



Transitional Justice Bulletin

Belgrade, January 2008

Meeting of ICTY Archive Advisory Committee and HLC

Members of the Advisory Committee on the Archives of the UN Tribunals for the former Yugoslavia and Rwanda (ACA) visited Belgrade at the end of December 2007 to discuss the future of the Hague Tribunal archive with representatives of the authorities and NGOs.

Professor Dr. Eric Ketelaar, a former national archivist of the Netherlands, and Cecile Aptel, a former staff member of the ICTY visited the HLC office in Belgrade on 19 December 2007.

The meeting was part of the consultation with government, civil society and relevant international non-governmental organizations that the Advisory Committee chaired by former ICTY and ICTR Prosecutor, Justice Richard Goldstone. The aim of the consultation is to ascertain the position of the authorities and civil society on the location of the original ICTY documentation and the best way of using the ICTY archive in the future.

During the meeting, the HLC Executive Director explained to Dr. Ketelaar and Ms. Aptel that, while the original archive should remain in The Hague, where it is at the moment, copies of the documents held in the ICTY archive should be brought to the region of the Western Balkans and be maintained by non-partisan independent organizations that will use the documentation to develop a regional process of fact-finding about war crimes, build historical memory, promote the judicial truth and support the domestic prosecution of war crimes.

In June 2007, HLC started to lobby its idea to become the repository of an electronic ICTY archive. HLC presented this idea to the UN Under-Secretary General for Legal Affairs, Nicholas Michel. This idea obtained the support of, among others, the President of the International Center for Transitional Justice, and former Advisor on the Prevention of Genocide to the UN Secretary General, Juan Mendez.

In Serbia, education about the past must start. HLC had this in mind when in 2005 it started copying the ICTY archive. Today, HLC is entering the archive into a war crimes database through which it is creating a body of facts that will prevent the falsification of history and the past. HLC has also begun a process of digitizing its hard-copy documentation, which is currently found in its archive.

HLC staff made presentations of both the database and archive to members of the ACA. When the consultation took place, the database contained 5,350 statements of witnesses and victims, collected by HLC; 1,120 copies of ICTY documents, including some 280 witness statements, 400 transcripts, and more than 300 pieces of evidence; more than 600 documents, such as International Committee of the Red Cross (ICRC) lists and documents produced by other national and international organizations; and 800 documents produced by HLC such as reports, press releases, etc. The HLC archive contained: 4,500 days of trial before the ICTY in DVD format, 52,000 digitized ICTY documents and a further 15,000 documents in hardcopy; 70 days of trial for war crimes before the State court of Bosnia and Herzegovina in DVD format; 690 VHS cassettes and 210 audio cassettes relating to war crimes issues.

HLC representatives presented the idea of an exhibition on the trial of Slobodan Milosevic, which would be realized in cooperation with the Youth Initiative for Human Rights (YI) and the International Center for Transitional Justice (ICTJ). Such an exhibition, based on ICTY documentation and evidence used in the Milosevic trial, will be an important public education initiative with potential for positive impact on all post-Yugoslav societies in the Western Balkans.

The HLC Executive Director also explained how important the documentation held in the ICTY archive would be for truth-seeking and truth-telling initiatives in the Western Balkans. HLC and regional partners, the Research and Documentation Centre – Sarajevo and the Zagreb-based Documenta, are currently organizing a process of regional civil society consultation on mechanisms of truth-seeking





and truth-telling on War Crimes in the former Yugoslavia which will come to a conclusion by mid-2009, when the regional partners will share civil society's recommendations.

In the short-term, HLC plans to convene a small expert meeting in Belgrade, Serbia, at which Serbian human rights NGOs, state archivists, war crimes prosecutors, and government representatives will be able to discuss the future of the ICTY archive, and potentials for the establishment of as many satellite ICTY archives as possible in the post-Yugoslav countries.

The Advisory Committee on the Archives of the UN Tribunals for the former Yugoslavia and Rwanda (ACA) is due to submit its first interim report to the Tribunals' Registrars during the first quarter of 2008.

A Rationale for Copies of the ICTY Record

In February 2007, the International Center for Transitional Justice and the University of Western Ontario hosted a meeting of experts on "Planning for Residual Issues for International and Hybrid Criminal Tribunals". OSJI presented a paper that stated, "the UN archives section could...let one or more interested states or organizations take charge of 'satellite archives' or 'mirror archives' in the states of the former Yugoslavia, Rwanda and Sierra Leone." (OSJI/ICLS: Residual Functions of the UN criminal tribunals of the former Yugoslavia and Rwanda and the Special Court for Sierra Leone, February 2007, 31.) The final report from the conference made a general recommendation on the archive issue: "Particular consideration should be given to the issue of archives and their locations. It is important to review the possibility that different mechanisms be established to provide easy access to the public in the countries where the crimes were committed, enabling research and historical recognition."

In her report of August 2006, archiving expert Trudy Peterson recommended that "the United Nations should plan a program of copying and describing that will meet research needs in the countries affected. This program can begin immediately and would provide an opportunity for the United Nations to work cooperatively with institutions in the regions." (ICTJ/University of Western Ontario: Report: Residual Issues Expert Meeting, February 2007, 6.)

In terms of security issues, Peterson notes that: "Copies of unrestricted records can be made freely available to all users without worrying about security concerns or needing to screen records before making them available [...]. If placing one or more duplicate sets of the publicly available material in geographically dispersed institutions can support many uses, then a duplication and deposit strategy is especially useful."

"Access to archives is a democratic imperative: 'Well kept and accessible archives,' the Council of the European Union declared in 2003, 'contribute to the democratic functioning of our societies...'"

E. Ketelaar, *The Legacy of The United Nations International Criminal Tribunal for The Former Yugoslavia*, p.32.

"Access to the ICTY legacy," argues Dr. Ketelaar, "is necessary to arrive at a shared truth-telling as a basis for reconciliation and historical accountability."

Ketelaar, p. 33.

"The maximum amount of information should be made public immediately and there should be a process to make all other information publicly available within a reasonable time, subject to questions related to protection of victims and witnesses, confidential information provided by certain sources no stricter than the current statutory and regulatory provisions of the courts concerned and legitimate law enforcement needs. The criteria for keeping information confidential should be designed to permit the maximum amount of information to be made available as soon as possible. There should be no privileged access, apart from law enforcement officials."

Christopher Keith Hall cited in Trudy Peterson, *Temporary Courts, Permanent Records*, 2005, Section V, p.1.

