

# The Nuremberg War Crimes Trial and Its Policy Consequences Today

Bowling Green State University  
Bowling Green, Ohio

## Program

Thursday, October 5, 2006

### Registration and check-in, 5:00 p.m.

Bowen-Thompson Student Union Room 208

### D) Plenary Session: Reception, 7:00 p.m.

McFall Gallery

“Importance of Research Collaboration on the History of Nuremberg Trials and International Law.”

Hosted by The Office of Research Collaboration

Introduction: Linda Dobb, Executive Vice President, Bowling Green State University

Welcome: Charlene Czerniak, Director of The Office of Research Collaboration

Speaker: **Michael Kelly**

**Michael Kelly** is a Professor of Law at Creighton University School of Law. Professor Kelly is author of the book *Nowhere to Hide: Defeat of the Sovereign Immunity Defense for Crimes of Genocide and the Trials of Slobodan Milosevic and Saddam Hussein* (Peter Lang Pub. 2005), and co-author of the book *Equal Justice in the Balance: America's Legal Responses to the Emerging Terrorist Threat* (Univ. of Mich. Press 2004).

Friday, October 6, 2006

### Breakfast, 8:00 – 8:45 a.m.

Bowen-Thompson Student Union Room 202B

Introductions: **Heinz Bulmahn**, Dean, Graduate College, Bowling Green State University

**Gregory Peterson**, President, Board of Directors, the Robert H. Jackson Center

**Douglas Ray**, Dean, the University of Toledo College of Law

**II) Plenary Session: 9:00 – 10:00 a.m.**

Bowen-Thompson Student Union Room 202A  
“The Historical Significance of Nuremberg”

Speakers: **Henry King, Michael Marrus**

Chair: **Don K. Rowney**, Professor of History, Bowling Green State University

**Henry King** is a former prosecutor at Nuremberg, author of *The Two Worlds of Albert Speer*, (University Press of America, 1997) previous General Counsel of the U.S. Foreign Economic Aid Program, and former Chairman of the Section of International Law and Practice of the American Bar Association. He currently holds the positions of Professor of Law, Case Western Reserve University School of Law and U.S. Director, Canada-United States Law Institute, Case Western Reserve University School of Law.

**Michael Marrus** is an internationally recognized historian. He was named the inaugural holder of the Chancellor Rose and Ray Wolfe Chair in Holocaust Studies at the University of Toronto. He is the author of five books, including, *The Nuremberg War Crimes Trial 1945-46: A Documentary History*. (The Bedford Series in History and Culture, 1997)

**III) Panel Sessions A-C: 10:15 - 11:45 a.m.**

Bowen-Thompson Student Union  
“The Nuremberg Trial’s Place in History”

A. “The Legacy of Nuremberg” Bowen-Thompson Student Union Room 207

Chair: **Mark Polelle**, Director of History, Political Science and Law and the Liberal Arts, Associate Professor of History, The University of Findlay

**Angela Ruocco**, Attorney, Law Offices of Mary Ann Berlin,  
Ph.D. student, University of Maryland, College Park

“Absence at Nuremberg: Allied Powers’ Free Pass to the Italian War Criminals”

**James Burnham Sedgwick**, Ph.D. student, University of British Columbia

“Brother, Black Sheep or Bastard? Situating the Tokyo Trial in the Nuremberg Legacy, 1946-1948”

Discussant: **Larry D. Wilcox**, Professor of History, University of Toledo

B. “Legal Concepts of Crimes against Humanity, Against the Background of the Trials Conducted by the United States, Great Britain and Austria” Bowen-Thompson Student Union Room 202A

Chair: **Michael Bryant**, Assistant Professor of History and Criminal Justice,  
University of Toledo

**Michael Bryant**, Assistant Professor of History and Criminal Justice, University of  
Toledo

“The Appropriation by German Courts in the French-occupied Baden of Control  
Council Law No. 10’s Definition of Crimes Against Humanity in the Prosecution of  
Nazi-era Defendants, 1946-1951

**Wolfgang Form**, Research Director, International Research and Documentation  
Center for War Crimes Trials

“Crimes Against Humanity and Control Council Law No. 10”

**Winfried Garscha**, Chief Research Officer, the Austrian Research Center for Post-  
War Trials

“Crimes Against Humanity in Austrian War Crimes Trials (in Comparison with  
Allied and German Trials)”

Discussant: **Michael Bryant**

C. “Justice? At Nuremberg?” Bowen-Thompson Student Union Room 201A/B

Chair: **Christina Eiko Guenther**, Associate Professor and Acting Chair, German  
Russian East Asian Languages Department, Bowling Green State University

**Graham Cox**, Ph.D. Candidate (ABD), University of Houston

“Nuremberg, Race and the Negro Question”

**Derry Riedel**, Presidential Management Fellow, U.S. Department of State,  
Graduate, University of California, Berkeley, School of Law

“The U.S. War Crimes Tribunals at the Former Dachau Concentration Camp: Lessons  
for Today?”

**Mark Sherry**, Assistant Professor of Sociology, University of Toledo

"Basically Accepted, Almost Forgotten - The Disability Holocaust and the  
Nuremberg Trials"

Discussant: **Beth Griech-Polelle**, Associate Professor of History, Bowling Green  
State University

**Lunch 11:45 a.m. – 12:45 p.m.**

Bowen-Thompson Student Union Room 202B

Welcome: **Donald G. Nieman**, Dean, College of Arts and Sciences, Bowling Green State University

**IV) Plenary Session: 1:00 – 2:00 p.m.**

Bowen-Thompson Student Union Room 202A

“Introductions and Acknowledgments” **Don K. Rowney**, Professor of History, Bowling Green State University and Conference Chair

“Jackson, Nuremberg, Taft and Kennedy: Profiles in Courage in the 1940s, in the 1950s and Today”

Speaker: **John Q. Barrett**

Chair: **Don K. Rowney**

**John Q. Barrett** is a Professor of Law at St. John’s University School of Law in New York City, where he teaches constitutional law, criminal procedure and legal history. Professor Barrett is also the Elizabeth S. Lenna Fellow at the Robert H. Jackson Center. He is writing a biography of Justice Jackson that will include the first inside account of his year (1945-46) away from the Supreme Court as the Chief United States of the principal surviving Nazi leaders at the International Military Tribunal in Nuremberg, Germany.

**V) Plenary Session: Roundtable, 2:15 – 3:45 p.m.**

Bowen-Thompson Student Union Room 202A

“Nation-States’ Participation in the Nuremberg Trials and its Implications Today”

Panelists: **Henry Friedlander, Christoph J. M. Safferling, Jason Ralph**

Chair: **Don K. Rowney**

**Henry Friedlander** served on the project of the Committee for the Study of War Documents microfilming the captured German documents. Professor Friedlander served from 1970 until 2001 as professor of history of the City University of New York. He co-edited (with his late wife Sybil Halpern Milton) *The Holocaust: Ideology, Bureaucracy, and Genocide* (1980), the *Simon Wiesenthal Center Annual* (1984-1990), and the 26 volume documentary series *Archives of the Holocaust* (1988-93). Professor Friedlander's major study, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution*, was published by the University of North Carolina Press in 1995. It won the Bruno Brand Tolerance Book Award of the Simon Wiesenthal Center, 1996, and the DAAD Book Prize of the German Studies Association, 1997. Professor Friedlander's research has also focused on the legal implications of postwar trials, and this investigation has so far led to the publication of the several articles.

**Christoph Safferling** is an assistant professor in the Institute for Criminal Law, Criminal Procedure and Criminology in the Law Faculty of the Friedrich-Alexander-Universität, Erlangen-Nürnberg, Germany. He has been involved as legal advisor to the claimants in several class action proceedings concerning compensation for forced labor during the Nazi-regime. He authored *Towards an International Criminal Procedure* (OUP 2001/2003) and co-edited *The Nuremberg Trials: International Criminal Law since 1945* (Saur 2006). Since December, 2005 he has been the Whitney R. Harris International Law Scholar of the Robert H. Jackson Center, Jamestown, N.Y.

**Jason Ralph** is a Senior Lecturer in International Relations at the School of Politics and International Studies, University of Leeds, United Kingdom and Associate Editor of *The International Journal of Human Rights*. He has published a number of articles on the International Criminal Court in journals such as *International Relations* and *Review of International Studies*. He is the author of *Defending the Society of States: Why the U.S. opposes the International Criminal Court and its Vision of World Society* (forthcoming, Oxford University Press).

**VI) Panel Session D: 4:00 – 5:30 p.m.**

Bowen-Thompson Student Union Room 202A

“Historical Aspects of International Participation.”

D. “The Soviet Role in the Nuremberg Trials: People, Policies, Procedures and Consequences”

Chair: **Francine Hirsch**, Associate Professor of History, University of Wisconsin-Madison

**Francine Hirsch**

“Nuremberg as Show Trial?: The Vyshinsky Commission, the IMT, and the Making of Postwar Order”

**Marina Sorokina**, Senior Researcher, Russian Academy of Sciences Archive

“Witnesses and Evidence: The Extraordinary Commission in Russia at Nuremberg and Beyond”

Discussant: **Elizabeth Borgwardt**, Assistant Professor of International and Constitutional History, Harvard University

**Reception: 6:00 – 8:00 p.m.**

Bowling Green State University Fine Arts Building, Dorothy Uber Bryan Gallery.

Hosted by the Social Philosophy and Policy Center, Bowling Green State University

Exhibit currently on Display:

**Color: Ten African American Artists**

**VII) Plenary Session, 8:00 p.m.**

Bowen-Thompson Student Union Theatre Room 206

Host: The BG Experience

Performances: **Bernard Elias**, first cousin of Anne Frank, the **BGSU Women's Chorus**, and the **Department of Theatre and Film**.

The BGSU Women's Chorus will perform settings of five poems written by children of the Terezin (Czechoslovakia) concentration camp established by the Nazis during World War II. The work, "I Never Saw Another Butterfly" by Joel Hardyk, will be enhanced by the projection of drawings by children from Terezin. Students in the BGSU Department of Theatre and Film will perform dramatic readings from Anne Frank's *The Diary of a Young Girl* and poems by the children of the Terezin camp.

Bernard Elias, a first cousin of Anne Frank, will comment on his personal experiences with Anne. Film clips from "Darfur Diaries" will highlight the continuing, contemporary importance of the issues of human rights and justice which were so forcefully brought to international attention during World War II. Mr. Elias will then engage the audience in a discussion of the right of all human beings to justice, the principal theme of the Nuremberg conference.

**Saturday, October 7, 2006**

**Breakfast: 7:30 – 8:15 a.m.**

Bowen-Thompson Student Union Room 202B

**VIII) Plenary Session: 8:30 – 10:00 a.m.**

Bowen-Thompson Student Union Room 202A

"The Field of International Law: From Nuremberg to the Present"

Panelists: **David M. Crane, Curtis F. J. Doebbler**

Respondent: **Brenda J. Hollis**

Chair: **Don K. Rowney**

**David M. Crane** is a Professor of Law at Syracuse University College of Law. He was previously appointed by United Nations Secretary-General, Kofi Annan as Chief Prosecutor of the Special Court for Sierra Leone in the spring of 2002 and he served in this post from April 2002 until July 15, 2005. He was the first U.S. war crimes prosecutor since U.S. Supreme Court Justice Robert H. Jackson presided over the International War Crimes Tribunal in Nuremberg after World War II. Posts he has held include Director of the Office of Intelligence Review, assistant general counsel of the Defense Intelligence Agency.

**Curtis F. J. Doebbler** is a Professor of Law at An-Najah National University, international human rights lawyer, and advisor to the defense team representing former Iraqi President Saddam Hussein before the special Court established by the United States in Iraq. Dr. Doebbler is an international human rights lawyer who practices law before international human rights tribunals, advises non-governmental and governmental entities on issues of peace human rights and humanitarian assistance, and lectures and teaches human rights in a variety of settings ranging from universities to projects from homeless persons.

**Brenda J. Hollis** is a retired Air Force Colonel who currently serves as an independent consultant in the arena of international criminal investigation and prosecution. She previously served as a Senior Trial Attorney and as Chief Team Legal Office and Co-Council Section in the Office of the Prosecutor, International Criminal Tribunal for the former Yugoslavia. Her duties there included leading the Milosevic investigation prior to the trial in that case, preparing the amended indictments against the former President of Republika Srpska, acting as lead prosecutor in several cases, and assisting trial teams in the Office of the Prosecutor, International Criminal Tribunal for Rwanda. As a consultant, she has acted as a presenter and conference co-chair at the Pearson Peacekeeping Center, Canada and also provided training and other assistance to Iraqi, Cambodian, and Indonesian jurists, both inside those countries and in other, outside locations in conjunction with the U.S. Institute for Peace Initiative, the East West Center and the International Bar Association. She also served in the Office of the Prosecutor, Sierra Leone Special Court, as a consultant to the Prosecutor, Acting Task Force Leader. Most recently she has prepared the amended the indictment against Charles Taylor for the SCSL Prosecutor, and has taken the lead in preparing that case for trial.

**IX) Panel Sessions E-F: 10:15- 11:45 a.m.**

Bowen-Thompson Student Union

“The Evolution of International Justice Systems after Nuremberg”

- E. “Humanity and Justice: the Clash between Singularity and Universality” Bowen-Thompson Student Union Room 201A/B

Chair: **Katya Kozicki**, J.S.D., UFSC, SC, Brazil, Pontifical Catholique University of Parana and Federal University of Parana. Law School, Curitiba, PR, Brazil

**Vera Karam de Chueiri**, Ph.D NSSR, NY, USA, Federal University of Parana, Law School, Curitiba, PR, Brazil

“The Possibility of Justice in the Realm of International Law”

**Katya Kozicki**, J.S.D., UFSC, SC, Brazil, Potinfical Catholique University of Parana and Federal University of Paraná. Law School, Curitiba, PR, Brazil  
“Law, Democracy, and Justice After Nuremberg: Are Universals Possible Concerning Identities?”

**Gabriel Gualano de Godoy**, Graduate Student, Law School Graduate Program,  
Federal University of Parana – UFPR, Curitiba, PR, Brazil  
“Human Rights after Nuremberg: the Inter-American Court of Human Rights’  
Contributions to Global Justice in Latin America”

Discussant: **Vera Karam de Chueiri**, Ph.D NCSR, NY, USA, Federal University of  
Parana, Law School, Curitiba, PR, Brazil

- F. “Alternatives to the Present International Justice System” Bowen-Thompson Student  
Union Room 202A

Chair: Major **Samuel Vincent Jones**, Assistant Professor of Law, Thurgood Marshall  
School of Law, Texas Southern University and U.S. Army Judge Advocates General  
Corps

**Saby Ghoshray**, Vice President for Research and Development, World Compliance  
Company

“Proposing a New Framework of International Law: A Model Operating Procedure  
for the Parallel Application of International Human Rights and Humanitarian Law”

**Mary Margaret Penrose**, Associate Professor of Law, University of Oklahoma,  
SJD Candidate, Notre Dame Law School, Center for Civil and Human Rights  
“Ever Again, the Limits of Prosecution”

**Raul C. Pangalangan**, Professor of Law, University of the Philippines  
“Lessons from Asian Tribunals”

Discussant: **Major Samuel Vincent Jones**

**Lunch 11:45 a.m. – 12:45 p.m.**  
Bowen-Thompson Student Union Room 202B

**X) Panel Sessions G-I: 1:00 – 2:30 p.m.**  
Bowen-Thompson Student Union  
“International Systems of Criminal Justice”

- G. “International Justice – Still in Transition?” Bowen-Thompson Student Union Room  
202A/B

Chair: **The Honorable James G. Carr**, Chief Judge United States District Court,  
Northern Division of Ohio

**Romana Schweiger**, Researcher and Lecturer, Dept. of Criminal Law and  
Criminology, University of Vienna, Austria  
“Accelerating International Criminal Trials; The Experience of the ICTY”

**Thomas McWatters III**, Attorney, Ph.D. Candidate, Dept. of Philosophy, Duke University  
“Normative Legitimacy of a Global Governance Institution”

**Chris Engels**, Director, Criminal Defense Section, Court of Bosnia and Herzegovina  
“War Crimes Trials, Transition and Transfer: The Court of Bosnia and Herzegovina as a model for Complimentarity”

Discussant: **Douglas J. Forsyth**, Associate Professor of History, Bowling Green State University

H. “Punishment of a Few or Deterrence for Many” Bowen-Thompson Student Union Room 207

Chair: **Daniel J. Steinbock**, Professor of Law, University of Toledo College of Law

**Joachim Neander**, Independent Scholar, affiliated with the Auschwitz-Birkenau State Museum  
“The Penalization of the ‘Auschwitz Lie’ in Central Europe”

**Aaron Fichtelberg**, Professor of Sociology and Criminal Justice, University of Delaware  
“The International Criminal Court and the Ethics of Selective Justice”

Discussant: **Christoph Safferling**, Assistant Professor Institute for Criminal Law, Criminal Procedure and Criminology in the Law Faculty of the Friedrich-Alexander-Universität, Erlangen-Nürnberg

I. “International Tribunals: Success or Stepping Stones?” Bowen-Thompson Student Union Room 202A

Chair: **Deborah Enix-Ross**, Lawyer, Debevoise & Plimpton, LLP; Chair of the American Bar Association Section of International Law

**Alberto Costi**, Senior Lecturer in International Law, Victoria University School of Law, New Zealand  
“Addressing the Major Legal, Political and Practical Obstacles Facing Hybrid Tribunals in Post-Conflict Situations: Teaching from Past Experience and Lessons for the Future”

**Chad Novak**, Law Student, Marquette University Law School  
“Virtues of Ad Hoc Tribunals to Conflict Resolution”

Discussant: **Larry D. Johnson**, Assistant Secretary-General for Legal Affairs, the United Nations

**XI) Panel Sessions J-L 2:45 – 4:15 p.m.**

Bowen-Thompson Student Union

“United States Policies and the International Criminal Court”

- J. “The Influence of the Nuremberg Trial on United States Justice” Bowen-Thompson Student Union Room 202A

Chair: **Apollos O. Nwauwa**, Associate Professor of History, Bowling Green State University

**Rodger Citron**, Assistant Professor of Law, Touro College, Jacob D. Fuchsberg Law Center

“The Nuremberg Trials and American Jurisprudence: The Decline of Legal Realism, The Revival of Natural Law, and the Development of Legal Process Theory”

**Gwynne Skinner**, Visiting Clinical Professor of Law, Seattle University School of Law M.St. Candidate, University of Oxford

“The Nuremberg Precedents and Their Impact on Civil Claims of War Crimes and Crimes Against Humanity in U.S. Courts under the Alien Tort Statute”

**Benjamin Davis**, Associate Professor of Law, University of Toledo College of Law

“Refluat Stercus or Making ‘Manure’ Roll Uphill: the Problem of Prosecuting High-Level U.S. Civilian Authority and Military Generals in U.S. Domestic Courts for Violations of International Humanitarian and/or International Criminal Law”

Discussant: **Ellen Frankel Paul**, Deputy Directory, Social Philosophy and Policy Center, Bowling Green State University

- K. “The United States and the International Criminal Court” Bowen-Thompson Student Union Room 201A/B

Chair: **Timothy Pogacar**, Associate Professor and Chair, German Russian East Asian Languages Department, Bowling Green State University

**William McGeeney**, Graduate Student, Political Science Department, East Stroudsburg University

“Why the United States has Failed to Engage and Support the Collective Jurisdiction of the Rome Statute”

**Burcu Sahin Grubhofer**, Doctorial Student, Department of European, International and Comparative Law, University of Vienna

“A Renunciation of the Liberal International Order”

**Steven T. Voigt**, Lawyer, Reed Smith, L.L.P.

“The International Criminal Court’s Antagonism to our Constitution and the Need for President Bush to Articulate an Acceptable Alternative”

Discussant: **Jason Ralph**, Senior Lecturer in International Relations at the School of Politics and International Studies, University of Leeds, United Kingdom and Associate Editor of *The International Journal of Human Rights*

- L. "Accountability in the Current War on Terrorism" Bowen-Thompson Student Union Room 207

Chair: **David A. Harris**, E.N. Balk Professor of Law & Values, University of Toledo College of Law

**Jehan Johnson**, Graduate Student, Political Science Program, East Stroudsburg University  
"Hiding Behind a Mantel of Terrorism"

**Rex Childers**, Graduate Student, Department of History, Bowling Green State University  
"United States Military Law of War Doctrine: Making the International Criminal Court Irrelevant to the Ground Combat Forces of the United States in the Early 21st Century"

**Scott Horton**, Lawyer, Patterson, Belknap, Webb & Tyler LLP; Chair, Committee on International Law of the Association of the Bar of the City of New York  
"Can Lawyers and Policy Makers Be Held to Account for Bad Advice When It Results in War Crimes?: What Nuremberg Says"

Discussant: Major **Samuel Vincent Jones**

**XII) Wrap-up Session: 4:30 – 6:00 p.m.**  
Bowen-Thompson Student Union Room 202A