# TABLE OF CONTENTS

International Institutions and Co-operation: Terrorism, Migrations, Asylum  
2nd Napoli Colloquium 9-11 December 2010

## I

### First Session

*The Issues: Migrations, Terrorism, Asylum and Security in the Mediterranean*

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luigi Mascilli Migliorini</td>
<td><em>Emigration, migration, mobilité: un vocabulaire pour l’histoire qui se renouvelle</em></td>
<td>13</td>
</tr>
<tr>
<td>Giuseppe Di Genio</td>
<td><em>Euro-Mediterranean Security and the Constitutional Dimension of the Interregional Cooperation</em></td>
<td>21</td>
</tr>
<tr>
<td>Wanda D’Alessio</td>
<td><em>Les Maritime Interdiction Operations</em></td>
<td>31</td>
</tr>
<tr>
<td>Concetta Maria Pontecorvo</td>
<td><em>Failing Somalia, Trapped in the Vicious Circle of Unsolved Old Issues and Rampant “New Piracy”: Current Legal Challenges (Part II)</em></td>
<td>67</td>
</tr>
<tr>
<td>Nicola Colacino</td>
<td><em>The Security Council’s Counter-Terrorism Measures through the Lens of the International Rule of Law: a Critical Approach</em></td>
<td>131</td>
</tr>
<tr>
<td>Ilaria D’Anna</td>
<td><em>Definition of State Terrorism and State Sponsored Terrorism: Problems Concerning Legitimacy and Proportionality in Offended States’ Reaction</em></td>
<td>155</td>
</tr>
</tbody>
</table>
Second Session

Human Rights in the General System of International Law

MASSIMO PANEBIANCO

The Origins of the Southern Italian School of Human Rights (1720-1945) ................................................................. pag. 175

LUIGI PROSPERI

The Lawfulness of Italian Expulsion Orders of Terrorist Suspects in the Light of International Human Rights Law .......... » 193

DIANA DI PIETRO

Does Terrorism Need Democracy? The Spanish Cases on Political Parties Accused of Being Linked with ETA before the European Court of Human Rights ................................................................. » 225

SIMONE COTURA


VALENTINA ZAMBRANO

The 'Security versus Protection of Human Rights’. Dilemma in the Jurisprudence of the Israeli Supreme Court ......................... » 301

CLAUDIA NAPOLI

Le 'statut’ juridique international de la femme et de l’enfant: le cas du Maghreb ................................................................. » 327

SILVANA BARBIROTTI

The Process of Codification of Human Rights in Arab-Islamic Countries ........................................................................... » 351

Third Session

National Liberation Movements and Civil Wars

AUGUSTO SINAGRA

The Legal Status of Lawful Combatants of the Soldiers of the Armed Forces of the Repubblica Sociale Italiana: in the Light of the Military Supreme Court’s Sentence n. 747 of 26th April 1954... » 375
<table>
<thead>
<tr>
<th>Authors</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrea Serraino</td>
<td>Security and Conflict: Terrorists and Legitimate Combatants</td>
<td>393</td>
</tr>
<tr>
<td>Erjon Hitaj</td>
<td>The Armed Forces of Iraqi Resistance: Lawful Combatants against Alien Occupation or Terrorists?</td>
<td>413</td>
</tr>
<tr>
<td>Claudia Regina Carchidi</td>
<td>The Revolutionary Armed Forces of Colombia in International Law</td>
<td>433</td>
</tr>
<tr>
<td>Anna Lucia Valvo</td>
<td>The New Frontiers of International Insecurity: between Traditional Terrorism and Cyber-Terrorism</td>
<td>443</td>
</tr>
<tr>
<td>Gian Luigi Cecchini</td>
<td>International Cooperation in Combating Terrorism</td>
<td>461</td>
</tr>
<tr>
<td>Paolo Bargiacchi</td>
<td>Power, Law and Territory: Extraterritorial Application of the United States Constitution at Landsberg Prison in Occupied Germany, at Guantanamo Bay Naval Base in Cuba and at Bagram Airfield Military Base in Afghanistan</td>
<td>495</td>
</tr>
<tr>
<td>Cristiana Carletti</td>
<td>The Listing Procedure under the Lens of the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism</td>
<td>541</td>
</tr>
<tr>
<td>Antonio Guarino Jr.</td>
<td>Instruments for the Fight against Terrorism: Preventive Sanctions of the so called Black List</td>
<td>573</td>
</tr>
<tr>
<td>Christine Jeangey</td>
<td>La Coopération Euro-Méditerranéenne dans la lutte au terrorisme international</td>
<td>609</td>
</tr>
</tbody>
</table>
## TABLE OF CONTENTS

### MARIAROSALBA ANGRISANI

*Terrorism in North Africa and the Sahel: Implications and Counter-Terrorism Policies* .............................................................. pag. 627

### ALESSANDRA DE BENEDETTI

*Data Retention and Counter-Terrorism: a Comparison between Europe and America* ................................................................. » 645

### CARMEN DRAGHICI

*The Human-Rights Compliance of UK Anti-Terrorism Legislation in the Light of Domestic and International Case Law* .......... » 673

### ELENA SANTIEMMA

*Jurisprudential Reflections of Italian Counter-Terrorism. Legislation and Practice* ................................................................. » 715

### DOMENICO MAIURI

*The Right to Development as a Fundamental Human Right. The Right to Development and the Fight against Terrorism* .......... » 753

## II

### Fifth Session

*European Union and Inter-regional Cooperation in the Mediterranean*

### ANGELA DI STASI


### PIERO PENNETTA

*Euro-Mediterranean Free Trade Area, European Regionalism, Arab Regionalisms* ................................................................. » 803

### COSIMO RISI

*Le multilatéralisme euro-méditerranéen: un voyage à la recherche de la route* ........................................................................... » 833

### ROSSANA PALLADINO

*Euro-Mediterranean Association Agreements and their “Multilateralization”* ........................................................................... » 857
TABLE OF CONTENTS

TERESA RUSSO
Inter-parliamentary Cooperation in the Euro-Mediterranean Area (EP-PA-UfM) ................................................................. pag. 875

LUIGI DI MURO, ANTONIO SALZARULO
The Mediterranean as “Meeting Place” between Different Legal Systems: Italian Case Studies on Kafalah......................... » 897

ANNA IERMANO
The Mediterranean as “Meeting Place” between Different Legal Systems: Italian and European Cases on the Subject of the Islamic Veil ................................................................. » 907

ANGELA MARTONE
Water Governance and Euro-Mediterranean Cooperation........ » 923

FRANCESCO BUONOMENNA
Euro-Mediterranean Cooperation in the Sector of Energy Public Services................................................................. » 937

ALESSIA MARI
The Euro-Mediterranean Area of Higher Education............... » 951

Sixth Session
Asylum, Migrations and Related Issues

LINA PANNELLA
The Migration Flows: a Challenge for the European Union....... » 977

ROSANNA LA ROSA
European Asylum Policy: from an “Area of Common Interest” to an Integrated European System ............................................... » 1011

CLARA FRINGUELLO
Asylum Seekers Suspected of Terrorism and the Post-exclusion Phase................................................................. » 1055

SALVATORE FABIO NICOLOSI
Constructing a Possible Human Right to Asylum in International Law................................................................. » 1083
<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRANCESCO BATTAGLIA</td>
<td>The Influence of Counter-Terrorism on the EU Migration Policies</td>
<td>1121</td>
</tr>
<tr>
<td>MARCO CALISTO</td>
<td>The Avoidance of Statelessness in State Successions</td>
<td>1137</td>
</tr>
<tr>
<td>MARIANGELA ATTANASIO</td>
<td>Le statut des migrants dans l’ordre juridique international</td>
<td>1157</td>
</tr>
<tr>
<td>FRANCESCA PERRINI</td>
<td>Human Trafficking: Universal International Law</td>
<td>1183</td>
</tr>
<tr>
<td>MARIO PUGLISI</td>
<td>The Regional International Rules against Trafficking in Human Beings</td>
<td>1199</td>
</tr>
<tr>
<td>CARMINE GALLORO</td>
<td>The Protection of Migrant Workers and Regulation of the Sector</td>
<td>1223</td>
</tr>
<tr>
<td>ANNA PITRONE</td>
<td>The Fight against Illegal Immigration in Euro-Mediterranean Relations</td>
<td>1259</td>
</tr>
<tr>
<td></td>
<td>List of Writings Cited</td>
<td>1273</td>
</tr>
<tr>
<td></td>
<td>Index</td>
<td>1385</td>
</tr>
<tr>
<td></td>
<td>APPENDIX</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Table of contents of 1st Napoli Colloquium</td>
<td>1401</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

## I

**International Conflicts and Human Rights:**
Caucasus, Balkans, Middle East and Horn of Africa  
Napoli Colloquium 2-4 July 2009

Cerimonia di apertura

Intestazione della Biblioteca del Dipartimento di Diritto dell’Economia al Professore Francesco Capotorti

Un ricordo di Luigi Sico

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Giorgio Napolitano</td>
<td>Telegramma</td>
<td>VII</td>
</tr>
<tr>
<td>Guido Trombetti</td>
<td>Saluto ai convegniisti</td>
<td>XI</td>
</tr>
<tr>
<td>Massimo Marrelli</td>
<td>Saluto ai convegniisti</td>
<td>XV</td>
</tr>
<tr>
<td>Francesco Lucarelli</td>
<td>Saluto ai convegniisti</td>
<td>XIX</td>
</tr>
<tr>
<td>Giancarlo Guarino</td>
<td>Presentazione</td>
<td>XXIII</td>
</tr>
<tr>
<td>Gustavo Minervini</td>
<td>Un ricordo</td>
<td>XXXI</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

LUIGI DANIELE
Lettera agli organizzatori della cerimonia in ricordo del Professore Francesco Capotorti ................................................................. pag. XXXV

LILIA CORTESE PINTO, ROSELLA DE ROSA, PIERLUIGI TORIELLO
Francesco Capotorti, un maestro ................................................................. » XXXIX

CARLO CURTI GIALDINO
Francesco Capotorti, Professore alla Facoltà di Scienze Politiche de “La Sapienza” e membro della Corte di Giustizia Europea........ » XLIII

UGO VILLANI
La figura scientifica di Francesco Capotorti nella cultura internazionalistica italiana ................................................................. » LXV

GIANCARLO SCALESE
Un ricordo di Luigi Sico ........................................................................ » LXXVII

II
International Conflicts and Human Rights:
Caucasus, Balkans, Middle East and Horn of Africa
Napoli Colloquium 2-4 July 2009

First Session
International Law: Conflicts and Post-Conflicts

RAFFAELE CADIN
The Role of the International Criminal Court in the Prevention and Resolution of Conflicts between Achievable Utopias and Deceitful Realities ........................................................................................................ pag. 13

NICOLA COLACINO
Actuality of Secessionist Claims: Can the Right to Self-Determination Affect States’ Territorial Integrity? ........................................... » 33
# TABLE OF CONTENTS

**LORENZO MARATEA**  
*The Role of Puppet Regimes in Conflict Resolution Processes*  
pag. 63

**ELENA SANTIEMMA**  
*National Commissions for Truth and Reconciliation and their Role in Conflict Resolution*  
pag. 91

**AUGUSTO SINAGRA**  
*Unequal Treaties and International Law*  
pag. 117

**ANNA LUCIA VALVO**  
*Political Autonomy and International Personality. A Mediterranean Example: the Turkish Republic of Northern Cyprus*  
pag. 123

---

**SECOND SESSION**  
**BALKANS AND CAUCASUS**

**ALESSANDRA DE BENEDETTI**  
*Chechnya: Considerations on State Terrorism*  
pag. 145

**CARMINE GALLORO**  
*The NATO’s Intervention in Kosovo*  
pag. 175

**ERJON HITAJ**  
*The Debatable Question of the Independence of Kosovo*  
pag. 205

**VEGA IODICE**  
*The Prosecution of War Crimes at National Level: the Case of Bosnia and Herzegovina*  
pag. 225

**DOMENICO MAIURI**  
*The Crisis in “Transnistria” and the Role of the European Union*  
pag. 255

**SILVANA MOSCATELLI**  
*The Impact of the 2008 Georgia-Russia Conflict on Abkhazia*  
pag. 283

**ANDREA SERRAINO**  
*The 2008 Russian-Georgian Conflict: the Case of South Ossetia*  
pag. 303
## TABLE OF CONTENTS

### Third Session

**Afghanistan and Horn of Africa**

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRANCESCO BATTAGLIA</td>
<td>The Legitimacy of the American Intervention in Afghanistan</td>
<td>319</td>
</tr>
<tr>
<td>FRANCESCO CHIAPPARELLI</td>
<td>The Boundary Dispute between Eritrea and Ethiopia</td>
<td>333</td>
</tr>
<tr>
<td>GIORGIA FICORILLI</td>
<td>Current Pakistani Geopolitics between Passed, Present and Next Challenges</td>
<td>351</td>
</tr>
<tr>
<td>FRANCESCA PERRINI</td>
<td>The National Reconciliation in Afghanistan: Actions and Measures Taken by the International Community and their Importance for the Safeguard of Human Rights</td>
<td>373</td>
</tr>
</tbody>
</table>

### Fourth Session

**Middle East and other Situations: Israeli-Palestinian Conflict**

<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>MARIANGELA ATTANASIO</td>
<td>The Legal Framework of the Water Resources in the Palestinian Occupied Territories</td>
<td>459</td>
</tr>
<tr>
<td>LUCA CARDULLO</td>
<td>Self-Determination and Subjectivity of PLO</td>
<td>493</td>
</tr>
<tr>
<td>SALVATORE FABIO NICOLOSI</td>
<td>The Question of Palestine between Contented Sovereignty and Belligerent Occupation in Contemporary International Law</td>
<td>509</td>
</tr>
<tr>
<td>Author</td>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>CATERINA TUOSTO</td>
<td>The Principle of Non-Discrimination in the Palestinian-Israeli Conflict and the World Review Conference against Racism</td>
<td>565</td>
</tr>
<tr>
<td>VALENTINA ZAMBRANO</td>
<td>L’avis de la Cour Internationale de Justice sur la construction d’un mur dans le territoire palestinien occupé</td>
<td>587</td>
</tr>
<tr>
<td>MARIAROSALBA ANGRISANI</td>
<td>An Implicit Authorization to the Use of Force? Overview of some Precedents in the International Law Practice</td>
<td>613</td>
</tr>
<tr>
<td>ANGELICA ATTOLICO</td>
<td>The Islamic Republic of Iran: the Right to Freedom of Opinion and Expression and the Use of Internet</td>
<td>631</td>
</tr>
<tr>
<td>CLAUDIA REGINA CARCHIDI</td>
<td>Sociality and Sovereignty in the Turkey of Mustafa Kemal Ataturk</td>
<td>647</td>
</tr>
<tr>
<td>ILARIA D’ANNA</td>
<td>Conflict in Sudan: Al Bashir's Indictment before the International Criminal Court</td>
<td>657</td>
</tr>
<tr>
<td>DIANA DI PIETRO</td>
<td>Lebanon 2006 and the Law on Self-Defence against Non-State Armed Attacks</td>
<td>687</td>
</tr>
<tr>
<td>CARMEN DRAGHICI</td>
<td>The Human Costs of the Iraq War and U.S. International Responsibility</td>
<td>733</td>
</tr>
<tr>
<td>MICHELE MESSINA</td>
<td>The Solution of the Cyprus Problem: which Contribution from the European Court of Justice?</td>
<td>775</td>
</tr>
</tbody>
</table>
ANNA PITRONE
The Role of the International Community in the Cypriot Problem ..... pag. 791

Sixth Session
European Union and International Conflicts

ANGELA DI STASI
La sécurité régionale dans l'espace euro-méditerranéen. Brèves considérations sur le Processus de Barcelone et l'Union pour la Méditerranée ................................................................. » 813

CRISEIDE NOVI
Les sanctions économiques “intelligentes” et la protection des droits fondamentaux dans la jurisprudence du Tribunal de première instance et de la Cour de Justice de l'Union Européenne... » 831

ROSSANA PALLADINO
Process of Stabilization and Peacekeeping in the Western Balkans: the Role of the European Union ........................................ » 859

LINA PANELLA
The Intervention of the European Union in the Somali Crisis: Measures for the Prevention and the Repression of this “New” Piracy ............................................................. » 881

List of Writings Cited ................................................................. » 905

Index ................................................................................................ » 985