

THE AD HOC TRIBUNALS ORAL HISTORY PROJECT

An Interview with

Gabrielle Kirk McDonald

International Center for Ethics, Justice and Public Life

Brandeis University

2016

Interviewee: Gabrielle Kirk McDonald

Location: East Hampton, NY

Interviewers: David P. Briand (Q1) and
Leigh Swigart (Q2)

Date: 15 July 2015

Q1: This is an interview with Gabrielle Kirk McDonald for the Ad Hoc Tribunals Oral History Project at Brandeis University's International Center for Ethics, Justice and Public Life. The interview takes place in East Hampton, New York on July 15, 2015. The interviewers are Leigh Swigart and David Briand.

Q2: We have reviewed a lot of your publications, and we know that you're very much on the record talking about the contributions of the ICTY [International Criminal Tribunal for the former Yugoslavia] from the early years to the developments of modern international criminal justice, and to the prosecution of sexual violence. You've also written quite a bit about outreach to The Balkans. So David and I didn't want to just retread territory that you are already out in the public about, but instead we would love to get personal anecdotes and impressions and things that people may not have the opportunity to know about through other kinds of writing. Not that we don't want to hear about some of these things; if it's important to you, please discuss it. And it was very interesting to read all the speeches you've given.

McDonald: Oh, I think the speeches are boring. Part of my being—and this relates to why I went to the tribunal—has nothing to do with, or not so much to do with the intellectual development of international humanitarian law. To me, given my background as a civil rights lawyer, I was struck by what was happening in the former Yugoslavia and how it

related to what was going on in the United States, primarily with respect to African Americans. That's what drew me there, and I often said, as you've probably seen, that it was a "visceral" almost—I don't want to say "mission," but maybe so—that took me there. When you read the speeches—the speeches were designed and often written by my various legal assistants to impress people with the intellectual developments of the tribunal. But until the outreach, really, and until the *Tadić* trial for me, there really wasn't an opportunity to focus on the essence of what we were doing. But that also though, I think, came up in the drafting of the rules of procedure, particularly as it relates to trials in absentia and matters involving sexual assault. Because I had very deep feelings about those two issues and I speak out, and I did.

Q2: How did that work? I know that it was a major undertaking to do the Rules of Procedure and Evidence.

McDonald: Yes.

Q2: I'm just curious, you had these judges from many different countries, from different legal systems. You needed to sit down and draft those. How did it actually work as you sat around the table? Did you start with your own national understanding of what this would be, and then you discussed? How did it work?

McDonald: Well, we received submissions from states and from various groups. The United States, as we tend to be, was front and center, so to speak, with respect to the

Rules of Procedure and Evidence. Representatives from the Department of Justice, State Department and perhaps other agencies met—I was teaching at the time in Houston—and they came to Houston, which was quite interesting. Some of them were old army officers, and everybody came marching in, and we met in the dean's conference room. This was after my name was submitted, and after the election. We met to develop the Rules of Procedure and Evidence. I don't want to say that I did any drafting; it was more my reaction to what was being proposed. We met several times. But there was quite a cadre.

When I appeared in The Hague in November of 1993 and we met in the Peace Palace, I presented a full-blown set of Rules of Procedure and Evidence for my members' consideration. And at first, I think the reaction was, "This is rather presumptuous of you as an American. Here you're coming, and this is an international tribunal and you're presenting rules that were drafted by United States lawyers." But, if you look at the Rules of Procedure and Evidence that we presented, the structure is very, very similar, if not identical to the structure of the actual adopted Rules of Procedure and Evidence. We used that, though, as the working draft for the rules, and we met for some thirty-seven days in three sessions, first in the Peace Palace, because we had obviously no premises. Eleven judges, we appear—"Okay, we're ready now to judge these war crimes in the former Yugoslavia."

How do you begin? We had no rules, as you know, of Procedure and Evidence; we had no premises, the whole thing. Nino Cassese, who we elected as president, has spoken about it, and he did a very good job. Unfortunately he is deceased now. Our first day we

elected the president. Another judge was not too happy with that; he thought that we should get to know each other, but Judge [Georges] Abi-Saab came really as the campaign manager for Judge Cassese, and we did elect him. We thought about Judge [Ninian] Stephen, for example, who had been the Governor General of Australia, and had been a Supreme Court Judge in Australia, but he said that his country did not want him to take such a position; they weren't interested in that. So we elected Nino. Nino turned out to be a godsend.

After I think our first session, the judge from Canada, [Jules] Deschênes, congratulated Judge Cassese on the development of the rules in other matters during the first session. So we used the American draft really as the "working copy," and we all kind of all responded to it. And for me, I used the Federal Rules of Criminal Procedure. In the discussions, I often cited to them, and I'm one of those crazy people who likes rules. I had taught civil procedure, I had taught federal jurisdiction, and of course I'd been a federal judge where I applied [said with emphasis] our rules, and before that a litigator when I had to urge the judge to follow my suggestions. So I really enjoyed it.

There were two areas—trials in absentia and matters involving sexual assault—that I was particularly interested in. I remember, and I thought about this just a day or so ago, Elizabeth Odio Benito from Costa Rica was the only other woman, and we related because of that, I suppose. I can remember—she was sitting in the Peace Palace; we were at a table and I was sitting on the opposite side of her, and she was sitting at the end seat, and I remember running around to her and saying, "I'll take trials in absentia, you take

matters involving sexual assault." Well, it turns out, coming from Costa Rica, she's very much interested in trials in absentia. Then when we had the final discussion of Rules 95 & 96, she was in Costa Rica. So it ended up that I was kind of stuck without her on the two issues. We later became dear, dear, dear friends, particularly when I was at the Iran U.S. Claims Tribunal.

So, Nino came very [said with emphasis] well prepared. I say Nino, I mean President Cassese. He came prepared with a desire to have trials in absentia. I don't want to speak—since unfortunately he is deceased—but even from my point of view, and I was very much opposed to it, I could see where he was coming from because international criminal law suffers from an impediment to begin with. We had no enforcement mechanism; we had no police force. The statute provided that states were to comply with our requests—I think it was Article 24 or whatever it was in the statute—but if they didn't, there was no way for us to enforce it other than go to the Security Council. So the fear was that we would do nothing; we would never have any accused in the dock, because there was no mechanism to bring them there.

A lot of pressure, I think, was put on us to do something, because of what was going on in the former Yugoslavia—the killings, the deaths. Unlike other conflicts, this was in our "living room," so to speak, every day. We saw this, and the world community saw it, and the world community couldn't get together to do anything. So instead, Madeleine Albright and others—Madeleine Albright, who I refer to as the "Mother of the Tribunal"—really pushed for the establishment of the tribunal. So there was a fear that

we would not be able to do anything and thus this [trial in absentia] was his proposal. I, again, perhaps borrowing from my history as a civil rights lawyer, was concerned with balancing the rights of the accused with the need to do justice for the victims.

Q2: Does Italy have trials in absentia?

McDonald: Yes, they do, but there are trials in absentia, and trials in absentia; there are often limitations. We received proposals, I think from eighteen countries, on that issue, almost all of them were not [said with emphasis] in favor of it except for France. But even the United States can accept trials in absentia if the accused appears and then absconds. My concern was, how do we know in this situation whether the accused is unwilling to come? We have to rely on his state to execute the arrest warrant, because UNPROFOR [United Nations Protection Force] was doing nothing, so we might have a situation of going forward against a particular accused when he had no notice of the indictment. And in later years, eleven or so Croatians surrendered with the assistance—the encouragement—of the United States. So it may be that he [an accused] was not unwilling to attend, it may be that he or she wanted to attend and defend, but we had no way of doing that, and it seems to me we would be violating the statute which provided for trials in the presence of the accused. That wouldn't be a waiver, whereas in the United States under *Crosby* [*Crosby v. United States*, United States Supreme Court], if a defendant appears and then absconds, it's considered that he or she is waiving her right to a trial in his presence.

So we argued about it a long time. And finally Judge Cassese withdrew his proposal, but he withdrew it in the interest—on the condition that we could reach a compromise. It really was he and I, and we met with Judge Stephen who agreed to draft something that might satisfy us both. And something was submitted. Those were the Rule 61 proceedings where we have a second confirmation of the indictment and publicize the contents of the indictment and some of the evidence.

Q2: I have a question about the nuts and bolts of these discussions. You had eleven judges on the inaugural bench. Were there French speakers among them?

McDonald: There was one.

Q2: And were you using interpretation?

McDonald: Yes, for him. The discussions were in English, that is, English and French. That was one of our earlier decisions, about which would be the authoritative text. And we agreed both. But the discussions were in English, everyone spoke English except the judge from France, whose last name was Costil [German le Foyer de Costil], and he spoke only French. At least he spoke only French in our deliberations, and those were translated. He did not return after the first three sessions—no, the first session, period. Then we went to the second session when we met at the Aegon building. In the third session we finished our rules, but he didn't return. And as I look back upon it—maybe it's my suspicious nature as a judge—but he didn't really support France's proposal. He

himself was reluctant to go along with trials in absentia, unless there were certain curative procedures like repeating the whole trial. You know, "Oh, yes, we can have trials in absentia, we can go ahead, but if the accused ever appears before us we have to conduct the trial." And he wasn't as supportive as I would have thought since France was really taking the lead. He never came back and we didn't know why—unless I forget, we never knew why. But Judge [Claude] Jorda appears.

Q2: Did Judge Jorda speak English?

McDonald: He didn't then, but he subsequently took lessons and he always worked in French, but he at least could speak to you. So anyway, trials in absentia, and then when we get to the rules regarding sexual assault, what we relied on—because the United States did not have a proposal for that—what we relied on were proposals that were submitted by various women's groups. There was a group at City University of New York—Rhonda Copelon, who I later worked with on the Comfort Women Tribunal in Japan, in 2000. They submitted very forward-looking proposals. The idea was to avoid the situation in the United States, and perhaps in other countries, where the victim really becomes the accused. It becomes a trial about the victim's history and behavior, and not necessarily so much involving the alleged perpetrator. And their [the women's groups'] proposals dealt with the issue of consent, the issue of corroboration.

I think the statute says that "we are to devise rules encompassing the highest standards of international law." So we—with Nino Cassese leading the charge—we believed that we

need to set an example, so to speak, and turn against what we felt were trends where the victim became the accused. So, Rules 95 & 96 encompassed that. No corroboration is required. Consent—if it is shown that the victim was in a coercive situation, like one of the detention camps—will not be a defense. The rules further provided that if the issue was raised, the parties were to approach the bench to discuss it before it just came out. That discussion was very contentious, but we approved them by consensus.

Q2: Why was it contentious?

McDonald: Well, I have a view, and I suppose the major reluctant judge has a different view. My view was that there was not really an understanding of the trial process and the history of trials involving rape. There was not an appreciation for that. And also, and perhaps more importantly, there was not an appreciation, given the conflict that was ongoing, that rape was used not as a personal weapon but as a weapon of war. That the focus should not necessarily be on "Jane Doe" as "Jane Doe," but how she fit into the wider conflict.

The judge who was opposed had not been a trial lawyer, and that relates to something that you might be interested in. That is the impact of having experience, I would say, in the real world. He was a professor in Geneva, a very famous professor, and very capable in terms of international humanitarian law. But he had other problems, as I saw it. And he said, "Well, since it's a consensus, fine. But if a vote had been called, I would be against

it, because I feel like I'm under duress. I feel like I cannot really speak my mind because I'll be called a male chauvinist pig."

I was the only woman sitting—well, that's not true. Daphna Shraga with the UN was also there during that discussion. I don't think Virginia Morris was, but she was when we were going hot and heavy with trials in absentia. But the majority of the judges, an overwhelming [said with emphasis] majority, approved it. You know, I think as I sat through trials and consideration of the issue, there is a certain sense, a certain—I don't want to say "sensitivity"—a certain "reaction" that men have to this whole business of sexual assault. It's like, "Well that's your [said with emphasis] business." This is really the first time that I've thought about it and said it exactly, but it's kind of like, "That's your business. That's women's business, and we're not going to get involved in that." There's maybe a feeling of embarrassment, of abhorrence. I saw a little bit of that in the *Tadić* trial. And I particularly remember Judge Stephen's reaction. Judge Stephen has five, I think, daughters. He never said anything explicit, but the three of us—Judge Stephen, Judge [Lal Chand] Vohrah and myself—became very good friends. And I could feel it. It's almost like, "This is an abhorrence," and "It's just something that I can't deal with."

Q2: What was their reaction then to the sexual violence against men that came out? Did they have a similar reaction, or how did they feel—?

McDonald: Interesting. It came out in *Tadić*, of course, because [Duško] Tadić was charged with forcing a detainee to bite off the testicle of a Muslim detainee. I didn't see

it; I didn't really think about it, maybe. Again, it's me as a woman, how I [said with emphasis] relate to it. So perhaps I was relating to it in the same way, kind of leaving it alone, that "you'll take charge on this."

Anyway, those were the two contentious issues in the discussions [on trials in absentia and sexual violence]. There were others, like the reaction of the judges to the U.S. proposal for plea bargaining, which I didn't support, as a matter of fact, because the crimes were of such a level of *jus cogens* that there's no plea bargaining involved on this. Now, it ends up that the prosecutor could, if the prosecutor chose to not indict an individual for giving assistance to the prosecution. But if they wanted us to approve a plea bargain, that was something that we weren't willing to do.

Bail was something else again that was hotly contested. But anyway, to answer your question, we used the American draft really as the focus of discussions, and it was more like, "Do you agree with this? What's your thought on this?" Judge Cassese had his rule on cases involving default, meaning when the arrest warrant was not served. The UN representatives were very much against trials in absentia, and said that the statute did not allow it. But really the statute said that trials in absentia should not be conducted. Then, of course, we had the history of Nuremberg where one at least was tried in absentia, but with the criticism of Nuremberg being a "victor's justice," we were trying to move away from that.

Q2: So if I can just clarify, you were having these discussions, the eleven judges, but there were also representatives from the UN present?

McDonald: Yes.

Q2: And any others? Civil society representatives?

McDonald: No.

Q2: But was it only the judges who voted?

McDonald: Yes.

Q2: So you and the reps were there, and they had their input, but only the judges voted on what form the rules would take?

McDonald: Yes, yes. But they were helpful, because they had—at least I know Virginia Morris and I think Daphna Shraga as well—had worked on the drafting of the statute. So to the extent that we were trying to develop rules that gave effect to the statute, they were helpful in terms of discussing the reasons for various provisions of the statute. But we moved very quickly. One judge, Judge [Rustam] Sidhwa, was very much opposed to us even drafting [said with emphasis] the rules, because he felt that that was the job of a draftsman. But we felt we could do it. And we could [said with emphasis]. But the rules

have been amended so many times I've lost count. Certainly since I left, a lot of them were amended.

But we felt that we could, and, again, judges who had trial experience know the way that at least most of the rules—because most of the rules really bent towards common law, which the statute itself has. We know the way that they work in real life and we felt we could do it. I think, in retrospect, when we amended the rules we were doing so in part because of how we saw they were applied and we could see firsthand lacuna—well, no, problems in the application. But not always. Not always. At one point, even when I was still there, when we got so many accused—we got to the point where we had, I think, twenty-six accused. Eleven Bosnian Croats surrendered in 1997. Then we were faced with how to expedite the trials and how to make them more efficient, and we were amending the rules to do that. I guess from civil law judges' perspective, they were thinking that we were making the rules more like the civil law system. From my perspective—and it was difficult to convince civil lawyers of this—in federal courts at least, particularly in mass trials, we manage the case very strongly. That was something that I was interested in and we appointed a committee to do that, so they began the process.

Q2: We've read a lot about the *Tadić* trial, and were looking at Michael Scharf's book about the *Tadić* trial—what's it called?

Q1: *Balkan Justice*.

McDonald: Oh, yes.

Q2: He really has a very close account of practically every day at the trial. You were talking about the efficiency of trials. Actually, it seems like the *Tadić* trial didn't take very long compared to ones that have come afterward. Was it your sense that the *Tadić* trial was proceeding at an acceptable pace?

McDonald: Yes and no. First of all we—Judge Stephen had been on the Supreme Court in Australia, Judge Vohrah had been on the High Court, which is a trial court, and I had been a trial judge. So we had experience in trials. What we did was to adopt many procedures that were not explicitly provided for in the rules but which the parties agreed to, and which based on our experience were needed. For example, the term "status conference" was something that we used in the Southern District of Texas where I came from. The "status conference" was to bring the parties, the lawyers, together so that we could talk about where they were going, where they were with the development of their case, presentation issues, whatever. There was no provision—there is now, though—but the parties agreed to it. We had a pretrial conference, and there was no provision in the rules at that time, but the parties agreed to it.

We knew that that kind of thing is needed, or at least I knew in the United States, that's something that's needed. If you let the lawyers, the prosecutor and the defense, go off, and you never see them until the opening day of trial, they may be like two ships passing

in the night and you're going to have a long trial; you're going to have other problems as well. So we had a pretrial conference. We asked for pretrial briefs. At the conclusion of the prosecution's case we allowed for—in the American system it would be a "motion for a directed verdict," and in the English system it would be a "no case to answer." We used the "no case to answer" because there were two of them and one of me. Also there's no jury, so "directed verdict"—so we allowed that.

We also directed the prosecution to speed up, and this was after our first witness, Professor [James] Gow. Professor Gow began in the third century, and took us all [said with emphasis] the way up. [Laughs] Talk about a sleeping aid. At one point I did say, because I'm pretty forthright, I said something to Professor Gow—"Could you please fast-forward a couple of centuries?" or something like that. [Laughter] I'm just thinking about it now. I was actually keeping time myself for each witness. We had met with the prosecution and the defense. We said, "You've got X number of days now—" I would tell Mr. [Grant] Neimann how much time he had used for a witness, and whether this was going the way that we wanted. We were fortunate, I guess, because it was the first trial, and the lawyers weren't terribly obstructionist. I mean, we didn't have a whole lot of problems that I've seen arise in other cases. We were sharing the court too, because that was our only courtroom then.

We finished in seventy-nine trial days, as I recall. But that's not the important thing. The important thing is using the time effectively and efficiently. Of course, if you have a Slobodan Milosević, you need more time. But in retrospect, I think that the length of the

trials is, in part—well, it's due to the rules. I have a question about whether the rules that have a bent towards common law are the best ones to use. Because of the massive amount of information that you're getting, I wonder whether receiving that information just from the witness stand is the way to go, or whether there should be other ways to do it more akin to civil law. But it doesn't make any difference whether it's akin to civil law or whatever. I think the attitude of judges—and that's more of a personality thing—and whether they had prior experience as a trial judge—. But even if you did, and your personality is to sit and let the lawyers proceed with the witnesses, that's going to be a problem. So it's the rules but it's also the conduct of the trial, and the need on the part of the judges to seize the trial. It's their trial, but you are responsible for the conduct of the trial.

So the question was, was ours short or long? It went the amount of time that was necessary, even though it took a year. Because we recessed at the end of the prosecution case to allow the defense time to investigate. I think our trial was efficient in terms of what we accomplished in the time that we used. Subsequently the ICTY adopted those kinds of rules; they provided for a pretrial conference, a pretrial judge. I remember I cast the deciding vote, and I was in favor of a pretrial judge. Sometimes civil judges would say, "Well, we need to do it the way we do it in the civil law system." I don't care what system it is, the question is how do we get things done? So there is a provision for a pretrial judge, a pretrial conference. There's some limitation on the amount of time that the parties can use. There is a fear, I think naturally so, that you are going to limit the defense, so when you really start leaning on the parties, there sometimes is a fear that

you'll be accused of denying the accused the right to a fair trial. But a fair trial doesn't mean that you can offer every witness that you want to offer. I don't think that's the way that it goes.

Q2: Was there any kind of training or orientation that judges or prosecutors or defense counsel had to go through so they understood how the trials were organized?

McDonald: No, no. Later I think we did a little bit of that, yes, and that was important, while I was there. The International Bar Association, I think, helped us with that. That's helpful but it's just one of the problems that you have when you're combining—which is I guess what we did—combining two systems, common law and civil law. For example, I remember our trial chamber handled pretrial work for the *Celebici* case as well, and the lawyer from Bosnia who represented the Bosniak general who was found not guilty. Anyway, I could remember her objection to the rule that provides that the prosecution is to provide exculpatory evidence to the defense. That seemed absurd to her. If you think about it, it is. It's like, "How can we trust the prosecution to give us everything? What's the role of the judge in this instance?" I understood her lament, and what I told her, I can remember, was that we would be watching the prosecution. "We'll be watching them, and if they offer evidence or if it appears that there's something there that you didn't receive, we'll take care of it for you." But as I was saying, I kind of understood her concern. So training helps.

The other thing is just inexperience with our system, and that was one of the problems—is one of the problems—with the tribunal. Not only is it geographically remote, it's remote in terms of the way that it operates. That's why it was important when we brought in—right before I left we brought judges and lawyers from Serbia and Croatia and Bosnia to see what we were doing. I had the concern that they're sitting a hundred miles away, saying, "Those judges who have horns are up there making decisions without listening to the witnesses and they're applying law that—" With the propaganda that was being spewed still, I understood it well. But when they came and when they could see the trials, when they could talk to the judges, it helped. It didn't solve the problem, but it helped. So training is important. I remember Judge Cassese said when we approved the rules, one hundred twenty-six rules, he said, "We have adopted a mini-code of criminal procedure."

Q2: What did that mean?

McDonald: Meaning it's not a real code of procedure, but it's a little bit of a code of procedure. And it was a new system. But sometimes when you put together things, it becomes like a horse that looks like a zebra or whatever. You know, you put things together but sometimes they don't fit exactly.

Q1: You mentioned the issues of resolving trials in absentia and things like that. What were some of the other issues that you had to address that came up, through *Tadić* for example, that you later had to make new rules on? The issue of hearsay came up during that trial, correct?

McDonald: Yes. When we were discussing our rules, in the beginning, in the first three sessions, there was opposition to having a particular rule on hearsay. The U.S. proposal did, I'm pretty sure. At least I know in my arguments I had no problem referring to the Federal Rules of Criminal Procedure and Evidence because I had it in my hand. I pointed out that there's a rule, and read it, and then talked about the twenty-four or so exceptions. Many of the judges thought it was silly to even try to define hearsay, so it's silly to have rule on hearsay. So the decision was made not to have a rule on hearsay. Of course, then we get to the trial and all of this, in my definition, hearsay is coming in. We had to do something so we did a little order. But Judge Stephen, I think, approached it differently. Judge Vohrah and I agreed that it's a focus on when—I was using my system, and what I was trying to do in that decision was to come up with situations where the exceptions would apply, and the need to be assured that the testimony is reliable even though it's not coming from the witness stand. Judge Stephen, I think, had less of a concern and just said, "We can do it."

That's an instance actually where we tried to come up with a rule and we were against specific rules, so I don't know that there's a rule now. I bet there isn't. It's like *prima facie* evidence; that was another problem that we had, trying to define *prima facie*, then it's a *prima facie* evidence in terms of the confirmation of the indictment. Different systems have different definitions. I think one rule—it wasn't so much a rule, it was the way that the trial unfolded—and the criticism was the accused was not a part of the process. That was one of the criticisms. You know, you had this trial with all of this evidence about

what was happening, not just in Kozarac where Mr. Tadić came from, but all over the place, and all this testimony, with Gow and other people. But what about him, you know? Of course there was evidence that related to him. There is now a focus—and it happened pretty early after I left, because I can remember talking about it—to allow the accused to make a statement, a statement not under oath but a statement of his or her view of the state of affairs.

Q2: Was Tadić not put on the stand?

McDonald: No. No. [*Here I'm referring to statements not under oath by an accused at trial. Tadić did not make such a statement and he testified under oath at trial. -GKM*] It's true that if you look at the trials, particularly the early trials where there was a need to prove so much—that the accused kind of got lost in the process. But the prosecution had to prove under Grave Breaches [as specified in the 1949 Geneva Conventions] that it was an international conflict. A lot of the evidence came from that, and, of course, I dissented. I felt that they had proved that it was an international conflict; my fellow judges said, "No."

The point was that there was a lot of evidence on it. And Mr. Tadić is sitting there, and it's like, [Laughs] "I'm not involved in this." So I think that that's something. The whole question of publicity—when we were drafting the rules, we decided that there would be video, and that it would be archived but not distributed to the public, and certainly not when the trial was ongoing. You could allow for photographs at the commencement of

the trial, so the photographers would come in, snap pictures a couple of minutes, and then they'd leave. But then U.S. Court TV filed a motion challenging that, and we then allowed for the video of the trial proceedings to be released, in real time with a short delay.

Q2: Did that continue throughout the trial?

McDonald: Yes.

Q2: And was there an audience for this in the U.S.?

McDonald: [Laughs] That's funny. There was in the beginning until we heard from Professor Gow. Then everyone went to sleep. No, that's not true. Don't let me say that about Professor Gow; he was very, very important, and he gave a very good historical—. That wasn't the only reason. Court TV covered it [the *Tadić* trial] for a while. But also—and this is most important, from my point of view. My concern, which I later developed into a need for an outreach, was that it needed to be broadcast to the region. Whoever heard of trials being hundreds of miles away, and no one knows what's going on with the trial? They can't see it, and they don't know our procedures. Even when they see it they don't know because they're very different to theirs.

So yes, there were people in the United States who watched it. One friend told me, that he would turn it on—it usually came on late at night—if he had a problem going to sleep

[Laughs], and he'd turn it on and go promptly "Night, night." That really made me feel good, right? [Laughs] I'm there laboring. But part of the reason it wasn't "Emmy Award material" was that it was a simultaneous translation. I'm looking at you testifying—

Q2: In BCS [Bosnian-Croatian-Serbian].

McDonald: Right, and I hear his voice, you know there's no connection, and it was very slow. It was tedious too. I mean, it was tedious. But the prosecution had to prove a lot.

Q2: If I understand correctly, unlike in the U.S. system, you judges at the ICTY are allowed to make queries from the bench, and I wondered what your reaction was to that and how you felt that worked in practice.

McDonald: It was good. I thought—yes, there's a rule that allows that. But it even goes further. We can ask for the production of evidence.

Q2: Did you do that? Did you ask for clarification, or have that more active role?

McDonald: Again, I didn't have a problem with it, because it depends on the personality. The rule that allows for the Chamber to request that evidence be produced—and I think they used it—the rule uses that term, "evidence." I didn't have a problem with that at all. You know these were non-juried trials, of course. My fellow judges from the civil law system referred to themselves as "professional judges," right? "Professional judges." And

that means somehow you're different than other judges. [Sarcasm] [Laughs] Given that the civil law system begins with a pretrial judge gathering the evidence, a simple rule that allows for the trial chamber to ask for the production of evidence is nothing that is unseemly to civil law judges.

As a federal trial judge, I had no problem questioning the witness. I had a case involving the Ku Klux Klan, and I had the Grand Dragon sitting right next to me. And I asked him [said with emphasis] questions. So, I didn't have a problem with it at all. I think it's been used in other cases. We didn't ask for the production of evidence, but we certainly asked questions of witnesses. The way that we decided is that I would let Judge Stephen go first—he was the senior in terms of age—and then Judge Vohrah, and then I chose myself to go last. I think other judges do it differently—the presiding judge goes first. I don't know why I did—they [said with emphasis] didn't ask for it.

During the trial, I would rule on—that was one of the issues we had to resolve. How do you conduct the trial? We decided that when we came in [to the courtroom], we'd stand there, and then we'd bow. Things like that we had to decide. The "cry." Robes—what color robes? I went with Judge Deschênes to look at—I went to a tailor in The Hague because the president asked me to. I guess because I'm a woman, I would have greater style. [Laughter] But anyway we decided on red and black. Things like that.

Back to the questions, I don't have a problem with it [the rule allowing questions from the bench] at all. We decided that I'd let him go first, and then Judge Vohrah, and then me. I

guess the reason why I suggested this is that I had enough to do, and I'm not a hog. I always felt it was easier to be a presiding judge, and the reason is—well, there were two reasons. One, if it's getting boring, being the presiding judge, you're more likely to stay awake. I'm saying that facetiously, because we didn't have a problem, and you certainly, the kinds of evidence that we heard, in our trial chamber at least, we weren't about to go to sleep. So being the trial judge, you're really on guard. The other reason is that because you, as the presiding judge—and we planned this—have to make the initial ruling without conferring. Otherwise, it would take forever. But they [the other two judges] shouldn't just be two bumps on the log. So we worked pretty well.

We only had one instance, now that I think of it, where I made a ruling and then we conferred. We even took a recess and we changed the ruling. It may have been—and that's the only time I remember—it may have been an instance involving the admission of prior statements of witnesses for the defense for impeachment purposes. I know that I wrote a long opinion on it too, because, again, I had been a trial judge. I liked that, and we do have a rule in the United States that allows that [referring to admission of prior statements] in federal courts.

But that's not the only reason. The reason was that I thought it was fair and it wasn't impinging on any rights of the accused. But my two fellow judges felt, "no." Now there is a rule. I hate to say, "I told you so"—but you need to check the rule because I don't think it's as strong as I wanted it—that allows for that. In terms of being an active judge, again, the United States federal judges are appointed for life, and unless you have some sort of

personality where you feel that you'd rather just listen to it unfold, there's no one to stop you from being as active as you wish, unless you overstep that, of course. I guess it sounds like I'm preaching that, because I had to preach it so much to civil law judges, because they called us [common law judges] "referees," and we're not referees. You go to some courts and you see that, and you go to others, but in federal courts—

This is an aside, but when we did get our premises in the Aegon building—and that happened the first session really, in November [1993]—and we went—Cassese, Abi-Saab, and I—to look at the Aegon building, which is an insurance company. We were given half of it. There was one slight problem. There was no courtroom. None. There was one conference room—the Winston Churchill I think was the name of that conference room. That was made into a courtroom. Anyway, the Dutch architects—I don't know whose idea it was; it wasn't my idea, it must have been President Cassese's idea—came to the United States, to Houston, Texas, from The Hague—to look at how we do it in the United States.

Q2: To see what the configuration of the courtroom was like?

McDonald: Yes, and it was very important. An important difference in the United States is that the witness—as I said, the Grand Dragon sat to my right—the witness sits there to your right. Usually the law clerk will be here [to the left]. But in the civil law system, the accused sits in front of you. So they [the Dutch architects] came back with was a design. I don't know why, but they saw the federal courts. I also took them to the county courts. I

wanted them to see [Laughs] criminal law, you know, at its basic level. It was really interesting; they even went back into a holding cell, the architects, and saw about fifty people in a holding cell that was designed for ten. This was in the County Criminal Courts. Anyway, the point is they came back with a design like our U.S. system, with the accused over here [to the left]. And civil law judges said, "No, no, no, no, no." And I think, and that's right, the accused sits right in front of you.

Q2: But it must have been interesting in the design of the courtroom to take into account the security issues, and with the audience or spectators.

McDonald: Well, David Falces [with the ICTY] was very active. I can remember the process. There originally was to be a glass—it was really plexiglass, I guess—behind the defense counsel, and it broke. Was I in the courtroom at the time? Because I would come often, as I was interested. So it broke, and they decided, "Well, we're just never going to put it up again," so they were further back.

Q2: They had the defense team behind plexiglass?

McDonald: No, the plexiglass box that is immediately behind the defense table, instead of the booth that they ended up with. It would allow for more interchange and not quite putting the accused in a little fishbowl. But it broke and they never put it back up. The courtroom was like a fishbowl, in a sense. I always had a sense that I was kind of sitting

in a fishbowl. I think there were fifty or so seats in the gallery, and we had simultaneous translation, which sometimes didn't work, and other things. But we slowly got it together.

Q1: I have a quick question about a particular instance during the course of the *Tadić* trial. I've read a little bit about this, and you spoke about it in a panel discussion with Alan Tieger and [Michail] Wladimiroff. This is the issue of Witness L.

McDonald: Ah.

Q1: Can you explain what this issue was and what your experience was observing it from the bench?

McDonald: Well, Witness L claimed that he was an eyewitness to Mr. Tadić raping a whole slew of women. I can remember when his testimony came in, I didn't believe it. I guess I can say that; I didn't believe it then. And you know why? It was like, "Okay, Mr. Tadić got up today, went over there and raped that woman. Then he went over there and raped that woman, then went over there and raped that woman." Now that I think about it, that testimony was under seal, and I don't know that it was ever released. But the extravagance, if that's a word to use, it just—if you had been in any trials, it just didn't fit. It turned out it was his brother who was there and not him. The defense found out about it by conducting investigations in the area, and then revealed it to us.

Q2: So the prosecution had found Witness L?

McDonald: Yes.

Q2: And they didn't find his testimony fishy?

McDonald: They believed him. But it wasn't him; it was his brother who was on the scene, not Witness L. I remember writing—we would pass notes—I remember writing, "He's lying." I often would make notes; I took copious notes. I would make judgments that I put in writing on my pad about my belief about the witness, whether the witness was credible or not. I remember writing down, "He's lying." It was like la-la land; it just didn't make sense. So they found out the truth, and his testimony was stricken.

Q1: Now is this something that you brought up with the defense?

McDonald: No. No, they found out. They brought it up to us. They sent people to the region and they discovered it. There were other witnesses who I think were lying. Judges like to think that we can look somebody in the eye and tell when they're telling the truth, but it's not always true. It's particularly a problem when you have people from a different culture. But we rejected other testimony from—and I think we put it in our judgment—a Mr. Besic, and he was not telling the truth. It was his testimony; he testified about a son being forced to rape his mother. The reason I remember it so well is that my son was in the gallery that day. I remember my son saying to me, "Mom, I know now why you haven't talked much about the testimony." We rejected his testimony. It was one of the

counts that Judge Stephen was working on. When we decided to write the judgment, we divided up the counts, and each one was responsible for evidence on some of the counts. But, anyway, that's Witness L.

Q2: That raises something I wanted to ask, which is about the impact on you personally of day after day hearing that kind of painful testimony.

McDonald: Being the presiding judge in a sense makes it easier because you have to listen and think—at least I did—about whether there's going to be an objection made, and what might be the appropriate ruling. There's a lot to do. There's so much going on and you have an active role, so I think it was easier.

Q2: You could kind of have a distance on it?

McDonald: Well, because you're looking at it almost more clinically because you're trying to see if there are objections and how you might rule. I felt sorry for the interpreters sometimes. If you've listened to the interpreters, they're so good; they have to repeat with the same kind of emotion [as the person testifying] but they're not making—they're making a major [said with emphasis] contribution, but just in terms of translation. I remember one witness—I remember a lot of the testimony, it really [said with emphasis] stuck with me, I think because I had to focus so much. This one testimony by a father who was in Omarska—I remembered his name for years. I thought it was [Mehmed] Alic. Anyway, he testified that one son was killed when they were rounded up

and they were put into a line and they were marched away. And he saw one of his sons shot. The other son was with him in Omarska—yes, I think it was Omarska—and he had to call his son out to be interrogated. I could remember his testimony, him saying—whatever his son's name was—"You have to come out. They want to question you." He went, he got his son, brought him out. Then he testified, "And I never saw him again."

I remember this man. He was a little short—a little man with grey hair. He died in April of 1997, we were told, and we rendered our judgment in May. I remember that. Then I felt for Judge Vohrah, who has two sons. It's almost like after a while you get so close with your [fellow judges]. There are two people—you can feel it almost. You can feel when the testimony is kind of really hitting home to them. So what did I do? I remember Judge Vohrah giving me some—I wasn't meditating then, I meditate now—giving me some meditation, and he was telling me, "You know what you should do is observe it and feel it, and then let it go." I never paid too much attention to him then, but I do now.

I used to read a lot of mysteries—that doesn't sound right, I know—but mysteries like those of Margaret Truman. Did you know Margaret Truman wrote mysteries? I read all her mysteries, these old paperbacks. [Laughs] And I went to church. I remember before the trial began—and I think what saved us all was the fact that we had a good group that related to each other. I remember the night before the sentencing [of Tadić], I had written a statement. Again, it's what we do in our courts; we talk to the accused, or the defendant, when we're sentencing him. We tell him, "You really messed up." [Laughs] Well, I

thought we should do that, so I wrote something out and gave it to my fellow judges. They didn't have any objection either, though they don't do it in their system. But I remember that, more than anything, affected me, when I was reading that out to Mr. Tadić. I was recounting different evidence, like what he did to Mr. Hase Ičić, tying a noose around his neck, and he'd hold him up until he would pass out. I asked him "Why?" People asked me afterwards, "Did you expect him to answer?" No, I didn't. It was rhetorical. But that really got to me, and I felt it. My voice was cracking.

When we finished his sentencing, we walked into—there was a little room behind the courtroom, our "robing room" so to speak—and Judge Stephen was on me before I could get in the room to hug me because he knew that this had finally gotten to me. I'd listened to all that testimony, and you kind of put it, but it got to me, it really got to me. I'm looking at him [Tadić], "Why?" I asked. "Why on earth? How could you do this to anyone?" [said with emphasis] It really got to me. So, we had a good panel.

It gets to me now. I must admit, six years was enough for me. When I left, I was interviewed by Christiane Amanpour, and I remember to this day where I was sitting. She was sitting, and her producer was behind her, and I can remember filling up then about, "How can people do this to each other?" This was not involving a particular case, but just the whole thing. I could feel that it was getting to me. Cassese resigned a little bit after. Judge Vohrah finished up two years. Judge Stephen never came back for a second four years.

The whole thing about the conflict—and I said what drew me to it was my background as a civil rights lawyer. That's what I wanted to do. I applied to one law school. I wanted to work for one organization, and I did. I was very fortunate, very blessed. But we believed, at least at the Legal Defense Fund, that integration, that desegregation of the schools would change the situation. Just desegregate the schools, blacks and whites will go to school together, and we'll all live happily ever after. No way; it didn't happen.

In *Tadić*, when this principal testified—the principal of the school that Tadić went to—he testified as an identification witness really, just to identify the accused. I felt a little bit differently about his testimony. I wanted to elicit from him how this could happen. I saw myself as having been a former legal defense fund lawyer traveling the South, trying to desegregate schools. Here was the most desegregated school in Bosnia, Kosarac, being predominantly Muslim but also with a good portion of Serbs and Croats, because it's not too far from the Croatian border. People literally—as he testified, he had keys to his neighbor's house. Then they turned on each other to do these horrible things, things that you can't even imagine. I couldn't. There were people pouring gasoline down someone's pants and lighting it. Where do you get that from? [said with emphasis] These are your neighbors, your friends, your relatives; there was inter-marriage. So I asked him, "How could you explain this?" He couldn't give me an answer. He just said, "A certain madness came over me." Elizabeth Neuffer wrote a book about it called *The Keys to My Neighbor's House*.

Q2: *The Keys to My Neighbor's House*, yes.

McDonald: She unfortunately was killed in Iraq in an automobile accident, I think. But what do you do? I think what you do is you tell yourself that what you're doing is important. When you look at the tribunal in those days and you look at the tribunal now—because I used to go back when I was in The Hague [at the Iran-United States Claims Tribunal]—it's very different. It's a well-oiled machine now. Some people say that's not so, but I think it is. Many of the legal issues have been resolved, and so on. But when we came—we, the eleven of us judges, and the staff—there was an excitement. There was an enthusiasm. We felt that we were doing something really special. Particularly you could see it in the staff. You didn't hear a whole lot of grumbling, a disgruntled "Gotta work long hours," and that kind of stuff.

For me, personally, it was an opportunity—and I've said this before—to kind of relive my life. In my fifties I could relive and feel the kind of zeal and mission that I had when I was in my twenties and I was in the South. So it was just fantastic. I think that's why your project is so important, to talk to the people who—the staff, just everyone who was contributing, and they felt that way.

I went to the twentieth anniversary of the Tribunal—I was working at the Iran-U.S. Claims Tribunal—and I remember I had spoken with the president. I said, "Why don't you bring back the judges, those who are living? There's a goodly number of us who are still living." I went. The tribunal now is forward-looking, in my judgment, and they're looking at the [residual] mechanism and the completion strategy. There's a different

attitude. And it was like the Tribunal began two days ago. They did a little skit on *Tadić*, but there was no recognition. Nobody even said, "Hey, Judge McDonald is here. You know, she was the presiding judge." Or, "She was the second president." They mentioned Nino's name once, President Cassese. None of the other judges.

We all really put our heart and our soul in there, even the ninety-year-old judge from China, Judge [Haopei] Li. Judge Li—people talk about him being old. Yes, he was old, ninety, but he was strong. We used to sit next to each other, alphabetically, I guess, in our plenary meetings. He'd take a nap every day, and his daughter, who was a lawyer, was there to help him, but he participated. He was on the Erdemović case. He didn't have prior trial experience. But anyway, it was a great time, it really was. With good people, good people there. Did you ever get in touch with Christine De Liso?

Q2: No.

McDonald: Okay. She was American. She was the chief of the administration, very important, very capable. She really kept us going.

Q2: When we were at the Tribunal, we were shown a photograph of the entire staff that was maybe taken in 1994 or 1995.

McDonald: Oh, really?

Q2: You're in the center. The prosecutors are there. The Registry folks. The secretaries, everybody's there and you're in front of the Tribunal.

McDonald: Ah! I haven't seen it.

Q2: And [Richard] Goldstone's there and everyone's looking very young.

McDonald: We all were.

Q2: We have heard a lot about the sense of camaraderie that existed in the early days.

McDonald: Yes.

Q2: Is that an atmosphere that you recognize?

McDonald: Yes. You asked about how we worked together, the various organs. If you look at it on paper, it might be a little difficult because the statute says there are three organs, but the statute doesn't say who's the boss, who's the "head" of the Tribunal. Well, early on we drafted a rule—we, the judges—when the duties of the Registrar are mentioned in whatever rule it is. It says the Registrar will perform "under the direction of the president." I think that's the word that's used, "direction." That was intentionally done to try to give some allusion of who was the head of the Tribunal, and also the fact that the

president submits annual reports. So, I guess we felt that the president of the Chambers, that judge was the head of the Tribunal.

Initially, our registrar was Theo van Boven, who was there for a while. He was very active in UN activities, and he was appointed. We got on okay. He was good friends with President Cassese and they worked well together. Then we really needed someone who had experience in a court and how a court functions or should function, and Dorothee de Sampayo was elected. She was good. She was a former judge in Holland, and we worked very well. I worked well with her and I think the other judges did as well. Later on there were a few issues, but no animosity.

We did have our conflict with the prosecutor, which I can talk about if you want.

Goldstone was the prosecutor then. We had a prosecutor initially from Venezuela, Ramón [Escobar Salom], and then he resigned in the beginning. What a blow. How about that?

Here we are in The Hague, [Laughs] working to get this Tribunal going, and the prosecutor resigns. Well. President Cassese really was responsible for getting Goldstone. He searched him out and contacted him personally. Cassese was never one to be concerned about his job description; I mean, he did it all, and did it all often by himself. I would call him, sometimes, Machiavellian, and he'd say, "No, I'm Florentine!"

Okay, anyway, he searched Goldstone out. At some point—and it came I think from Cassese, primarily, because Cassese had a vision of the tribunal, and we were to have the leadership figures there. It became apparent that Goldstone, or Graham Blewitt, because

Graham really ran the prosecutor's office—I don't know who it came from, whether it was Goldstone or Graham—but they wanted to build from the bottom up. That is, they wanted to develop evidence through trials of lower level people and then reach up. So a meeting was called with Goldstone, and he was grilled. Goldstone was grilled. [said with emphasis] I felt that it was unseemly to do that. I felt that the prosecutor was independent, and he or she is totally responsible for that. The civil law system is totally different, so once again it's a question of two systems. I thought it was unseemly, but many judges, including President Cassese, thought we had a role to play. So we had several meetings with him and required that he report back to us with the progress of his cases.

As I said, it was nothing that I had ever seen before, but one thing about my personality is that I don't think that the way that the Americans do things is the only way. I mean, I supported the ICC [International Criminal Court], was in Rome, met with the preparatory committee. Meanwhile, people are asking me, "Why are you doing this when the United States is—?" I said, "Because I don't work for the United States." So, I had never had a problem with understanding that there's this common law and a civil law, and there's not one right and wrong way; it's just different.

But still, I think that [overseeing the prosecutor so closely] was wrong. [Laughs] I think it was wrong. I think it was wrong even for the Tribunal to do it. I think, in part, it was a personality conflict between Goldstone and Cassese. I remember Dorothee de Sampayo, the registrar, said that she had a dinner for the two of them at one point and tried to— because they weren't speaking; it was that bad. Not only were they not speaking, but the

prosecutors were prohibited from coming to our floor. We were on the second floor and they were one up. We'd see them all the time, and we were not—we were very good about keeping it separate. But it became very tense, and Cassese and Abi-Saab were very upset with the prosecution. As I say, I don't know whether it was Goldstone or Graham Blewitt. But I think there was a personality conflict between Goldstone and Cassese.

Q2: They were upset because the prosecution was not proceeding as they wanted it to, or because they didn't like the style of the prosecution?

McDonald: Because they weren't focusing on the big fish; they were focusing on little fish.

Q2: So it was that issue, okay.

McDonald: Yes, and that was really it. Srebrenica was just this month—July [1995]. [Radovan] Karadžić and [Ratko] Mladić were indicted—an indictment was issued in July of 1995, before Srebrenica, and then they issued another one dealing with Srebrenica in November, but before the date in the courts were—. I confirmed some indictments against the Bosnian Croats too in November. I remember Goldstone saying, "You're going to get a big stack of—." There were three indictments, actually, and, "We'd appreciate your looking at them with dispatch." I think it was because somebody was involved in the Dayton Accords. At that point it was just Serbs who were indicted.

Then my group were Bosnian Croats. That's when Mr. [Jean-Pelé] Fomété helped me, because it was unbelievable. I had problems with the indictments, too, because they didn't give enough attention to the sexual assault, and I told them that. I needed help, because what I did was to present all of the declarations that I felt—that were from women and from physicians, and asked, "Why is this not in the indictment?" Now that's something that's not done in our system. Judges don't confirm the indictments. Judges have a role if there's a preliminary hearing in a criminal case; then you have a role, but not so much in directing who was to be indicted. Those were problems that we had in the early days, not addressing sexual violence.

Q1: What did you observe from Judge Cassese, when he was the president, and while you were a trial judge, that informed your own presidency of the tribunal?

McDonald: That's a good question, because I've already said that he worked alone. President Cassese was a true workaholic with three, four hours of sleep a night. A lot of the things that he did—he didn't really get input from the judges. He had a vice president, who was Elizabeth Odio Benito, and a bureau of the presiding judges of the trial chamber. But I appreciate now what he did, I really [said with emphasis] do. The Tribunal—there's no way that we would have finished the Rules of Procedure in the short period of time. There's no way that we could have drafted detention rules. There's no way that we could have accomplished what we did without him. He was really [said with emphasis] necessary. I look back upon it, and if either of the other two [Ninian Stephen or Jules Deschênes] had been the president, they would have been different.

So, in part, I went the other way. I announced, "I have an open door policy, and literally anyone who wants to come in and talk to me is free to do it." Part of it's my personality, but I think part of it is I was trying to do things a little differently. I was my own woman in that respect, but in other respects I wasn't. I remember him telling me that I would enjoy being president because I'd have the opportunity to go to the UN, and meet with, and so on—

Q1: Be an ambassador, essentially.

McDonald: Yes, but I felt I did not want to be president. I wanted to be just a lowly trial judge. I enjoyed it. That's what I wanted to do. But I was literally forced, and I think—and I'm just being really straight—I was forced, in part, because many of the judges didn't want the French judge to be—Jorda. [Laughs] Now that's what I'm thinking. Nobody told me that. Maybe I was just loved and appreciated. But I didn't want to because—what I found was that my instincts were correct. You're really an international politician. A diplomat is an international politician, and I am not [said with emphasis] a politician. Can you imagine me being a politician? No.

I remember I was in the Indonesian Room in the UN. I thought the Indonesian Room was a restaurant in the UN. No. [said with humor] It's where you go and you hob-knob in little corners. I remember meeting with the foreign minister from Serbia. He was just screaming—well, he wasn't screaming at me but he was not happy with me. At one point

he just said, "You're just like Madeleine Albright." And I said, "Well, thank you!"

[Laughter] Because I spoke—you know, I'm not a politician. So President Cassese had told me, "You'll enjoy this. You get to go to the UN, and—." No, I didn't enjoy it. I didn't enjoy it at all.

Q2: What was it like the first time you had to do a report in front of the Security Council, for example?

McDonald: I don't remember. The first time was frightening. I mean, it's not frightening if you're listening to this kind of testimony—not that kind of frightening. I think I was impressed with the whole thing, and maybe with myself. Here I am in the Security Council. As I tell my children, everyone puts on their pants the same way, one leg at a time, right? It's no big deal. I went several times, I think five or six times, and mostly it was complaining about the failure to take action against Milosević. The last time I went, I really enjoyed it because I was leaving, and I slammed them. I basically told them, "This whole Tribunal is going to go the way of the League of Nations." I was just so frustrated. I didn't feel anything other than anger and disappointment. Plus, I think maybe I was naïve; I hadn't worked in the international setting.

So in part what Cassese taught me—and I don't have his work ethic, although I had a very powerful one, but not three hours of sleep. I'd work very late and then I'd go home and I ate a lot of peanut butter sandwiches; that was my routine. But I wanted to involve the Tribunal more and the people more. That's the problem that they have now, from

what I understand; they're not involved. But Cassese was a much better diplomat than I was. Even though he's not the "soft touch" diplomat, he's an "in-your-face" diplomat. I think he did a much better job. I was able to convince—well, I'm better at—well, I don't know about better. I can handle one-on-one, but I wasn't—it wasn't my thing. But we were able to get a third trial chamber, and that was not easy-going, because the British—yes, it was the British representative who told me that our prosecutor, and it was [Louise] Arbour then—was not in favor of a different trial chamber, that she felt that the trial chambers had to do their work better, and we wouldn't need a third trial chamber.

[Laughs]

Q2: Louise Arbour?

McDonald: Arbour. Yes, it was Arbour. And he [the British representative] came to me. But I'm beating it around, and thank goodness I was walking better, and begging basically; that's what you have to do. But we got that, and that was very important, because we then had a load, and then we got two more courtrooms. So I say I'm not a diplomat, but I'm a good beggar, because whenever anyone came to the Tribunal, part of my job was to beg. "Please give us a place to place our accused." "Accept our accused who are found guilty." "Please give us money." No matter who they were, that was your job, and I didn't particularly enjoy it. We were able to get money for two new courtrooms, and a trial chamber [judge], and two more appeals chamber judges. I think it was just the timing. We had so many people, we needed it; we were stuck. The problem is not the efficiency of the trials so much, the length of the trials—although that is [said

with emphasis] important—but it's the impact it has on the detainees. You have people then in custody for four years who have never seen the inside of a courtroom [said with emphasis], other than their initial appearance, and that's just untenable.

Q1: There were several significant measures that you undertook as president, some of which you've already spoken about, but there are two others that I wanted to mention. One was the Outreach Program that was developed. The other—I made a note of this in reading some of the materials, some of the speeches that you've given—is that you said that the relationship between the ICTY and the ICTR [International Criminal Tribunal for Rwanda] was strengthened.

McDonald: Yes.

Q1: I wondered if you could elaborate on these. Perhaps we can start with the second issue. To ground this, could you talk about what you recall around the time that events were happening in Rwanda in 1994?

McDonald: [Sighs] Well, the events that transpired in Rwanda, as far as I can recall, were not as much in the forefront of the media as the former Yugoslavia, at least that's my memory. That would be consistent with what I know now. [Laughs] That is, events in Europe are of more interest, typically, to Americans, or whoever controls the media. I first went to Arusha, Tanzania—Arusha, which is where the ICTR is located—in, I think,

1996. Certainly it was before I was president. Nino Cassese, President Cassese, asked me to go.

Nino had a certain sensitivity to connections to—when I say connections, what I mean is he was sensitive to minorities, and very sensitive to and very willing to at least give us a place in the forefront. He was the kind of person who instinctively thought liberally or progressively, and was very proud of it. It's almost like he wanted to give effect to his feelings. I'm probably not articulating it correctly, but, for example, he appointed me the presiding judge of one of the trial chambers, and he appointed Elizabeth Odio Benito vice president, or asked that she be elected, and appointed. We had to be elected. But again, given his role in the first several meetings, and as president, that's what happened. So he did that, I think, because we were women. Maybe it was also because I was from the United States too, thinking, "that's powerful too," so I got a double whammy, which is nice.

He asked me to go to a meeting at the ICTR, even though I wasn't on the appeals chamber, so I went. I was a trial judge and I went, and I think he wanted me there because he knew that I was interested—although I don't remember us ever having a conversation—for obvious reasons. So, I went. Before I went, I reviewed again what had happened in Rwanda, the genocide, and I remember talking with Judge Abdul Koroma, who's from Sierra Leone, and who was on the ICJ [International Court of Justice]. I had read an article in *The New Yorker* magazine about events, and I was just horrified [said with emphasis]. I was trying to get myself together to go to Arusha, Tanzania—I mean I

was trying to get my mind together. I talked to him [Abdul Koroma] about it, and talked to him about some of the things that I had read, and we were just talking with each other and he was being empathetic with me.

Anyway, I went, and I was devastated by the comparison of our infrastructure at the ICTY and the ICTR's infrastructure. The library was really one bookcase. It was one bookcase. The ICTR adopted our Rules of Procedure and Evidence, but they were not familiar at all with what we were doing. They had extreme difficulty getting interpreters, and then all of the other things like electricity and whatever. It was just horrible. Being African American, I had a certain sensitivity—not a certain sensitivity, a strong sensitivity. So when I came back I spoke with the registrar, Dorothee de Sampayo. I said, "We've got to do something about these decisions, first of all." We agreed that we would pack up our decisions that interpreted the rules [of Procedure and Evidence], and send them to the ICTR. See, those were the days of fax machines and whatever. That helped.

Mostly, I just wanted to—when I became President—make the ICTR visible. For example, we met in Tanzania. The appeals chamber sat in Tanzania, which I thought was very important because it shows—it gives the "local" ICTR some sort of strength to show that everyone was coming from Europe to Africa. And then I was in pretty close contact with the registrar, [Agwu Ukiwe] Okali—goodness I haven't said his name in a long time—just on a need-to-basis, I suppose. They hired an African American woman to be the deputy registrar, Beverly Baker Kelly, and we interfaced. I was trying to just make a connection; I don't remember anything else specific.

Q2: The president of the ICTR during your presidency was still President Laity Kama?

McDonald: No.

Q2: Who was?

McDonald: Well, he was in the beginning, because Stacy and I—my daughter—we went to Senegal for a personal trip. I met him before I even went to the ICTY. I had been elected—no, he may have died already. I'm not sure. He had diabetes, I know. It was [United Nations Human Rights] High Commissioner Navi Pillay. I think Kama was the president the first time I went, but Navi Pillay was the ICTR president after I became ICTY president. She became president about the same time. Then, when I went to Rwanda as president, that's when I went to the genocide site in Murambi. That was quite an unbelievable experience. I went as an emissary from the ICTY/ICTR with the minister of justice. We went in a helicopter, he and I and two army officers, and it was beautiful. I mean beautiful geographically—if you've ever been to Rwanda, the rolling hills are just beautiful.

Then we arrived in Murambi—that's a genocide site. It was formerly a school, and it's where Tutsis and moderate Hutus congregated when the genocide was taking place, and they were slaughtered. They have kept it as it was—the skeletons are there throughout, and so you go in and you see skeletons lying. Then there's another room where there are

clothes on a clothesline. I really didn't expect that, I must admit. We walked around—I was walking much better then—and I remember holding the hand—because it's very rocky—of a governor of that region, who was a Tutsi. That was a personal connection to what may have participated in the genocide. It was very moving. And, you know, judges don't cry; I was a president, but I was still a judge. When you walk up, you see a skeleton on the porch. They were taking pictures. And I was grey. I've seen photographs and I was actually grey, my coloring.

When we left, there were children playing around, and when we got in the helicopter and took off, the children were waving; they were playing and waving to us. There were skeletons a few feet away and they were waving and happy, like children are. That's when I lost it. I say that I didn't cry, the water just came out. I just—I couldn't take it. Looking at the kids—what a life. You had to write in the book [at the Murambi site] a memory, or some words. I remember writing, "How could people do this to each other, and what do we tell our children?" They [the people at the site] asked for contributions, and I was about ready to take my watch off. I mean, really it was—it's unbelievable. Just being in Kigali, where you see so many genocide survivors, you know? With an arm missing, a portion of an arm, or a portion of a leg. It was, as they say, up close and personal. So that was that experience.

Q1: You were also on the Appeals [Chamber] for both the ICTR and ICTY. What was distinct about those different—or was there a distinction?

McDonald: No, there wasn't. They were the same judges, same number. I thought you were going to ask me about the [Jean-Bosco] Barayagwiza case, the last case I worked on before I left. Barayagwiza—I don't remember, he was one of the leaders of the genocide, but he had been held by Cameroon, for, I don't remember, I haven't read it since—

Q2: I remember it was a number of years.

McDonald: A long time [said with emphasis] before he was even brought before the Tribunal to be advised of the nature of the charges pending against him. The defense said, "Release him," and we decided we would, the five of us. I was president of the Tribunal and head of the Appeals Chamber. Then I resigned in November and the prosecutor filed a motion to alter or amend [that decision]—I forget exactly what it was called—based upon new facts. The Appeals Chamber just changed its mind, just said, "No." Now, that's my version of it, of course. You'd have to read the initial Barayagwiza decision, and then the second one to look and see if these so-called new facts really support the revision that they did. It was more than a revision.

There was a big backlash, of course, from Rwanda. Of course. But, so? I think my attitude comes from being a civil rights lawyer and from being a judge. You call them the way that you see them. Yes, there's going to be political fallout; there's supposed to be political fallout, because if there isn't, you're not doing your job properly. But the ones that I left there went along with the new president. [Laughs] You know, I wasn't there, so

I can't say, and I don't want to second-guess anyone. I'm not going to second-guess myself, and I think that we called it the way that we should have called it, initially.

Q2: When you resigned, who took your—

McDonald: Jorda.

Q2: Jorda became president.

McDonald: Yes. [Laughs]

Q2: But who replaced you on the bench?

Q1: It was Pat [Patricia] Wald.

McDonald: Yes, Pat Wald.

Q1: She also took over your apartment too, is that right?

McDonald: Yes, she and her husband, yes. I'll let her speak for herself, but I've seen some of her writings. In one, she really criticized the judges, saying that some of them weren't doing their work, and for their lack of prior trial experience. I think she's right about the need to have prior trial experience because it's very helpful if you're going to be a trial

judge; I mean, it's absolutely essential. She was appointed to the trial bench. Now, I told Judge Jorda, in no uncertain terms, "Claude, she's been on the appellate bench for years. She's a good appellate judge. That's where she should be." Because the president assigns. He said to me, "Oh Gaby"—in English—"Sure, sure, no problem." Now, see, when I was president, he asked me not to assign someone, and I won't say who, with him as a trial judge. And I didn't. And I expected him to keep his promise to me, and he didn't.

Pat Wald says he says that never occurred. I remember he wrote me a note about my assignment of someone to his bench on a yellow Post-It. I remember it to this day. Pat, she was assigned to a trial chamber with two French-speaking judges, who both spoke English very well—Judge [Fouad] Riad, who was a private international lawyer, he had done arbitrations and whatever; and Almiro [Simões] Rodrigues had been a public defender. Judge Riad speaks English very well, and so does Judge Rodrigues. I dealt with them. But she [Pat Wald] says—and I'm certain this occurred—they conducted the trial in French. Not only that, also the discussions, the deliberations—and she doesn't speak French. That's a travesty. If I were her, I would have written just what she wrote. I can't imagine—I can relate to it a little bit because when we were installed as judges in 1993, there was an oath sitting at the table. I looked down and it was in French. [Laughs] I said, "Uh oh. I've taken four years of French and don't speak a word." So I can understand how she felt. It's outrageous to me. He knows better, Judge Jorda.

Q2: She should have been assigned to an English-speaking trial chamber?

McDonald: Well, he had agreed to assign her to the Appeals Chamber. I thought that she would be a good and excellent appellate judge. Again, she's got appellate experience, and in the D.C. Circuit. But the judges, I don't think it's fair to castigate the ICTY judges as saying that it was endemic—she didn't say that—that they didn't do the work. I've known a lot of judges, American judges, and I've worked with a lot of American judges, and believe me, we're not all above reproach. You have good ones, you have bad ones, you have those that care, those that don't care, those egomaniacs who put on the robes and think that they're Jesus Christ. A lot of them [said with emphasis]. So I don't think that's true [referring to all ICTY judges not doing their work].

I remember when we did the judgment in *Tadić*, Judge Stephen was right next door to me. I remember saying, "Ninian, I want to cut a hole through this wall," because we worked together like pages, bringing these pages. I remember I wrote the defense section because I had hand-written, outlined, the whole defense case. There was a defense of alibi in *Tadić*. I'm not a computer person. The only person who used computers then was Elizabeth Odio Benito. And Nino, I think, certainly. There was one other judge I know who was a prior trial judge, and she deferred—well, not Judge Odio Benito. But anyway, there are good judges, bad judges, those who rely heavily on their law clerks, and some others who don't. That's about all I can say.

On the whole, I think it was a good group of judges. Six of us had prior trial experience, and six of us were from common law, so out of eleven. The ICC, the qualifications there—criminal procedure, but also international. There's a recognition that you need

both skills. We didn't have an English judge in the beginning; Great Britain decided they didn't want to send a judge, so we didn't even have one. He or she wasn't there when Pat Wald was there. But, yes, we had our ninety-year-old Judge Li. I've met some old federal judges. I met some that would not shake my hand when I became a federal judge, so they weren't very nice.

Q2: Do you think that among the early ICTY judges, those who had been professors or who had been ambassadors, did they bring anything to the bench that trial judges didn't?

McDonald: Ambassadors, I was just going to say, what did they have to do with anything? No, I don't think so. That was the problem with the ICC initially, and perhaps even now. You know the Japanese judge is not a lawyer. But I guess we don't have to be—I don't know. But, no, I don't think so. Ambassadors, no, not at the ICTY. Now the ICC, they deal with the Assembly of States parties. There's a whole different mechanism. Of course, the first president was an ambassador, [Philippe] Kirsch. I interfaced with them some, but I don't know enough except to say that at the ICTY, I always thought we were criminal law judges, kind of a different group. We were kind of tough and rough, and more with the "people." [Laughs] That's how I viewed it. Certainly being an ambassador didn't help at all. Judge Li had worked in his government for years, and I don't think he brought anything based on that experience. The scholars, we had two, Nino and Abi-Saab. Nino and I, we went round and round. It may sound like that I'm praising him, but we had some battles, he and I, personally, and not just over trials in absentia. Personally, because of the way that he was and I guess the way that I was.

But we truly needed him; we needed him for the appeal in *Tadić* about the legitimacy—the legality of the establishment of the ICTY. Abi-Saab left rather early because he wanted to teach, and one of our—Cassese was developing a policy, which we all agreed to, that you could teach, but not on a full-time basis. So Abi-Saab had to leave. In terms of the rules, I don't think that Abi-Saab—well, I don't think he contributed anything. He's tremendously bright, but in terms of the application, and I don't think he understood the sexual assault rules either.

We only had two scholars in international humanitarian law, but we needed them. That's because international humanitarian law had not been applied, so we all had to learn it, and we did. We were lectured to; we had papers presented to us. But I never became a scholar in international humanitarian law—never. Like I said, when I was a federal district court judge, I heard securities fraud. My very first case was an odometer case; I heard all kinds of criminal law cases. I heard patent law cases. But I was not an expert in patent law, I was not an expert in securities law, I was not an expert in "odometer law." [Laughs] So you have different skills involved. Trial judges, you're hearing so many cases. I had a thousand cases when I became a district court judge. You cannot write every opinion; you've got to rely on your law clerks. You can't, not and move your docket. So, I was impressed with the judges, some more than others, but I cannot say that any one of them was not qualified, including me, if I can say so myself.

Q1: As you're looking back now, over fifteen years since you left—you were the presiding judge on the first trial, on *Tadić*.

McDonald: Right.

Q1: Was it when you were leaving in 1999 that Milosević was indicted?

McDonald: Indicted, yes. I appointed Judge [David] Hunt to confirm the indictment. He was a very, very good trial judge.

Q1: So on your way out is when the Milosević indictment was coming down—

McDonald: Right.

Q1: —and you had already exited the tribunal by the time he was arrested, by the time Mladić was arrested, by the time Karadžić was arrested. I'm just wondering, with your perspective of being the presiding judge on the first trial, what have these kinds of milestones—with you being out of tribunal—meant to you?

McDonald: A lot. A lot. Even when I was with the Iran-U.S. Tribunal for thirteen years, I would go back regularly and I'd talk to the judges, I'd watch trials. I said, "My heart is over here. I just work down the street." It meant a lot, because even though there was talk that you don't necessarily have to have the "architects" of the conflict in the dock, you

still want to do that for historical purposes. Because the buck stops up here. Mid-level perpetrators are probably more important, personally and directly—the mid-level perpetrators impact the victims more. It's the guy who's still the police chief, and who was responsible for crimes, that really bears the connecting—the feeling of the victims. Symbolically, and for the purpose of deterring, you need the bigwigs, of course, because those are the ones that set the tone, and those are the ones that either direct or allow things to happen.

So, that's really it. You were going to ask me about outreach. I was thinking about that, because when we were drafting the *Tadić* judgment—and it was a long judgment for somebody who was a little fish—when I say "little fish," I mean that's what other people said, "little fish." You could never say that anybody who's convicted of what he did was really a "little fish." They have more of an impact in terms of influencing people who are going to engage in that behavior than Milosević or Karadžić, perhaps. But we intentionally, particularly me again, because of the effect of propaganda, wanted to make it a really full judgment about what happened and why had it happened.

I remember a witness in *Tadić*—he was a journalist from Belgrade, I recall. I don't know who called him, but he was explaining the events leading up to the conflict, and describing propaganda, and he said, "It would be just like David Duke had taken over your media, had taken control of your media in the United States. You too would have had this conflict." I remember Judge Vohrah, saying, "Who's David Duke?" [Laughs] It was kind of a light aside, but the point being that again, if you're going to adhere to this

behavior, that desegregation is the be-all-end-all, then, yes, there were wounds that were not healed and people were not held accountable.

In some areas, particularly in the cities, there was intermarriage, and they had the keys to neighbor's doors. So we did all of this, and it took us a long time to do the judgment.

People were saying, "Oh, they can't decide on the guilt or innocence." We decided that early on. Our first discussion about it was in the hallway when we left the courtroom. We talked about it, and we agreed. We did agree, even though it doesn't have to be unanimous, which is strange for us, the verdict. So we wrote this judgment, and I'm president now. I really believed in it, and what this journalist said, what the principal said, all this propaganda; spent all of this time writing the judgment, individual occurrences. I'm interviewed—I'm president and I'm interviewed by these two reporters who had just come back from Prijedor. They say, "No, no, there weren't detention camps. They were voluntary collection centers where Muslims were collected for their own protection. Then they could exit the Prijedor region."

I was boiling. [Laughs] I was boiling. Here we spent all this time, all these witnesses, all this long judgment, seven thousand pages of transcripts—. We have a mandate at the ICTY in the resolutions to help to bring about and maintain international peace and security. Now how are you going to do that if you can't impress upon the people in the region—not the international legal community, but people in the region—what happened? Give them a historical record of what happened? I felt like a failure. You have

this pretty judgment, and we made all of these findings, and it looks pretty; but it's not influencing people.

So, I said to myself, "Gaby, we've got to do something about it." The other problem that I had at that time is when I came to the United States, likewise people in the United States didn't have much interest; Court TV had even gotten tired of listening or broadcasting us. I suggested that we start—my original title was "Project Awareness." And my special assistant, Jon Cina who was from Scotland, he kind of laughed at me. "Project Awareness? What?" So he may have come up with the name of "Outreach Programme."

I had planned to travel to the former Yugoslavia, and it was cancelled for security reasons—the first time and the second time. So I said, "Well, I've got to talk to judges, lawyers; at least let's start with them." I was talking with the registrar. Again, we had a good working relationship; she's a former judge. She said, "Well, if you can't go there, why don't we bring them here?"

And that's what we did. It was beautiful. In October [1998] we had fifteen, I think, judges and lawyers from Serbia, from Bosnia and Croatia. They watched the trials, they could speak one-on-one to the judges, they spoke to the Victims and Witnesses Unit, the prosecutors, and the Registry, the whole thing. They got an understanding that we're not sitting in The Hague with horns, trying to go after any group of people. We're professionals just like they're professionals. Years later, I went to Zagreb for a conference, and I saw two of the judges. We just embraced, because it was so good that

we could have that kind of meeting. It was the beginning. We had dinner, and we just started it.

After that I sent Jon Cina—and somebody from the press office went, Jim [Landale]—to do something a little more—not scientific but to prepare a report. So they did. Just to show the obvious—"Was the Tribunal being impacted by this very propaganda that began the conflict?" The answer is, "Yes, of course it was." Of course it was. They didn't have our decisions, and they don't speak English or French, and the decisions weren't being translated. It was a long report. There wasn't a lot of support, and there still isn't at the UN, at least in terms of financing.

But even within the tribunal, some of the judges rightfully felt that we're a court of law; it's not our job to deal with public opinion. That's true, typically, in the United States, because we're part of one integrated system. But we're not in the former Yugoslavia, so how were we going to dispel these myths? If people in the region don't understand what we're doing, how we're doing it, and that we're doing it fairly to the best of our ability, how can they be influenced by our judgments? The judgments are supposed to help to bring about reconciliation. They can't alone, but they can begin the process by seeing that individuals commit crimes, not all Croatians, not all Serbs. It's a tool, one of the tools. Not only that, the Security Council said it would help. So how can we do that when we're sitting hundreds of miles away? So, that's what we did, but we had no money. And that's when I was telling you, we contacted Harold Koh in the State Department, and they gave

five hundred thousand dollars to the Outreach Programme. And the MacArthur Foundation, because a friend of mine was on the board.

And it has just grown; it almost brings tears to my eyes. Judge [Patrick Lipton] Robinson, when he was president, he had two legacy conferences where he invited people from the region. Courts sometimes forget that there are people out there; it's not just us, not just the judges and the law clerks. We're writing these beautiful judgments, and everyone will say, "What a brilliant person. So glad that you put some flesh on international humanitarian law." I am too, but my question is, "How did this help?"

Then in 2003, I went to Sarajevo on a private trip to meet with Outreach—Refik Hodzic was the coordinator there in Sarajevo—and you know, it's like seeing a child grow up. I've never made that comparison before. It's like seeing this little group of four people, no money, and now they had offices in Belgrade, Zagreb, Sarajevo. Now it's cut back. The Security Council said in the completion strategy report, they praised the Outreach Programme, saying it's playing an important part, and blah blah blah. But still the UN does not fund it.

Q2: It's interesting; it would have seemed from the very beginning that an obvious activity would be to have the judgments translated into local languages.

McDonald: You're right.

Q2: How else would people access them and learn about what happened?

McDonald: You know, you're just so busy, I guess, and you're so inwardly focused. The conflict was ongoing, first of all, when we were established. Of course, that was a problem. Then with the Dayton Accords—. But you're just inwardly focused. If you're a scholar, you look at things a little bit differently. If you're a trial judge, you're still coming from a country—every country has its own people who take care of—you're applying laws that were drafted by your country, so there's not this need to "sell" your decisions. I would hope that anyone who would have been really slapped in the face and said, "Oh, really? What *Tadić* judgment?" You know, they say that Omarska is an iron ore plant. What? No. But, I wrote something for the Outreach Programme and I sent it to them. I said, "I hope you know that the legal process is not an end unto itself." I just sent it in the covering letter, and I'd never really thought about it that way. The woman I sent the essay to said, "Can I send this around to the whole staff? Because that's what we're about, that the legal process is not an end unto itself." Some people believe it is, but it's not. It's not.

Q1: Do you want to ask a final question?

Q2: Yes, I would. When you left in 1999, if someone had said to you that in 2015 the tribunal will still be open and working, what would have been your reaction?

McDonald: If our mandate—I still say "our" sometimes—was to bring about international peace and security, has that been achieved yet? I don't know. I just got in an

email a paper that was done by Refik Hodzic, which I haven't read, but saying that reconciliation has not come yet. And you see what happened for the Srebrenica commemoration. So if that's our mandate, we knew that the Security Council could end us whenever they wanted to, but it seems to me they need to look at Resolution 808 and see. But, no, I didn't think that it would last this long. We had hints that Karadžić—I think there was a hint that he was going to turn himself in. Who would have believed that? I didn't believe it. That he was going to be arrested and whatever. We were always thinking about Karadžić. One time, as a matter of fact, I didn't go to the former Yugoslavia because somehow there was a feeling that some action was going to be taken and I was told I shouldn't be there [Laughs] when—do I look like a police officer?

With Mladić, I'm not surprised it took so long. But, Karadžić, and goodness, what's the woman's name—Biljana Plavsic. When I was president, I went to some sort of conference in Bonn, Germany, and we sat at the same table and talked. I can't think of her name, I've forgotten it. Interesting woman, very—very strong. [Laughs] Very strong looking and her demeanor, very ramrod type. I was not at the tribunal when she visited us for her trial, her plea of guilty.

So—what else? Is there anything else I haven't told you? I can't imagine. I've told you everything.

Q1: I think we'll close up, unless there's anything you wanted to say in closing?

McDonald: You know, I'm almost like Cassese. I made notes of memories. Let me see. I don't even feel like thinking about them. I had some memories, personally. Well, I can say this about The Hague. You know it's the international city of justice—and it's such a wonderful place to be. Anyone who's interested in becoming an international judge should go there. As a matter of fact, I simply could not take the traveling. But the State Department asked me to serve at the Iran-U.S Claims Tribunal, and I said, "Well, if it's going to be sitting there in the tribunal, fine. But I'm not getting on airplanes all over the place." They said, "Well, no." So I agreed. Then I was told later that if I hadn't accepted that, they had another position they wanted me to take in Geneva, and I told them I wouldn't have taken a position in Geneva. As much as I like the international community, I wanted to be in The Hague. So, go to The Hague. Everyone speaks English. Everyone is very nice. They love Americans, because probably going back to World War II.

Q2: The only problem is the Dutch cuisine.

McDonald: What Dutch cuisine?

Q2: Yes, exactly. [Laughter]

Q1: Well, thank you so much for your time today. This has been really fantastic.

McDonald: You're quite welcome.

[END OF INTERVIEW]

Abi-Saab, Georges	4, 25, 37, 52, 53
Albright, Madeleine	5, 40
Alic, Mehmed	29
Amanpour, Christiane	31
Arbour, Louise	42
Baker Kelly, Beverly	45
Barayagwiza, Jean-Bosco	48
Blewitt, Graham	36, 38
Cassese, Antonio "Nino"	3, 4, 5, 7, 8, 11, 18, 25, 31, 34, 36, 37, 38, 39, 40, 41, 43, 44, 51, 52, 53, 61
Cina, Jon	57, 58
Copelon, Rhonda	8
De Liso, Christine	34
de Sampayo, Dorothee	36, 37, 45
Deschênes, Jules	4, 23, 39

Duke, David	55
Escovar Salom, Ramón	36
Falces, David	26
Fomété, Jean-Pelé	38
Goldstone, Richard	35, 36, 37, 38
Gow, James	15, 20, 21
Hodzic, Refik	59, 60
Hunt, David	54
Icic, Hase	31
Jorda, Claude	8, 40, 49, 50
Kama, Laity	46
Karadžić, Radovan	38, 54, 55, 61
Kirsch, Philippe	52
Koh, Harold	58
Koroma, Abdul	44
Landale, Jim	58
le Foyer de Costil, German	7

Li, Haopei	34, 52
Milosević, Slobodan	15, 41, 54, 55
Mladić, Ratko	38, 54, 61
Morris, Virginia	10, 12
Neimann, Grant	15
Neuffer, Elizabeth	32
Odio Benito, Elizabeth	4, 39, 44, 51
Okali, Agwu Ukiwe	45
Pillay, Navi	46
Plavsic, Biljana	61
Riad, Fouad	50
Robinson, Patrick Lipton	59
Rodrigues, Almiro Simões	50
Scharf, Michael	13
Shraga, Daphna	10, 12
Sidhwa, Rustam	12

Stephen, Ninian	4, 7, 10, 14, 19, 23, 28, 31, 39, 51
Tadić, Duško	2, 10, 13, 14, 18, 20, 21, 27, 30, 31, 32, 33, 51, 53, 55, 60
Tieger, Alan	27
Truman, Margaret	30
van Boven, Theo	36
Vohrah, Lal Chand	10, 14, 19, 23, 30, 31, 55
Wald, Patricia	49, 50, 52
Wladimiroff, Michail	27