LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES
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International Criminal Law: Papers by Professor Alberto Costi, Professor of Law, Victoria University of Wellington

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"Hybrid Tribunals as a Valid Alternative to International Tribunals for the Prosecution of International Crimes"
3rd Annual Victoria University Symposium on Human Rights, Wellington, 2005
Victoria University of Wellington Legal Research Paper No. 17/2019

ALBERTO COSTI, Victoria University of Wellington - Faculty of Law
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In this paper, the author examines the possibility of hybrid tribunals as an alternative procedure for the prosecution of international crimes. The paper seeks to answer three questions – can hybrid trials successfully fully replace international tribunals in order to bring perpetrators of international crimes to justice? Do hybrid tribunals better fulfil the expectations of transitional justice than ad hoc tribunals, the International Criminal Court or truth and reconciliation commissions? Do hybrid tribunals represent the building blocks of a new, just world order or are they subject to the same imperfections? The paper surveys the problems related to truth and reconciliation commissions and international tribunals from the military trials at Nuremberg to the creation of the permanent International Criminal Court. It then looks

tribunals from the military trials at Nuremberg to the creation of the permanent International Criminal Court. It then looks in particular at hybrid tribunals, discussing their conceptual advantages and disadvantages compared to purely international mechanisms. The author concludes that a hybrid tribunal as a model for the enforcement of international criminal law is not necessarily flawed, but may only operate successfully if there is active international support and a genuine will to facilitate the process of reconciliation in society.

"Extraterritorial Abductions: Legitimate Instrument to Fight International Crimes and Terrorism or Threat to the Protection of Human Rights and the International Legal Order?"
In Treasa Dunworth (ed) Procedings of the 11th Annual Conference of the Australian and New Zealand Society of International Law (ANZSIL, Sydney, 2003) 279-299
Victoria University of Wellington Legal Research Paper No. 18/2019

ALBERTO COSTI, Victoria University of Wellington - Faculty of Law
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This paper addresses the issues underlying extraterritorial abductions, seeking to understand the reasons behind resorting to such practice, and the legal, policy and moral tensions such practice causes.

"Is There an Obligation to Prosecute or Extradite Alleged International Criminals Under Customary International Law?"
In Proceedings of the 6th Annual Conference of the Australian and New Zealand Society of International Law (ANZSIL, Canberra, 1998) 57-63
Victoria University of Wellington Legal Research Paper No. 19/2019

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This paper considers whether there is an international law duty for the state on whose territory an alleged criminal is located either to prosecute the alleged criminal, or extradite the alleged criminal to another state or to an international tribunal.

"'Régionalisation' Du Droit Pénal International Dans Le Pacifique: Enjeux Et Perspectives (Regionalisation of International Criminal Law in the Pacific: Issues and Perspectives)"
In Neil Boister and Alberto Costi (eds) Droit Pénal International dans le Pacifique: Tentatives d'Harmonisation Régionale/Regionalising International Criminal Law in the Pacific (New Zealand Associationg for Comparative Law/Association de Législaiton Comparée des Pays du Pacifique, Wellington, 2006
Victoria University of Wellington Legal Research Paper No. 20/2019

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French Abstract: Dans cet article, les auteurs s'intéressent à la vulnérabilité des petits Etats insulaires du Pacifique face aux crimes internationaux et à la criminalité internationale organisée. Ils dressent un bilan des efforts qui y sont menés pour les combattre et des défis à surmonter. Ils synthétisent les réflexions portant sur une harmonisation ainsi qu'une possible régionalisation du droit pénal dans la zone Pacifique et explorent l'idée d'une juridiction pénale régionale.

English Abstract: In this article, the authors highlight the vulnerability of small Pacific island states to international crimes and transnational organised crime. Assessing the efforts undertaken in the region to address these crimes in the face of important challenges, they summarise the current debate on the harmonisation and regionalisation of criminal law in the Pacific and explore the idea of a regional criminal court.

"Problems with Current International and National Practices Concerning Extraterritorial Abductions"
(2002) 8 Yearbook of the New Zealand Association for Comparative Law pp 57-99
(2003) 9 Revue Juridique Polynésienne pp 57-99
Victoria University of Wellington Legal Research Paper 21/2019

ALBERTO COSTI, Victoria University of Wellington - Faculty of Law
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English Abstract: Against a background of increasing raison d'Etat this paper reviews the state of international law on the question of extraterritorial abductions and examines whether international and national human rights instruments offer sufficient protection to the abducted criminal in the light of recent practice by international bodies and national courts. Part II briefly describes the general principles of international law governing extraterritorial abductions, including the circumstances when a states may be held responsible for abduction, the consequences facing the abducting state and the extent to which consent or irregular handing over by the state of refuge may preclude the wrongfulness of the act. Part III examines whether abduction and irregular rendition threaten the human rights of the abducted criminal and, if so, whether the captured individual may raise their violation on the international plane and obtain reparation for the injury suffered. Part IV deals with the impact of developments of international law on the jurisdiction of national courts to prosecute the abducted criminal when custody is obtained through illegal means. In conclusion, Part V reflects on the need to combat impunity as well as the necessity of persevering the rights of the individual and suggests a few solutions to the problems highlighted.

French Abstract: C'est dans le cadre d'un appel croissant à la raison d'Etat que cet article examine la position du droit

international en matière d'enlèvements extraterritoriaux. La pratique récente des institutions internationales et des tribunaux nationaux y est répertoriée et la principales question discutée est de savoir si le droit international traditionnel et les instruments de droits de l'homme offrent une protection suffisante au présumé criminel victime d'une enlèvement.

"Complementary Approaches? A Brief Comparison of EU and United States Counter-Terrorism Strategies Since 2001"

(2012) 18 Yearbook of the New Zealand Association for Comparative Law 167-195
Victoria University of Wellington Legal Research Paper No. 22/2019

ALBERTO COSTI, Victoria University of Wellington - Faculty of Law
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Terrorism presents one of the greatest challenges faced by the world today. In the aftermath of the events of 11 September 2001, both the United States of America and the European Union (EU) developed comprehensive approaches to counter-terrorism. This paper posits that these approaches, while similar, differ in several respects. The United States approach is generally regarded as pre-emptive and often military focused, and seeks to externalise the threat of terrorism, with policies potentially undermining human rights and the rule of law. The EU approach attempts to internalise the terrorism threat and treat it as a criminal offence, with institutional inadequacies potentially limiting the effectiveness of its policies. It is argued that the United States and the EU have taken these different approaches because of differing perceptions of the threat that terrorism poses and their different governance arrangements. Progress in cooperation is currently stunted by the reluctance of both the United States and the EU to make compromises on issues such as privacy standards and the death penalty. It is contended that the United States and the EU must accommodate these differences in order to cooperate at the level of international law, for a more effective transatlantic response to counter-terrorism.

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About this eJournal

Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the Faculty of Law at Victoria University of Wellington. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachussetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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