



Psychiatry and Behavioral Sciences Section - 2014

15 Measuring the Mind of a War Criminal: Behind the Scenes on an Assignment for the United Nations International Court of Justice in the Hague

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After attending this presentation, attendees will have a greater insight into the process and practice of consulting for the United Nations International Court of Justice, including dealing with cross-cultural issues, language barriers, bias-reduction through culture-free test selection, and communication of findings that address international criminal-legal standards.

This presentation will impact the forensic science community by sharing insights into the process of forensic neuropsychological consultation on an international level.

This paper presents a first-hand account of an assignment from the United Nations International Court of Justice in the Hague to evaluate the competency of a Bosnian war criminal to participate in an appeal of his case. The history and role of the International Criminal Tribunal for the former Yugoslavia (ICTY) in this context will also be described.

An orientation to the 1995 "ethnic cleansing" and genocide in the town of Srebrenica in Bosnia and Herzegovina will be provided. This mass murder involved the killing of more than 8,000 Bosnian Muslim men and boys by members of the Army of the Serbian Republic and the mass expulsion of another 25,000 to 30,000 Bosnian Muslim civilians. In addition, according to the ICTY indictment, victims endured: unlawful confinement, murder, rape, sexual assault, torture, beating, robbery, and inhumane treatment; the targeting of political leaders, intellectuals, and professionals; the unlawful deportation and transfer of civilians; the unlawful shelling of civilians; the unlawful appropriation and plunder of real and personal property; the destruction of homes and businesses; and, the destruction of places of worship.

The procedural history of the instant case will be discussed, with a focus on the international criminal-legal mental health standards for competency to pursue appeals in this context. In addition, the issues leading to the referral for a forensic neuropsychological examination in the case will be discussed. This will include a review of the relevant *a priori* medical and forensic psychiatric findings in the case, and the issues which arose from there, driving the need for this assignment.

The logistics of arranging travel, accommodations, security, the examination location, and coordination with international attorneys and United Nation (U.N.) representatives will be presented, including what happens when one's luggage gets lost in Serbia. Insights with regard to maintaining objectivity and professional neutrality in such emotionally-charged circumstances will also be shared.

Specific challenges encountered during the assignment will be explored, including: (1) cross-cultural issues in conducting the forensic neuropsychological examination; (2) addressing reliability and validity concerns through selection of culture-free test instruments and measures; (3) issues of literal language translation; and, (4) interdisciplinary consultation with experts from other countries.

Findings from the examination will then be summarized. This will include personal observations and a phenomenological account of the examination itself, as well as a discussion of how the results from the neuropsychological test battery were directly related to the issues of trial competency before the court. Finally, the process of report writing and communication of findings to the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia will be discussed, together with the Appeals Chamber's decision and the outcome of the case.

Forensic Neuropsychology, Bosnian Genocide, International Court of Justice