

An IBA ICC & ICL Programme
Experts' Roundtable Discussion addressing
theory, practice and future perspectives



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Seeing Justice Through: long-term issues in international justice

21 October 2019
Peace Palace, The Hague



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Seeing Justice Through: long-term issues in international justice

IBA ICC & ICL Experts' Roundtable

Programme

1300 – 1330 **Registration & coffee**

1330 – 1430 **Welcome**

Mr Horacio Bernardes Neto *President, International Bar Association*

Introductory remarks

HE Ambassador Paul van den IJssel *Permanent Representative of the Netherlands to the Organisation for the Prohibition of Chemical Weapons and the International Criminal Court*

Keynote address

Judge Kimberly Prost *International Criminal Court*

1430 – 1440 **Launch of Discussion Paper**

Ms Kate Orlovsky *ICC & ICL Programme Director, International Bar Association*

1445 – 1600 **Panel 1**

International Criminal Law and Human Rights Perspectives

Speakers

Dr Barbora Holá *Senior Researcher, Netherlands Institute for the Study of Crime and Law Enforcement; Associate Professor, Vrije Universiteit Amsterdam*

Mr Steven Powles QC *Head, Doughty Street International*

Mr Peter Robinson *Defence Counsel, UN International Residual Mechanism for Criminal Tribunals and International Criminal Court*

Prof Dr Elies van Sliedregt *Chair in International & Comparative Criminal Justice, University of Leeds*

Moderator

Ms Marie O'Leary *Counsell/Legal Adviser, Office of Public Counsel for the Defence, International Criminal Court*

1600 – 1630 **Coffee break**

1630 – 1745

Panel 2

Facilitating Cooperation for the Long Term

Speakers

Ms Caroline Buteau *Chief of the Legal Advisory Section, Defence Office,
Special Tribunal for Lebanon*

Dr Fidelma Donlon *Registrar, Kosovo Specialist Chambers*

Dr Mark Ellis *Executive Director, International Bar Association*

Judge Alphons M.M. Orie *UN International Residual Mechanism for Criminal Tribunals*

Moderator

Ms Antônia Pereira de Sousa *External Relations and Cooperation Officer, Registry,
International Criminal Court*

1745 – 1800

Closing remarks

Ambassador Stephen Rapp *Distinguished Fellow, Simon-Skjodt Center for Prevention
of Genocide, United States Holocaust Memorial Museum; Visiting Fellow of Practice,
Blavatnik School of Government, University of Oxford*

1800 – 1900

Reception



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Speaker Biographies

Mr Horacio Bernardes Neto, President, International Bar Association (IBA)

Horacio Bernardes Neto is the President of the International Bar Association (IBA). Mr Bernardes Neto has been a member of the IBA since 1982. He sits on the IBA Management Board and has held the posts of IBA Vice-President (2017–2018); IBA Secretary-General (2015–2016); and Chair of the IBA Bar Issues Commission (2013–2014).

He is a senior partner of Motta Fernandes Advogados (MFA), which is continually recognised as a leading law firm in Brazil by specialised vehicles. Before joining MFA, Mr Bernardes Neto was a founding partner of Xavier, Bernardes, Bragança – Sociedade de Advogados (1995–2011), a partner at Bomchil, Castro, Goodrich, Claro, Arosemena and Associates, and with Dr Graf von der Goltz, Dr Wessing & Partners in Düsseldorf, Germany (1980–1983) and London (1983). His main areas of expertise are M&A, general corporate law, private equity, antitrust, contracts and arbitration.

Mr Bernardes Neto has taken leadership roles in global pro bono work and is a founding member of the Pro Bono Institute. He was also a member of the Drafting Committee of the Pro Bono Declaration for the Americas that was facilitated by the Cyrus R Vance Center for International Justice of the New York City Bar Association.

Mr Bernardes Neto is a graduate of the University of São Paulo Law School (Bachelor of Laws, 1977). He also holds a post-graduate degree from the Institute of International Commercial Law, University of Cologne (1982). He is admitted in Brazil and is a member of the German Bar Association. Mr Bernardes Neto also holds a degree in Pedagogy from Oswaldo Cruz University (1977).

Ms Caroline Buteau, Chief of the Legal Advisory Section, Defence Office, Special Tribunal for Lebanon

Caroline Buteau is the Chief of the Legal Advisory Section of the Defence Office at the Special Tribunal for Lebanon (STL). She is a member of the Quebec Bar (Canada). Ms Buteau has been working for 15 years for the defence of suspects and accused persons before International Criminal Tribunals (International Criminal Tribunal for Rwanda (ICTR), International Criminal Court (ICC) and STL). From 2007 to 2016, she worked for the defence of Mr Thomas Lubanga, the first accused person before the ICC. Ms Buteau acted on several occasions as a trainer for defence lawyers, particularly in Erbil (Iraq), Arusha (Tanzania), The Hague (Netherlands), and Beirut (Lebanon), as well as at the STL and the ICC. She is currently Deputy Secretary and member of the Executive Council of the ICC Bar Association. She is co-editor of the Practitioner's Handbook on Defence Investigations in International Criminal Trials, published by the Defence Office of the STL in 2017.

Dr Fidelma Donlon, Registrar, Kosovo Specialist Chambers

A highly experienced senior court administrator and a respected academic and lawyer, Dr Fidelma Donlon was previously the Head of the Specialist Chambers and Registry Court Planning Team where she managed the strategic and organizational establishment of the Kosovo Specialist Chambers during 2015-2016.

As part of her longstanding career in international criminal justice, Dr Donlon has extensive experience as a senior manager at various criminal tribunals as well as significant experience in justice sector reform and judicial capacity building projects.

From 2010 to 2013, she served as Deputy Registrar of the Special Court for Sierra Leone, overseeing Registry functions for the successful completion of the Charles Taylor trial and several contempt trials. Dr Donlon was also an advisor to the Special Court of Sierra Leone in 2008, offering expert advice on residual issues including the Court's ongoing legal obligations after the completion of trials and appeals. She authored the expert Report on, and designed, the Residual Special Court for Sierra Leone.

Dr Donlon also has international criminal justice experience specifically related to the Balkans. In 2004, she was appointed Deputy Registrar of the War Crimes, Organized Crime, Economic Crime and Corruption Chambers of the Court of Bosnia and Herzegovina (BiH), where she managed the set up of the Chambers and the successful transfer of cases from the ICTY and the start of trials at the new court.

From 2002 to 2004, Dr Donlon was the Head of the Criminal Institutions and Prosecutorial Reform Unit within the Office of the High Representative in Bosnia and Herzegovina, where she managed the establishment of the War Crimes and Organised Crimes Chambers of the BiH State Court and contributed to the national judicial reform strategy – working closely with the BiH Government, donor States and international organizations.

During her career she has administered court budgets, negotiated and managed funds from donor States as well as negotiated laws and treaties with multiple Governments and ensured their implementation.

Dr Donlon is a graduate of University College of Dublin and the Law Society of Ireland. She obtained her Doctorate in Law at the Irish Centre for Human Rights at the National University of Ireland with the thesis "The Completion Strategies of the International Criminal Tribunals for the Former Yugoslavia and Rwanda and the Special Court for Sierra Leone – Lessons for Complementarity and the Prosecution of Crimes by National Courts".

She has lectured in International Criminal Law and published widely on the topics of tribunals and international justice and human rights.

Dr Mark Ellis, Executive Director, IBA

As Executive Director of the International Bar Association (IBA), Dr Mark Ellis leads the foremost international organisation of bar associations, law firms and individual lawyers in the world.

Prior to joining the IBA, he spent ten years as the first Executive Director of the Central European and Eurasian Law Initiative (CEEELI), a project of the American Bar Association (ABA) providing technical legal assistance to countries in Central Europe and the former Soviet Union, as well as the International Criminal Tribunal for the former Yugoslavia (ICTY).

Dr Ellis has served as Legal Advisor to the Independent International Commission on Kosovo, chaired by Justice Richard J Goldstone and was appointed by OSCE to advise on the creation of Serbia's War Crimes Tribunal. He was actively involved with the Iraqi High Tribunal and also acted as legal advisor to the defence team of Nuon Chea at the Cambodian War Crimes Tribunal (ECCC).

In 2015, he was appointed Chair of the UN Security Councils established Advisory Panel on Matters Relating to Defence Counsel of the Mechanism for International Criminal Tribunals.

Dr Barbora Holá, Senior Researcher, Netherlands Institute for the Study of Crime and Law Enforcement; Associate Professor, Vrije Universiteit Amsterdam

Dr Barbora Holá works as Senior Researcher at the NSCR and as Associate Professor at the Department of Criminal Law and Criminology at VU University of Amsterdam. She has an interdisciplinary focus and studies transitional justice after atrocities, in particular (international) criminal trials, sentencing of international crimes, rehabilitation of war criminals and life after trial at international criminal tribunals. Besides her research and teaching in the Master's programme International Crimes and Criminology at VU Amsterdam, Dr Holá is a co-director of the Center for International Criminal Justice, a knowledge centre dedicated to interdisciplinary studies of mass atrocity crimes and international criminal justice (www.cicj.org) and a co-chair of the European Society of Criminology Group on Atrocity Crimes and Transitional Justice (<https://ecactj.org>). In 2018 she has been appointed as a member of De Jonge Akademie of the Netherlands Royal Academy of Arts and Sciences (<https://www.dejongeakademie.nl/nl/science-spots/leden-in-beeld/barbara-hola>).

Judge Kimberly Prost, International Criminal Court (ICC)

Prior to her election as judge of the ICC, Judge Prost served as Chef de Cabinet for the President of the International Criminal Court for a two year term. Before joining the Court, she was appointed in 2010 as the first Ombudsperson for the Security Council Al Qaida Sanctions Committee.

In July 2006, after election by the United Nations General Assembly, she was appointed to sit as an ad litem judge of the International Criminal Tribunal for the former Yugoslavia on a multi-accused trial (Popović et al) related to events at Srebrenica and Žepa.

Earlier in her career, Judge Prost worked for the Canadian Department of Justice for 18 years appearing before all levels of the Canadian courts, including the Supreme Court. For 7 years she served as Director of the International Assistance Group which is responsible for extradition and mutual legal assistance matters for Canada. She participated in negotiating over 40 extradition/ mutual legal assistance treaties and was a member of the Canadian delegation for negotiating the Rome Statute of the International Criminal Court and related documents, as well as the UN Conventions against Transnational Organized Crime and Corruption.

Judge Prost also held managerial positions with the Commonwealth Secretariat and the UN Office on Drugs and Crime delivering a range of programmes for States on international cooperation, money laundering and asset forfeiture, counter terrorism, implementation of the Rome Statute, and combating organized crime and corruption.

Judge Prost graduated as a gold medallist from the University of Manitoba Law School.

Ambassador Paul van den IJssel, Permanent Representative of the Netherlands to the Organisation for the Prohibition of Chemical Weapons and the ICC

Ambassador Paul van den IJssel joined the Ministry of Foreign Affairs in 1985. He has since then worked in Nigeria, Poland, Germany, and as the Deputy Director of the Advisory Council for Peace and Security, the Head of Non-Nuclear Arms Control Section and as the Head of Arms Control and Arms Export Policy in the Dutch Ministry of Foreign Affairs (MFA). During the Dutch Presidency of the EU in 2004, Ambassador van den IJssel was the President of working groups on Arms exports (COARM), Disarmament (CODUN) and Armaments Policy (POLARM). From 2005 to 2009, he served as the Director of the Office of the Secretary-General at the Dutch MFA and was thereafter appointed as the Permanent Representative of the Netherlands to the Conference on Disarmament in Geneva



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Speaker Biographies

until 2013. In 2011, he also served as the President of the Seventh Review Conference of the Biological Weapons Convention. In 2013, Ambassador van den IJssel was appointed the Ambassador of the Netherlands to the Hashemite Kingdom of Jordan until 2016. In March 2017, he was appointed as the Permanent Representative of the Netherlands to the Organisation for the Prohibition of Chemical Weapons and the International Criminal Court. Ambassador van den IJssel is a graduate in Dutch Law from the University of Amsterdam

Ms Marie O'Leary, Counsel/Legal Adviser, Office of the Public Counsel for the Defence, ICC

Marie O'Leary is currently Counsel/Legal Adviser for the Office of Public Counsel for the Defence (OPCD) at the International Criminal Court (ICC) and has been with the Office since 2013. Prior to the ICC, she worked on several Defence teams at the UN's International Criminal Tribunal for the former Yugoslavia (ICTY), including those representing Naser Orić, Milan Lukić, Vlastimir Đorđević, and Dragomir Pećanac. At the Tribunal, she also worked for an Amicus Curiae Prosecutor and in the Trial Chambers. Ms. O'Leary was formerly employed as the Head of Office of the Association of Defence Counsel of the ICTY (ADC) and has subsequently sat on its Executive, Training, and Amicus Committees. Ms. O'Leary has served as a panellist and contributor to forum discussions on defence in international criminal law and has been a lecturer in the annual Seminar on International Criminal Defence at the UN Interregional Crime and Justice Research Institute for the last seven years. An attorney-at-law licensed in the United States (MN), she holds both a Juris Doctor and a Bachelor of Arts (Journalism) from the University of St. Thomas (Minnesota) and possesses clerking experience with both the Minneapolis City Attorney and Minnesota Public Defenders' offices.

Judge Alphons M.M. Orie, International Residual Mechanism for Criminal Tribunals (IRMCT)

Alphons Orie (1947) read law and graduated at Leiden University, the Netherlands, in 1971. From 1971 to 1980 he worked in the Faculty of Law of that University as researcher and lecturer criminal law. He was called to the Bar of the Supreme Court of the Netherlands in The Hague in 1980. As advocate he specialized in cases on international criminal law (jurisdiction, extradition, judicial cooperation, transfer of prisoners) and cases before the Supreme Court of the Netherlands. He was a member of the Tadić defence team before the ICTY in 1995-1997. In 1997 he was appointed Justice in the Supreme Court of the Netherlands. In 2001 Justice Orie was elected as Judge at the ICTY, where he served for 16

years. In the last case he presided over in the ICTY (Prosecutor v. Ratko Mladić) the judgement was delivered in November 2017. Since 2011 he was and he still is active as a Judge on the Roster of the Residual Mechanism for International Criminal Tribunals. He was involved in the selection of Judges for the Special Tribunal for the Lebanon and the Specialist Chambers of the Courts of Kosovo. Judge Orie is member of the Dutch Group of the Permanent Court of Arbitration. He has published and lectured primarily on subjects of international criminal law and procedure.

Ms Kate Orlovsky, ICC & ICL Programme Director, IBA

Kate Orlovsky is the Director of the Hague Office of the International Bar Association (IBA) and of the IBA's International Criminal Court (ICC) and International Criminal Law (ICL) Programme. She has over 12 years of experience in analysing the fairness, institutional development, and gender mandates of international criminal courts and tribunals. She was previously Senior Researcher and Programme Researcher in the IBA ICC & ICL Programme, where she co-authored reports on evidence, contempt procedures, and legal representation. Ms Orlovsky also worked as Legal Officer with the Women's Initiatives for Gender Justice, where she managed the legal team and worked with women in ICC conflict situations. She has consulted with organisations including HRW, ICTJ, and CICC and has written and lectured extensively on ICL and transitional justice. Ms Orlovsky has a certificate in Human Rights, Gender, and Conflict Studies from the International Institute of Social Studies, an LL.M. from SOAS, University of London, a J.D. from UC Hastings College of the Law, and a B.A. from Columbia University.

Mr Steven Powles QC, Head, Doughty Street International

Called to the Bar in 1997, Steven Powles is a specialist criminal lawyer, with a particular focus on international criminal law, extradition, and human rights. Apart from being a Barrister at Doughty Street Chambers, he also leads Doughty Street International. Steven is cited by Chambers & Partners as one of the few barristers in England and Wales who are leaders in international crime. His instructions relate to cases of crimes against humanity, genocide, war crimes, universal jurisdiction, political assassination and extra-judicial killing. He first worked as a legal assistant to a judge at the International Criminal Tribunal for the former Yugoslavia (ICTY) and then as representative of Trinidad and Tobago during international negotiations on the establishment of the International Criminal Court (ICC). He has regularly appeared in The Hague since in numerous cases. He co-authors the leading

practitioner text from Oxford University Press, "International Criminal Practice". He has previously served as a consultant in the Legal Advisory Section to the UN International Independent Investigation Commission investigating the assassination of Prime Minister Rafik Hariri in Beirut, Lebanon. As well as his international criminal work, Mr Powles undertakes cases in domestic courts and the European Court of Human Rights, and in cases of terrorism, extradition, protest, and politically motivated crime. He regularly lectures and trains lawyers, military personnel, academics and NGOs on advocacy, the Rule of Law, and international law.

Mr Powles is the incoming co-chair of the IBA War Crimes Committee.

Ambassador Stephen Rapp, Distinguished Fellow, Simon-Skjoldt Center for Prevention of Genocide, United States Holocaust Memorial Museum; Visiting Fellow of Practice, Blavatnik School of Government, University of Oxford

Stephen Rapp is a Distinguished Fellow at the United States Holocaust Memorial Museum's Center for Prevention of Genocide and a Visiting Fellow of Practice at Oxford University's Blavatnik School of Government. He also serves as Chair of the Commission for International Justice and Accountability (CIJA) that has collected and analysed more than 750,000 pages of documentation from Syria and Iraq to prepare cases for future prosecution.

From 2009 to 2015, he was Ambassador-at-Large heading the Office of Global Criminal Justice in the US State Department. During his tenure, he travelled more than 1.5 million miles to 87 countries to engage with victims, civil society organizations, investigators and prosecutors, and the leaders of governments and international bodies to further efforts to bring the perpetrators of mass atrocities to justice.

Ambassador Rapp was the Prosecutor of the Special Court for Sierra Leone (SCSL) from 2007 to 2009 where he led the prosecution of former Liberian President Charles Taylor. From 2001 to 2007, he served as Senior Trial Attorney and Chief of Prosecutions at the International Criminal Tribunal for Rwanda (ICTR), where he headed the trial team that achieved the first convictions in history of leaders of the mass media for the crime of direct and public incitement to commit genocide.

Before becoming an international prosecutor, he was the United States Attorney for the Northern District of Iowa from 1993 to 2001.

Mr Peter Robinson, Defence Counsel, ICC, IRMCT

Peter Robinson is an American lawyer who serves as Lead Counsel to former Bosnian Serb President Radovan Karadzic and four Rwandans, Jean de dieu Kamuhanda, Laurent Semanza, Francois-Xavier Nzuwonemeye, and Augustin Bizimugu at the International Residual Mechanism for Criminal Tribunals (IRMCT). He also serves as Associate Counsel for Alfred Yekatom at the International Criminal Court (ICC). He was Lead Counsel for former Rwandan National Assembly President Joseph Nziirorera at the International Criminal Tribunal for Rwanda (ICTR) from 2002 until Mr Nziirorera's death in July 2010. Prior to beginning work at the international tribunals, Mr Robinson was a federal prosecutor in the United States for 10 years, and then a criminal defence lawyer based in Northern California.

Prof Dr Elies van Sliedregt, Chair in International & Comparative Criminal Justice, University of Leeds

Dr Elies van Sliedregt is Professor of Law at Leeds University (UK) and Director of its Centre for Criminal Justice Studies (CCJS). Previously she was professor of criminal law at the Vrije Universiteit Amsterdam and Dean of the Faculty of Law from 2011 to 2015. In 2010, she was visiting professional with Chambers at the International Criminal Court. Dr van Sliedregt is senior editor of the Leiden Journal of International Law and member of the Royal Holland Society of Sciences and Humanities. She has published extensively in the field of international, European and comparative criminal law.

Ms Antônia Pereira de Sousa, External Relations and Cooperation Officer, Registry, ICC

Antônia Pereira de Sousa is External Relations and Cooperation Officer in the Registry of the International Criminal Court. Before joining the Registry in 2016, Ms Pereira de Sousa was Associate Cooperation Adviser in the Office of the Prosecutor of the ICC for 9 years. Previously, she worked at the Centre de Recherche en Droit Public of the Faculty of Law at the University of Montreal in Canada, where she conducted legal research in the areas of international law, globalization, governance and global security. Ms Pereira de Sousa also worked for a local NGO in Cape Town, South Africa, where she was responsible for providing legal advice to refugees and asylum seekers, as well as organizing information workshops and weekly radio broadcasts. Ms Pereira de Sousa is a board member of the Women in International Law Network (WIL) in the Netherlands. Ms Pereira de Sousa holds a Master's degree in International Humanitarian Assistance from the Faculty of Law of Aix-en-Provence, as well as a diploma from the Institut d'Etudes Politiques of Aix-en-Provence.

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Established in 1947, the International Bar Association (IBA) is the world's leading organisation of international legal practitioners, bar associations, law firms and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. It has a membership of more than 80,000 individual lawyers and more than 190 bar associations and law societies spanning over 160 countries. The IBA has considerable expertise in providing assistance to the global legal community.

IBA ICC & ICL Programme

The IBA commenced the IBA International Criminal Court (ICC) Programme in 2005. The Programme monitors issues related to fairness and equality of arms at the ICC and other Hague-based war crimes tribunals, and encourages the legal community to engage with the work of these courts. The IBA's work includes thematic legal analysis of proceedings, and ad hoc evaluations of legal, administrative and institutional issues which could potentially affect the rights of defendants, the impartiality of proceedings and the development of international justice.

The Programme also acts as the interface between the Courts and the global legal community. As such, special focus is placed on monitoring emerging issues of particular relevance to lawyers and collaborating with key partners on specific activities to increase engagement of the legal community on ICC and ICL issues.

Programme information is disseminated through regular reports, expert discussions, workshops and other events and expert legal analysis on issues relevant to our mandate.

Based in The Hague, the IBA ICC & ICL Programme consults and interacts with court officials, civil society organisations, academics and international lawyers.

For more information about the IBA ICC & ICL Programme and its publications visit the IBA website at:
www.ibanet.org/ICC_ICL_Programme/Home.aspx

Or contact the IBA Programme Director in The Hague:

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