

Strengthening National Justice for Core International Crimes: Laws, Procedures and Practices in an Age of Legal Pluralism

Het Spaansche Hof, The Hague, on Tuesday 28 June 2016 from 10:00 to 18:00

National justice actors face a breadth of choices in determining, pursuing and assisting justice efforts for conduct that may amount to core international crimes. The decisions they take often occur in the context of conflict or transition, where the national executive, judiciary, legislature and civil society operate under a myriad of opposing pressures as well as restricted material resources. Against this backdrop, choices are made regarding the types of fora or jurisdictions, the necessity for legal reforms and the situations or specific violations to address. Decisions are taken on the standards and procedures of evidence collection, security measures for investigators, victims and witnesses. The veracity of evidence is analysed to determine the classification of conduct as well as criminal responsibility, before cases, communications or complaints are submitted, heard or defended and judgments or decisions rendered.

Operating in quite different circumstances, the ICC has jurisdiction to investigate and prosecute the perpetrators of core international crimes in the 124 States that have ratified its Statute and those that are brought before it by Security Council Referral or by their own declaration. Established to provide the highest standards of international criminal justice, the ICC is considered to be a Court of last resort. Yet, it also faces constraints, including its powers of investigation and co-operation, as well as with regard to its operational capacity, which limits its resources/capability to act in all situations where its jurisdiction can be established.

Furthermore, the Court's early admissibility jurisprudence has shown greater flexibility in interpreting national substantive and procedural laws that do not mirror its own Statute. In these conditions, access to coherent and comprehensive sources of law as well as knowledge and tools to navigate the options become part of the prerequisites to meaningful access to the process of justice for national actors as well as the ICC. This conference will analyse some of the challenges faced by justice actors working at different stages of accountability processes, as well as the measures being taken to address them.

Registration

Registration for the conference is now closed.

Live streaming

All of the sessions will be live streamed via <http://cmnicjtoolkits.org>.

Questions

Questions should be addressed to ICJToolkits@casematrixnetwork.org.

Programme

(Simultaneous interpretation between English and French will be provided)

10:00 Registration, tea and coffee

Opening Session: Introducing the Conference and Its Subject-Matter

10:30 *Welcome Remarks*

- Ambassador Anniken R. Krutnes (Norwegian Embassy in The Hague)

10:40 *Methods and Purpose of the Conference and the ICJ Toolkits*

- Mr. Ilia Utmelidze (Director, CMN) and Dr. Emilie Hunter (Deputy Director, CMN)

11:00 Session 1:

Ratification, Implementation and Co-operation of the ICC Statute

Chair: Ms. Kirsten Meersschaert (Director of Programs, Coalition for the ICC)

11:05 *Navigating the Challenges of Ratification and Implementation of the ICC Statute: The CMN General Guidelines*

- Professor Olympia Bekou (Professor of Public International Law, University of Nottingham; Deputy Director, CMN)

11:25 *Criminal Justice Reform in Sierra Leone*

- Mr. Sulaiman Bah (Director of Public Prosecutions, Ministry of Justice, Sierra Leone)

11:45 *The Draft Co-operation Code in El Salvador*

- Ms. Romina Morello (Legal Advisor, Parliamentarians for Global Action)

12:05 *The ICC Co-operation Law and Its Implementation in Georgia*

- Mr. Givi Baghdavadze (Head of International Relations Division, Attorney General's Office, Georgia)

12:25 *Questions and Answers*

12:45 Lunch

14:00

Session 2:

Case Mapping, Selection and Prioritisation

Chair: Professor Olympia Bekou (Deputy Director, CMN)

14:05 *Criteria for Selection and Prioritisation for Core International Crime Cases*

- Mr. Ilia Utmelidze (Director, CMN)

14:25 *Selection and Prioritisation Issues Before the ICC*

- Dr. Rod Rastan (Legal Advisor, Office of the Prosecutor, ICC)

14:45 *Mapping Sexual and Gender Based Violence Cases in DRC: The need for Selection and Prioritisation Criteria?*

- Mr. Papy Ndongboni (Consultant on Monitoring Judicial Activities on Sexual Violence, UNDP) *presentation in French*

15:05 *Selection and Prioritisation in the Context of Preliminary Examinations*

- Professor Carsten Stahn (Professor of International Criminal Law and Global Justice, Leiden University)

15:25 *Questions and Answers*

15:45 Tea and coffee break

16:05

Session 3:

Investigation, Fact-Finding and Documentation

Chair: Dr. Vladimir Tochilovsky (Member, UN Working Group on Arbitrary Detention)

16:10 *Strengthening the Investigation, Fact-Finding and Documentation of Possible Core International Crimes*

- Dr. Emilie Hunter (Deputy Director, CMN)

16:30 *The Challenges of NGO Documentation in New or Unchartered Contexts: The example of Mexico*

- Dr. José Antonio Guevara (Director, Mexican Commission for the Defence and Promotion of Human Rights - CMDPDH) *by video link*

16:50 *Analysing Diverse Communications During Preliminary Examinations*

- Dr. Emeric Rogier (Chief of Situation Analysis Section, Office of the Prosecutor, ICC)

17:10 *Developing Good Investigation Practices at National and International Levels*

- Dr. William Wiley (Director, Commission for International Justice and Accountability)

17:30 *Questions and Answers*

17:50

Concluding Remarks

Biographies

Welcome remarks:

Ambassador Anniken Ramberg Krutnes (Ambassador, Norwegian Embassy in The Hague)

Ambassador Krutnes has been the Norwegian Ambassador to the Netherlands since September 2011, and Luxembourg from 2012. Ambassador Krutnes was the Facilitator of the Informal Working Group on Cooperation of The Hague Working Group from February 2012 until December 2015. She has held a variety of positions in the Norwegian Ministry of Foreign Affairs in Oslo – including in the Legal Department. Previously posted to the Norwegian Embassy in Madrid and the Norwegian Delegation to the Council of Europe in Strasbourg, before assuming the position of Ambassador in The Hague, she held the position of Director-General for External and Internal Services within the Ministry.

Session 1: Ratification, Implementation and Co-operation of the ICC Statute

Ms. Kirsten Meersschaert (Director of Programs, Coalition for the ICC)

Kirsten Meersschaert is an experienced advocate on international justice issues, with a special focus on the workings of the ICC and the Rome Statute system. She is Director of Programs of the Coalition for the International Criminal Court (CICC), where she provides strategic guidance for the Coalition's campaigns and activities. The CICC is an international network of 2,500 civil society organisations in 150 different countries, working in partnership to deliver justice to victims of war crimes, crimes against humanity and genocide, through working to ensure universal ratification; effective domestic legislation; States' and regional organisations' support for the ICC and for the integrity of the Rome Statute; and fulfilment of the principle of complementarity whereby states retain the primary responsibility to investigate and prosecute perpetrators of these crimes. As Director of Programs of the World Federalist Movement-Institute for Global Policy, which houses the Secretariat of the CICC, Kirsten also oversees its 'sister' program, the International Coalition for the Responsibility to Protect (ICRtoP). The ICRtoP brings together NGOs from all regions of the world to strengthen normative consensus for RtoP, further the understanding of the norm, push for strengthened capacities to prevent and halt genocide, war crimes, ethnic cleansing and crimes against humanity. Prior to joining the WFM-IGP/CICC in 2007, Ms. Meersschaert worked in international development as a consultant on projects funded by the World Bank, USAID, the European Union, regional development banks, and various national governments.

Prof. Olympia Bekou (Deputy Director, CMN; Professor of Public International Law, University of Nottingham)

Olympia Bekou is Professor of Public International Law and Head, International Criminal Justice Unit, University of Nottingham Human Rights Law Centre. A qualified lawyer, she specialises in international criminal law. Olympia has undertaken numerous capacity-development missions, including in post-conflict situations (such as Uganda, the DRC and Sierra Leone), has provided legislation drafting assistance to Samoa (with legislation enacted in November 2007) and Jamaica, and has been involved in training the Thai judiciary. Olympia is responsible for the National Implementing Legislation Database (NILD) of the ICC Legal Tools Project and has taught extensively worldwide. In 2014, she was awarded the University of Nottingham Knowledge Exchange and Innovation Award for Societal Impact in Social Sciences for her work 'Fighting Impunity through Technology: Strengthening the Capacity of National and International Criminal Justice Institutions to Investigate and Prosecute the Most Serious International Crimes'. She is a member of the Advisory Board and Editor of the Forum of International Criminal and Humanitarian Law and is also a member of the Board of Civitas Maxima.

Mr. Sulaiman Bah (Director of Public Prosecutions, Ministry of Justice, Sierra Leone)

Sulaiman Bah holds an LLB (Honours) Degree from Fourah Bay College, University of Sierra Leone and was called to the Bar in September 1994. In 2001, he obtained an LLM Degree in International Criminal Law from the University of Sussex and, in 2009, became a British Chevening Fellow in Implementing Human Rights Conventions at the University of Nottingham. Upon call, he joined the Law Officers' Department, Office of the Attorney General and Minister of Justice as Temporary State Counsel. He rose through the ranks and attained the position of Principal State Counsel in 2007. In May 2011, he was appointed the Acting Director of Public Prosecutions; a position he held until this June 2016, when the President of Sierra Leone appointed him as the Director of Public Prosecutions. He is Commissioner for Oaths

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and a Notary Public, a Lecturer of Criminal Procedure and Practice at the Sierra Leone Law School and a Commissioner at the Law Reform Commission.

Ms. Romina Morello (Legal Advisor, Parliamentarians for Global Action)

Romina Morello is Officer-in-charge of the Parliamentarians for Global Action (PGA) Hague Office and is the PGA representative to the ICC and the diplomatic community in The Hague. As PGA Legal Advisor of the International Law and Human Rights Program, she provides technical assistance and political advice to parliamentarians working on ratification and implementation of the Rome Statute. She also promotes the creation of parliamentary multi-partisan support at national level, in order to foster, strengthen and adopt national implementing legislation of the Rome Statute, as well as to gather political support towards the integrity of the Rome Statute and the functioning of the ICC. She has drafted the PGA Reference Law on Cooperation with the ICC for Latin American countries, which is being tabled in two countries and is under consideration in others. Moreover, she advocates for the ratification and implementation of the Kampala Amendments to the Rome Statute worldwide. Prior to joining PGA, Romina worked in the Prosecution of Cordoba, Argentina as well as in advocacy and outreach with an important environmental NGO. She is a qualified lawyer in Argentina and has been a visiting Assistant Professor of International Criminal Law in the Law Faculty at Universidad Católica de Córdoba.

Mr. Givi Baghdavadze (Head of International Relations Division Attorney General's Office, Georgia)

Givi Baghdavadze heads the international judicial cooperation team in the Office of the Attorney General of Georgia. In his current and previous capacity, he has advised the war crimes investigations team in the Prosecution Service of Georgia. For three years he was the principal liaison for the International Criminal Court in the process of preliminary examination into the situation in Georgia. Givi holds LL.M. from the Universities of Utrecht, Rotterdam and Haifa, and MA in Law and Economics from the University of Bologna.

Session 2: Case Mapping, Selection and Prioritisation

Mr. Ilia Utmelidze (Director, CMN)

Ilia Utmelidze is the Director of the CMN. He is involved in all CMN activities, particularly the development of CMN tools and services. He is a Senior Legal Adviser to the newly established Norwegian Human Rights Institution, and is an adviser to the Norwegian Helsinki Committee on methodologies and tools for documentation of mass atrocities. Formerly, he served as Legal Adviser in the Human Rights Department of the Organization of Security and Cooperation in Europe's Mission to Bosnia and Herzegovina, working on transitional justice and institution-building in domestic war crimes prosecution mechanisms (including the development of a national strategy for war crimes prosecution), specialised investigative commissions for Srebrenica and Sarajevo, and the reform of ombudsman institutions.

Dr. Rod Rastan (Legal Advisor, Office of the Prosecutor, ICC)

Rod Rastan serves as a Legal Advisor in the Office of the Prosecutor at the International Criminal Court, where he deals with international law issues, in particular in relation to jurisdiction, admissibility and judicial assistance. Prior to joining the ICC, he worked for several years in the area of human rights, rule of law, and mediation with United Nations missions in Bosnia and Herzegovina, East Timor and Cyprus as well as with field presences of the European Union and the Organisation for Security and Cooperation in Europe. He also participated in the negotiation of the ICC Statute and Rules of Procedure and Evidence. He holds a PhD in Law from the London School of Economics, has published and lectured on international criminal law, and is a member of the editorial board of the Criminal Law Forum.

Mr. Papy Ndongboni (Consultant on Monitoring Judicial Activities on Sexual Violence, UNDP)

Papy Ndongboni is a lawyer at the Kinshasa/Gombe Bar since 2000. He is currently working as a consultant for the UN Joint Human Rights Office, on its Programme for access to justice for victims of sexual and gender-based violence. Previously, he coordinated the DRC ASF programme of international justice and fight against impunity for international crimes as an expert, as well as acted as an advisor in the DRC Ministry of Justice and Human Rights, monitoring a joint programme between the Ministry, the UN Joint Human Rights Office and the UND.

Prof. Carsten Stahn (Professor of International Criminal Law and Global Justice, Leiden University)

Carsten Stahn is Professor of International Criminal Law and Global Justice and Programme Director of the Grotius Centre for International Studies (The Hague). He has previously worked as Research Fellow at the Max Planck Institute for Comparative Public Law and International Law (2000-2003), as Legal Officer in Chambers of the ICC (2003-2007) and as Reader in Public International Law and International Criminal Justice at Swansea University. He obtained his PhD degree (summa cum laude) from Humboldt University Berlin after completing his First and Second State Exam in Law in Germany. He holds LL.M. degrees from New York University and Cologne/Paris I (Panthéon-Sorbonne). He is author of *The Law and Practice of International Territorial Administration: Versailles to Iraq and Beyond* (Cambridge University Press, 2008/2010), which received the Ciardi Prize 2009 of the International Society for Military Law and the Law of War. He is widely published in different fields of international law and has edited several collections of essays in the field. Amongst his most recent books are *The Law and Practice of the International Criminal Court* (OUP, 2015) and *Jus Post Bellum: Mapping the Normative Foundations* (OUP 2014).

Session 3: Investigation, Fact-Finding and Documentation

Dr. Vladimir Tochilovsky (Member, UN Working Group on Arbitrary Detention)

Vladimir Tochilovsky is a member of the United Nations Working Group on Arbitrary Detention since 2010. Between 1994 and 2010, he was a Trial Attorney and Investigation Team Leader at the International Criminal Tribunal for the Former Yugoslavia, as well as chaired the Indictments Review Committee in the Office of the Prosecutor of the ICTY and developed Regulations for the OTP. He was also an official representative of the ICTY to the UN negotiation process to establish the ICC and a member of the selected group of experts that prepared recommendations for the ICC. Prior to joining the ICTY, Vladimir was a Deputy Regional Attorney for judicial matters in Ukraine between 1987 and 1994. As a PhD holder, he was also a visiting Professor of Law at Mechnikov National University, Odessa, Ukraine (1991–1994). He is the author of several professional publications on international criminal justice and human rights in criminal justice. As an expert of the International Expert Framework for the Codification of International Criminal Procedure, Vladimir is also a Senior Adviser for the Case Matrix Network.

Dr. Emilie Hunter (Deputy Director, CMN)

Emilie Hunter is Deputy Director of CMN. She leads CMN's activities with national actors in areas of documentation and fact-finding, selection and prioritisation of cases, and implementation of core international crimes legislation. She has delivered in-depth training and capacity development programs to a range of justice actors in more than 14 countries, including the Colombia, Costa Rica, Georgia, Guatemala, Indonesia, Iraq, Mexico, Sierra Leone and Uganda. Emilie has provided research for parties undergoing ICC admissibility challenges and has been a litigant in universal jurisdiction cases. She has ten years experience of implementing capacity building and technical assistance projects in criminal and transitional justice, working for UN-OPS in Iraq and for the University of Nottingham Human Rights Law Centre (HRLC). Emilie has a PhD from the European University Institute (Florence, Italy) and LL.M. in International and Comparative Law from the EUI and School of Oriental and African Studies. She was Co-Convenor of the EUI International Criminal Law Working Group (2009-2013); HRLC Fellow (2010-2015) and Visiting Researcher at the New York University (2011) and University of Georgetown (2015).

Dr. José Antonio Guevara Bermúdez (Director, Mexican Commission for the Defence and Promotion of Human Rights)

José Guevara holds a degree in Law from the Ibero-American University and a PhD from the University Carlos III of Madrid. He is a member of the National System of Researchers (Level I), and has authored an important number of publications, as well as lectured and participated in several conferences on human rights, international criminal law, and international humanitarian law both in Mexico and abroad. José has held various positions with relevant responsibility in the field of human rights in academic, autonomous, governmental and non-governmental organisations. Currently, he is the Executive Director of the Mexican Commission for the Defense and Promotion of Human Rights and, since June 2014, a Member of the Working Group on Arbitrary Detention of the Human Rights Council of the Organization of the United Nations.

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Dr. Emeric Rogier (Chief of Situation Analysis Section, Office of the Prosecutor, ICC)

Emeric Rogier has been a staff member of the Office of the Prosecutor (OTP) of the International Criminal Court since November 2005. He currently fulfils the functions of Head of the Situation Analysis Section (SAS) within the Jurisdiction, Complementarity and Cooperation Division of the OTP and as such, he supervises all preliminary examination activities of the OTP. Prior to joining the ICC, Emeric Rogier was a Senior Research Fellow at the Netherlands Institute of International Relations ‘Clingendael’. He holds a PhD in international relations from the Graduate Institute of International Studies (University of Geneva).

Dr. William Wiley (Director, Commission for International Justice and Accountability)

Dr William (Bill) Wiley is a Canadian citizen with nineteen years’ experience as a practitioner in the field of International Criminal and Humanitarian Law (ICHL) secured in the Middle East (e.g., Iraq, Syria), Central Africa (e.g., Rwanda) and Eastern Europe (e.g., the former Yugoslavia). He is the founder and director of the non-profit Commission for International Justice and Accountability (CIJA), a criminal-investigative body with the principal mission of preparing dossiers to a criminal law-standard of evidence in response to allegations of war crimes and crimes against humanity perpetrated by the belligerent parties to the Syrian and other conflicts. Wiley previously served with the Crimes Against Humanity and War Crimes Section of the Department of Justice of Canada as well as the Offices of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the International Criminal Court. He was additionally a legal adviser at the Iraqi High Tribunal during the trials of Saddam Hussein and other senior Baathist leaders and, in an earlier life, Wiley served as an infantry officer in the Canadian Army.