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ICTY NEWS

Prosecutor v. Karadžić (IT-95-5/18-I)

Prosecution Closing Arguments


Radovan Karadžić

On 29 and 30 September, the Office of the Prosecutor (OTP) presented their closing arguments, choosing to end their case through an intensive focus on the Siege of Sarajevo and the Srebrenica Massacre.

The first portion of the morning was dedicated to answering a number of questions posed by the Chamber to the parties in the weekend preceding the closing arguments. Of particular interest was Prosecutor Alan Tieger's response to questions six and thirteen. In question six, the Chamber had asked the Prosecution to explain how they should reconcile the conflicting evidence adduced through the adjudicated facts and Prosecution witness testimony regarding the treatment of detainees in Mlakve Stadium, Bosanski Novi. The OTP response denied that these conflicted; given the fact that there were over 700 people detained within the stadium, the personal experiences and testimony of the two Prosecution witnesses "cannot possibly speak to the experiences of all the detainees in the stadium and therefore does not rebut the presumption of truth of the adjudicated facts". When further questioned on the failure by the OTP to substantiate their claims of beatings at the stadium, Tieger responded, "I haven't considered the prospect of the Trial Chamber's looking underneath the adjudicated facts for the strength of those facts".

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Also in this issue

Question thirteen asked the Prosecution if the alleged Holbrooke Agreement should have a mitigating factor on any possible sentence imposed upon Karadžić. Tieger reiterated the Prosecution's previous submission that even if Karadžić's withdrawal from public life could have a mitigating effect, the fact that the withdrawal was predicated on anticipated benefit to the Accused should ameliorate any mitigating effect. Following these responses, Tieger relinquished the floor to Katrina Gustafson, who spent the next two sessions discussing the Siege of Sarajevo.

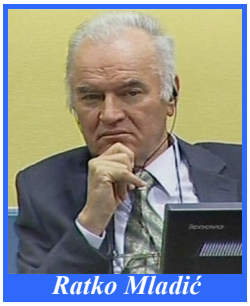

Alan Tieger

Throughout their closing arguments, the Prosecution drew widely upon civilian testimony and a variety of international multimedia reportage in order to paint a dramatic and emotional image of the life of the average Sarajevo citizen between 1992 and 1995. By utilising the voices of Prosecution witnesses, Gustafson attempted to paint a picture of a purposeful campaign of terror, stating that the message was clear, that "you are never safe, at no time, in no place". Linking Karadžić to Ratko Mladić, Stanislav Galić and Slobodan Milošević, the OTP alleged that Karadžić oversaw the "terror campaign", using it as a tool to leverage negotiations, retaliate for unfavourable events, intensify political pressure and punish the population. His control supposedly originated from his position as the President of the Republika Srpska, with intent easily inferred from this "central role".

The combination of a "sophisticated communications system", the continuous shelling and sniping of civilians by the Sarajevo-Romanija Corps (SRK) for 44 months and the actions of international officials in informing Karadžić of these illegitimate military actions "show[s] that these attacks were treated as routine and accepted at every level of the command chain".

The OTP also claimed that all orders by Karadžić, and the greater military command structure, to respect ceasefires and to control their retaliatory fire were evidence that he "ratcheted the terror both up and down to leverage negotiations". The Defence theory of civilian targeting by the Army of Bosnia and Herzegovina (ABiH) was stated to be contradicted by the evidence introduced by Prosecution witnesses. However, the Prosecution did concede that firing on the United Nations by ABiH forces had been confirmed.

Melissa Pack addressed the Court on behalf of the OTP, regarding the alleged responsibility of Karadžić as part of a Joint Criminal Enterprise (JCE) to eliminate the Bosnian Muslim population in Srebrenica.


Ratko Mladić

This JCE was alleged to have come into existence by the night of 11 July 1995 when Karadžić and Mladić were "setting up the structures and means to implement ther aim, in order to eliminate and destroy the Bosnian Muslim population of Srebrenica". The control alleged to be held by Karadžić is purported to originate his authority and control over the army, police and local civilian authorities who informed him throughout the operations in Srebrenica. Any intent held by Karadžić is to be inferred from this authority and control. Throughout this section of the closing arguments, the Prosecution used a number of intercepted phone calls and photographed meetings between members of the alleged JCE to infer that Karadžić ordered the transfer and subsequent extermination of the men of Srebrenica. However, no hard evidence was introduced of his knowledge or intent to perpetrate the murder of these men.

The Defence contention that the number of victims was below 7,000 and that the bodies recovered by international persons were those of execution victims mixed with those killed in battle was strongly opposed by the Prosecution. The Prosecution referred to a number of artifacts, including blindfolds, which were found the graves, indicating that they exclusively contained the bodies of the victims of executions.

In its closing statement, the Prosecution described the "sad picture" of destroyed communities, the murder and expulsion of thousands of civilians and the lasting psychological effects of the protracted conflict in the former Yugoslavia. Stating that Karadžić had once proudly taken credit for the actions of his army, police and civilian authorities, the

Prosecution asked the Chamber to sentence Radovan Karadžić to a life sentence because "justice for all these victims" required nothing less.

The OTP presented evidence from 336 witnesses, out of which 195 testified at the ICTY, and tendered 6669 exhibits since the start of the case.

Defence Closing Arguments

On 1 October, after two days of the Prosecution's closing arguments the Defence began presenting its closing arguments. Radovan Karadžić, having been self-representing since the start of his trial, provided a number of arguments against the alleged crimes and events as noted in his Final Brief.

Radovan Karadžić

During the first session, Radovan Karadžić explained partially the structure of the Serbian Democratic Party (SDS) and how it came to power. The Accused shared his fact-based opinion on the so-called Joint Criminal Enterprise (JCE) that allegedly existed among the SDS at the time. Karadžić also rejected all the claims of forceful removal of non-Serbs and explained why this never took place and that Muslims and Croats were invited to form their own police forces. He stated that "the record is full of evidence that the Serbian side had accepted and, in fact, had itself proposed and accepted to protect the minorities in the cantons and in the republics, which the European community had brokered upon a reciprocal basis and in a decent and humane way. There is not a single shred of evidence that the Serbs wanted anything but that".

In the second session, Karadžić addressed the Prosecution's argument that the Serb population in Bosnia was "marginalised" and that Bosnia was "serbophobe". He asked: "Why would the Serbs accept that their country, Bosnia-Herzegovina, should be serbophobe? And who can guarantee that a serbophobe Bosnia would not become serbocide at a given point in time?" Karadžić also stressed the importance of the fact that the Prosecution misquoted him on a regular basis. In the opinion of the Accused, the Party for Democratic Action (SDA) "sacrificed peace" by giving up on Yugoslavia. He then continued with elaborating on the "clean Drina", the arrival of Arkan and the prisoners of war. In his words things were "mis-characterised" by the Prosecution.

During the third session Karadžić commented among other topics on the division of the police, the voluntary fleeing of civilians, the exchange of civilians, which in many cases was sabotaged by the Muslim side, and the alleged mistreatment of civilians in the municipalities. The Accused also commented on his alleged control over local leaderships and the measures taken by the Serb side to avoid war. He then continued with elaborating on the volunteers that were present in most of the municipalities at the time. He also commented on the system of communication or the non-existence thereof. Karadžić pointed out that the Prosecution had applied a method of selectivity when presenting its arguments and evidence of from "the beginning to the end" of the case.

The final session of the first day of the Defence's Closing Arguments commenced with comments by the Accused regarding the Prosecution's Final Brief and the Prosecution's claim that the witnesses called by the Defence during the course of the trial had lied. Karadžić noted regarding the Yugoslav National Army (JNA) that "[l]ooking at the whole picture, the SDS leadership and the Serbian people have embraced the JNA, they have been protecting it wherever objectively possible, responding to call-ups to join the army and volunteer units, co-operating with commands as much as possible, acting fairly and responsibly with the strategic war supplies, et cetera, which is logical because the Serbian people are threatened too". He claimed that the Prosecution relied "on no real evidence" during its case.

Legal adviser to Radovan Karadžić, Peter Robinson, opened the Closing Arguments of the Defence case on its second day, 2 September. Robinson began his opening statement by answering specific questions posed by the Chamber, arguing that the documents presented by the Prosecution in relation to Luka Camp between 8 May and 6 June 1992 did not prove that the victims were in fact killed at the camp.

Furthermore, it was stated that the 73 occasions of disclosure violations committed by the Prosecution ought to be taken into consideration in significantly reducing any possible conviction, notwithstanding the credit due to Radovan Karadžić for the time already served.

Robinson next turned to the topic of genocide pertaining to Charges 1 and 2 of the Indictment and Article 4 of the ICTY Statute. The main focus of this argument was on the special and unequivocal intent required to establish the crime, which distinguishes genocide from other serious crimes, whilst bearing in mind the great stigma and gravity attached to the crime. The presentation of evidence by the Prosecution, it was argued, could not surmount to the intent to destroy required for genocide, relying on the Appeals Chamber's Judgment in Krstić whereby it was emphasised that a judgment of acquittal should be entered when there is no evidence capable of supporting a conviction and that such conclusions regarding evidence ought to be taken at the highest. The Defence submission was that the context of Radovan Karadžić's statements were in an effort to convince the Muslims not to start a war and to reach a peaceful solution, and thus could not point towards any genocidal intent.

Turning to Count 2 in particular and Karadžić's individual responsibility for genocide in connection to Srebrenica, the Defence asserts that Karadžić never planned or ordered the executions which took place. The foundation of this claim lies on the premise that not a single witness had testified that Karadžić planned, ordered, or was even informed about the execution of prisoners from Srebrenica. Being the most well-documented crime since Nuremberg, Robinson argued that the events of July 1995 can be followed through intercepts, satellite imagery, reports and orders, yet this evidence does not reveal the planning or ordering of the execution by Karadžić. The Defence offered an alternative inference to be drawn from the events, namely, that the events were concealed from him. Furthermore, it was put forward that any orders from Karadžić and in relation to Srebrenica concerned the passage of humanitarian aid and to offer maximum protection and safety to the civilians. This countered the Prosecution's inference that such orders were utilised to cloak illegal objectives and once again offered the literal meaning of the orders as an alternative inference for the Chamber to consider. The misinformation received by Karadžić found its reasoning in the Krstić Appeals Chamber whereby it was found that General Krstić's knowledge of the genocide could not be inferred from his contacts with General Mladić.

Peter Robinson & Radovan Karadžić

The second session once again returned to Radovan Karadžić, which dealt firstly with the Prosecution's submissions in relation to Sarajevo, to be more precise, that there existed a Serbian policy of producing terror and intimidating the citizens of Sarajevo. Karadžić contended that such conclusions were based upon unreliable evidence which emanated from international observers, Muslim investigators and the inhabitants of Sarajevo. Their obvious partiality, ignorance and lack of knowledge sought to deny the existence of the Army of Bosnia and Herzegovina (ABiH), heavy weaponry and the strength and numbers of these forces. Karadžić asserted that Sarajevo was under war, that the Muslims had the ambition to take the Muslim section of the city, which left the Serbs defending and protecting their neighbourhoods.

Dealing with international representatives, it was put forward that the fact that these representatives were never in close proximity to any decision-making process of the Army of Republika Srpska, they could not possess any actual knowledge and could only formulate superficial conclusions. Karadžić sought to rely upon Sarajevo Romanija Corps (SRK) reports and documents which would reflect the conclusion that the SRK comported itself with a maximum degree of responsibility and was to refrain from responding to provocative acts by the Muslims. In relation to Muslim investigators and policemen, it was asserted that investigations revealed an exceptional lack of objectivity and professionalism. Witnesses avoided direct and compromising questions giving such excuses as that the question

was not within their remit or that the evidence was distorted. Finally, with regards to the inhabitants of Sarajevo, it had been submitted by the Prosecution that the inhabitants were not aware of the staff of the ABiH together with the brigades and battalions it possessed. It is the position of Radovan Karadžić that given the sheer volume of the staff and weaponry of the ABiH, a denial of its existence and a lack of knowledge of the positions held within the city, were simply fictitious and as a matter of common sense could not be true.

The unreliability of the evidence presented in relation to Sarajevo was said to exist due to a number of reasons pertaining to the three groups of witnesses defined above. In terms of ballistics, it was submitted that conclusions were made, placing responsibility on the SRK, despite a lack of information surrounding particular evidence. For instance, investigators would only determine the direction of fire and not the distance or the type of projectile fired, yet could still reach the conclusion that the projectile had been fired from a particular SRK-held position. The manner in which investigations were conducted were also contended by Karadžić as they did not purport to rule out all other possibilities, namely, that the projectile could in fact have, or was more likely to have, emanated from ABiH positions. Karadžić asserted that without essential information, such as the angle of descent, the calibre of the weapon, the distance at which the projectile was fired and a general lack of knowledge regarding army positions on both sides, no reasonable conclusions could be made by the investigators - the evidence of which the Prosecution seeks to rely upon in determining SRK, and consequently Karadžić's responsibility.

Regarding Sarajevo, Karadžić turned to the wording of his orders, specifically in relation to the phrasing "only military targets". The Prosecution had asserted that an explicit prohibition on attacking civilians was not present in such documents. The Defence position remained that this represented a selective approach to the documents, omitting from those documents the key elements which actually determine the nature and character of such documents. Furthermore, Karadžić stated that he had strictly referred to the protection of civilians in documentary evidence. Adding to this, any reports received by Karadžić did not mention crimes committed by the Serbs, and spoke exclusively to events, developments and attacks of a strict military nature, pertaining to the state of war. It is also held by the Defence that misquoted evidence by the Prosecution would remove the essence of particular documents, such as the removal of the key words "military targets".

Karadžić stood by his position that the Serbs had acted in necessary defence in Sarajevo and in accordance with the Geneva Conventions. This concluded the Closing Arguments of both Prosecution and Defence. On Tuesday, 7 October, the Rebuttal took place, which will be summarised in the next issue of the newsletter.

Prosecutor v. Mladić (IT-09-92)


Božidar Krnojelac

On 22 September, the first witness of the week, war veteran Božidar Krnojelac, was called by videolink. He was part of the Village Guard in Ćerezluk and later mobilised into the Dragan Nikolić's unit, Nikolić was on trial at the ICTY and sentenced in 2006 to 20 years' imprisonment. Krnojelac described the spontaneous arming of both Muslims and Serbs after the events of 8 April 1992 in the municipality of Foča, and the formation of the Crisis Staffs and Village Guards.

Krnojelac stated that the armed conflict in Foča had begun with an attack from the Muslim side, on that day which led to the destruction of many Serbian properties, including his house. According to the witness, the wave of departures that followed were the result of the pressure exerted by the Muslim media, falsely reporting on the arrival of 5,000 "Serbo-Chetniks", and consequently spreading fear among Muslims. According to Krnojelac, less than 100 paramilitary Serbian Guards and White Eagles arrived, but most Muslims had already left town. These paramilitaries that came from Serbia were very aggressive towards Muslims and Serbs in Foča. The witness's

father, Milorad Krnojelac, was the warden of the Penitentiary and Correctional Facility (KPD) of Foča, and was sentenced by the ICTY to 15 years in prison for organising and tolerating the beatings of the Muslims prisoners. During his testimony, the witness refused to admit his father's guilt. He, however, admitted that he and his father knew that some prisoners were brought to the KPD "without any legal grounds".


Milorad Sokolović

Later on the same day, Milorad Sokolović testified in defence of General Mladić. The former President of the Rogatica Crisis Staff continued his testimony on 23 September. Sokolović testified about an agreement between the Serbs and the Muslims to peacefully divide the municipality of Rogatica in two homogenous parts.

In his testimony, Sokolović affirmed that the talks between the two ethnic groups proceeded in a peaceful way until May 1992, when the Muslims killed Serb civilians. Sokolović specifically recalled the episode of the death of a young Serbian man, Draženko Mihajlović, whose body the Muslims refused to hand over to the family. According to the witness, that incident provoked an escalation of the interethnic tensions, which then turned into a traditional armed conflict. According to the witness, this was also the reason why the Serbian Assembly of the Rogatica municipality withdrew from the agreement reached with the Muslims. Furthermore, the witness affirmed that after the death of Draženko Mihajlović, the Muslim leadership decided to move out of Rogatica and the Muslims were relocated elsewhere. He stated that most of the Muslim population had already left Rogatica before May 1992 and had gone to Žepa, the largest Muslim commune in the Rogatica municipality. Sokolović affirmed that the Muslim leadership itself had organised the transfer of over 3.000 Muslims, during which the destruction of Serb houses and killings of Serbs occurred. He denied that the Executive Board and the Crisis Staff had anything to do with organising the transfer of the Muslim civilians out of Rogatica. During cross-examination, Sokolović was confronted with the fact that in 1991 more than 13.000 Muslims lived in Rogatica and corrected his previous statement regarding the voluntary departure of most of the Muslim population before the outbreak of the conflict.

On 23 September, the Defence called witness Desimir Šarenac, the Chief of Security in the First Sarajevo Brigade. In his statement, Šarenac affirmed that his unit was mainly engaged in defence activities and that they had no intention to harm or terrorise civilians. He also stated that the Army of Bosnia and Herzegovina (ABiH) used civilian facilities, such as schools and hospitals, for military purposes. According to Šarenac, the ABiH attacked civilian zones in their own territory and then blamed the Serbs for such incidents. During cross-examination, Šarenac stated that copies of relevant instruments of international humanitarian law regarding the treatment of enemies and prisoners were available to the members of his units, thus being aware that using prisoners for dangerous work was prohibited. Šarenac admitted that prisoners were nonetheless sometimes required to engage in dangerous activities, such as digging trenches near Sarajevo's battlefront where shelling and sniping occurred. However, Šarenac denied his responsibility for the incidents involving prisoners, claiming it was not within his powers to prevent the use of prisoners for dangerous activities or to punish members of his brigade for ill-treating prisoners. During the re-examination conducted by Branko Lukić, Lead Counsel for the Defence, Šarenac affirmed that the people of Sarajevo wanted the war to end, unlike the people from Sandžak, many of whom held prominent positions.

The Defence called witness Stojan Malčić, an active officer in the Sarajevo Garrison, to testify on 24 September. During cross-examination, the Prosecution introduced a document from the Army of Republika Srpska's (VRS) Command implying the 'cleansing' of non-Serb soldiers from the VRS when it supplanted the Yugoslav People's Army (JNA). Stojan Malčić attested that there were some extremists within the VRS insisting on the removal of Muslims and Croats from all command posts. However, General Mladić himself decided to give non-Serb officers the choice to either stay in Republika Srpska (RS) or leave and join the Yugoslav Army elsewhere. The witness affirmed that he personally protested against this choice which was the sole privilege of non-Serb soldiers. During redirect, he affirmed that Mladić had explained to him that this was the case because Mladić wanted to give Muslims and Croats a chance to think and consult with their families regarding what to do.

Judge Moloto pointed out that the witness never pre-

viously noted that he had met with General Mladić personally. Moreover, the Judges stated that his explanation, even if true, did not take away the contradiction between the witness's allegations and the VRS documents, suggesting strongly that the VRS was indeed purged from its non-Serb elements. The witness insisted that until the end of the VRS's existence, a large number of Muslim and Croat officers remained in the Army, mainly in the air force and air defence. In his testimony, Malčić was confronted with the grades General Mladić gave to generals Radislav Krstić and Dragomir Milosević, which were very favourable.


Vlade Lučić

The second witness of that day, Colonel Vlade Lučić, was at the time Commander of the 2nd Battalion and then an officer in the Command of the 1st Romanija Brigade. The witness affirmed that the goal of the Serb side in the Sarajevo theatre of war was mainly defensive, so that they would open fire on military targets but not on civilians, making reasonable use of ammunition. Lučić specified that his battalion had six 60mm and six 82mm mortars that were solely used for defensive purposes. He admitted that the mortars' range was in theory sufficient to reach targets in the city, but that it was never the case. The Prosecutor contested this allegedly reasonable use of weapons with a document from the Sarajevo-Romanija Corps Command warning the subordinated brigades not to waste ammunition. Vlade Lučić indicated that there was a shortage of personnel, consequently they were not able to cover the entire defence line. Vlade Lučić attested that the soldiers under his command were disciplined according to the law, and that disciplinary measures were applied for minor infractions, while criminal proceedings were initiated for major ones. According to the witness, a couple of incidents required disciplinary or criminal proceedings such as soldiers taking action without the Command's consent or disobedient behaviour. He indicated during the cross-examination that there had not been any prosecution for violations of international criminal law while he was the Commander of his unit.

Zoran Durmić, a police officer from the Serb municipality of Milići, was called to give his testimony on 29 September. In his statement, Durmić blamed the Muslims for the outbreak of the conflict in Vlasenica, claiming that in various occasions Muslim paramilitaries attacked the Serbs. In July 1995, Durmić's police unit was securing the Milići-Đjugum road, and while performing this task, he could see that about 100 Muslims were kept in the football field of Kasaba. On that occasion, Durmić heard a wounded Muslim saying to a nurse that he had been shot because he wanted to surrender and that thousands had been killed in Bokčin Potok, thus implying that the Muslim forces were killing their own compatriots who wanted to succumb to the Serbs. On cross-examination, the Prosecutor informed Durmić that around 80 Muslims had been killed in the village of Zaklopača in May 1992. The Prosecutor also stated that, on that occasion, 30 survivors surrendered to the Serb forces and signed a document giving up their properties. Durmić admitted he had been told that a number of Muslims had been killed in Zaklopača, but denied knowing about their properties having been taken.


Đorđo Krstić

On the same day, the Defence called Đorđo Krstić, former Deputy Warden of the Batković Collection Centre. The witness admitted being currently charged with violations of the international laws of war, for allegedly having ordered murder, violence to life and inhumane treatment. He stated that these charges were due to his position as Camp Manager, making him responsible for violations committed by any security guard within the Centre. The Prosecution referred to a document indicating that 500 former Manjača prisoners were left unaccounted after the closure of Manjača in December 1992. Đorđo Krstić admitted that some prisoners held in Batković came from Manjača, but they were treated like the others and only remained for a short period until their exchange or transfer to the International Committee for the Red Cross (ICRC) was organised. The Prosecution then introduced a document accounting for 520 Croats prisoners from Manjača who were supposed to be exchanged, and asked the witness whether these were the same prisoners. Đorđo Krstić was unable to connect the two events. When he arrived in Batković in 1993, there were already prisoners in the camps and some of them could have come from Manjača or else-

where. While he was there, other prisoners of Croatian ethnicity were brought from Manjača. Presiding Judge Orie wondered whether the witness was confused about the two events, before concluding that there could have been an arrival of 500 prisoners from Manjača to Batković in December 1992, and another 500 of Croat ethnicity that arrived in 1993, making a total of about 1000. Furthermore, the witness affirmed that there were never any women in the centre after his arrival in January 1993. The Prosecution, however, produced a document accounting for nine women temporarily held in Batković before being transferred to the KPD. Finally, the Prosecution confronted Krstić with previous evidence received by the ICTY Trial Chamber, that Batković's prisoners were forced to dig trenches for Serbs, and asked if he took any measures to prevent forced labour on the front line. The witness replied that according to his recollection of the said events, labour never took place on the front line, but only in its vicinity.

On 30 September, the Defence called Novica Andrić to testify. Andrić worked as a driver for the Rogatica Territorial Defence in 1992. The witness testified about two holding centres, one in the Veljko Vlahović School and the other one in Rasadnik, which would accommodate both a military detention facility and a reception centre for civilians, who were not incarcerated. Camile Bibles of the Prosecution asked Andrić about what happened to Avdo Palić, a commander of the ABiH who was being kept in an apartment in Rogatica and who was then found dead in a mass grave not far from Rogatica. Andrić explained that Palić was accommodated in an apartment in Rogatica, where some guards would ensure his safety, preventing retaliation for attacks on the Serbs which he had taken part in, while at the same time preventinghim from leaving the house. Andrić testified that Palić was not ill-treated and that the atmosphere in the house was friendly and normal, as he once found Palić playing cards with the guards. In August 1995, Andrić drove Palić to Bijelina and that was the last time he saw him. Many years later, Andrić was subject to a polygraph test regarding the fate of Avdo Palić. The results showed that he was not lying. Judge Orie noted that polygraph tests are not accepted as probative evidence in many jurisdictions and invited the parties to submit their positions to the Chamber regarding this matter. The Prosecutor also questioned Andrić about what happened to three Muslim people who were being kept in his father's garage. Andrić denied this crime ever occurring, and Dragan Ivetić, Legal Consultant for the Defence of Mladić, noted that Andrić's father was acquitted with respect to those allegations.


Obrad Bubić

On 30 September and 1 October, Obrad Bubić, former Rublika Srpska Army officer testified for the Defence. In his statement, Bubić reported that on 4 July 1992, he and other three members of the army and of the police were ambushed by the ABiH. Only Bubić survived the ambush, after which he was held captive, starved and beaten for two weeks. After he was released, Bubić joined the First Kotor Varoš Brigade. On cross-examination, Prosecutor Arthur Traldi questioned the witness about the massacres perpetrated against non-Serbs in Kotor Varoš, which, according to the indictment amounted to genocide. Bubić admitted that some non-Serbs were taken out of their houses by the military and civilian police and that a Catholic church was burned down in July 1992. Bubić also noted that the church was then restored and is now perfectly functioning. The witness admitted that he heard that in August 1992 a number of Muslims were taken to a mosque and killed, but said he did not know the number of victims, or who had ordered the killing. Prosecutor Traldi asked the witness about the rape of a Croatian girl that occurred in his weekend cottage in Dubrovci. Bubić said he only learned about the rape three years ago, and that he was glad to know that the perpetrators were currently being prosecuted for it. Traldi showed evidence demonstrating that the vast majority of Muslims and Croats left Kotor Varoš after the war. The witness replied that people were fleeing towards the territories controlled by their own compatriots, and that this was probably the reason of the reduction of the Croat and Muslim population of Kotor Varoš.

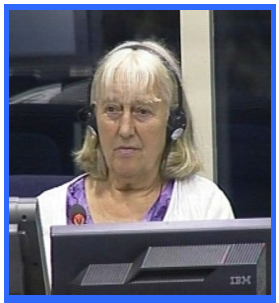
Branko Davidović, former member of the 6th Krajina Light Infantry Brigade, testified in the Mladić trial on 1 October. Davidović's testimony dealt with the situation in Sanski Most in 1992. He indicated that the media misrepresented the situation. According to him, Serbs had not illegally seised power, but had won the elections earning the majority of the Munici-

pal Assembly's seats. Davidović further explained that the Serbs in Sanski Most feared for their lives because of the great numbers of compatriots who had been killed during the two World Wars, and that was why his Brigade would disarm Muslims.

On cross-examination, the Prosecution showed Davidović a report containing information regarding some documents allegedly found by the Sanski Most Police, relating to the planning by the Muslims of genocide against the Serbian population. Davidović agreed with the Prosecutor that such information would increase ethnic tensions, but explained that this kind of documents were only meant to be submitted to the national security services and that the officers never spoke to their troops about it. On the contrary, they tried to convince them that what had happened in the past would not be repeated. The witness was also asked about the mopping up operations carried out to disarm the Muslims in the villages of Vrhpolje and Hrustovo in May 1992. Davidović stressed that they were conducted legitimately and that Hrustovo was shelled because of the constant refusal to disarm, notwithstanding the various ultimatums to do so. He denied having any knowledge of executions of civilians that allegedly took place there.

On 2 October, the Defence called its last witness of the week, Svetozar Petković. Petković was tasked by the Foča Crisis Staff to supervise the supply of equipment and food to the population and units of the municipality of Foča. The witness explained that Radio Sarajevo announced that 5.000 armed Chetniks from Montenegro were coming to Foča, and this misinformation contributed greatly to the sharpening of inter-ethnic tensions. Petković explained that prior to the establishment of the Preljuca Brigade, various unorganised paramilitary units had been formed. According to Petković, Marloc Kovač, the Commander of the official Brigade, failed to fully disband these informal groups. The witness assisted Kovač's various attempts to communicate with the units' leaders, who systematically ignored him, and continued to object traditional military hierarchy.

Prosecutor v. Hadžić (IT-04-75)


Karmen Brlić-Jovanović

On 22 September, the Defence conducted its direct-examination of Karmen Brlić-Jovanović, a journalist working for the Radio of Vukovar before the outbreak of hostilities. On one occasion, after Easter and the Plitvice incident in 1991, Brlić-Jovanović invited Hadžić and other prominent leaders of political parties to a confrontation in a radio programme she ran. Asked about the political views that Hadžić expressed during that interview, she stated that he was in favour of an agreement and removing the weapons that instilled fear in people. He also advocated the placing under control of the individuals who acted inappropriately in a civilised environment.

Brlić-Jovanović further stated that it was the Yuguslav People's Army (JNA) members who provided security to people during the fighting in Vukovar. They had an official office where one had to ask for a pass allowing them to leave Šid and go to Vukovar. In addition, military vehicles were the only available means of transportation to Vukovar. According to the witness, the same people that issued passes were also in charge of issuing temporary residence permits in the zone of combat operations. She obtained one of these in December 1991 when she returned to Vukovar from Šid. At that time, she could not reach her house because the entire city had been monitored and the JNA looked after the safety of civilians.

During cross-examination, talking about her work commitments at the Vukovar radio, the witness stated that the radio station was obliged to send daily reports to Zagreb, but could not confirm that the radio was also listened to in Belgrade. The witness stated that after she had stopped working there in August 1991, misinformation had been published by the Vukovar radio in order to spread propaganda. With regard to her work colleagues, the Prosecution claimed that the Territorial Defence (TO) of Dalj was responsible for the killing of the Reporter Stjepan Penić, while journalists Siniša Glavašević and Branko Polovina were killed at Ovčara. The witness did not know what had happened to them at that time and

she only heard about this incidents later.

With regard to her personal or social relationship with Hadžić, the witness stated that he was an assemblyman of the Serbian Democratic Party at the Vukovar Municipal Assembly when she first met him and the last time she saw him was during the talks in April 1991. At the time of the mentioned interview, she confirmed that Hadžić had already been known as a politician who had been arrested at Plitvice, but she did not have any deeper relationship with him as he never contacted her after the interview.

On the next day, the Defence brought another witness, the President of the Obrovac municipality between 1990 and 1993 and the Minister of Culture and religion in the government of the Republic of Serbian Krajina (RSK) as of April 1992, Sergej Veselinović. Veselinović talked about the secret arming of Croats which took place before the outbreak of the armed conflict. He stated that this had a disastrous impact on Serbian people living in the urban centres where Serbs were not the majority, such as in Šibenik, Zadar, Rijeka, Pula, Osijek and Vinkovci. The witness stated that many Serbs in this area had been declared unnecessary and were dismissed from their jobs. After their dismissal, many of them came to Obrovac and were accommodated in empty weekend cottages.

Veselinović also stated that every municipality had a TO brigade that was under the JNA's command. He noted that he, as the representative of the municipality, had no jurisdiction in relation to the TO and the municipality could not issue any orders to the police station in Obrovac. He denied the Prosecution's allegation that he had helped organise militant groups in Knin, Krajina before the conflict had officially started.

When asked about the relationship between the RSK and the Yugoslav authorities after the signing of the Vance Plan in 1991, Veselinović claimed that the representatives of the Federal Republic of Yugoslavia persuaded the RSK government on several occasions that they would not be left to their own devices and at the mercy of the Croatian armed forces. They convinced them that in case of aggression by Croatia against the RSK, the JNA would respond quickly by establishing a line of separation between them. However, the JNA did not fulfil its promises when the aggression at the Miljevci plateau occurred. The United Nations Protection Force (UNPROFOR) was there too, but despite noting the state of the situation they did nothing about it.

Veselinović also noted that Hadžić had little political influence in Knin Krajina, as he rarely spent time there and did not have his own political party, nor did he head any other influential political party there. Instead, the two central political figures were Milan Martić and Milan Babić. Veselinović added that the accusation levied against Hadžić regarding smuggling of oil was probably made up by Rade Leskovac.

Regarding Veselinović's arrest and detention in the Kruševac Pre-Trial Custody Prison on the basis of an indictment that accused him of the criminal act of physical coercion and extortion, he denied that Hadžić tried to help him by asking the Court to release him on bail.

On 24 September, Veselinović continued his testimony. He stated that there had never been any road signs that would imply that Croats should not enter Serbia or banners saying "This is Serbia" in Obrovac. He added that the police would have arrested people who would put up such signs. The witness also denied that Croats were targeted for murders, mistreatment, or robberies based on their ethnicity and that these were only sporadic individual incidents. The Prosecution's stand was that there was only a semblance of an attempt to investigate crimes committed against Croats in order to persuade UNPROFOR and the International Civil Police (CIVPOL) that Serb authorities were actively searching for a solution to the problem. The witness explained that the RSK police worked together with both UNPROFOR and CIVPOL and that CIVPOL was present when the murders were investigated by the police.

In the week beginning on 29 September, the Defence received leave in order to prepare itself for the *viva voce* testimony of Vojin Šuša, the Minister of Justice and Administration in the RSK government as his 92*ter* motion had been denied the Friday before his testimony was scheduled to begin.

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

The Bosnian/Croatian/Serbian (B/C/S) translation of the 6-volume Trial Judgement in *Prlić et al.* was published on 3 October. The original Judgement, issued in French, was delivered 29 May 2013, and the English translation issued on 6 June 2014. The schedule of the *Prlić case* on appeal was extended pending publication of the English translation, which triggered the timeline for the Notice of Appeal for four Defence teams and for the Appeals Briefs for those four teams, the remaining two Defence teams and the Prosecution.

However, the Defence teams have eagerly awaited the publication of the B/C/S translation, which they were repeatedly assured would be issued in September, because several Accused have so far been unable to read the Judgement against them in a language they understand. Now that the B/C/S translation is available, the Accused will have an ability and opportunity to read the Judgement themselves and to contribute more proactively to their defences.

On 9 October, the Appeals Chamber issued a much-anticipated decision regarding the Parties' requests for extension of time to file their respective Appeals Briefs and an extension of words. It granted the 60-day extension requested and joined by all Parties, and a 5,000-word extension requested and joined by all but the Prosecution.

This Decision means that the Appeals Briefs for all parties will be due upon return from the winter recess, no later than 12 January 2015; with previous extensions for the responses considered, the Respondent's Briefs are now due by 7 May 2015 and the Reply Briefs by 29 May 2015. The word limit now allows the Appellants to submit 50,000-word briefs and the Prosecution 300,000 words in its Response.

LOOKING BACK...

Extraordinary Chambers in the Courts of Cambodia

Five years ago…

Helen Jarvis

On 27 October 2009, more than 170 Civil Party applicants took part in the second regional forum organised by the Victims Unit of the ECCC. Attendees were from Kampong Cham, Prey Veng, Svey Rieng, Kratie and Stung Treng provinces and participated in a lively discussion on the participation of victims in trials.

On the first day of the seminar, special guest Yen Buntith, the Secretary General of Kampong Cham, opened the forum on behalf of the Governor, His Excelency Hun Neng. A general update was then given to the participants by Helen Jarvis, Head of the Victims Unit. The update included the trial of Kang Guek and stated that "171 civil party applicants have so far been admitted as Civil Parties by the Office of the Co-Investigating Judges".The discussion focused on determining why the participants wanted to be part of the trials and their expectations. They also stressed "the need to have lawyers who will represent their interests and keep them informed".

On the second day, an opportunity to meet nine of the lawyers who were available to represent civil parties in Case 002 was given. It was decided that "most lawyers will represent specific groups of victims such as those who suffered gender based crimes, persecution on the basis of their religion or ethnicity, forced evacuation and imprisonment as well as torture".

Many Non-Governmental Organisations (NGOs) cooperated with the ECCC in the organisation of the forum. Some of these NGOs include the Cambodian Human Rights and Development Association, the Documentation Center of Cambodia, the Khmer Institute for Democracy, the Cambodian Defenders Project, the Center for Justice and Peace and the Khmer Kampuchea Krom Human Rights Association.

During the closing of the forum "the importance of the relationship between lawyers and Civil Party clients" was emphasised by Paul Oertly, the Deputy Head of the Victims Unit.

The ECCC has a unique system in place for the participation of Civil Parties and is the first international court trying mass crimes that allows victims to participate directly in the proceedings as Civil Parties. Victims may also participate in proceedings at the International Criminal Court (ICC) and the Special Tribunal for Lebanon (STL), although their participation is designed differently.

International Criminal Tribunal for the Former Yugoslavia

Ten years ago…


Blagoje Šimić

On 21 October 2004, Blagoje Šimić, who was sentenced to 17 years imprisonment by the ICTY's Trial Chamber II for crimes for persecution, was granted provisional release from 4 November to 7 November 2004. This fixed period release was granted by Appeals Chamber, which consisted of Judge Güney (Presiding), Judge Pocar, Judge Shahabuddeen, Judge Schomburg and Judge Weinberg de Roca. It was granted following the *Motion for Provisional Release* filed by the Appellant, requesting "permission to attend memorial services marking the 40-day anniversary of his father's death".

The decision to grant Blagoje Šimić a release for fixed period was granted pursuant to Rule 65 D(I) of the Rules of Procedure and Evidence.

Fifteen years ago…

On 19 October 1999, the Judgement in the case of Goran Jelisić was pronounced by Trial Chamber I, consisting of Judges Claude Jorda (Presiding), Fouad Riad and Almiro Rodrigues.

The Accused was found guilty on all counts except for the count of genocide "considering that the Prosecutor failed to prove beyond a reasonable doubt that Jelisić acted with the required intent to destroy in whole or in part a national, ethnic or religious group".

Goran Jelisić was acussed of "illegal treatment and killing of Muslims and Croats in the Luka camp, makeshift detention facility in Brčko, northern Bosnia, following the take-over of the city by Bosnian Serb forces". He was initially indicted on 21 July 1995.

The Accused was detained on 22 January 1998 by NATO Stabilisation Forces and his first court appearance was on 26 January 1998. He plead not guilty to all counts. After a later discussion between the Defence and Prosecution, Jelisić "entered a guilty plea to the counts of crimes against humanity and violations of the laws or customs of war, and [a] not guilty plea on the counts of genocide".

NEWS FROM THE REGION

Croatia

Croatia Promises Help for Victims of Sexual Violence


Predrag Matić

Government officials and United Nations representatives presented a Draft Law at a roundtable in Zagreb, noting that the victims of sexual assault during the 1990's Yugoslavia conflict have waited too long for support. "We want to encourage the victims to talk about their traumas and offer them proper medical and psychological care, education about their rights and financial compensation", said the Croatian Minister for Veterans' Affairs Predrag Matić. He added that this has been an issue for already 23 years, but no one has taken concrete steps to deal with it.

The *Draft Law on Rights of Victims of Sexual Violence in the Homeland War* should provide support to victims of this violence committed between 5 August 1990 and 30 June 1996, even in cases where the perpetrators were not identified. "Most sex offenders from war time were not identified", said Davor Derenčinović, Professor of Criminal Law at the Zagreb University and noted that there is an unclear ratio between cases filed and cases that were actually handled, amounting to one case out of fifteen being processed.

Vesna Teršelić from the Documenta – Centre for Dealing with the Past, said that she hopes this law will be the first step towards achieving a broader range of victim's rights, "[A]ccording to our research about the status of civilian victims of war, less than 10 percent have had access to medical and psychological care".

According to Luisa Vinton, a United Nations Development Programme representative in Croatia, financial and legal matters must be dealt with before adopting the law. She added that during the adoption procedure the parliamentarians will have to assess different options, such as the need to find a balance between the imperative obligation to compensate the victims for the injustice suffered, and the need to accord the victim with the right procedural status when there is enough evidence for delivering a judgement. The law is scheduled to enter into force on 1 January 2015.

Kosovo

Limaj's Trial Judges Dismissed

The Court of Appeal in Priština disqualified three Judges in the Klecka war crimes case after the Defence claimed that the Judges were biased against the ex-fighters from the Kosovo Liberation Army (KLA) currently on trial for abuses at the Klecka detention centre.

The Defence accused the Judges of not performing their job appropriately, assuming the role of the Prosecution when questioning a witness. They added that the panel of Judges should be composed of two local Judges and one international, according to Kosovo's new law.

Kosovo Liberation Army

The Kosovo Court of Appeals had reopened the case against Fatmir Limaj, former KLA guerrilla, also known as "Commander Steel" and nine ex-fighters in August 2014. In 2005, Limaj was acquitted by the ICTY, followed by the acquittal of the Klecka charges in September 2013.

In March of this year, Limaj and former KLA Secretary, Jakup Krasniqi, founded a new political party, *Nisma per Kosoven*, which won six seats in the Kosovo Parliament.

Serbia

New Investigation in Batajnica and Vlastimir Đjordjević's Trial

After receiving information regarding the possible existence of an additional mass grave, the Serbian War Crimes Prosecutor Office ordered a new field investigation at the location. Chief Prosecutor Vladimir Vukčević believes that "there is a potential mass grave location where a tent for autopsies was before, just near the location of the mass grave where 900 Kosovo Albanians were found". According to the International Commission for Missing Persons, 704 bodies of Kosovo Albanians killed during the 1990s were found.


Vlastimir Đjordjević

Former Serbian Interior Minister Assistant Vlastimir Đjordjević has been found guilty by the ICTY and sentenced to 18 years in prison for transporting bodies of those killed

during the conflict. During the trial in The Hague, Đjordjević admitted to having been involved in the transfer of the bodies, but said that he never knew how or when the crimes were executed.

In Serbia no one has been prosecuted for the crime of removing the bodies, although the Prosecutor's Office claims they are investigating the case. Besides the bodies found in Batajnica, the remains of the Kosovo Albanians killed during the war and later transferred to Serbia were found in Lake Perućac, at a police centre in Petrov village and at the Rudnica quarry near Raška. Around 1700 Serbians and Albanians are still missing since the war.

NEWS FROM OTHER INTERNATIONAL COURTS

International Criminal Court

The views expressed herein are those of the authors alone and do not necessarily reflect the views of the ICC.

Situation in Central African Republic II

On 24 September, the Prosecutor decided to open a second investigation in the Central African Republic (CAR). This investigation was triggered by a self-referral received on 30 May for crimes committed in the CAR since 1 August 2012, though the Prosecutor stated she had already begun a new preliminary investigation into escalating violence in CAR in February. Crimes suspected include several crimes against humanity and war crimes of murder, rape, forced displacement, persecution, pillaging, attacks against humanitarian missions and the use of child combatants under age 15, committed by both the Sékéla and Anti-balaka groups. Following a preliminary investigation, the Office of the Prosecutor has determined that there is a reasonable basis to believe that the above crimes have been committed, and will thus conduct an investigation to gather evidence and determine which if any cases to bring against individual perpetrators.

The CAR previously referred a local situation to the Court in 2005, following a wave of murders and sexual violence against civilians in 2002 and 2003 during an armed conflict between the government and rebel forces, resulting in the Prosecutor opening an investigation in May 2007. This investigation led to the case *Prosecutor v. Bemba* (ICC-01/05-01/08) for crimes against humanity and war crimes, as well as continued monitoring of the situation and instability in CAR. A link to the Prosecutor's full Article 53(1) Report on the Situation in CAR II is available on the ICC website with the Prosecutor's press release on the opening of the investigation. The situation has been assigned to Pre-Trial Chamber II.

Residual Special Court for Sierra Leone

The views expressed herein are those of the authors alone and do not necessarily reflect the views of the RSCSL.

New Registrar for the Residual Court


Binta Mansaray

On 29 September, Binta Mansaray was sworn in as the Registrar of the Residual Special Court for Sierra Leone (RSCSL). She was appointed by the Secretary-General of the United Nations (UN).

She previously served as the Acting Registrar of the RSCSL since its creation in January 2014 and as the Registrar of the Special Court for Sierra Leone (SCSL) from February 2010 until the completion of its mandate in December 2013. She was the first Registrar of the Court from Sierra Leone (her predecessor, Robin Vincent, is from the United Kingdom). Mansaray has been a member of the Registry since July 2007, serving as Deputy Registrar and Acting Registrar before her appointment to Registrar of the Court in 2010. She also worked as an Outreach Coordinator and Head of the Outreach Programme for the Court in 2003, designing its grassroots programme. Prior to joining the Court, Mansaray worked with several human rights organisations, particularly focusing on

war-related sexual violence and other gender-related violations and crimes.

The RSCSL was established by an agreement between the UN and Sierra Leone in August 2010 and began functioning following the completion of the SCSL's mandate in December 2013. Its mandate includes witness protection, supervision and enforcement of sentences (including early release), and management of Court archives. Although having its principal seat in Freetown, the RSCSL works out of its interim seat in the Netherlands, with the Freetown office focusing on witness and victim protection and support. Like its SCSL predecessor, the RSCSL is funded by voluntary contributions, but unlike the 400-person staff of the SCSL, the RSCSL has a shell staff of only about a dozen: a Chambers with a President (Justice Philip Waki), Trial and Appeals Chambers as needed, the Registrar, and the Prosecutor, and a Defence Officer.

International Criminal Tribunal for Rwanda

The views expressed herein are those of the authors alone and do not necessarily reflect the views of the ICTR.

Karemera & Ngirumpatse and Nizeyimana & Nzabonimana Case Update

On 29 September, the Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR) delivered judgements in the *Édouard Karemera and Matthieu Ngirumpatse, Idélphonse Nizeyimana, and Callixte Nzabonimana cases*. In all three cases, the Appeals Chamber affirmed most of the convictions, though they overturned some findings and convictions.

In the cases against Karemera and Ngirumpatse, both Accused and the Prosecution appealed parts of the 21 December 2011 Trial Judgement, convicting Karemera and Ngirumpatse of direct and public incitement to commit genocide, crimes against humanity (extermination and rape) and war crimes (murder), and sentencing both to life in prison for their roles in the killings and sexual violence in various parts of Rwanda in April 1994. They held the positions as Minister of the Interior and Communal Development for the Interim Government (and previously National Secretary, First Vice President, and Executive Bureau member of the National Republican Movement for Democracy and Development (MRND) party) and National Party Chairman and Chairman of the MRND Executive Bureau, respectively. While the Appeals Chamber reversed several findings of the Trial Chamber, none were sufficient in the eyes of the Appeals Chamber to upset the grounds of conviction or to mitigate the sentences set by the Trial Chamber.

Additionally, the Appeals Chamber upheld the 19 June 2012 conviction in the *Nizeyimana case* for participation in a joint criminal enterprise (JCE) – through his position as a Captain at the military training school, for genocide, crimes against humanity (extermination and murder) and war crimes (murder), stemming from his role in killings or attacks on specific persons or families and locations. Nizeyimana was sentenced to life in prison. Several of these convictions were upheld, though the Prosecution's appeal seeking additional convictions for crime committed in Butare were dismissed.

However, the Appeals Chamber found that the Trial Chamber made several improper inferences, wherein the Trial Chamber's inference was not the only reasonable one supported by the evidence, as required by Tribunal's jurisprudence. On this basis, the Appeals Chamber thus found, with two Judges dissenting, that the Trial Chamber erred in finding that Nizeyimana planned the attack on Cyahinda Parish and authorised the participation of École de Sous-Officiers (ESO) soldiers there. Further, it found that the Trial Chamber erred in concluding that Nizeyimana contributed to the killing of Kirenzi. As a result, several convictions for genocide, extermination and murder as crimes against humanity and murder as a war crime were reversed. Since one of these reversals related to the killing of thousands of displaced persons, the Appeals Chamber reduced Nizeyimana's sentence to 35 years.

Finally, a judgement of conviction in the *Nzabonimana case* was entered on 31 May 2012 for Nzabonimana's instigation of genocide and crimes against humanity (extermination) at the Cyayi Centre (14 April 1994), leading to the massacre of Tutsis at the Nyabikenke Commune Office the following day, as

well as for conspiracy to commit genocide based on two agreements made in Gitarama prefecture and for direct and public incitement to commit genocide based on speeches made in Butare, Cyayi and Murambi in April 1994. He was sentenced to life in prison. At the time of the offences, Nzabonimana was the Rwandan Minister of Youth and Associative Movements and the Chairman of the MRND in Gitarama. While the Appeals Chamber affirmed some of his convictions, it overturned his conviction for direct and public incitement to commit genocide based on his speech at a Murambi training centre and for conspiracy to commit genocide in relation to his role in establishing a Crisis Committee and weapons distribution in Tambwe commune. However, it declined to reduce his sentence, despite the reversal of these convictions. There are currently seven cases still on appeal at the ICTR.

Extraordinary Chambers in the Courts of Cambodia

By Suryanna Masse, DSS Intern on Case 004

The views expressed herein are those of the authors alone and do not necessarily reflect the views of the ECCC.

Case 002

In Case 002, both the Nuon Chea and Khieu Samphân Defence teams have concentrated their efforts on preparing their respective appeals against the Trial Chamber Judgement in Case 002/01. Both teams filed their Notices of Appeals on 29 September 2014 and continue to prepare for the upcoming trial in Case 002/02.

The Nuon Chea Defence filed a motion to disqualify Trial Chamber Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne and You Ottara from sitting in the Case 002/02 trial. In connection with their Case 002/01 appeal, they also filed requests to the Supreme Court Chamber, supported by the Khieu Samphan Defence, to summon filmmakers Thet Sambath and Rob Lemkin to testify and for certain evidence to be admitted: an audio recording of a Voice of America radio interview with Thet Sambath, a video recording of Judge Silvia Cartwright statements during a public forum at the Aspen Institute and excerpts from former International Co-Investigating Judge Marcel Lemonde's book.

The Case 003 Defence team has continued to prepare submissions to protect their client's fair trial rights and continues to review publicly available material, since the Case File remains inaccessible. Similarly, the Defence teams in Case 004 continue to protect their clients' rights, particularly while attempting to gain access to the Case File and preparing their defence with publicly-available resources. One of the defence teams also appealed a decision finding that a summons issued by one Co-Investigating Judge for the purposes of charging a suspect is valid and binding.

Special Tribunal for Lebanon

STL Public Information and Communications Section

The views expressed herein are those of the authors alone and do not necessarily reflect the views of the STL.

The Prosecutor v. Ayyash *et al.* *(STL-11-01)*

Following the end of the judicial recess, the Trial Chamber resumed the Ayyash *et al.* proceedings on 26 August with further evidence from the Prosecution.

On 26 August, Dr. Konrad Schlatter, a Swiss forensic expert who specialises in explosives, gave live evidence. Schlatter visited the crime scene as part of the Swiss Group of Experts who were deployed to Beirut in March 2005 at the request of the United Nations Fact-Finding Mission to Lebanon. Schlatter testified about the report produced by the Swiss forensic team on 14 March 2005. The report addressed four central

issues related to i) where the bomb was placed ii) the type of explosives; iii) the quantity of explosives; and iv) the trigger mechanism of the explosive device used. The Prosecution examined the witness regarding many issues raised in the March 2005 report. On 26 August, the Defence for Ayyash, Badreddine, Oneissi and Sabra cross-examined the witness about his testimony.

The second witness to testify after the recess was Dr. Anick van de Craats, who is a Senior Forensic Adviser at the Netherlands Forensic Institute (NFI). Van de Craats, a specialist in physical chemistry, discussed a report that she co-signed on the forensic investigation of the explosion of 14 February 2005. The Prosecution expert witness examined the crime scene in August 2005 with six other colleagues after the United Nations International Independent Investigation Commission (UNIIIC) asked for the cooperation of the Dutch authorities. The report of the NFI, submitted on 30 September 2005, found that the explosion was above the ground, the witness testified. She was also cross-examined by the Defence.

On 2 September, the Prosecution called as a witness Walid Othman, who appeared via video teleconference (VTC). Othman is an explosive expert in the Explosives Bureau of the Internal Security Forces (ISF) in Lebanon, and since 1986 he has been involved in dismantling explosives devices in the country, as well as inspecting crime scenes. In his testimony, he told the Court that he first went to the crime scene some half an hour after the explosion and collected evidence that was presented to the Military Judge. Othman acknowledged that investigators in Lebanon did not carry out their duties with the necessary means and procedures in place. His testimony stretched from 2 until 5 September. In the cross-examination, the Defence asked the witness about the crime scene management, the return of pieces of evidence and the possible location of the bomb.

Mahmoud Khashab, an explosives expert in the ISF since 1984, testified on 8 and 9 September 2014. Together with Othman and other officers, the witness carried out the early local investigations of the crime scene. Khashab told the Court that car pieces were returned to the crime scene following a request by the UNIIIC. Defence Counsel for Badreddine and Merhi cross-examined the witness about certain aspects of his testimony.

On 11 September, Jan Kuitert, a retired Dutch Police Officer who is a specialist in the forensic investigations of explosions, testified about the Mitsubishi Canter van, which the Prosecution alleges was used to conceal the explosives on 14 February 2005. Kuitert was part of the NFI team that included van de Craats, which investigated the crime scene in August and September 2005. His testimony revolved around the team's efforts to search and map the vehicles at the crime scene. He confirmed the findings of the report that the Mitsubishi Canter Van was the vehicle carrying the bombs because of the great damage caused to it. A small piece of the engine with the Mitsubishi logo printed was recovered by the Forensic team. The cross-examination by Counsel for Badreddine focused on the possibility of bringing the engine piece to the crime scene.

On 24 September, Prosecution witness PRH 155 testified from the courtroom. The witness was granted protective measures. She works in the Scientific Spanish Police Department in the rank of an inspector and was part of the Spanish forensic team that investigated the 14 February 2005 attack. The team of nine arrived in Beirut in May 2006 after the UNIIIC requested assistance from the Spanish authorities. PRH 155 testified about the collection and identification of forensic remains from the crime scene.

The examination in chief of witness PRH 155 concluded on 24 September. The same day, Counsel for Badreddine and Merhi cross-examined the witness. The Badreddine Defence mainly tendered as exhibits photographs of biological items located by the Spanish team which had not been tendered by the Prosecution. The Merhi Defence's cross-examination was largely about the difficulties associated with examining a crime scene so long after the event and after the crime scene had been tampered with. After the conclusion of PRH 155's statement, seven summaries of Rule 155 witness statements were read onto the record. They related to issues such as CCTV footage and the collection of human remains.

On 29 September, the Prosecution called Dr. Gerald Murray, a forensic explosives expert of the Forensic Science Service in Northern Ireland. Throughout his career Murray has dealt with materials from hundreds of cases in Northern Ireland. Murray testified as to the contents of the NFI's report dated 30 September 2005. Murray stated that the analysis of

swabs of explosives residues from the crime scene supports the view that RDX explosives were used for the explosion. The tests detected no other form of commonly encountered organic explosive residue, he added. During cross-examination, Counsel for Badreddine's questions focused on the investigative procedures, use of swab kits and the possible cross-contamination of evidence. He also examined the witness about the possible location of the explosives and the impact of the geography on the damages caused by the blast. The Merhi Defence then asked the witness about the different triggering mechanisms of the explosives.

STL-14-05

On 1 September, the *Amicus* filed a Pre-Trial Brief (PTB), detailing the counts and elements of the alleged criminal acts attributed to Karma Khayat. On 22 September, the Defence for NEW TV S.AL. and Karma Al Khayat filed a PTB, denying the two counts against the Accused.

On 2 October, the Appeals Panel of three Judges appointed to consider an appeal relating to the STL's jurisdiction in Case STL-14-05 has decided by majority that the STL does have jurisdiction to hear cases of obstruction of justice against legal persons [corporate entities].

STL-14-06

A status conference in the Case STL 14-06 took place before the Contempt Judge on 12 September. In addition to the *Amicus* appearing via video teleconference VTC, Counsel assigned to represent Akhbar Beirut S.A.L. and Ibrahim Al Amin and the Head of the Defence Office took part in the status conference.

Assigned Counsel spoke about the status of disclosure, timeframes for the submission of certain filings and other issues related to the Defence preparations. He stressed that the Defence needs time for preparation. The *Amicus* responded to the issues raised by Counsel.

In an oral ruling during the status conference, Contempt Judge Lettieri indicated that a decision on the preliminary motion filed by assigned Counsel for Akhbar Beirut S.A.L. and Al Amin will be issued after the Appeals Panel in Case STL-14-05 renders its decision on jurisdiction regarding legal persons.

Assigned Counsel had filed a preliminary motion on 18 August, challenging the Tribunal's jurisdiction to hear cases of contempt against against Akhbar Beirut S.A.L. and Al Amin. The response by the *Amicus*, which argued to the contrary, was filed on 29 August.

On 30 September, the Contempt Judge rendered a decision, dismissing the Defence's motion requesting that the Case STL-14-06 be deferred to the Pre-trial Judge (PTJ) after considering the relevant Rules in the Rules of Procedure and Evidence and the Directive on Assignment of for being speculative.

DEFENCE ROSTRUM

Professional Ethics and Disciplinary Proceedings for Defence at International Criminal Tribunals

By Elena Visser

On 26 September, the law firm Verwiel & Van der Voort in cooperation with the The Office of Public Counsel for Defence (OPCD), hosted a training session on Professional Ethics and Disciplinary Proceedings for Defence at International Criminal Tribunals. The training session offered numerous speakers to give an overview and insight into the challenges faced in relation to ethical questions that appear in the international tribunals.


Rodney Dixon QC

Renowned Defence Counsel and ADC-ICTY member Rodney Dixon QC was the first speaker of the day, and opened the training session by giving an insight into his own background. With a wealth of experience working in many tribunals, Dixon drew upon some introductory issues including the numerous obstacles that Defence lawyers face. Some of these include public scrutiny, budget slashes and there being no room for error. One of the most important things to bear in mind, in Dixon's opinion, is upholding one's integrity and reputation. The legal profession is firmly rooted in the Code of Ethics and lawyers are only answerable to the law. Dixon then drew comparisons from the ICTY and the ICC to show how the courts have experienced similar challenges. A few examples of these challenges include questions faced by the courts, such as how to get funding from the UN Security Council, and how much evidence is needed to set up an indictment. The *Tadić case* was elaborated on and, as noted, is a watershed case that demonstrates how important it is that lawyers succeed in upholding the rule of law. Dixon has worked in both Prosecution and Defence, and stated that his transfer once more highlights another ethical question. In his time as a Defence lawyer, ethical questions involved raising defences only when there is a proper evidentiary basis to do so. More so, lawyers can challenge a Court, but it is important to draw the line as to when it is feasible to do so.

In Dixon's opinion, three important notes need to be elaborated. Firstly, it is vital that both Defence and Prosecution be adequately prepared for every case. This is necessary to become a well rounded lawyer. Secondly, there is a need to work vigilantly at all times in being independent from the client. One must always act with legal acumen and skill. Thirdly, it is important to be willing to represent anyone, regardless of their background, past or persona. This comment was made in light of the fact that the days are now over where lawyers can decide to only represent a certain "type" of person. Those who work in Defence are there to make the system work and even if a case is unpopular, it is important that these cases are taken on and each lawyer should be prepared to represent everyone.

In light of the challenges faced, Dixon made the point that international legal tribunals have only had, at most, around two decades to find solutions to problematic systems; whereas national systems have had years and years to resolve similar obstacles. International law is enormously challenging, however hard-working, ethical lawyers are necessary to help strive towards the aim of justice.


Karlijn van der Voort

The second speaker of the Panel was Karlijn Van der Voort. Her topic of discussion was disciplinary proceedings at the ICC. She opened up her presentation with an explanation of the ICC Code of Ethics. One of the important provisions of this Code is Article 32, which states that Legal Counsel must be responsible for assistants and the team. Van der Voort stated that it is important that the whole legal team is informed of the Code of Ethics. To give some ideas about disciplinary proceedings and ethical dilemmas at the ICC, van der Voort drew upon various case examples.

Firstly, in the case of *The Prosecutor v. Bemba*, the ICC Trial Chamber III ruled on the extent of privileged communications. The Chamber stated that the Defence team did not include Legal Consultants or other members. The "Defence team" for the purposes of privileged communications only extended to the Counsel, Co-Counsel and Legal Assistant. This had huge consequences as the Case Manager often has close contact with the Accused; however, now no privileged communications can exist. This case was useful to draw upon as an example of ethical dilemmas faced within international tribunals.

The second case van der Voort discussed was the ICC Trial Chamber I's decision in *The Prosecutor v. Keta*, where it was found that Joseph Keta breached his confidentiality. In this case, it was found that assistants who had been given passwords to the case without having been given approval from the legal Counsel led to an ethical breach. Even though Keta was not aware of the Code of Ethics as such and breached the Code in good faith, this could only be considered a mitigating factor.

A third case which was given as a prime example of an ethical challenge was that, of *Nicholas Kaufman v.*

Emmanuel Altit. In this case, it was decided that Altit, who visited a client of another Counsel without his knowledge, was not in breach of the Code. Van der Voort expressed the opinion that in her view this decision was mistaken, however, the facts relating to this case are relevant when considering ethical issues.

Van der Voort gave some other examples of ethical dilemmas involving bribing and coaching witnesses (such as in the "*Bemba II*" and *The Prosecutor v. Lubanga*) but perhaps the most interesting case example in light of the ICTY was the *Toma Fila Disciplinary Decision*, where a Belgrade lawyer stated that Serbia was "demonized". The Disciplinary Board decided that a breach of ethical conduct had occurred in light of the key role of lawyers and the need to maintain public confidence in the ICTY. ADC-ICTY members Colleen Rohan and Karim Khan QC appended strong dissenting opinions to this *Decision*, as elaborated on in Newsletter Issue 51. The *Toma Fila Decision* counters directly the *Aleksić case* at the ICTY, where comments were made in relation to the United Nations (UN) Detention Centre. Here, the Disciplinary Board decided everyone is entitled to an opinion therefore no further action would be taken. *Aleksić* and *Fila* therefore draw upon divergent principles and it appears that the approach to be taken with restrictions to freedom of speech is far from settled. To sum up the second discussion of the day, jurisprudence relating to ethics is far from uniform, and ethical dilemmas need to be approached with caution.

The third panellist, Anna Ivanovitch, a representative of the Officer of the Prosecutor (OTP), sparked debate on the topic of why a Code for the Prosecution at the ICC is needed. In this very insightful and interesting discussion Ivanovitch correctly noted that a Code is needed in order to show a common organised culture in relation to the Rome Statute, to provide guidance on the behaviour of staff and to enhance public confidence. It must be noted that the office of the Prosecutor has recently adopted a Code of Ethics in September 2013, years after he Code for the Defence was put in place. The purpose of the Code is also to establish minimum standards and supplement general standards that exist within the Court. Ivanovitch highlighted that the Code applies to everyone regardless of their affiliation. The fundamental rules of international law, in her opinion, were the need to adhere to the Rome Statute in order to conduct trials with integrity, independence and professionalism, the need to be conscious of the purpose of the Court and the importance of being respectful and considerate towards victims. Ivanovitch raised an important area of freedom of expression in contrast to the divergent standards as seen previously. She asserted that the Code states that employees must exercise freedom of expression in a manner compatible with their office. In this sense, comments that detract from the role of the Court should not be made. In an interesting discussion, members of the audience raised the question of why there is no current case law regarding this at the OTP and whether such should be made public. Moreover, it was questioned if it should be the Prosecutor herself who evaluates such ethical misconduct or whether an "external" panel may be beneficial.

It is notable that no such Code of Conduct for the Prosecutor exists at the ICTY.


Wayne Jordash QC

The second panel discussion of the day started with Defence Counsel and ADC-ICTY member Wayne Jordash QC. Jordash opened the afternoon session with an insight into what Codes of Conduct actually address. He elaborated on the fact that far from dealing with everyday life situations, they typically deal only with rare occasions of ethical breaches. When serious disciplinary breaches occur there is a good chance they will be detected, but small day to day ethical breaches have a much lower risk of discovery. In reality, Defence Counsel themselves determine what ethical standards are. Consequently, many ethical dilemmas have the potential to arise. Jordash stated that there are two categories that are important to discuss, the duty of care to the client and the duty of care to the court. Within different tribunals there are varying rules as to which duty takes priority. For example, at the International Criminal Tribunal for Rwanda (ICTR), it is duly noted within the Code of Professional Conduct for Defence Counsel that "Counsel have an overriding duty to defend their client's interests, to the extent, that they can do so without acting dishonestly or by improperly prejudicing the administration of justice" (Point 3). The ICTY comparatively, within its Code of Conduct has the stipulation that "counsel have a duty to loyalty to their clients consistent with their duty to the Tribunal to act with independence in the administration of justice" (Article 3(iv)). These

approaches contrast the ICC's, which is silent on the issue. Interestingly, Jordash raised the issue that Codes of Conduct tend to address serious misconduct which are the easier ethical dilemmas to discuss. But what about the less obvious ethical breaches that may arise? For example, feeding a witness details in a subtle manner, in order to influence their testimony or, knowing a witness is lying but allowing the lies to occur without any action being taken. Jordash drew more examples of ethical dilemmas through discussing ethics in interviewing witnesses, preparing witnesses and integrity of evidence. He concluded by noting that in ten years of international criminal law, Codes of Conduct have barely been opened. In fact, in his opinion, they do not really tell you anything unless you are involved in serious ethical breaches.

The next speaker of the second panel of the day was Héleyn Uñac the Deputy Head of Defence Office at the Special Tribunal for Lebanon (STL), who gave a presentation on professional ethical dilemmas for Defence Counsel before the STL. The aim of her discussion was to draw attention to trials *in absentia* as well as self-representing witnesses. The first topic was given in relation to the background of the establishment of the STL. An overview of the cases at the Tribunal that surrounds the incident occurred on 14 February 2005, was given. Fifteen Defence Counsel have been assigned at the STL for those accused and have agreed to represent all their rights. Uñac then highlighted a few points regarding the difficulties that arise with trials *in absentia*. Defence Counsel must agree to ensure that all the fair trial rights are guaranteed and also uphold the rights of the Accused in the best way possible. However, the absence of communication with the Accused poses some very difficult questions. None of the Defence Counsel that have been assigned have withdrawn their agreement to represent the Accused. However, Uñac drew attention to the motion that was filed on 30 June challenging the legality of the STL and trials *in absentia*:

"The Defence argues that the Tribunal lacks jurisdiction to institute criminal proceedings against a legal person. The Defence thereby requests the Contempt Judge to strike out all charges against New TV S.A.L. for lack of jurisdiction".

The difficulties that arise with trials *in absentia* are obvious, such as the fact Counsel have no instructions on how to act on behalf of their client. More so, there are huge difficulties in communications with witnesses. What should they do with expert witnesses? Should they contest reports in the absence of the client? Should they contest everything? Should they do nothing? It is ultimately for the Counsel themselves to determine the scope of representation. Uñac summed up her discussion with an amusing statement, that the situation is similar to Hamlet without a Prince… "to be or not to be present at trial".

Karim Khan QC

The final speaker of the day was Karim Khan QC, Defence Counsel at multiple international courts and ADC-ICTY member. The first question he asked the room was, what distinguishes lawyers? Rules of deontology are not a stick to beat the Defence but a shield that separates conduct in and out of court. In this respect, Codes of Conduct should be cherished and upheld. In relation to the ICC, attention was drawn to the fact that originally there was an absence by Prosecution to subscribe to similar ethical standards as the Defence. Despite the fact that the International Bar Association made a draft code, former ICC Prosecutor Luis Moreno Ocampo still appeared to not want to be bound by any restrictions on behaviour. Eventually, it was determined that ethics are overarching for all lawyers and that the Prosecution should be bound by similar standards as the Defence. The Judges stated that the same Code for Defence binds Prosecution and a Code was created. Khan summarised his discussion by stating that everyone should strive to uphold codes of conduct and that the old rhyme "lets kill all the lawyers" will be left to plays and theatres.

The final speaker's summarising sentence was perhaps a nice gesture to end the day. The speakers drew from a wealth of experience and gave a very fulfilling and insightful overview into what problems are faced by lawyers and how to uphold ethical standards. The most important aspect to be taken from the training was that, no matter what, it is important to uphold standards of appropriate conduct, and, even though not all types of conduct are regulated within Codes themselves, it is the duty of all lawyers to make sure these standards are upheld whether codified or not.

The Fifteenth Defence Symposium

By Fábio Kanagaratnam

Richard Harvey

On 30 September, the ADC-ICTY organised its fifteenth Defence Symposium. Richard Harvey, Standby Defence Counsel for Radovan Karadžić, offered his thoughts on international criminal law, the ICTY and the future of international justice. The event was attended by interns and staff from all the sections of the tribunal. Harvey began his lecture by touching on his personal history and how the image of international law has changed over the years, referring to how this field of law was viewed as unimportant 45 years ago and how vital it is for the current functioning of international tribunals. However, Harvey indicated that today, there are many inconsistencies surrounding the lawyer's role and the tribunals practicing international law. One of the current issues, is that lawyers "tend to view the law as something established", dismissing at times the positive or negative impact they can exert.

Regarding the role of the international tribunals, Harvey believed that it is essential to highlight the importance of a clean, fair and public trial for society. Describing some of his past experiences, he mentioned how governments sometimes make legislative changes to facilitate convictions, offering as an example the United States' Patriot Act. Harvey claimed that "first and foremost" the duty of disclosure should by respected", also indicating that there is tendency to overcharge the Accused and that "the charge may be the right one for the case, but might not be the best".

When asked if the presumption of innocence was fully respected at the ICTY, Harvey stated that there was room for improvement, but that it cannot be said that it does not operate as there have been acquittals at ICTY. He further added that "the job has been done much better here than anywhere else".

Harvey shared his opinion regarding the International Criminal Court (ICC), stating that the Court does not have enough resources and how hypocritical states are regarding the ICC: "they all want justice but none of them wants to pay for it", he further added that states call for international justice in order to protect states, but, due to self interest, these same states reject this idea. In regard to the ICC's functioning, Harvey believed that there is a general lack of closure for victims in the court and indicated that "in cases that are so dramatic in their origin, it is surprising how unemotional the proceedings are".

Harvey concluded his talk by dismissing the use of the term "technical reconciliation" when applied to the action of the international tribunals. He considers this a political term that evinces the influence states have in international tribunals, favoring a hyperbolisation of action instead of justice.

The Sixteenth Defence Symposium

By Benjamin Schaefer

On 3 October, at the height of Radovan Karadžić's closing arguments, Peter Robinson, Legal Adviser to Karadžić's Defence team, offered his insight into the right of the Accused to represent themselves in front of international tribunals, during the sixteenth ADC-ICTY Defence Symposium.

The first person to represent themselves at the ICTY was Slobodan Milošević, former President of Serbia and Federal Republic of Yugoslavia, whose trial began in January of 2002. Soon after the trial began, Milošević's health began to deteriorate and three *amicus* lawyers were appointed to his case in order to be able to effectively represent Milošević if he became too ill to do so himself. Most importantly, the Milošević trial facilitated a 2004 amendment to the Article 21 (4) of the ICTY Statute guarenteeing the right to self representation for all Accused.

Peter Robinson

The next Accused to represent himself was Vojislav Šešelj, who led the Serb Radical Party during the

Yugoslav Wars. Šešelj nearly lost his right to represent himself due to his overly disruptive courtroom behaviour. In fact, the Trial Chamber decided that Šešelj should be appointed Counsel, but in response to the decision Šešelj went on a hunger strike that ended with his hospitalisation.The Chamber conceded to allow Šešelj to continue to represent himself so long as he conducted himself in a more respectable manner, and he has since mantained his self-representation.

Radovan Karadžić, President of the Republika Srpska during the Bosnian War, was arrested in 2008 and determined that he would represent himself. The Court was wary to allow another Accused to self-represent, especially in light of the numerous issues that Šešelj had caused. The Trial Chamber therefore decided that Counsel could be assigned if it were found to be in the interest in justice.

Though Karadžić had been a prominant politician during the Yugoslav Wars, unlike Milošević and Šešelj he had no experience as a lawyer. He knew that a Legal Consultant would be necessary for his trial and he chose the speaker Peter Robinson. Robinson intimated that Karadžić likely wanted to use the trial as an opportunity to tell his own side of the story.

Immediately, the Defence team encountered issues. Karadžić felt that the trial would be unfair and decided to boycott the opening statements. Due to this action and according to its initial decision, the Trial Chamber appointed Richard Harvey as Standby Counsel because they felt Karadžić was not adequately prepared.

Another major issue that Karadžić immediately encountered was that of resources. Previously those who represented themselves at trial were not entitled to the same resources and budgetary allocations that other Accused persons received. Essentially, those who self-represent were required to take on the advantages which accompany it. Karadžić appealed that policy as an untenable financial burden. The president of the ICTY at that time, Patrick Robinson, agreed with that position and Karadžić was then allocated resources to conduct a more suitable defence.

Robinson explained very frankly that at the beginning of the trial Karadžić was not very good at being a lawyer. The prosecution case was particularly difficult as he had no question form and he made many unnecessary comments. However, over time acquired sufficient knowledge to improve his technique, and by the end Robinson believed that Karadžić had become a fine lawyer with more trial experience than a great many criminal lawyers in the United States.

Self-representation is an important right for the Accused to maintain. The ICTY is, first and foremost, a legal organisation interested in seeking justice. Secondly, it functions in the capacity as a truth-finding institution. In regard to these roles, the Accused's right to self-representation has in the past demonstrated inconsistencies in the treatment of those on trial, for example, Karadžić's problems with resource allocation and futher issues that were encountered in gathering evidence. The fact, however, that the Accused has the opportunity to ask his own questions to witnesses, and file his own motions, allows an unparrelled opportunity for him to demonstrate his story in a manner that is more personal than it would be otherwise.

The Role of Education in Conflict Prevention

By Benjamin Schaefer


Astrid Thors

On 1 October, the Hague Institute for Global Justice hosted a lecture on “The Role of Education in Conflict Prevention”. Dr. Abiodun Williams provided the opening remarks for a discussion led by Astrid Thors, High Commissioner on National Minorities of the Organisation for Security and Cooperation in Europe. The event marked the opening of a 30 month research project which will explore the ways that primary, secondary and informal education, contribute to conflict resolution and prevention in high risk crises.

Williams’ opening remarks emphasised the importance of addressing education in policy initiatives to help alleviate crisis situations, yet the concept has not been thoroughly researched. “Education acts as a catalyst for stability”, Williams stated, “…it is a source

of common ground among adversaries". The High Commissioner elaborated on Williams' remarks, and further stated the importance of education as a tool in conflict prevention.

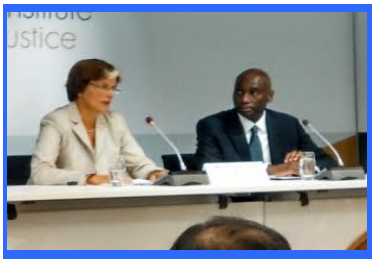
Thors stressed the often neglected relationship between education and conflict prevention. Foremost, she stated that education should be viewed as a tool to be used to defuse conflict and foster acceptance among different groups of people. However, acceptance means accepting all of the diverse groups within a population, a concept that must be reflected in the minds of a society's population, as well as that its institutions.

According to Thors, minorities should be able to maintain their culture and be protected by their society's institutions. In order to do this, it is important that young people "be given the tools to develop a diverse identity, not pressed into a singular mindset". Thors advocated changing the very framework of societies with a history of tensions between different groups. Education is intertwined with many other factors of a society, including the institutions that make such change possible.

Europe has a long-running history of ethnic tensions. Thors asserted that "the ghost of [Europe's] ethnic past affects the education system even today". Uprooting that existing system will not be easy. She was clear that there is no "one-size-fits-all formula to achieve balance" between different groups, but there are certain methods that can help.

Language is one important area of a society that can become common ground. Minority groups should not be forced to rescind their native tongue, however the state can help to better integrate minorities by sponsoring programs and educational curriculums that teach a common language to all young people. A multilingual education may not be enough, however, and finding common ground is a topic that must be approached delicately. In some post-conflict areas with similar languages, the difference of one letter in the alphabet has been known to be a source of tension.

History is another factor of importance. In post-conflict countries different groups sometimes learn different sides of the same story, often turning an adversarial group into a negative figure in that narrative. In many situations it may not be easy to pull a society away from such finger pointing, however the educational curriculum can attempt to foster understanding by teaching all views of history, and acknowledging the stereotypes associated with different groups. In this way, open communication could lead to acceptance.



Astrid Thors and Abiodun Williams

Thors' final suggestion was that government decentralisation can play a role in establishing unity. By allowing some degree of autonomy to different groups, those groups can come to feel as though they share responsibility for their country. Unfortunately, when this technique has been utlised in the past, it has often been underfunded. If not carried out properly, decentralisation simply serves to further ostrasise minorities. To counter this undesirable effect, Thors suggested delegating power at a local level. In this way minorities still maintain an important role in self-governance and the country can remain united under a central government.

Thors was open about the fact that transitions of this magnitude are a long term endeavor. Changing the framework of a society is no mean feat, and in many cases progress through education may not demonstrate an immediate benefit. "This is evolution, not revolution", Thors stressed, but, if given adequate time, the benefits of education in conflict prevention will be worth the wait.

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Imran Khan, **ISIL and Sunni Rebels: An End to the Affair?**, 1 October 2014, available at: http://tinyurl.com/lqkcdyt.

Max du Plessis and Nicole Fritz, **A (New) New Regional International Criminal Court for Africa?**, 1 October 2014, available at: http://tinyurl.com/m6ds3xz.

Jens David Ohlin, **How to Solve the MV Limburg Mess: A Brief Exegesis on "Jurisdictional Facts"**, 2 October 2014, available at: http://tinyurl.com/ph5n6xe.

Yvonne McDermott Rees, **Preview of Proposed Human Rights Reforms in the UK**, 2 October 2014, available at: http://tinyurl.com/pnmnvak.

Online Lectures and Videos

"Will There be Justice for the Victims of Srebrenica?", by Professor Sir Geoffrey Nice QC, 23 September 2014, available at: http://preview.tinyurl.com/mtjoy4n.

"Capital Punishment", by Professor William Schabas, 1 October 2014, available at: http://tinyurl.com/olpvo4p.

"Introduction to Human rights—Lesson 25: Law of Armed Conflict II", by MOOC Chile, available at: http://tinyurl.com/olpvo4p.

"The Ravaging Effects of Foreign Aid and International Charity: Business and Finance", by Michael Maren, available at: http://tinyurl.com/mfctwok.

PUBLICATIONS AND ARTICLES

Books

Leena Grover (2014), *Interpreting Crimes in the Rome Statute of the International Criminal Court*, Cambridge University Press.

Alice Edwards and Laura van Waas (2014), *Nationality and Statelessness under International Law*, Cambridge University Press.

Catherine Rogers (2014), *Ethics in International Arbitration*, Oxford University Press.

Leendert Erkelens, Arjen Meij, and Marta Pawlik (2014), *The European Public Prosecutor's Office: An Extended Arm or a Two-Headed Dragon?,* T.M.C. Asser Press.

Articles

Helena Whalen-Bridge (2014), "We Don't Need Another IRAC: Identifying Global Legal Skills", *International Journal of Law in Context*, Vol. 10, No. 3.

Ingo Venzke (2014), "What Makes a Valid Legal Argument?", *Leiden Journal of International Law*, published online, available at: http://tinyurl.com/mauy3ss.

Gregor Noll (2014), "Weaponising Neurotechnology: International Humanitarian Law and the Loss of Language,", *London Review of International Law*, Vol. 2, No. 2.

Eric C. Ip (2014), "The Democratic Foundations of Judicial Review under Authoritarianism: Theory and Evidence from Hong Kong, *International Journal of Constitutional Law,* Vol. 12, No. 2.

CALL FOR PAPERS

The **University of Bremen** has issued a call for papers for its conference on "The Transnational in International Law".

Deadline: 31 October 2014 More Info: http://tinyurl.com/p5mnf5r

The **Journal of International Dispute Settlement** has issued a call for papers to be considered for the James Crawford Essay Prize Competition.

Deadline: 17 December 2014 More Info: http://tinyurl.com/oytk5wb

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NEW WEBSITE

GOODBYE

The ADC-ICTY would like to express its appreciation and thanks to Farah Mahmood, Kate Pearson, Yoanna Rozeva, Kartini Saddington and Elena Visser for all of their hard work and dedication to the Newsletter. We wish them the best in their future endeavours.

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EVENTS

Weapons Make the World Go Round?
Date: 21 October 2014
Location: International Institute of Social Studies, The Hague
More Info: http://tinyurl.com/ojuk8rq

European Parliament : Europe and Global Justice
Date: 24 October 2014
Location: The Hague Institute for Global Justice
More Info: http://tinyurl.com/p4ndt4o

Europe Lecture: Peace and Security
Date: 28 October 2014
Location: Kloosterkerk, The Hague
More Info: http://tinyurl.com/m2hdo75

OPPORTUNITIES

Associate Legal Officer , (P-2), Leidschendam
Registry, Legal Section
Special Tribunal For Lebanon
Closing Date: 26 October 2014

Legal Officer, (P-3), Phnom-Penh
Department of Economic and Social Affairs
Extraordinary Chambers in the Courts of Cambodia
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