ADC NEWSLETTER
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ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

Karadžić (IT-95-5/18-I)

Mladić (IT-09-92)

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Cases on Appeal

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Prosecutor v. Prlić et al. (IT-04-74)

On 6 June, the English translation of the 29 May 2013 Trial Judgement in *Prlić et al.* was filed. Because of the volume of the Judgement and of the case, and as the Judgement was delivered in French, four of the six Accused (Prlić, Stojić, Petković and Ćorić) were granted extensions to file their respective Notices of Appeal, with their Notices due 60 days from the issuance of the English translation of the Judgment. The other Accused (Praljak and Pušić) and the Office of the Prosecutor filed their Notices of Appeal last summer based on the French Judgement but were given an extension until 135 days from the issuance of the English translation to file their Appeal Briefs so as to harmonise the case's briefing schedule. As a result, the filing of the English translation triggers a running of the extension timelines for all teams and the Appeal will begin to move forward from this time. It is of note that the Bosnian/Croatian/Serbian (B/C/S) translation of the Judgement is not expected to be complete until September of this year, so there may be amendments of the grounds of appeal at that time, based on the Accused's further input.

Prlić et al. Case

ICTY NEWS

Also in this issue

Prosecutor v. Mladić (IT-09-92)

On 28 May, the Prosecution continued its cross-examination of Slavko Gengo, Commander of the 7th Battalion in the 1st Romanija Infantry Brigade. The Prosecution focused much of its cross-examination on an incident in Markale, on 5 February 1994, when a mortar shell was fired on the town market. Gengo denied that it was his Brigade that fired the mortar shell. He also claimed that a joint military commission visited the scene and informed him of its findings the day after the Markale incident. The Prosecution, however, tendered a series of documents that it argued demonstrated no commission visited the field on the day following the shelling of Markale, contrary to Gengo's assertion. Gengo maintained that his testimony was accurate and, on re-direct examination, the Defence argued that the documents tendered by the Prosecution did not disprove that a joint military commission attended the scene on the day following the Markale shelling. Gengo further testified that the Muslim side refused to take part in the joint military commission. This refusal, according to Gengo, demonstrates that the Muslim side was afraid that the commission would unveil that the Muslims staged the Markale incident among other attacks.

After the Prosecution finished its cross-examination of Gengo, the Defence called Dragan Maletić, former Unit Commander of the 1st Sarajevo Motorised Brigade. Maletić testified that his unit carried out predominantly defensive operations from his position in Grbavica and did not target civilians. When the Prosecution introduced evidence that two Serb snipers had targeted civilians, Maletić denied having any knowledge of the incident and argued that the evidence may be unreliable. The Prosecution also showed evidence of rape, robbery and expulsion of non-Serbs in Grbavica and that Ratko Mladić, among other Serbian leaders, was aware of such crimes being committed. Maletić, however, denied that such crimes ever occurred under his command. The Prosecution also focused on Maletić's treatment of prisoners. The witness admitted that prisoners were used for forced labour on the frontlines, but said the prisoner were taken to do the labour at night for their own safety. Moreover, Maletić claimed the he was commanded to treat prisoners in accordance with the Geneva Conventions. In one incident, Serbian soldiers fired on two prisoners trying to escape. Maletić said that no one ordered this, but shooting escaping prisoner was appropriate to prevent them from revealing Serb positions to the enemy. As such, nothing was done to discipline the soldiers who fired on the escaping prisoners.

On 30 May, Milorad Džida, Deputy Commander of the 7th Battalion in the 1st Romanija Infantry Brigade, testified. Having served as Slavko Gengo's deputy, Džida's testimony closely resembled that of Gengo. Džida testified that he was one hundred per cent sure that his unit did not shell Markale and echoed Gengo's suspicion that the incident was staged by Muslim forces. Džida similarly testified that a joint military commission of Vojska Republike Srpske (VRS) offices and United Nations Protection Force (UNPROFOR) staff visited the Markale market after the shelling on 5 February 1994. Džida claimed to be in charge of escorting the commission, and said the commission concluded that the 7th Battalion was not responsible for the Markale incident. The Prosecution maintained that no such joint military commission ever existed and asked Džida if he could name anyone who was a member of the commission. After saying that he could not, Džida listed a Captain Pajic, who is deceased, and a Sergeant Jakovljevic. Given the strong similarities between Gengo and Džida's statements, the Prosecution asked how often they saw each other, to which Džida replied that it was briefly for four or five times a year. The judges will consider these meetings when deciding whether there is sufficient evidence to support that the two colluded in creating their statements.

The next witness to be examined was Dragan Lalović, who was Commander of the 3rd Herzegovina Brigade, and later the 1st Motorised Brigade, stationed in Kalinovik. Lalović testified that Muslim forces were the first to attack and put up road blocks. The Prosecution, however, argued that this testimony was irrelevant because Mladić is not on trial for starting the war. The Prosecution concentrated on Lalović's role as Mladić's Head of Security and his role in helping Mladić avoid arrest in the years following the war. Lalović said that there was no warrant for Mladić's arrest in Serbia and he saw nothing wrong with providing security. Mladić himself was removed from

court after standing up and talking loudly in violation of Judge Orie's warning to sit and be quiet.

The Defence then called Veljko Lubura, who was the Chief Electrical Engineer in charge of power transmission. Lubura testified for the Defence to refute claims that the Serbs intentionally cut off power, water, and gas from enemies. Lubura claimed that he was the only one in a position to cut off power to Sarajevo, but never did, nor was he ever ordered to. He further claimed that the Serb side did everything it could to maintain power lines and keep them operational. The Prosecutor then introduced evidence, seeking to show that Lubura was not the only one who could cut off power, but military leaders could as well. Lubura maintained that if a military operative attempted to cut off power it would need to go through him first. The Prosecution also introduced evidence allegedly showing that Sarajevo was without power for 53 consecutive days in 1993, which Lubura denied.

Former President of the Executive Board of the Pale municipality, Zdravko Čvoro, testified on 30 May about the treatment of Muslims in the Pale at the beginning and throughout the war. In direct examination Čvoro explained that the Muslim population was not expelled from Pale but rather the Serb authorities made efforts to persuade them to stay. The Muslim civilians voluntarily left after their "applications for a change of residence" were granted by the local authorities and they left in an "organised manner", taking with them all moveable property including motor vehicles. Čvoro further clarified that any perceived pressure on the Muslims to leave was as result of a general misinterpretation of a decision by the Municipal Assembly outlining the right of citizens to leave, which he attempted to rectify with the local police. In cross-examination the Prosecution attempted to contradict this claim about voluntary departure, presenting evidence that the Muslims applied for a change of residence because of a fear of abuse and unlawful arrest by the Serbs. Čvoro testified in Mladić's defence that the Muslims had a "fear of retaliation" after several attacks against the Serbs in the municipality, citing multiple incidences where Serbian soldiers were killed in attacks on villages in the Pale municipality. The chronology of these events was questioned by both the Prosecution and the Judges.

Čvoro testified that he was not aware of the arming of 2000 Serbs in Pale by the Yugoslav People's Army (JNA). A Crisis Staff was set up by the Executive Board of the Pale municipality, which was exclusively composed of Serbs. However, Čvoro explained that the absence of Muslim members was due to a lack of Muslims in positions from which they could become members. Further, he was unaware of any abuse of the 400 Muslim prisoners who were brought to Pale from Bratunac, despite video footage depicting men with visible injuries.

On 5 June, the Defence called protected witness GRM311, an ethnic Serb who testified on the conditions in Sarajevo throughout the war, in particular the treatment of Serbian civilians by soldiers from the Army of Bosnia and Herzegovina (ABiH). GRM311 explained that he was ordered to produce hand-grenades at a civilian factory in Sarajevo for the ABiH, some of which were used by Bosnian Muslim youths to kill targeted individuals throughout Sarajevo. The witness also presented graphic evidence regarding the massacring of civilians, having personally observed decapitated and severed bodies in mass graves, including bodies of children. The ABiH shut down Sarajevo, cut off utilities to Serbian homes and positioned weapons at public institutions, including schools and hospitals.

Witness Dragomir Andan was Senior Inspector First Class in the Ministry of the Interior in Bosnia Herzegovina in 1992 and was later transferred to the Administration for Intelligence and Security of the Main Staff of the VRS in 1993. In direct examination on 6 June, Andan testified that he received orders from Mladić that all prisoners were to be treated by the VRS in accordance with the Geneva Conventions. Further, he never once observed an order from Mladić that contradicted the rules of war, but rather received orders to protect all Muslims and Croats who had not transgressed against Serbs. Andan explained that the biggest problem facing the Serbs in 1992 was the presence of several paramilitary formations in their municipalities, a fact which was recognised by Mladić. It was VRS policy that every armed civilian in Bosnia and Herzegovina should be under the exclusive command of the VRS, otherwise they should be disarmed. In cross-examination Andan was questioned extensively on his efforts to control paramilitary forces in Brčko, Bjeljina and Zvorik, in particular

the Yellow Wasps, the Panthers and Arkan's men. The Prosecution presented evidence that these groups were not prosecuted for their crimes but rather accepted into the VRS and commended by Mladić on their "chivalrous and gallant conduct". Andan was able to testify in Mladić's defence that members of the Yellow Wasps were charged with aggravated robbery, which carries 20 years imprisonment. Only those who were non-active members of the groups were not charged and allowed to join the Serbian forces. The paramilitaries were targeted because they unsettled all civilians, not just the VRS war efforts.

MICT Appeals Chamber Decision

On 21 May, the Appeals Chamber of the Mechanism for International Criminal Tribunals (MICT) dismissed an appeal by Radovan Stanković, who tried to revoke the 2005 referral of his case to the Court of Bosnia and Herzegovina.

Radovan Stanković is a former member of the Serb paramilitary forces, the Miljevina Battalion, which was part of the Foča Tactical Brigade. In 1992, Stanković created a detention facility for women called "Karamanova Kuća" ("Karaman's House"), where most women were underage.

The original indictment against Stanković at the ICTY was issued together with the one for Dragan Zelenović, Dragoljub Kunarac, Gojko Janković, Janko Janjić, Radomir Kovač, Zoran Vuković, and Dragan Gagović. They were charged with crimes against humanity and Stanković's case was the first against a Bosnian Accused, which was deferred to the national level according to Rule 11 *bis* of the ICTY Rules of Procedure and Evidence to reduce the work-load of the Tribunal. In September 2004, a request was made by the Office of the Prosecutor for this case to be transferred to the Sarajevo based Court of Bosnia and Herzegovina. This request was approved in May 2005 by the Referral Bench of the ICTY.

On 14 November 2006, Radovan Staković was sentenced to 16 years imprisonment by the Trial Chamber of the Court of Bosnia and Herzegovina for crimes against humanity. His sentence was increased to 20 years imprisonment by the final verdict of the Appellate Panel of the Court on 28 March 2007, after having "granted the State Prosecutor's appeal on sentencing".

On 25 May 2007, he escaped from the Foča prison while being transferred to a hospital, when his facilities convoy was intercepted. Nearly five years later, in 2012, he was recaptured in Foča.

On 21 January 2013, Radovan Stanković filed a confidential motion in which he requested his case to be returned to the ICTY to "conduct a trial and establish the truth". This motion was dismissed on 12 June 2013, due to the fact that the Referral Bench at the ICTY did not find any reason to revoke the referral, noting that Stanković's right to a fair trial was not violated.

On 18 September 2013, Stanković lodged an appeal of this decision with the President of the MICT and the case was referred to the Appeals Chamber. The Chamber issued their decision on 21 May, dismissing the appeal on the grounds that they believe that revoking the referral to the national level, without any legal ground, would be contrary to Rule 11 *bis* after the legal proceedings on a national level have been completed.

Radovan Stanković

LOOKING BACK...

International Criminal Court

Fife years ago…

On 15 June 2009, Pre-Trial Chamber II of the International Criminal Court (ICC) rendered its decision on the confirmation of charges against Jean-Pierre Bemba Gombo, confirming five of the eight charges which had been brought against him by the Prosecution. The Chamber considered that there was sufficient evidence to establish substantial grounds to believe that Bemba was criminally responsible as a Military Commander, pursuant to Article 28 (a) of the Rome Statute, for murder and rape as crimes against humanity, as well as murder, rape and pillaging as war crimes.

Jean-Pierre Bemba Gombo

In contrast, the Chamber declined to confirm the charges of torture as a crime against humanity, and torture and outrages upon personal dignity as war crimes. The Chamber also refused to recognise Bemba's individual criminal responsibility as a co-perpetrator for the aforementioned crimes. It found that there was not sufficient evidence to establish substantial grounds to believe that Bemba had had the requisite intent to commit the crimes jointly with Ange-Félix Patassé, who was President of the Central African Republic (CAR) at the time.

Bemba, who served as one of the four Vice-Presidents in the transitional government of the Democratic Republic of the Congo under Joseph Kabila between 2003 and 2006, has been charged before the ICC as the alleged leader of the Mouvement de Libération du Congo (MLC). The Prosecution alleges that he is criminally responsible for crimes against humanity and war crimes committed in a non-international armed conflict which took place between 26 October 2002 and 15 March 2003 in the CAR, and in which the national armed forces under Patassé allied with Bemba's MLC to confront a rebel movement led by François Bozizé, the former Chief-of-Staff of the CAR armed forces.

Bemba's trial lasted from 22 November 2010 until 7 April 2014, when the submission of evidence was declared closed by Trial Chamber III. On 2 June, the Prosecution and the victims filed their closing briefs. The Defence closing brief is scheduled to be filed by 25 August. Bemba has, until the present day, been the only individual indicted for international core crimes in connection with the situation in the CAR.

Notwithstanding, following reports of mass atrocities committed in the country in the context of the ousting of Bozizé, who had been President of the CAR between 2003 and 2013, ICC Prosecutor Fatou Bensouda announced on 7 February that she had decided to open a Preliminary Examination into a new CAR situation.

International Criminal Tribunal for the former Yugoslavia

Ten years ago…

On 2 June 2004, Trial Chamber I of the ICTY ordered the provisional release of the Accused Vladimir Kovačević on medical grounds to the Republic of Serbia and Montenegro for an initial period of six months. Having considered a report on Kovačević's mental health by two medical experts, one report by a psychiatrist appointed by the Defence, the conclusions of the consulting psychiatrist of the UN Detention Unit (UNDU), as well as the report filed by the Commanding Officer of the UNDU, the Judges came to the conclusion that provisional release was possible subject to specific terms and conditions set out in the decision, and Kovačević was released the same day. Kovačević, also known as Rambo, had been indicted before the Tribunal in connection with the bombing of the The United

Nations Educational, Scientific and Cultural Organisation UNESCO Heritage Site of Dubrovnik by the Third Battalion of the Jugoslavenska Narodna Armija (JNA) Trebinje Brigade.

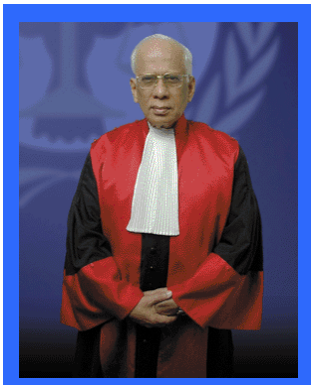
The Prosecutor filed a request that the case against Vladimir Kovačević be referred to Serbia and Montenegro pursuant to Rule 11 *bis* of the ICTY's Rules of Procedure and Evidence on 28 October 2004. In April 2006, the Trial Chamber issued a further decision, stating that the Accused did, at the moment, "not have the capacity to enter a plea and to stand trial, without prejudice to any future criminal proceedings against him should his mental health condition change." On 17 Nobember 2006, an ICTY Referral Bench ordered that his case be referred to the domestic courts of Serbia, which was later upheld on appeal. Kovačević was indicted by the Serbia War Crimes Prosecutor's Office for war crimes against the civilian population committed in Dubrovnik. However, he was later found unfit to stand trial due to his poor health.

Vladimir Kovačević

International Criminal Tribunal for Rwanda

Fifteen years ago…

On 3 June 1999, the Appeals Chamber of the ICTR dismissed an appeal lodged by the Defence for Bernard Ntuyahaga against the Trial Chamber's decision to allow the withdrawal of the indictment against him. This concluded his case before the ICTR. The Appeals Chamber confirmed a previous decision by Trial Chamber I of the ICTR, which had decided on 18 March 1999 to allow the Office of the Prosecutor (OTP) to withdraw the last remaining count of the indictment against Ntuyahaga, and ordered his immediate release on 29 March 1999. Ntuyahaga had appealed this decision, arguing that he should have been acquitted of all charges instead.



Judge Shahabuddeen

The majority of the Judges in the Appeals Chamber found that the appeal was inadmissible, as it was not an appeal against a conviction, nor was it a challenge of the Trial Chamber's jurisdiction. Judge Shahabuddeen issued a dissenting opinion. In his view, Ntuyahaga had in fact challenged the jurisdiction of the Trial Chamber to allow the indictment to be withdrawn without recording a verdict of acquittal, and the appeal should have been admissible.

One day after his release, Ntuyahaga was re-arrested in Tanzania over charges of having entered the country illegally. At this point, extradition requests had been filed by both Belgium and Rwanda. Eventually, Tanzania rejected Rwanda's request, and Ntuyahaga voluntarily flew to Brussels in March 2004. On 5 July 2007, a Belgian court found him guilty of the murder of several peacekeepers and an undetermined number of Rwandan civilians. He was sentenced to 20 years of imprisonment, which was subsequently confirmed on appeal.

NEWS FROM THE REGION

Bosnia and Herzegovina

Twelve Years Jail Sentence for Bosniak Soldier

Edin Džeko, a former Bosnian Army soldier of the Zulfikar Squad, was sentence to twelve years imprisonment for the killings of six Croat Defence Council fighters and a civilian couple in Trusina on 16 April 1993 by the Court in Sarajevo.

Džeko was given a ten year sentence for the murder of the six Croat fighters, with the Chamber heavily relying on Prosecution witness Rasema Handanović, who was a member of the Zulfikar squad and previously sentenced for the same incidents. She stated to have seen Džeko during the execution of the Croats and hence the Chamber rejected the argument that the men killed were not civilians and that Džeko could not have participated in the killings because he was driving wounded comrades out of Trusina. Džeko was also sentenced to seven years for killing a civilian couple, with the Chamber combining these two convictions in a single twelve year sentence.

He was acquitted for other charges in the indictment, such as *inter alia* illegal arrest and detention of Croatian civilians in Donja Jablanića in September 1993, beatings and looting in Jablanića in the second half of 1993 and taking money from victims. The Presiding Judge found that Džeko, as a soldier, was following orders from military police officers who issued lists of people that had to be arrested.

The Court took into account that Džeko has a family and his young age when committing the crimes, and his good behaviour during trial was deemed a mitigating circumstance.

This has been the second conviction for crimes in Trusina after the sentence of Rasema Handanović on 30 April 2012. Six further individuals are currently on trial for crimes in the same village, most of them being members of the Zulfikar Squad, including Zulfikar Alispago, the leader of the group.

Croatia

Two Croatian Policemen Acquitted of Serb Massacre

The Zagreb County Court acquitted two former anti-terrorist policemen, Franjo Drljo and Božo Krajina, for the murder of six elderly Serb civilians in Gubori. The crimes committed in Gubori were among the most notorious during the Croatian homeland war, including the shooting of Serb civilians and the torching of the village.

Trial Judge Zdravko Majerović stated that while it was indisputable that members of the Lučko Anti-Terrorist Unit committed these killings and that these were crimes of brutal nature, the evidence could not link the Accused to these specific crimes. The Defendants denied the charges against them, with Krajina stating that he had an immaculate military career and that they were not involved in any of the crimes committed in Grubori.

The killings were carried out during an anti-terrorist operation after the Croatian military's Operation Storm, which displaced thousands of Serbs from Knin. The operation was meant to facilitate and secure the travel of the Croatian President Franjo Tuđman who was going to the region to praise the Croatian army.

Ivan Čermak, Military Governor of the Knin area, and Mladen Markač, Croatian General and Deputy Minister of Defence, were both acquitted by the ICTY in 2011 and 2012 respectively for the crimes that were committed

in Grubori. Markač also defended the operation during the trial in Zagreb, stating that it was the job of the Special Police to clear the terrain as they were afraid of an attack.

In the eyes of many Croatian human rights campaigners this Judgement and its contribution to justice is controversial. The Prosecution has the right to appeal this Judgement before the Supreme Court.

Kosovo

Former KLA Commander Acquitted of War Crimes

Former Kosovo Liberation Army (KLA) Commander and current Kosovo Ambassador to Albania, Sylejman Selimi, and three other former fighters of the KLA were acquitted for abusing prisoners at a KLA detention center in the late 1990s by a Court in the city of Mitrovica. Selimi was represented by past ADC-ICTY President Gregor Guy-Smith.

Selimi was accussed of allegedly assaulting and mistreating Albanian women at the KLA detention center in Likovac together with Shefki Hyseni, Nexhat Qubreli and Ismet Haxha. Hyseni was additionally charged for rape. The indictments were mostly based on testimonies of the female victims.

Sylejman Selimi

Presiding Judge Philip Kanning stated that a long time has passed since the commission of the crimes and that there was not enough evidence to prove the charges filed by the European Rule of Law Mission (EULEX) Prosecutor. He emphasised that while something may very well have occurred at the detention center, there was not sufficient evidence to prove that the crimes were committed by the Accused. It was stated that there was not one bit of credible evidence that Selimi had anything to do with the charged crimes or had ever had any interaction with the alleged victims.

Selimi also faces another crimes trial known as the Drenica Group case in Kosovo. In this case, he and other former KLA fighters are accused of committing crimes against civilians in the camp at Likovac.

NEWS FROM OTHER INTERNATIONAL COURTS

International Criminal Court

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

On 9 June, Pre-Trial Chamber II of the International Criminal Court (ICC) committed Former Congolese rebel leader Bosco Ntaganda to trial. The ICC Judges confirmed 18 counts of war crimes and crimes against humanity committed in the Democratic Republic of Congo (DRC) between 2002 and 2003, during which Ntaganda is alleged to have been Deputy Chief of Staff of the Union des Patriotes Congolais/ Forces Patriotiques pour la Libération du Congo (UPC/FPLC). The charges include murder and attempted murder; attacking civilians; rape; sexual slavery of civilians; pillaging; displacement of civilians; enlistment and conscription of child soldiers under the age of fifteen years and using them to participate actively in hostilities; persecution and forcible transfer of population.

Since 1999, the conflict in eastern DRC has left

60.000 dead. Ntaganda was surrendered to ICC custody on 22 March 2013.
The ICC stated that some 69.000 pages of evidence were disclosed by the parties and reviewed by the Chamber. Unanimously confirming the charges, the ICC Judges stated that there were sufficient grounds to charge Ntaganda with "a widespread and systematic attack against the civilian population". The ICC stated that this was part of a wider policy of the UPC/FLPC to attack civilians perceived to be non-Hema, such as for example those belonging to Lendu, Bira and Nande ethnic groups. The attack took place between on or around 6 August 2002 and on or about 27 May 2003 in the Ituri Province of the DRC.

In a press release the ICC stated that Bosco Ntaganda bears individual criminal responsibility pursuant to various modes of liability, namely: direct perpetration, indirect co-perpetration and as a military commander for crimes committed by his subordinates.

Extraordinary Chambers in the Courts of Cambodia

By Fernanda Oliveira, Nuon Chea Defence Team Intern, Case 002

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

In Case 002, the Khieu Samphân Defence team has filed an Immediate Appeal against the Trial Chamber's Decision on Additional Severance of Case 002/02.

The Defence teams for Accused Nuon Chea and Khieu Samphân have both followed up with the remaining measures to be fulfilled pursuant to the Trial Chamber's (TC) complementary Order to the decision on the scope of the trial in Case 002/02. In this regard, each team has submitted its updated lists of witnesses, civil parties and experts to the TC. The Khieu Samphân Defence has also presented its objections to the witnesses proposed by the other parties. Both teams have accordingly filed their positions on the remaining Preliminary Objections raised earlier by the Defence Team for the former co-Accused Ieng Sary, now deceased. The objections concerned (i) the statute of limitations for grave breaches of the Geneva Conventions; and (ii) jurisdiction over the crime against humanity of deportation in respect of determined crime sites. The Khieu Samphân Defence team adopted the reasoning in its entirety whereas the Nuon Chea Defence team adhered to the objection to the application of grave breaches of the Geneva Conventions, but did not maintain it on the issue of jurisdiction over the crime of deportation. In addition, the Nuon Chea Defence has filed a document in which it gives notice that it has no original lists of documents and exhibits to be updated, but instead will wait for the TC's clarification before submitting such documents prior to the upcoming Initial Hearings. The Defence team for Khieu Samphân has gathered documents and exhibits in order to update its own list.

The Case 003 Defence has also expressed its interest in taking part in the ongoing debate in Case 002 concerning the application of a statute of limitations for the charges involving grave breaches of the Geneva Conventions. Having recently submitted a similar brief to the Office of the Co-Investigating Judges (OCIJ), the Case 003 Defence has requested the TC for leave to file an *amicus curiae* brief in Case 002. The brief maintains that the crime of grave breaches is subject to a ten-year statute of limitations and thus cannot be applied at the ECCC. The Case 003 Defence has moreover continued to file submissions to protect its client's rights and interests. All other submissions filed by the Case 003 Defence have been classified as confidential by the OCIJ or the Pre-Trial Chamber (PTC).

The Defence team for one of the Named Suspects in Case 004 filed two appeals with the PTC, both of which relate to confidential decisions of the OCIJ, and it continued to prepare and file other motions to protect the fair trial rights of the Named Suspect.

The Defence Team for another Named Suspect has filed a motion challenging the jurisdiction of the ECCC over Case 004. Meanwhile, the team continues to attempt to gain access to the Case File and continues to prepare its defence arguments by reading about the potential case against its client from public sources.

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.

Resumption of Trial in the *Ayyash et al. Case*

On 5 June, the Appeals Chamber of the Special Tribunal for Lebanon rendered a decision* confirming 18 June as the date for the resumption of trial in the *Ayyash et al.* case. This decision follows an appeal filed by Counsel for Merhi.

Hassan Habib Merhi

After denying three of the four grounds of appeal raised by Counsel for Merhi, the Appeals Chamber upheld one of the Accused's challenges. Merhi's Defence requested to postpone the trial until an expert had reviewed the Prosecution's evidence and prepared a report. The Appeals Chamber found that the Trial Chamber "had abused its discretion when is failed to consider whether counsel for Merhi required the assistance of their expert – at least on the basis of interim reports – for particular witnesses or groups of witnesses that the Prosecutor intends to call in the next part of his case."

The Appeals Chamber Judges instructed the Trial Chamber to assess on a case-by-case basis whether the Merhi Defence can challenge the evidence of certain witnesses without the assistance of an expert.

A pre-trial conference is scheduled for 16 June and trial will resume on 18 June. All planned hearings can be found in the STL's court calendar.*

**http://tinyurl.com/pw7klav*

**http://tinyurl.com/pflr4ly*

Developments in the Contempt Case Against *Akhbar Beirut S.A.L.* and *Ibrahim Al Amin*

On 5 June, Contempt Judge Nicola Lettieri issued a decision* in the contempt case against Akhbar Beirut S.A.L. and Ibrahim Al Amin. The written decision provided reasons for the assignment of Counsel for the Accused. The initial appearances of Al Amin and Akhbar Beirut S.A.L were originally scheduled for 13 May. Upon the Accused's request, they were rescheduled to 29 May. Al Amin appeared before the Tribunal via video conference, representing both himself and Akhbar Beirut S.A.L. Before entering a plea, the Accused read a statement to the court, after which he left the courtroom. By leaving without entering a plea, Judge Lettieri interpreted Al Amin's statements and actions as a plea of non-guilty. The Judge then ordered the Head of the Defence Office, François Roux, to appoint Counsel for the Accused.

The 5 June decision confirmed that Al Amin's presence at the initial appearance deprived him from his rights as an Accused in an *in absentia* trial. Therefore, the Contempt Judge stated that Al Amin could still participate in these proceedings, either in person or via video conference. If he wishes, he can also appoint a Counsel of his own to represent him. The Judge as also said he "would be ready to reconsider" his decision to order the Defence Office to appoint Counsel on his behalf. In addition to ordering the assignment of Counsel, the decision instructed the amicus curiae Prosecutor to initiate disclosure at the earliest opportunity after Counsel is assigned and necessary arrangements are made.

**http://tinyurl.com/o7bshed*

DEFENCE ROSTRUM

ADC-ICTY Field Trip to the Permanent Court of Arbitration

By Camille Sullivan

On 5 June, a group of ADC-ICTY interns visited the Permanent Court of Arbitration (PCA) where they were given a presentation by Assistant Legal Counsel, Raymond Treves. The group was first given an overview of the history of the PCA and construction of the Peace Palace, with Treves explaining that Tsar Nicholas II was instrumental in the establishment of the PCA by organising the first Hague Peace Conference of 1899. The Peace Conference brought about the Convention for the Pacific Settlement of International Disputes which aimed to seek the most objective means of establishing real and lasting peace. Arbitration was recognised by the signatories as the most effective and equitable form of dispute resolution, subsequently establishing the Permanent Court of Arbitration.

A key focus of the presentation was on the role of arbitration in both private and public international law. The group engaged in a discussion about the meaning of arbitration and the benefits it affords the parties to a dispute. Treves explained that the key features of arbitration are the specially constituted Tribunal consisting of members chosen by the parties. The process of arbitration allows for greater flexibility in terms of the location, timetable, confidentiality and applicable laws, and empowers the parties with involvement in procedural decisions. In particular, Treves explained how Host Country Agreements can be used to create a more time and cost-effective process for the parties involved. The group was given a general overview of the structure of the PCA: the Administrative Council, the Members of the Court and the International Bureau. The PCA generally provides registry services and has a significant role in the appointment of arbitrators and resolving arbitrator challenges.

One of the most interesting aspects of the presentation was with respect to the cases brought to the PCA. Treves explained that cases can be brought by agreement between two States, as a result of a contract between a State and a private party or under a bilateral investment treaty. The UN Convention on the Law of the Sea also contains a peaceful dispute settlement clause which gives rise to arbitration, for example in *Guyana v. Suriname*. Treves also provided a quick overview of some of the 93 pending arbitrations, including the issue of "plain-packaging" in *Philip Morris Asia Ltd (Hong Kong) v. Australia*.

Whilst only brief, the field trip was highly informative and gave a thorough overview of the activities and purpose of the PCA.

ADC-ICTY Interns on a Field Trip to the PCA

Evolution of Command Responsibility Doctrine: Part II

By Paul Stokes

For the first part of this article see Newsletter Issue 68.

In the Judgement of *Delalić et al.* (*Čelebići* case), the International Criminal Tribunal for the Former Yugoslavia (ICTY) defined the criteria necessary for command responsibility as: (i) the existence of a superior-subordinate relationship; (ii) the superior's knowledge or superior having reason to know that the act was about to be or had been committed, and; (iii) the superior's failure to take the necessary and reasonable measures to prevent the criminal act or pun-

ish the perpetrator thereof. Further jurisprudence in *Aleksovski* and *Blaškić* complements these principles.

Regarding the superior-subordinate element, the ICTY has stated that superiority can be either *de facto* or *de jure*. This ruling extends the doctrine of superior responsibility to civilians in positions of power, but "only to the extent that they exercise a degree of control over their subordinates similar to that of military commanders."

With regards to the issue of knowledge, the ICTY found that a superior must: (i) have actual knowledge that his subordinates were committing or about to commit crimes; or (ii) possess information of a nature which would put him on notice of the risk of such offences by indicating the need for additional investigation in order to ascertain whether they were committed or were about to be committed.

The International Criminal Tribunal for Rwanda (ICTR) has also contributed to the status of command responsibility doctrine in International Criminal Law. The *Akayesu* Trial Chamber, in dealing with the *mens rea*, element "rejected the view... that the responsibility of the superior is independent of his or her criminal intent." Instead, the commander must have acted with "malicious intent, or, at least,... negligence... so serious as to be tantamount to acquiescence or even malicious intent."

ICTR Statute

Article 6 (1)

Individual Criminal Responsibility

A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in Articles 2 to 4 of the present Statute, shall be individually responsible for the crime.

The ICTR reiterated the decision made in the *Čelebići* Judgement, in *Kayishema* and *Ruzindana*, by referring to Article 28 of the Rome Statute and stating that "individual criminal responsibility according to Article 6(1) of the ICTR Statute and superior responsibility according to Article 6(3) of the ICTR Statute are not mutually exclusive."

Additional Protocol I (AP I) to the Geneva Conventions of 8 June 1977 has provided the most important provision codifying the doctrine of command responsibility. Article 86(1) AP I establishes the general obligation that commanders can only be held responsible if they failed to take action against grave breaches carried out by their subordinates and if they, the superior, had a duty to act. That failure to act is further codified in Article 86(2) AP I:

The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

Drawing on this Additional Protocol and Articles 86 and 87, Kai Ambos concludes that three conditions must therefore be fulfilled to hold the superior responsible: (i) "the breach was committed by one of the superior's subordinates"; (ii) "the superior knew, or had information which should have enabled him or her to conclude that a breach was being committed or was going to be committed", and (iii) "the superior did not take the measures within his or her power to prevent or repress the breach."

Taking into account the development of command responsibility from *Yamashita* to Additional Protocol I, we can see that the *mens rea* cannot be established on the basis of strict liability, as in Yamashita, nor can positive knowledge (*High Command* and *My Lai* cases) be required. Instead, the "should have known" standard originating in the Hostage case has been developed in the ICTY/ICTR statutes as the "reason to know" standard.

Article 28 of the Rome Statute provides the clearest indication as to the present condition of command responsibility doctrine in International Criminal Law. Unlike Article 86(2) of the Additional Protocol I it distinguishes for the first time between the responsibility of military commanders and civilian superiors:

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

(a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective

command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:

(i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and

(ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

(i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

(ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and

(iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

This article provides invaluable guidance with regards to the *actus reus* element. Firstly, it makes it apparent that the perpetrator of the crimes is either a military or civilian superior who has charge over subordinates. These roles of superior and of subordinate can be present at any level of a military or political hierarchy. Secondly, the "command and control" or the "authority and control" for military and civilian superiors, respectively, over their subordinates must be "effective". Thirdly, the crimes that have been committed by the subordinate must be a result of the commander, or superior's, failure to exercise control over them. This is what Ambos calls the "causal requirement". Fourthly, the power to take the "necessary and reasonable measures within his or her power" against the crimes committed derives from the "effective" control. Finally, these countermeasures are meant "to "prevent" or "repress" the commission of the crimes or the superior has "to submit the matter to the competent authorities for investigation and prosecution"; the latter option was not contained in the earlier codifications."

With more cases being referred to the ICC, the potential is there for further evolution and use of the doctrine of command responsibility. The *ad-hoc* Tribunals have set the standard and from *Sun Tzu* through *Yamashita* to the codification in the Rome Statue, the principle has developed into a well-defined basis of criminal responsibility.

ICC Statute

Article 28

Cooperation and Judicial Assistance

1. States shall cooperate with the International Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.

2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including but not limited to:

(a) The identification and location of persons;

(b) The taking of testimony and the production of evidence;

(c) The service of documents;

(d) The arrest or detention of persons;

(e) The surrender or the transfer of the accused to the International Tribunal for Rwanda

Ending Sexual Violence in Conflict

By Elena Visser

By 1993, the Zenica Centre for the Registration of War and Genocide Crime in Bosnia and Herzegovina documented 40.000 cases of war related rape.

In 2003, 74% of a random sample of 388 Liberian refugee women living in camps in Sierra Leone reported being sexually abused prior to being displaced from their homes in Liberia.

Unpublished data by the World Health Organization in 2005, showed that in parts of Ethiopia, 44% of women reported to have sexual violence.

On 10 June, the "Summit Fringe Event, End Sexual Violence in Conflict: Time to Act" took place at the Dutch Ministry of Foreign Affairs. The event was part of a wider global summit that took place in London from 10 to 13 June on the initiative of the United Kingdom's Foreign Secretary, William Hague and co-chaired by Angelina Jolie. The focus of this event was the widespread use of rape and other forms of sexual violence in armed conflicts around the world. The United Nations launched the Declaration of the Commitment to End Sexual Violence in Conflict last year and over two thirds of UN members have already signed the Declaration. The Declaration itself contains a set of political as well as practical commitments to end the use of rape and sexual violence in wartime.

The event was opened by Elisabeth van der Steenhoven, Director of *WO=MEN*, a Dutch gender platform, who explained how sexual violence is one of the most effective and deadly weapons of war. She explained how sexual violence is a very sensitive and delicate issue due to the feelings of shame involved. In light of these issues, Steenhoven emphasised how many of those who have experienced this kind of violence become politically and personally isolated. The longstanding problems of rape, sexual assault and sexual harassment in Egypt were given as an example of the escalating global problem. To enunciate, a culture of impunity is prevalent in Egypt where many attackers are never arrested with complaints treated lightly, leading to many of those complaining withdrawing their allegations. Steenhoven concluded her opening speech by explaining how throughout the world, women are now organising themselves to try to tackle the grave issue of sexual violence and the purpose of the summit is to further practical action on the ground.

Angelina Jolie and William Hague

Sir Geoffrey Adams, British Ambassador to The Netherlands, added to Steenhoven's opening speech by explaining how the beginning of the campaign was initiated through William Hague and the questions that arose when trying to work out how best to tackle to culture of impunity. He explained the high profile of the global summit with hundreds of people gathering to discuss sexual violence in conflict and emphasised the importance of the subject.

The third and final contributor to the morning session was Lambert Grijns, Ambassador for Sexual and Reproductive Health and Rights, who explained how sexual violence in conflict is one of the greatest injustices in our lifetime. He asserted that culture, tradition and religious norms can never be an excuse to use violence in war. In his opinion, three dimensions of sexual violence needed to be considered. Firstly, not only women are the victims of sexual violence as men can also be victims and this reality should not be overshadowed by gender perceptions. Secondly, the long-term affects of sexual violence are what exaggerate the problem. Grijns referred to his experience in the Eastern Congo, where villages were completely destroyed due to the previous violence and the stigmatisation towards those who have been raped continues for many years after conflict subsides. After the Rwandan genocide, many children have been left orphans after being abandoned due to being born out of rape. The third and final dimension to be considered in Grijns' opinion is the link between gender based violence and sexual violence in conflict. To tackle the problem of sexual violence in conflict, the root causes of the problem also need to be addressed in order to

destabilise societies. These involve adjoining issues such as gender based violence, discrimination and poverty stricken economies.

There was the opportunity for the participants of the Fringe Summit to attend various workshops on related issues involving perceptions of gender roles in preventing sexual and gender based violence, reaching citizens about pressing socio-political issues and International Humanitarian Law. Preceding these workshops, the final part of the summit was headed by Stephanie Mbanzendore, who founded *Burundian Women for Peace and Development*. Mbanzendore herself was a victim of a political war and founded the movement to help those who fell victim to the civil war, which has torn through Burundi since 1993. Burundi has been the host of recurring ethnic conflicts between the minority Tutsi and majority Hutu populations and women as well as men remain vulnerable to sexual violence due to the rebel presence. Since a democratic government was elected in 2005, those who have been affected by the war have started to rebuild the country and start the process of peace and economic development. Mbanzendore once again emphasised the role of gender perceptions and how men must be involved in the pursuit to end sexual violence in conflict.

Given the large scale status of the summit, it remains to be seen what influence this campaign will have on attempts to end sexual violence on conflict. From a legal perspective, this summit only really briefly touched on sexual violence and ways to tackle the problem, perhaps due to time constraints. International law of course appears to be failing to deter the perpetrators of sexual crimes in wartime. While customary international law prohibits rape in wartime there is no explicit offence of sexual violence within corpus of international law. The various components of international law dealing with sexual violence exacerbate some of the problems that the summit encountered when discussing why impunity prevails for many perpetrators. One of the main problems in international law relating to sexual violence appears to be related to gender roles and stereotypes which omit recourse for men that have suffered sexual violence. Even when summarising briefly a comparative overview of these legal components one can see where inadequate legal protection is to be afforded to victims.

International Human Rights Law is perhaps the most lacking component in many respects as it fails to substantiate violence that targets men as well as women. Male victims of sexual violence in conflict may struggle with the definitions of sexual violence within many Conventions, which presuppose women and children to be the only victims. Moreover, International Humanitarian Law omits some important references within its framework, which could be utilised in order to strengthen the prohibition of rape in wartime.

To give a few brief examples, Geneva Convention IV 1949, explicitly prohibits rape under Article 27, yet this provision is limited to women only. Furthermore, Article 147 of Geneva Convention IV fails to include rape amongst its listing of "grave breaches." The Additional Protocols of 1977 do add an extra layer of protection with Additional Protocol 1 explicitly prohibiting rape against women in Article 76, as well as Article 4 in additional Protocol II prohibiting rape to those not taking a direct part in hostilities in a non-international armed conflict.

It must, however, be remembered that these Additional Protocols have not been universally ratified. International Humanitarian Law appears to exemplify the role of gender perceptions in violence as the instruments enhance the conceptualising of sexual violence being targeted primarily at women and not at men, which Lambert Grijns explained as the second dimension of sexual violence that

Protocol Additional to the Geneva Conventions of 12 August 1949

Article 76

Protection of Women

1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.

2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority.

3. To the maximum extent feasible, the Parties to the conflict shall endeavour to avoid the pronouncement of the death penalty on pregnant women or mothers having dependent infants, for an offence related to the armed conflict. The death penalty for such offences shall not be executed on such women.

should not be forgotten. International Criminal Law moreover faces the same obstacles of including sexual violence against men in conflict settings.

Sexual violence in conflict is certainly one of the most pressing issues of our time. The Global Summit is but one small step in the huge fight against impunity for the perpetrators who carry out sexual atrocities and violence. The Fringe Summit highlighted how much more needs to be done in order to help those victims and prevent more violence being carried out in conflicts around the world today. Stereotypes, gender perceptions and inadequate legal provisions add to the problem and it stands to reason that huge efforts need to be made to prevent one of the most powerful weapons of war. It is certainly now the time to act.

Atrocity Crimes Litigation Year-In-Review (2012-2014)

By Molly Martin and Paul Stokes

On 30 May 2014, Northwestern Law School's Bluhm Legal Clinic Center for International Human Rights held a review conference on recent developments in atrocity crimes litigation at the facilities of the Special Tribunal for Lebanon. The Conference was organised and moderated by David Scheffer, former US Ambassador for War Crimes and current UN Secretary General's Special Expert on UN Assistance to the Khmer Rouge Trials, among other posts. Panellists, selected with a view towards having an expert on each of the international tribunals, included James Arguin, Chief of the Appeals and Legal Advisory Division in the Office of the Prosecutor-ICTR; David Boyle, Legal Consultant in the Office of the International Co-Investigating Judge-ECCC; Reinhold Gallmetzer, Appeals Counsel in the Office of the Prosecutor-ICC; Michelle Jarvis, Senior Legal Advisor in the Office of the Prosecutor-ICTY; Daryl Mundis, Registrar-STL; and Gregory Townsend, Formerly of the ICTR, ICTY, STL and SCSL. Karim Khan, Lead Defence Counsel for William Ruto at the ICC and Co-Counsel for the Defence of Bruno Stojić at the ICTY, was scheduled to represent the Defence perspective but was unable to attend due to unforeseen circumstances. While each panellist spoke in their individual capacity, they were asked to discuss recent developments with regard to the institution for which they had particular expertise.

Scheffer gave an introduction, describing the last two years as turbulent and representing an acceleration of the practice and jurisprudence of atrocity crimes, a special category identified within international criminal law. In the morning panels, time was devoted to each institution in turn, discussing the main development(s) of the last two years. Michelle Jarvis, speaking about the ICTY, was asked to discuss the recent denial of Mladić's 98 *bis* motion and the applicable legal standard applied in such decisions, as well as the Karadžić Trial Chamber's rejection of the Prosecutor's request to reopen its case after discovery of evidence of a new mass grave in late 2013. With regard to the latter issue, she discussed factors relevant to the Office's decision not to appeal the decision, in particular that, because exhumations and the report are still in progress, there is a timing issue and that the Office felt it was not in the interest of justice to continue to pursue. She also discussed the recent and sometimes conflicting jurisprudence on "specific direction" as an element of aiding and abetting in *Perešić, Stanišić*, and *Šainović*. In *Perešić,* the Appeals Chamber identified "specific direction" as a required element; however, in *Šainović,* the Appeals Chamber deviated from this elaboration, finding that it was inconsistent with the Tribunal's case law and customary international law, and that it complicates the distinction between aiding and abetting and Joint Criminal Enterprise (JCE), arguably resulting in a higher burden to be met for aiding an abetting. Finally, she discussed the evolution of gender-based violence litigation, focusing on challenges and the move from indictment of direct or proximate perpetrators to senior officials through JCE.

Major developments from the other Tribunals included the amendments to the ICC Rules of Procedure in light of the *Ruto* case, related to the requirement that the Accused be in court for proceedings against him, regardless of his duties at home. While the Office of the Prosecutor argued that the Rome Statute requirement of presence prevails over an inconsistent Rule, the Ruto Trial Chamber granted Ruto's request not to be present at every hearing, finding no real inconsistency between the Statute and the Rule. In a similar vein, the issue of *in absentia* trials at the STL was discussed, focusing on the legal basis for this practice

in Lebanese law, its purpose, and how it might affect the work of the Residual Mechanism if and when the Accused are located and arrested. Victim participation at STL and the the ECCC were discussed, looking at the reliance of the STL on ECCC's decisions regarding direct and indirect victimisation, the nexus to the crimes and the need to balance the preference for inclusivity with the rights of the Accused. Also with regard to the ECCC, issues such at the first appeal, pre-trial detention issues and cumulative charging were discussed, particularly focusing on the scope of the discrimination requirement in persecution charges.

The recent acquittals at the ICTR were discussed as well; while the acquittals were discussed in the context of the Trial Chamber's problematic assessment of the evidence, because the Appeals Chamber acquitted, rather than remanding the case for retrial, it was described as a "dramatic tightening" of the requirements for inferences and there was a discussion later about the benefits of raising the standard of reasonable doubt and the proper function of the Appeals Chamber. The Charles Taylor conviction at the SCSL was also discussed, as well as the general developments at the Court of various modes of liability, including JCE, planning and aiding and abetting.

The afternoon sessions continued similarly. With regards to ICC jurisdiction over Lybia and the case of Saif al-Islam Gaddafi, the panel discussed how it was an impossibility to decide the basis for competence and that it is for the ICC to base its competence. The panel agreed that there was not enough relevant evidence at the time and for the case to proceed, the Security Council would have to lend its weight. The ICC's conundrum with Omar al-Bashir is of a different nature. The Sudanese President arrived in Kinshasa, capital of the Democratic Republic of the Congo (DRC), in February to participate in an economic summit. As he is subject to an arrest warrant of the ICC for his alleged responsibility in the genocide in Darfur, the DRC – being a State Party to the Rome Statute – had an obligation to execute an arrest warrant and transfer Bashir to The Hague. That he was not, led the panel to discuss why there was so much reluctance from States to contribute to the pursuit of international justice with respect to atrocity crimes. States have to ask themselves whether they want these international institutions to function. If so, the onus is on them to support them.

Another point of discussion was the ICTY Appeals Chamber Judgement in *Gotovina et al.* and the immediate release of Ante Gotovina and Mladen Markač. The acquittal proved very controversial with two Judges strongly dissenting with the majority and the acquittal. The panel discussed the Trial Chamber's initial judgement that relied on the "200 metre rule", which found that any Croatian shelling of Serb towns that fell further than 200 metres from a legitimate military target should be considered as evidence of an unlawful indiscriminate attack. On Appeal, the majority found that the Trial Chamber had erred in applying this rule and subsequently found that almost all of the other evidence in the case depended on this flawed '"200 metre rule". The Appeals Chamber consequently found that it could not be proven that the shelling had been indiscriminate. The panel discussed the repercussions this judgement may have on the legitimacy and legacy of the ICTY.

The issue of personal jurisdiction was brought up with reference to the Office of the Co-Investigating Judges (OCIJ) in Cases 003 and 004 at the ECCC and the restrained situation the OCIJ is in. In reality, the ECCC is not considering any suspects beyond the ones who are now charged but from a purely theoretical point of view, there is no issue in charging additional suspects. With regard to the severance issue in Case 002, the decision of the Supreme Court Chamber to compel the Trial Chamber to move forward on this issue was discussed. The severing of Case 002 did not create two cases, but rather it is one case being tried over time, bit by bit – Case 002/1 and Case 002/2 – with all of the evidence from 002/1 being transferred to 002/2.

The conference was a great opportunity to review recent jurisprudence of the international criminal institutions, to consider the impact of recent decisions on the practice of international criminal law and to talk one-on-one-with practitioners from each of the institutions. For those who were unable to attend, a video of the conference will be available on the website of the Bluhm Legal Clinic's Center for International Human Rights.

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Julien Ku, **The Supreme Court Misses an Opportunity to Place Constitutional Limits on the Treaty Power in Bond v. United States,** 12 June 2014, available at: http://tinyurl.com/pyml9jh.

Julien Maton, **Challenging the Conventional: Can Truth Commissions Effectively Contribute to Peace?,** 10 June 2014, available at: http://tinyurl.com/nafuyfk.

Chris Tenove, **The Victim in the Security Council**, 6 June 2014, available at: http://tinyurl.com/l6ghwk2.

Reka Hollos, **Senator Defensor-Santiago Steps Down as ICC Judge,** 5 June 2014, available at: http://tinyurl.com/p8aukqr.

Online Lectures and Videos

"National Security and Civil Liberties: Finding the Right Balance", by Kenneth Roth, 11 June 2014, available at: http://tinyurl.com/n67yela.

"The Israeli-Palestinian Peace Talks in Historical Perspective", by Dennis Ross, 10 June 2014, available at: http://tinyurl.com/kw4w7yz.

"History Politics and Law-Conversations with History", by Charles McCurdy, 9 June 2014, available at: http://tinyurl.com/ly9jr23.

"21st Century Problems -- 20th Century International Law", by Harold Hongju Koh, 3 June 2014, available at: http://tinyurl.com/lf9c3wm.

PUBLICATIONS AND ARTICLES

Books

Robert Cryer, Håkan Friman, Darryl Robinson, Elizabeth Wilmshurst (2014), *An Introduction to International Criminal Law and Procedure,* Cambridge University Press.

Gro Nystuen, Stuart Casey-Maslen, Annie Golden Bersagel (2014), *Nuclear Weapons under International Law,* Cambridge University Press.

Martin Wasik (2014), *A Practical Approach to Sentencing,* Oxford University Press.

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

Articles

Kirsten J. Fisher (2014), "Purpose-based or knowledge-based intention for collective wrongdoing in international criminal law?", *International Journal of Law in Context,* Vol. 10, No.2.

Eleni Polymenopoulou (2014), "Cultural Rights in the Case Law of the International Court of Justice", *Leiden Journal of International Law,* Vol. 27, No. 2.

Emma Irving (2014), "The Relationship between the International Criminal Court and its Host State: The Impact on Human Rights", *Leiden Journal of International Law,* Vol. 27, No. 2.

CALL FOR PAPERS

The **Institute for European and International Law** has issued a call for papers for its "Authority in International Law: New and Traditional Forms and Approaches" workshop.

Deadline: 22 June 2014 More info: http://tinyurl.com/ocmlyzg.

The **European Union and International Law Doctoral Colloquium** has issued a call for papers for their bilingual Doctoral Colloquium.

Deadline: 31 August 2014 More info: http://tinyurl.com/nlksbay.

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EVENTS

The ICC in the Chinese Context: Perceptions and Prospects

Date: 18 June 2014

Location: T.M.C Asser Institute, The Hague

More info: http://tinyurl.com/nxmacxf.

Conference on Proof in International Criminal Trials

Date: 27-28 June 2014

Location: Bangor Law School, UK

More info: http://tinyurl.com/pk7nlzx.

25th Conference on the Myriad Challenges Facing Information Law Today

Date: 2-4 July 2014

Location: University of Amsterdam, Amsterdam

More info: http://tinyurl.com/nqcxxrq.

OPPORTUNITIES

Associate Administration Officer, (P-2), The Hague

ICC, Office of the Prosecutor

Closing date: 29 June 2014

Assistant Field Outreach Officer, (P-1), Nairobi

ICC, Public Information and Documentation Section, Registry

Closing date: 3 July 2014

Assistant Legal Officer, (P-1), The Hague

ICC, Counsel Support Section, Registry

Closing date: 6 July 2014