will be ana lyzed. This will be supplemented by an analysis of non binding international documents and govermental statements in order to explore the content of the relevant customary international law based on a "mordern positivist" approach.

David Jensen

Maras: A Study of Their Origin, International Impact, and the Measures Taken to Fight Them

The maras, once only an immigrant street gang in Los Angeles, have increasingly gained attention in the media and with the national authorities of the United States, Central America and Canada. The authorities are concerned about the maras: not only are they extremely violent and committed to crime (mainly drug trafficking, extortion and violent crimes), but they have also managed to go a step further to develope a sort of international criminal network with between 70,000 and 500,000 members.

In the mid 1990s, as most of Central America had finally overcome years of civil war, the new democracies faced the consequences of their military era. An unfavourable economic situation, social crises and fragile political stability were some of the problems they had to confront both then and today.

In addition to these problems, in 1996, the Congress of the United States of America passed a law that simplified the deportation of non citizen delinquents to their country of origin. Around 80% of the 500,000 deported delinquents came from Latin American countries namely Jamaica, Honduras, El Salvador, Colombia, Mexico, Guatemala and Dominican Republic. This resulted in a massive deportation of maras gang members to Central America, where they eventually reorganized and continued their criminal activities.

The Latin American countries, in contrast with the United States, lacked the necessary resources to combat the growing number of gang members (the so called mareros), thus giving place to their proliferation and losing partial control of some cities to their domain.

As the internal security sunk to levels comparable to the period of the civil wars in many places, the maras issue became a major subject in political campaigns.

In 2003, the Honduran government modified the penal code to prohibit and punish the mere membership in a gang with between six and twelve years in prison. In addition, as part of Operación Libertad (Operation Liberty) large numbers of military and police units began patrolling the streets and carrying out raids in deprived areas.

Likewise, the government in El Salvador first implemented in 2003 the Plan Mano Dura (Hard Hand Plan), which also provided law enforcement through military and police deployment and raids and a more severe penal law against gangs, and then, in 2004, the Plan Súper Mano Dura (Super Hard Hand Plan), which emphasized the importance of prevention, rehabilitation and social reintegration, but also intensified the persecution of the maras.

The Guatemalan government has not yet implemented an anti maras law, it did, however, make the fight against the maras one of its priorities. Along with Plan Escoba (Sweep Plan), which resulted in mass arrests, complementary preventive measures were taken e.g. the program Desafio 100 (Challenge 100), which aimed to reintegrate former gang members.

This research is devoted to the analysis of the mara phenomenon, of how street gangs can evolve into international crime organizations, and of the measures taken against the maras, which are mainly those of severe punishment and repression. In order to perform this analysis, the investigation will firstly focus on the origins, structure and activities of the maras with the intention of understanding the causal nature of the problem. It will then study the measures that were implemented against the maras at the national and international level and their consequences with respect to the justice system, human rights and the maras. In doing so, it will help understand the role punishment plays in the modern world.

From 2000 to 2005 Mr. Jensen (*1982) studied law at the University of Costa Rica, where he was conferred the Bachelor's (2003) and Licentiate's (2005) degree with honors in both cases. During this time he also worked as a research assistant in Legal History and served a six month internship at the Public Defense Office for Juvenile Crime.

In 2006 he was admitted as a student to the Master of Law Program at the University of Freiburg.

Mr. Jensen is interested in juvenile delinquency, organized crime, and crime prevention.

He entered the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i. Br. in November 2008.

david jensen.htm
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Julia Kasselt (*1980) studied law at Humboldt University from 2000 to 2006. Specialised in Criminology, she worked as an intern at the Department of Criminology of the Max Planck Institute for Foreign and Inter national Criminal Law (MPI) in Freiburg in 2006.

Afterwards, she obtained a Master`s degree in International Criminology (M.A.) at the Uni versity of Hamburg. During her studies of Criminology, Ms. Kas selt completed an internship at the State Criminal Police Office of Hamburg (LKA Hamburg), where she collaborated with the Department of Victim Protection and Crime Prevention.

In April 2008, she returned to the MPI as a researcher in order to contribute to a criminological study, entitled "Honour killings in Germany, 1996 2005". Working on this issue, she devised her dis sertation thesis proposal for the IMPRS REMEP and entered the program at the Max Planck Insti tute for Foreign and International Criminal Law in Freiburg i. Br. in May 2009.

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Julia Kasselt

The Social and Legal Construction of Honour Killings in Germany

Honour killings are domestic homicides of mainly females who, from the perpetrator's point of view, have violated behavioural norms concerning sexual chastity and submission un der patriarchal rule, for instance by having an intimate relationship before marriage, by get ting divorced from her husband or merely by acting and dressing like a western woman. In the perception of the offender/s, the killing serves to restore the family's honour which has been tarnished due to the victim's conduct. In many cases, the act is planned collectively by the whole family of the victim and, some times, the killing is executed by multiple fam ily members. The perpetrators are traditionally male family members, but the female relatives are often also involved in the planning and they usually help to cover up the killing.

The tradition of honour killings originates from ancient tribal customs and is still practiced in some regions of the world, where the concept of honour remains of particular importance to day, for instance in parts of Pakistan, Turkey, Afghanistan or Jordan. However, the incidents also occur in many western countries, such as Great Britain, Canada or Germany, within im migrant communities.

From the perpetrator's perspective, the killing is not a crime but a legitimate sanction for the victim's (mis)conduct, according to the concept of honour. At times, the killing is even seen as a normative response: the offenders often per ceive social pressure to execute the killing. Consequently, the legal codes of several states, such as Jordan or Syria, contain clauses which allow complete or partial defences for perpetra tors who have killed due to reasons of honour.

From the western perspective, however, the honour killing tradition seems to be archaic and cruel and, therefore, the perpetrators are punished severely. Much like in other Europe an countries, such as Great Britain or Sweden, honour killings have received increasing atten tion in Germany in recent years, particularly against the backdrop of discussions about the integration of immigrants, notably from Islamic countries. In particular, the incidents are of ten used to point out the differences between German society and the immigrants. But the question is whether the killings are actually as different as killings in the context of domestic violence, since a lot of lethal domestic violence in western societies is directed against women as well, often motivated by patriarchal norms of (sexual) fidelity or triggered by the female partner's intention to separate. There seems to be a large grey area between traditional honour killings and "ordinary" intimate partner killings, which also occur in western societies.

Despite the increased public attention, cur rently there are little empirical insights regard ing these incidents in Germany. Furthermore, a comprehensive definition of honour killings and its differentiation from other forms of domestic killings, like intimate partner killing, as well as from blood feud, is yet far from formulated.

Given this situation, the dissertation project in tends to identify and systematically analyse all cases of lethal violence reported as attempted or accomplished honour killings in Germany in the period between 1996 and 2005 on the basis of prosecution files. To this end, the study aims to contribute to devising a more precise defini tion of the term "honour killing" and to describ ing the characteristics of the phenomenon in Germany. The empirical data contained in the prosecution files are recorded in an extensive database and transformed into a number of quantitative and qualitative variables regarding the victim offender relationship, the case histo ry as well as the motive in order to reconstruct the cases.

Besides the rather descriptive part, a second focus of the study will be on analysing the find ings to examine if and in which way the honour component was included in the considerations of the judges.

Kh. Erdem-Undrakh

The Mongolian Penal System from the Perspective of the German Criminal Law

The main characteristics of the present Mon golian criminal law and sanction system were developed during the 1920s. From that time onwards some important developments of the legal practice in Mongolia have been made by way of recreation, changes and reforms.

The new starting point for questions of crimi nal law and of criminology respectively and also the resulting need for research were generated in the last two decades in connection with a radical change in society, politics and the economy. Such changes include, for example, the political turn of events after the collapse of the Soviet Union as well as the transition to a multi party system and parliamentary democ racy at the beginning of the 1990s. Mention must also be given to questions surrounding the economic transformation from planned econo my to free market economy, the new kinds of criminality that have emerged, the rising prob lems posed by alcohol and drugs, as well as the growth in poverty and the perilous situation of street children.

The first democratic Constitution of 1992 pro vided the basis for Mongolia to become a mod ern state, which was "democratic, in accord ance with the rule of law and respecting human rights." Since that time the political discussion about law in Mongolia has referred to a modern criminal law, which is looking forward and ori entated to the values of a constitutional state.

Criminal law sanctions had to be developed in accordance with the rule of law, which means to be up to the standards of humanity and of a constitutional state. The principles of pro portionality and of humanity were observed. During the phase of transformation the Crimi nal Code of 1990 1992 brought substantial amendments, which do not yet meet or cannot reach the standards of modern international law. There is an urgent need for a new criminal code, which would bring about a revolutionary reform of criminal law.

The Mongolian criminal law and sanction system have been fundamentally changed by the legislative reform of the criminal law of 01.02.2002. Twelve years were needed to cre ate a new "non socialist" criminal code.

The goals of this study are, first of all, to de scribe and to analyse the development of the Mongolian criminal sanction system. After wards perspectives will be pointed out concern ing suggestions for regulation and attempts of reform. The study also takes a comprehensive look at the historical development of the sanc tion system. The conception of the Mongolian criminal policy is taken as a basis to discuss and analyse in a normative and empirical way those elements of the sanction system which must be criticised, where changes are possible or if changes have already happened. Also the implementation in practice will be examined. Simultaneously empirical research will be con ducted using publicly available statistics and court files. A method of secondary analysis will be applied to the existing material and dates that refer to this theme. A survey about the sorts of punishment, the types of sentences, the abolition of death penalty etc. will also take place.

Kh. Erdem Undrakh (*1977) studied (1994 1998) at the Law School of the National University of Mongolia. She worked as a legal employee for the General Intelligence Agency of Mongolia until 2000.

From 2001/02 to 2003/04 she undertook and graduated from the Master of Law (LL.M.) program at the University of Freiburg. After wards she worked for three years as a Long Term Law Expert in the GTZ Project in Ulaanbaatar.

Her research interests and goals are criminal law, criminology and criminal sanctions.

Since April 2008 she has been a PhD candidate of the IMPRS REMEP at the Max Planck Insti tute for Foreign and International Criminal Law in Freiburg i. Br.

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Severin Lenart (*1980) graduated in Social & Cultural Anthropol ogy at the University of Vienna in 2007. Apart from that he attended courses in African as well as Con flict Studies at the Universities of Vienna and Utrecht. Severin Lenart was an intern at the Social Anthropology Research Unit at the Austrian Academy of Sciences in Vienna where he was the editorial director of the final brochure of the Wittgenstein Research Project 2001 2007. Four months of field work in different parts of South Africa in 2005 and 2007 resulted in several scientific and popular publications mainly on social transformation and land rights.

Mr. Lenart has been a PhD can didate of the IMPRS REMEP at the MPI for Social Anthropology in Halle/Saale since April 2008 and conducted his fieldwork in South Africa and Swaziland from October 2008 to October 2009.

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Severin Lenart

Reconsidering Law and Society

Dynamics of conflict management in plural legal settings in South Africa and Swaziland

The project analyses and compares different processes of conflict and dispute management in rural and peri urban contexts of diverse eco nomical, political and legal systems in southern Africa.

The field sites are located, on the one side, in the lowveld area of South Africa, namely the small town of Barberton and its surrounding areas including a recently re established 'tradi tional' Swazi chiefdom and, on the other side, in Swaziland in the logging town of Piggs Peak and the rural area of Mpofu / Mkhuzweni, re spectively.

Since the early nineties the South African so ciety has undergone a fundamental socio polit ical transformation from apartheid to a liberal democracy with an accent on human rights and gender equality among other things. On the contrary, Swaziland has politically remained Af rica's last absolute monarchy with a king hold ing supreme executive, legislative, and judicial powers. But in socio economic aspects the tiny kingdom has also changed dramatically. HIV/ Aids, national and international migration, a lack of food security, and above all, a high crime rate affect nearly every aspect of life in both countries. Nonetheless, in this context, con cerning the political economy of southern Af rica it is interesting to understand how systems of liberal democracy and absolute monarchy manifest themselves in the different processes of conflict management on a local level.

Through a rich ethnographic account on (re constituted) 'traditional' institutions and many other dispute settlement forums ranging from families and community councillors to a number of state courts whereby the role and range of authority are far from obvious and highly contested issues the project exam ines individual and collective strategies for the achievement of various objectives such as res titution, support, and legitimacy. The focus is further broadened through the inclusion of lo cal case studies of developmental community projects and their internal and external conflic tive dynamics. With the discussion of current challenges through illegal gold mining and its socio legal implications a comparative frame work for the analysis of the 'making' of liveli hood strategies or economies and their related conflict scenarios is provided.

The different modes used in specific conflict settings comprise elements of retaliation and punishment, mediation and avoidance in the distinct but interrelated phases of disputing. Thereby a special focus is laid on the profound dynamics of witchcraft and witchcraft accusa tions as, inter alia, a prominent mode of disput ing, a source of conflict in its own right, and a way of conceptualising social conflict and real ity.

Further the use and linkage of transnational human rights talk, religious concepts of moral ity, and popular ideas of justice by the various actors involved are addressed. By taking the complex historical and contemporary socio eco nomic and political configurations into account and thereby discussing the different levels of scale, the project provides a thorough analysis of human agency, procedure, and the spatial temporal dimensions of normative elements of social ordering in diverse African contexts.

Jing Lin

A Comparative Study on Anti-money Laundering through Financial Institutions and their Staff in China, Germany and the USA

Law, Institutional Governance and Professional Ethics

While money laundering is increasingly turning into a serious global problem, anti money laundering measures have become an important topic both in academic circles and in practice. Considering its serious harm to political and economic orders, anti money laundering measures should focus not only on ex post facto punishment, but also on ex ante prevention; not only on formal social control, but also on informal social control. Due to their important role in a country's payment system and the transfer of financial assets, financial institutions have become an important channel for money laundering. Therefore, financial institutions are at the heart of anti money laundering strategies and their staff members are on the anti money laundering front line.

Thus, from the perspective of financial institutions and their staff, this project focuses on the role of law (formal social control), institutional governance (informal social control) and professional ethics (self discipline). In this study, a combination of theoretical and empirical research methods, especially case studies, will be adopted. Money laundering is not only a legal issue, but also an economic, political and social problem. Therefore a cross disciplinary perspective is necessary and possible. Thus this dissertation is based on criminology, involving economics, sociology, psychology and politics.

The role of law as formal social control: The main feature of the criminal law, which is also called the last resort of social order, is negative enforcement, i.e., ex post facto punishment. But along with the punishment effect, law also has a deterrent effect (deterrence theory). The participation or assistance of financial personnel in money laundering might cause more severe criminal penalties than general. Even negligence may lead to administrative penalties or administrative sanctions. In this part, provisions involving anti money laundering, particularly provisions involving obligations and penalties of financial personnel, will be observed. Based upon comparative studies on the scope and intensity of penalties in China, Germany and the USA, the role of law will be discussed, by observing the status of money laundering in these countries.

The role of institutional governance as informal social control: Different from ex post facto punishment, institutional governance is aimed at ex ante prevention of money laundering. From the cost benefit perspective, institutional governance has obvious advantages as informal social control. Rooted in different cultures, especially various professional cultures, similar institutional governance mechanisms might have different implementation results in different regions. Hence, besides the theoretical research, more importantly, empirical study methods will be employed in this section.

The role of professional ethics as self discipline: On the basis of institutional governance, professional ethics will also be discussed. We know that in the same institution and under the same institutional governance, different staff members still display different anti money laundering performance. Here I think the main reason leading to this difference is professional ethics. The differences in professional ethics can be examined from two aspects, i.e., on the one hand, is that of differences in vocational skills; on the other hand is that of differences in professional spirit and attitude. The former can be improved through training, but the latter involves the individual self discipline, which seems hard to be achieved through institutional training. Is this true? According to one of the most popular Chinese proverbs, one who stays near vermilion gets stained red, and one who stays near ink gets stained black. From this view, perfect institutional governance and internal control mechanisms help to create proper professional spirit and attitude. Further analysis of this point will be made in this section.

Jing Lin (*1982) completed her undergraduate degree at China University of Political Science and Law in Beijing (CUPL, 2001 2005). In 2006 she was awarded a Certificate of the Legal Profession Qualifications by the Chinese Ministry of Justice. She continued to study law at the Chinese German Institute for Legal Studies at CUPL (2005 2009) and the University of Freiburg (2007 2008, DAAD scholarship) and was granted degrees of Master of Laws (LL.M) in both China and Germany.

She worked as a visiting student researcher from April to July 2007 at the University of Freiburg, sponsored by the European Commission within the framework of the EU China European Studies Centre Program.

Her research interests focus on Juvenile Criminal Law, Commercial Criminal Law and Human Rights Law.

Since September 2009 she has been a PhD candidate at the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i.Br.

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Meng-Chi Lien

Victim-Offender Mediation and the Role of the Public Prosecutor

A Comparison of Germany, Taiwan, and China

In Ger,many, the implementation and legisla tion of Victim Offender Mediation (VOM) for adults followed the pattern of juvenile justice. Two significant regulations in the Criminal Procedural Code are sections 153 and 153a, which entrust the public prosecutors with discretionary power to dismiss a case or post pone indictments with or without conditions. Furthermore, in 1999, sections 155a and 155b were introduced to promote the application of VOM in criminal procedures. Today VOM has undoubtedly become an essential part of the German criminal justice system.

In the meantime, much empirical research has been conducted in order to evaluate the imple mentation of VOM. All of the research findings reveal that most VOM cases in Germany are re ferred by public prosecutors during the prelimi nary proceedings (about 80%). It is obvious that the public prosecutor plays a very important role in the implementation of VOM. However, after comparing the estimated total number of VOM cases in Germany (about 25,000 per year) and the public charges brought by the prosecutors (approximately 550,000 cases), researchers agree that VOM is not carried out exhaustively in Germany, and it still only plays a marginal role in the daily work of public prosecutors.

Unlike in Germany where mediation is a rela tively new concept, in the Chinese culture mediation is the traditional means for dealing with interpersonal conflicts. Therefore, Taiwan and China, in spite of different ideologies, have developed similar systems of mediation within administrative units at lower levels. The "Me diation Committee" (Tiaojie weiyuanhui) in Taiwan and the "People's Mediation Commit tee" (Renmin tiaojie weiyuanhui) in China have settled many civil cases out of court success fully for several decades. That said, mediation in criminal matters was relatively neglected. A decisive reason for this are the severe restric tions placed on VOM. In Taiwan, according to the "Act of Mediation in the villages, towns and cities", the Mediation Committee can only mediate a criminal offence which may only be prosecuted upon complaint. In China, as of 1989 the People's Mediation Committee can merely mediate civil disputes. In recent years VOM drew much attention both in Taiwan and China, because it corresponds with the similar criminal policy of both governments: it is mild on minor offenders and severe on serious of fenders (Principle of "Kuanyan xiangji"). The point is that public prosecutors have to spend more time and energy when dealing with seri ous crimes. For the minor offenses, VOM can be used to settle a case out of court. In contrast to the German prosecutors, the Taiwanese and Chinese prosecutors have made a great contri bution to the revival of VOM in their countries. As the main promoters they have not only de manded the loosening of legal constraints sur rounding VOM, but have also displayed great interest in applying it.

What factors lead to the complete contrary at titudes of the public prosecutors towards VOM in these three countries? In other words, why are the German public prosecutors thought to be too cautious about referring cases to VOM agencies, while the Taiwanese and Chinese public prosecutors display great interest in its application? This sharp contrast motivates the present comparative research project.

In light of the fact that public prosecutors in these three countries play a decisive role in the application of VOM, the key to increasing the frequency of VOM must lie in offering the nec essary conditions to facilitate the application of VOM by the public prosecutor. Of the consid erable number of studies of VOM already con ducted over the past few decades, it is surpris ing that only a few have sought to address the problems and needs from the view of the public prosecutor. This research, therefore, intends to examine the required preconditions for the ex tensive application of VOM from the viewpoint of the public prosecutor.

Meng Chi Lien (*1976) studied law at the National Taiwan University in Taipei from 1994 to 1998. In 2002 she passed the National Bar Exam and the National Exam for Judges and Prosecutors in Taiwan. In June 2005 she completed her Master's degree at the National Taiwan University. Her thesis was entitled "Prohibition of Evidence Obtained from Supervising Telephone Communication" and compared research between Germany and Taiwan.

Since then Ms. Lien has been particularly interested in German procedural law. In April 2006 she was admitted as a doctoral stu dent to the University of Freiburg i. Br.

From April 2008 onwards she has been a PhD student at the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i. Br.

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Johanna Mugler

Organization and Administration of Criminal Justice in Post-Apartheid South Africa

Powerlessness and the inability to contain violence, maintain social order and hold those who break the law to account, is often the main point of criticism of so called 'weak' or 'failed' states. It was widely believed that, after the country's much heralded political transition in 1994, the South African government inherited a well functioning, 'strong' criminal justice system. This optimistic expectation however failed to materialise. The institutions, which were central to the maintenance of the repressive Apartheid regime, turned out to be weak and inexperienced in policing and controlling the country's new democratic order.

In many countries where dysfunctional states have been studied, social anthropological studies have, for the most part, focused on the old and new plurality of policing and justice structures outside the state system, which have often sprung up in an attempt to meet the resultant needs of the citizenry. This PhD project studies the less explored everyday working and functioning of the South African Criminal Justice System. Three fields of enquiry emerge as material:

1. The need to transform: how criminal justice innovations get translated into practice?
Since 1994 the South African state has embarked on a wide range of initiatives aiming at transforming the administration, implementation and substance of state justice inherited from the Apartheid government. These initiatives aim to improve, through legal, technological and administrative innovations, the acceptance, accessibility and efficacy of the legal system. This project studies empirically the translation of three justice innovations into practice: the 'Community Court Project', the 'Community Prosecutor Project' and the 'Restorative Justice Project' all globally circulating fashionable justice innovations which have been developed for and in other jurisdictional contexts. How do criminal justice actors implement those ideas in courts in areas where crime rates are high and where state ordering institutions, until recently, were simply absent or inaccessible and perceived as unlawful and illegitimate? How is implementation of the novel into the established, planed, organized and managed?

2. Pressure to deliver: how do criminal employees become responsible and criminal justice institutions accessible and accountable?
Despite the South African government's efforts to transform its organizations and criminal justice institutions, it receives constant criticism for being ineffective, dysfunctional and weak. The pressure to hold state actors accountable grows in a climate where citizens are unsatisfied with the state's service delivery, and trust in state institutions and the integrity of state personnel is historically low. The South African government like many other governments worldwide increasingly confronts the growing demand to demonstrate accountability with formal quantitative measures. This PhD project empirically explores the causes and effects of the increasing association of accountability with quantification. How do performance indicators, court and crime statistics effect the way criminal justice organizations work and do their work? How does it shape criminal justice employees' perception of their profession and the exercise of their judicial discretion? How does the authority of law interact with the authority of numbers? How does the pressure to perform in accordance with quantifiable measures effect the ability of an institution to transform and innovate itself?

3. Desire for legitimacy: through innovation and accountability?
In a third inquiry I explore how the South African criminal justice institution's efforts to innovate itself and make itself accountable effect its general ability to control and maintain social order and the new democratic state's general search for legitimacy.

Johanna Mugler (*1979) studied from 2000 until 2006 Social Anthropology and German Literature at the Ludwig Maximilians University in Munich, at the University of Cape Town and at the Martin Luther University in Halle. She graduated in 2004 with a postgraduate Bachelor of Arts (Honours) Degree in Social Anthropology from the University of Cape Town and obtained in 2006 a Magister Artium in Social Anthropology from the Ludwig Maximilians University in Munich.

In 2006 she joined the Graduate School Society and Culture in Motion at the Martin Luther University in Halle. Since April 2008 she has been a doctoral student at the IMPRS REMEP at the Max Planck Institute for Social Anthropology in Halle.

Her research interests are anthropology of law/criminal justice/private and state security/organizations/bureaucracy. Anthropology of violence/crime/reciprocity.

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Juan B. Cañizares Navarro

The Protection of the Honor and Dignity of the Convicted in Europe

Specific comparative historical approach between the penal regulations in France and Spain

All European countries prohibit the infliction of inhuman or degrading penalties, and France, Germany and Spain provide examples of these protections to ensure the basic rights of people to honour and dignity. No Spanish constitution prior to today's Constitution of 1978 regulated this issue, though this does not mean that up until 1978 Spanish constitutionalism did not protect this basic human right. Nevertheless, it is not the only case of non regulation: Germany provides a further example as its current con stitution does not have an express impediment of imposition of inhuman or degrading penal ties, thus it precisely demonstrates this option without at all damaging the protection of the fundamental rights of the people to honour and dignity in the mentioned country. Thus, even when a country does not have an express prohi bition, the impediment of infliction exists in all the European countries.

The aim of this project is focused on the "in human or degrading penalties", and not on the crimes. As the commitment of every crime could breach the honour and dignity of the af fected person, the vagueness, the extent and the concrete literature written about this content obliges us to limit the object of our research project to focus specifically on the penalties. We will therefore focus on the honour and dig nity of the people that have been found guilty of perpetrating an offence, as they belong to a category of people whose honour and dignity can be easily violated due to their guilt, taking into account that everybody even those people found guilty is protected by the existence of fundamental and human rights, among which honour and dignity are included. Thus, once a person has been found guilty, the only legal mechanism through which his or her honour and dignity can be damaged is the applied pen alty to this person.

We are researching the penal content gathered in the different legal regulations of European countries, focusing particularly on the protec tion of honour and dignity of the convicted and its real influence on the French and Spanish criminal law traditions from the 18th century until the First World War. Due to the interdis ciplinary content of the program we belong to, first we will focus our research on the legal and anthropological use of the notion of honour in all these countries through linguistic, norma tive and the scholarly sources, investigating and comparing afterwards both the literature and the national regulation of the penalties that were considered dishonourable, harmful or shameful for the convicted people according to the explanation given about the content of honour.

Juan B. Cañizares Navarro (*1984) studied law from 2002 07 at the Universitat de València Estudi General, Valencia. He received grants to study at the University of Nottingham in 2005 06.

In 2009, Mr. Cañizares Navarro participated as a speaker at the conference "Ehre und Recht" with a lecture which title was "Evolution and usage of the notion of honour by the Spanish literature and Penal Codes in the 19th century." The conference took place in Stuttgart Hohen heim.

In 2008, he presented a research project by Professor Dr. Masfer rer Domingo and Professor Dr. Sáinz Guerra about the history of terrorism in Spain at the Max Planck Institute for Eu ropean Legal History, Frankfurt/ Main.

In 2007 08, he was a lecturer of Constitutional Law and Admin istrative Law to competitors for civil service.

Mr. Cañizares Navarro entered the IMPRS REMEP at the Max Planck Institute for European Legal History in April 2008.

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Shakira Bedoya Sánchez

The Politics of Order

– An Analysis of Punishment in International Law

The sudden 'boom' of global criminal justice and the subsequent extension of principles and procedures of criminal law into the inter national realm is part of a broad historical era in which international law has turned to ethics. As such, punishment, as a legal discourse, is built upon a universal and anti formalist moral vocabulary, which currently functions on the premises of overwhelmingly Western ideas of criminal justice and international politics.

Arguments in support of international criminal justice often refer to its role in "deterrence", "national reconciliation" or recovering the "dig nity of the victims". These justifications remain ambiguous, as they are rarely articulated with sufficient concreteness so as to measure their implementation in practice. First of all, it is not always clear that the pursuit of criminal trials is the most efficient means to bring about peace and national reconciliation. As many diplomats have argued, the prospect of trials may aggra vate conflicts and make settlement more diffi cult. In national societies, criminal law is usu ally justified by reference to the deterrent effect criminal punishment is expected to have. It is very unclear if any such deterrent effect may be assumed at the international level especially if the trial is held by foreign judges at a geographi cally distant location. Studies on the attitudes of populations in the former Yugoslavian terri tory do not give much support to the view that an international trial might have a significant positive effect for the political reconciliation in that territory.

This research project sets out to describe and provide an understanding of the current proc ess of criminalization of international law itself, and will present an assessment of the underly ing conditions and rationalities in which pun ishment generates, performs and reproduces a particular form of political international order. Under this framework, punishment is taken as a discursive institution; as a set of narra tives constructed upon legal and quasi legal argumentations about what, whom and how to punish. In this view, it operates as a collection of "active" categories and procedures with ca pacity to "speak of" the social world and deliver authoritative classifications.

The objective of this research is to contribute with a reasoned account of how the mechan ics of punishment (or rather what it says about punishment) are employed by international ac tors in the frame of a highly political interna tional community, and furthermore, to examine what the effects are of this criminalization in the construction of social political order.

This investigation is first and foremost inter disciplinary and aims to approach the topic of punishment in international law by looking beyond classical legal standpoints. As such, drawing from postmodern theory, this research seeks to incorporate and combine angles from criminology, deconstruction theory, philosophy of law and philosophy of culture.

Shakira Bedoya Sánchez (*1980) began her law studies at the PUCP in Peru where she also acted as an assistant professor of criminal law. She is a doctoral candidate at the University of Freiburg.

In Peru, she participated in the Truth and Reconciliation Commis sion and the Investigative Commis sion for Economic and Financial Crimes. She was a legal clerk for The Inter American Commission on Human Rights and at the Inter national Criminal Tribunal for the Former Yugoslavia. Furthermore, she worked as a researcher and a lecturer on International Law at the Erik Castrén Institute.

She has been awarded several scholarships: the CIMO Stipend, the United Nations Office Fellow ship, the UH Staff Mobility Schol arship, the Ella & Georg Ehrnrooth Scholarship and the Max Planck Society Stipend.

She entered the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg in April 2008.

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Jennifer Schuetze-Reymann

International Criminal Justice on Trial: the Legal Implications of the Referral Practice of Cases from International to National Justice Mechanisms

– The ICTY/ICTR Experience and its Possible Relevance for the ICC

The 20th century has witnessed the rapid pro liferation of a variety of international and in ternationalized criminal courts and tribunals (ICTs), whose creation have been justified by the International Community's resolve to pun ish perpetrators of the gravest international crimes so as to contribute to restoring peace and justice to (post)conflict regions. A com parison of the various courts and tribunals re veals a range of different "justice" models, with specific legal frameworks and jurisdictional fea tures determining each ICT's relationship with, inter alia, relevant sources of law and national judicial institutions. The specific contours of the relationship between the ICTs and relevant national accountability mechanisms continue to be subject of some uncertainty, not least in light of the fact that national courts have now increasingly begun to prosecute international crimes. This growing trend is also consonant with the complementarity principle of the new permanent International Criminal Court (ICC), which is premised on the understanding that national courts are best suited to prosecute international crimes themselves.

Given the sheer scale of the crimes committed, and the limited resources of ICTs, it is crucial that these courts function in parallel with na tional/local courts in a pluralistic integrative sys tem of international criminal law (ICL). At the same time, parallel judicial activities are giving rise to an array of complex legal conundrums. Contemporary legal discourse is therefore in creasingly focusing on the practical and theo retical implications of a certain 'diversification' (also referred to as 'fragmentation') of the body of ICL, not just on an institutional level but on a procedural and substantive one as well.

While many academic contributions have fo cused on the deferral of cases from national courts to ICTs, less attention has been paid to the opposite practice, namely referrals from in ternational tribunals to domestic courts.

The referral practice of the International Criminal Tribunals for the Former Yugoslavia and Rwanda (ICTY and ICTR respectively) to national courts as a crucial component of the U.N. Security Council formulated Comple tion Strategy, which sets a date by which the tribunals should conclude definitively trial and appellate activities, illustrates in a highly con crete manner various legal challenges arising from pluralistic accountability mechanisms in the prosecution of international crimes. The effective implementation of the Completion Strategy is contingent on the tribunals' ability to transfer cases and investigative materials to national jurisdictions for prosecution.

The referral practice lends itself well to a study as it evinces the complex interplay between normative actors, legal orders, sources of law, and other normative projections. This interplay is part of a greater trend, which is becoming increasingly relevant as the ICC starts adjudi cating its first cases. The referral practice could also be relevant for the ICC, despite its differ ent jurisdictional framework.

The PhD project's first research objective is to examine the most significant legal conundrums caused by the transfer of cases and investigative materials from the ICTY/R to national courts. The second objective is to understand possible root causes of such legal conundrums. The third objective is to formulate possible solutions. The fourth objective is to ascertain how such solutions could be transplanted into the ICC context. The fifth objective is to draw general conclusions about pluralistic interactions of dif ferent legal systems and norms in the ICL fora today and thereby to contribute to the growing debate regarding the theory of legal pluralism.

Research methods comprise an in depth analy sis of relevant norms, judicial decisions and trancripts emanating from the ICTY, ICTR, ICC and national courts, as well as a literature review and experts interviews.

Jennifer Schuetze Reymann (*1978) obtained a dual degree in civil law (B.C.L.) and common law (LL.B) from the McGill Law Faculty in 2003 and a Master of Laws (LL.M.) from the McGill Institute of Comparative Law in 2005. Throughout part of her graduate studies, she held the po sition of Assistant Director of the McGill Faculty of Law's Legal Clinic for the Special Court of Sierra Leone, which provides an overseas legal information service to the Special Court. After her studies, she worked within the Office of the Prosecutor of the International Criminal Court. Following this, she worked in the Committee on Legal Affairs and Human Rights of the Parliamen tary Assembly of the Council of Europe. She also acted as a Consultant on several Council of Europe projects, including for the Department of Crime Problems.

Ms. Schuetze Reymann entered the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i. Br. in April 2009.

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Friederike Stahlmann

Debating Social Control from Bottom-Up

– An analysis of the contested mandates for retaliation, mediation, and punishment at sites of dispute resolution in Afghanistan

The Afghan population is faced with the neces sity to re negotiate the most basic features of governance, law, and social organisation. As ide ologies of social control formed a central aspect of the conflicts of the last decades, the struggle about the ‚appropriate' type and style of social control is at the core of this general debate and reflects competing visions of social order.

The most prominent legal systems in this dis course are traditional legal regimes such as the Pashtunwali, various Islamic 'schools' of law with highly varying and competing agendas, and most recently an emerging human rights discourse, which is linked to the international community's agenda of the enforcement of rule of law schemes and provides them with an indi vidual rights focused, liberal mandate.

The research will analyse the debate over man dates for and forms of retaliation, mediation and punishment with a focus on the aims of so cial control presented by them and the visions of social order these entail.

The existing literature can tell us, that the pur suit of societal and ideological goals by social control is highly different in the different sys tems of law at stake. And we know that the dis pute about precepts of social control is found on the level of political debate among respec tive interest groups, the analysis of which will serve as a macro level context to the research. But what we do not know is, how those systems of reference interact in legal practice, and to which extent and how those claims are dealt with by the concerned population.

Set in the framework of the wider political de bate over the principles of social control, the research will thus focus on conflict parties and approach them as actors, who play an active role in the definition and production of norms of social order. As those are expressed and translated into legal demands in the course of dispute management, fora of dispute resolution will serve as the main sites for this micro level in depth analysis. This will be guided by the following questions:

- How are available ideologies of social con trol appropriated and adapted by conflict parties or are they completely rejected and replaced?
- How are the mandates of social control resulting thereof translated into legal prac tice, such as choices between institutions, and legal claims and strategies?
- Which visions of justice and mandates of social order are created thereby?

The project thus wants to provide a bottom up perspective on claims to and realisations of modes of social control, such as retaliation, me diation and punishment.

By taking the general debate into account, it will also

- gain understanding of the realisation of theoretical claims, and of the processes by which new legal ideologies such as human rights law and various Islamist policies are adopted and adapted in existing legal or ders.
- develop an anthropological contribution to the analysis of norm production.
- add understanding to the question of how people interact with political and ideologi cal claims, and shape the legal structure and debate.
- shed light on the people's role in the nego tiation of social control here in the setting of the ‚reconstruction' of the legal system.

And finally it will contribute knowledge about the Afghan legal order, legal discourse and de velopment.

Friederike Stahlmann (*1980) obtained a Magister Artium degree in Study of Religions (major) at Philipps Universität Marburg in 2005. Having specialized in Is lamic Studies and the Middle East early on, she wrote her dissertation about the impact of Islam in legal orders in Afghanistan after having spent 7 months there in 2003/04.

In order to advance her legal understanding she then attended a master's program in International and Comparative Legal Studies at SOAS, London, focusing on law and society, law and governance and human rights. With a dis sertation titled "Religious police reinvented? Commanding right and forbidding wrong as a matter of governance" she obtained the MA in Law degree with distinction in 2007.

As of April 2008 she has been a doctoral student of the IMPRS REMEP at the Max Planck Institute for Social Anthropology in Halle (Saale).

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Inga Švarca (*1977) graduated from the Faculty of Law of the University of Latvia (Dipl. iur) and obtained her LL.M. in International and European Law from the Riga Graduate School of Law.

From 2002 to 2004 she was a guest student at the Faculty of Law of the University of Rostock and carried out scientific research at the Institute of Banking Law.

In 2004, Ms. Švarca worked as a legal adviser at the International Law and European Law Department of the Ministry of Justice in Latvia.

From January 2005 to December 2008 she worked as a lawyer at the European Court of Human Rights.

Her research interests focus on human rights law, procedural law, dispute resolution mechanisms and legal anthropology.

Ms. Švarca has been a PhD Candidate of the IMPRS REMEP at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg since March 2009.

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Inga Švarca

The Role of the ECtHR and its Procedure for Transitional Justice in Latvia

The 'law making' surrounding procedural law for international courts and tribunals has long been a neglected and underestimated issue. This should be changed, especially because the international judicial bodies have a role in the development of democracy, rule of law and implementation of human rights. Moreover, countries have different national and international problems they are facing depending on whether they belong to "new" or "old" democracies or are still in transition. This calls for different methods and approaches when dealing with the issues concerning states that can be labeled as "new" democracies or countries in transition. This, however, has not been the case with respect to the European Court of Human Rights (ECtHR).

Despite the collapse of the former Soviet Union and the emerging of new independent countries, e.g. Georgia, Lithuania, Latvia, Russia and Ukraine, the basic procedural rules of the ECtHR have remained the same. Certainly, such a methodical approach can, on the one hand, be described as keeping up legal certainty and stability. On the other hand, the peculiarities of the countries in transition after more than half a century of totalitarianism (some political scientists, e.g. Richard Löwenthal, argue that the Soviet Union after Stalin's death in 1953 became a "post totalitarian [temporary] authoritarianism"; in the current research the term "totalitarianism" will cover also this period) such as changing to the rule of law, human rights and democracy have been neglected. Massive corruption, nepotism and incompetence were the original signs of a non independent judiciary in the aforementioned countries.

The resulting lack of trust of these countries' citizens in their legal systems has placed the ECtHR in a much stronger position than before: it has been de facto acting as a last instance appeals court for these countries in transition which was previously not foreseen by the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention). The ECtHR and its procedural rules have so far not yet reflected this specific situation. These lacunae still have to be addressed.

With the countries in transition joining the Convention, a spectrum of new issues has been introduced to the ECtHR that became available to victims of totalitarianism and persons who felt discriminated against by the new political order. Furthermore, interstate tensions and open conflicts among some states of the former Soviet Union form part of the applications pending before the ECtHR. So the ECtHR has been in the position not just to adjudicate human rights violations but also to reconcile: within a state (between a government and citizens or between different groups of citizens) and among states.

Transitional justice (for the purposes of the current research meaning different mechanisms employed by states in transition dealing with their past, e.g. adoption of lustration and restitution laws) cannot be said to be non existent in the post Communist countries. However, there were no special trials or dispute resolution bodies to assess the wrongs and injustices of the Communist regime. So the ECtHR still has a very important role and is necessary with its even limited contributions for countries in transition since they still lack an independent judiciary.

The goal of the study is to establish what role the ECtHR plays concerning countries in transition and how, if at all, it can contribute to a successful accomplishment of the process. The study will point out the current shortcomings in proceedings before the ECtHR in this respect. Applications lodged with the ECtHR against Latvia shall be used as an example. Finally, the study will come up with proposals for improving the procedural rules of the ECtHR to meet the demands of countries in transition.

Carolijn Terwindt

Criminal Intervention in Major Political Conflicts: The Contentious Process of Prosecutorial Qualification

In-depth case studies of the United States, Spain, and Chile

October 1997, United States: Six raids in the Midwest just before the pelting season: be tween 8,000 and 12,000 minks released, two fur farms out of business. Opposing interpreta tions either emphasize the enormous economic losses for these farming families or joy that many animals escaped death for profit.

October 1999, Chile: a forestry plantation is set on fire in the south of Chile. The planta tion belongs to a large forestry company own ing currently 391,000 ha. of plantations while an adjacent indigenous Mapuche community claims historical right to the land. Opposing interpretations either indicate anger about the economic loss for the forestry company and the lack of a rule of law or happiness to see the invasion of imported water consuming trees turned into ashes.

March 1992, Spain: three Molotov cocktails set the offices of the national train company in Bilbao on fire. Opposing interpretations either claim this is terrorism and related to the armed organization ETA or view it as some youths ex pressing their anger because of police violence during a demonstration earlier that day.

Each of these incidents formed the material for criminal prosecutions. The events were subject to a struggle of interpretation. The criminal pro ceedings were as much a site for this struggle as a significant contributor in this struggle. In this dissertation the researcher provides an analysis of the contestation of different interpretations which took place in the criminal proceedings in major domestic political conflicts in the US, Chile, and Spain. In the US, eco activists de mand the closure of an animal testing company, the end of experimentation with animals, and restrictions on logging companies. In Chile, Mapuche activists reclaim the lands that they have lost since their confinement to reserva tions in 1881. In Spain, Basque left nationalists fight for an independent and socialist Basque Country. In each of these conflicts many con tentious actions occured that came to the atten tion of the government with a claim to criminal investigation and prosecution.

The specific focus in this research has been on the legitimization strategy the prosecutor em ploys. This strategy ordinarily results in crimi nal proceedings conforming to the principles of 'autonomous' law or 'formal rationality'. The idea of formal rationality draws on a distinction between formal procedures and substantive jus tice. This approach is supposed to serve both the short term interest of terminating violence and restoring order, and the longer term inter est of maximizing the legitimacy of the govern ment. However, various studies indicate that formal rationality might be abandoned in emer gency situations. Rather than assuming that the criminal justice system and its performance are fixed and given, the researcher has approached this institution from the perspective that it may be challenged and can subsequently change its performance. If so, the question is when and how. This dissertation provides three in depth case studies on this phenomenon, by analyz ing how the ongoing struggle for interpretation shapes the process of criminal interventions.

Carolijn Terwindt (*1979) gradu ated in Anthropology and Law at Utrecht University. After her studies she interned as a criminal law clerk for a Dutch attorney's of fice and the International Criminal Court. She obtained an LL.M. at Columbia Law School where she currently is a JSD Candidate. Ms. Terwindt conducted field research in the Netherlands, India, Chile, Spain, and the United States. After her Master's research in Chile she published an article "The Demands of the True Mapuche: Ethnic Political Mobilization in the Mapuche Movement" in the journal Nationalism and Ethnic Politics. She lectures at the Inter national School for Humanities and Social Sciences in Amsterdam and is a researcher at the Centre for Conflict Studies in Utrecht. Her research interests are in the fields of conflict analysis, ethnicity, law and society, critical legal stud ies, criminology, and criminal law.

Ms. Terwindt entered the IMPRS REMEP at the Max Planck Insti tute for Foreign and International Criminal Law in Freiburg i. Br. in August 2009.

carolijn terwindt
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Lejla Vujinović (*1981) studied law from 2002 2007 at the Uni versity of Amsterdam, University of Geneva and the Humboldt University in Berlin, concluding with an LL.M. in International and European Public Law in Amsterdam.

Since 2007 she has been working as a research assistant for Prof. Dr. Dr. h. c. mult. Albin Eser, M.C.J., Director Emeritus of the Max Planck Institute for Foreign and International Criminal Law in Freiburg. After having worked in 2007/2008 as a research assistant at the University of St. Gallen/Switzerland at the Chairs of Prof. Dr. Kerstin Odendahl and Prof. Dr. Anne van Aaken, she transferred to the University of Berne to the Chair of Prof. Dr. Günter Heine, Director of the Institute for Criminal Law and Criminology (Chair for Criminal Law, Criminal Procedure and International Criminal Law).

Ms. Vujinović was admitted to the International Max Planck Research School on Retaliation, Mediation and Punishment in Freiburg i. Br. in September 2008.

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Lejla Vujinović

The Contribution of War Crime Trials to Reconciliation in Bosnia and Herzegovina

The ICTY has primacy jurisdiction for war crimes prosecutions in Bosnia and Herzegovina (BiH). In 2003 the ICTY`s Completion Strategy provided that the tribunal, as an ad hoc institu tion, should terminate its work by 2010. The national justice system therefore plays a key role in bringing to justice many other individu als accused of war crimes in BiH.

On 6 January 2005 as a joint initiative of the ICTY and the Office of the High Representa tive (OHR) the State Court of BiH was es tablished and within this institution Section I for War Crimes of the State Court of BiH was introduced in order to allow the ICTY to refer cases to the domestic jurisdiction and to en able effective war crimes prosecutions in BiH. It took up its first case in September 2005 and delivered its first judgment on 7 April 2006. The State Court of BiH is an internationalized court, composed of international and national judges at the trial as well as at the appellate level.

In December 2008 the National War Crimes Strategy was issued, which envisaged the trans fer of cases from Section I for War Crimes of the State Court of BiH to the Entity Courts and the Brčko Basic Court. Thus, at the moment domestic prosecutions of war crimes are taking place at two levels: the State Court of BiH and the courts of the two entities the Federation of BiH and the Republika Srpska of BiH as well as in the Brčko District of BiH.

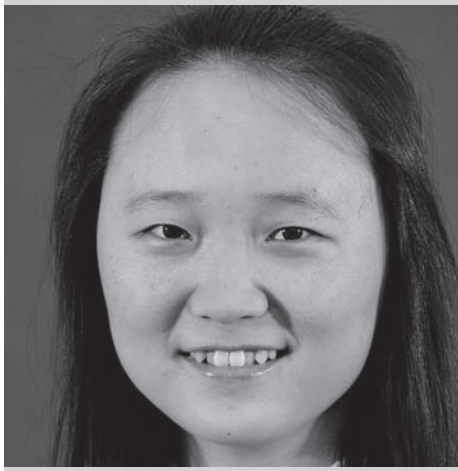
The newly introduced Criminal Procedure Codes in Bosnia and Herzegovina radically changed the manner in which court proceed ings occur. The Criminal Procedure Code of BiH introduced new procedural elements from the common law tradition and today the Bos nian Criminal Procedure can be characterized as a mix of inquisitorial and accusatorial ele ments.

The aim of this research project is to analyze selected procedural problems of domestic war crime trials in Bosnia and Herzegovina at the State as well as Entity level and to comple ment this examination with an assessment of peoples' attitudes towards war crime trials be fore domestic courts, reconciliation and justice. The State Court of BiH and four entity courts (Cantonal Court Sarajevo, District Court East Sarajevo, District Court Banja Luka, Cantonal Court Mostar) will be the subject of analysis. The focus of examination will be on plea bar gaining taking into consideration procedural aspects that are connected to it, for example, sentencing issues, the principle of equality of arms and detention matters. These procedural aspects will be thoroughly analysed by taking into account both the experiences and opin ions of professionals who are conducting war crime trials and by observing trials on the spot. Moreover, surveys will be conducted in order to capture public opinion about accountability, justice and national war crime prosecutions.

The overall goal of this project is to critically analyze the way in which war crime trials are taking place and what impact they have on the public in BiH.

Chenguang Zhao

China and the ICC: Status and Prospects from the Perspective of Legal Culture



In this research project I will study the status and prospects of the International Criminal Court (ICC) and China from a legal cultural perspective. China was actively involved in the negotiations that led to the adoption of the Rome Statute. However the Chinese delega tion cast a negative vote at the end of the Rome Conference. Why did this happen? What is the relationship between China and the ICC and how will this relationship develop? This project endavours to answer these questions.

There are three objectives to be achieved through this research. Firstly, the main objec tive lies in the analysis of and the prospects for the relationship between China and the ICC from a cultural perspective; this is an effort to find the deep rooted and underlying problems that exist between China and the ICC. There is no Chinese academic research that meaning fully studies this relationship from a cultural perspective. Most of the academic Chinese re search focuses on the jurisdiction of the ICC, national sovereignty and the ICC, the power of the prosecutor, the elements of the crimes and issues related to the substantive and pro cedural legislation of the Rome Statute. The reasons why China did not ratify the Rome Statute have also aroused concern. However, some published Chinese works do not see that the profound reason why China has not yet ac ceded to the ICC may lie in the differences be tween traditional Chinese and Western culture. The ICC represents Western culture. But Chi na, which represents a quite different culture, will necessarily have problems adapting to the demands of the ICC.

Secondly, besides the analysis of the cultural conflicts between China and the ICC and the obstacles that China and the ICC confront, a comparative study of the national Chinese criminal legislation with the legislation of the Rome Statute will lead us to another issue that is the similarities and differences be tween these two criminal legal systems. That said, comparison alone is no longer sufficient to raise awareness and to sharpen our understand ing of the ICC's work and impact. An in depth understanding of the ICC's judicial mecha nisms is desired. The second objective is to find solutions to mediate the cultural conflicts between China and the ICC and put forward methods to harmonize the conflicts between national criminal law and international criminal law. In order to achieve this result other Asian countries' experiences, such as Japan and Ko rea, will be referenced.

Thirdly, the final objective is to predict the fu ture of China's position towards the ICC and to draft a model code implementing the Rome Statute into Chinese law. Based on the exist ing research work from Chinese academics and practitioners alike, the prospect of China's ac cession to the Rome Statute is seemingly good. But the lack of understanding and appreciation of the Court's function and relevance can be attributed to the slow process of ratification. China has historically shied away from joining international organizations. Therefore, research on the issues of the ICC and practical methods to solve the problems related to international criminal law and the ICC are badly needed. My research will help overcome the insufficient re search on international criminal law in China, especially on the ICC. It is hoped that it will go some way to reconciling the criminal theories of China with international criminal theories: only by so doing can China meet the challenge of the ICC with aplomb.

Chenguang Zhao (*1983) is from Inner Mongolia China. From 2001 2005 she studied law at the law school of Beijing Normal Uni versity, China. From 2005 2008 she graduated from the College for Criminal Law Science of Beijing Normal University and received her master's degree in 2008. From 2006 2008, she also worked as a secretary of projects of the ICC in China in the College for Criminal Law Science of Beijing Normal University.

Her research interests and goals are international criminal law, environmental criminal law and comparative criminal law.

From July 2009 onwards, she has been a PhD candidate of the IMPRS REMEP at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i. Br.

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III. Curricula Activities 2008/2009

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Selected IMPRS REMEP Workshops & Seminars

Timing	Title	Venue
10 Nov. 2009	Workshop on International Criminal Law	MPI for Foreign and Intl. Criminal Law
27 Jul. 8 Aug. 2009	IMPRS REMEP & Hofstra University School of Law Summer Law Program on Intl. Financial Crimes and Death Penalty	MPI for Foreign and Intl. Criminal Law
2 7 Feb. 2009	IMPRS REMEP Winter University 2009	MPI for Foreign and Intl. Criminal Law
6/7 Feb. 2009	Soft Skills Training Academic Writing	MPI for Foreign and Intl. Criminal Law
22 25 June 2008	Workshop Social Anthropology IMPRS REMEP Teaching Course	MPI for Social Anthropology
16 20 June 2008	Workshop on Criminal Law & Criminology as it relates to REMEP	MPI for Foreign and Intl. Criminal Law
19/20 June 2008	Soft Skills Training Poster Writing	MPI for Foreign and Intl. Criminal Law
16/17 June 2008	Soft Skills Training Project Management; Speed Reading	MPI for Foreign and Intl. Criminal Law
26 28 May 2008	Public International Law and its Role for Retaliation, Mediation and Punishment	MPI for Compara tive Public Law and Intl. Law
21 24 May 2008	Workshop on Legal History	MPI for European Legal History
14 16 April 2008	Introductory Seminar	MPI for Foreign and Intl. Criminal Law

IMPRS REMEP Guest Lecture Series at the Max Planck Institute for Foreign and International Criminal Law

Timing	Speaker/Affiliation	Topic
10 Nov. 2009	Koffi Afande, Legal Officer, Head of Appeals Chamber Support Unit / ICTR	Referral of Cases to National Jurisdictions
5 Aug. 2009	Wolfgang Hetzer, Advisor to the Director General, European Anti Fraud Office (OLAF)	Legalising Corruption?
13 Jul. 2009	Serge Brammertz, Prosecutor of the ICTY	Specific Challenges of Inter national Investigations
25 May 2009	Michael Tonry, Professor of Law and Public Policy, Minnesota University School of Law	Penal Policy Studies A Natural History
3 Feb. 2009	Olivia Swaak Goldman, International Coop eration Advisor, Jurisdiction, Complementa rity and Cooperation Division, OTP ICC	International Prosecutions: Their Role and Challenges in Establishing Social Order
3 Feb. 2009	Trutz v. Trotha, Professor of Sociology, Univer sity of Siegen	About cruelty
2 Feb. 2009	Albin Eser, Professor of law em., University of Freiburg; director em. MPI for Foreign and International Criminal Law & Eugene O'Sullivan, Defence Attorney at the ICTY	Experts debate Common law vs civil law in interna tional proceedings
22 Jan. 2009	Margit Oswald, Professor for Social Psychol ogy, University of Bern	Layperson's Judgment on Punishment of Crime
27 Nov. 2008	Ferdinand Gillmeister, Attorney at Law	Plea Bargaining in White Collar Crimes
27 Oct. 2008	Martti Koskenniemi, Professor of Law, Univer sity of Helsinki	Between Impunity and Show Trials

Calendar:
http://remep.mpg.de/remep/en/pub/calendar.htm

IV. Organization of the IMPRS REMEP

IV. Organization of the IMPRS REMEP

Professor Dr. Dr. h. c. Hans Jörg Albrecht, Director at the Max Planck Institute for Foreign and International Criminal Law in Freiburg, is speaker and dean of the IMPRS REMEP. He represents the Research School and chairs its Executive Committee. Deputy is Professor Dr. Günther Schlee, Director at the Max Planck Institute for Social Anthropology, Halle (Saale).

The main tasks of the Executive Committee of IMPRS REMEP are to supervise all activities, including the academic and the administrative activities, to take all major policy decisions as well as sign responsible for the admission of doctoral students to the program, the overall organization of the training activities as well as the evaluation of the students and their research projects.

Apart from the speaker and his deputy, the Executive Committee is made up of members of each of the six institutions participating in the IMPRS REMEP:

- Prof. Dr. Franz v. Benda Beckmann, Head of Project Group "Legal Pluralism" at the Max Planck Institute for Social Anthropology;
- Prof. Dr. Keebet v. Benda Beckmann, Head of Project Group "Legal Pluralism" at the Max Planck Institute for Social Anthropology;
- Prof. Dr. Thomas Duve, Director at the Max Planck Institute for European Legal History, Frankfurt;
- Prof. Dr. Wolfgang Frisch, Director of the Institute for Criminal Law and Legal Theory at the Faculty of Law, University of Freiburg;
- Prof. Dr. Roland Hefendehl, Director of the Institute for Criminology and Business Criminal Law at the Faculty of Law, University of Freiburg;
- Prof. Dr. Walter Perron, Chair for Criminal Law, Criminal Procedure and Comparative Criminal Law at the Faculty of Law, University of Freiburg;
- Prof. Dr. Richard Rottenburg, Director of the Institute of Social Anthropology at the Faculty of Philosophy, Martin Luther University Halle Wittenberg;
- Prof. Dr. Dr. h.c. Ulrich Sieber, Director at the Max Planck Institute for Foreign and International Criminal Law, Freiburg;
- Prof. em. Dr. Dr. h.c. mult. Michael Stolleis, Director at the Max Planck Institute for European Legal History, Frankfurt;
- Prof. Dr. Dr. h.c. Rüdiger Wolfrum, Director at the Max Planck Institute for Comparative Public Law and International Law, Heidelberg.

Dr. Carolin F. Hillemanns is in charge of the coordination of the IMPRS REMEP; the Research School Office is located at the Max Planck Institute for Foreign and International Criminal Law in Freiburg. Dr. Hillemanns assists the Executive Committee in its work and the IMPRS REMEP students in overall curricular and administrative issues. At all member institutes, scientific coordinators are in charge of the implementation of the REMEP training program.

Local Scientific Coordinators / Teaching Faculty:

- Prof. Dr. Karl Härter, Senior Research Scientist, and PD Dr. Miloš Vec, Senior Research Scientist at the Max Planck Institute for European Legal History, Frankfurt;
- Dr. Carolin Hillemanns, IMPRS REMEP Coordinator and Dr. Michael Kilchling, Senior Research Scientist at the Max Planck Institute for Foreign and International Criminal Law, Freiburg;
- Dr. Anja Seibert Fohr, LL.M. S.J.D. (GWU), Head of the Minerva Research Group at the Max Planck Institute for Comparative Public Law and International Law, Heidelberg;
- Dr. Bertram Turner, Senior Research Scientist at the Max Planck Institute for Social Anthropology, Halle (Saale).

Prof. Dr. Dr. h.c. Hans-Jörg Albrecht

Currently Director at the Max Planck Institute for Foreign and International Criminal Law in Freiburg/Germany. Teaching: criminal law, criminal justice and criminology at the University of Freiburg. Guest professor at the Center for Criminal Law and Criminal Justice of the China University of Political Science and Law, Beijing, Law Faculty of Hainan University, Law Faculty of Renmin University of China, Beijing, Law Faculty of Wuhan University, Law Faculty of Beijing Normal University. Life membership Clare Hall College at Cambridge University UK, professor ship and permanent faculty membership Faculty of Law of Qom High Education Center, Tehe ran/Iran. Research interests: various legal, criminological and policy topics sentencing theory, juvenile crime, drug policies, environmental crime and organized crime, evaluation research and systems of criminal sanctions. Published, co published and edited various books, among them on sentencing, day fine systems, recidivism, child abuse and neglect, drug policies, research on victimisation, white collar crime, etc.

Further information:

http://www.mpicc.de/albrecht

Prof. Dr. Günther Schlee

Günther Schlee has been the Director of Department I 'Integration and Conflict' at the MPI for Social Anthropology in Halle/Saale, Germany, since 1999. Previously from 1986 to 1999 he held a professorship in Social Anthropology at Bielefeld University. He received his doctorate at Hamburg University for a thesis on "*The Social Belief System of the Rendille: Camel Nomads of Northern Kenya*". His postdoctoral research, again based on field research in North East Africa, resulted in his Habilitation Thesis at Bayreuth University which was later (1989) published as "*Identities on the move*" by Manchester University Press. Characteristic for his research is a focus on inter ethnic relations and the combination of historical, sociological and philological methods. This approach is illustrated in his book "*How Enemies are made. Towards a theory of ethnic and religious conflict*" by Berghahn Books (2008).

Further information:

http://www.eth.mpg.de/people/schlee/index.html

Prof. Dr. Franz von Benda-Beckmann

Franz von Benda Beckmann is head of the Project Group 'Legal Pluralism' at the Max Planck Institute for Social Anthropology in Halle/Saale, Germany, since 2002 honorary professor for legal anthropology at the University of Leipzig and since 2004 honorary professor for legal pluralism at the University of Halle/Saale. He holds a PhD in law (1970) and obtained his habilitation in anthropology at the University of Zurich (1979). Before 2000 he was professor for law in develop ing countries at the Agricultural University Wageningen. He has done fieldwork and supervised research in Malawi, West Sumatra, the Moluccas and Nepal. He has written and co edited several books and published widely on issues of property rights, social (in)security and legal pluralism in developing countries and on legal anthropological theory. He co edited with Keebet von Benda Beckmann and Julia Eckert "Rules of Law and Laws of Ruling" (Ashgate 2009) and with Keebet von Benda Beckmann and Melanie G. Wiber "Changing Properties of Property" (Berghahn 2006). He published jointly with Keebet von Benda Beckmann "Social Security between Past and Fu ture: Ambonese Networks of Care and Support" (LIT Verlag 2007).

Further information:

http://www.eth.mpg.de/people/fbenda/index.html

Prof. Dr. Keebet von Benda-Beckmann

Keebet von Benda Beckmann is head of the Project Group 'Legal Pluralism' at the Max Planck Institute for Social Anthropology in Halle/Saale, Germany, since 2003 honorary professor for legal anthropology at the University of Leipzig, and since 2004 honorary professor for legal plural ism at the University of Halle/Saale. She has carried out research in West Sumatra and on the Moluccan Island of Ambon, Indonesia and among Moluccan women in the Netherlands. She has published extensively on dispute resolution, social security in developing countries, property and water rights, decentralization, and on theoretical issues in the anthropology of law. She co edited together with Franz von Benda Beckmann and Anne Griffiths "Mobile People, Mobile Law. Expanding Legal Relations in a Contracting World" (Ashgate 2005). She co edited with Franz von Benda Beckmann and Anne Griffiths "Spatialising Law" (Ashgate 2009) and with Franz von Benda Beckmann and Julia Eckert "Rules of Law and Laws of Ruling: On the Governance of Law" (Ashgate 2009).

Further information:

http://www.eth.mpg.de/people/kbenda/index.html

Prof. Dr. Thomas Duve

Thomas Duve, born in 1967, is Director at the Max Planck Institute for European Legal History, Frankfurt (since 2009), professor for European Legal History at the Law Faculty of the University of Frankfurt and for History of Canon Law at the Faculty of Canon Law at the Pontificia Uni versidad Católica (UCA) in Buenos Aires, Argentina. His main field of research is early modern European and Latin American legal history.

Further information:

http://www.mpier.uni frankfurt.de/mitarbeiter/mitarbeiterhome/duve.html

Prof. Dr. Wolfgang Frisch

Wolfgang Frisch was born in Wernsdorf, Karlsbad in 1943. From 1962 1966, he studied law at the University of Erlangen Nuremberg. There he wrote his doctoral thesis in 1970 and his *Ha bilitationsschrift* in 1974. In 1974, he became professor for criminal law and criminal procedural law at the University of Bonn. From 1976 1991, Professor Frisch held a chair at the University of Mannheim. Since 1992, he has been professor at the Albert Ludwigs University Freiburg and Di rector of the Institute for Criminal Law and Legal Theory. Since 2005, Professor Frisch has been an external scientific member of the Max Planck Institute for Foreign and International Criminal Law. Since 2006, he has been a full member of the Heidelberg Academy of Sciences and Humani ties. His research focuses on general criminal law theory, on legal theory, on legal philosophy, on criminal procedural law, on the criminal sanction system and on international criminal law.

Further information:

http://www2.jura.uni freiburg.de/institute/istr/default.htm

Prof. Dr. Roland Hefendehl

Roland Hefendehl was born in Freiburg in 1964. He studied law and did his clerk ship (*Referendariat*) in Berlin and Freiburg. He obtained his PhD and his *Habilitation* from the University of Munich. From 1999 onwards he was professor at the universities of Berlin and Dresden. Since 2004 he has been Director of the Institute of Criminology and Business Criminal Law at the University of Freiburg. His research interests focus on (business) criminal law, criminology and crime policy.

Further information:

http://www.strafrecht online.org/index.php?scr=hefendehl science

Prof. Dr. Walter Perron

Walter Perron was born in Worms/Rhein in 1956. He studied law in Mannheim and Freiburg, where he obtained his PhD and *Habilitation*. Between 1993 and 2002 he worked at the Universities Tübingen, Konstanz and Mainz. Since 2003 he has been professor at the University of Freiburg where he was the Deputy Dean of the Faculty of Law from 2004 2006 and the Dean from 2006 2008. Professor Perron is deputy speaker of the International Max Planck Research School for Comparative Criminal Law. His research interests are comparative criminal law and criminal procedural law.

Further information:

http://www.jura.uni freiburg.de/institute/perron/

Prof. Dr. Richard Rottenburg

Richard Rottenburg holds a chair in Social Anthropology at the Martin Luther Universitaet Halle Wittenberg (Germany) and is Max Planck Fellow at the Max Planck Institute for Social Anthropology (Halle). His research focuses on the anthropology of law, organizations, science and technology (LOST). He has written and edited books on the Sudan, on organisations, on economic anthropology, on the transcultural production of objectivity (/*Far Fetched Facts. A Parable of Development Aid*/, MIT: Cambridge, Mass. 2009), and on theory (2009. Social and public experiments and new figurations of science and politics in postcolonial Africa. Postcolonial Studies 12 (4): 423 440).

Further information:

http://www.ethnologie.uni halle.de/personal/richard rottenburg/

Prof. Dr. Dr. h.c. Ulrich Sieber

Prof. Dr. Dr. h.c. Ulrich Sieber is Director at the Max Planck Institute for Foreign and International Criminal Law in Freiburg/Germany, professor and faculty member at the law faculties of the Albert Ludwigs University of Freiburg and the Ludwig Maximilians University of Munich, as well as guest professor at the Renmin University of Beijing, the Beijing Normal University and the University of Wuhan/China. He is the President of the German Association for European Criminal Law, member of the board of directors of the International Association of Penal Law (AIDP), vice president of the "Association Internationale pour la Défence Sociale" and the speaker of the International Max Planck Research School for Comparative Criminal Law in Freiburg.

His main areas of research deal with the changing face of crime, criminal law, and legal policy in today's "global risk society". Major project areas concern comparative criminal law and European criminal law, esp. with respect to organized crime, terrorism, economic crime and cybercrime.

Further information:

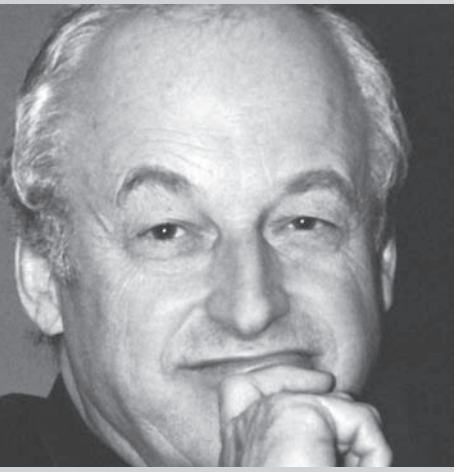
http://www.mpicc.de/sieber

Prof. em. Dr. Dr. h.c. mult. Michael Stolleis

Born on July 20, 1941 in Ludwigshafen/Rhine. Study of law, doctorate Munich Univ. (1967), German Habilitation in public law, recent legal history and clerical law Munich Univ. (1973), appointment in Frankfurt a. M. (1974), Director and Scientific Member at the Max Planck Institute for European Legal History (since 1991), Emeritus Scientific Member (since October 2006).

Further information:

http://www.mpier.uni frankfurt.de/mitarbeiter/mitarbeiterhome/stolleis.html



Prof. Dr. Dr. h.c. Rüdiger Wolfrum

Professor Wolfrum (born 1941) is professor of public international law at the University of Heidelberg and Director of the Max Planck Institute for Comparative Public Law and International Law. Besides his academic activities he was involved in diplomatic negotiations on Law of the Sea and Antarctica. He is judge at the International Tribunal for the Law of the Sea, 2005 to 2008 he held the position of the President.

His academic writings cover a wide range; the focus on international law in general, law of the sea, dispute settlement the protection of the environment, the United Nations and human rights.

Further information:

http://www.mpil.de/ww/en/pub/organization/management/directors/wolfrum.cfm

Prof. Dr. Karl Härter

Professor Dr. Karl Härter is Senior Research Scientist (*Forschungsgruppenleiter*) at the Max Planck Institute for European Legal History, Frankfurt/Main. Since 2007, he is a Professor for Early Modern and Modern History at the University of Darmstadt. Professor Härter is member of the *Vereinigung für Verfassungsgeschichte* (Association for Constitutional History) and the *Hes sische Historische Kommission*. He studied history, politics, sociology and law in Frankfurt and Darmstadt. In 1984, he passed the 1st and 1986 the 2st State Examination, enabling him to teach History and Politics at high schools. From 1987 1990 Professor Härter was a researcher at the Institute for European History, Mainz; he obtained his PhD in 1991 and his Habilitation as well as a Adjunct Professorship in 2002. Since 1991 he teaches History at the Universities of Darmstadt and Cologne. His research interests focus on Early Modern and Modern Legal History, the history of crime/deviance and penal law/justice, and Constitutional History.

Further information:

http://www.mpier.uni frankfurt.de/mitarbeiter/mitarbeiterhome/haerter.html

PD Dr. Miloš Vec

Miloš Vec is Senior Research Scientist at the Max Planck Institute for European Legal History, Frankfurt/M. He studied law at and graduated from Frankfurt University in 1992 where he also obtained his PhD in law in 1996. In 1998, Miloš Vec did his 2nd State Examination, he was ad mitted to the Bar in 2000. He obtained his *Habilitation* from the University of Frankfurt in 2005. Miloš Vec held academic teaching and research positions at various universities (Bonn, Bucerius Law School Hamburg, Frankfurt, Konstanz, Tübingen, Vilnius). Since 2005 he has been Adjunct Professor (Privatdozent) at the Law Faculty of Frankfurt University. Miloš Vec' research interests focus on legal history; legal theory; philosophy of law; law and technology; history of crime and deviance and penal law and justice; constitutional history; history of public international law.

Further information:

http://www.mpier.uni frankfurt.de/mitarbeiter/mitarbeiterhome/vec.html

Dr. Carolin F. Hillemanns

Carolin F. Hillemanns joined the Max Planck Institute for Foreign and International Criminal Law in November 2007. She is coordinator of IMRS REMEP. She obtained a *Maîtrise en Droit Public* from the University of Montpellier I in 1995. In 1997, she graduated from Heidelberg Law School and did her bar exam in 1999. From 2000 02, Carolin was research associate at the Chair of Professor D. Thürer, Institute of Public International and Comparative Constitutional Law, University of Zurich where she received her PhD in 2004. In 2002 03 she was a Visiting Scholar at NYU School of Law. 2006 and 07 she led the International Criminal Defence Attorneys Asso ciation, Montreal/ Canada. Her research interests focus on transitional justice mechanisms.

Further information:

http://remep.mpg.de/remep/en/pub/people projects/who we are/coordinator.htm

Dr. Michael Kilchling

Michael Kilchling completed his university studies in law and criminology. In 1995, he awarded the degree of a doctor juris at the University of Freiburg with his doctoral thesis on 'interests of the victim and public prosecution'. Since 1996 he is working at the Department of Criminology at the Max Planck Institute for Foreign and International Criminal Law, since 1999 in the posi tion of a senior research scientist. His main research interests include organized crime, money laundering and the financing of terrorism, confiscation and asset recovery, penal sanctions and sanctioning systems, victim/offender mediation and other forms of restorative justice, victimology, and juvenile justice. Besides his research activities he is giving lectures in different disciplines within the focus on criminal law, criminology and penology of the Faculty of Law at the Univer sity of Freiburg, and guest lectures abroad. Amongst his most recent publications connected to REMEP are: Victim Offender Mediation with Juvenile Offenders in Germany, in: A. Mestitz & S. Ghetti (eds.), Victim Offender Mediation with Youth Offenders in Europe, Dordrecht 2005, pp. 229 258; Restorative Justice Developments in Germany, in: D. Miers & I. Aertsen (eds.): Regu lating Restorative Justice. A comparative study of legislative provisions in European Countries, Frankfurt 2008 (forthcoming).

Further information:

http://www.mpicc.de/ww/en/pub/home/kilchling.htm

Dr. Anja Seibert-Fohr, LL.M. S.J.D. (GWU)

Anja Seibert Fohr is scientific coordinator of the IMPRS REMEP at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. She heads the Minerva Research Group on Judicial Independence and is currently writing her *Habilitation* with the Ruprecht Karls University in Heidelberg. Ms. Seibert Fohr received her Doctor of Juridical Science in the United States. Since 2004 she has been teaching international criminal law at Mannheim University and more recently at Heidelberg University. She has published widely in international law, human rights and international criminal law (i.e. "Prosecuting Serious Human Rights Violations" (OUP 2009)).

Further information:

http://www.mpil.de/ww/en/pub/organization/scientific staff/aseibert.cfm

Dr. Bertram Turner

Bertram Turner studied social anthropology, physical anthropology and ancient history at the Uni versity of Munich and took his M.A. there in 1986. He received his PhD in social anthropology in Munich in 1996. He was academic assistant at the Institute of Social Anthropology and Afri can Studies in Munich between 1993 and 2001 and taught anthropology with special reference to legal anthropology. He held university teaching positions in Munich and Leipzig. He is do ing fieldwork in Morocco since 1996. Since 2001 senior researcher at the MPI Halle. Bertram Turner studies the management of natural resources in a plural legal constellation in South West Morocco. Recent book publications are on asylum and conflict: Asyl und Konflikt, Berlin 2005 (Reimer) and ‚Vergeltung. Eine interdisziplinäre Betrachtung der Rechtfertigung und Regulation von Gewalt', Frankfurt/New York 2008 (Campus, co edited with Günther Schlee).

Further information:

http://www.eth.mpg.de/people/turner/index.html

V. Additional Information

V. Additional Information

Application requirements

1. For the IMPRS REMEP at the Max Planck In stitute for Foreign and International Criminal Law in cooperation with the Albert Ludwigs University, Freiburg, for research within the area of criminology, criminal law and sociology for the the conferral of a doctorate degree in law (Dr. jur.) and sociology (Dr. phil.):

1a. Completion of a law degree at a German uni versity or completion at an equivalent university abroad. First or Second German State Law Exam with a minimum overall grade of "vollbefriedi gend" (according to the examination regulations "JAPrO" of the State of Baden Württemberg), or an equivalent degree with an equivalent grade ("with distinction") from abroad.

1b. Alternatively, completion of a regular university studies in social sciences with an overall dura tion of at least 4 years at a German or equivalent university from abroad. Master degree in sociol ogy as major subject, or equivalent degree from Germany or abroad.

2. For the IMPRS REMEP at the Max Planck Ins titute for Comparative Public Law and International Law, Heidelberg, for research within the area of in ternational law for the conferral of a doctorate degree in law (Dr. jur.):

2a. Completion of a law degree at a German uni versity or completion at an equivalent university abroad. First or Second German State Law Exam with a minimum overall grade of "vollbefriedi gend" (according to the examination regulations "*JAPrO*" of the State of Baden Württemberg), or an equivalent degree with an equivalent grade ("with distinction") from abroad.

3. For the IMPRS REMEP at the Max Planck Insti tute for European Legal History in co operation with the Johann Wolfgang Goethe Universität, Frankfurt/ Main, for research within the areas of Legal History and Early Modern/Modern History for the conferral of a doctorate degree in law (Dr. jur.) or sociology (Dr. phil.):

3a. Completion of a law degree at a German uni versity or completion at an equivalent university abroad. First or Second German State Law Exam with a minimum overall grade of "vollbefriedi gend" (according to the examination regulations "*JAPrO*" of the State of Baden Württemberg), or an equivalent degree with an equivalent grade ("with distinction") from abroad.

3b. Alternatively, completion of a regular university studies in social sciences with sociology as major subject (and dissertation subject), a second ma jor subject, and two additional minor subjects, with an overall duration of at least 4 years at a German university, or completion of an equiva lent programme at an equivalent university abroad. Master degree or State Exam for second school level teachers ("*Lehramt an Gymnasien*"), or equivalent degree from abroad.

4. For the IMPRS REMEP at the Max Planck In stitute for Social Anthropology in co operation with the Martin Luther University Halle Wittenberg for research within the areas of Anthropology of Law and Conflict Studies for the conferral of a doctorate degree in Social Anthropology (Dr. phil.):

4a. Completion of a university degree in social an thropology at a German university or completion at an equivalent university abroad.

4b. Alternatively to (4a.), completion of regular uni versity studies in a social sciences' discipline as major subject, a second major subject, or two additional minor subjects, with an overall dura tion of at least 4 years at a German university, or completion of an equivalent programme at an equivalent university abroad. Master degree or equivalent degree from abroad. In exception al cases with a background in sociology of law and interest in social anthropology empirical re search, completion of a law degree at a German university or completion at an equivalent univer sity abroad. First or Second German State Law Exam with a minimum overall grade of "vollbe friedigend" (according to the examination regula tions "*JAPrO*" of the State of Baden Württem berg), or an equivalent degree with an equivalent grade ("with distinction") from abroad.

5. Submission of a substantive proposal for a dis sertation topic linked to the research agenda of the IMPRS REMEP.

6. Solid proficiency in the English language. In addi tion, students should have at least some basic knowl edge of German language and demonstrate willing ness to improve it.

The IMPRS REMEP seeks to reach a composition of at least 50 percent foreign doctoral students. **Thus, foreign candidates with a foreign degree are explicitly encouraged to apply.** Recognition of equivalence of foreign degrees is to be determined by the doctoral committee of the respective Faculty or by the respective examination committee, in accord ance with the criteria laid out by the Central Office for Foreign Education at the Secretariat of the Stand ing Conference of the Ministers of Education and Cultural Affairs (*"Zentralstelle für ausländisches Bil dungswesen im Sekretariat der Ständigen Konferenz der Kultusminister der Länder"*).

Application documents

1. Cover sheet addressed to the 'International Max Planck Research School on Retaliation, Media tion, Punishment' at the Max Planck Institute for Foreign and International Criminal Law in Freiburg i.Br.
2. European style curriculum vitae (http://euro pass.cedefop.europa.eu/) in German or English. It should include information on all previous re search activities.
3. Copy of Secondary Education certificate with a list of subject areas. The documents must be

officially translated into German (preferably) or English and a copy of the original supplied.

4. Copy of certificates relating to the First and, where applicable, Second German State Law Exam(s) from lawyers or certificates relating to the University or State Exam from social scientists. From foreign graduates, copy of all university certificates with a list of all grades, including the overall grade, the average grade and the university certificate of graduation. The documents must be officially translated into German (preferably) or English and a copy of the original supplied.
5. Substantive/meaningful proposal for a research topic (5 pages), preferably in English, structured into a) relevance of the proposed topic in the context of the overall research agenda of the IMPRS REMEP, b) state of preparation, c) aim of the project, d) probable links to other disciplines, e) methodology, f) proposed timeline, g) intended time of completion of the dissertation. It is intended that doctoral students, when participating in the research program in a regular manner, will be able to complete the program within a two year period.
6. Two letters of recommendation from two senior scientists (to be written in English or German). These letters should include information as to previous research experience, and vouch for the ability of the applicant to undertake doctoral studies at the Research School.
7. Applicants who do not speak English as their native language and who are unable of demonstrating good proficiency in English language in any other way must prove their skills through language examination certificates. In particular, the International English Language Testing System (IELTS) with at least 6.0 bands or TOEFEL (at least 560 points, computer: 220 points) are recognized.
8. Applicants who do not speak German as their native language should be capable to demonstrate basic knowledge of German, e.g., through a certificate German language (*"Zertifikat Deutsch", ZD*). Proficiency in German language is not a formal precondition for application. However, subject to university regulations, German is mandatory at some universities for the final oral doctoral exam in sociology, social anthropology and law. If necessary, access to external language courses can be arranged.

Presentation of officially authenticated copies of the original certificates etc., with regards to Nos. 3 and 4 above, is only necessary once a decision has been made to admission.

Application dates and further details

Please visit **http://remep.mpg.de/remep/en/pub/application.htm**

Application documents must be submitted **electronically** to the following email address: imprs remep@mpicc.de (maximum 5 MB per E Mail). Please refrain from sending postal applications.

Applicants will be invited to telephone or personal interviews or videoconferences in Freiburg upon prior notification. The applicants will be informed of the selection results in writing. During the selection procedure we ask applicants to refrain from contacting the Institute with regards to the results of the procedure. An absolute right to financial support does not exist. The Max Planck Society endeavors, wherever possible, to employ disabled persons and applications from such persons are expressly called for. The Max Planck Society also desires to increase the proportion of women in areas where they are underrepresented. Women are therefore expressly encouraged to apply.

Financial support

Financial support is granted in accordance with the guidelines of the Max Planck Society in the form of a doctoral contract or bursary. The financial support regarding the doctoral contract corresponds with public service organizations (up to 50 per cent of the payment group 13 degree 1 of the General Framework Agreement on Public Services, *"Tarifvertrag Öffentlicher Dienst"*, TVöD). Financial support will be granted for a period of two years, with a possibility of two subsequent extensions, each for a duration of six months.

Inquiries

Further information on the research program of the IMPRS REMEP can be found at **http://remep.mpg.de**. For additional inquiries, please write to imprs remep@mpicc.de.

Contact Address

Dr. Carolin F. Hillemanns
Max Planck Institute for Foreign and
International Criminal Law
Günterstalstraße 73
79100 Freiburg i. Br.
Germany

Tel.: +49 (761) 7081 250
Fax: +49 (761) 7081 316
c.hillemanns@mpicc.de

For further information regarding the International Max Planck Research Schools visit http://www.mpg.de/english/institutesProjectsFacilities/schoolChoice/index.html.

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Prof. Dr. Dr. h.c. Hans Jörg Albrecht
Günterstalstraße 73
D 79100 Freiburg

Tel.: +49 (0)761 7081 0
Fax: +49 (0)761 7081 294

E Mail: info@mpicc.de
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