

# Courts, Cameras and Genocide

Paul Mason researched attitudes towards audio-visual coverage of the International Criminal Tribunal for the former Yugoslavia.

On 28th December, the Lord Chancellor's Department denied reports by *The Guardian* that consideration was being given to the use of cameras in some non-jury courtroom proceedings. This is the latest development on the issue of electronic broadcast coverage of cases following the BBC's rejected appeal to broadcast the Lockerbie trial and the disputed media coverage of the Louise Woodward and OJ Simpson trials. Meaningful research into the issue in English and Welsh courts is precluded by the banning of cameras in court under the Criminal Justice Act 1925, s.41. However there is one English-speaking courtroom in Europe where cameras broadcast entire proceedings live. The International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague has been using audio-visual equipment in its three courtrooms since 1996. The Tribunal agreed to a report on the impact of its cameras on court participants (Mason 2000), the principal findings of which are discussed below.

## ICTY background and logistics

The ICTY represents the first attempt, by an international community, to enforce international humanitarian law in armed conflict since the International Military Tribunal at Nuremberg after the Second World War. Under the auspices of the United Nations, it is mandated to prosecute those persons responsible for serious violations of international humanitarian law committed in the former Yugoslavia since 1991. There are six remote-controlled cameras in each courtroom, which may not zoom in on participants nor show them in distress. Witnesses have the right not to be shown, or they may be disguised through face and/or voice distortion. The footage is filmed live but broadcast with a thirty-minute delay to protect court participants mistakenly identifying other protected parties. Television companies including CNN, BBC World, Court TV, Intanews and Eurovision (which has a direct feed to Bosnia) have used the footage, which is distributed free of charge.

Research was based on interviews with accessible court participants: judges, prosecutors, defence counsel, and court staff. Their responses were grouped into five areas: the impact on court participants; the function of recording and broadcasting Tribunal proceedings; the effect, if any, of cameras on the administration of justice; the extent to which other international trials could adopt the Tribunal's audio visual policy, in particular the

Lockerbie trial; and the extent to which national justice systems could adopt the Tribunal's audio visual policy.

## Impact on court participants

The overwhelming majority of respondents (92 per cent) stated they were only 'occasionally' or 'rarely aware' of the cameras in the courtroom. It is interesting to note however that no respondent claimed to be totally unaware of their presence either. The primary reason given by those who stated that the presence of cameras did not affect them in the trial chamber was concentration on the case itself:

*"I don't even remember that there are cameras because I'm interested in following what the witness is saying, what the lawyers are saying, how I should control what is happening and things like that."*

Judge 1

When asked about the effect of cameras on witness behaviour, the majority of respondents (55 per cent) thought it was possible that witnesses were affected. It was argued by many, however, that the nature of cross-examination and the consequent pressure on a witness during a trial made testimony an exacting task.

Very few respondents stated that cameras in the court affected judges (four per cent). It was felt by respondents that judges were experienced, highly competent people who could focus on the job in hand. Secondly, by sitting in court daily, judges became accustomed to the technology in the courtroom, including cameras.

Respondents saw counsel as more likely to be affected by cameras than other groups. Eighty per cent thought counsel were either affected or possibly affected. Counsel's behaviour was described as 'showboating', 'play-acting' and 'dramatics'. There was some specific reference to the political aspect of the trials, causing counsel to use the wider audience created by the transmission of proceedings:

*"If you happen to be a lawyer who represents an interested state and you want some footage back home ... this is the best opportunity to do it"*

Counsel 3

The general opinion concerning defendants was that their passive position in proceedings and the nature of the indictment against them made the presence of cameras insignificant. "It's like a bump on a log" remarked one prosecutor.



### Lessons for other systems

Many ICTY staff argued that cameras should be encouraged in the administration of international justice elsewhere. Firstly, to recount the workings of the court to the international community: in essence, enabling justice to be seen to be done. Secondly, respondents argued that cameras enabled endorsement and approval from the international community.

A vast majority of respondents argued that cameras should have been present in the recent Lockerbie trial. Many thought that the presence of cameras would enable relatives of those who died to see the trial, which they would otherwise be unable to do:

*"How do you want them to know what is going on? This is their trial. They have to know, they have to see it, they have to be part of it."*  
Court Staff 7

There was some consensus that cameras would have a minimal impact on the political aspects of the Lockerbie trial, indeed, it was suggested that the use of audio-visual coverage may have a positive effect.

*"By making this very high profile case a secret proceeding, you are going to run quickly into the criticism of 'well they have something to hide'... You have nothing to hide, you have nothing to be afraid of, so it's your best protection."* Court Staff 11

Whether or not the Lord Chancellor's Department are currently exploring the possibility of electronic broadcast coverage of court proceedings, it seems likely that some form of broadcast trials is likely in the future. The ability to broadcast cases directly on the Internet, as is the case in the United States and Australia (Stepniak & Mason 2000), may well lay the ghost of the OJ Simpson case to rest.

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### References:

Mason, P. (2000) *The Impact of Electronic Media Coverage of Court Proceedings at the International Criminal Tribunal for the former Yugoslavia* (2000) The Hague/Southampton: ICTY/Centre for Media & Justice.

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