

# Hate Propaganda at International Criminal Tribunals

*Current Socio-Legal and Evidentiary  
Challenges in Prosecuting Atrocity Speech at International Criminal Tribunals*

Judge Sir Howard Morrison  
*International Criminal Court (ICC)*

Mr Nicholas James Leddy  
*Office of the Prosecutor, ICC*

Prof. Predrag Dojčinović  
*University of Connecticut*

Dr Wibke K. Timmermann  
*Legal Aid Western Australia*

Ms Jessica Hart  
*CPS, Counter Terrorism Division*

Prof. Richard Ashby Wilson  
*University of Connecticut*

Prof. Gregory S. Gordon  
*The Chinese University of Hong Kong*

Prof. Mohamed Badar  
*Northumbria University*

Ms Clare Lawson  
*Kosovo Specialist Prosecutor's Office*

Dr Polona Florijančić  
*Independent researcher*

Prof. Caroline Fournet  
*University of Groningen*

Ms Audrey Fino  
*University of Groningen*

Dr Nicola Palmer  
*King's College London*

Dr Juline Beaujouan  
*University of Edinburgh*

Dr Michael Kearney  
*Independent legal expert*



10-11 February 2020

Great Hall, Sutherland Building, College Street

Newcastle Upon Tyne

For conference registration: [northumbria.ac.uk/hpict2020](http://northumbria.ac.uk/hpict2020)

*While empirical research strongly indicates that propaganda falls on fertile grounds of our mental landscapes, the insights into the concept of propaganda in the legal sphere lag behind such studies and scientific publications.*

*This symposium will provide a forum for a rigorous analysis of the necessity of an improved approach to dealing with the phenomenon of hate and fear propaganda at international criminal tribunals.*



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- CENTRE FOR EVIDENCE AND CRIMINAL JUSTICE STUDIES
- LAW AND SOCIETY SIGNATURE RESEARCH AREA

# Day 1: Monday 10 February 2020

*Great Hall, Sutherland Building, College Street*

9.00-9.30

**Registration and Coffee**

9.30 – 10.00

**WELCOME AND OPENING REMARKS**

Professor John Wilson, Pro Vice-Chancellor for the Faculty of Business and Law, Northumbria University, UK

Professor Michael Stockdale, Head of Northumbria Law School and Director, Centre for Evidence and Criminal Justice Studies

Professor Alan Reed, Associate Pro-Vice Chancellor (Research & Innovation)

10.00 – 10.45

**KEYNOTE ADDRESSES**

Judge Sir Howard Morrison, Appeal Division, International Criminal Court, The Hague

'International Criminal Law: Hopes and Fears'

Professor Mohamed Badar, Chair of Comparative & International Criminal Law at Northumbria Law School, Northumbria University

'Timeliness and Significance of the Conference'

10.45 – 11.45

**PANEL 1 – The Nature, Manifestations and Effects of Hate and Fear Propaganda**

**CHAIR:** Dr Clare Lawson

**SPEAKERS:**

Professor Predrag Dojčinović, 'The Role of Hate and Fear Propaganda and Grand Narratives in Facilitating Atrocities' (30 min)

Professor Richard A. Wilson, 'Studying the Effects of Inciting Speech and the Role of Social Sciences at International Trials' (30 min)

11.45 – 12.15 *coffee break and group photo*

# Day 1: Monday 10 February 2020

*Great Hall, Sutherland Building, College Street*

12.15 – 13.15

## **PANEL 2 – Advocacy of Hatred in International Criminal Law**

**CHAIR:** Professor Richard A. Wilson

### **SPEAKERS:**

Professor Gregory Gordon, 'Speech and Atrocity: An Historical Sketch' (30 min)

Dr Wibke Timmermann, 'The Evolution of Speech Crimes in International Criminal Law and the Law after *Šešelj*' (30 min)

13.30 – 15.00

## **PANEL 3 – Evidentiary Challenges in Prosecuting Propagandists before International Criminal Tribunals**

**CHAIR:** Professor Gregory Gordon

### **SPEAKERS:**

Professor Mohamed Badar and Dr Polona Florijančič, 'The Case of Vojislav Šešelj: Trial and Appeal Judgments'

Ms Clare Lawson, 'Prosecuting Speech Acts at the ICC: An Examination of the Trial of William Ruto and Joshua Arap Sang'

Mr. Nicholas Leddy, Office of the Prosecutor, Prosecution Division, ICC, 'Challenges in 'Prosecuting Hate Speech at the ICC: the Situation in Myanmar and Bangladesh'

15.00 – 16.00 **break**

16.00 – 17.00

## **PANEL 4 – Advocacy of Hatred in International Human Rights Law and Domestic Jurisdictions**

**CHAIR:** Professor Caroline Fournet

### **SPEAKERS:**

Ms Audrey Fino, 'Advocacy and Incitement in International Human Rights Law: Synergies with International Criminal Law' (25 min)

Ms Jessica Hart, 'Prosecuting Hate Speech: A Practitioner's Perspective on the Approach of English Law' (25 min)

17:00 – 17:30 **Q & A**

17.30– 18.00

**Book Launch** Professor Predrag Dojčinović, Professor Mohamed Badar, Dr Polona Florijančič, Professor Richard A. Wilson, Professor Gregory Gordon, Dr Wibke Timmermann, Ms Clare Lawson, *Propaganda and International Criminal Law: From Cognition to Criminality* (Routledge, 2020)

# Day 2: Tuesday 11 February 2020

*Great Hall, Sutherland Building, College Street*

9.30 – 10.40

## **PANEL 5 – Hate Propaganda in the Era of Social Media**

**CHAIR:** Professor Gregory Gordon

### **SPEAKERS:**

Dr Polona Florijančič, 'The Cognitive and Linguistic Implications of ISIS Propaganda' (20 min)

Professor Mohamed Badar, 'Incitement to Genocide through Facebook in Myanmar' (20 min)

Professor Richard A. Wilson, 'Digital Authoritarianism and Human Rights' (30 min)

10.40 – 11.00 **Q&A**

11.00 – 12.30

## **PANEL 6 – Potential Reform of International Criminal Law**

**CHAIR:** Dr Nicola Palmer

### **SPEAKERS:**

Professor Gregory Gordon, 'Towards a Unified Liability Theory' (30 min)

Dr Wibke Timmermann, 'Drawing the Line between Incitement to Hatred, Incitement to Crimes, and Instigation/Solicitation'

Professor Predrag Dojčinović, 'Between Hate Propaganda and Fear Propaganda: A Shift Towards A New Form of Liability'

Dr Polona Florijančič & Professor Mohamed Badar, 'Rethinking the Causal Link between Propaganda and the Commission of Crimes'

12.30 – 14.00

## **PANEL 7 – Manipulating the Marketplace of Ideas**

**CHAIR:** Professor Predrag Dojčinović

### **SPEAKERS:**

Dr Polona Florijančič, 'Marketplace of Ideas – a Useful Myth' (30 min)

Dr Michael Kearney, 'Propaganda for War and the Legislative Role of Tech Firms' (30 min)

Dr Juline Beaujouan, 'Narrating Revolutions: Media Framing of the Protests in Lebanon and Iraq' (30 min)

14.00 – 15.00 **break**



# Day 2: Tuesday 11 February 2020

*Great Hall, Sutherland Building, College Street*

15.00 – 16.00

## **PANEL 8 – The Human Face of Propaganda**

**CHAIR:** Professor Mohamed Badar

**SPEAKERS:**

Professor Caroline Fournet, 'Propaganda in the Courtroom? The Strategic (Mis)use of Dead Victims During Trial' (30 min)

Dr Nicola Palmer, 'Hate Speech Resistance and the Effect of Language in Rural Rwanda' (30 min)

16.00 – 16.30

## **Closing Remarks**

Professor Mohamed Badar

16.30 – 17.30

## **Way Forward**

**MODERATOR:**

Dr Wibke Timmermann



## List of biographies

**Prof. Mohamed Badar** is the Chair in Comparative and International Criminal Law at Northumbria Law School. He has published on issues related to comparative and international criminal law and Islamic law. His work has been cited by international and national criminal courts and tribunals. He served in Egypt as Senior Prosecutor and Judge from (1997-2006). He was legal investigator for the Bahrain Independent Commission of Inquiry to investigate and report on allegations of human rights violations during the civil unrest in Bahrain in 2011. He has worked as an expert for the UN Interregional Crimes and Justice Research Institute, the United States Institute for Peace, the UN Office on Drugs and Crime and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization. He recently worked as a Senior Expert for Euromed Justice IV, a project funded by the European Commission for enhancing Euro-Mediterranean mutual legal assistance on the investigation and prosecution of complex judicial cases i.e. terrorism, money laundering and cybercrime. He is the author of *The Concept of Mens Rea in International Criminal Law*, (Hart 2013/2015) and *Islamist Militants and Their Challenges to Sharia and International Criminal Law* (Hart 2021).

**Dr Juline Beaujouan** is a Research Associate with the Political Settlements Research Programme, based at the University of Edinburgh. Her research explores the inclusion of non-state actors in local peace agreements and trust-building in diversity countries, particularly in Iraq, Lebanon and Syria. Juline received her Ph.D from Durham University where she was awarded the al-Sabah doctoral fellowship and became a member of an interdisciplinary research team acting as a key contributor to the AHRC's Open World Research Initiative (OWRI). Her thesis investigated the effects of Islamic State's use of language in shaping the perceptions of the Jordanian and Tunisian audiences about the conflict dynamics in Iraq and Syria.

**Prof. Predrag Dojčinović** worked for the Office of the Prosecutor at the International Criminal Tribunal for the former Yugoslavia from 1998 to 2017. He has authored numerous articles and has edited several volumes on the social, political and legal aspects of the 1991-99 series of armed conflicts in the former Yugoslavia. He is author of *Propaganda, War Crimes Trials and International Law: From Speakers' Corner to War Crimes* (Routledge 2012) and *Propaganda and International Criminal Law: From Cognition to Criminality* (Routledge, 2020). He has lectured widely in Europe and the United States. Dojčinović was the Gladstein Visiting Professor of Human Rights at the University of Connecticut in 2014 and is currently a research affiliate and adjunct professor at the Human Rights Institute at the University of Connecticut.

**Ms Audrey Fino** is an International lawyer with over twenty years' experience in international human rights, criminal and humanitarian law at the UN International Criminal Tribunal for the Former Yugoslavia, the UN Office of the High Commissioner for Human Rights and in private practice. She is currently a consultant with REDRESS and a lecturer in public international law and humanitarian law at the University of Groningen and the University of Malta. She is also writing a PhD at the University of Groningen on Hate Speech in International Human Rights and Criminal Law.

**Dr Polona Florijančič** earned her PhD at Brunel Law School on the World Trade Organisation and its violation of the right to economic development, which included a rigorous analysis of the propaganda surrounding the organisation and its goals that serves to mask the problems and keep the unequal power relations. She has lectured at Brunel Law School i.a. on trade law, regional and international human rights law, domestic and international criminal law and Islamic law. She has participated in the EuroMed justice project on criminal cooperation and counter-terrorism in the MENA region. Her recent research has included decoding the language of ISIS to prove incitement to genocide; assessing incitement to hatred as a crime against humanity; a critical analysis and implications of the *Vojislav Šešelj* case; the disqualification of Judge Harhoff from the International Criminal Tribunal for the former Yugoslavia.

## List of biographies

**Prof Caroline Fournet** is Professor of Comparative Criminal Law and International Justice at the University of Groningen (The Netherlands). She is Editor-in-Chief of the *International Criminal Law Review* (Brill) and one of the co-editors of the academic journal *Human Remains and Violence: An Interdisciplinary Journal* (Manchester University Press). In 2016, she took up a Visiting Professional position in Chambers at the ICC. In 2012-16, she was co-investigator on the ERC-funded multidisciplinary research programme ‘Corpses of Genocide and Mass Violence’ (2012-16). Her current research focuses on the dual use of forensic evidence in the investigation and prosecution of mass violence crimes on one hand and in the identification of victims and the building of post-atrocity memory on the other.

**Prof. Gregory S. Gordon** is a Professor of Law at the Chinese University of Hong Kong Law Faculty. He previously worked with the Office of the Prosecutor for the International Criminal Tribunal for Rwanda, where he served as Legal Officer and Deputy Team Leader for the landmark “media” cases, the first international post-Nuremberg prosecutions of radio and print media executives for incitement to genocide. For this work, Professor Gordon received a commendation from Attorney General Janet Reno for “Service to the United States and International Justice.” He has been featured on CNN, the BBC, NPR, C-SPAN, and Radio France Internationale as an expert on genocide and war crimes prosecutions and, in 2015, his work was featured in an NPR broadcast on incitement to genocide narrated by Academy Award-winning actor Morgan Freeman. Professor Gordon is one of the world’s foremost authorities on incitement to genocide and his book *Atrocity Speech Law: Foundation, Fragmentation, Fruition*, proposing a new paradigm for hate speech in international criminal law, was published by Oxford University Press in 2017.

**Dr Michael Kearney** studied at UCC and earned his doctorate at NUI Galway. He has lectured at the University of York, the London School of Economics, the University of Sussex, and at Huddersfield Law school. His monograph, *The Prohibition of Propaganda for War in International Law* (Oxford University Press, 2007) was awarded the American Society of International Law Lieber Certificate of Merit in 2008. His teaching and research, primarily concerning public international law and international criminal law has addressed a range of issues including the prohibition of propaganda for war, extraterritorial jurisdiction in human rights law, apartheid and colonialism, the nature of the state, and war crimes including the transfer of civilian into occupied territory. Michael’s current research includes a critical review of how the notion of resilience is utilised in legal education under neoliberalism, a project on how the metaphor of the archipelago allows an insight into the idea of self-determination in the face of climate change, and the question as to why incitement as a mode of liability continues to be excluded from the formal toolbox of international criminal law.

**Ms Clare Lawson** is the Legal Advisory Team Leader at the Kosovo Specialist Prosecutor’s Office. Previously she worked as a legal officer in Chambers (Trial Division) at the International Criminal Court, in the Office of the Prosecutor at the International Criminal Tribunal for the former Yugoslavia, as a human rights adviser to the Irish Government, and in private practice with a leading Irish law firm. She has also led human rights negotiations on behalf of the European Union at the United Nations, on topics including treaty body reform and violence against women. She is qualified as a solicitor in Ireland, and as an attorney-at-law in New York State. Clare has worked on a large number of international criminal cases, including those arising from the former Yugoslavia, Kenya, the Democratic Republic of Congo and the Central African Republic. In particular, in relation to propaganda and speech crimes, she has worked on both *The Prosecutor v. Vojislav Šešelj* and *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*.

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**Ms Jessica Hart** is a Specialist Prosecutor in the Crown Prosecution Service (CPS). For the past 5 years she has worked in the Counter Terrorism Division and has prosecuted a number of high profile terrorist cases. She is the National CPS lead on extremism, with particular expertise in relation to offences of inciting hatred and the emerging threat from the extreme right wing in the UK.

**Mr. Nicholas James Leddy** is a Trial Lawyer for the Office of the Prosecutor of the International Criminal Court, where has investigated and prosecuted war crimes and crimes against humanity in several countries. Previously, he was a prosecutor at the Manhattan District Attorney's Office, where he investigated and prosecuted complex crimes including political corruption and police misconduct as well as cases involving gang violence, sexual violence, and hate crimes. He has also worked with the Public International Law and Policy Group (PILPG) for clients in Sub-Saharan Africa and Southeast Asia on transitional justice issues. He is currently a member of the Editorial Committee of the *Journal of International Criminal Justice* (JICJ) from Oxford UP, and an expert on the Justice Rapid Response (JRR) roster for international criminal investigations.

**Judge Sir Howard Morrison** Judge at the International Criminal Court as of 11 March 2012, for a term of nine years. Assigned to the Appeal Division. He previously served as defence counsel at various international tribunals, including at the International Criminal Tribunal for Rwanda (1998-2004), the Special Tribunal for Lebanon (2009) and the International Criminal Tribunal for the Former Yugoslavia (since 2009), where he was a trial judge in the case of Radovan Karadžić. In 2008 he was elected as a Master of the Bench of Grays Inn and a Senior Judge of the Sovereign Base Areas in Cyprus. He has been appointed Queen's Counsel (2001), Circuit judge (2004) and CBE for services to International Law (2007) and KCMG (for services to rule of law) (2015). He is a Hon. Professor of Law at Leicester University as a Senior Fellow of the Lauterpacht centre for International Law (LCIL) at Cambridge University. He holds a Hon. L.L.D. from Leicester University and lectures in International Criminal and Humanitarian Law, world wide.

**Dr Nicola Palmer** is Senior Lecturer in criminal law at King's College and the author of *Courts in Conflict: Interpreting the Layers of Justice in Post-Genocide Rwanda* (OUP, 2019). She has written on questions of resistance to mass violence, methodological approaches to transitional justice and the intersections of plural legal processes set up in response to exceptional violence with support from the Economic and Social Research Council (ESRC) and the British Academy. She was previously the Global Justice Research Fellow at St Anne's College, Oxford and convenor of the Oxford Transitional Justice Research (OTJR) network. She received her DPhil in law from the University of Oxford in 2011 where she studied as a Rhodes Scholar. Prior to this, she worked at the United Nations International Criminal Tribunal for Rwanda. Since 2014, Nicola has worked as an international research advisor on the Aegis Trust's Research, Policy and Higher Education (RPHE) programme, engaging in an innovative peer-to-peer exchange with Rwandan researchers working on post-conflict reconstruction.

**Dr Wibke K. Timmermann** is a criminal lawyer at Legal Aid Western Australia in Perth, Australia. She previously worked as a Legal Officer at the Prosecutor's Office of Bosnia and Herzegovina, Special Department for War Crimes, and as a Legal Assistant on a defence team at the International Criminal Tribunal for Rwanda. She has authored various articles and book chapters on incitement in international criminal law; the relationship between hate propaganda and incitement to genocide counter-acting hate speech as a way of preventing genocidal violence. Her articles were published in the *Journal of International Criminal Justice*, *International Review of the Red Cross*, *Leiden Journal of International Law* and *Genocide Studies and Prevention*. Her groundbreaking monograph *Incitement in International Law* was published by Routledge in 2014.

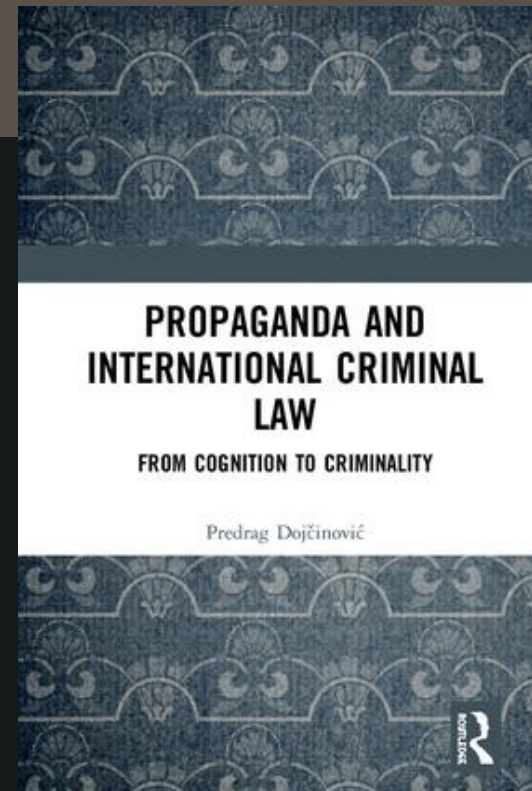


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**Prof. Richard Ashby Wilson** is the Gladstein Distinguished Chair of Human Rights and Professor of Law and Anthropology at the University of Connecticut. He is the author or editor of 11 books on international human rights, humanitarianism, truth and reconciliation commissions and international criminal tribunals, and his publications have been translated into Chinese, Danish, Italian, Serbian, and Spanish. He wrote the definitive ethnographic study of the South African Truth and Reconciliation Commission, *The Politics of Truth and Reconciliation in South Africa* (Cambridge University Press, 2001). His book *Writing History in International Criminal Trials* was selected by Choice in 2012 as an “Outstanding Academic Title” in the law category. His latest book, *Incitement On Trial: Prosecuting International Speech Crimes* (Cambridge University Press, 2017), explains why international criminal tribunals struggle to convict individuals for inciting speech and proposes a new model of prevention and punishment. He has held prestigious fellowships from the Russell Sage Foundation, the National Endowment for the Humanities and Institute for Advanced Study, Princeton. He has consulted for various policy agencies, including UNICEF in Sierra Leone, and he served as Chair of the Connecticut State Advisory Committee of the U.S. Commission on Civil Rights from 2009 to 2013. Wilson is presently writing about on First Amendment issues in the United States, developing a law and social science research project on incitement, hate speech and hate crimes.

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ORGANISING COMMITTEE:

Professor Mohamed Badar

Dr Polona Florijančič

GRAPHIC DESIGN AND COVER IMAGE:

Dr Polona Florijančič