

WAR CRIMINALS BEWARE OF NIEMANN

When former Bosnian Serb president Radovan Karadzic comes to The Hague to be tried for war crimes he may well find himself facing Australia's Grant Niemann on the other side of the trial chamber.

Mr Niemann, one of two senior trial attorneys at the International Criminal Tribunal for the Former Yugoslavia, is a formidable opponent who is fast becoming one of the world's most experienced war crimes prosecutors.

He is responsible for the heaviest sentence handed down by the Tribunal since its creation in 1993, sending Bosnian Serb Dusko Tadic to jail for twenty years for the murder of two Muslim policemen and other crimes.

Seventy-seven men have been publicly indicted for war crimes, crimes against humanity and genocide committed in Yugoslavia since 1992, where war and ethnic cleansing, particularly in Bosnia, have killed thousands of civilians. At least 57 of those indicted remain at large.

On top of the wanted list is Radovan Karadzic. He is charged with genocide,

destruction of sacred sites and using UN peacekeepers as human shields.

Karadzic is free to roam around eastern Bosnia, despite an international warrant for his arrest and a large international peacekeeping force stationed there. This is a glaring example of the Tribunal's inability to force governments to hand over suspects.

But Mr Niemann is optimistic about securing Karadzic for trial, saying that it is not "something that has been put on a back burner and is being ignored".

He said in December last year that the handover of war crimes suspects was a long process, requiring international pressure on uncooperative states, but was becoming more successful.

Croatia surrendered ten war crimes suspects to the Tribunal in October, doubling the number of people held at the Tribunal's detention centre and putting a considerable strain on its resources.

To meet its growing case load, the Tribunal is asking the United Nations to increase its annual budget from US\$48 million to \$64 million for 1998.

Mr Niemann is leading six cases, which could see nine men jailed for genocide and other crimes. The Tribunal's other senior trial attorney, Mark Harmon of the United States, is leading three cases against eleven men.

Each prosecution case is developed by a team of about ten police officers, lawyers and criminal analysts. They liaise with staff at the Tribunal's offices in Sarajevo, Belgrade and Zagreb.

Preparing the prosecution cases is a long, arduous process, according to Mr Niemann.

"A lot of the evidence was collected by non-government organisations which were assisting refugees . . . Because a lot of these statements were not taken for the purposes of criminal investigation they were not suitable and couldn't be relied on because they contained hearsay and were generally speaking not designed for a court of criminal law," he said.

"We then sent out our own investigators to pursue the investigation based on these leads . . . we looked at the people who were implicated in the crimes, the ones who

■ The International Criminal Tribunal for the Former Yugoslavia.



actually committed them on the ground . . . commanders who were responsible and the next step up to the political heads."

When a war crimes suspect is indicted and finally handed over to the Tribunal, it will probably be six months before his trial begins. The trials can be tediously slow because of arguments over the young Tribunal's evolving rules and the hard time that prosecutors and defence lawyers have in getting witnesses to appear.

As Mr Niemann said: "It's so much harder when you're sitting here in The Hague and you say, well, my case is on tomorrow and I need three witnesses to fill



■ Grant Niemann: "I became very much committed to the view that on a national scale we all get outraged and excited by crimes that are committed in our communities, yet crimes on a horrendous scale which are committed by states . . . often go unnoticed."

the day, and getting another one from Yugoslavia is not going to be perhaps so easy."

However, he considers the problems of getting suspects and witnesses to trial are worth it.

"I think the Tribunal is very long range. It's dealing with issues in many years to come. I see witnesses coming here, who are victims, who testify and after the process of testifying . . . come away from the process relieved . . . they have had the strain and burden taken off their shoulders because they have told their story to a court that is genuinely dispassionate," he said.

The Tribunal was set up by the UN Security Council to reconcile victims and bring lasting peace to Yugoslavia by ensuring that those who committed the

worst atrocities there did not go unpunished.

But just as Radovan Karadzic is eluding the Tribunal, lasting peace in the former Yugoslavia seems to be eluding the United Nations.

"It's certainly very volatile. I don't think anyone would hold the view that peace is now definitely going to prevail forever," said Mr Niemann, who visited Sarajevo in November.

This volatility is expected to hold up trials and the surrender of war crimes suspects.

Mr Niemann said the Tribunal would probably be hearing cases until about 2004. "I don't think all the case work will be disposed of in that time, but I wonder whether if a permanent tribunal was created it might be given a mandate to take over the Yugoslav cases."

Support is growing for the creation of a permanent international criminal court modelled on the Yugoslav tribunal and the Rwanda tribunal, which is also trying people for genocide and crimes against humanity. A meeting is to be held in Rome later this year to draft a treaty to set up the court.

Mr Niemann would like to see the new court have jurisdiction to cover war crimes, genocide and crimes against humanity in any part of the world, putting an end to the "notoriously unsuccessful" record of war crimes prosecutions at a national level.

Prosecuting war criminals is a passion that Mr Niemann developed while working on cases against three Nazi war crimes suspects in Adelaide from 1989 to 1992 as a federal Deputy Director of Public Prosecutions. None of the three was ever convicted but it was enough to give Mr Niemann a taste of the importance of international criminal law.

"I just think the crimes involved were so serious that you can't just paper over and forget them, so you have to do something," Mr Niemann said.

"I became very much committed to the view that on a national scale we all get outraged and excited by crimes that are committed in our communities, yet crimes on a horrendous scale which are committed by states . . . often go unnoticed. I think there is an urgent need to address that," he said.

The Tribunal's deputy prosecutor, Graham Blewitt, who is responsible for the day-to-day administration, policy and investigations of the prosecution, also worked on the war crimes trials in Australia. He was in charge of the special federal unit which investigated Nazi war criminals living in Australia. ■

THOR KERR

Thor Kerr is a freelance journalist based in The Hague.

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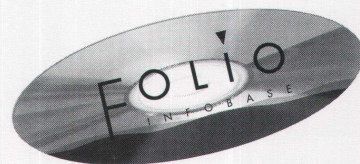
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