



International Criminal Court
Bar Association | Association du Barreau près
la Cour Pénale Internationale

ICCBA NEWSLETTER

JUNE 2018 – ISSUE 2



Brought to you by the following contributors:

- Susan Adamsen
- Elena Favaro Viana
- Shalini Jarayaj
- Dominic Kennedy
- Doreen Kiggundu
- Nadim Mansour
- Audrey Mateo
- Sara Pedroso

Design by Nadim Mansour

Inside this Issue

MESSAGE FROM THE PRESIDENT

On behalf of the ICCBA, Karim Khan QC is delighted to present you with this second edition of the ICCBA Newsletter. [p. 03](#)

CASE UPDATES

Updates on ICC cases including Prosecutor v. Gbagbo & Blé Goudé and Prosecutor v. Al Hassan [p. 10](#)

ICCBA-UNIVERSITY OF OXFORD TRAINING

An overview of the ICCBA-University of Oxford Victim Participation workshop and Training [p. 05](#)



OUDE WAALSORPERWEG
10, 2597 AK, THE HAGUE



INFO@ICCBA-ABCPI.ORG



WWW.ICCBA-ABCPI.ORG



TABLE OF CONTENTS



3 **MESSAGE FROM THE PRESIDENT**

4 **ICCBA COMMITTEES UPDATES**

10 **CASE UPDATES**

18 **OPINION ARTICLE**
Digital Evidence: Challenges for the Defence

21 **EVENTS**

22 **RECENT PUBLICATIONS**



MESSAGE FROM THE PRESIDENT

I am delighted to present the second edition of the ICCBA Newsletter.

At the end of this month, the term of my Presidency and that of all other elected officials and committee members will end and elections will take place at the General Assembly on 29 June for the members of the Executive Council and committees for the next year.

It has been my pleasure to serve as President of the ICCBA during its second year and I would like to extend my thanks to the Executive Council, committees, Secretariat, specially appointed working groups, and all members for their work on behalf and support of the ICCBA. We can all take pride in the ICCBA's achievements in its second year as well as in the steps which have been taken to ensure that the ICCBA is firmly established as the voice of the legal profession at the ICC.

In the last few months, there has been significant change at the ICC with the swearing-in of six new Judges, the election of a new President, Judge Chile Eboe-Osuji, and new Registrar, Peter Lewis. In May, Dominic Kennedy (ICCBA Executive Director) and I met with Registrar Lewis to discuss a number of issues.

The Registrar welcomed us and informed us that he would like an open dialogue between the ICCBA and the Registry so that issues affecting defence and victims teams can be addressed. The ICCBA is currently in the process of drafting a Relationship Agreement between the ICC and the ICCBA to formalize cooperation.

On 31 May and 1 June, the ICCBA, in collaboration with the University of Oxford, held two days of training on victim participation at the ICC. Approximately 50 participants took part in the training and many issues affecting the representation of victims were discussed. See page 5 for an overview of the training.

As mentioned, the 2018 General Assembly will take place on 29 June 2018 – I hope to see many of you there. If you have not yet registered to attend and plan on joining us, further information is available [here](#).

There is a lot happening in the ICCBA, and many tasks ahead of us, so please stay involved and feel free to keep up to date with postings on our website for news and events at: www.iccba-abcp.org.

I hope you enjoy this issue of the newsletter and if you have comments, suggestions, or articles please do not hesitate to contact us.

Best wishes,



Karim A. A. Khan QC
President
ICCBA





AMICUS COMMITTEE

During the first quarter of 2018, the Amici Curiae Committee assessed the Amici Curiae briefs which had been filed between the end of 2017 and the beginning of 2018 to prepare a statistical classification of the data and to study the evolution of their interventions before the International Criminal Court. In addition, the Committee reviewed in more detail the Ahmad Al Faqi Al Mahdi case held last year and prepared an analysis of the usefulness of the Amici interventions for the final report of the ICCBA.

In addition, on 5 March 2018, Professor Philippe Gréciano, Chairman of the Committee, who was one of the lawyers of Khieu Samphan, Khmer Rouge Head of State, along with Maître Jacques Vergès, took part in the organisation a conference on the trial of the Khmer Rouge leaders with Judge Marcel Lemonde, former International Judge at the Extraordinary Chambers in the Courts of Cambodia (CETC), for the students of the Master in Criminal Law at the University of Grenoble Alpes.



Judge Marcel Lemonde

Finally, on 26 April 2018, on the occasion of national commemorations for the Resistance, the Grenoble City

Council invited Philippe Gréciano to give a lecture on the theme of international criminal justice from Nuremberg to The Hague. This event brought together official figures and interested many citizens who wanted to know the progress made by the International Criminal Court to judge the world's leading criminals and protect the victims.



Nuremberg Military Tribunal

VICTIMS COMMITTEE UPDATE

Since March 2018, the Victims Committee has held meetings on a monthly basis.

The Victims Committee adopted a 6-page paper on ethical issues entitled: "**ETHICAL PROBLEMS ARISING IN THE CONTEXT OF VICTIMS' REPRESENTATION**". This document was prepared, discussed and agreed by Victims Committee during the last months. The intention was to collect and define relevant ethical issues arising from the practical work as a starting point for further discussions on how to address these issues and eventually to prepare training exercises and legal advisory material. The paper was submitted to the Executive Council as well as to the Professional Standard Advisory Committee in order to initiate an inter-committee dialogue on ethical issues arising in the context of victim's representation.



Since March 2018, the Victims Committee produced two additional training videos which are available on the ICCBA website. The VPRS presentation by Phillip Ambach can be found [here](#). The Office of Public Counsel for Victims (OPCV) presentation by OPCV Principal Counsel and Victims Committee member Paolina Massidda is available within the ICCBA Member's Area (login required), and hosted on a third party site, so once you login to the Member's Area you need to click on the video you wish to view, which will take you to a third party site (separate login required). The Victims Committee is planning to produce

additional videos on Case Management and Victims Counsel issues.

The Victims Committee created a Victims Committee Dropbox DataBase to save all minutes and documents. in order to safeguard a continuity and conformity of Victims Committee practice in the future.

On 31 May and 1 June 2018, the Victims Committee organized in cooperation with the University of Oxford an Expert Workshop as well as a Training Workshop (*please see below for a summary of this event*).

Advancing the Impact of Victim Participation at the ICC: Bridging the Gap between Research and Practice.

By Susan Adamsen



ICCBA- University of Oxford Victim Participation Workshop and Training

On the 31 May and 1 June 2018 the University of Oxford and the International Criminal Court Bar Association (ICCBA) held a workshop and training on Victim participation at the International Criminal Court (ICC). A joint project between the Oxford-ICCBA and the ECRSC (UK Economic and Social Research Council), consisting of an expert workshop and Victim-counsel training centred on specific aspects of Victim participation at the ICC. It included theoretical and jurisprudential developments, reparation jurisprudence, as well as ethical, psychological and practical considerations in client-counsel relations for

victims represented before the ICC. This project aims at bridging practice and scholarly work, creating a judicial culture within the ICC and to transfer experience from one generation to another.

The 20th anniversary of the Rome Statue marked the instauration of the ground-breaking Article 68 endorsing victims and witnesses' participation, whereby it gave life to the facts of the case.



By doing so, it paved the way for the Extraordinary Chambers in the Courts of Cambodia (ECCC) which goes even further than the ICC by recognizing victims as parties, and at a later stage with the STL and Kosovo Specialist Chambers. However the ICC is still being criticised for not doing sufficient for victims.

Day 1, Panel 1 on Theoretical and Jurisprudential Developments of Victims Participation at ICC was composed of **Dr Rudina Jasini**, ESRC GCRF Fellow, Faculty of Law, University of Oxford, **Paolina Massidda**, Principal Counsel, Office of Public Counsel for Victims (OPCV) ICC, **Dr Sara Kendall**, Co-Director of the Centre for Critical International Law, University of Kent. The Panel was moderated by **Gregory Townsend**, counsel and member of the ICCBA Victims Committee.

Dr Rudina Jasini opened the event with sharing her experience on interpretation of victims' participation as a restorative mechanism within the international mechanisms referring to her own research conducted at the ECCC. She emphasized the opportunity of allowing victims to express their views and concerns advances justice and remains an imperative part of restorative justice.

"VICTIMS HAVE YET TO REALISE THEIR PROCEDURAL RIGHTS, AND THERE IS A NEED FOR LEGAL STANDARDISATION"

She elaborated on the positive procedural steps made firstly by the UN Basic Principles, the Rome Statute, the 2006 Reparations Guideline, the inter-American Court, ECtHR and various international tribunals. That may in fact obscure the need to critically exam actual participation in form of subject matter constraints, procedural issues, nature of cases and mass victimization. Moreover during her research at the ECCC the Victims remained to highlight one thing, the imperative to tell ones story. Nonetheless, trial proceedings are not a truth telling narrative process by

nature but victims keep emphasizing that they want people to know their story and make sure that their experience is not repeated in the world. Yet victim participation is treated as a laboratory experiment and at the ICC tailored to specific understanding and approach of each Trial Chamber.

Victims have yet to realize their procedural rights and there is a critical need for legal and normative standardization. Furthermore, a legal process is not inherently compatible with a personal story telling process. Taking that into account, the Court should not afford victims greater participatory rights unless they are able to provide funding for representation and support of the process, she concludes.

Dr Jasini was followed by Ms. Massidda presenting her views on the various application forms, LRV's access to documents, and the questioning of the witness by LRVs and parties.

Within the scope of the Rome Statute victim participation has been left to the discretion of Chambers with no uniform practice. In the Situation stage, victims do not have any participatory rights and in the later Trial stage any participatory rights could be limited by *unique investigative opportunities* or protective measures relating to the Victims.

She mentioned a referral in the *Lubanga* case trial where the Chamber denied application forms as evidence and determined that they could not be challenged as evidence given by dual status witnesses. However in the *Gbagbo* and *Ongwen* cases, the Chambers allowed the defence to challenge the testimony of dual status victims, creating inconsistency.

She further elaborated on the issues of statements and applications taken in local languages, as well as how the time taken to conduct testimony may lead to discrepancies. After 5 years, the LRVs finally got access to confidential documents but a huge amount of inconsistencies in the application procedure remains. Such as the permission to questioning the witnesses which varies from requirements of a comprehensive filling explaining the intention of the LRVs, interest of client and area of question a week prior the date of expected testimony. As it was the case in the *Lubanga* case. To a simple request by email to the Trial Chamber



in the *Ongwen* case. Mr Townsend reminded the audience that the ICTY undertook the responsibility and interviewed more than 300 victims and witnesses and the ICC is still 'adolescence' in this respect.

This discussion led to the suggestion of a *Chambers Practise Manual* on victims participation but at the same time acknowledging the fact that fixing this issue through regulation may divest the judges of the flexibility needed to address this.

The second panel was on **Reparation: Legal-Procedural Framework and Jurisprudence**. The panel was composed of **Sarah Finnin**, REDRESS, **Dr Nadia Banteka**, Assistant Professor in International Law and Victimology, INTERVICT, Tilburg University, **Dr Leila Ullrich**, British Academy Postdoctoral Fellow, Centre for Criminology, University of Oxford, **Luc Walley**, Victims Counsel, ICC. The panel was moderated by **Jens Dieckmann**, Attorney at Law, Victims Counsel, ICC.

Mr Walley introduced the procedure on the request for victims reparations with the focus on the individual versus the collective reparations. He established that the Court can grant reparations individually and collectively but is silent regarding a collective application from a community. As observed in the *Katanga* case, one village community suffered but only individuals could apply for reparations, not communities. On the other hand, when the Court organized collective reparations for individuals it was almost as if the community was acting. Even though the reparations consisted of a symbolic amount and were mainly given collectively to be implemented by the Trust Fund for Victims (TFV).

Dr Banteka presented her findings of her initial reviews conducted at the ECCC. She identified how the many reparation regimes impacts persons, the re-victimization process, society's view of reparations and how these regimes often exclude large groups of victims. She introduced the *Sens two concepts of justice* "Niti and Nyaya", a procedural justice and a justice on the ground. These are two fundamental elements of how a victim understands justice; however they appear to be overlapping and conflicting concepts. Moreover she states that the ICC addresses the issues of reparations through the TFV as seen as a part of the Court.



ICCBA- University of Oxford Victim Participation Workshop and Training

Her research further concluded that most beneficiaries of the reparations do not mention much about receiving reparations when interviewed, and that victims tend to focus on the future generations, education and communities and that victims participate in the proceedings often are aware of their situation. However they may not necessarily know the name of the accused or charges nor any final conviction but they appreciate the reparations but miss the link to the process.

On the one-hand, reparations are seen by society as doing justice but on the other hand, if reparations are completely severed from the judicial proceedings, some may not perceive this as 'justice'. Mr. Walley, emphasized the necessity for counsel to prepare victims for the lengthy and difficult process in order for the participants to understand what they are doing for process of justice and not just for themselves. This is a difficult task for counsel because of the different standards set among the Chambers.

The third panel was on **Client-Counsel Relation in Victim Representation at the ICC**: Ethical, Psychological and Practical Considerations. The panel was composed of **Megan Hirst**, Barrister, Doughty Street Chambers, **An Michels**, Psychologist and Trauma Expert, ICC, and **Mikel Delagrangé**, Legal Officer, Victims Participation and Reparations Section of the ICC. The panel was moderated by **Christopher Gosnell**, Defence Counsel, ICC.



Mr Delagrange introduced the audience to the provisions governing the victims' right to choose a legal representative.

The early jurisprudence of the ICC established that victims had the right to choose their legal representative and if unable to do so, delegated to the Registry the ability to appoint one for them. This procedure has been followed between 2008 and 2011. Since then, the Court has moved forward, mainly through the *Kenya* cases where it created a new approach: allowing victims to amend a large number of applications, where certain lawyer groups were named by large numbers of victims. The Court reproduced the same procedure in the *Banda & Jerbo* and *Gbagbo* case. However, this approach raised the question whether the victims really understood the extent of their choice in nominating their counsel. Moreover, it raised concerns on the motives behind the appointment, questioning the identity of the actual appointees and the entity designated to finance them.

"FOR SOME WITNESSES TESTIFYING MAY EVEN HAVE THERAPEUTIC BENEFITS"

He concluded that all victims want a proper representation, but whether the victim is capable of fully understanding the nomination of counsel depends on the situation and varies greatly. In the case of *Al Hassan* it seems as if the Court once again will use the sequential approach

To represent the psychosocial team of the Victim and Witness Section (VWS) Ms Michels enlightened the audience on the work and necessity of a psychosocial team. The section is equipped with personnel to address and support victims, makes the unit operational to deal with psychological issues in a tailor-made manner in giving attention to psychological issues for victims. She reflected on the running study

of the impact on victims testifying before the Court.

She highlighted that giving people back a sense of control, even for small issues are very important. Psychologists try to restore the agency and dignity by simply listening to them and assessing their wishes and needs. For some witnesses it is cathartic and testifying may even have therapeutic benefits. Even if the process itself is unsuccessful, it has benefits for victims to be able to participate in the process. Moreover she concluded that not all victims want the same and emphasised a need for strong and clear ethical rules to guide LRVs when representing victims. Mr Dieckmann suggested an advisory opinion may prove useful in terms of ethical rules between counsel and victim.

The first panel on the second day was **on Victim-Counsel Training, Trial Stage**, by **Megan Hirst** and **Paolina Massidda** with co-trainer **Sarah Pellet**, Counsel, Office of Public Counsel for the Victims (OPCV), ICC.

Leading the audience through different case strategies, Megan Hirst critically analysed the path for victims' participation and the various application forms. She endorsed an approach whereas views and concerns of clients are acknowledged by considering the behaviour of the client, the modalities granted by Chamber and the communicating according to the client's needs and wishes to the best possible extent. She further emphasised that applications should not be treated as an alternative to the necessity of meeting the clients, due to the liability of details, nor is it a meaningful way to represent a client.

Moreover Ms Hirst continued to express her concern on the Code of Conduct and whether it is sufficient when it comes to obligations of counsel when providing instructions or views to the client. A lack of common positions on how to address the Chamber, or when directed by a Chamber to take a position within a limited timeline are making proper instruction impossible. She further advocated for standards, training, on-going support and self-reflecting among counsel, while suggesting that a mechanism should be established, to oversee the conduct of counsel. Proposing that the ICCBA should be the creator of this mechanism, where processes started would be when



the ‘information comes to light’ and that this could start with the LRVs agreeing on a “best standard for victim representation”.

Moving on to the exercise on questioning a witness who is also a participating victim (dual status individual) and challenges linked to the collection of views and concerns, Ms Massidda and Ms Pellet provided the audience with knowledge and skills. They emphasised that when questioning witnesses, it is crucial to know the background of both the situation countries and the case itself, including local communication and language. This method will enable counsel to understand the bond of trust it can create between the counsel and the victim.

This relationship of trust between the victim and the LRVs are often much stronger than towards the OTP, and in that sense the client can be more at ease to open up and testify with the counsel present. Since the OTP is well aware of this effect, they regularly rely on the LRVs to enable the victims to tell their story, meaningfully and personally.

The afternoon panel was by **Luc Walley** with co-trainer **Marie O’Leary**, Counsel for the Office of Public Counsel for the Defence (OPCD) on **Ethical Considerations**. They expressed their views and concerns on the ethical standards in place at the ICC governing counsel and how it is rather insufficient when it comes to guidelines and consequences for counsel misconduct. With the Statue and the Code of Conduct providing rather limited provisions on counsel misconduct before the Court and obstruction of justice, the charter remains silent on matters of ethics and raises the question of ethical issues for victims, such as contact between the victim/witness representative and another counsel, confidentiality agreements, conflicts- between child soldiers and victims of child soldiers (including child soldier abused by other child soldiers). It is unequivocal that there is an urgent need for the development of ethical norms and standards at the ICC.

Although the 20th anniversary of the Rome Statue celebrated the genesis of the provision on victim participation, the latter is still in an experimental stage since there is yet again a need for common standards and approaches.

Throughout this event, it was clear that there is a need for the establishment of detailed rules and guidelines on victims’ participation in order to avoid inconsistencies in between cases. Frustrations of the insufficient legislation invoked a strong willingness among the panellists and the ICCBA participants to endorse and push for a more streamlined modality on victim participation and support for an ethics code for counsel. To meet the concerns and create consequences for misconduct, where the Statue and Code of Conduct remain silent.

"VICTIMS GIVE LIFE TO THE EVIDENCE PRESENTED BEFORE THE COURT; THEY ARE THE SOUL OF JUSTICE AND SHOULD BE THE HEART OF THE ICC"

Justice at the ICC is more than guilty verdicts. As illustrated by Dr Jasini, seeking justice or the idea of justice being linked to guilty verdicts, may seem obvious, however a guilty verdict will not right a wrong. There is indeed a “*quest for truth, reconciliation and reparations*”. It has repeatedly been demonstrated that it is imperative to tell one’s story, seek truth, and that reparations are the main interest only for a minority of victims. It is important to acknowledge the fact that what victims want to achieve from the process may vary. Victims give life to the evidence presented before the Court; they are the soul of justice and should be the heart of the ICC.



CASE UPDATES



PROSECUTOR V. ONGWEN (ICC-02/04-01/15)

Updates on the Trial Proceedings in the case of Dominic Ongwen

Following the judicial recess in February, the Prosecution resumed calling its last set of witnesses, completing the presentation of its evidence on 12 April 2018 and duly notifying Trial Chamber IX ('the Chamber') by way of notice on 13 April 2018.

Four expert witnesses and three participating victims were authorized to testify pursuant to the Chamber's Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests filed on 6 March 2018, namely, two survivors of the attack on the Lukodi IDP in 2004; one survivor of the attack on the Abok IDP camp, also in 2004; one expert on issues related to children and youth, particularly child soldiers; Teddy Atim, on the impact of conflict on victim communities; Seggane Musisi, a Makerere University professor on Acholi culture in relation to conflict; and Daryn Reicherter, a Stanford University professor on the impact of sexual and gender-based crimes on a community.

All of these witnesses testified between March and May 2018, with the last witness testifying on 23 May 2018. In a decision of 5 June 2018, Judge Bertram Schmitt ordered that the Defence opening statement will be given on 18 September 2018 at 9:30 and that the first block for the Defence presentation of evidence will run from 27 September 2018 to 10 October 2018.



Dominic Ongwen © ICC

Since the updates in the ICCBA Newsletter March issue, a number of important filings and decisions have been made in this case:

In its Request for reconsideration of the "Decision on the Legal Representatives for Victims Requests to Present Evidence and Views and Concerns and related requests", the LRV submitted that while it is true that the charges concerning sexual and gender based violence do not cover the topics of the anticipated testimonies, these acts fall under other crimes which were confirmed and thus requested the Chamber to reconsider its determination that sexual violence against men and boys does not fall within the scope of the charges in this case. The Chamber reiterated that reconsideration is an exceptional measure which should only be done if a clear error of reasoning has been demonstrated or if it is necessary to prevent an



injustice. As this was not that case, the Chamber rejected the request.

On 13 April, the Presiding Judge issued further instructions on the filing of closing briefs and closing statements. The closing briefs by the parties and participants, should they wish to file any, are to be filed six weeks after the declaration of the closure of the submission of evidence. The closing statements will be held two weeks after the filing of the closing briefs.

On 26 April, the Chamber rejected the Defence request to delay the opening of the LRV and CLRV cases by a month. The Chamber was of the opinion that the Defence had been provided adequate time to prepare itself for the Legal Representatives' evidence preparation, and found the request filed by the Defence three working days before the start of the Legal Representatives' case to be 'unacceptable'. Some of the Prosecution witness testimonies that emerged in Court from March 2018 to present include:

Witness P-448 testified via video link about being given as a "wife" to two LRA fighters in the Oka battalion. She told the court on 21 February that while she was in the LRA where she had been abducted at the age of 14 years, she was in the same group as Dominic Ongwen, and one of the soldiers under his command raped her.

Witness P-085, a former long-serving member of the Lord's Resistance Army (LRA), told the Court on 23 February that Ongwen told him he sent fighters to attack the barracks at Odek, but civilians were caught in the crossfire and were also killed.

Witness P-209, a former captain of the LRA told the Court that he confided in Ongwen nine years ago about his plans to escape the rebel group, hoping Ongwen would join him. Although Ongwen listened to his proposal he told him that he feared the ICC arrest warrant issued against him. P-209 said he did not fear Ongwen would reveal his plans because he knew at the time Ongwen was not on good terms with LRA leader Joseph Kony, just like himself.

Witness P-446, a forensic psychiatrist Gillian Clare Mezey told the Court on 20 March that based on material she reviewed her conclusion was Ongwen did not have a mental illness during the time he was a LRA commander between 2002 and 2005. Although she

agreed that Ongwen had suffered distress from time to time due to his detention at the ICC detention centre. Mezey said this was to be expected given the change in Ongwen's circumstances, but his suffering distress did not mean he had a depressive disorder.

On 26-28 March, Catherine Abbo, a psychiatrist called by the prosecution told the Court that the fact Ongwen was abducted as a child and survived for decades in the LRA should be taken into account when judges determine his innocence or guilt. She however said that Ongwen did not have a mental disorder between 2002 and 2005.

Witness P-187 told the Court that that most homes in the camp were burned during the attack. She said that 'Lukodi remained a homestead which had been abandoned. There were no houses there.' She said that she was abducted by the LRA during the attack and was made to carry food. She said as they trekked away from Lukodi, she saw LRA fighters throw babies and children into the bush because they were crying.

The last Prosecution witness a psychologist, Roland Weierstall told the Court when he testified on 11- 12 April 2018 that there was no doubt that Ongwen suffered trauma between 2002 and 2005 but that did not automatically mean he had a mental disorder. He also said he doubted whether Ongwen had attempted to commit suicide eight times while he was in the LRA. There are 4,100 victims registered to participate in the trial of Ongwen and are represented by two separate legal teams led by Joseph Akwenyu Manoba and Francisco Cox on one hand and the other by Staff of the Office of Public Counsel for Victims (OPCV) led by Paolina Massida The following emerged in the victims' phase of the trial:

Following an 18-day break, on 1 May 2018, the victims phase of the trial began with the testimony of V-2 who testified with protective measures. The witness said that he was abducted by the LRA at 12 years old to be a soldier with them. There, he was forced to kill people. He managed to run away after 2 years. The witness described to the Court how he changed schools three times after students and teachers taunted and chased him away for being in the LRA



fortwo years. He eventually abandoned school and turned to farming to help his family.

Vincent Oyet, a long-serving teacher at Lukodi Primary School testified on 2 May about the period between 2002, when he first became a teacher at Lukodi Primary School, and 2006 when he described the security situation in Lukodi as 'starting to normalize.' Gibson Okulu, a longtime councillor, testified on 3 May that Lukodi residents still suffered the impact (including relating to social cohesion) of the LRA attack 14 years ago.

On 4 May 2018, the LRV expert witness Teddy Atim who is a researcher with the Feinstein International Center of Tufts University told the Court that survivors on the Abok, Lukodi and Odek IDP camps were generally worse off than other Northern Ugandans who did not suffer similar attacks. She told the court that the percentage of people with disabilities is higher

in these IDP camps compared to northern Ugandans not attacked by LRA.

On 14 May, a psychiatrist Daryn Scott Reicherter testified about the impact of sexual violence on the mental health of survivors. He told the Court that stabilising the survivor of sexual violence is the first crucial step in dealing with the trauma the survivor has suffered.

An expert psychologist specialized in treating former child soldiers Michael Gibbs Wessels told the Court on 15 May that the issues most important to former child soldiers are stigma, their interrupted education, and lack of a livelihood. Psychiatrist Seggane Musisi, the last witness in the victims' phase of the trial, who testified about Acholi culture and trauma. He testified that former LRA members had difficulties in trusting their family once they returned home, and vice versa.



ENJOY A 30% DISCOUNT !

*LOGIN TO THE MEMBERS' AREA OF
THE WEBSITE FOR THE DISCOUNT CODE*

ON ALL CAMBRIDGE UNIVERSITY PRESS LAW TITLES



PROSECUTOR V. GBAGBO & BLÉ GOUDÉ (ICC-02/11-01/15)

Overview

The case of *Laurent Gbagbo and Charles Blé Goudé* commenced on 28 January 2016 and trial proceedings are currently underway. Mr Gbagbo and Mr Blé Goudé are charged with four counts of crimes against humanity allegedly committed in Abidjan, Côte d'Ivoire, during the post-electoral crisis between December 2010 and April 2011. On 19 January 2018, the Prosecution's 82nd and last witness concluded her testimony.

Submissions on the Order on the further conduct of proceedings

As per Trial Chamber I's *Order on the further conduct of proceedings* of 9 February 2018 (ICC-02/11-01/15-1124), the Prosecution filed its 'Mid'-Trial Brief on 19 March 2018 (ICC-02/11-01/15-1136) providing an updated narrative of its case, with reference to the evidence submitted hitherto. In its Trial Brief, the Prosecution specified that it only addressed 'those matters it considers of importance, and endeavoured to support them with sources deemed to be of pertinence'. The Prosecution reserved the right to make further submissions.

On 16 February 2018, the Legal Representative conveyed the views and concerns of the victims (ICC-02/11-01/15-1131), noting that the Chamber's Order of 9 February did not envisage or take into account the right of victims to file a response to the Trial Brief. On 29 March 2018, the Legal Representative informed the Chamber that she did not intend to file observations in relation to the Trial Brief (ICC-02/11-01/15-1142).

On 23 April 2018, the Defence teams for Mr Gbagbo (ICC-02/11-01/15-1157-Red) and for Mr Blé Goudé (ICC-02/11-01/15-1158-Corr-Red) respectively filed their observations on the continuation of the trial proceedings, pursuant to the Chamber's Order of 9 February 2018. Although taking different approaches, both defence teams respectively expressed the view that the Prosecution has not presented enough evidence to warrant a conviction on the basis of the



Laurent Gbagbo © ICC

charges as confirmed by the Pre-Trial Chamber and indicated, among others, that they intended to challenge the adequacy of the Prosecutor's evidence by way of presenting 'no case to answer' motions.

Mr Gbagbo's request for interim release

On 20 April 2018, the Chamber denied Mr Gbagbo's request for interim release for reasons of health (ICC-02/11-01/15-1150), citing the lack of any new or changed facts underlying the previous decisions on detention. Judge Tarfusser, dissenting, found that the Majority failed to 'engage in a balancing exercise between the overall duration of the detention, on the one hand, and the objective nature of the risks, on the other' to determine whether Mr Gbagbo's detention continues to be reasonable.

Chamber's decision on the Prosecution's latest 'bar table' motions

On 1 June 2018, the Chamber rendered its *Decision concerning the Prosecutor's submission of documentary evidence on 28 April, 31 July, 15 and 22 December 2017, and 23 March and 21 May 2018* (ICC-02/11-01/15-1172), allowing the submission of over 2,500 items of the documentary evidence and formally marking the end of the Prosecution's case. In its Decision, the Chamber recalled its previous ruling whereby it would postpone making any ruling on the relevance or admissibility of evidence submitted by the parties until the end of the trial. Judge Henderson



appended a dissenting opinion (ICC-02/11-01/15-1172-Anx), characterizing the Majority's approach as legally flawed and as violating the principles of both efficiency and fairness.

Second Order on the further conduct of proceedings

On 4 June 2018, the Chamber issued a *Second Order on the further conduct of proceedings* (ICC-02/11-01/15-1174). The Chamber found that 'the most appropriate and efficient way to proceed in light of its statutory duties is to authorise the Defence to make concise and focused submissions on the specific factual issues for which, in their view, the evidence presented is insufficient to sustain a conviction and in respect of which, accordingly, a full or partial judgment of acquittal would be warranted'. The Chamber invited the Defence to explain why there is insufficient evidence that could reasonably support a conviction. The Chamber also scheduled a hearing for 10 September to hear further submissions by the parties and participants and to allow them to respond to the Judges' questions, in order to assist the Chamber 'in determining whether the evidence presented by the Prosecutor suffices to warrant the continuation of the trial proceedings and hear evidence from the accused, or whether the Chamber should immediately make its final assessment in relation to all or parts of the charges'.

Decision on the Prosecution Notification of Conduct by Blé Goudé Defence Team Member

On 5 June 2018, the Chamber rejected the Prosecution's request (ICC-02/11-01/15-1143-Conf), claiming that comments made by a member of the Defence team for Mr Blé Goudé at a public conference in April 2017 violated Article 24(1) of the Code of Conduct. In a separate opinion, Judge Tarfusser concurred and indicated that 'freedom of expression can only be restricted under limited and specific circumstances' and that this freedom also extends to comments 'that offend, shock and disturb'. Relying on ECtHR jurisprudence, Judge Tarfusser also indicated that these principles 'are held even more vigorously when the scrutinised expressions concern matters of public interest, such as [...] the functioning of the judicial system'. Judge Tarfusser added that lawyers are entitled to pursue their client's defence by appearing on the television news or making a

statement in the press to 'inform the public about shortcomings in the proceedings'.

PROSECUTOR V. LUBANGA

(ICC-01/04-01/06)



Thomas Lubanga © ICC

Following the conviction of Thomas Lubanga on 14 March 2012, upheld on appeal on 1 December 2014, on 7 August 2012, Trial Chamber I issued an important decision on the principles and procedure followed in this case. On 3 March 2015, as part of the reparations proceedings, the Appeals Chamber in its judgment overturned the decision and then ordered the Trial Chamber to determine the amount of reparations attributable to Mr. Lubanga and instruct the Trust Fund for Victims to file a major draft plan for the implementation of reparations.

On 15 December 2017, the Trial Chamber determined the amount of Mr. Lubanga's collective reparations as 10,000,000 USD and the 425 victims identified as potentially eligible for the collective redress procedure pursuant to Rule 98 of the Rules of Procedure. Procedure and Evidence.

The decision of 15 December 2017 is challenged on appeal by both Mr. Lubanga's Defense and with regard to the amount of reparations that is incumbent upon Mr. Lubanga and, through the victims, through their legal representative, the number of victims of reparations and the very competence of the Trial Chamber on this point.



PROSECUTOR V. BEMBA (ICC-01/05-01/08)

On 21 March 2016, Trial Chamber III convicted Jean-Pierre Bemba under Article 28 of the Statute (command responsibility) of war crimes and crimes against humanity committed by the Mouvement's troops released from the Central African Republic (CAR) on or about 26 October 2002. On 21 June 2016, he was sentenced to 18 years' imprisonment.

On 8 June 2018, following the appeal lodged by Jean-Pierre Bemba on 4 April 2016, the Appeals Chamber rendered its judgment, reversing by a majority of the judges (3-2) the conviction of Jean-Pierre Bemba.

The Appeals Chamber, by a majority, annulled the judgment of conviction for (1) criminal acts beyond the scope of the facts and circumstances of the case (charges) and (2) by acquitting the accused on the basis of errors made by the Trial Chamber regarding "necessary and reasonable measures" under Article 28 (a) (ii) of the Statute. It should be noted that Judge Eboe-Osuji, while agreeing with the "essence" of the reasoning of the judgment and the verdict adopted by the majority, set out his views in a separate opinion. Judges Van den Wyngaert and Morrison also appended a separate joint opinion. Judges Monageng and Hofmański filed a joint dissenting opinion.

As a preliminary matter, irrespective of the grounds of appeal filed, with respect to the standard of appeal for "factual error", the majority of the Appeals Chamber declared itself competent under this criterion to set aside findings of fact of the Trial Chamber if they can reasonably be doubted. It considers that it must interfere with the factual conclusions reached at first instance insofar as such a failure to act would lead to a denial of justice. It submits that the factual findings of a Trial Chamber must have been made beyond reasonable doubt and that in the event of serious doubt on the part of the Appeals Chamber on these findings, it is for the Trial Chamber to dismiss them. It states that it is not for the Appeals Chamber to substitute its own conclusions, it is essentially an application of the standard of proof "beyond reasonable doubt".

On this point, the dissenting judges oppose the appeal standard applied in this case by the majority for "factual error". In their view, the majority of the



Jean-Pierre Bemba © ICC

Appeals Chamber departed from the standard of appeal previously applied by the ICC Appeals Chamber and consistent with the jurisprudence of other international criminal tribunals. They also considered that doubts are not enough to overturn a conviction.

With respect to the second ground of appeal on the scope of the charges, the majority of the Appeals Chamber found that certain crimes established beyond reasonable doubt by the Trial Chamber were beyond the scope of the charges. It considered that the criminal acts added by the Office of the Prosecutor after the decision on the confirmation of charges in the preliminary phase of the trial has been rendered can not be considered as "part of the facts and circumstances described in the charges" within the meaning of Article 74 (2) of the Statute.

As a result, the indictable offenses that were added after the confirmation of charges decision were not part of the "facts and circumstances described in the charges" to the extent that in this case an amendment to the decision relating to confirmation of charges would have been required. It concluded that Jean-Pierre Bemba could not be found guilty for these acts beyond the scope of facts and circumstances.

For the dissenting judges, a charge broadly defined by the Prosecutor means that other specific criminal acts may be alleged in the course of trial if they fall within the scope of confirmed crimes and the rights of the defence are respected.

Thus, the dissenting judges consider that the initial conviction of Jean-Pierre Bemba fell well within the framework of the facts and circumstances described in the charges against him.



Regarding the third ground of appeal on the responsibility of the accused as the superior of his troops and on the criterion of "necessary and reasonable measures" to prevent, punish or punish the commission of crimes committed by his subordinates. Under Article 28 (a) (ii) of the Statute, the majority of the Appeals Chamber has reversed the Trial Chamber's findings on this point.

"THE APPEALS CHAMBER FINDS THAT THE TRIAL CHAMBER ERRED IN HOLDING AGAINST BEMBA THE FACT THAT THE MEASURES ORDERED ON HIS INITIATIVE PRODUCE LITTLE TO NO EFFECT"

It notes a series of errors committed by the Trial Chamber and considers that Jean-Pierre Bemba could not be considered to be criminally responsible for the crimes committed by MLC troops during the operation in CAR.

The assessment of "necessary and reasonable measures" made by a Chamber must be based on the crimes of which it became aware or should have known at some point. It notes that the Trial Chamber did not attach sufficient importance to the fact that the MLC troops were operating in a foreign country and thereby the difficulties in Jean-Pierre Bemba's ability to take action. It considers that the Trial Chamber ignored important evidence on this point and that Jean-Pierre Bemba had also asked the Central African authorities to investigate the crimes. Therefore, the Trial Chamber would have considered Jean-Pierre Bemba's motives for this inquiry by excluding his good faith.

The Appeals Chamber further found that the Trial Chamber erred in holding against Jean-Pierre Bemba the fact that the measures ordered on his initiative produced little or no effect. Also, according to the Appeals Chamber, the Trial Chamber drew

contradictory conclusions about the MLC commanders' ability to investigate or not.

In addition, the Trial Chamber erred in its review of the "necessary and reasonable measures" of all crimes alleged to have been committed by the MLC, whereas only a limited number of such crimes have been proven beyond reasonable doubt by the Trial Chamber. Finally, it considers that in the context of the establishment of the criterion of "effective control" that Jean-Pierre Bemba held on the MLC forces, the lack of notification in the charges on the redeployment of troops to limit contact with the population as a necessary and reasonable measure that he should have taken, thus prejudiced him.

The dissenting judges were of the opinion that the Trial Chamber did not err in its conclusions and that it had duly taken into account Jean-Pierre Bemba's factor of distance from criminal events. Thus, according to the dissenting judges, the requirement of Article 28 (a) (ii) of the Statute can not be limited to a limited examination of specific acts but requires a more extensive examination.

As a result, the Appeals Chamber acquitted Jean-Pierre Bemba and stated that in the present case his continued detention was no longer justified. The Appeals Chamber ordered Trial Chamber VII seized of another pending case before the Court concerning Jean-Pierre Bemba and other defendants to decide as soon as possible whether to continue detention or not. On 12 June 2018, Trial Chamber VII conditionally ordered the release of Jean-Pierre Bemba on bail.



Judges of the Appeals Chamber in the Bemba Case © ICC



The Prosecutor v. Al Hassan

(ICC-01/12-01/18)

On 27 March 2018, the Prosecutor issued a warrant for arrest of Al Hassan and on 31 March 2018 he was surrendered to the ICC. Al Hassan has been indicted for crimes allegedly committed when he was *de facto* Chief of the Islamic Police in Timbuktu, Mali in 2012-2013. Prior to his transfer to the ICC he had been held by the local authorities in Mali for more than a year.

The indictment alleges that he is responsible for destroying cultural monuments and enforcing policies which led to sexual enslavement of women and girls. Other charges include torture, extrajudicial punishments and participation in a policy of forced marriage. These crimes have been charged as crimes against humanity and war crimes.

On 4 April 2018, Al Hassan had his initial appearance before the single judge of the Pre-Trial Chamber, Judge Marc Perrin de Brichambaut, who set the provisional date for the confirmation of charges hearing as 24 September 2018.

The hearing was held in the presence of the Prosecutor



Al Hassan Ag Abdoul Aziz © ICC

and Al Hassan's Duty Defence Counsel, Yasser Hassan. Judge Perrin de Brichambaut verified the identity of Al Hassan and ensured he was informed of the crimes he is alleged to have committed. He was also informed of his rights under the Rome Statute.

On 24 May 2018, the Chamber issued a decision on the [principles application to victims' participation in the case](#), in which the Chamber approved a joint form for participation and reparations to be used for the purposes of applying for participation and/or reparations in the case.



ENJOY A 20% DISCOUNT !

LOGIN TO THE MEMBERS' AREA OF
THE WEBSITE FOR THE DISCOUNT CODE

ON ALL OXFORD UNIVERSITY PRESS INTERNATIONAL CRIMINAL LAW TITLES



OPINION PAPER



Digital Evidence: Challenges for the Defence

By Elena Favaro Viana (BA, LLB, Adv LLM) and Sara Pedroso (JD, LLL, Adv LLM), members of the defence team of Charles Blé Goudé at the International Criminal Court.

The views expressed below are their own.

The defense cannot cross-examine a computer program
L. Freeman

1. Introduction

Life has never been so documented - and atrocity crimes are no exception. Faced with rapidly evolving digital and forensic technologies, international criminal courts and tribunals are increasingly confronted with new types of digital evidence, presenting both opportunities and challenges for international investigators, litigators, and judges alike. With the pervasiveness of the Internet, accessible means of communications, recording devices, and social media platforms, it is only normal that evidence derived from these sources is increasingly being used in investigations and at trial. The collection and use of digital evidence poses particular challenges for the defence and raises fundamental principles of fairness and equality of arms.

2. Digital evidence at the International Criminal Court

What is digital evidence? Digital evidence is information and data which is valuable to an investigation that can be stored, received and/or transmitted via electronic devices. This type of documentary evidence may include photographs, video and audio recordings, audio enhancement and voice identification evidence, e-mails, various forms of

metadata such as call detail records, social and new media, as well as information collected from publicly available sources, such as satellite images from Google Earth and YouTube videos.

The ICC statutory framework does not provide definitive guidance with respect to the admission of evidence, which led the Appeals Chamber to determine that trial judges have a measure of discretion in this regard. One approach endorsed by the Appeals Chamber, which a number of ICC Trial Chambers have adopted, is to allow parties and participants to submit evidence during the proceedings while reserving the determination on relevance or admissibility at the end of trial. This approach has led to an increase in the use of documentary and digital sources as direct evidence, challenging the status of *viva voce* evidence as the prevailing form in international criminal trials.

3. Challenges for the defence

Digital evidence poses particular challenges for the defence, and raises fundamental issues of fairness and equality of arms. First, digital evidence is inherently volatile; it can be more easily manipulated



or tampered with, whether intentionally or unintentionally and requires a high level of expertise in order to record, maintain, and interpret the chain of custody. This volatility is exacerbated in the international criminal context, where cases arise from post-conflict situations and more unknown variables are at play that risk corrupting the chain of custody. In contrast to non-digital forms of evidence, the chain of custody of digital evidence is more difficult to create and maintain and often requires high levels of expertise, posing considerable challenges for the defence, who may lack the resources needed to contest the authenticity or reliability of digital evidence.

Second, another characteristic of modern criminal investigations is the sheer volume of data being generated. This not only poses challenges for evidence management, but also with respect to complying with procedural obligations such as redactions and disclosures. With data being produced from digital sources at overwhelming rates – of which not all will necessarily become evidence or serve the investigations – a significant amount of resources is required to process that evidence. The amount of digital data used in international prosecutions at the Court will continue to grow exponentially as our attachment and integration with digital devices continues to grow. While this may be a blessing for the Prosecution's 'truth seeking' mandate, it also risks overloading the defence with digital evidence it does not necessarily have the means to challenge.

Third, the burden of demonstrating the authenticity and reliability of documentary evidence lies with the party seeking its admission; however, given the ICC Chambers' permissive approach to submitting and admitting evidence, there is a noticeable shift in burden placed on the defence to challenge the admissibility and relevance of evidence submitted by the Prosecution. For example, when edited video evidence or call data records are presented by the Prosecution, the burden should lie on the Prosecution to demonstrate, at a reasonable minimum, that the images have not been falsified, staged, or tampered with and that call data logs are authentic; however, defence parties have often raised the apparent shift of burden of the defence having to challenge these types of evidence in light of the low submission and admissibility threshold applied by the Chambers.

"WHEN EDITED VIDEO EVIDENCE OR CALL DATA RECORDS ARE PRESENTED BY THE PROSECUTION, THE BURDEN SHOULD LIE ON THE PROSECUTION TO DEMONSTRATE, AT A REASONABLE MINIMUM, THAT THE IMAGES HAVE NOT BEEN FALSIFIED, STAGED, OR TAMPERED WITH"

For instance, in *Bemba et al.*, the defence raised on appeal, among others, the trial Chamber's incorrect reliance on metadata produced by digital evidence to authenticate that same evidence, and the Chamber's failure to rule on the reliability of digital evidence other than detention unit communications. This uncertainty and apparent shifted burden raises serious concerns with respect to equality of arms – both structural and material – which are fundamental components of a fair trial.

Fourth, as raised above, there is a need for specialized knowledge for the defence to interpret and challenge digital evidence; defence teams often lack the scientific expertise to properly assess and counter the Prosecution's evidence, particularly when it comes to digital forensics. This requires substantial financial resources due to the high cost of such expertise. Understanding how to exploit, manipulate and test the credibility and admissibility of digital evidence is a skill all investigators and lawyers should have and understand. Unlike the Prosecution who have the means to retain experts and provide training, the defence is not on an equal playing field. Simply, if you do not know the science behind it, how do you confront it? The imbalance in material resources is a threat to the fair trial rights of the accused and is ever more pertinent in relation to digital evidence.



"THE ROLE OF DIGITALLY SOURCED EVIDENCE WILL ONLY INCREASE AND IS FINDING ITSELF AT THE FOREFRONT OF INTERNATIONAL PROSECUTIONS AND LITIGATION AT THE COURT "

This is prevalent when it comes to testing bias in both software –which is increasingly used to make forensic calculations – and digital platforms, which often require forensic experts to testify as to the collection, registration, encryption and securing of digital evidence. Engaging with digital forensics can seem daunting to parties’ and judges alike. For example, open source digital platforms such as Google Earth and Facebook posts raise questions as to how the creators, technicians and manufacturers of these platforms have stored, received or transmitted the evidence in the first place and how the defence is meant to cross-examine this evidence.

There are few authoritative decisions – and many missed opportunities – outlining the criteria (*ie.* authenticity, reliability) for admission of digital evidence, whereby Chambers have regrettably disregarded those issues leaving us with little to no direction. For instance, there was a missed opportunity in *Bemba et al.*, concerning four Facebook photos which were introduced by the Prosecution as corroborative evidence. The Trial Chamber held they could be admissible as they derived from an open source material and were thus, *prima facie*, authentic and reliable. In the end, the Chamber was not prompted to rule on their admissibility.

Another missed opportunity presented itself in the *Al Mahdi* case involving a screenshot from Google Earth. The defence did not question the authenticity of the document, which led to its admission in conjunction with a guilty plea, ultimately bypassing an opportunity

for Chambers to rule on its admissibility. This leaves a risk for allowing volumes of digital evidence to enter a case record without any conclusive guidance to determine the quality or authenticity of the evidence. The uncertainty is a cause for concern and a decision on this matter would be a welcome advancement.

4. Conclusion and recommendations

The role of digitally sourced evidence will only increase and is finding itself at the forefront of international prosecutions and litigation at the Court. There are hopes with the arrest warrant issued on 15 August 2017 against Mahmoud Mustafa Busayf Al-Werfalli, based largely on social media evidence, that Chambers won't shy away from the next opportunity to firmly provide some guidance. It has become ever more paramount for all actors involved to become familiar with the rapidly-changing landscape of digital evidence in international criminal law. In order to ensure fairness and equality of arms, the defence should be provided the means to collect, interpret and challenge digital evidence. This could include providing the defence with training opportunities or access to a roster of ICC experts, involving the defence at the early stages of the Prosecution's investigations, and ensuring a proper budget allocation, which would require recognizing the defence as an integral pillar of international criminal justice at the Assembly of State Parties. The Court cannot function fairly and efficiently without the defence being an equal playing partner.

Sources and further reading:

Lindsay Freeman, ‘**Digital Evidence and War Crimes Prosecutions: The Impact of Digital Technologies on International Criminal Investigations and Trials**’, 41 *Fordham International Law Journal* 2 (2018) 283.

P. Amann and M. P. Dillon, ‘**Electronic Evidence Management at the ICC: Legal, Technical, Investigative and Organizational Considerations**’, in A. Babington-Ashaye, A. Comrie and A. Adeniran, *International Criminal Investigations*, Eleven international publishing (2018).

International Bar Association Report, ‘**Evidence Matters in ICC trials**’ (August 2016), is available [here](#).



EVENTS AND NOTIFICATIONS

IBA Survey on Harassment and Bullying

The International Bar Association is conducting an anonymous survey on bullying and harassment in the legal profession. The ICCBA encourages all its members to participate to ensure the views of independent practitioners at the international courts are included. The survey is available [here](#).

The Role of Law in Development: steady beacon or mere sham?

Date: 29 June 2018

Location: Leiden University, Leiden

For more information, click [here](#).

Heritage Destruction, Human Rights and International Law

Date: 27 August 2018

Location: Leiden University, The Hague

For more information, click [here](#).

Current Issues in Armed Conflict Conference

Date: 29 June 2018

Location: TMC Asser Instituut, The Hague

For more information, click [here](#).

International Criminal Law : From Theory to Practice

Date: 2-13 July 2018

Location: Leiden University, The Hague

For more information, click [here](#).

Comparative Foreign Relations Law: Methodology, Common Themes, and the Future of the Field

Date: 30 June 2018

Location: Leiden Law School, Leiden

For more information, click [here](#).

Religion and Ethnicity on the International Bench

Date: 4-5 October 2018

Location: Leiden University, The Hague Campus

For more information, click [here](#).

International Law in the Picture: images, advocacy and stardust of justice

Date: 10 July 2018

Location: TMC Asser Instituut, The Hague

For more information, click [here](#).

IBA Annual Conference 2018

Date: 07 October 2018

Location: Rome, Italy

For more information, click [here](#).





ARTICLES

Lindsay Freeman, (2018) "**Digital Evidence and War Crimes Prosecutions: The Impact of Digital Technologies on International Criminal Investigations and Trials**", 41 Fordham Int'l L.J. 283.

Beth Van Schaak (2018), "**The Iraq Investigative Team and Prospects for Justice for the Yazidi Genocide**", *Journal of International Criminal Justice*, Volume 16, Issue 1, Pages 113–139

William St-Michel, Chloé Grandon, and Marlene Y. Haage (2018), "**Strengthening the Role of Defence at the International Criminal Court: Reflections on How Defence is and Can Be Supported for Greater Effectiveness and Efficiencies**", *International Criminal Law Review*, Volume 18, Issue 3, pages 517 – 539

Olivera Simić (2018), " **'I Would Do the Same Again', In Conversation With Biljana Plavšić**", *International Criminal Justice Review*

Jan Kleijssen and Pierluigi Perri (2016), "**Cybercrime, Evidence and Territoriality: Issues and Options**", Netherlands Yearbook of International Law, Volume 47, pp. 147-173.

Rosemary Grey (2017), "**The ICC's First 'Forced Pregnancy' Case in Historical Perspective**", *Journal of International Criminal Justice*, Volume 15, Issue 5, Pages 905–930.

Melissa Conway (2018), "**Ordering individual criminal responsibility: proposing a hierarchy of the modes of liability**", *Cambridge Journal of International Law*, Volume 7, Issue 1, Pages 51–76.

BOOKS

Adejoké Babington-Ashaye, Aimée Comrie, and Akingbolahan Adeniran (eds.) (2018), **International Criminal Investigation**, Eleven International Publishing

Diane Orentlicher (2018), **Some Kind of Justice, The Impact of the ICTY in Bosnia and Serbia**, Oxford University Press

Orna Ben-Naftali, Michael Sfard, Hedi Viterbo (2018), **The ABC of the OPT**, Cambridge University Press

Lachezar D. Yanev (2018), **Theories of Co-perpetration in International Criminal Law**, Brill/Nijhof

Jonathan Hafetz (2018), **Punishing Atrocities Through a Fair Trial**, Cambridge University Press

Yishai Beer (2018), **Military Professionalism and Humanitarian Law**, Oxford University Press.

Joanna Nicholson (2018), **Organizing Rebellion, Non-State Armed Groups under International Humanitarian Law, Human Rights Law, and International Criminal Law**, Oxford University Press.

