

THE AD HOC TRIBUNALS ORAL HISTORY PROJECT

An Interview with

David Falces

International Center for Ethics, Justice and Public Life

Brandeis University

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Interviewee: David Falces

Location: The Hague, Netherlands

Interviewers: David P. Briand [Q1]
Leigh Swigart [Q2]

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Q1: This is an interview with David Falces 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 The Hague, Netherlands, on May 27, 2015. The interviewers are Leigh Swigart and David Briand.

Q2: Maybe we can just start by asking you where you were when things started to happen in the Balkans, and how you became aware that this tribunal was eventually going to be established as a response to events there.

Falces: Well, both Isabelle [Lambert – Falces’ partner – also employed by the ICTY and interviewed for the Ad Hoc Tribunals Oral History Project] and I were working in the UN [United Nations] in New York, so of course on a daily basis we were seeing things happening in the Balkans. As a matter of fact, I spent a little bit of time there during the war, actually in Croatia in various places. So, yes, we were pretty much aware of it. Isabelle had been working for a guy named Peter Schmidt, who was the desk officer for the area that covered the Balkans, so basically it was a frequent topic in our conversations. I actually had a friend whose father was involved in the Commission of Experts process as well, Mr. Torkel Opsahl. His son was a colleague of mine. We worked

together every day, so I occasionally heard about it from him as well, on a more personal basis.

Q2: What were you doing in Croatia? Were you part of a peacekeeping mission?

Falces: Yes, my job at the time was working in New York for the Department of Peacekeeping Operations. What they would do is they would send me out to various peacekeeping missions to implement and install computers and computer systems. So that was one of the places I went. I spent some time there installing servers, accounting systems, PCs [personal computers], and networks and things like that.

Q1: What year was that?

Falces: That must have been 1991 maybe, or early 1992—something in that region.

Q1: So what was your experience on the ground there?

Falces: It was—huh—interesting actually. The first time we went, we had to go visit the Argentinian battalion [ARGBAT], which I think was located in the northern part of Croatia. You had to travel from Zagreb as if you're going in the direction of Belgrade, along I think it was called the Highway of Brotherhood or something, strangely enough. We were driving in a UN vehicle with a bunch of PCs to go visit these guys in the ARGBAT. Then we were told, "It's a very dangerous area. Don't stop anywhere, don't go

off the road, and just make sure you follow the directions." This was before GPS [global positioning system], so we weren't really sure where we were going and were trying to be really sure. We got to a certain stage and it was sort of a checkpoint and they said, "Okay, when you go through this area, just don't stop and drive at a constant speed." We said, "Okay, fine." So we went through and we finally got to the ARGBAT and they said, "Oh, great. You made it."

And we said, "Yeah, did you think we wouldn't?"

He said, "Oh, that's sort of sniper territory, what you just came through." So, [Laughter] "Okay, fantastic."

Q2: "Thank you very much."

Falces: Yes.

Q2: When you installed equipment like that, did you have to bring it all from the United States, from the UN headquarters, or—?

Falces: We'd ship in bulk to sort of dropping off points and then we'd take it to various places, transport and actually install it.

Q2: And were there security issues with the servers and all that?

Falces: You mean keeping the servers themselves secure or you mean access rights and things like that?

Q2: Well, all of that. When you went to a situation where there was a peacekeeping mission, if there was sensitive material that people were—

Falces: Yes, [Laughs] that was sort of back in the Wild West days of peacekeeping.
[Laughter]

Q2: I know, I'm wondering how it all worked.

Falces: We were just lucky if we got the computer there and installed it and everything was working. The power is often poor and you're running off generators and that sort of thing, so I wouldn't say that we had too big an emphasis on the security aspects. Most of the time they were installed in the middle of military bases or of compounds, so you didn't have people just walking in and making off with things. So that part wasn't our principal end. We were just happy when we got it and you turned it on and it worked.
[Laughter]

Q2: So what was your path to come to the ICTY [International Criminal Tribunal for the former Yugoslavia]?

Falces: Sort of convoluted and coincidental. I mentioned that my friend, Roald Opsahl, whose father Torkel was also involved in the Commissions of Experts process, was working in IT [information technology] with me. He was actually offered the job that I eventually took here at the ICTY. It was just sort of a start-up thing. Everyone thought, oh, it's going to be a couple of months or something and then it will probably peter out, because it wasn't very firmly established.

Then he got a better job offer to go to Bahrain, I think with the compensation commission, which is working for the Iraqi war reparations. He was a little embarrassed, having already been offered the job here and then backing out for a better position, so I think he tried to convince somebody to take his place so he felt less guilty. So he put me forward and he said, "Don't worry. It's probably only like a month or two months, and then they'll find somebody and you'll have covered and it will be great." So I said, "Yes, sure. No problem." Frankly, we were stationed in New York for two years and Isabelle had been saying, "You know, we're here in New York, but I never see you," because I was constantly going to and fro. So I said, "Yeah, we'll take it, and then at least I'll be in one place for two months. Then if it turns out that it works out, then maybe Isabelle can join us and we'll be out of the rat race." Twenty-one years later, here we are. [Laughs]

Q2: So this is 1994?

Falces: I started in early January of 1994, actually, so these negotiations were, I think, in November or so of 1993. Then I came on sort of a temporary gig, and I was seconded

from peacekeeping operations. I think in February they wanted me to go and do another gig in Bosnia. I actually went, and I left here and I went there for a couple of weeks. I probably installed some more servers, I can't remember exactly what it was, and then decided, "You know what, I actually like that thing in The Hague so maybe I'll go back and see if it lasts a little longer." So, yeah, here I am.

Q2: What did you like about it? What was —

Falces: It certainly wasn't the weather. [Laughter] I remember the first couple of weeks here we had that North Sea horizontal driving rain, which was off-putting. Even New York has got cold weather but at least it's cold and clear, or sunny and hot, and that sort of thing, but here it was just constantly grey.

I like the spirit of the place; we worked hard, and we weren't getting shot at, at least [laughter] temporarily. And it was a start-up operation, so it had that small number of people, everyone's sort of working cohesively, and it was just invigorating to work that way.

Q1: Can you describe a little bit more the environment of the Tribunal early on? You said it was kind of like a start-up. Can you go into a little bit more detail about your memories from that era?

Falces: Yeah, this was an insurance company building, and the offices you're looking at now were the executives. We had only this wing. The building is pie-shaped with a rectangular extension, which is the one we're in now. And we, the Tribunal, had this rectangular portion, a smaller portion of the building, and the insurance company was in the rest of the building over there. We co-habited with them for a while. They were in the process, it was maybe like a two-year process, or a year-and-a-half maybe, of pulling out and consolidating their headquarters somewhere else. So essentially there are large areas of this building, which were totally abandoned, just full of loose ceiling tiles, dead furniture, and cables hanging everywhere. That became more and more as they were moving more and more staff, and they consolidated in their other location. So we gradually took over more space as they pulled away from the space. It was sort of strange because you're moving into an office building that looks like, I don't know, like a war zone. [Laughter]

Q2: It seemed familiar to you?

Falces: Sort of familiar, yeah. We were on the ground floor just below this, and we were all huddled in a few offices there. It was everybody from the Tribunal: we had some judges, we had some prosecutors, we had the administrative staff. This was far different than what you see now when everyone has their domains, separate spaces, security, and separation doors and things. We went out to social functions together, we would have dinner with people. Basically we were working for fourteen hours per day, and so we were just living, eating and breathing with all the same people, regardless of their

function, so it was good. It wasn't like, "Will they give us free Jolt Cola all the time,"
[Laughs] not that sort of start-up environment, but —

Q1: [Laughing] That's great.

Falces: Yeah, and so everyone was really casual, and everybody knew each other. And I think that lasted for a good couple of years where you knew everybody in the building and everybody knew you, despite what your job happened to be. And that was really — that was really a special time.

Q2: And then it started to expand beyond the point where people could know one another?

Falces: Yeah, it gets to a certain stage where you lose that sort of, not intimacy, but the contact where you can know all the people on a more regular basis. But I think the interesting thing about this place is that it still maintains kind of a spirit where people are really dedicated, trying to get their job done, are really focused on doing things well, and being proud of the work that they've done. That's been constant, I think, throughout the Tribunal's history. Later it devolved into more pockets of people who were working on their particular aspect of it, but you still feel that same sort of spirit.

Q2: So when you first came and stayed in The Hague, what was the whole spectrum of your tasks as an IT person?

Falces: I was basically — everything that you could plug in somewhere [laughter] was the IT guys' job. It's a joke saying that the electric pencil sharpener sort of fell in my ambit as well. I was supposed to figure out a strategic approach to setting up the data systems, and making sure there was a reliable infrastructure deployed, and that people had the resources they needed and the training and so on and so forth. But I was also helping people with formatting tables in Microsoft Word, and that sort of thing. So, you know, once you're the IT guy, basically everything that fits in a computer should be your job to do, so —

Q2: Right, but were there particular things you had to think about in setting up a court? Did you have any models of ways that people should be sharing information, or certain kinds of software they should be using, or how they should be securing information? How did you figure all that out?

Falces: I didn't do it alone, for sure. It was a group of interesting individuals, a lot of cooks, actually. I'm not saying we actually got it right in the very beginning; probably [laughs] there were too many cooks. We actually had a number of people in-house, and their initial focus was more on the investigations and prosecutions side of things; how to get evidence in, how to catalogue it, how to have it available for people to review and analyze and see whether or not it actually was pertinent to their cases and their other investigations. That was quite an undertaking.

We had initially, from the Commission of Experts, I guess it was some sixty/seventy-five-thousand pages of evidence that they had collected. The initial task was somehow to get that from the Commission of Experts and get it over here. I remember actually going on a mission to west Chicago where the guys from IHRLI (International Human Rights Law Institute), Cherif Bassiouni's group in Chicago, basically had this database that they had been working on with a bunch of interns and dedicated volunteer lawyers. They would take the evidence and they would categorize it, and say where it took place, who the victims were, who their assailants were and what the crimes may have been, and so on and so forth. They had religiously put this into a database, and then they said, "Okay, we're ready to give this to you, the Tribunal, so that you can now go on to do some serious investigations and prosecutions." It was in the form of twelve floppy disks, [laughter] which was quite a bit of information when you have it in the database format. And then, of course, there were the actual paper documents that came over by some sort of — I think they sent them via accompanied luggage under diplomatic seal or something.

Q2: Oh, yeah.

Falces: Yeah, but I went over to get the actual database. I think it was scans of the documents as well, on floppy disks, which was a slice. And then there was quite a bit of discussion actually about how best to use all these things. We had a number of people come from national governments, basically to advise us and assist us; what they would do, and how they saw things working. The volunteer spirit was great and it was really

fantastic that we were getting all these opinions, but it was difficult to sift through all those. We had people coming with, "Okay, you know if you use this solution you need to use an IBM (International Business Machines Corporation) mainframe to do these things." And then another one comes saying, "Oh, where we use it we absolutely have to use Macs (Macintoshes), and you have to use Oracle software", and, "No, you mustn't do that."

So we had all these sort of different "cooks" who were telling us how to do various things. The Office of the Prosecutor [OTP] took things into their own hands and said, "Fine, thank you all very much for this, and we're going to hire someone specifically to do this." They hired, I think at the time it was somebody called an Evidence Manager, and said "This is our man, he's going to actually figure this out." So at a fairly early stage, the OTP took that direction and considered it not as generic IT, which was more me. They said, "this is a specific data problem" and started working on it directly themselves. They had some fantastic, maybe in retrospect, grandiose schemes as well.

For example, an investigator goes out in the field, they go to a crime scene, they collect a bunch of documents, they speak to several witnesses, and they collect statements, and those statements basically are distilled evidence from people who have actually seen things and witnessed things. Then they would come back with those statements and they would give them to a team of people sitting in front of computers and say, "Okay, now we want you to digest this witness statement, and pull out all the elements of it: who are the people who are mentioned, what are the places that are mentioned, what are the

specific dates, what specific objects like guns or cars, or..." And then they wanted to draw the relation, like, "this man, or this name, born on this date is the driver of this car, and the car is like this, and this guy is this one's cousin, or this one is the neighbor of this other person."

So they built up this huge inter-meshed data entity of all these interconnected relationships between people, places, things, and dates, and they were going to apply some advanced heuristic network algorithm to figure out who was related to which things. That way, they were hoping to sift through hundreds of thousands, millions of documents and find the needle in the haystack. You see that sort of thing in organized crimes investigations where basically you'll take all the phone records of all these criminals, or all these people, and then you'll see, "Okay, who are the ones who are calling each other the most often, and who is related to whom." And then from that sort of empirical evidence you can place together and draw a link between people and their organizational structure. So they were hoping to use some software that was like that to help draw things together, I think, which was a fantastic idea—

Q2: Yes, but?

Falces: But, the problem was the process of actually digesting, distilling, and entering that in computer-understandable chunks. It was just impossible to do. And they had rooms full of people who were dedicated to doing that, and they couldn't keep up with what the investigators were producing. And so they were months behind in getting these

things in, and it actually wasn't producing that many results. They'd apply their software to it but it wasn't telling them anything interesting.

So after a certain stage, they just said, "I guess it was the wrong idea," and they took a different direction. But, I mean, you start off with something that seems like a fantastic thing, which is going to reveal hidden secrets via some sort of powerful technological perspective, and then it doesn't pan out for some very simple practical reasons.

Q2: Obviously a lot of those documents and statements had to be translated, but was the working language for most of this? English?

Falces: The investigators worked in English, actually. So they always traveled with interpreters. And I've never actually been on one of their investigation missions, but what they did was they'd ask questions in English, the interpreter would interpret, get their questions back, and then at the end of the whole thing they would type up a report in English, and an interpreter would read it back to them and translate it on the spot in BCS [Bosnian-Croatian-Serb language]. And then they would confirm it and sign it. So at the end of it you had a document in English, basically, and that's what they would bring back.

Q2: I've heard the same description of what happened at the ICTR, you know, with Kinyarwanda.

Falces: Yeah. I've heard several people say that it would have been a good investment if we had known how long we were going to be around, and how much effort it was going to take to actually give the investigators BCS language skills; invest in training them, and in teaching them so that they come up to a certain level of fluency in BCS basically.

Q2: Yeah, I guess it's also an interesting question if their speaking BCS would have gotten them a different kind of information, just because they spoke a local language.

Falces: Yeah, yeah, I know, multiple different possible effects, right? Who knows. Maybe they would have gotten less because people think —

Q2: That's true, if they aren't speaking the right dialect or — [Laughs]

Falces: Right. “Why is this guy speaking this way, and why does he speak with that accent?” You know?

Q1: Yeah, very true.

Falces: There's a lot of suspicion I think, so —

Q2: Were there a lot of Americans working here in the early days?

Falces: We had probably a good thirty Americans that were seconded by the American government. People coming from the State Department, people coming from the Department of Justice, we had some from the FBI (Federal Bureau of Investigations). Brenda Hollis, I think, came from the Air Force. Brenda's now the Prosecutor for the Residual Special Court of Sierra Leone. They all came on a secondment, and so they were so-called "gratis personnel." It was fantastic having them, because they were enthusiastic, skilled, and motivated, and they just came and carried the bulk of the work, especially in the prosecution. I think they set a lot of the culture in the beginning of the way things were approached. You know, it's a system which is supposed to be crossed between civil and common law, and I think that early push from Americans, and there were a number of Brits as well, that took us more in the direction of the American system of prosecutions and the way the court is run, an adversarial format.

Q1: Right. Right.

Falces: So, yeah, it was interesting. Then I think at a certain stage the UN, completely unrelated to this, they started to not like "gratis personnel" so much because, from a UN perspective, receiving free personnel was a chance for certain member states to exert influence, and I guess if you looked at it they did exert a certain influence on the way things (laughing) came to be, right?

Q1: Right. Right.

Falces: And the UN didn't want that, because they wanted to basically control things from their own management perspective. So it wasn't really a free gift, as they saw it, and so they came up with several resolutions, I think in the General Assembly, which cracked down on the use of "gratis personnel." And so many of those people left, they went back to their positions that they had before, and some people actually converted over, they became UN staff members at that stage. I really can't remember when that happened, it must have been after at least a year and a half or so. So those people were here for quite some time doing a whole lot of work actually.

Q2: Do you think that your having been at the UN before you came here, and having worked internationally and also being familiar with the UN system, gave you some advantages over people who were seconded from the State Department or whatever? Did they come in with a really, really American perspective, or were they able to step back and say, "This isn't the United States, so we have to see how this is going to work?"

Falces: I think it definitely led to a different perspective and a viewpoint, and you can really notice it. Americans have this "can-do" attitude, which is fantastic, and they're not afraid of a hard day's work. But they do tend to be a little bit overbearing, if I can generalize, being one of them. [Laughing] And especially when they're professionals at the top of their field, basically, and you're dealing with an organization that really hasn't done it before, there's a lot of latitude to assume that you know what you're doing and they don't, and therefore they should listen to what you're saying.

That really got the Tribunal quite far I think, that injection of expertise. But you had a certain stage when everyone is sort of on a level playing field and you have to step back from it, it's true. And coming from the UN, you had a bit more of a cultural perspective, and being in a group of Americans you probably don't feel it that much, it's just like a Judy Garland and Mickey Rooney, "Hey, everyone, let's put on a show!" Everyone just gets together and pulls their weight, but you don't really see the cultural aspects so much when you're in a uniform group.

Q1: I know you had a good amount of international experience prior to coming to the ICTY, but can you speak a little bit more about your adjustment, or maybe learning curve coming into an international tribunal?

Falces: Yeah, you mean in the respect of just coming, from having been in the States, or —?

Q1: Yeah, how people from different backgrounds, in your experience, came together to put this Tribunal together, to make it functional, and to move ahead.

Falces: Yeah, I think that at the time it was clearly something that, around the world, people saw that bad things were happening in the region, and somebody needed to do something about it. And so all the cultural differences, the technical challenges and all that, people put that in the back seat and just got on with it. And that was really

something that was unifying for everybody, I think. And when you ran into difficulties, that sentiment was always there for you, basically, so you could tap into that. And, yeah, it was something that all people could draw on, and it was really quite something, I think. More palpable in the beginning, I think, and after a while it started to become a growing concern and business as usual. "Okay, we're holding trials." But back in the beginning, I think that was really something that was unifying.

Q1: And how did you see or experience the growth of the Tribunal from your early days? It doesn't have to be up to now, but maybe within the first few years or so, how did you see the Tribunal evolve?

Falces: Fantastic amounts of activity; new people coming in all the time, everyone full of energy and drive. The budgets were doubling, I think, for the first three or four years, and so it was just like a heady expansion of people coming in and the stuff getting done. It was really quite motivating for everybody, I think. You had this pervasive view from the outside, like, "this place isn't going to last," you know, "a flash in the pan, the international community will never be behind it, you'll never catch any fugitives, and even if you do no one's going to respect the process, and it'll just evaporate." So the challenge was thrown down, and being the motivators, we were to do something about the situation. It was just magic, people were energized by the whole thing, I think.

Just in practical terms, in terms of the expansion, we had to make the building ready, and so there were a lot of interesting things to do. It was basically abandoned office space and

we had to move people around quite a bit. I think I probably moved, I don't know, four or five times in that first year, you sort of uproot and move other places. And everybody did everything; we were moving boxes ourselves, writing computer contracts, and looking at legal drafts for courtroom procedures, that sort of thing. So it was a huge spectrum of different tasks that you could be working on.

Q2: I was kind of curious about how all the IT was set up in the courtroom, and how you chose a system. I know it's highly technological with all the screens, but how did you figure out what system to use?

Falces: Yeah, there isn't actually a single system, that's the other thing. It's like a quilt of various other systems, and it's definitely — it has progressed over the years. But we had this idea that there was going to be this huge amount of documentary evidence, and we thought there was going to be lots of video evidence as well, and we had seen demonstrations of this “Real Time Transcription,” I'm not sure if you're familiar with it?

Q2: Someone has alluded to it but I'm not sure I know exactly what it is.

Falces: It's this process where, as someone's speaking, there's a court reporter, and the court reporter, instead of producing paper tape or an electronic version of it that you see, it actually makes the transcript in English on the fly. So basically you can receive that feed, and then you can feed it back to everyone's computer in the courtroom, so they can actually see what they're saying with about one or two seconds delay. So you can both

listen to and read what's going on. It's been useful in a number of places, actually. But that sort of innovation required that we have the ability to produce it and then disseminate it to people. So that guided us in terms of what sort of systems and things we needed to put in place. Essentially we needed to have a way to have multiple different kinds of data and evidence appear in front of people without having to stop or shuffle things around. And we needed to have an audio system so that people could be heard through the audio and through the interpretation system as well. And we needed an audio-visual system, that was the court record, so basically these video recordings. Have you been to the courtrooms?

Q2: Yeah.

Falces: Okay, you know that it's circular in a sense; you have judges and witnesses and then you have the parties like this. So from a video perspective, what it implies is that you have multiple cameras, because not a single camera can capture every party. So you have to have multiple cameras, but you don't want to have cameramen in the room, so you have to have multiple controlled cameras that are zoomable. That means that you have to have a control center where someone is doing those sorts of things.

So when you start with the basic requirements, they begin to build themselves out into what you actually technically need to do. So with all that — also the fact that the public gallery is separated by this bulletproof glass, because there were big security concerns in the beginning — you have to be able to bring the evidence, the sound, the video, and so

on and so forth to the audience in the public gallery. When you start with that you say, “Okay, how can we actually get that done?” And the systems just sort of describe themselves.

Q2: When you were trying to figure that out, did you have consultants who came from other kinds of courtrooms, or who work on those kinds of things? Is that a niche profession?

Falces: It's quite specialized, actually. We had a couple of guys come from the National Center for State Courts, it's in the U.S. I think it's maybe in West Virginia. A guy named Jim McMillan came. And we had some conference audio-visual experts from the Dutch government who came as well. They're used to working in parliaments and things where you have to have interpretation systems and technical booths and things like that. So we had a number of people who were saying, “this is what we're doing.”

But really what we did was pretty groundbreaking. I think nobody had actually put it all together in one place before. Since then, I think various courtrooms have leapfrogged back and forth. The College of William and Mary, actually, which had quite a bit of experience in this, advised us very carefully on it. But, yeah, there are not that many people who do it. You don't really need to do it that much, you don't ever do it for traffic courts. So there was no cost benefit to doing it for just an ordinary court.

And, actually, the jurisdiction has to allow for cameras in the courtroom as well. I should have mentioned that the reason for allowing cameras in the courtroom was that we're an institution, which is supposed to be providing justice for people in the region of the Balkans. But we're not in the Balkans, so it was assumed that we actually had to communicate with them more directly via these technological means. And that's why we have cameras so that we can broadcast them to the region.

Q1: So where are they broadcast in the region?

Falces: It's an interesting question. At that stage, we were like a television-producing studio, but nobody actually wanted to pick up our program. [Laughter]

Q2: Yeah, because we interviewed someone from SENSE Agency the other day. It sounded like the Agency was making compilations of lots of hours of video, but it wasn't exactly clear if that was ever televised on television stations in the Balkans, or —?

Falces: Well, it's half-hour delayed for security reasons, but for our first trials, I understood we were like the morning soap opera. People would turn us on, the “Days of Our Lives” sort of thing. It was the most watched program for quite some time. And then, I think, people realized that the court process is sort of boring. Occasionally you have people come in who give stunning testimony, but a lot of it is just “paint drying.” Lawyers are arguing abstruse legal points back and forth, and so there's a limited audience that's really interested in watching full-time. And I think that's where the

SENSE Agency comes in. They took all the exciting bits that were relevant to people and they'd distill them into something, and then they would rebroadcast them later in the region basically.

So I think, in the beginning, we had this idea that somehow everybody was going to be glued to their television sets, whenever we were on, and it started that way, but then it quickly petered off, I think. And it's quite expensive to actually broadcast into the region. I'm not sure of the accuracy of this, but I think it was George Soros who helped us get up on satellite, which broadcasted to those 90 centimeter dishes that everyone has on their balcony. That's how we were live to begin with. But that was super expensive, you know like millions to run those satellites, so it stopped happening. And we didn't really have internet streaming at the time, so — [laughs].

Q2: So when the *Tadić* trial started, were you all really nervous to see if all this technology was going to work?

Falces: We'd tried it, it had been tested pretty thoroughly and we were pretty sure it wasn't going to fail. But I guess the question is, was it going to be effective? Was it somehow going to help the process? And it was far beyond *Tadić* that we started to fine-tune and get the technology to actually be as useful as we originally thought it was going to be.

Q2: That's what I wondered. So there was a learning process and things were tweaked?

Falces: Yeah, we started with these assumptions that seeing a lot of transcript would somehow be useful, and that presentation of evidence on a screen in front of you would be somehow better than seeing it up on a projection or something like that. Those were guesses, which were sort of gimmicky in some ways. And it wasn't until later that we discovered that it is actually useful for the prosecution to have access to their notes and to people who are working back in the office who are watching the trial and can say, "Oh, you know 'this' happened right there, watch out for this." So they [the prosecution] could check their email when someone had sent them a message saying, "Hey, make sure you question on the cross on this particular aspect," or, "Don't forget to present this piece of evidence." So the information systems were then tied back to both the defense back offices and the prosecution back offices. There were more than just the people in the courtroom. That was the tip of the iceberg. The technology allowed those people to be there at the same time.

Q2: Oh, how interesting.

Falces: Yeah.

Q1: Now, I have a question about what you were saying in terms of the live transcription. Would a witness or an accused be sitting in the courtroom and seeing what they're saying come up on the screen in real time?

Falces: Typically not, because the witness has their own screen, which we later outfitted with light pens. So you'd put the equivalent of an 8 X 10 glossy up and they would circle things, draw arrows, and that sort of thing, and that would be recorded. But typically they wouldn't see anything on their screen at all, because it's sort of disconcerting when you see the current video program, which, when the witness was testifying, was often the witness himself. That's a little bit off-putting when you see yourself on the screen in front of you saying something, so it's generally just kept blank unless they're actually using it.

Q2: But they see documents for example if there's —

Falces: Right, so if they want to draw your attention to this piece of documentary evidence, they'll put it up on the screen in front of you, and the guy will say, “Yeah, that's where I was,” or, “Yeah, this is the guy,” or, “This passage in the text is the thing that I'm referring to.” So it's useful to have that sort of thing in front of the witness, but not the rolling transcript, which is often not very useful for witnesses because it's in English.

Q2: That's what I was just going to say —

Q1: Yeah, I was curious about that, as to whether there was ever a time when a witness saw something typed out and said, “That's not what I said, that's being translated wrong,” or something like that.

Falces: Sometimes you'll get the accused saying something like that, because the accused often have pretty advanced English skills. You had a control panel in front of you with four buttons. You could either watch the current video feed, you could watch the transcript, you could watch the evidence, or you could watch, if we had a video conference, witnesses coming in from afar. There'd be that selection. So they would select the transcript, and the accused could sit there and follow that as well. And sometimes they would point out, "That's not what he said," or, "That's not what was meant." And —

Q2: Then could it be corrected?

Falces: It can be, actually.

Q2: Is the live transcription the official transcript?

Falces: It eventually is, but it comes out "as best it can," and it's normally about, I don't know, between 95 and 98% correct. You'll often get what I think they called "mis-translates," or something when the court reporter will spell something phonetically due to a name they're not familiar with, or they've a slip of the fingers. So you get some occasional incidental errors in the whole thing. It actually has to go through a QC process after court is done, and I think with that live process, they have a couple of hours to clean up the transcript and then make it the official one.

Q2: What does QC mean?

Falces: Quality Control. And then they actually have people who then, after it's been deemed to be an accurate record of the event, look at it for confidentiality reasons as well. Because a lot of times someone may have mentioned by mistake a protected witness's name, and we can't have that appearing in a public transcript. So you'd have people from the witness section also clearing the transcripts before they actually make the official public record.

Q2: And are those made available to the public immediately?

Falces: I think the process is a four-day process. It's a couple of hours for the court reporters, and then the witness people need to take a slightly longer look at it before they're certain that it has nothing confidential in it.

Q2: And you can just go on to the website and you can get the transcript for a particular day of a particular hearing?

Falces: Yes, all the way back to the beginning of the first *Tadić* hearings.

Q1: Wow!

Q2: How has the evolution of technology over these twenty years you've been at the ICTY impacted your work?

Falces: Tremendously. I mean there are things that we couldn't have conceived of doing before, like these questions of access by the public. Without the internet and the widespread ability of broadband, we never would have been able to offer that sort of access, but, of course, that's across the entire world, right? The transcripts and the audio-visual stuff, I think, will eventually be of more interest, and it's a good historical record of course. But in terms of actually people wanting to follow the proceedings, I really don't think it's been that popular to be honest with you; probably the communications section will tell me I'm dead wrong. [Laughter]

But other things, like just the amount of raw computing power, have had an impact on our work. We had a lot of documents come in — the evidence comes in in documentary form — and in order to make it searchable you have to scan it, and then you have to run optical character recognition. In the early days, the computers were much slower, and the OCR (Optical Character Recognition) programs were much worse. And so even if you scanned or OCR'd something, it essentially remained unsearchable. And then with the increase in computing power, high-resolution scanners, and cheaper storage space, those sorts of things become practical and feasible and they actually work. So I think that's changed over the course of the time we've been here as well.

Q1: Going back to what you were saying about the courtroom technology, do the defense, the prosecution, the witnesses, and the judges all have the same thing on their screens? Do they all have the same options about what they're seeing?

Falces: Yes, they do. They all have it. The only thing is that the witnesses, although their screens have buttons, are sort of "technological passengers" in a sense. They're not in the driver's seat; they're just concentrating on their testimony. Often the usher will come up to them and assist them if they're not on the right channel to have the documentary evidence in front of them. They'll click the button and make sure it appears and they'll show them how the light pens work, and that sort of thing.

Q2: The "light pens," I'm not sure I understood —

Falces: Oh, it's like a little marker, but it's got no ink in it. When you drag it across the screen it'll draw a line.

Q2: So if the witness is supposed to be showing something, he or she can draw a circle around a map, or something like that?

Falces: Yeah. "Here's a picture, and show us the farm where you said you were, circle it."

Q2: I see. How interesting.

Falces: And that gets captured for the record basically.

Q2: I remember hearing something a number of years ago, I think it was when the talk of legacy of the Tribunals was just starting and what kind of archive there would be of all the proceedings. Somebody pointed out that there's audio from the Nuremberg trials that can no longer be listened to. So there was some concern that people would not always have access to it. Have you thought about that kind of preservation of the proceedings?

Falces: Yes. Preservation of digital information is a very tricky and actually an emerging field. I wouldn't say that we have a full handle on it. The only thing we do know is that it requires constant reinvestment if you're going to make sure that you have technology and formats that continue to be read, and that they're preserved as authentic and original as possible. The essence of the program basically. So we do certain things. We preserve video evidence in the highest resolution that we can afford for the time being. And then we are trusting future generations that they will act in a responsible fashion, so that whenever the technology is becoming obsolete, they migrate this to something which is compatible. But it's an ongoing challenge.

Q1: This must be a gargantuan task, just making the move from tape to digital at that point in the 1990's or whenever it was done. Are you recording on digital now?

Falces: We go direct to hard disk. But we went from analog tape to digital tape at a certain stage. The problem was that disk space was incredibly expensive, and so at the resolution that we wanted to record at, broadcast quality resolution, it would have taken far more disk space than we could possibly have afforded. So the cheapest thing to do, which would maintain the information, was to have it go onto various tape formats. Now disk space is cheaper, though it's still expensive, and so we go direct to disk.

We had a project that took all of the stuff that we recorded on disk and digitized it where it was analog, or transcoded it where it was digital from tape onto hard disk. There's still a small backlog from, I think, around 2010 till 2012 where we're still working on the backlog. But everything before 2010 we've actually transcoded onto digital means now. And we're hoping that very soon that will be fully available to the public.

Q2: So have you, over the years, gotten training someplace on how to keep on top of this? Or have you just learned as you've gone along?

Falces: You know, we've gotten a lot of advice from experts, so we're standing on the shoulders of giants. But a lot of it was on-the-job thinking, training and doing, and making mistakes, and seeing how it worked and how it didn't work. So we were not actually aware of, or able to afford, training for people to do these sorts of things. We just made it up as we went along.

Q2: Did the ICC [International Criminal Court] ask for your advice when they were setting up their own systems?

Falces: They did, actually. They say, “the sincerest form of flattery is imitation.” So you see basically all the other courts have built on our model. It's not surprising because they actually hired the people that were working for us.

Q2: I was actually wondering if they ever tried to entice you away toward the ICC?

Falces: There's been a couple of things. The ICC was not really a great ending location for Americans. They weren't in high demand. But we had people from here who actually went and advised the ICC, the STL (Special Tribunal for Lebanon), the RSCSL (Residual Special Court for Sierra Leone), the Cambodia Tribunal, and even the state court in Bosnia, on the various aspects of setting up a court. So I think the work we've done here has been very important, and you can see that it's had a great effect on the rest of the international criminal community.

Q2: Did you ever travel to Arusha to see how it's set up in the ICTR?

Falces: Yes. I've seen it there, more of the same stuff. You have transcripts and you have digital evidence, and video screens and the recordings and things, so it's all very similar. And of course, once you have a base you can add an incremental improvement, and so we sort of build off each other at this stage now.

Q1: I'm curious about this idea you brought up of preservation, and I'm not sure how much you can speak on this, but what is the preservation plan for after the Tribunal closes down, whenever that might be? Obviously there will be the Residual Mechanism, but what's the idea for how future generations will be able to access everything that has been gathered over the twenty-plus-year history here?

Falces: It's going to be this Residual Mechanism, or as they call themselves now, "The Mechanism for International Criminal Tribunals" [MICT]. Part of their mandate is to preserve the legacy and provide access to it. So how are they going to do it? Well, most of it's probably going to be through digital means. So they'll have to have a program of digitizing everything, most things are. And then successively moving it from one digital format to the next, and also providing hopefully new and improved types of access to the archival records. It's an interesting question as well, because when you think of an archive, you think of an unused dusty thing that historians and librarians like to look into.

Q1: Right.

Falces: But, because a lot of the cases are actually still ongoing, they're either in appeal or maybe finishing trial, or they're related to cases that are currently ongoing; a lot of those files are not so inactive right now. So the Tribunal and the Mechanism are still actually using those things actively. I think the other important aspect is the fact that the witness testimonies are made under protective orders so their identities need to be

protected, and that means that there's an ongoing requirement to not only maintain and provide access but also to make sure that the protective measures are kept in place.

Q2: And do those protective measures expire when the person will have died?

Falces: I think we spent about three years debating this [laughing] with the Office of Legal Affairs in New York. They've come up with a regime for so-called "declassification." I think there are some things that have an expiration date, and it's a long on; I think it's maybe 50 or 75 years or something. And there are some event-driven things, like maybe the death of a witness or something along those lines. But each one, because the protective measures are given by a judicial order, they actually need to have a judicial order to relax them.

Q2: And that's one reason you need the MICT, I guess. Interesting.

Falces: Very interesting.

Q2: I was at a conference in Arusha once, and people were again talking about the archive, and I guess Rwanda was saying, "We want to have the archive of what was happening at the ICTR back in Rwanda," and other people were saying that there's some risk there that the protective measures might not be respected.

Falces: Right. And they had similar concerns for our materials as well. I think there were legitimate claims from the people of the region of the Balkans, who wanted to actually have that stuff back in their possession. But then if you give it to the Bosnian government, the Croats and the Serbs are disturbed that somebody has these potential things, and vice-versa. So, in the end, a political decision was made to keep it in the hands of the United Nations in the form of this Mechanism for International Criminal Tribunals (MICT), and that they'd undertake the steps which would make it accessible to those peoples.

Q2: I'm just wondering, I haven't heard any mention of this in relation to the Special Court for Sierra Leone. Do you know what they're doing with all of their materials?

Falces: I do, actually. They are being held by the Dutch National Archives.

Q2: Oh, is that right?

Falces: Most of the things are under strict confidentiality. They're holding them because they have the facilities. They don't hold them and provide access to them, I believe. So they just have the space and the facilities and the money basically to hold and maintain them, so that's what's being done with those.

Q1: Interesting. We're getting close to the end of our time. Do you have any final questions?

Q2: So what does it mean to be Chief of Administration?

Falces: Oh, basically it's a service provision outfit. The administration does things like the personnel, the financing, we do procurement of goods and services, we provide the security for the building, we provide the building and the maintenance, we do the IT so people can come in and log into their computers. It's basically just managing that group of people to provide those services for the institution.

Q2: So you pulled out from IT and now you oversee all of that operation? That sounds pretty daunting.

Falces: It's a great group of people, who are really interested in doing the best they can, so it's fantastic. I think it was good for me, actually, because it broadened my horizons as well. I got to see more of the operation and interact with more of the substantive offices as well, so it's very nice.

Q2: You must have learned a lot about law over the years though?

Falces: Yeah. Yeah. [Laughing] More than I ever thought that I would. Are you lawyers?

Q2: No, I'm an anthropologist, I just work in international justice. So I also learned law in a bit of a skewed way.

Falces: Yeah, it's fascinating, and you know, I really appreciate the approach. When I see the way the rest of the UN operates, I think they could take a real lesson from operating in a more legal framework. Not that they're acting illegally, but the discipline and the regimented way of approaching things, I think, gives you a really beneficial way of dealing with many issues.

Q1: Do you have any final words you'd like to say in your time here before we close down?

Falces: No, except to say, thanks for doing this. I hope it's very successful, and I hope it captures a slice of life for the Tribunals so people can have an understanding of what things were like here.

Q2: Yeah, and you've given us a perspective that we had not gotten, so this was extremely valuable.

Q1: Yeah, so thank you for that.

Falces: Oh, it's a pleasure.

Q1: Great, thank you.

[END OF INTERVIEW]

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