

Head of Office: Dominic Kennedy

Assistants: Hannah McMillen, Caroline Nash, Marie Sherwood

Contributors: Kandice Ardiel, Prudence Healy, Rebecca Munro, Gabriella Ramdhan, Karolina Sibirzeff, Cameron Smith, Jana Trifunović

Design: Sabrina Sharma

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the Association of Defence Counsel or International Criminal Tribunal for the former Yugoslavia Practising Before the ICTY - And Representing Counsel Before the MICT.

ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

Karadžić (IT-95-5/18-I)

Mladić (IT-09-92)

Šešelj (IT-03-67)

Cases on Appeal

Prlić *et al.* (IT-04-74)

Stanišić & Župljanin (IT-08-91)

Contempt Cases

Jojić *et al.* (IT-03-67-R77.5)

MICT CASES

Cases at Pre-Trial

Stanišić & Simatović (MICT-15-96)

ICTY NEWS

Two Judgements to be Delivered in March

Two judgements have been scheduled for this month. The trial of Radovan Karadžić, which began in October 2009 and spanned 497 trial days, will be rendered on 24 March. The judgement in the case against Vojislav Šešelj, which began in November 2006 and lasted 175 trial days, will be delivered on 31 March.

Prosecutor v. Jojić *et al.*

(IT-03-67-R77.5)

On 10 February, a Motion Hearing was held in the case of *Prosecutor v. Jojić et al.*, a contempt case related to the case of *Prosecutor v. Vojislav Šešelj*. The Accused, Petar Jojić, Vjerica Radeta, and Jovo Ostojić, are officials of the Serbian Radical Party (SRS); Jojić and Radeta are members of Šešelj's Defence Team, and Ostojić is a wartime associate of one of the witnesses. On 30 October 2012, an initial order in lieu of indictment was issued charging the three with contempt of the Tribunal for having allegedly threatened, intimidated, offered bribes to, or otherwise interfered with two witnesses in the Šešelj case. On 1 December 2015, an Order Lifting Confidentiality of Order in Lieu of Indictment and Arrest Warrants was filed as the Government of Serbia had not yet carried out the arrest warrants as ordered by the Tribunal. At the Motion Hearing, the legal representative of the Government of Serbia, Saša Obradović explained to the Chamber the steps that had been taken to comply with the Order. He was however reprimanded for prevaricating; Judge Alphons Orie, presiding, stated that in the Chamber's view, Belgrade was essentially refusing to cooperate and was placing itself as the final arbiter of justice by circumventing the Order. He ordered Serbia to submit detailed reports of the progress made to arrest Jojić, Ostojić and Radeta every two weeks, with the first report due 24 February 2016.

ICTY AND MICT NEWS

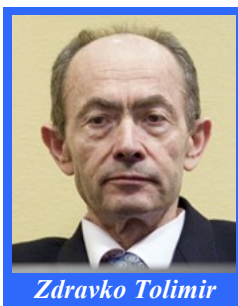
- Two Trial Judgements Scheduled for March
- [Jojić *et al.* Motion Hearing](#)
- Tolimir Dies
- [Prlić *et al.* Status Conference](#)
- Stanišić & Župljanin Status Conference
- [Darko Mrdja Arrest](#)
- Stanišić & Simatović Pre-Trial Hearing

Also in this issue

- News from the Region.....3
- Looking Back.....4
- News from other International Courts.....5
- Defence Rostrum.....6
- Blog Updates & Online Lectures.....10
- Publications & Articles.....10
- Upcoming Events.....11
- Opportunities11

Zdravko Tolimir Dies

On the evening of 8 February, Zdravko Tolimir, a former general and intelligence chief of the Bosnian Serb Army's Main Headquarters, died at the age of 67 in the UN Detention Unit.



Zdravko Tolimir

Tolimir was indicted in 2005 and has been detained in The Hague since 2007. On 12 December 2012, Tolimir was convicted of genocide, conspiracy to commit genocide, crimes against humanity and violations of the laws or customs of war, and sentenced to life imprisonment by a Trial

Chamber. On 8 April 2015, the conviction and sentence was upheld by the Appeals Chamber. Tolimir

had been serving his sentence at the UN Detention Unit and was awaiting a decision on his transfer to another state.

An autopsy has confirmed that Tolimir died of natural causes, however his wife Nada Tolimir stated that her husband had been in ill health for a long time and insisted he should have been getting treatment at home. The Mechanism for International Criminal Tribunals (MICT) President, Judge Theodor Meron, has ordered a comprehensive investigation into his death, and has appointed Judge Vagn Joensen, former President of the International Criminal Tribunal for Rwanda (ICTR) and a Judge of the MICT, to oversee it.

On behalf of the ADC-ICTY, we extend condolences to his family and friends.

Prosecutor v. Prlić *et al.* (IT-04-74)

On 10 February 2016, a status conference was held in the case of the Prosecutor v. Prlić *et al.* No major issues were raised, however Slobodan Praljak asked about how the Trial Chamber could be satisfied that it had reached a decision beyond all reasonable doubt when there exists a dissenting opinion by one of the Trial Judges. Judge Agius, President of the ICTY and the Appeals Chamber, noted that Praljak should address the question to his Counsel. He did remark, however, that in cases where decisions are subject to the majority rule, proof beyond all

reasonable doubt is only required to exist in the mind of the majority of the judges in order to effectively render a decision.

Bringing the proceedings to a close, Judge Agius confirmed that he was satisfied with the progress being made in the case and informed the Parties that he would ensure that the Appeal proceeded as expeditiously as possible. Pursuant to Rule 65bis of the ICTY Rules of Procedure and Evidence, the next Status Conference will be held within a period of 120 days.

Prosecutor v. Stanišić & Župljanin (IT-08-91)

On 2 February 2016, a status conference was held in the case of the Prosecutor v. Stanišić & Župljanin. Judge Agius enquired regarding any concerns that the Accused might have in relation to the condition of their detention or the state of their

health. The appellants did not raise any concerns, however Župljanin did convey that the death of Zdravko Tolimir two days prior had been very difficult on everyone.

Darko Mrdja Arrest

On 15 February 2016, the Bosnian State Investigation and Protection Agency arrested Bosnian Serb ex-policeman Darko Mrdja, who was previously convicted by the ICTY for committing war crimes against Bosnian Muslims on the Korićanske Stijene on Mount Vlašić.

On 24 July 2003, Mrdja pleaded guilty to murder and

inhumane acts, and on 31 March 2004 was sentenced to 17 years' imprisonment by the ICTY Trials Chamber. He served two-thirds of his sentence in a Spanish detention centre and was released in 2013.

Mrdja was arrested on 15 February together with fellow ex-policemen Radenko Marinović and Milan Gavrilović, on suspicion of committing war crimes against

prisoners in Prijedor in 1992. Zoran Babić is also suspected of participating in these war crimes, however he is currently serving a 22-year sentence for committing war crimes in the 1992 Korićanske Stijene massacre.

All four suspects were members of the Prijedor police intervention squad at the time of the alleged 1992 war crimes in Prijedor and will be questioned separately about the events. The Prosecution will decide whether to file custody motions against each suspect.

NEWS FROM THE REGION



Bosnia and Herzegovina

Karadžić's Former Adviser Arrested

Jovan Tintor, a high-ranking wartime politician and former adviser to Bosnian Serb President Radovan Karadžić, was arrested in Vogošća near Sarajevo on 8 February, on suspicion of taking part in war crimes. Tintor was a senior official with the Serb Democratic Party of Bosnia and Herzegovina (SDS). The Bosnian Prosecution alleges Tintor of committing crimes against humanity and war crimes in Vogošća and its surroundings.

Momčilo Krajišnik, who was convicted by the ICTY in 2009 and who is one of Tintor's former SDS colleagues, stated that he has no knowledge of the alleged crimes committed by Tintor. Krajišnik stated, "I know he was a high-ranking official in Vogošća, but I never heard about crimes. I think the arrest happened because instructions were sent to the Bosnian judiciary from [the UN war crimes court in] The Hague to finish their job. I believe Tintor will be acquitted".



Macedonia

Appeals Court Upholds Albanians' "Terrorist Murder" Sentences

In a statement delivered on 8 February, the Appeals Court in Skopje upheld life sentences for six ethnic Albanians and rejected their appeal as "ungrounded". The Defence demanded acquittal due to a lack of evidence, stressing that the case was a political prosecution staged by the government. However, the Prosecution claimed that the murders were an act of terrorism in order to provoke ethnic unrest in Macedonia.

The criminal court in Skopje convicted Agim Ismailović, Fejzi Aziri, Haki Aziri, Sami Ljuta, Alil Demiri and Afrim Ismailović in July 2014. They were found guilty of terrorism for the killing of Macedonians Filip Slavkovski, Aleksandar Nakjevski, Cvetanco Acevski and Kire Trickovski, all aged between 18 and 20, and 45-year-old Borce Stevkovski, in 2012 near Smilkovci Lake in the Skopje area. The murders sparked ethnically-charged unrest within Macedonia, resulting in violent protests of ethnic Macedonians who blamed the killings on members of the large Albanian community.

Speculation suggested that the Defence may submit new evidence, namely transcripts of wiretapped conversations between officials about the case. According to the Head of the opposition Social Democrats, Zoran Zaev, these recordings would cast doubt on the convictions. However, Zaev reconsidered and decided not to publish the transcripts due to his fear that they may spark a violent reaction from the country's Albanian community.



Serbia

Former KLA Members Convicted of Yugoslav Army Killings

On 17 February, the Higher Court in Niš, Serbia, convicted eight former Kosovo Liberation Army (KLA) members *in absentia* of ambushing and killing Yugoslav Army troops in Kosare, Kosovo, in September 1998. Sicer Maloku, Gashi Xhafer, Demush Gacaferi, Deme Maloku, Agron Isufi, Anton Cuni, Rabbit Alija and Rustem Berisha were found guilty of acts of terrorism and sentenced to 15 years imprisonment for their involvement in two attacks on the Yugoslav Army personnel.

The Higher Court's decision was largely based on video evidence, which captured the KLA ambush and the shooting of the Yugoslav Army soldiers, six of whom died.

Kosovo's Prime Minister Isa Mustafa responded to the verdict on 18 February, stating that courts in Serbia have no right to try former KLA fighters who respected the laws and customs of war in what he called a "liberation war", Mustafa stated. "The government of Republic of Kosovo will inform [its] international partners about this tendency and will ask them to put pressure on Serbia to stop such court farces and the pursuing of citizens of the Kosovo Republic under baseless charges [which are] totally outside international judicial standards". The Prime Minister added that the verdict will not have any legal impact, because the Serbian Court has no jurisdiction over Kosovo's citizens. "Kosovo is an independent country. For Serbia, the citizens of Republic of Kosovo are foreign citizens", Mustafa said.

LOOKING BACK...

International Criminal Tribunal for the former Yugoslavia

Ten years ago...

On 11 March 2006, Slobodan Milošević was found dead at the age of 64, in The Hague's UN Detention Unit.

Milošević founded and led the Serbian socialist party, elected President of Serbia in 1989 and then as President of Yugoslavia in 1997. In the 2000 elections, Milošević was slowly losing power and on 7 October 2000 he formally resigned as President. Milošević was initially indicted in May 1999 by the ICTY for crimes against humanity in Kosovo with further

charges added a year and a half later.

On 1 April 2001, Milošević was arrested by Serbian authorities and was later extradited to the UN Detention Unit in the Hague on 28 June, to stand trial at the ICTY. Milošević was charged with genocide, crimes against humanity, and war crimes in Bosnia, Croatia, and Kosovo. The trial commenced on 12 February 2002 and ended without a verdict when Milošević passed away from a heart attack, after suffering from heart ailments and hypertension.

International Criminal Tribunal for Rwanda

Fifteen years ago...

On 13 March 2001, the trial of Juvénal Kajelijeli, the former Mayor of Mukingo Commune in the Ruhengeri Prefecture of Rwanda, began before Trial Chamber II of the ICTR.

It was alleged that Kajelijeli had organised and taken part in attacks in several locations within the areas of Mukingo, Nkuli and Kigombe and had provided arms to militia. On 1 December 2003, Trial Chamber II found him guilty of genocide, direct and public incitement to commit genocide and extermination as a

crime against humanity. However, Kajelijeli was acquitted of the charges of conspiracy to commit genocide, rape as a crime against humanity, and other inhumane acts as crimes against humanity. On 13 September 2002, following a Defence motion, the Tribunal acquitted Kajelijeli of two further counts of war crimes, namely the charge of violence to life, health and physical or mental well-being of persons and of causing outrages upon personal dignity.

Kajelijeli, who initially received two concurrent life

sentences and an additional fifteen years, had his sentence reduced by the Appeals Chamber to 45 years as it was found that his fundamental rights had been

seriously violated during his arbitrary arrest in Benin in 1998. In 2009, Kajelijeli was transferred to Benin, where he is serving the remainder of his sentence.

International Criminal Tribunal for Rwanda

Twenty years ago...

On 9 March 1996, Théoneste Bagosora was arrested in Cameroon and was charged with 13 counts. He pleaded not guilty to all charges.

Bagosora, who held the role as Cabinet Director to the Minister of Defence in Rwanda, was believed to be responsible for planning, organising and ordering the genocide which took place in Rwanda against the Tutsi civilian population and moderate Hutus. He was tried at the ICTR together with Gratien Kabiligi, Aloys

Ntabakuze and Anatole Nsenqiyumva.

On 18 December 2008, he was convicted of conspiracy to commit genocide, genocide, complicity in genocide and crimes against humanity. He received a life sentence, which was later reduced to 35 years. Anatole Nsenqiyumva, who was convicted alongside Bagosora, also had his sentence reduced on appeal to 15 years. Aloys Ntabakuze received a sentence of life imprisonment, whilst Gratien Kabiligi was found not guilty and was acquitted of all charges.

NEWS FROM OTHER INTERNATIONAL COURTS



Extraordinary Chambers in the Courts of Cambodia

Emeline Soula, Legal Intern, Ao An Defence Team

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the ECCC.

Judicial Update

Case 002

During January 2016, the Nuon Chea Defence Team was fully engaged in ongoing trial hearings in Case 002/02. Due to regular schedule changes and witness unavailability, trial witnesses testified for two alternating trial segments – the treatment of the Vietnamese and the treatment of the Cham. Throughout the month, the Nuon Chea Defence Team also filed two requests to the Trial Chamber. The first request sought to admit into evidence 11 diplomatic cables relevant to armed conflict, security centres and internal purges, and the Communist Party of Kampuchea's leadership and structure. The second request sought to withdraw the team's earlier request for a witness to testify in Case 002/02 in relation to the treatment of former Khmer Republic soldiers and officials. This witness had since testified during the Case 002/01 appeal and the Nuon Chea Defence Team submitted that his appeal testimony, which had been admitted into evidence in the Case 002/02 Trial, was sufficient.

In the Case 002/01 Appeal, the Nuon Chea Defence Team received a decision by the Supreme Court

Chamber on 27 January 2016 sanctioning the Co-Lawyers for not actively participating in the final Case 002/01 appeal hearings in November 2015. The Co-Lawyers' actions followed the Supreme Court Chamber's issuance on 21 October 2015 of an unreasoned decision dismissing the majority of the team's requests for the admission of new witnesses and evidence on appeal. Sanctions imposed on the Co-Lawyers in the 27 January 2016 decision included a directive to the Defence Support Section to deduct the Co-Lawyers' fees, notwithstanding that the Co-Lawyers receive only one fee for participation in two full-time cases.

In January, the KHIEU Samphân Defence Team continued to prepare and attend the hearings in Case 002/02.

The team also forwarded the Paris Bar Association Disciplinary Board's decisions to the Trial Chamber. After the KHIEU Samphân Defence refused to attend hearings in Case 002/01 during the drafting of its appeal brief in Case 002/01, the Trial Chamber is-

sued an order finding the KHIEU Samphân Counsel to have obstructed the proceedings and engaged in an unethical or unprofessional conduct. The Trial Chamber decided to refer the KHIEU Samphân Counsel "misconduct" to their respective disciplinary boards. However, the respective boards on ethics (Cambodian and Parisian) rebutted the Trial Chamber findings and held that the KHIEU Samphân Counsel neither obstructed the proceedings nor did they engage in any professional misconduct.

Case 003

In January, the MEAS Muth Defence filed two Appeals and one Reply to the Pre-Trial Chamber, each of which has been classified by the Chamber as confidential. The Defence has also responded to a request by the International Co-Prosecutor for an extension of time to respond to one of the Defence's Appeals. The Defence requested that one of its motions to the Co-Investigating Judges, and the International Co-Investigating Judge's decision on this motion, be reclassified as public, since they contain no confidential information relevant to the ongoing judicial investigation. The Defence continues to review material on the Case File and to file submissions where necessary to protect MEAS Muth's fair trial rights.

Case 004

In January, the Defence team for IM Chaem was informed that the Office of the Co-Investigating Judges

has confirmed that the Co-Prosecutors filed final submissions, and the Defence has a right to respond to them. The Defence requested access to certain documents from Case 002 relevant to proceedings in Case 004, which was granted by the Co-Investigating Judges. The Defence team for IM Chaem also sought corrections to and clarifications regarding documents in the Case File held by the Office of the Co-Investigating Judges. The Defence team continues to review the evidence in the Case File and to prepare submissions to protect IM Chaem's fair trial and procedural rights.

In January, the Defence team for AO An submitted two applications to the Office of the Co-Investigating Judges to seize the Pre-Trial Chamber with a view to annulment of judicial actions concerning the disclosure of Case 004 materials to the parties in Case 002 and the annulment of non-audio-recorded written records of interview. The Defence team also filed an appeal with the Pre-Trial Chamber against an order of the Office of the Co-Investigating Judges rejecting the Defence's observations on the issue of disclosure. Further, the Defence team continued to review all the evidence on the Case File and prepare submissions to safeguard AO An's fair trial rights.

In January, the Defence for Yim Tith continued to analyse the contents of Case File 004 in order to participate in the investigation, prepare Yim Tith's Defence and seek to protect his fair trial rights.

DEFENCE ROSTRUM

HILAC Lecture on the Accountability of Armed Groups under International Law

by Gabriella Ramdhan

"The commission notes that, at a minimum, human rights obligations constituting peremptory international law (ius cogens) bind States, individuals and non-State collective entities, including armed groups. Acts violating ius cogens – for instance, torture or enforced disappearances – can never be justified". (A/HRC/19/69)

In February 2012 the Independent Commission of Inquiry on the Syrian Arab Republic (COI) published a report with the above-mentioned quote. According to this statement, armed groups have obligations under international human rights law. This standpoint deviates from the view that the only ad-

ressees of human rights law are states and that this establishes a vertical relation between the state and the individuals in its territory. However, the COI does not stand alone in this progressive position; different UN Special Rapporteurs and even the UN Security Council mention the accountability of armed groups for human rights abuses or violations. However, is there a legal basis for these assumptions? And if human rights law can bind armed groups, when and how does it apply?

On 11 February the T.M.C. Asser Instituut organised a lecture together with the Amsterdam Center for International Law and the Dutch Red Cross. Dr.

Katharine Fortin, who wrote her PhD on the accountability of armed groups under human rights law, was invited to elaborate on her research. She not only discussed the relationship between international humanitarian law (IHL) and international human rights law when holding armed groups to account, but also focused on the question of when and how it is legitimate to hold armed groups to account under human rights law. Fortin stated that in order to make the UN reports more legitimate, more work needs to be done to establish a solid legal basis.

According to Fortin, the current conflicts are mainly non-international armed conflicts (NIAC). Consequently, armed groups are being watched with greater interest. Fortin mentioned that until now, the attention has been predominantly centred on the accountability of individual members of armed groups. However, she asserted that the accountability of the organisations themselves should also be considered. Fortin had two main reasons for this statement. Firstly, international crimes that are being prosecuted by courts are often facilitated by an organisational structure. In order to redress the harms done, it is not enough to only focus on the individual itself. Secondly, Fortin claimed that there is growing appreciation that armed groups can be held accountable. If this is the case, an accountability mechanism is necessary. However, what does accountability mean? Fortin established a road map in order to explain the definition of accountability. According to her, there must be an external forum, authority of the forum over the actor, legitimacy of norms, ability to provide account and sanctions. Fortin stated that with regard to armed groups we only have achieved an external forum. Armed groups are held accountable by the COI, Geneva Call (a humanitarian organisation) and reports by UN Special Rapporteurs. However, the other four categories have received less attention. Therefore, Fortin focused her research on the legitimacy of norms.

According to Fortin there is a widespread consensus that armed groups are bound by a core body of norms under IHL. For example, this can be derived from Article 3 common to the Geneva Conventions. Moreover, the International Criminal Tribunal for the former Yugoslavia (ICTY) and International Criminal Court have established thresholds that clarify when IHL becomes binding. However, Fortin argued that when it comes to international human rights law there are more gaps. An important issue in this regard is the legitimacy of norms. What is the added

value of human rights law and how can it become binding on armed groups? And when does it become binding? According to Fortin the added value of human rights law lies especially in protracted armed conflict. In this situation it often occurs that an armed group controls a specific part of the territory. Moreover, Fortin emphasised that everyday life continues in these situations: "Citizens are not solely victims if rebels control a certain area. Everyday life continues". This can certainly be underlined. During a NIAC, IHL does not deal with the regulation of lives during an occupation by an armed group. In this regard international human rights law and IHL can complement each other in order to cover the rights to work, food, health, education and freedom of expression as well. However, as Fortin stated, the human rights obligations of armed groups would not be exactly the same as states' obligations. There are some views that the occupation law that is enforced during international armed conflicts should also become applicable during NIACs. However, this will not solve all the prevalent human rights problems.

If we can conclude that human rights have an added value, the next question is when human rights law will apply. According to Fortin, clarity can be found in IHL. In order to prove that an armed group is more than a loose gathering of individuals and indeed able to bear human rights norms, certain organisational requirements have to be established. In this regard jurisprudence of the ICTY and ICC can be helpful (see for example the *Boškoski & Tarčulovski* case (IT-04-82)). This does not mean that we directly apply these norms in the case of human rights law, but it can certainly be a helpful tool to differentiate between just a group of individuals and an armed organisation. Secondly, Fortin argued that there must be an international requirement, which is different from the intensity requirement that is used in IHL. This international requirement would establish an international dimension that would not only justify the applicability of international human rights law, but would also ensure that groups such as the mafia would be excluded. Fortin argued that in order to bind armed groups to human rights law, it is necessary to pay more attention to the aforementioned requirements. Furthermore, although there are some initiatives, such as Geneva Call, the ability to give an account must be further explored. This is understandable because if we want to bind armed groups effectively to human rights law, sanctions are necessary. To only mention armed groups' violations in reports will probably not have the desired effect. Therefore, sanc-

tions remain a topic that should be looked at more carefully.

Stating that armed groups are bound by international human rights law is often an argument without a legal basis. Next time the UN reports argue that armed

groups can be held accountable for human rights violations, they must first consider carefully whether and how international human rights law can be applicable to armed groups. The PhD research of Fortin, which will be published later this year, can certainly help in this regard.

Legal Challenges of Modern Warfare

by Marie Sherwood & Kandice Ardiel

On 30 and 31 January 2016, the International Bar Association (IBA) held a conference on “The Legal Challenges of Modern Warfare” at the entitled Peace Palace in The Hague.

The conference began with a welcome from the Conference Co-Chairs Jonathan Grimes and Steven Kay QC, who thanked all the guests and speakers for their attendance and discussed the role of the IBA War Crimes Committee.

Moderator Greg Kehoe introduced the first panel of the event, on the topic of “Targeting Missiles and the Safety of Civilian Populations and Infrastructure”, including the decisions and applicable law. John Kallo, Lieutenant Colonel of the North Atlantic Treaty Organisation (NATO)’s Allied Rapid Reaction Corps, described lethal targeting with military munitions as essentially attacking the enemy in order to achieve a military or political objective. The North Atlantic Council (NAC) makes the final decision as to whether or not NATO will engage in an operation, based on the information provided, such as why, where and when forces are going to be deployed. Andrew Trimble, retired Lieutenant Colonel of the Royal Corps of Signals, explained that targeting does not exist in isolation and that it is used as one of a number of options that are available to bring about a desired effect or change.

Matthew Festa of the South Texas College of Law explained that a commander must seek advice from lawyers regarding the legal principles of international humanitarian law before turning objects or people into targets. These legal principles aim to distinguish the military necessity of the operation versus the proportionality of the potential civilian casualties. Geoffrey Corn, also of South Texas College of Law, claimed that fighting highly sophisticated non-state actors who are both technologically and militarily adept is an imminent reality. They are an unconventional enemy who can force allies into a war where they must inflict damage on civilian populations. Darren Stew-

art, a Colonel of the British Army, argued that these enemies do not care about the responsibility of protecting civilians because they are not held accountable for them, unlike allied forces, which would be shown poorly in the media and eyes of the public.

The second panel began with moderator and conference coordinator Lewis Power QC from the IBA War Crimes Committee, who introduced the next topic of “Peace Keepers’ Responsibilities and Liabilities in Conflict Zones”. Power explained that civilians have increasingly become victims of armed conflict, with an estimated \$8.2 billion being spent annually to maintain peacekeeping operations worldwide. He did observe that the UN has been successful in two-thirds of its peacekeeping operations. Chip Chapman, retired Major General of the 2nd PARA Parachute Regiment, argued that the UN “is in a bit of a peacekeeping mess” due to the growing corruption risks. Jerry Lane, military lawyer in the Infantry Corps of the Defence Forces of Ireland, agreed that there is misconduct on the part of peacekeepers and a number of legal challenges that need to be discussed for the future of peacekeeping. Mark Prendergast, Lieutenant Colonel in the Irish Defence Forces, argued that peacekeepers are the ones being harmed and that the mandates of Peacekeepers is not being protected.

In the afternoon, the conference resumed with an introduction by conference coordinator Gillian Higgins. The panel discussed the topic of the “Investigation of Crimes and Mass Atrocities in Conflict Zones”. The panellists were Emile Aoun of the Special Tribunal for Lebanon (STL), Peter McCloskey, Prosecutor at the ICTY, Wendy Betts, Director of the IBA Eyewitness to Atrocities Project, Suzana Tomasic, Defence Counsel at the ICTY and ECCC, Gregor Guy-Smith, defence Counsel before the ICTY and EULEX (European Rule of Law Mission) Courts, and David Hooper QC of 25 Bedford Row and the ICC. They each spent several minutes discussing their particular areas of expertise and their courts. Higgins

then opened up the floor for questions from the audience.

The fourth and final panel of the day was moderated by Colleen Rohan who has practised as defence counsel before the ICTY and EULEX was on the topic of “Cyber Warfare International and National Problems in Modern Conflicts”. Terry Gill of the University of Amsterdam spoke about the Tallin Manual 2.0 and the applicability of international humanitarian law in cyber warfare. Matthew Cross from the Office of the Prosecutor at the ICC argued that the talk is not just about international humanitarian law, it is also about crimes against humanity. Cyber attacks and cyber vandalism can also kill a large number of people in the process; for example, cutting the power supply to a town can also affect a hospital where patients could die without electricity. Jens Dieckmann, who has practised as defence counsel before the ICTY argued that there are no law books to cover what cyber warfare is, and as a result it has become too controversial to define.

The day ended with closing remarks from the conference co-chairs Jonathan Grimes and Steven Kay QC, followed by a reception.

The final sessions took place on day two of the conference. The first was on the detention and treatment of hostile forces, moderated by Stephen Kay, QC.

Panellists Marco Sassoli (University of Geneva), Lt-Col Laura Croft (US Army), retired Irish Comdt Eamonn Smyth, and Miami lawyer Sara Elizabeth Dill discussed a number of issues, including the necessity and challenges of applying human rights in international and non-international armed conflicts. As to



Marco Sassoli

the challenges, one panellist observed that no one questions the killing of a lawful target. Some may conclude it is more practical to kill rather than detain a combatant. The topics of Guantanamo Bay and the Al-Skeini case before the European Court of Human Rights were also discussed.

In response to the classic “ticking time bomb” question posed by the moderator, panellists unanimously

and forcefully argued that torture is not an option, presenting both practical and ethical arguments. One warned of a slippery slope, stating that torture could quickly become systematic if it were justified for any purpose. Another stated that using the techniques of a regime one purports to be overthrowing simply cannot be justified. Several panellists argued that evidence obtained through such methods is simply not reliable. Those with a military background included that soldiers should not be put in a position of having to make a choice to torture another human being, and that clear legal rules are required for soldiers to follow.



Federica D'Alessandra

were Donald Ferencz of the Global Institute for the Prevention of Aggression, Professor Kevin Jon Heller (Doughty Street Chambers, London), Karim Khan, QC (Temple Garden Chambers, London), Mike Newton (Vanderbilt Law School), and Carsten Stahn (Grotius Centre for International Studies).

The discussion centred around the tension between sovereignty on one hand and human rights and human security on the other, and changing attitudes within the international community on non-intervention. One panellist pointed out that while human rights law tends to view sovereignty as an impediment, sovereignty remains an important concept and exists for a reason. The emergence of the Khmer Rouge in Cambodia following US bombing during the Vietnam War was cited. Panellists discussed the concept of self-defence, which some noted has been interpreted creatively and somewhat loosely in recent years. One panellist noted that the current system incentivises indirect rather than overt support for opposing parties, as direct support could imply effective control and therefore legal responsibility.

The day concluded with closing remarks from the conference co-chairs.

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Steve Wilkinson, “**IHL and Gender Perspectives: Time for Evolution or Revolution?**”, 19 February 2016, available at: <http://tinyurl.com/jamxvu5>

Dorothy Makaza, “**You Can Run but You Can’t Hide? Rwabukombe and Universal Jurisdiction**”, 16 February 2016, available at: <http://tinyurl.com/zm8zd6w>

Stefano Marinelli, “**Public Conscience and the Evolution of International Law**”, 1 February 2016, available at: <http://tinyurl.com/jnfyqlqc>

Online Lectures and Videos

“**The Mismanaged War on the LRA and the Involvement of the ICC**”, by Stephen Oola, 25 January 2016, available at: <http://tinyurl.com/z5583qk>

“**The ICC and Alternative Justice in Uganda**”, by Stephen Oola, 26 January 2016, available at: <http://tinyurl.com/jxhccur>

“**International Law in Action: A Guide to the International Courts and Tribunals in the Hague**”, by Leiden University, 14 March 2016, available at: <http://tinyurl.com/j7fbt8c>

PUBLICATIONS AND ARTICLES

Books

Appazov, Artur (2016). **Expert Evidence and International Criminal Justice**, Springer International Publishing.

Bosco, David (2016). **Rough Justice: The International Criminal Court in a World of Power Politics**, Oxford University Press.

Collins, Emma (2016). **Admissibility in the Rome Statute of the International Criminal Court**, Oxford University Press.

Hauck, Pierre and Sven Peterke (2016). **International Law and Transnational Organized Crime**, Oxford University Press.

Articles

Keller, Helen and Cedric Marti (2015). “**Reconceptualizing Implementation: The Judicialization of the Execution of the European Court of Human Rights Judgments**”, *European Journal of International Law*, Volume 26 Issue 4.

Stolk, Sofia (2015). “**The Victim, the International Criminal Court and the Search for Truth**”, *Journal of International Criminal Justice*, Volume 13 Issue 5.

Van Sliedregt, E. (2016). “**International Criminal Law: Over-Studied and Overachieving?**”, *Leiden Journal of International Law*, Volume 29 Issue 1.

CALLS FOR PAPERS

The Erik Castrén Institute of International Law and Human Rights has issued a call for papers on the topic “Law Between Global and Colonial: Techniques of Empire”.

Deadline: 1 March 2016

More Info: <http://tinyurl.com/3wjq4ve>

The 13th Annual International Conference on Law of the Athens Institute for Education and Research has issued a call for papers for the Law Research Unit.

Deadline: 14 March 2016

More Info: <http://tinyurl.com/zdexbm7>

The Chair of Public and International Law’s Workshop for Junior Scholars in International Law has issued a call for papers on the topic “Cultural Challenges Facing International Law”.

Deadline: 15 April 2016

More Info: <http://tinyurl.com/jrkrjt8>

HEAD OFFICE



ADC-ICTY

ADC-ICTY
Churchillplein 1
2517 JW The Hague
Room 085/087
Phone: +31-70-512-5418
Fax: +31-70-512-5718

Any contributions for the newsletter
should be sent to Dominic Kennedy at
dkennedy@icty.org

WWW.ADC-ICTY.ORG

Join Us!

ADC-ICTY

Affiliate Membership

For more info visit:

<http://adc-icty.org/home/membership/index.html>

or email:

dkennedy@icty.org

GOODBYE

*The ADC-ICTY would like to
express its sincere apprecia-
tion to Prabhjot Hunjan, Jill*

*Palmeiro, Fanni Andristyak and Char-
lotte Sultana for their contribution to the
Newsletter; we wish them all the best for
the future!*

EVENTS

Global Legal Skills Conference in Verona

Date: 24 to 26 May 2016

Location: University of Verona Department of Law, Verona

More Info: <http://tinyurl.com/zcyqo6u>

2016 Program of Advanced Studies on Human Rights and Hu- manitarian Law

Date: 31 May to 17 June

Location: American University, Washington D.C.

More Info: <http://tinyurl.com/z3lmht7>

2016 Human Rights Law Course

Dates: 20 June to 1 July

Location: European University Institute, Florence

More Info: <http://tinyurl.com/oy5f4mn>

2016 Law of the European Union Course

Dates: 4 July to 15 July

Location: European University Institute, Florence

More Info: <http://tinyurl.com/oy5f4mn>

OPPORTUNITIES

Law Clerk to Judges of the Court (Associate Legal Officer) (P2)

International Court of Justice

Department of Legal Matters, The Registry, The Hague

Closing Date: 11 March 2016

Associate Legal Officer (P2)

United Nations

Department of Economic and Social Affairs, Phnom-Penh

Closing Date: 12 March 2016

Legal Officer (P3)

United Nations Appeals Tribunal

Office of Administration of Justice, New York City

Closing Date: 11 April 2016

Traineeship

International Committee of the Red Cross

Legal Division, Geneva

Closing Date: 30 April 2016

*The ADC would thank Isabel Meyer-Landrut, Assistant to the
Head of Office, for her dedication and commitment to the ADC and
her tireless contribution in bringing the Newsletter together. We wish
her all the best for the future; she will be missed!*