

Briefing

First Issue

International Criminal Law Center Fudan University

12:00 March 5, 2014

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- III. Judge Hans-Peter Kaul at the International Criminal Court Delivered a Theme Speech

I. Inauguration of Fudan International Criminal Law Center (ICLC Fudan) & Symposium on Old Evidence Collection and War Crime Trials in Asia Officially Held an Opening Ceremony

On the morning of 5th March, 2014, The Inauguration of Fudan International Criminal Law Center (ICLC FDU) & Symposium on "Old Evidence Collection and War Crime Trials in Asia" was held at Guanghai Building in Fudan University. Dozens of international criminal law experts and scholars around world were invited to attend the meeting. Students from FDU law school major in criminal law and international criminal law also attended the meeting.

Professor Sun Xiaoxia - Dean of Fudan University law school made a warm welcoming. Professor Hu Huazhong of Fudan University law school read the Fudan International Criminal Law Center's establishment approval, and announced that the center was officially established. Professor Chen Haoran from Fudan University law school, director of Fudan International Criminal Law Center and Liu Daqun - honorary director of Fudan International Criminal Law Center also a judge of the

United Nations International Criminal Tribunal for the former Yugoslavia delivered a speech respectively. Professor Chen Haoran pointed out that the establishment of ICLC Fudan is at the most in need time. Professor Lin Shangli - Vice President of Fudan University attended the meeting and gave a speech to warmly congratulate the establishment of the Fudan International Criminal Law Center.

Students from FDU gave us an excellent break show.

After the opening ceremony, the participated guests took a group photo to mark the occasion.

II. Judge Theodor Meron - the President of the International Criminal Tribunal for the former Yugoslavia and Presiding Judge of Mechanism for International Criminal Tribunals Delivered a Theme Speech

According to the agenda, at the second half on the morning of March 5, Judge Theodor Meron - the President of the International Criminal Tribunal for the former Yugoslavia and Presiding Judge of Mechanism for International Criminal Tribunals and Judge Hans-Peter Kaul at the International Criminal Court respectively delivered a theme speech.

Judge Theodor Meron's speech theme is "The Legacy of the ICTY and the Function of the MICT". He systematically reviewed the emergence and development of the international criminal law and the individual international criminal responsibility, focused on introducing the historical background of the International Criminal Court's emergence, its 20 years of development history, and the great achievements and great contributions to the development of international criminal law and international criminal justice. He also introduced the positions and functions of the Mechanism for International Criminal Tribunals. As he noted, although the International Criminal Tribunal for the former Yugoslavia faced many suspects and challenges at the beginning of establishment, under the joint efforts of all judges and staffs, the International Criminal Tribunal for the former Yugoslavia not only successfully completed the responsibilities conferred by the UN Security Council, but also provided lots of important references and experience for international criminal trials and the establishment of other international criminal tribunals, and had made great achievements in the field of international criminal justice. Although the International Criminal Tribunal for the former Yugoslavia had basically completed its historic mission and would be officially closed soon, its duties had not ended. It had left us extremely valuable asset and heritage for us to cherish, protect, inherit and

study. Mechanism for International Criminal Tribunals will function as the successor of International Criminal Tribunal for the former Yugoslavia, complete its follow-up works, perform its long-term duties, and continue to make contributions to the cause of peace.

After the presentation, Judge Theodor Meron answered series of relevant questions from FDU students.

III. Judge Hans-Peter Kaul at the International Criminal Court Delivered a Theme Speech

Themed by “The International Criminal Court: Present and Future”, Judge Hans-Peter Kaul delivered a speech, explained the winding establishment and development course, current status, difficulties and challenges of the first permanent International Criminal Court, and plans for the prospect of International Criminal Court. He noted that the International Criminal Court would face inner and outer challenges and difficulties for a long time, such as further improving the working efficiency, protection of witnesses and victims, the participation and roles of the victims in the legal proceedings, striving for the coordination and support of the States Parties, investigation and evidence acquisition as well as political reproach of every colour. He thought that the increasingly development of International Criminal Court was a huge success, developing from only 5 vanguard members to 1100 members of institution, from Utopian ideals to an important institution in the international community. He compared the International Criminal Court to be a beacon, lighting up dark side that is hard for the domestic laws to reach, and always warning the war criminals and the authorities. Any violation of the bottom line of basic human ethics is bound to be brought to justice and punishment. In the future, International Criminal Court will always remain an impartial, neutral and objective position, and plays a more important role in safeguarding the world peace and justice. Meanwhile, he noted that the establishment of the International Criminal Law Center Fudan University had fully demonstrated the commitment of China to international peace and justice, and safeguarding world peace and development of the International Criminal Court also need China's participation and support. He hoped that China can become a States Party of the International Criminal Court soon, so as to contribute more to strengthen international peace and justice.

After the presentation, Judge Hans-Peter Kaul answered series of relevant questions from scholars and FDU students.

Inauguration of Fudan International Criminal Law Center (ICLC Fudan)
& Symposium on Old Evidence Collection and War Crime Trials in Asia

Briefing

Second Issue

International Criminal Law Center Fudan University

17:00 March 5, 2014

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- I. Professor Chen Haoran from Fudan University law school, director of Fudan International Criminal Law Center preside over the meeting.
- II. Professor David J.Cohen-former Ancker Distinguished Professor for Humanities at UC Berkeley delivered a theme speech.
- III. Ms. Gao Hong-Director of Division for the history of public of China, National Library delivered a theme speech.
- IV. Ms. Lisa.nguyen-the Director of the Section for the Documents in the Republic of China, Hoover Library and Archives, Stanford University delivered a theme speech.
- V. Mr. Guido Acquaviva-Chef de Cabinet in the office of the President of the Special Tribunal for Lebanon delivered a theme speech.
- VI. Professor Nina Jorgensen-Associate Professor in the faculty of Law at the Chinese University of Hong Kong delivered a theme speech.
- VII. Professor Cheah Wui Ling-Associate Professor at the National University of Singapore's Faculty of Law delivered a theme speech.

On the afternoon of 5th March, 2014, the Inauguration of Fudan International Criminal Law Center (ICLC FDU) & Symposium on "Old Evidence Collection and War Crime Trials in Asia" was continued. Experts and scholars around the world have a wide and deeply discuss on Old Evidence Collection and War Crime Trials.

I. Professor Chen Haoran-Director of Fudan International Criminal Law Center preside over the meeting

The afternoon session was chaired by Professor Chen Haoran, director of

International Criminal Law Center FDU. He briefly introduced the basic situation in Asia after World War II and criminals on trials. He pointed out due to a variety of complex factors, the post-war trials of war criminals in Asia is very thorough, war criminals escaped from historical trails, which left lots of grief regret. The trial of war criminals after World War II in Asia and collate historical research, for justice, to restore historical truth, safeguard world peace and the consolidation of the post-war international order, have a very important significance.

II. Professor David J. COHEN-former Ancker Distinguished Professor for Humanities at UC Berkeley delivered a theme speech.

Professor David J. Cohen gave a speech on “the significance of old documents”. He pointed out the comprehensive of collected old evidence and war crime trials documents to understand the historic facts. Due to various factors the historical summary of Asian war criminals trials after World War II was marginalized for a long time. The international community’s insufficient understanding of the history has shaken the basis of the postwar international order to a certain degree.

III. Ms. Gao Hong-Director of Division for the history of public of China, National Library delivered a theme speech.

Ms. Gao Hong’s speech themed on “Material Collection by National Library.” She fully introduced current situation and future plans of National Library collected, saved, and organized “post-war trials of Japanese war criminals.”

IV. Ms. Lisa.nguyen-the Director of the Section for the Documents in the Republic of China, Hoover Library and Archives, Stanford University delivered a theme speech.

Ms. Lisa Nguyen respectively delivered a theme speech on “War Crime Collections”. Lisa Nguyen is the Director of the Section for the Documents in the Republic of China, Hoover Library and Archives, Stanford University. Ms. Lisa Nguyen systematically introduced the history of the Hoover Library & Archives. She pointed out the special guiding principle that Hoover abide by is to focus on “War, Revolution and Peace”. After the demonstration of the very valuable Asia collections, including the IMFTE related collections, Araki Sadao collections and Guam tribunal records. Ms. Lisa Nguyen ended the speech with a brief but profound outlook on the challenges and future directions.

V. Mr. Guido Acquaviva-Chef de Cabinet in the office of the President of the Special Tribunal for Lebanon delivered a theme speech.

Guido Acquavia, Chef de Cabinet in the Office of the President of the Special Tribunal for Lebanon, introduced the regulations and practices of International Criminal Tribunals established after World War II throughout the speech “Evidence Collection in International Criminal Tribunals”. The evidence collection in International Criminal Tribunals should also be proven beyond reasonable doubt for the purpose of protecting the rights of the accused. As International Criminal Tribunals do not have judicial police to get and remain the evidences, relevant local departments would take over the works. Throughout the practice of trials, it also formed issues such as ICCPR and ECHR, which play vital roles towards human rights’ protection both international and internal.

VI. Professor Nina Jorgensen-Associate Professor in the faculty of Law at the Chinese University of Hong Kong delivered a theme speech.

Associate Professor Nina Jorgensen, from the Chinese University of Hong Kong, introduces the Hong Kong’s war crimes trials based on the perspective of war crime trials in Asia and the old evidence collection. She states the fact that Japanese army invaded in Hong Kong between 25th December 1941 and 30th August 1945, and the 123 individuals were tried from 28th March to 20th December in 1948. Then she explains the legal bases for the Hong Kong trials and illustrates the further development of international crime law with large number of materials in Hong Kong. And also the application of Regulation 8(ii) which joint trials regularity was detailed.

VII. Professor Cheah Wui Ling-Associate Professor at the National University of Singapore’s Faculty of Law delivered a theme speech.

Assistant professor Cheah Wui Ling from National University of Singapore delivered a theme speech on “Singapore Trial and Documents Collection”. The speech explained the importance of judgment records in the research of World War II. She pointed that the records provide us another way to understand the trial but we cannot treat it as the direct evidences that disclose the truth of World War II. For the limitation of the infection of the source of evidence, historical period, culture and other facts, trials may not reflect the truth.

Inauguration of Fudan International Criminal Law Center (ICLC Fudan)
& Symposium on Old Evidence Collection and War Crime Trials in Asia

Briefing

Third Issue

International Criminal Law Center Fudan University

12:00 March 6, 2014

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- I. Associate Professor Yuma TOTANI from University of Hawaii delivered a theme speech.
- II. Ms. ZHU Dan-Phd.(International Criminal Law),University of Edinburgh delivered a theme speech.
- III. Professor CHENG Zhaoqi- Professor in the College of Humanity in Shanghai Jiaotong University, Director of Centre for the Tokyo Trial Studies, delivered a speech.
- IV. Professor GAO Xiudong-Criminal law professor of China Foreign Affairs University delivered a theme speech.
- V. Professor LING Yan-Professor at the Faculty of International law at China University of Political Science and Law delivered a theme speech.
- VI. Ms. ZHANG Binxin-Lecturer of Xiamen University delivered a theme speech.
- VII. Professor Morten Bergsmo- Visiting professor, Perking University Law School; Director, Centre for International Law Research and Policy, delivered a speech.
- VIII. Professor Xiang Longwan- Honorary Director, Center for the Tokyo Trial Studies, Professor, Department of Mathematics, Shanghai Jiao Tong University delivered a speech.

On the morning of March 6, 2014, The Inauguration of Fudan International Criminal Law Center (ICLC Fudan) & Symposium on Old Evidence Collection and War Crime Trials in Asia continued, the meeting coordinated by Professor Morten Bergsmo- Visiting professor, Perking University Law School; Director, Centre for International Law Research and Policy; on the meeting experts and scholars around the world had an extensive discussion and in-depth exchanges on Tokyo Trial:

Significance and Material Collection.

I. Associate Professor Yuma TOTANI from University of Hawaii delivered a speech

Associate Professor Yuma Totani gave a speech on “The Tokyo Trail and Impact on Japan”. She began the speech with the explanation of historical context of the Tokyo Trial and offered a summary of the substance of the trail. During the discussion about Japanese postwar reception of the trial, she introduced two strands of “victors’ justice perspectives” about the Tokyo trail which still had a great influence but also pointed that finally a more multi-faceted, better grounded understanding of the Tokyo trail will be a general trend.

**II. Ms. ZHU Dan-Phd.(International Criminal Law),
University of Edinburgh delivered a speech**

PhD. Zhu Dan made her speech on “Reflections on the Tokyo Trial——A Chinese Perspective” and analyzed three aspects in detail: China’s involvements in the Tokyo Trial, reflections on the factors restricting the adequacy of the Tokyo Trial and the Tokyo Trial’s contemporary relevance. As the biggest victim of Japanese atrocities, China played a vital role in Tokyo Trial, and Tokyo Trial also meant a great deal to China and Chinese. However, Tokyo Trial left over many regrets which deserve reflections for a variety of reasons referred to the politics of Tokyo Trial, the lack of evidence, the prosecutorial strategy and the limitation of individual criminal responsibility.

**III. Professor CHENG Zhaoqi- Professor in the College of Humanity in Shanghai
Jiaotong University, Director of Centre for the Tokyo Trial Studies, delivered a speech**

Professor Cheng Zhaoqi from Shanghai Jiaotong University made a theme speech about the Tokyo trail and impact at present. Professor Cheng briefly introduced and analyzed the research works in progress at present. He pointed that research works about the Tokyo trail in China were merely based on the original contexts, the collection of files was moving slowly. He also suggested that the research on the Tokyo trail should not only be proceeding in the view of history, but also be proceeding in the view of law.

IV. Professor GAO Xiudong-Criminal law professor of China Foreign Affairs University delivered a speech

Professor Gao Xiudong, Criminal law professor of China Foreign Affairs University, made elaboration and analysis on the establishment of International Military Tribunal for the Far East (“IMTFE”) and Tokyo Trial, contemporary influence of Tokyo Trial, China and Tokyo Trial in her speech on “Tokyo Trial and its Contemporary Influence”. In January 19th, 1946, IMTFE was formally established and became the only international tribunal that countered Japanese Class A war criminals after World War II. Besides great significance at that time, Tokyo Trial has been also leading to worldwide studies, which makes profound inspiration towards international criminal judicature at present.

V. Professor LING Yan-Professor at the Faculty of International law at China University of Political Science and Law delivered a speech

Professor Ling Yan made a speech on “Trail of Japanese Criminal in New China”. Due to the change of China government in 1949, the trail records were lost, and it contributed to make it difficult to reflect the trail fact before 1949. After the founding of New China 1949, criminal tribunal in Taiyuan and Shenyang tried 45 criminals. She introduced and illustrated the situation of trails from 5 aspects. She pointed out the trial of PRC was undeniable legitimate, and complied with the development of international law at that time.

VI. Ms. ZHANG Binxin-Lecturer of Xiamen University delivered a speech

Ms. Zhang Binxin gave a speech on “The Chinese Trials in 1956: Political Trials or Another Way to Justice”. She provided the historical background and the process of the 1956 trails, analyzed the substantive and procedural law that was applied in the trials as well as the impact of the former internees’ activities after they were returned to Japan was focused on. She pointed out that although the 1956 trials had many flaws, the legitimacy and justice of this trial was indubitable based on its historical, political and cultural backgrounds.

VII. Professor Morten Bergsmo- Visiting professor, Perking University Law School; Director, Centre for International Law Research and Policy, delivered a speech

Professor Morten Bergsmo gave a speech on Trial East Asian War Crimes Materials Accessibility and Knowledge-Generation, he pointed out an overview of such sources must be prepared and made openly available on line as soon as possible. It should aid actors (include donors) to priorities the use of resources and enhance quality control. All sources should be made available on a fully open access platform, with free and equal access to all, and public or common ownership of the platform is preferable. Importantly a proper knowledge infrastructure will open new knowledge-generation activities and teams.

VIII. Professor Xiang Longwan- Honorary Director, Center for the Tokyo Trial Studies, Professor, Department of Mathematics, Shanghai Jiao Tong University delivered a speech

Professor Xiang gave a short speech after the formal section. He said that Fudan University had a deep historical relationship with the Tokyo Trials. At that period, his father Professor Xiang Zhejun and Professor Mei Ruao, both professors of Fudan Law School, represented China as prosecutor and judge in Tokyo Trials. He pointed out that the convening of this international conference themed on “Old Evidence Collection and War Crime Trials in Asia” had a very important meaning. He indicated that the collection of old evidences should focused on what we have not yet discovered or made enough research on. Due to the insufficiency of our collecting and researching on the materials of postwar trials, we had a lot of misunderstanding of the trial process. For example, we mistakenly believed the representatives of Chinese’s inaction in Tokyo trial. Therefore, we need to strengthen the collection of raw data of post-war trials to restore history supported by first-hand information.

Inauguration of Fudan International Criminal Law Center (ICLC Fudan)
& Symposium on Old Evidence Collection and War Crime Trials in Asia

Briefing

Fourth Issue

International Criminal Law Center Fudan University

17:00 March 6, 2014

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- I. Professor Chen Haoran from Fudan University law school, director of Fudan International Criminal Law Center, delivered a theme speech.
- II. Judge LIU Daqun- Judge at the Appeals Chamber of the ICTY and ICTR, delivered a theme speech
- III. Mr. GUO Biqiang- Director of the Division for Archives of the Republic of China, China's Second Archive Nanking, delivered a theme speech.
- IV. Professor YANG Lijun- Associate Professor in the International Law Research Center of the Chinese Academy of Social Science delivered a theme speech.
- V. Ms. WANG Xintong- Legal Program Officer International Bridges to Justice delivered a theme speech.
- VI. Ms. ZHANG Tianshu- LLM of China University of political science and law in international law, delivered a theme speech.
- VII. Inauguration of Fudan International Criminal Law Center (ICLC Fudan) & Symposium on Old Evidence Collection and War Crime Trials in Asia end in a satisfactory way.

In the afternoon of 6th March 6, 2014, The Inauguration of Fudan International Criminal Law Center (ICLC Fudan) & Symposium on Old Evidence Collection and War Crime Trials in Asia had its last discussion section and end in a satisfactory way. The afternoon section coordinated by Judge Liu Daqun- Judge at the Appeals Chamber of the ICTY and ICTR, at the meeting experts and scholars around the world had an extensive discussion and in-depth exchanges on China Trial: Significance and

Material Collection

**I. Professor Chen Haoran from Fudan University law school,
director of Fudan International Criminal Law Center, delivered a theme speech**

Professor Chen gave a speech focused on the postwar trails of Japanese bacteria troops (731 troops, 100 troops etc.). He briefly introduced serious crimes committed by Japanese bacteria troops in China and the rules of international criminal law violated by them, as well as war crime trials by former Soviet Union, National Government, and PRC Government. He pointed out due to the impact of political, military and other factors, also the intervention by America and former Soviet Union, large number of Japanese bacteria war criminals has escaped justice and punishment of history, only a small amount of bacteria war criminals has been committed by Chinese tribunals. The lack of thoroughness of the post-war trials left a lot of regret and stains, and it also became some Japanese right-winger's excuse to attack the justice and fairness of the postwar trials. At the end, Professor Chen left two further questions for us to discuss: 1. Are there any necessity and possibility to pursue these war criminals responsibility nowadays? 2. What is the possible impact if we pursue these war criminals now?

**II. Judge LIU Daqun- Judge at the Appeals Chamber of the ICTY and ICTR,
delivered a speech**

Judge LIU Daqun delivered a theme speech on "A Legal Analyzes on Nanking Trails". He made a brief introduction on tribunals established by Allies Powers after WWII in Asia and provided relevant information. After that, Judge LIU explained the elements evolved in the procedure of the trails including subject matter jurisdiction, formation of the bench, the right of the accused, legal representation and transparency of the trail. While talking about research work by both Chinese and Japanese scholars, he pointed that "the Nanking Trial has been the subject of passionate exchanges over its legality, its legitimacy and its legacy". And he concluded several shortcomings of the Nanking trails. Above all, inadequate indictment and overlook of the charges, immunity of the Head of State of his relatives and the early release problem are the most notable issues.

**III. Mr. GUO Biqiang-Director of the Division for Archive of Nanking Second
Archive, delivered a speech**

Mr. GUO Biqiang, the director of the division for Archive of the Republic of China, Nanking, delivered a theme speech about “Material Collection on Nanking Trial”. Mr. Guo introduced the collection of Nanking trails briefly, and discussed the importance of the work. Subsequently, the Director Guo introduced the work of collecting archives and the following output for the Nanjing Massacre, and re-emphasized that the achievements greatly supported the negotiations against the Japanese government.

IV. Prof. YANG Lijun- Associate Professor in the International Law Research Center of the Chinese Academy of Social Science delivered a speech

Themed by “On the Principle of Superior Responsibility of A Successor commander-Yasuji Okamura Case Revisited”, associate professor YANG Lijun discoursed and analyzed the connotation of the principle of commander responsibility and superior responsibility of a successor commander in order to refute the acquittal of Yasuji Okamura, the Commander-in-Chief of the Japanese Expeditionary Forces in China. As one of the most important Japanese war criminals, Okamura’s being acquitted and released to Japan had always been questioned for its obvious legal flaws. He concluded that Okamura should be held responsible for his failure to punish the crimes committed by his subordinates prior to his assumption of command, and the failure for his conviction may cause negative effects on the contemporary Sino-Japanese relations.

V. Ms. WANG Xintong-Legal Program Officer International Bridges to Justice, delivered a speech

Wang Xintong respectively introduced the background of Nanking Trail 1946 and the Nanking War Crimes Tribunal. Then she further discussed the impacts of the trails from such aspects. She pointed out we should realize the organization of the Nanjing trials with a strong political color rather than the positive effect of the Nanking trails. The tribunals, instead of deciding cases on the merits of law, were subject to the will of politicians.

VI. Ms. ZHANG Tianshu-LLM of China University of political science and law delivered a speech

Ms. ZHANG Tianshu made her speech on “The Forgotten Legacy, China’s Post-WW II Trials of Japanese War Criminals from 1946 to 1956”, and elaborated her

own study and viewpoint on ROC war crimes trials before 1949. Ms. ZHANG enumerated the legal basis and applicable laws of these trials in detail, and briefly talked over Art 36 of War Crimes Trial Ordinance with Judge LIU Daqun. In the end, Ms. ZHANG considered that Tokyo Trial and Chinese Civil War together with change of government in China and the influence of Yasuji Okamura's being acquitted were the main reasons why have the ROC war crimes trials been forgotten through horizontal and vertical analysis.

VII. Inauguration of Fudan International Criminal Law Center (ICLC Fudan) & Symposium on Old Evidence Collection and War Crime Trials in Asia successfully ended

After two days of enthusiastic and in-depth discussions, the Inauguration of Fudan International Criminal Law Center (ICLC Fudan) & Symposium on Old Evidence Collection and War Crime Trials in Asia ended in a satisfactory way. At the symposium, 19 experts and scholars from around the world of international criminal law delivered splendid speech on "Historical Materials and War Crimes Trials" "Tokyo Trial: Significance and Material Collection" "China Trial: Significance and Material Collection" respectively.

On the closing Ceremony, Professor Sun Xiaoxia - Dean of Fudan University law school, Professor Morten Bergsmo- Centre for International Law Research and Policy, and Judge Liu Daqun, gave closing remarks respectively. Dean Sun Xiaoxia expressed warm thanks to everyone, especially expressed his appreciation to Judge LIU Daqun for his strong support of the establishment of ICLC FDU, hoping all of the experts and scholars would support ICLC FDU as always. Professor Morten Bergsmo once again congratulated the establishment of ICLC FDU, and gave his best wishes on its future progress and research. He also looked forward European and Chinese scholars will cooperate and communicate more frequently. At the end, Judge Liu Daqun thanked all the experts and scholars for attending this symposium, and he put forward ardent expectations for younger Chinese scholars and students to participate in international crime law study and research.