



Forum for International
Criminal and Humanitarian Law

Programme:

09:00 *Welcome and introduction*, by Siri Frigaard¹ (Chief Public Prosecutor, Norwegian National Authority for Prosecution of Organised and Other Serious Crimes).

09:05 *Welcome*, by Stein Tønnesson² (Director, PRIO).

Session 1:

The relevancy and context of criteria for the selection and prioritization of core international crimes cases

09:10 *The seminar theme and why it is relevant: the notions of 'case prioritization' and 'prioritization criteria'*, by Morten Bergsmo³ (Senior Researcher, PRIO).

09:20 *The importance for states and the international community of the quality of the criminal justice process for atrocities, in particular of the exercise of fundamental discretion by key justice actors*, by Rolf Einar Fife⁴ (Director-General, Legal Department, Norwegian Ministry of Foreign Affairs).

Session 2:

Selection and prioritization criteria for core international crimes cases in a few jurisdictions

09:50 *Introduction by the session moderator*, by Julija Bogoeva⁵ (Analyst, ICTY).

¹ **Siri Frigaard** is has been the chief public prosecutor and director of the Norwegian National Authority for Prosecution of Organized and Other Serious Crime since August 2005, when this office was established. The office is also responsible for the investigation and prosecution of special international crimes, such as war crimes, genocide and crimes against humanity. Prior to this appointment, she was the deputy director of the National Criminal Investigation Service (NCIS) in Norway, from May 2003. She has been a public prosecutor in Norway since 1985, and chief prosecutor and deputy director for the regional prosecution office in Oslo since 1993. She has also served as acting director of this office. Previously, she worked as an assistant chief of police and prosecutor with the Oslo Police Department for about six years, primarily in charge of the investigation of organized drug trafficking. From January 2002 until May 2003, she was deputy general prosecutor for serious crimes in East Timor in charge of the investigation and prosecution of the crimes committed in 1999. She also served as a prosecutor and special legal adviser to the general prosecutor of Albania from June 1999 to October 2001. She has represented Norway on different committees at the European Council in Strasbourg and in the Baltic Sea Co-operation concerning international legal aid.

² **Dr. Stein Tønnesson** is Director of the International Peace Research Institute, Oslo (PRIO). He was trained as a historian, and has in particular worked on East Asia. His doctoral thesis, defended at the University of Oslo in 1991, was on the international history of the Vietnamese revolution in 1945, and he is currently working on a manuscript for the University of California Press on *Vietnam 1946: How the War Began*. As Director of PRIO he is engaged in dialogue work in Cyprus, studies of energy dependence and Middle East policies, of global counter-terrorist strategies, and of the causes behind global and regional trends towards less and less murderous warfare. He currently intends to set up a research project on how to explain the relative peace in East Asia since 1979.

³ **Morten Bergsmo**, Senior Researcher, International Peace Research Institute, Oslo (PRIO) (2006-); formerly Senior Legal Adviser and Chief of the Legal Advisory Section, Office of the Prosecutor, ICC (2002-05); Legal Adviser, ICTY (1994-2002); Legal Adviser, UN Commission of Experts for the Former Yugoslavia established pursuant to UNSC resolution 780 (1992) (1993-94); represented the ICTY to the UN negotiation process to establish the ICC (1996-2002). He has advised on core international crimes investigation and prosecution processes in several countries, including Bosnia and Herzegovina, Cambodia, Canada, Denmark, Indonesia, Macedonia, the Netherlands and Serbia, and has had several international consultancies in international criminal justice. He has published extensively in international criminal law.

⁴ **Rolf Einar Fife** is Director General, Legal Affairs Department, Royal Norwegian Ministry of Foreign Affairs.

⁵ **Julija Bogoeva** has a law degree from the University of Belgrade from the time Yugoslavia existed as a federation. As a journalist for more than two decades she covered also legal issues, the federal legislature and the judiciary. From the establishment of the ICTY in 1993 her focus is on war crimes, international criminal justice and the reaction in territorial states. In 1996 she started reporting from the ICTY, 1998-2002 daily as a correspondent. In 2002, she joined the ICTY Office of the Prosecutor as an Analyst in the Leadership Research Team.

- 09:55 *Case selection and prioritization criteria in the work of the International Criminal Tribunal for the Former Yugoslavia*, by Claudia Angermaier⁶ (Candidate Judge, formerly Assistant Legal Adviser, ICC).
- 10:15 *Case selection and prioritization criteria at the International Criminal Court*, by Paul Seils⁷ (Senior Analyst, Office of the Prosecutor, ICC).
- 10:35 *Case selection and prioritization criteria at the International Criminal Tribunal for Rwanda*, by Alex Obote-Odora⁸ (Chief, Appeals and Legal Advisory Division, Office of the Prosecutor, ICTR).
- 10:45 Break
- 10:55 *The ‘Orientation Criteria’ document in Bosnia and Herzegovina*, by Zekerija Mujkanović⁹ (Chief Prosecutor, District of Brčko).
- 11:10 *Remarks on case selection and prioritization criteria from the perspective of war crimes processes in*
- *Argentina*, by Mirna Goransky¹⁰ (Prosecutor of the National General Prosecution Office appointed to the Special Unit to Investigate Human Rights Crimes during the 1976-83 Dictatorship);
 - *Bosnia and Herzegovina*, by Milorad Barašin¹¹ (Deputy Chief Prosecutor, Prosecutor’s Office of Bosnia and Herzegovina);

⁶ **Claudia Angermaier** holds a doctorate in law from the University of Vienna, in addition to a Bachelor of Arts from the University of the Witwatersrand in South Africa. Formerly Assistant Legal Advisor of the Legal Advisory Section, Office of the Prosecutor, ICC (2004-05); Research Assistant, Criminal Law Department, University of Vienna (2002-04); Country Manager for the FRY, International Centre for Migration Policy Development (2002). She researched selection criteria in international criminal justice when she worked for the ICC.

⁷ **Paul Seils** is the Head of the Situation Analysis Section of the Office of the Prosecutor of the ICC. His section is responsible for all matters relating to considerations of admissibility and the interests of justice in the ICC-OTP. He took up his position of Senior Analyst in August 2004. He was previously a Senior Associate at the International Centre for Transitional Justice in New York (2001-2004) and Legal Director of Centre for Legal Action on Human Rights in Guatemala (1997-2001). He began work as a criminal defence lawyer in Scotland in 1991. He has directed investigations into mass crimes committed in internal conflict and advised several governments and other agencies on policy options in relation to accountability for such crimes in the context of political transitions. He has worked in a number of different situations including Guatemala, Peru, Colombia, East Timor, Afghanistan and DRC and published several articles on related issues.

⁸ **Alex Obote-Odora** is Chief of Appeals and Legal Advisory Division at the Office of the Prosecutor, International Criminal Tribunal for Rwanda. Mr. Obote-Odora holds a Doctor of Laws degree (LLD) in international criminal law from University of Stockholm (Sweden); a Master of Laws degree (LLM) in international Humanitarian Law from Stockholm University (Sweden); a Bachelor of Laws Degree (LLB)(Hons) from Makerere University (Uganda), a Post Graduate Diploma in Legal Practice from Law Development Centre (Uganda) and an Advocate of the Uganda Judicature.

⁹ **Zekerija Mujkanović**, Public Prosecutor of Brčko District of Bosnia and Herzegovina; Member of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina since March 2005. Graduated from the Law Faculty, University of Sarajevo, in 1984, passed the bar exam in 1997. His professional career in the justice sector started in 1994 as a judge in Municipal Court of Brčko. He was President of the Municipal Court of Brčko 1997-2001. He became Public Prosecutor of Brčko District in 2001. Mr. Mujkanović is also member of the Steering Board and Deputy President of the Association of Prosecutors of Bosnia and Herzegovina.

¹⁰ **Mirna Goransky** has a Law Degree from the University of Buenos Aires in Argentina. As a prosecutor of the Special Unit to Investigate Human Rights Crimes during the 1976-83 Dictatorship, she is in charge of the trials against those accused of crimes against humanity in the Navy School of Mechanics (Escuela de Mecánica de la Armada, ESMA) and Operation Condor. Previously she has worked on justice sector reform processes in Argentina and other countries working as a consultant for the Ministry of Justice of Argentina, the World Bank and USAID. She was a Criminal Law Professor in the University of Buenos Aires Law School from 1984 to 1998. Mirna Goransky is a founder member of the Argentine Association for Civil Rights (ADC) and the Institute for Comparative Studies on Criminal and Social Sciences (INECIP). She has published many articles on criminal law, human rights and justice sector and her most recent research project was a comparative study of prosecutor’s offices in Argentina, Chile and the United States.

¹¹ **Milorad Barašin** has a Law Degree from the University in Banja Luka. He took his bar examination in 1987 in Sarajevo, following which he worked as an Expert Associate at the Court of First Instance of Srbc and was subsequently appointed a Judge of the same Court. He worked in the Criminal Department, and in early 1992 was appointed Public Prosecutor in Srbc. In 2003, he started working as a Chief Cantonal Prosecutor at the Cantonal Prosecutor’s Office in Canton X (Livno Canton), remaining in that position until March 2007, when he was appointed Prosecutor of the Prosecutor’s Office of Bosnia and Herzegovina and immediately allocated to Team I of the Special Department for War Crimes. Later in 2007, he became Deputy Chief Prosecutor of the Prosecutor’s Office of Bosnia and Herzegovina. He has authored several publications on the judiciary and recently co-authored a publication on the topic of command responsibility.

- **Cambodia**, by Anees Ahmed¹² (Senior Assistant Prosecutor, United Nations Assistance to the Khmer Rouge Trials).
- **Canada**, by Terry Beitner¹³ (Director and General Counsel, Crimes against Humanity and War Crimes Section, Canadian Department of Justice);
- **Colombia**, by Maria Paula Saffon¹⁴ (Faculty Fellow, Columbia University);
- **Croatia**, by Vesna Terselić¹⁵ (Director, Documenta);
- **Indonesia**, by Fadillah Agus¹⁶ (Partner, FRR Law Office, Jakarta);
- **Rwanda**, by Martin Ngoga¹⁷ (Prosecutor General, Rwanda);
- **Serbia**, by Nataša Kandić¹⁸ (Director, Humanitarian Law Centre).

12:35 Discussion.

12:45 Lunch sandwiches at the seminar premises

Session 3: Key interests surrounding the use of criteria for selecting and prioritizing core international crimes cases

13:30 **Introduction by the session moderator**, by Refik Hodžić¹⁹ (ICTY Registry Liaison Officer).

¹² **Anees Ahmed** graduated in law from the London School of Economics where he was a Chevening Scholar. He is a Barrister of the Lincoln's Inn and an Advocate of the Supreme Court of India. He was recently a Visiting Fellow at the Institute of Advanced Legal Studies, London. He currently teaches international human rights law at the Royal University of Law and Economics (RULE) in Phnom Penh.

¹³ **Terry Beitner** has been the Director and General Counsel of the Crimes Against Humanity and War Crimes Section of the Department of Justice Canada since 2000. He is qualified to practice in both the Common Law and Civil Law jurisdictions of Canada. He is responsible for selecting those cases from among the Canadian inventory of war crimes matters under investigation by the Royal Canadian Mounted Police that may ultimately be put before the Attorney General of Canada with a recommendation that the Public Prosecution Service of Canada commence a criminal prosecution under Canada's Crimes Against Humanity and War Crimes Act. Since 2003, he delivers annual lectures at the Faculty of Law of the University of Ottawa on selected issues with respect to the application of the various remedies available to the Government of Canada under its Crimes Against Humanity and War Crimes Program to deal with the presence in Canada of individuals who may have been involved in the commission of war crimes or crimes against humanity. The War Crimes Section is involved in the application of all remedies employed by the Government of Canada when dealing with war crimes matters.

¹⁴ **Maria Paula Saffon**, Faculty Fellow in the Department of Political Science at Columbia University, she holds a bachelor (Magna Cum Laude) in law and an LL.M. degree of Universidad de Los Andes (Bogota, Colombia). She is an associate researcher of the Colombian Center for the Study of Law, Justice and Society (DeJuSticia). For several years, she was a law lecturer at Universidad de Los Andes and Universidad Nacional de Colombia. She does research on transitional justice, the rights of victims of atrocities, internal forced displacement, and international human rights, among others. She has published several articles on the subjects, as well as a co-authored book titled *Transitional Justice without transition? Truth, Justice and Reparations for Colombia*.

¹⁵ **Vesna Terselić**, Director of Documenta - Center for Dealing with the Past. Former Director of Center for Peace Studies, Zagreb and coordinator of Antiwar Campaign Croatia. Lecturer in peace and women's studies. In activist work focused on linking dealing with the past and peace building. Wide practical experience as a trainer and facilitator in conflict situations, mostly in Bosnia and Herzegovina, Croatia, Kosovo and Kirgizstan. Publications include handbooks on facilitation and mediation. Right Livelihood Award Laureate (1998) and Nobel Prize Nominee (1997).

¹⁶ **Fadillah Agus** is one of Indonesia's leading experts on international humanitarian law. He is currently working on his PhD at Padjajaran University, Bandung, on the topic of the application of IHL in internal armed conflicts. Fadillah is one of three partners in FRR Law Office in Jakarta, a law firm which he uses as his base for his human rights work in Indonesia, particularly training for the Indonesian Armed Forces. He lectures at the Syiah Kuala University in Banda Aceh and in De La Salle University in Manado. From 1998 to 2004 he worked as Legal Adviser for the ICRC in Jakarta. In 2005-06, Fadillah was a member of the inquiry team under the National Commission of Human Rights (KOMNAS HAM) investigating disappearances cases (abductions of activists) from the final days of Suharto's New Order regime that was toppled in 1998.

¹⁷ **Martin Ngoga**, Prosecutor General, Rwanda. Head of the Rwandan Committee overseeing issues related to the completion of the ICTR. Previously serving as the agent of Rwanda at the ICTR, and was Rwanda's Agent at the International Court of Justice in The Hague, where Rwanda won a lawsuit that had been filed by the DRC, alleging plunder of her natural resources.

¹⁸ **Nataša Kandić** is the Founder and Executive Director of the Humanitarian Law Center – a Belgrade-based human rights NGO. Tirelessly campaigning for truth and justice for victims, she leads the Humanitarian Law Center in its mission to assist post-Yugoslav societies to re-establish the rule of law and come to terms with the legacy of large-scale and systematic human rights violations. She advocates a regional approach to transitional justice and leads a regional debate on mechanisms of truth-finding and truth-telling in the Western Balkans. Nataša Kandić is a recipient of over 20 international, regional and national human rights awards. In 2000 she was a recipient of the Martin Ennals Award, a prestigious recognition for human rights defenders. Nataša Kandić was also listed by Time magazine as one of 36 European heroes in 2003. In 2004 the People in Need Foundation awarded Kandić and HLC their Homo Homini Award, presented by Vaclav Havel. In 2005 she was proclaimed an honorary citizen of Sarajevo, and Slobodna Bosna magazine named her Person of the Year in Bosnia and Herzegovina. In September 2006, Nataša Kandić became a member of the Order of the Croatian Morning Star of Katarina Zrinska, awarded by the President of Croatia to individuals who have made a significant contribution to the advancement of moral values. In November 2006, Time magazine celebrated Nataša Kandić as one of its heroes of the past 60 years.

- 13:35 ***The danger of selective justice: all core international crimes cases with sufficient evidence should be investigated and prosecuted if possible***, by Christopher K. Hall²⁰ (Senior Legal Adviser, International Justice Project, Amnesty International).
- 14:00 ***The time and resources required by criminal justice for atrocities and de facto capacity to process large backlogs of core international crimes cases: the limits of prosecutorial discretion and independence***, by Ilia Utmelidze²¹ (Legal Adviser, OSCE Mission to Bosnia and Herzegovina).
- 14:20 Discussion.

**Session 4:
Characteristics of effective criteria for
the prioritization of core international crimes cases**

- 14:30 ***Introduction by the session moderator***, by Mirsad Tokača²² (Founder and President of the Research and Documentation Center, Sarajevo).
- 14:35 ***Essential qualities of prioritization criteria: clarity and precision; public access; non-political and confidence-generating formulations; equal and transparent application; and effective enforcement***, by Claudia Angermaier.
- 14:55 ***Clusters of essential criteria:***
- ***Gravity of crimes and level of responsibility***, by Xabier Aguirre²³ (Senior Analyst, Office of the Prosecutor, ICC).
 - ***Practical and policy considerations***, by Vladimir Tochilovsky²⁴ (Trial Attorney, Office of the Prosecutor, ICTY).
 - ***Scope of prosecutions in proportion to the degree of victimization***, by Morten Bergsmo.

¹⁹ **Refik Hodžić**, ICTY Registry Liaison Officer, Sarajevo (2007-); formerly Spokesperson for Registry and Chambers, ICTY (September 2006 - September 2007); Executive Director, XY Films Production, Sarajevo, specializing in documentary films and television programs on war crimes committed during the conflicts in the former Yugoslavia (March 2004 - September 2006); Head of Public Information and Outreach Section Registry, Court of BiH (January 2005 - November 2005); Balkan Coordinator (Consultancy) for International Center for Transitional Justice (December 2005 - September 2006); Outreach Coordinator for Bosnia and Herzegovina, ICTY (2000-04). He has several years experience as a journalist, and has written numerous articles on the subject of transitional justice in post-conflict societies.

²⁰ **Christopher K. Hall**, Columbia College in New York City (1972); University of Chicago Law School (1978); Associate at Fried, Frank, Harris, Shriver & Jacobson in New York City (1978 to 1982) (extensive *pro bono* litigation on behalf of Haitian and Cuban refugees); Instructor (1982-83) and Adjunct Professor (1983-84) at the University of Miami School of Law from 1982 to 1984; Associate at Kurzban, Kurzban & Weinger in Miami (1983-84); Assistant Attorney General of the State of New York (1984-90); Legal Adviser (1990 to 2004) and Senior Legal Adviser, International Justice Project (since 2004), International Secretariat, Amnesty International, London.

²¹ **Ilia Utmelidze**, Legal Adviser in the Human Rights Department of the OSCE Mission to Bosnia and Herzegovina, advising on institution-building in areas such as domestic war crimes prosecution mechanisms (including the development of a national strategy for war crimes prosecution), specialised investigative commissions for Srebrenica and Sarajevo, establishment of a single state-level ombudsman institution (2004-); Norwegian Refugee Council, Azerbaijan: capacity building of local NGOs in the field of human rights protection and advocacy; consultant on development of human rights education and peace programs within the educational system of Azerbaijan (2001-04); Norwegian Centre for Human Rights: minority policy and law research project (2000-01).

²² **Mirsad Tokača**, Founder and President of the Research and Documentation Center since its establishment in 2004. Prior to that, he served for more than a decade as General Secretary of the State Commission for Gathering Facts on War Crimes. He served as an expert witness before the ICTY. As an independent member of the BiH delegation, Mr. Tokača attended the sessions of the United Nations Human Rights Commission in Geneva in 1996 and 1997. He is also a member of the scholars' initiative of Purdue University (USA) which deals with the problem of the dissolution of the former Yugoslavia.

²³ **Xabier Aguirre**, Senior Analyst at the Office of the Prosecutor (OTP) of the ICC (2004-08), Strategic Analyst at the OTP of the ICTY (1997-2003) and Legal Officer with the UN OHCHR (2001). He has contributed with his analysis to the selection of situations and cases and the investigations of the ICC OTP. Author of several relevant publications, including 'Methodology for Investigations' article in the *Encyclopedia on Genocide and Crimes Against Humanity* (New York, MacMillan, 2004), and 'Selection criteria and the use of sampling techniques in the investigation of international crimes' article in *Large Scale Victimization* (Amsterdam, IOS Press, 2006).

²⁴ **Vladimir Tochilovsky** is a trial attorney in the ICTY since 1994. He has more than thirty years experience in the field of criminal justice. He has authored numerous publications on international criminal justice and criminal procedure. He holds a Ph.D. from Kiev National University. He participated in the early stages of the development of the International Criminal Court, as an official representative of the ICTY to the Preparatory Committee.

15:40 Discussion.

15:50 Break.

**Session 5:
Prioritization criteria and the international criminal justice agenda**

16:05 *Remarks by the session moderator*, by Siri Frigaard.

16:10 *International criminal jurisdictions depend on the ability of national criminal justice systems to handle backlogs of core international crimes cases: the transnational nature of expectations of justice*, by H.E. Serge Brammertz²⁵ (Prosecutor, ICTY).

16:25 *Remarks on prioritization criteria from the perspective of the US war crimes programme*, by Clint Williamson²⁶ (Ambassador-at-Large, War Crimes Issues, U.S. Department of State).

16:40 *Putting prioritization criteria for core international crimes justice on the international criminal justice agenda: the role of civil society*, by Richard Dicker²⁷ (Director, Human Rights Watch's International Justice Program).

16:55 *Conclusion*, by Siri Frigaard.

²⁵ **Serge Brammertz** has been ICTY Prosecutor since January 2008. He was Commissioner of the United Nations International Independent Investigation Commission into the murder of the former Prime Minister Rafik Hariri January 2006 - ultimo 2007. Prior to that, he was Deputy Prosecutor of the International Criminal Court; Head of the Federal Prosecution of the Kingdom of Belgium; 1997-2002 Belgian national magistrate in charge of co-ordinating at the national and international level investigations in the fields of international drug trafficking and trafficking of human beings (during this period, he also worked for the European Commission, the Council of Europe and the International Organisation for Migration as an expert on these and related issues); 1989-1997 Deputy Prosecutor, then Chief Deputy Prosecutor at the Court of First Instance in Eupen (Belgium), before becoming Deputy to the Prosecutor-General at the Liège Court of Appeal. Mr. Brammertz was a professor of law at the University of Liège and an author on organized crime and international co-operation in criminal matters, having published extensively in European and international academic journals. He holds a law degree from the University of Louvain-la-Neuve, a degree in criminology from the University of Liège and a Ph.D. in international law from the Albert Ludwig University in Freiburg, Germany.

²⁶ **Clint Williamson** is US Ambassador-at-Large for war crimes. John Clint Williamson, a career federal prosecutor, serves as the U.S. Ambassador-at-Large for War Crimes Issues, a post to which he was confirmed by the U. S. Senate on 29 June 2006. Immediately prior to his appointment in the Department of State, Ambassador Williamson served as the Acting Special Assistant to the President and Senior Director for Relief, Stabilization, and Development at the National Security Council. From 2003 to early-2006, he served as the Director for Stability Operations on the NSC staff. While at the NSC, he was instrumental in developing the proposal for creation of a standing U.S. Government post-conflict response capability, which was realized with the establishment of the Office of the Coordinator for Reconstruction and Stabilization (S/CRS) in the State Department in mid-2004. Early in his posting to the NSC, Ambassador Williamson served a rotation in Baghdad, from April to July 2003, as the first Senior Adviser to the Iraqi Ministry of Justice. From late-2001 through 2002, he served in the UN Department of Peacekeeping Operations as the Director of the Department of Justice in the United Nations Mission in Kosovo (UNMIK), overseeing the justice and prison systems for the UN-administered province. For 7 years before that, from 1994 to 2001, he worked as a Trial Attorney at the International Criminal Tribunal for Yugoslavia (ICTY) in The Hague, Netherlands. While at the ICTY, he supervised investigations and field operations in the Balkans, compiled indictments, and prosecuted cases at trial. Among the cases handled by Ambassador Williamson were those against Slobodan Milošević and the notorious paramilitary leader Željko Raznatović, aka "Arkan", as well as cases arising from the Yugoslav Army attacks on Vukovar and Dubrovnik, Croatia. Prior to joining the ICTY, Ambassador Williamson served as a Trial Attorney in the U.S. Department of Justice Organized Crime Section and as an Assistant District Attorney in New Orleans. Ambassador Williamson holds a bachelors degree from Louisiana Tech University and a law degree from Tulane University.

²⁷ **Richard Dicker**, Director of Human Rights Watch's International Justice Program since the program's beginning in 2001; graduate of New York University Law School, LLM from Columbia University. He then spent two years practicing civil rights law in New York. For the past sixteen years, he has worked for HRW, where he first focused on accountability issues in southern Africa and arbitrary detention in China. In 1994-95, Mr. Dicker led HRW's efforts to bring a case before the International Court of Justice charging the government of Iraq with genocide against the Kurds. Starting in 1995, he directed HRW's multi-year campaign to establish the ICC. He represented HRW in the ICC negotiations. He has led advocacy efforts urging the creation of effective domestic accountability mechanisms in the DRC and the former Yugoslavia. He has made several visits to those states to meet with officials and NGOs. Richard Dicker's views appear frequently in the press on international justice issues.