Title: **A Forgotten, Centuries-Long, History of International Criminal Tribunals: A Road to Modernity Yet to be Explored**

**Abstract:** The accepted history of International Tribunals maintains that for a period of about a hundred and fifty years, which ended near the start of the 19th century, such tribunals were absent, due to their incompatibility with traditional notions of sovereignty and of international law. Relatedly, the accepted history of International Criminal Law maintains that international (i.e., inter-sovereign) criminal tribunals did not exist for even a longer period, being scarce (if not nonexistent) during the late middle-ages and being clearly absent throughout early-modern time, the 19th century, and the first half of the 20th century. The post-WW2 International Military Tribunal at Nuremberg is widely considered the first international criminal tribunal and the ‘birth’ of International Criminal Law (‘ICL’). This longer period of inexistence is presumed to be the result of international criminal law being, in and of itself, incompatible with traditional conceptions of sovereignty, of criminal law and of international law. Those accepted narratives of two significant international law subfields correspond with the accepted history of international law at large, which maintains that international law had traditionally (i.e., for many centuries) been starkly-statist: being created by states, being addressed to states (with the exception of pirates, individuals could not had been its subjects), and being designed to protect state sovereignty. Sovereignty, furthermore, was traditionally considered as incapable of being a matter of degree, and so, the traditional international legal order was averse to any and all formats of shared sovereignty (such as, international criminal tribunals). Nuremberg, therefore, is widely regarded as marking the beginning of a still ongoing paradigm-shift in international law, away from its traditional stark-statism.

The proposed research, however, aims to challenge the consensus, by revealing that since the late Middle-Ages, in every century, international criminal tribunal had existed and, further, that elements of historical continuity exist between those tribunals.

The research is innovative, running counter to a strongly entrenched, prevalent premises. Nonetheless, it is not detached from contemporary scholarship. On the contrary, it could contribute to the following developing bodies of knowledge: (a) research that has been uncovering pre-Nuremberg, ICL-related events; (b) research that has been combating the persistent bias toward overly-Statist readings of the past; and (c) research that has been countering the over-dismissal of *longue durée* historical research.

As for practical its significance, the proposed research will not only attempt to uncover such past tribunals. Rather, it will also aspire to ascertain the reasons for their present dis-remembrance. By doing so, the research would potentially aid to expose unacknowledged biases prevalent in current international law discourse. Moreover, the research findings, by revealing that international criminal law has been a longstanding social practice, could aid to respond to opponents to international criminal law who cast it as a recent, abnormal intrusion on state sovereignty. Therefore, against the backdrop of the current ‘legitimacy crisis’ experienced in international criminal law, this proposed project is especially timely.

**Time Schedule [Total Time Frame – 3 years]:** (i) Gathering evidence concerning past tribunals (1st 18 months); (ii) Analyzing and translating evidence (months 7-24); (iii) Comparing findings to contemporary scholarship on ICL history (18-24); (iv) Writing academic papers based on the research results (last 12 months).

**Title: A Forgotten, Centuries-Long, History of International Criminal Tribunals:**

**A Road to Modernity Yet to be Explored**

**Scientific Background:**

Accepted wisdom considers a pre-20th century International (i.e., inter-sovereign) Criminal Tribunal (ICT) an impossibility. But this research aims to show that such tribunals have existed, in every century, from the Late Middle Ages onwards and, further, that elements of historical continuity exist between them. In fact, my preliminary research already provides strong evidence in support of those conclusions. The proposed research aimed contribution goes beyond enhancing historical accuracy. In addition to uncovering such past tribunals, it also aspires to ascertain main reasons for the present denial of the historical existence of such tribunals, and by doing so, hopefully, aid exposing unacknowledged biases prevalent in current international law discourse. Last, but not least, the research also seeks to uncover the bi-directional influences between the gradually (though nonlinearly) changing practice of creating such tribunals and the protracted, nonlinear development both of the modern state and of modern international law; thus, contributing to a richer understanding of these significant historical processes.

1. The Relevant Narratives in International Law Discourse

It is widely accepted that the post-WWII, International Military Tribunal at Nuremberg was ‘the first-ever international criminal tribunal’ (Zwier, 2018) and that ‘international criminal law [(‘ICL’)] was born… [at] Nuremberg’ (Van Schaack, 2018). Many further believe that Nuremberg marked, more generally, the beginning of a still ongoing paradigm-shift in international law, away from its ‘traditional’ statist orientations (Scharf, 2021). Those beliefs corelate with the prevalent general history of international law that holds that international law had been starkly-statist, from the beginning of the rise of modern states in Europe and up until post-WW2, as it was created solely by states during that ‘traditional’ period (Hilaire, 2021). This stark statism, presumably, meant (among other things) that that transnational legal system of European origins (unlike pre-state European law of nations) had been averse to any form of joint exercise of sovereignty (Kahn, 2012). The prevalent history of International Adjudication (i.e., of international tribunals), an international law subfield, corresponds with the aforesaid more general accounts, by maintaining that following state rise, resort to international (i.e., inter-sovereign) tribunals of any sort had diminished, eventually even completely ceasing for a about a century and a half (Lock, 2015): ‘The modern history of… international tribunals [thus] started, it is agreed among scholars, by the 1794 Jay Treaty [bilateral commissions]’ (Mohebi 1999, but see Klein‏, 2014, Amerasinghe‏, 2011, Brown, 2002, proclaiming that international organs that were truly tribunals had only appeared at the turn of the 20th century). The prevalent history of ICL (another international law subfield) also correlates with the above accounts, depicting an even longer inexistence period for ICTs. Presumably, cases of inter-sovereign criminal tribunal had been insular, if not wholly absent, even prior to state rise, from at least as far back as the Late Middle Ages (unlike noncriminal, sovereignties-addressing, inter-sovereign tribunals that are known to had been abundant in late-medieval Europe); subsequently, after state rise, ICTs were (supposedly) certainly nonexistent and had remained such, not until the turn of the 19th century, but rather for a century and a half longer, up until Nuremberg (Brown, 2011). ICTs’ longer inexistence period is allegedly (a) because criminal law had been generally domestic even prior to state rise, and (b) even more so because ICL, in and of itself, had been rather incompatible with stark-statism (Schabas, 2018). Regarding the latter reason, as the story goes, ‘[w]ith the exception of pirates, individuals had traditionally not been the subjects of international law [only states]’ (Pendas, 2011), and correlatingly, criminal law (an individual-addressing corpus) was traditionally domestic (i.e., single-state–run) (Dubber & Hörnle, 2014). Hence Nuremberg is hailed as such a paradigm-shift.

Prevalent ICL history does tend to mention the following few pre-Nuremberg occurrences, but each of them is commonly regarded as merely confirming the prior state of international law: 1) The unimplemented post-WW1 ICT plans, devised at the Paris Peace Conference (1919-1920), are commonly celebrated, in ICL literature, for their post-WW*2* role as primary sources of inspiration for Nuremberg, being somewhat regarded as the moment of conception of the ICT idea (Schabas, 2010). But, at the same time, the eventual non-implementation of those plans after WW1 is assumed to demonstrate that starkly-statist trepidations were still very strong at the time (Gordon, 2015). 2) The ICT proposal, made, in 1872, by ICRC President Gustave Moynier, is considered ‘[t]he first proposal for an international criminal court’ (Quirico, 2019) and, in line with the prevalent history of International Adjudication, it is presumed that as sources of inspiration Moynier only had a few earlier (both proposed and actual) non-criminal, state-addressing international tribunals (Hall, 1998). While Moynier’s proposal is celebrated as radical departure from contemporaneous legal thinking (Hall, 1998), it is, nevertheless, not considered the ‘true’ ‘birth’ of ICT history, because, it (presumably due to contemporary stark-statism) had ‘remained without any political resonance’ (Ambos, 2013). 3) Also commonly mentioned is Napoleon’s 1815 extrajudicial exile by the victorious European Powers following his *jus ad bellum* violations. But prevailing opinion holds that the non-judicial (political) nature of that punitive action only demonstrates that unlike today, ‘[i]n 1815, it was… unthinkable that an international [criminal] tribunal could be established’ (Schabas 2018), illustrating the ‘wide acceptance of a concept of state sovereignty which excluded individuals as subjects of international law... during the period between the Napoleonic and World Wars’ (Wright, 1952). A few other early-19th-century international punitive initiatives are also sometimes mentioned (namely, the 1817-1871 bilateral, anti-slaving ‘Mixed Commission Courts’ and the appellate function of the 1815-present Central Commission for Navigation on the Rhine (CCNR)), but prevalent opinion similarly deems them non-ICTs and, as such, testaments of the era’s stark statism (e.g., Moyn, 2014 and even the CCNR official website). 4) Lastly, from throughout the centuries, only one, seemingly-international, actual criminal tribunal is commonly noted: the 1474 multi-partisan tribunal that tried Peter von-Hagenbach for orchestrating atrocities in violation of ‘natural’ law. But prevailing ICL history quickly dismisses it as unrelated to contemporary ICL for purportedly not being truly international and for being too singular and temporarily remote from Nuremberg (Schabas, 2007).

Admittedly, unlike the prevalent ICL narrative, and somewhat like the account endorsed in the present research, some ICL lawyers do maintain that the history of ICL and of ICTs pre-dates the twentieth century (e.g., Fichtelberg, 2020, Schwarzenberger, 1946). But, those accounts have been widely criticized and justifiably so, because they tend to provide insufficient evidence to back the proclaimed long historical continuity and disregard wide temporal gaps (Lesaffer, 2007). Needless to say, the present research aims to avoid similar flaws. Moreover, justified criticism notwithstanding, the prevalent opinion among ICL jurists goes one step too far, tending to *a-priori* dismiss any potentially uncovered, pre-WW2 ICL experience as unrelated to current ICL and ICTs for lacking a common doctrine (with each other and with current ICL/ICTs) and for being too “few and far between” (Bassiouni, 2012). This research would beg to differ.

1. A Methodological Interlude: What Are ICTs and Why Focus on Them?

The reasons of the choice to focus, in this research, on ICTs, as opposed to on other (i.e., state-addressing) international tribunals are twofold. First, as the above discussion demonstrates, the history of such tribunals is uniquely situated at the intersection of the history of three important issues; namely, at the intersection of (a) the history of ICL, and (b) the history of International Adjudication, two significant international law subfields, as well as at the intersection of either with (c) the history of international law at large. Note that the prevalent history of each of those three issues must be regarded as a distinct narrative, because of significant discrepancy between them (notably, concerning the time of the century-long period in which stark statism was at its height (*cf., e.g.* Taylor, 2020 & Liss, 2019, with Lock, 2015)). Such discrepancy, in and of itself, indicates that something is potentially off with those accounts. But, discrepancy notwithstanding, all three are supportive of the conclusion that, prior to Nuremberg, ICTs must have not existed for many centuries. Therefore, a discovery that ICTs have in fact existed throughout those centuries would cast doubt on all those three prevalent narratives. Moreover, such a discovery could also potentially better our understanding regarding the development of state sovereignty, due to the prevalent premise (refuted by that discovery) that that was the primary factor to inhibit ICTs.

Second, the choice to focus on ICTs is also made because it can also reduce potential difficulties in determining which historical organs could be classified as ‘tribunals’. Regarding the classification of noncriminal international organs as ‘tribunals’, considerable disagreement exists and much of it stems from the fact that in international law, unlike in domestic law, arbitration is regarded as a judicial process (von Bogdandy & Venzke, 2016). As a result of that idiosyncratic treatment of arbitration, as well as of the rather informal nature of many past inter-sovereign arbitration organs, disputes commonly arise regarding the classification of such past organs as ‘tribunals’ (*cf.* Brown, 2002 v. Anand, 1974). By contrast, regarding the notion of ‘criminal tribunal’, a similar divergence between international and domestic conceptualizations does not exist. Moreover, notwithstanding changes over time in the understandings of the ‘criminal tribunal’ concept, certain significant features have long remained rather stable. Notably, judicial panels, mandated to determine individual responsibility for the purpose of having those found guilty punished, have long been widely considered ‘criminal tribunals’ (Duignan, 2009; Jenkins, 1974), especially (but not exclusively) so, if they were further authorised to adjudge prison or death sentences (O’Keefe, 2015). True, ambiguity, regarding the classification of past inter-sovereign organs as ‘criminal tribunals’, still sometimes arises. In such cases, to avoid anachronism, the determination must rely on contemporaneous, rather than present-day, conceptions. Yet even that course of action would not always resolve the uncertainty (e.g., Brockman-Hawe, 2015). Nonetheless, the focus on ICTs can still be expected to significantly reduce classification difficulties.

Note that disagreements also exist concerning the attributes that define a tribunal as ‘*international’*, including in the context of criminal tribunals (*cf.,* e.g., Beigbeder, 2005 to Rabkin, 2005, to Boister, 2009, to O’Keefe, 2015). Moreover, views on this matter have also changed over time (*cf.,* e.g., the aforementioned present-day positions with Flick v. Johnson, 1949). But this kind of definitional uncertainty does not considerably affect the proposed research. Its benchmark of this reserch for classifying past criminal tribunals as ‘international’ must necessarily correspond with benchmark imbedded in the relevant prevalent international law narratives. After all, it aims to critically examine them, by setting out to uncover tribunals of the kind that they maintain had not existed. This turn out to be a rather broad class of tribunals. Regarding the starkly-statist era, it is presumed in those prevalent narratives: that ‘the primacy of sovereignty as a defining characteristic of the State [had] rendered any thoughts of shared sovereignty all but impossible’ (Samuels, 2008; see also, Kahn, 2012); that ‘sovereignty [wa]s not a matter of degree’ (Waltermann, 2019; see also Kennedy, 1998); and that ‘[e]very state represent[ed] a closed, impermeable, and sovereign unit, completely separated from all other states’ (Wolfers, 1962), thus possessing ‘final authority for criminal acts within [its] territories’ (Simbeye, 2004). Regarding the earlier, pre-state, period, it is similarly assumed that there were either no, or only a few ‘isolated examples of[,] international trials[,] during the [late] Middle Ages’ (Schabas, 2017), because, even then, criminal jurisdiction had generally been ‘a straightforward exercise for which the main criteria were the location of the crime and the nationality or allegiance of the offender’ (Schabas, 2018). In other words, implicit in those prevalent narratives is the premise that any form of a criminal tribunal other than that of a mono-sovereign tribunal – be it inter-sovereign, supra-sovereign, or otherwise expressing shared-sovereignty – had been impossible during starkly-statist–traditional era, as well as exceptional (if not also impossible) already earlier (at least since the Late Middle-Ages). Thus, for the purpose of the present research, all such criminal tribunals, from the Late Middle-Ages to 1945, are relevant. Relatedly, note that in this research the ‘international’ in ICT is bound to stand for ‘inter-sovereign’, rather than for the narrower concept of ‘inter-state’. This wider definition of ‘international’ is necessary both because a critical examination of the prevalent narratives demands beginning at a pre-state period and, even more so, because state rise was, actually, a protracted process, thus making it difficult to determine when sovereign entities had ‘truly’ become states.

1. Further Situating the Proposed Research in Current Scholarship

The earlier-mentioned lawyerly narratives are not the only relevant ones. To position the proposed research relative to what has been achieved to date, several directions of earlier scholarship can be distinguished. While most international law history literature is still ‘[w]ritten by lawyers writing as lawyers rather than historians’, in recent decades a new wave of scholarship by international jurists has demonstrated a deepened commitment to historical research methodologies (Mégret, 2019). This phenomenon is known as: ‘the turn to history in international law’ (Crave, 2016). A primary target of that new research wave has been *longue durée*, genealogical narratives prevalent in international law discourse; namely, such that maintain that contemporary international law had developed, through a gradual process of globalization, from the transnational law that regulated cross-European interactions in early-modern times, if not from that that regulated those interactions already in medieval times. Such narratives have been targeted because of their prevalence in international law discourse and it is well known that dominant narratives (in international law and elsewhere) tend to insentiently obscure certain elements of reality, while overstressing others, in manners that serve unacknowledged prevalent biases, power-relations and interest (Koskenniemi, 2011).

The main line of scholarship, within the aforementioned new research wave, has been challenging such *longue durée* dominant narratives, by exposing significant elements of historical discontinuity that are overlooked in those narratives; and, such scholarship often concludes that once the overlooked elements are taken into account, a 19th-century birthdate should be designated, to international law phenomena to which prior narratives have attributes a longer history, or even to international law at large (e.g., Koskenniemi, 2001). The tendency to choose such a starting point is commonly due to the following 19th-century elements of discontinuity between contemporary and earlier international law: the rise of the modern international legal profession, the shift from natural law to positivism, and the transition from a European to a global system of international law. Namely, such scholarship tends to hold that one, or more, of those discontinuity elements constituted a historical rupture (e.g., Orford, 2012, Nuzzo & Vec, 2012, Koskenniemi, 2001). Furthermore, the focus of this scholarship on elements of discontinuity and rupture, and the related tendency to choose a rather recent (19th century, or later) starting point, is often aimed to counter a common tendency among international lawyers (which explains the prevalence of *longue durée* narratives in international law discourse) to construct narratives of long, linear progress, evermore leading ‘to the increasing ‘perfection’ of international law’ (Tzouvala, 2016). Relatedly, that focus, and starting-point choice, are, often, inspired by Critical Legal Studies, aiming to counter a common lawyerly tendency to misleadingly depict existing law as ‘naturally’ deriving from the legal past and, thus, to downplay to role of contingent power relations and biases (Mégret, 2019, Koskenniemi, 2013, Moyn 2013). Furthermore, the starting-point choice is also an expression of a more general aversion, common among contemporary historians, to *longue durée* accounts, because of the teleological and anachronistic tendencies of such accounts (Lesaffer, 2007, Bloch, 1992), and because dominant narratives often distort past and present reality, in manners that serve unacknowledged biases and interest, exactly by exaggerating continuity*,* linearity and progress (Foucault, 1969).

Attention to ICL has begun rather late into the ‘turn-to-history-in-international’ research trend (Tallgren & Skouteris, 2019, Tallgren, 2014). Moreover, even though the ICL-addressing scholarship belonging to that trend has likewise considerably focused on exposing overlooked discontinuity elements (Mégret & Tallgren, 2020), the starting-point of ICL and of ICTs is widely contested within that scholarship. On the one end of the spectrum, exist scholars that based on previously neglected discontinuity elements, maintains that the 1990s tribunals mark the true beginning of contemporary ICL and ICTs (Mégret, 2017, Moyn, 2020, Schwöbel-Patel, 2020). Yet, on the other end, exist scholars that hold that, despite such discontinuity elements, ICL history extends back to before the prevalent ‘1919 conception/1945 birth’ account, because of neglected historical continuity elements pre-dating 1919 (see sources below). The proposed research, to some degree, builds upon the findings of the latter group, yet differs from their accounts (among other things, as it maintains that ICL and ICT history extends even farther back in time). Scholarship of the latter group has uncovered evidence irreconcilable with the narrative depicting traditional international law as rendering ICL and ICTs conceptually impossible. Most important for the present research, some of those scholars have uncovered: (a) two pre-1872 international criminal tribunal proposals and (b) four pre-WW1 (1894–1904) cases of international criminal tribunals (Pritchard, 2003, Brockman-Hawe, 2013, Gordon, 2015, Brockman-Hawe, 2015, Brockman-Hawe, 2016, Brockman-Hawe, 2017, Lemnitzer, 2017). Nevertheless, few of those scholars stray too far from the prevailing narrative concerning the starkly-statist nature of traditional international law, downplaying their findings as isolated ‘[late-]nineteenth century [ICL] experiments’ (Brockman-Hawe, 2017, & see also Lemnitzer, 2017, Pritchard, 2003, Brockman-Hawe, 2013, Gordon, 2015, Brockman-Hawe, 2017). Only very few scholars conclude, in light of these (Brockman-Hawe, 2016), or other findings (Segesser, 2020, Hetherington, 2016, Martinez, 2014, Bass, 2000), the existence of a longer or less sporadic ICT-related history, in the 19th century. Yet, to date, little evidence has been presented connecting the various pre-WW1 endeavours or relating them to WW1-era events and later 20th-century developments (but see, Bohrer & Pirker, to be published by the end of 2022). Thus, cognizant both of such pre-1919 findings and the lack of linking evidence, as well as of significant continuity elements extending from 1919 onward, many legal-history scholars consider neither the 19th century nor the 1990s to mark the beginning of ICL and of the ICT idea, adopting instead a nuanced version of the ‘1919 conception/1945 birth’ account. These scholars acknowledge, at most, only weak connections to earlier ICT endeavours, and maintain that the ostensibly limited nature of such endeavours only proves that ‘[t]he ideological tenet of state sovereignty was [contemporaneously] dominant’ (Lewis, 2014, see also, Mégret & Tallgren, 2020).

The proposed research, however, aims to show that the links between pre- and post-1919 endeavours are much more significant than presently acknowledged. Moreover, it intends to show that the history of such endeavours extends much further back than the 19th century. Indeed, despite the present tendency to focus on discontinuity elements and its grounds, the *longue durée* outlook of the proposed research is not methodologically unsound. This is for several reasons.

First, recall the three, aforementioned, 19th-century discontinuity elements (the rise of the international legal profession, of positivism, and of globalization). The depiction of each as a rupture has already been called into doubt, because the gradual and partial nature of the change they, actually, caused (see, Parker, 2002, Koskenniemi, 2001, Bohrer, 2016). Thus, regarding many international law aspects (such as ICL), the following historical account would likely be more accurate: ‘we are looking at a continuum, albeit not a linear one [in which, w]hile there have been important discontinuities along the way these do not lead to what might be termed a dis-continuum’ (Alston, 2013). Second, dominant narratives are not necessarily over-continuity accounts, and dominant narratives that exaggerate discontinuity likewise tend to distort reality in manners that serve unacknowledged biases, power-relations and interest (de Man, 2013). Moreover, specifically in international law discourse, a tendency has already been observed (yet insufficiently studied) to construct dominant narratives of exaggerated discontinuity, the parallel existence of an opposite (extensively studied) tendency notwithstanding (Mégret, 2019, Kennedy, 2000, Kennedy, 1994). Third, as certain prominent historians have pointed out, the current tendency to categorically dismiss *longue durée* accounts is too often an expression of a ‘short-termism’ that fails to acknowledge that ‘there are longterm [historical] changes flowing around us, ones that are relevant and possible to see’ (Guldi & Armitage, 2014). Moreover, there is nothing inherently anachronistic or teleological in genealogical, or otherwise *longue durée*, historical research and research methods exist that can reduce likelihood for anachronistic/teleological outcomes (Alston, 2013, Lesaffer, 2007). Fourth, specifically regarding legal history, it is, often, simply wrong to assume that norms and institutions are merely a normative veneer to conceal contingent political interests; while the role played by political influences should not be denied, it should also be acknowledged that such political influences on legal actions often do not bar legal factors from also having an influence and, usually, individuals, including the powerful, cannot simply claim that the law (be it even international law) is whatever they wish it to be, even when it has multiple interpretations (Mégret, 2016, Freyberg-Inan, 2012, Bourdieu, 1987). Indeed, genealogical research is especially important in legal history, because law demands ‘think[ing] about context beyond that which is contemporaneous with the lifetime of the author’, due to the considerable reliance ‘upon precedent, customs and patterns of argument stretching back [in time]’ (Orford, 2013). Stated differently, legal reasoning commonly expresses anachronistic and teleological tendencies and, while historical research concerning law must not be lured by those research subject tendencies, it, nevertheless, must also not disregard them (Wheatley, 2021).

The above support for genealogical research in international law history, and relatedly to venturing in that context further back in time than the 19th century, has been currently expressed mainly by proponents of a scholarship yet to be mentioned. Within the new (turn-to-history-in-international-law) research wave, in addition to the aforementioned (discontinuity-oriented) main line of scholarship, exists also another significant line. That scholarship line has convincingly uncovered that the overly-statist nature of prevalent international law narratives conceals the fact that contrary to such prevalent accounts, many core international law concepts have not developed solely in the context of inter-state, European-Western, interactions, but rather also in the context of interactions between such European-Western sovereigns and non-European-non-Western sovereigns, as means to advance and legitimize colonialism. And, accordingly, some such had ventured further back in time than the 19th century (Benton, 2019, Yahaya, 2019, Koskenniemi, 2016). But this course of action has been criticized by others and especially so by some general historians (as, in parallel to the turn to history in international law, there has also been an increasing turn toward the examination of international law among general historians). Those critics have argued that that course of action attests that those legal-history scholars have insufficiently contextualized their objects of examinations. Yet, such legal-history scholars (as well as others) have replied that the criticism fails to fully consider the unique nature of law; basing their reply on reasonings of the kind presented earlier (see, Wheatley, 2021). Moreover, it would wrong to perceive the debate as a ‘war’ between general historians and legal-history scholars as some have described it (Wheatley, 2021). Likewise, it would be wrong to assume that in international law history venturing into pre-19th century past is only appropriate when examining colonial contexts. Indeed, research into international law history by certain general historians, which examined inter-European-inter-Western interactions, has criticized the tendency of most international law legal-history scholars *not* to venture further back beyond the 19th century; pointing outs forgotten developments that had occurred in such interactions that can enhance understanding regarding the processes and concepts that gave rise to present international law (Simms & Trim, 2011). Some research by general historians has even ventured into the pre-19th-century past to expose that the presently predominant international law narratives similarly obscure certain international law-significant occurrences that had happened in inter-European-inter-Western contexts, as those phenomena also do not fit the overly-statist orientation of those prevalent narratives (see, e.g., Donlan & Heirbaut, 2015, Sohmer-Tai, 2007). The outlook expressed in that kind of research is the one closest to that of the proposed research.

It should be further noted that some of that latter kind of scholarship correlated with another, yet to be mentioned, growing body of research, to which the proposed research aspires to contribute. That growing body of research has been enriching the understanding regarding the development of state sovereignty and relatedly regarding the development of the modern international legal order. Until a few decades ago, it was widely held that traditional international law had formed, following the ‘birth’ of the modern state, at the 1648 Peace of Westphalia (e.g., Stromberg, 2004, Gross, 1948). But, contemporary historical research had refuted this Westphalian Myth, showing that the rise of modern states was protracted, already beginning in the late Middle-Ages and culminating only in the late 19th century (e.g., Phillips, 2010). But, oddly, although today the Westphalian Myth has been effectively debunked, the full implications of its falsehood have yet to be internalized. Even today, when the past is examined as “a ‘road to modernity’…some routes [are] rated better than others according to a common yard-stick still largely defined by the national sovereign state” (Wilson, 2016). Nevertheless, in contemporary general-historical and legal-history research, there are increasing attempts to counter the bias toward an overly-statist readings of the past.

Such contemporary research by historians has revealed that various developments concerning late-medieval and early-modern organs other than territorial sovereigns had strongly contributed to the development of the modern state and of the modern international law order (e.g., Van Zanden, 2009, Abramson 2017, Moller, 2018, Boucoyannis, 2021). Such research also increasingly reminds us that in medieval and early-modern times, there was extensive judicial pluralism (i.e., alongside regal/Statist tribunals, numerous other kinds of tribunals existed); and, in various contexts, such non-regal/non-Statist tribunals persisted even during the 19th and 20th centuries (Donlan & Heirbaut, 2015). Likewise, it reminds us that, recourse to forms of shared sovereignty was not uncommon prior to the 19th century (Branch, 2013, Ruggie, 1993, Anderson, 1974); and, although the prevalent opinion in that literature holds that the early 19th century saw ‘the final termination of the complex overlapping and shared [sovereign] authorities’ (Branch, 2013), there is legal research that strongly indicates otherwise (Samuels, 2008).

In international law, such research, which thus far focused on issues other than ICTs, has already shown that the prevailing recollection of a wholly statist legal past is ‘the memory of an illusion’ (Kennedy, 1998), as international law was never ‘merely state-to-state’ (Paust, 2011). Likewise, such research has shown that the Westphalian premise that the modern state gave birth to modern international law is flawed and that the better account is that both had slowly emerged in tandem out of the medieval world order (Kjaer, 2014). Moreover, such research has further revealed that the statist recollection of traditional criminal law as centralized and domestic is ‘excessively narrow and historically incomplete’ (Hathaway & Shapiro, 2011). Indeed, already certain earlier scholarship has observed that from late-medieval times to the 19th century: (a) there was no sharp distinction between international and domestic law, and individuals possessing legal personality under both (Janis, 1993); (b) the law of nations was not perceived merely as a law between nations but rather a law so instinctive as to be found in every nation the world over (Jarrett, 1968, Goodrich, 2016) and (c) much of criminal law had been, accordingly, ‘of an international character’ (Ancel, 1958). To those three earlier observations, we should also add that of some recent research, revealing that the 19th-century ‘shift from naturalism to positivism… [was] mess[y] and incomplet[e]’ (Miller, 2012, Koskenniemi, 2005).

Some recent research by legal-history scholars, as well as by general historians, has also uncovered significant element of continuity in various aspects of international law (including in ICL-related aspects), stretching much further back than the imagined mid-17th century birth of the modern state and of modern international law (Lesaffer, 2018, Parker, 2002, Stacey, 1994). I, in recent years, have being contributing to that research into the *longue durée* history of ICL. Notably, I showed that one significant implication of the past international character of criminal law, as well as of the element of long continuity that exist regarding various aspects of international law, had been that contrary to the accepted belief, piracy has not been the only international crime with a long history. Due to the aforesaid issues, in late-medieval and early-modern Europe, not only piracy, but also war crimes, and even felonies (murder, theft, arson, robbery, rape etc.), were considered violations of unwritten, universal, obligatory, natural law (Crimes Against the Law of Nations & Crimes Against Humanity), whose perpetrators (like perpetrators of ICL crimes today) were ‘enemies of mankind’, subject as such to universal jurisdiction. Only during the 19th century, under the influence of statist positivism, did Western domestic-civilian judicial systems abandoned the universalist view of crimes and come to generally regard criminal law prohibition as being necessarily domestic and legislated. Nevertheless, and despite the efforts of contemporary statist-positivists, residual features of the naturalist understanding of ICL persisted: not only piracy, *but also war crimes* remained international crimes (as they were enforced by the rather changed-resistant and autonomous military justice systems); an influential minority position insisted that aggression also remained such a crime; and universalist perceptions even endured, in some circumstances, regarding felonies. Those naturalist residuals were extensively drowned upon at the wake of WW2 (as well as the wake of WW1) and, thus (among other thing), significant elements of continuity exist between the present ICL and that long legal history (Bohrer, 2016, Bohrer, 2019, Bohrer, 2020, Bohrer & Pirker, to be published by the end of 2022). The proposed research intends to build on that earlier research and show that the universalist view of crimes, constitutes a doctrinal link (one of several) between the different past tribunals, as well as between them and contemporary ICL.

**Research Objectives and Expected Significance:**

The proposed research is innovative and novel in its hypothesis. It calls into question the accepted history of ICTs-ICL, of international adjudication, and of international law. It aims to embark on an exploration route of a kind presently less traveled; namely, that of *longue durée* legal history. Also, it seeks out to uncover elements currently deemed nonexistent in the complex processes by which the international law system and the conception of sovereignty have developed. Nevertheless, the proposed research is not detached from existing scholarship. On the contrary, it relates to, and therefore could contribute to the future growth of, the following developing bodies of knowledge in contemporary historical and legal research: (A) The research is part of the currently rising, new wave of scholarship known as ‘the turn to history in international’. It relies on certain findings already uncovered by some such research, as well as on rationales and methodologies, supportive of *longue durée* genealogical research of international law concepts, presented by those among the new wave legal-history scholars. Accordingly, it also aspires to contribute to those aspects of the new wave scholarship. Relatedly, the proposed research, builds upon, and hopes to contribute, to the growing research concerning ICL history (as well as that of international tribunals). (B) The research corresponds with the presently growing body of knowledge, exposing Westphalian Myth residuals, refuting the prevalent over-statist recollection of the legal past, and enriching our understanding regarding the protracted, nonlinear and multifaceted processes by which the modern state and modern international law have actually developed. The proposed research aspires to contribute to that developing body of knowledge by exploring an important trail from medieval times to modernity yet to be unexplored: that of the history of ICTs.

Additionally, the proposed research not only to intends to uncover past ICTs, but further aspires to ascertain the main reasons for the present denial of their existence. By doing so, it hopes to aid to expose unacknowledged common biases in international law discourse.

Lastly, the findings, by revealing that ICL and ICTs have been a longstanding social practice, could also aid to respond to those who cast ICL as a recent, abnormal intrusion into state sovereignty. Against the backdrop of the current ‘legitimacy crisis’ experienced in ICL, the project is, thus, especially timely.

**Detailed Description of the Proposed Research:**

**Working Hypothesis:** The research will reveal that the history of ICTs spans over centuries, and by doing so challenge the consensus that international tribunals, and especially ICTs, had been out of existence for many centuries due to their (supposed) significant incompatibility with traditional notions of sovereignty and of international law. To affirm this hypothesis, the following steps will be taken: First, the research will uncover such tribunals in every century since late-medieval times. Second, it will show that elements of historical continuity (such as, doctrinal links) exist between these numerous tribunals. Third, it will address, and respond to, the various positions that assert that centuries-long continuity cannot be assumed in such a context. Forth, it will try to ascertain new insights that could be learned from the uncovered findings, regarding the process by which the conception of sovereignty and that of international legal order have changed and developed over time. Lastly, it will attempt explain the reasons for the pretermission of the uncovered (long) history and, thus, will, hopefully, also uncovered biases prevalent in present international law discourse.

**Preliminary Results:** As already alluded, the proposed research is a new chapter in an ongoing research agenda of mine. For nearly a decade, I have been (among other things) exploring core elements of the forgotten *longue durée* history of ICL. I began this exploration by uncovering the long history of the application of the universal jurisdiction (‘enemies of mankind’) doctrine to crimes other than piracy (focusing mainly on war crimes) and exposing the link between that forgotten long history and present-day ICL (the paper presenting my main findings was published in the prestigious *Law & History Review* (Bohrer, 2016)). Subsequently, I further expended, refined, and elaborated upon, those findings and the insights deriving from them, in two additional papers (Bohrer, 2019, Bohrer, 2020). I, then, took two significant steps. 1) I began collaborating with Dr. Benedikt Pirker (University of Fribourg), who will collaborate with me also in this research (see accompanied letter of collaboration). Dr. Benedikt Pirker is an accomplished researcher in the field of linguistics & international law and is proficient in the following 6 languages: English, German, French, Spanish, Latin and Russian. 2) I turned my attention to the history of ICTs. In a joint research project, of Dr. Pirker and myself, in which I took the leading role (as will be the case in the proposed research), we focused on WW1, and especially on the post-war Paris Peace Conference, as it is the point in time commonly deemed the moment of conception of the ICT idea. Our research findings, soon to be published in a paper accepted by the esteemed *European Journal of International Law*, have revealed that even though Paris Peace Conference participants maintained that ICTs were unprecedented, they were actually aware of — indeed, influenced by — earlier ICT precedents. Furthermore, we also traced the reasons that led contemporaries to behave in such a perplexing manner, as well as the contribution that that behaviour had to the subsequent dis-remembrance of earlier ICT past (Bohrer & Pirker, to be published by the end of 2022). Needless to say, this research required uncovering pre-1919 ICT precedents. In fact, we have uncovered more ICTs of that sort, than we have presented in the paper, including pre-19th tribunal (indeed, from each and every century, since late-medieval times). Those already uncovered tribunals constitute the preliminary findings for this proposed research (clearly supporting its hypothesis [see appendix, listing 39 cases already uncovered]). At the same time, the fact that much has already been accomplished at this preliminary stage does not, in any way, means that grant funding is not needed. On the contrary, the fact of the matter is that the research could not be completed without taking the fund-requiring steps detailed below (in the ‘Research Design & Method’ subsection). Moreover, the proposed research drastically differs from the previous paper; not only in its intention to encompass a much more comprehensive presentation of the history of ICTS, covering the 12th–19th centuries, but further in having much more ambitious and border aims (i.e., those detailed in the ‘Research Objectives and Expected Significance’ section).

**Research Design & Method:** The proposed research’s methods are ones of historical and legal scholarship.The research is designed to consist of the following stages: **Stage I** (1st 18 months of the research)**:** Completion of the gathering of historical evidence concerning historical tribunals, by searching and (hopefully) attaining relevant historical materials. This will be done mainly in two ways: ***A.*** By visiting, and attaining materials from, the various archives (I already know that there are relevant materials in the following archives: (i) the British National Archives; (ii) the Austrian State Archives; (iii) Hauptstaatsachiv Stuttgart; it is also hard to imagine that there will not be a need to visit additional archives (possibly, in: Germany, Spain, Italy and Holland)). ***B.*** By attaining access to, and examining materials from, the following databases: *(i) The Making of Modern Law: Foreign, Comparative and International Law, 1600-1926*; (ii) *The Making of Modern Law: Legal Treatises, 1800-1926*; (iii) *Gale - Eighteenth Century Collections Online: Part*; (iv) *HeinOnline - World Treaty Library*; (v) *Oxford Historical Treaties Database*. **Stage II** (months 7-24): Summary, examination and (when necessary) translation of the historical evidence gathered, regarding various historical tribunals and regarding indications for historical connections between them (or lack thereof). Due to the massive volume of evidence collected and the variety of languages of these sources, this work could not be properly completed without the aid of research assistants foulant in French, German, English and Latin, as well as the occasional referral of sources, in other languages (such as: Dutch, Spanish, Italian, Swedish and Polish), to professional translators. **Stage III** (months 18-24)**:** Comparison of the research findings to contemporary, legal and historical, scholarship regarding the history of ICL and ICTs, as well as regarding the history of international adjudication and of international law at large; examining the extent to which the findings support or (hopefully) dismiss current relevant predominant premises. **Stage IV** (last 12 months)**:** Writing academic paper(s) based on the research results.

Language proficiency: I, myself, am proficient only in English and Hebrew. But hope that my already-accomplished achievement, in researching elements of the neglected *longue durée* history of ICL, serve as proof that this limitation does impassible obstacle for me. In my research thus far (including in the preliminary examination conducted for the present proposal), I succeeded to overcome this challenge: by selecting, as research aids, diligent students, proficient in the relevant language; by using digital aids when relevant; by collaborating with Dr. Pirker (who is proficient, as mentioned, in: English, German, French, Spanish, Latin and Russian); and by occasionally seeking external help. I plan to rely on similar courses of action in the current research as well, as they have been working rather well. If you would examine, e.g., the sources cited in the papers I published in the *Law & History Review*, and in the *European Journal of International Law* or in the ‘preliminary findings’ appendix, you would find that I succeeded to uncover and draw upon sources, in various languages, including: English, German, French, Spanish, Latin, Russian, Italian and Albanian.

**Research Conditions: Personnel, Infrastructure, Accessibility:** I am a Senior Lecturer at Bar-Ilan University Faculty of Law (tenured 2018). My main research field is Public International Law, with an emphasis on researching both current and historical issues relating to ICL and to International Humanitarian Law (The Laws of War). In recent years, I have been researching (among other things) the forgotten, centuries-long, pre-WW2 history of ICL. In light of my research achievements, I was nominated to presently served on the Academic Advisory Board of the Journal of the History of International Law. Also due to those achievements, I was selected to be a member of the 2020-2021 Humanities and Social Sciences Young Scholar Forum of The Israel Academy of Sciences (forum topic: "Racism, Anti-Semitism, Genocide: The Holocaust in its Historical, Ideological and Cultural Contexts"); a forum to which members were selected based on scholarly excellence.

Dr. Benedikt Pirker, who agreed to collaborate in this research, is a Senior lecturer at the University of Fribourg – Faculty of Law (Switzerland). In addition, as of the start of the upcoming academic year, he will also serve as a legal adviser at the Swiss Foreign Ministry. As mentioned, Dr. Pirker is an accomplished researcher in the field of linguistics & international law and is proficient in the following 6 languages: English, German, French, Spanish, Latin and Russian.

**Expected Result and Pitfalls:** The expected result of the research is a series of academic papers which would (hopefully) supports the research hypothesis and obtains the research objectives. The potential pitfalls might arise from the difficulties to uncover tribunals of the kind sought (i.e., a kind presumed to be nonexistent), across a lengthy temporal space, within a huge, multilingual volume of potentially relevant materials, of which little would turn out to be actually relevant. At first glance, the task seems daunting, being equivalent to searching for a few needles in a huge haystack; or, even more so, to searching for presumed-unicorns in a vast pasture full of horses, donkeys and zebras. But this is exactly the reason I already conducted considerable preliminary research. In light of the preliminary findings [see Appendix], and in light of my past experience in conducting similar research, I am quite confident that that the task could be accomplished and that I could accomplish it.

**Appendix: List of Tribunals and Tribunal Proposals Uncovered as a Result of Preliminary Research**

**1. 1309:** A joint Castalian-Bayonne truce tribunal (Heebøll-Holm, 2013). Keen notes that such tribunals (comprised either of commissioners from both sides or of a third party, and charged with punishing truce violators) resembled ‘modern international courts’ (Keen, 1965). Truce violation was long considered a war crime; some hold it still does.

**2. 1385:** The treaty-based ordinances of the joint Franco-Scottish army stated: ‘[I]f any riot or dispute emerges between any of the men of France and Scotland…those who have started the dispute on both sides should be arrested by the captains [of both sides], who will do justice in the matter’ (Curry, 2011). Curry observed that such ordinances ‘suggest the existence of an international code of military discipline.’ Indeed, seemingly-domestic military crimes were long considered transnational crimes (though not subject to universal jurisdiction); remnants of that perspective persisted even in WW1.

**3. 1414:** A joint English-Brittanian truce tribunal (Goodwin, 1704).

**4. 1419:** The Officers in Arms (a transnational order of chivalry experts) served as an appeals tribunal in Barbasan’s case. Barbasan, a French officers captured by the English, appealed to them against the death sentence he was rendered, for a war crime, by the English King, Henry V. They ruled that certain laws of war bar Henry from death sentencing Barbasan and he was imprisoned instead (Livius, 1400s).

**5. 1435:** A third-party truce tribunal in a series of Burgundian-French truces (Keen, 1965).

**6. 1453:** A joint Austrian-Burgundian truce tribunal (Keen, 1965).

**7. 1478:** A joint French-Austrian/Holy-Roman truce tribunal (Keen, 1965).

**8. 1568-69:** A joint English-Scottish military tribunal tried Mary Queen of Scots, for acts described at the time as universal crimes (the trial ended with no final verdict) (Fraser, 1994).

**9. 1571-74:** A military tribunal (‘the Sea Inquisition’) was jointly created by The Holy League military alliance (i.e., the Papacy (Papal States included), Habsburg Spain (including Naples and Sicily), Venice, Genoa, the Knights of Malta, Tuscany, Savoy, Urbino, and Parma), to trial league soldiers and captured (Christian) enemy soldiers, for heresy-related crimes (de-Páramo 1598; Civale, 2010; Odrati, 2018).

**10. 1610:** ‘[After conquering Moscow, the Polish King]…wanted to fulfill…what he had promised [to his Russian allies]. Disputes between Poles and Muscovites were to be settled by an equal number of judges from both nations. Justice was impartial and strict. For instance, when a…Pole forcibly abducted the daughter of one of the Muscovite burghers[, t]he culprit was lashed’ (Solovʹev, 1894).

**11. + 12. 1620s:** Following the 1623 ‘Amboyna Massacre’ of English settlers by Dutch officials, England asserted that ‘the final and supreme judicature of the cause of Amboyna, the [English] King reserves either to himself or at least to a joint bench of English and Dutch Judges’ (Doc. 877 (1629), UKCSP). In **1653:** In the context of a dispute between the colonies of New-England and New-Netherland, the Dutch proposed creating ‘a joint [criminal] tribunal’ (Doyle, 1887). The English refused, presenting the Amboyna Massacre as proof of Dutch untrustworthiness. Although those two proposals failed, they indicate ICTs were conceivable.

**13. 1658-67:** A joint League of the Rhine (i.e., Trier, Mainz, Cologne, Münster, Palatine, Brunswick-Luneburg, Hesse-Kassel, Bavaria, Bremen-Verden, and Sweden)-French military tribunal for the trial of certain crimes committed by soldiers of the allied forces (Lünig, 1723).

**14. 1666:** Swedish-Saxon Alliance: ‘[I]f a high[ranking] officer…commit[s] a delict, when the two armies are joined…a [joint] War Council [i.e., military tribunal] will be held’ (Bernard, 1700).

**15. 1682:** French-Savoy Alliance: ‘[A]ll [crimes] committed by [French soldiers]…against [Savoy] inhabitants…will be…judged by a miparti council [of 5 officers from each side]’ (Marguerite, 1836).

**16. 1692:** A French official was tried for partaking in the France attempted assassination of the English King ‘by a court-martial of English, Dutch, and [Huguenot] French commanders’ (Luckman, 1764).

**17. 1695:** ‘[T]he impartial military tribunal established in Gent composed of English, Danish and Dutch high officers…[tried] General … Ellenberger…[for unnecessary] surrende[r]’ (Lünig, 1723).

**18. 1704:** The Spaniards responsible for a deadly fight between allied Spanish and French soldiers, were tried and sentenced by a ‘court-marital, composed of French and Spanish officers’ (Wilson, 1883).

**19. 1742:** Russian-British Alliance: prescribing a joint military tribunal for the trial of crimes arising from ‘any dispute… between…Soldiers of the combined Forces’ (27 UKHC Journals 1754-57)

**20. 1762:** During the Seven Years’ War, a military tribunal was created for the trial of crimes committed by either soldiers of the allied forces or by local civilians in the interaction between the two. It consisted of a commander from each of the following allied forces: Prussia, UK, Hannover, Hesse-Kassel, Brunswick-Wolfenbüttel, and Schaumburg-Lippe (art. 7, Allied Army Regulations, 1762).

**21. Mid-1700s:** ‘British and Hessian officers commonly sat on each other’s courts-martial, a fact that makes clear the international nature of the customs and disciplines of war” (Hendrix, 2005).

**22. 1789-91:** A joint commission, by Juliers, Cleves, and Munster, during their joint intervention and occupation of Liege, following the rebellion there, was given the authority (among others) ‘to search after the authors of the rebellion, and to punish them’ (de Dohm, 1791).

**23. 1799:** Swedish-Russian Treaty: ‘Should any differences arise between the officers [or] troops of the part[ies]…an equal number of commissioners shall…to pronounce judgement’ (NAR, 1799)

**24. 1812:** Several Sicilians who conspired against the British were ‘brought before a court-martial formed of British and Sicilian officers’ (Williams, 1856).

**25. 1814:** During a joint Austrian-Bavarian occupation a Rhine region, a joint commission tried certain criminal appeals (Gemeinschaftlichen Landes-Administrations-Commission, 1814).

**26. 1823:** During Peru’s War of Independence, ‘a mixed military tribunal…was formed, composed by commanders from Peru, Colombia and Argentine [to punish soldiers for pillage]’ (Bules, 1919).

**27. 1830-57-…:** A 1830 treaty & a 1857 treaty, between Prussia and Russia/Poland, had established a ‘Mixed Commission’ to determine criminal culpability, for ‘violations of territory’ (long considered an international crime) by agents of one state in the territory of the other. Only the punishment severity was left for domestic courts to determine (Martens & Saalfeld, 1831; lxxv UKHC Papers, 1863).

**28. 1839-46:** During the joint Prussian-Russian-Austrian occupation of Cracow, joint tribunals of judges from those powers had tried Polish revolutionaries (Ydit, 1961)

**29. 1851:** The 1848 U.S.-Mexico Treaty of Guadalupe determined that until the delimitation of the border between the parties, the relevant region would be placed under joint military occupation. Thus, when in 1851 an American member of the joint demarcation commission was murdered by locals, the perpetrators’ trial was conducted by a ‘mixed jury–half Mexican, half… Americans’ (Wallace, 1955).

**30. 1855:** During the Crimea War, a mixed British-Turkish commission of inquiry tried acts of mutiny committed by Turkish fighters of a British-commanded, join (British-Turkish) force. It was presided by a high-ranking British commander and ‘compris[ed of]…two British consuls and two Ottoman pashas, together with two British and two Turkish officers [that] sat as a court martial’ (Stevenson, 2015).

**31. 1861:** The Ever-Victorious [Chinese] Army’s Regulations, during the Battle of Shanghai (i.e., when it fought alongside British and French forces) stated: ‘No foreign officer of the Force shall be dismissed without a mixed court of inquiry, the sentence of which must be confirmed by the [Chinese] Futai, and which sentence cannot be reversed without the concurrence of the British General’ (Wilson, 1868).

**32. 1882:** During an 1882 rebellion in Egypt, anti-Christian atrocities were committed, triggering a British military intervention. Eventually Britain assumed the role of a belligerent occupier. But, initially, it treated the Egyptian government as a sovereign ally. Accordingly, some atrocity perpetrators were tried by joint British-Egyptian military tribunals, for international law violations (Baker, 1908).

**32. 1894:** A Franco-Siamese mixed court prosecuted a Siamese commander for an attack against French forces that France deemed a ‘violation of jus gentium’ (Brockman-Hawe, 2013).

**34. 1897-1909:** During the joint military occupation of Crete (by Russia, France, Italy, and Britain, with Germany and Austro-Hungary initially also participating), it was decided that ‘culprits [of acts against the occupying forces] will be tried by…a commission composed of officers, each representing each nation’ (Admirals’ Council Resolution 90, 1897)). This ICT had tried cases throughout the occupation.

**35. 1900:** During The Boxer War (1900-1901), a joint British-German-Italian-French military tribunal had tried, at Pao-Ting-Fu, some Boxer atrocity perpetrators (Gordon, 2015).

**36. 1904**: During the Russo-Japanese War, a Russian squadron opened fire at English fishermen. In response, Russia and Britain jointly created a commission of inquiry, consisting of five admirals (from Russia, Britain, France, Austria, and the U.S.), authorized to determine not only state responsibility, but also individual criminal culpability, for incident-related law of war violations (Lemnitzer, 2017).

**37. 1913-14:** during a joint military occupation of in Shkodra (Albania), the allied occupiers had created a joint Supreme Court, with jurisdiction over criminal appeals, consisting of the Italian Armed Forces’ Commander, an Austrian officer, and an English representative (Muner, 2013).

**38. 1917-19:** Joint commissions, serving as courts-martial for certain crimes, were formed ‘by Allied navies. There were instances of joint courts-martial…with four different nationalities’ (Sims, 1922)

**39. 1918**: A court was established, consisting of four White Russian officers and of a British, a French, and an American officer, during the 1918-20 joint occupation of the ‘Archangel’ (Strakhovsky, 1944).