

**Comment: Justice Requires Outreach: A Vital Communication Tool in Rendering Justice**

**By Alexandra George**

16 April 2007  The documentary film, *Justice Requires Outreach*, shows that outreach is a vital communication tool in overcoming the legacy of war crimes and in creating a sense of justice. It is also a useful public education medium: the film is propagandistic in the sense that it seeks to generate public discourse around the courts and its cases, and to demonstrate to the people of BiH that an effective an Outreach programme is important for many different reasons.

First and foremost, witnesses play a key role in fighting impunity and bringing war criminals to justice. The film shows us that an effective Outreach programme linking the prosecutors, local communities, and associations can help witnesses to overcome fear, lack of confidence and, as a result come forward to testify. A key message in the film is that Prosecutors should be talking more to potential witnesses and survivors of the conflict.

Secondly, on a more fundamental level, for their work to be viewed as credible, prosecutors and judges need to explain their work to the population directly affected. Often people do not even have basic information at hand about how the justice system works and if the crimes that happened during the war are being punished..

Thirdly, in war crimes cases, Outreach activities are important in order to bring justice closer to the communities. It is through awareness about what happened that meaningful truth can be established and reconciliation can be achieved.

*Outreach programmes in other international criminal tribunals*

Outreach programmes have played a vital role in other tribunals. In these jurisdictions they have led to a greater awareness of verdicts and in a greater number of people prepared to testify.

Matias Hellman, ICTY Registry’s Liaison Officer in BiH, believes that without an Outreach programme between ICTY and the local community here in BiH the situation would have been catastrophic, although Outreach at the ICTY started relatively late, several years after the Tribunal’s establishment. The ICTY understood the importance of being open towards the people of the former Yugoslavia by actively providing information on its work through the media and other fora to ensure people knew what was going on at The Hague. Hellman explains: "So those who suffered the most from war crimes were informed about the proceedings, about what was determined, proven, who was convicted on what evidence, who acquitted.”

Similarly, at the International Criminal Tribunal for Rwanda (ICTR) Outreach work only begun several years after its establishment. Even after the first court decisions were handed down by both tribunals, a UN Expert Group investigating the impact of the ICTY and ICTR on the ground in 1999 found that there was little or no understanding of the trials in countries where the crimes were perpetrated. A lesson for the BiH judiciary: a lack of early outreach work was said to be the cause of the damage.

At the Special Court for Sierra Leone, the Registrar made public Outreach to the population a priority from the court’s inception in order to avoid the mistakes of the ICTY and ICTR. Unlike the ICTY and ICTR the Special Court is located in the country where the crimes were perpetrated. A multifaceted Outreach programme has led to greater number of witnesses coming forward, to increased awareness of court verdicts, and to widely acclaimed public education programme on the work of the court covering the entire country, both through regional outreach officers, TV and radio programmes.

Today the importance of Outreach in bringing justice closer to the communities and overcoming the legacy of war crimes is widely recognized and is thus becoming institutionalized. Thus in January 2007 the International Criminal Court (ICC) which has issued indictments for war crimes to rebel leaders in the Democratic Republic of Congo and Uganda established an Outreach section. In connection with Outreach activities, the Registrar travelled to the Democratic Republic of the Congo this month, and the Heads of the Defence and Counsel Division and the Division of Court Services were in Uganda in February, where the ICC plans to launch a massive outreach programme so people understand the work of the court.

*What Outreach means for the people of Bosnia and Herzegovina*

Even when war crimes trials are taking place in the country where the crimes were committed, the courts cannot work in a vacuum. The Prosecution needs to communicate with the local community to build confidence with the public, asserts Matias Hellman, ICTY Registry’s Liaison Officer in BiH.

The ICTY’s outreach work in BiH has benefited from cooperation with organizations like the Helsinki Committee for Human Rights in *Republika Srpska* which has organized conferences in Brcko, Prijedor, Konjic, Srebrenica and Foca to inform local communities of the substance of the ICTY’s proceedings.

Ambassador Douglas Davidson, Head, OSCE Mission to BiH believes the judiciary at every level should be transparent, and that in war crimes cases especially it should engage in Outreach activities geared towards its citizens. The courts help to establish what happened in a war and help to reassure people that if someone committed a crime they will pay the penalty for it. Certainly as regards the War Crimes Chamber, to which cases are transferred from ICTY (so called “11 *bis* cases”), its location in Sarajevo means a good Outreach programme is needed to reach the most affected communities throughout BiH. The Mission’s monitoring of cases also contributes to ensuring the State Court’s accountability to the public.

*National courts have burden of bringing justice closer to victims*

Once the Special War Crimes Chamber within the BiH State Court was established the people of Bosnia and Herzegovina could now better witness the process of justice at close hand. Moreover, since the end of 2005, five cases of mid and lower level accused have been transferred to this Chamber within the context of the ICTY’s Completion Strategy.

At the entity level, additional problems exist. According to Nura Begovic, Women of Srebrenica: “The Prosecution can learn a lot from us. They can learn who the criminals were, the names and family names.” According to Nerma Jelacic, BIRN BiH, cooperation between prosecution and local communities provide both witnesses and statements and consequently lead to investigations. Victims want to be actively involved in order to be able to see justice is done.

The challenge of fighting impunity is Herculean: over 13,000 war crimes suspects in BiH, only 70 prosecutors in district and cantonal courts and the State Court of BiH who can prosecute.

*Prosecutors working with local communities secure convictions*

*Justice Requires Outreach* takes us to the Tuzla Cantonal Prosecutor’s Office and the Banja Luka District Prosecutor’s Office, where, thanks to close cooperation with local communities, witnesses have come forward and convictions secured.

To date the Tuzla Cantonal Prosecutor, Alma Dzafarovic, had obtained four convictions, “four [final] judgments,” notes the Tuzla Cantonal Prosecutor. Her office has handled many war crimes cases; any successful outcome she attributes to cooperation with local communities. According to A. Dzafarovic: “Such cooperation is of mutual benefit and is an opportunity for the prosecution to identify potential suspects, to get to know the names of certain witnesses because it is assumed that persons who come from certain communities know far better who potential witness and potential suspect may be.”

Branko Mitrovic, Prosecutor from the District Prosecutor’s Office, in Banja Luka, is praised as a bellwether in his approach to prosecuting war crimes cases, which to date has mainly concerned non-Serb victims in Bosanski Kraijine. In his work he maintains close contacts with local community members and works on bringing together victims and potential witnesses. Rather than use a formalistic approach, he believes the most optimal approach for succeeding in conducting investigation into war crimes cases is to contact witnesses personally. “Already a number of witnesses agreed to testify. People are shedding their fear and lack of confidence,” says, Edin Ramulic, the NGO *Izvor,* the organisation being part of the State Court support network.

In the past one and a half years Mr. Mitrovic has worked on five war crimes cases, but admits that a lot of work still needs to be done to speed up the processes. Adnan Gulamovic, Chief Prosecutor, Tuzla Cantonal Prosecutor’s Office agrees: “Although there has been some forward movement in general, the processing of these cases is far from ideal.”

*Local associations help witnesses come forward*

Certainly local associations are playing an important role in convincing witnesses to testify. Dalida Demirovic, Centre of Civil Initiative Mostar, recalls that in June 2005 the Registrar’s Office of the State Court proposed CCI to participate in the State Court Support Network throughout BiH with CCI responsible for the Herzegovina region. The aim of the project was to increase knowledge among the population of BiH about the court system with particular focus on the War Crimes Chamber.

The Association of Detainees, Sanski Most, is also involved in support work to the courts. Amir Talic, association president, says : “Our task is to help and to offer support to courts and prosecutors and to witnesses who have turned to us in preparing themselves for trials at the district and BiH levels.”

For its part, the NGO Izvor, is implementing Outreach projects with OSCE help by providing support to prosecutors in Banja Luka and Bihac in order to bring citizens closer to the justice system and give information to potential witnesses. One man Ante, a Croat recounts how he contacted Izvor, Prijedor, which works with victims of war crimes: “Right away I accepted to testify. It was a big, big joy at the moral level.”

*Building public confidence in judiciary through Outreach*

Justice is an indispensable part of the reconciliation process. By confronting the past and punishing those guilty of war crimes the courts are sending a message that impunity will not go unpunished. In this way justice is being delivered both to the perpetrators and to the victims, says Alma Dzafarovic, Prosecutor, Tuzla Cantonal Prosecutor’s Office.

Testimony can be cathartic. One witness in *Justice Requires Outreach* recalls a conference in the Cultural Centre in Foca organized by the RS Helsinki Committee for Human Rights when the statement of a perpetrator of a rape of a 12-year old girl was screened a stony silence descended on the 200 people in the room. “All of them were petrified when faced with this cruel truth,” says Branko Todorovic, Head of the RS Helsinki Committee in Bijelina. Such collective cognizance does help the process of reconciliation in society. In fact Hellman notes that many people know a lot about war crimes but do not want to testify. “Perhaps they never gave any information to anyone and this is great obstacle to many processes both in The Hague and before domestic courts,” he notes.

The lack of a proper system for witness support has necessitated that NGOs, like the Association of Detainees, Sanski Most, which provides assistance for preparing victims to testify at trials at the district level and BiH Court. Todorovic believes BiH needs good laws and a good witness protection programme as without one witnesses will be afraid to come forward.

*Establishing the historical record*

Verdicts in war crimes cases by ICTY and domestic courts are instrumental for establishing an historical record.. The testimony of witnesses is essential in this process.

For example, to date at the ICTY more than 3,500 witnesses have told stories whilst testifying in court thereby helping to establish a historical record. The Prosecution interviewed another 1,400 other potential witnesses. ICTY has thus given victims and witnesses a real sense that they and their communities are involved in the Tribunal’s work. The same is needed in BiH.

But as the film demonstrates this is not without its problems in any courts dealing with war crimes cases. For example, giving evidence may result in witnesses reliving painful events. Coming face to face with your tormentor in the dock can be psychologically traumatic. “When we see them (war criminals) again we relive 1992,” says one rape victim from Prijedor. We can better commiserate with her torment when we recall that Prijedor was also a place of mass execution of Bosniacs and Croats by the Serbian military units. Over 3,500 people were killed and over 50 mass graves found, and many war criminals are still living there.

As Ambassador D. Davidson, Head of the OSCE Mission to BiH, rightly notes: “As long as people who have committed war crimes are walking around unpunished you create a culture of impunity.”
 **Alexandra George is a Spokesperson, Director of Press & Public Information for OSCE in BiH.**