



newsletter

I C J C A N A D A



Hon. Michèle Rivet Named Canada's Second ICJ Commissioner

The Honourable Judge Michèle Rivet has been named a Commissioner of the International Commission of Jurists in Geneva. Judge Rivet was elected on November 1, 2003, and will serve a five-year term. The Commission, which is the governing body of the ICJ, is comprised of sixty eminent judges, lawyers, and law professors from over forty countries.

Judge Rivet is President of the Quebec Human Rights Tribunal. She served as President of ICJ Canada from 1996 to 2001, and currently sits on the Executive as Director of International Projects. During her tenure as ICJ Canada President, Judge Rivet conceived of and carried out the first of three successive and successful CIDA-funded international projects on judicial reform in Southeastern Europe.

Brian Crane, National Vice-President of ICJ Canada, spoke enthusiastically of Judge Rivet's appointment: "It is a great credit to ICJ Canada and to Judge Rivet personally that she has been appointed as a Commissioner to the ICJ in Geneva. She has made a tremendous contribution to our projects on judicial training in Southeastern Europe, and it is wonderful that her efforts have been recognized at the international level."

Canada is one of only a handful of countries with two ICJ Commissioners. The Honourable Mr. Justice Ian Binnie of the Supreme Court of Canada was elected Commissioner in April 2003. Justice Binnie said of Judge Rivet's appointment, "Michèle's election as Commissioner is a wonderful boost for the ICJ. She has been a driving force in ICJ Canada for years, and the project she currently spearheads in Serbia and Montenegro is probably the single most ambitious and important undertaking that ICJ Canada has ever attempted. Michèle's contribution to the international work of ICJ Geneva will be a source of great pride to all of us." Prior to Justice Binnie's election, the Honourable Claire L'Heureux-Dubé served as International ICJ President, as well as a Commissioner.

Regarding her appointment, Judge Rivet commented, "Because the promotion of the rule of law and commitment to human rights are enshrined in our Constitution, Canada has a very special role to play in the work of the International Commission of Jurists. I feel very privileged to serve at the highest level of an organization whose mandate has never been of greater importance to the world than it is right now."

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Letter from the Secretary-Treasurer - Hon. Charles T. Hackland

ICJ Canada's 2003 financial statements will disclose an unpleasant surprise. Our administrative costs have increased by 50%, leaving a projected deficit of \$12,000. This negative outcome is the result of very positive accomplishments that reflect a more active ICJ Canada, including our new website, a new and improved newsletter, an increased administrative burden resulting from increased activities in Canada, and our CIDA-sponsored projects in the former Yugoslavia. In addition, several one-time expenses were incurred last year when the Canadian Bar Association, where we have our office, moved out of downtown Ottawa.

As a registered charity whose members consist of those who support the philosophical objectives of the International Commission of Jurists, we do not offer a product or service through which we might

raise revenues. Instead, the dues and donations of the ICJ Canada community itself are the only current source of annual revenue, and membership has remained constant, bringing in approximately \$30,000 annually, while expenses have significantly increased.

To deal with the current situation, the Executive has struck a committee under the direction of Brian Crane to urgently address the goal of increasing our revenues. We hope that a way will be found to recover more overhead costs from the CIDA projects, and we are investigating other avenues of raising and generating income. You may recall that we were fortunate last year to receive a generous and unexpected gift of \$5,000 from Justice Pierre-Claude Fournier on behalf of the Paul A. Fournier Foundation. Increasing our donor base further will go a long way toward meeting our goal of increasing revenues to a point

where we can afford the administrative expenses required to support our expanding range of activities, some of which are reported in this Newsletter.

ICJ Canada is a member-driven organization, and we hope that you will want to get involved in getting ICJ Canada back on stable financial ground. Your help or suggestions in the matter of fund-raising or any suggestions you may have about potential donors are welcome. A potential fee increase, a measure we would like to avoid, will be discussed at the Annual Meeting in Winnipeg on August 16, 2004.

A parting thought - we are at the top of our game but considerable effort and commitment will be needed to restore ICJ Canada to our previous sound financial position.



Winnipeg 2004 Annual Meeting in Winnipeg

The Annual Meeting of the Canadian Section of the International Commission of Jurists will be held on Monday, August 16, 2004, from 3:00 to 5:00 p.m. in Room 18 of the Winnipeg Convention Centre. The business meeting will include an address by the Hon. Rosalie Abella, 2004 recipient of the Walter S. Tarnopolsky Award for outstanding achievement in the field of human rights. Please see Agenda on page 16.

The Tarnopolsky Award itself will be presented at the joint meeting of ICJ Canada and the Canadian Judges Forum, which will be held from 8:30 until 10:30 on August 16 in the Presentation Room, 2nd level. The theme of this year's meeting is "Borders of Disability." The Honourable Ian Binnie will serve as the ICJ's representative on the panel.

newsletter

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ICJ Project to Support the Independence and Impartiality of the Judiciary in the Southeast Adriatic Countries

Summary of Project, 2003-2004

Between December 1998 and the present, ICJ Canada has implemented three projects on judicial independence and impartiality in the Southeast Adriatic countries. The general objectives of these projects have been to promote greater professionalism among individual local judges and to build stronger, independent, and more efficient judicial institutions.

At the conclusion of our successful project in Croatia (2000-2002), ICJ Canada and its funding agency, CIDA, were convinced of the necessity to reach out to other countries of the Southeast Adriatic. In January 2002, CIDA agreed to finance a second phase of the Project to pursue the work already achieved in Croatia and to establish similar projects in Serbia and Montenegro.

The Project, which has been supervised from the beginning by Judge Michèle Rivet, President of the Quebec Human Rights Tribunal and Commissioner of ICJ Geneva, aims to help Croatian and Serbian and Montenegrin judiciaries to strengthen their independence and impartiality in a unique judge-to-judge approach that has successfully facilitated our educational objectives through direct exchanges between Canadian and Southeast Adriatic judges.

Canadian Advisory Committee Meeting

Because the current phase of the Project will

end in the coming months, the Project convened a formal meeting of the Canadian Advisory Committee for a consultative session, which took place in Montreal on April 3, 2004.

During this session, the Project's work to date was summarized and plans were introduced for the new phase of the Project that will allow ICJ Canada to continue the work already started in Serbia and Montenegro and to extend this work to Bosnia Herzegovina and Kosovo. The purpose of this meeting was to collect the views and suggestions of those who had generously participated in the development and contributed to the success of the current

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From left to right, Hon. Mel Rothman, Hon. Michèle Rivet, Hon. Ginette Piché and Me Caroline Meilleur in Motovun.



Project, whether in Croatia, in Serbia and Montenegro, or here in Canada.

More than 30 judges and lawyers participated in this consultative session, including the Honourable Ian Binnie of the Supreme Court of Canada and Chief Justices from the Provinces. National Vice-President Brian Crane represented the ICJ Canada Executive and conveyed its ongoing support for the Project, as well as its appreciation of the efforts of Judge Rivet and all the participants in the Project.

An overview of the current Project provided by Judge Rivet was followed by a general discussion of the experiences of participants in the Project in order to gather insights and suggestions that might be incorporated into the proposal presented to CIDA at the end of May 2004. In addition, two speakers who have worked in the Southeast Adriatic in non-ICJ capacities shared their experiences. Georgette Gagnon, former Director of Human Rights and the Rule of Law for the Organization for Security and Cooperation in Europe (OSCE) Mission to Bosnia and Herzegovina and 2003 recipient of the Tarnopolsky Award, spoke about the judiciary in Bosnia. Judge Paul Chevalier of the Court of Quebec, who acted as an international judge in Kosovo for nine months in 2003, gave his views on the judiciary in Kosovo. Finally, Philip Rawkins, an external Advisor to the Project, gave very useful advice from his own experience of addressing the

Committee on Programming and Approaches to Judicial Co-operation.

Judge Radmila Dacic visits Canada

In October 2003, the Project sponsored the one-week visit to Canada of Serbian Judge Radmila Dacic. Over the course of an intensive speaking tour, Judge Dacic addressed Canadian law faculties, high school students in Alberta, local gatherings of ICJ members, and the Annual Conference of the Canadian Institute for the Administration of Justice (CIAJ).

Judge Dacic sits on the Special Tribunal for Organized Crime of the District Court of Belgrade and serves as the President of the Board of the Association of Judges of Serbia. She is a high-ranking judge who has experienced first hand the fragility of the independence and impartiality of the judiciary in Serbia and the former Yugoslavia. In her repeated engagements, Judge Dacic explained that, in the past 12 years, the Serbian judiciary has witnessed enormous historical and political changes, passing through civil war, the regime of Slobodan Milosevic, sanctions of the international community, bombings, war crimes, political murders, growing poverty, refugees and the eradication of the rule of law. Throughout this period, she said, the judiciary suffered profoundly when the division of power was destroyed, and as a result, many judges who did not yield to political pressure were dismissed from their positions. She emphasized the importance of creating the Association of Judges of Serbia and the significance of its role throughout this very bad time.

With the assistance of Professor Daniel Gervais, the Law School Liaison for ICJ Canada, Judge Dacic spoke at several law schools, beginning with the McGill Law School, where Professor Armand de Mestral organized and welcomed her visit. With the collaboration of Professor Ed Ratushny, President of ICJ Canada, Judge Dacic then spoke to law students and others at the University of Ottawa law school. A dinner in honour of Judge Dacic was also organized in Ottawa, where local members of ICJ Canada, a representative of the Embassy of Serbia and Montenegro, and other guests were able to engage in lively discussion with Judge Dacic on a range of topics.

Judge Radmila Dacic
*Special Tribunal for Organized Crime of
the District Court of Belgrade, Serbia*





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During her stay in Canada, Judge Dacic was also invited, along with Judge Michèle Rivet, to speak at the Annual Conference of the Canadian Institute for the Administration of Justice at the Banff Centre. She also managed a stop in Calgary to meet with high school students. The Honourable Rosemary Nation of the Court of Queen's Bench of Alberta has provided a detailed account of Judge Dacic's visit to Alberta for this Newsletter (see page 12).

Collaboration with the Council of Europe, Strasbourg and the École Nationale de la Magistrature, Bordeaux and Paris

In order to enhance the harmonization and integration of European court efficiency and human rights standards in the Southeast Adriatic countries, ICJ Canada's Project is linked to other regional organizations, specifically the Council of Europe, with which Canada acquired official observer status in 1996. Working in close collaboration with the Council of Europe in each of the countries and at the regional level is of the utmost importance because it permits ICJ Canada to promote the harmonization of national domestic laws with European standards within all the countries. Collaboration with the Council of Europe has already been instigated in the current Project through a series of meetings and discussions with the two main Directorates in Strasbourg. On May 3, 2004, Judge Michèle Rivet and Me Manon Montpetit met with Mr. Pierre Henri Imbert, Director General of Human Rights (DG II); Mrs. Svetlana Kostadinova-Schall from the Human Rights Cooperation and Awareness Division; and Mr. Jean Claus and Mr. Philippe Biju-Duval from the Directorate of General Legal Affairs (DG I). The likely participation of ICJ Canada in seminars or a round table organized by the Council of Europe has been suggested for October and December 2004, as well as in a future phase of the Project. ICJ Canada has also established links with the École Nationale de la Magistrature – Centre de Bordeaux and Paris in France, where curricula for permanent education have been implemented for several years. The possibility of future collaboration and sharing of resources to build an effective program of activities between ICJ Canada and the École Nationale de la Magistrature was discussed in meetings between Judge Rivet and representatives of the

École Nationale in Bordeaux and Paris in May 2004.

Summary of activities in the field

Within the context of its activities in the fields of independence and impartiality of the judiciary, specific themes were developed in the Project's curriculum, including the critically important human rights education. The judiciaries of Croatia and Serbia and Montenegro have faced many phases of reform in the last few years. Croatia became a member of the Council of Europe in 1996, and Serbia and Montenegro became a member in 2003. Because it is necessary to secure respect for and protection of human rights in Croatia and in Serbia and Montenegro, and to ensure that these countries conform to international and European human rights standards, the Project has undertaken to develop a program on human rights training for the members of the judiciary. The fact that a greater understanding of human rights issues in the judiciary would contribute to the achievement of democratic reforms and to the establishment of legal security and the rule of law was also an important consideration.

Series of three human rights seminars

The Project selected 25 local judges from each country to attend three intensive three-day training seminars in the field of human rights. Through these seminars, the judges from the Southeast Adriatic countries have gradually been made aware of the importance of international, regional, and domestic instruments designed to ensure the protection of human rights and freedoms. The first seminar in Croatia and in Serbia and Montenegro took place in September 2003, the second in December, and the third in April-May 2004. This staggered schedule allowed participants to assimilate and integrate new elements into their day-to-day work. For each seminar, conference speakers included both local experts, from within and outside the judiciary, and Canadian judges.

The Canadian delegation for the first seminar was composed of Judge Michèle Rivet, who addressed equality rights and protection against



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and important undertaking

that ICJ Canada has

ever attempted.



Hon. Ian Binnie

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discrimination; Judge René Dussault of the Quebec Court of Appeal, who addressed the topic of national minorities protection in Europe and in Canada; and Judge Kathryn Neilson of the Supreme Court of British Columbia, who explained the right to gender equality. Me Caroline Meilleur, Project Director, and Me Manon Montpetit, Deputy Director, were also part of the delegation.

The themes of the second seminar were the freedoms of speech and of the press, the right to privacy, and the limitation clauses associated with each. Canadian judges conducted this phase of the Project through workshops on European Court cases. Judge Rivet, Chief Justice Catherine Fraser of the Alberta Court of Appeal, and Justice Doug Campbell of the Federal Court of Canada conveyed the Canadian perspective on and approach to those rights and freedoms, which are protected under our Constitution. In light of the similarity between the *Canadian Charter of Rights and Freedoms*, the *European Convention on Human Rights* and both *Charters of Rights* in Croatia and in Serbia and Montenegro, this approach allowed Canadian judges to extend their analysis to the same rights protected under the *European Convention*. The experience acquired by the Canadian judiciary since the adoption of the *Canadian Charter* has been of primary importance to the participants in these workshops.

Circled, Hon. Michèle Rivet
and Hon. Kathryn Neilson
in Motovun, Croatia.

The Canadian delegation for the third seminar included Judge Rivet, who explained the

Canadian experience of working with international mechanisms for the protection of human rights; Judge Jean-Louis Baudouin of the Quebec Court of Appeal, who discussed enforcement problems and remedies available in cases of violations of protected rights and freedoms; and Judge Robert Sharpe of the Ontario Court of Appeal, who addressed human rights protection within educational and social contexts.

Through these seminars, ICJ Canada has undoubtedly contributed to the development of a human rights culture in the Southeast Adriatic countries. Local judges have been able to take increasing responsibility for their own judicial education and for tackling problems, and they will gradually be able to take a leading role in the development and implementation of human rights training within their own institutions.

As a follow up to the three seminars, a regional conference, comprised of judges, law professors, lawyers, and representatives from NGOs and international organizations working in Serbia and Montenegro, Croatia, Bosnia Herzegovina, Slovenia and Macedonia, will be held in October 2004, in order to introduce the educational program to a wider audience and to present the model developed during the intensive seminars.

The Project also intends to publish legal articles to serve as both a source for future reference and a legacy of the project. The contents of these publications will be determined in close collaboration with the local judiciaries of both Croatia and Serbia and Montenegro as well as with our local partners in each country and with the advice of Canadian judges.

Because concrete alternatives must be developed to solve the difficulties that all judiciaries in the Southeast Adriatic countries are facing, including longstanding backlogs of cases, the Project has established four pilot courts in the region. In addition, alternative dispute resolution and mediation have been introduced to address a crucial need to improve the efficiency of the courts in Serbia and Montenegro and in Croatia. Ultimately, new mechanisms and tools must be introduced uniformly into justice systems to improve efficiency in order to bring Serbia and Croatia into line with European and international





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standards. Due to Canada's widely recognized expertise in all these areas, ICJ Canada's Project has been crucially important in this field.

Series of two court efficiency seminars

In May 2003, ICJ Canada established a Pilot Courts Project in order to increase judges' leadership in changing daily practices and to promote institutional improvement of court efficiency.

Throughout its field presence in both Croatia and Serbia and Montenegro, ICJ Canada has observed that practical implementation has to be promoted and supported and that modern court management techniques and case management tools must be reinforced. In order to achieve these objectives in Serbia and in Croatia, two pilot courts have been selected in each country. The Pilot Courts Project was created to provide exchanges between Canadian, Serbian and Croatian judges in order to tackle the particular problems hampering the efficiency of their courts and to implement different mechanisms to enhance efficiency and expediency.

The Project established a program of collaboration with 20 judges assigned to each of the four courts. With the involvement of their Presidents, the Pilot Courts Project organized for each court two main training sessions addressing mediation within the court, caseload management, court administration, pre-trial conferences, and skills development.

Because neither of the Croatian courts had participated in a long-term international project before, ICJ Canada held an introductory preparatory conference before focusing on new models and techniques. This specially prepared conference for the pilot courts of Croatia took place in May 2003. The Canadian delegation was made up of Judge Michèle Rivet, Chief Justice Michel Robert of the Quebec Court of Appeal, Judge Danielle Grenier of the Superior Court of Quebec, and Me Caroline Meilleur.

The first series of seminars on court efficiency was held in June 2003 in the two pilot courts of Serbia, and in September 2003 in the pilot courts of Croatia. The Canadian delegations for

the two first seminars included Judge Michèle Rivet, Judge Melvin Rothman of the Quebec Court of Appeal, Judge Ginette Piché of the Superior Court of Quebec, Judge William Kelly of the Supreme Court of Nova Scotia, and Me Caroline Meilleur. Also part of the delegation was Me Randall Richmond, Deputy Chief Prosecutor for Organized Crime in Quebec, who provided an overview of the Quebec experience in dealing with organized crime. This round table brought together all judges appointed to the organized crime division of the District Court, representatives of the Ministry of Justice, and Supreme Court judges.

Following the intensive discussions of the first seminars, judges from Croatia and Serbia worked for six months to put in place techniques and methods to solve the problems that had been identified. During this time, a strategy for monitoring progress was established with the participating judges of each court.

The Canadian judges who attended the second seminars were there to evaluate the judges' experience in implementing their own recommendations and to promote knowledge of specific mechanisms to improve court efficiency, particularly the skills associated with mediation. During these second seminars, the Croatian and Serbian judiciaries shared the results obtained and the difficulties encountered. The delegation for the March 2004 seminars was composed of Judge Michèle Rivet, Judge Ginette Piché, Judge Ted Scanlan of the Supreme Court of Nova Scotia, Me Bernard Grenier, retired judge of the Court of Quebec, Me Caroline Meilleur, and Me Manon Montpetit.

A final regional Conference was held June 17-20, 2004, to present to a wider audience the results achieved by each court during the project. This audience was composed of members of the judiciaries, lawyers, and representatives of international and regional organizations, as well as state institutions from Serbia and Montenegro, Croatia, Bosnia Herzegovina, Macedonia and Slovenia.

The published results of the Pilot Courts Project and the legal publications on court efficiency are now available.

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One-week seminar on mediation in Canada

In the early stages of the Project, Serbian judges targeted mediation and alternative dispute resolution (ADR) as the priorities to be addressed. Within this context, the Project defined a specific framework to target ADR as a means to improve court efficiency in Serbia. Building on its Pilot Courts Project, ICJ Canada invited a core group of ten Serbian judges and lawyers to a one-week intensive seminar in Montreal in October 2003, to introduce them to Canadian models of mediation and ADR. This seminar enabled Serbian judges and lawyers to enhance their knowledge of ADR models and to assess the possibility of using this process in Serbia.

The seminar was presented by Canadian experts, including members of the Canadian judiciary and lawyers specializing in mediation, who laid out the Canadian approach to mediation, explained its successful adaptation in Canadian judicial matters, and provided an

introduction to the practical skills required of mediators. Both Presidents of the pilot courts in Zrenjanin and Belgrade were among those who attended this seminar in order to improve their knowledge and identify specific tools to be implemented in their own courts.

Future activities

ICJ Canada's Project to support the Independence and Impartiality of the Judiciary in the Southeast Adriatic Countries has accomplished a great deal of work and has organized many activities in the past two years. Furthermore, the positive outcomes of the last five years' involvement have paved the way for future, more in-depth activities in the field of independence of the judiciary, human rights protection, and court efficiency. Conditional to agreement funding from CIDA, ICJ Canada intends to continue to deliver its activities in the Southeast Adriatic countries for a four-year period, within the context of a new phase of the Project due to begin on January 1, 2005.

Canadian judges share their experience of the international projects

The Honourable Ted Scanlan, Supreme Court of Nova Scotia

*From left to right,
Hon. Ted Scanlan, Hon. Ginette
Piché, Judge Jelica Bojanic-Kerkez
and Hon. Michèle Rivet and
Judge Vera Supica in Zrenjanin.*

In recent years, ICJ Canada has made it possible for more than 100 Canadian judges to work with jurists throughout the Balkan States. I had the

privilege of working in Croatia as part of this project and, more recently, I traveled to Serbia. I wish to share some of my experiences and observations.

Historically, the Balkans have played a key role in the stability of Europe or perhaps more accurately, in the instability of Central Europe. For centuries, major powers in the area have vied for control of the Balkan region. More recently, the Tito regime ruled the former Yugoslavia with an iron fist, followed by the Milošević era, which witnessed a civil war and almost complete isolation of the Balkan States from the rest of the world. These events form the backdrop to the ICJ Project in the Balkans. The extended period of isolation, combined with political interference in the judicial system, the civil war, and NATO efforts to increase stability in the area, contributed profoundly to the context in which judges currently work.

In my most recent mission to Serbia, the Canadian judges focused on pre-trial procedures





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and processes and, to a greater extent, on mediation skills and techniques. There were many things that impressed my colleagues and me as we worked with the Serbian judges. During the skills presentation, Serbian colleagues repeatedly referred to the difficulties they were encountering in their efforts to implement court-based ADR, such as lack of resources, restrictive laws, and resistance by parties and/or the Bar to the ADR process. Many of these obstacles probably have a ring of familiarity to Canadian judges who have attempted to implement new ideas such as court-based mediation. There is, however, an important distinction between the Serbian situation and the obstacles judges face in Canada, where independence of the judiciary and rule of law are embedded in our society and our laws.

A tour of the Municipal Court in Belgrade opened the eyes of the Canadian judges to the hardships under which these jurists operate on a daily basis. Judges are all forced to share office accommodation with three judges in each office, the office being a space only about one-third of what individual Canadian judges may well be used to. Record keeping and file control involved a manual system that was likely developed hundreds of years ago. Judges who take initiatives to improve court processes continue to be potential targets for political interference, and many have been forced to resign for making attempts to improve the process and make access more available to litigants.

In spite of the difficulties which I have described, Serbian judges that we worked with can be described only as some of the most capable, hardworking, and determined jurists anywhere in the world. I witnessed their pride in their efforts, together with an unwavering determination to make things better for their courts, their litigants, and their country. Judges involved in the litigation project worked eight-hour days before starting their evening mediation conferences. In the skills presentation put on by Canadian judges, there was an obvious thirst for knowledge by the Serbian judges. The Canadian judges were asked to shorten or even eliminate lunch breaks so they could continue with seminar presentations. I doubt that many of our colleagues in Canada have ever witnessed such enthusiasm and commitment.

Many of the Balkan States have great potential, but that potential will not be realized if the rule of law, human rights and judicial independence cannot be established and maintained. Judges in Serbia and elsewhere in the region are not asking for cheerleaders or judicial tourists from Canada or anywhere else in the world. They have a thirst for knowledge and are committed to reform. ICJ Canada has played the leading role in the many stages of reform, but there is much still to be done. For the first time in many decades, jurists from the Balkans are able to see outside their world and are expressing a desire to see things done differently.

As a Canadian judge, I feel privileged to have had the opportunity to walk a few steps with them in their most difficult journey. I feel certain that all Canadian jurists who have shared in these efforts at judicial reform are in awe when they look at the size of the obstacles confronting our Balkan colleagues. I am equally certain that all who participate are enriched by this experience.

***The Honourable Kathryn Neilson,
Supreme Court of British Columbia***

In September 2003, ICJ Canada presented the first of three planned seminars to a group of 25 judges in each of Croatia and Serbia, in order to discuss the role of human rights in the context of their judicial duties, with a focus on sexual equality and minority rights.

Given that most of the news from this region in the last decade has dealt with war and tragedy, I was unprepared for the charm and beauty of Croatia. The first seminar took place in Motovun, a tiny hill town that is reached by a spiralling and narrow cobbled road to its summit. All of the participants stayed in the one old hotel at the top, which provided the advantage of getting to know each other better through shared meals and extended discussions after each day's presentations.

In Belgrade, the effects of the war were much more in evidence, and the sites of the NATO bombing and the assassination of Prime Minister Djindjic are treated as tourist sites. While it was difficult not to be impressed by the precision of the bombers, the devastation was all too clear.

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Project Director

Me Caroline Meilleur

Me Caroline Meilleur has been the Project Director for the Project to Support the Independence and Impartiality of the Judiciary in the South East Adriatic Countries since February 2001. She ensures that all aspects of the Project are carried out in accordance with its agreement with CIDA. Me Meilleur has participated in more than 17 missions to the region, participated in seminars and conferences, and made the assessments necessary for the full implementation of the Project.

The Project has allowed her “to see first-hand the extent to which Canadian judges are sensitive to the problems of their foreign colleagues. They enthusiastically engage in training activities and in the many exchanges and discussions. Judges everywhere are faced with the same problems and definitely speak the same language, regardless of their mother tongue.”

Her experience with the Project has broadened Me Meilleur’s thinking on the principles of independence and impartiality of the judiciary generally: “This project has allowed me not only to understand better the problems faced by foreign judiciaries, but also to deepen certain notions of our Canadian system, in particular, the linkages to permanent education, the appointment process for judges, and the ethics and discipline of judicial practice.”

From left to right, Hon. Michèle Rivet and Me Manon Montpetit in Strasbourg.



In both countries, I was impressed by the polished presentations of local academics and public servants who dealt with concepts of human rights in their regional context, and with the role of the European Conventions and the European Court of Human Rights. Michèle Rivet, René Dussault, and I spoke about the Canadian perspective on equality rights, protection of national minorities, and equality based on sex, respectively.

Some of the judges who attended had had no previous human rights training. The views of many of them were understandably influenced by recent events in the region. The diversity of opinion and backgrounds led to many questions and lively discussions on a range of topics, including the recent decisions on same-sex marriage in Canada.

The judges were quick and enthusiastic participants. For me, the most instructive and gratifying part of the sessions was their ability by the end of the seminar to handle a case study based on a decision from the European Court. Working in small groups that were assigned to act as either counsel or judges, they were quick to pick up and develop the same themes and nuances as those that had guided the European Court in its decision.

The trip was too brief for me to develop well-formed views on the considerable difficulties faced by the judges of both countries. It is always hard to measure the tangible effect of such

programs, but the ongoing benefits of this ICJ initiative and the hard work of Michèle and her assistants were clear from the warm reception we received, particularly from those judges who had previously participated in other aspects of the program. I hope our session added to this in some small way and provided a useful platform from which the following workshops on human rights could proceed.

One of the most enjoyable parts of the week for me was the congeniality of my travelling companions, René and Marielle Dussault, Michèle Rivet, and her assistants, Caroline Meilleur and Manon Montpetit, who made certain that each step was executed with ease and precision. I couldn’t have asked for better company with whom to share this unique experience.

The Honourable Ginette Piché Superior Court of Quebec

ICJ Canada has been involved in projects in the Balkans since 1999, and I feel very privileged to have been a part of this remarkable endeavour. It has been an exceptional and immeasurably rich experience for me.

I want to say at the outset that I’ve been especially moved by the untiring efforts of Judge Michèle Rivet in maintaining the Project’s momentum and establishing real connections with Slavic judges eager to make reforms to their judicial systems. Having seen her in action, I have been very impressed by her enthusiasm, determination, and competence. All who have been involved with the Project agree that, without her and her unique and highly successful “judge-to-judge” approach, the Project would not exist.

In the course of my own involvement, I have met young Slavic colleagues filled with hope and committed to effecting change in their country. I have been struck by their energy and their keen interest in human rights and in a reformed, more efficient judicial process. In this war-torn region, the sword of Damocles is always suspended over the heads of the people, and nothing is ever easy in Serbia, Bosnia, and Croatia. My Canadian colleagues and I have been made very much aware of the privileged



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conditions under which we operate in Canada, not only the material conditions, but also the condition of freedom that we take for granted.

By contrast, I saw with dismay the extremely difficult physical conditions under which our Balkan colleagues operate on a daily basis. Imagine two or three judges sharing a single office, a single courtroom. Imagine decrepit, cold, and dirty courthouses that broadcast the lack of financial resources. Imagine huge dockets with weekly quotas, to which are added dozens of mandatory administrative tasks. Wages are low, vacations are few and far between, and computers and books are rare. Judges are appointed one day and recalled the next, without justification. Fear and a sense of impending doom are in the air.

But there is also a genuine interest in our presence, our work, and our seminars, and a very real desire to effect change, to improve the image of justice. Our judge-to-judge approach, I believe, has inspired many and continues to bring hope.

Dialogue is not only important, but it is also our most efficient tool. Through it, we are able to express and nurture the hope and the desire of our Serbian, Croatian, and Bosnian colleagues to change things, to stir up the courts, to experiment with new processes, new ways of looking at and administering justice, pre-trial conferences, and settlement conferences. These are exciting prospects that hold out the possibility of real change. When I attended the same seminars, at six-month intervals, in Zrenjanin and Belgrade, I observed with satisfaction the progress, the improvements, and the projects implemented by young judges who were motivated, encouraged, and enriched by their work with the ICJ team.

In my work with the Project, I have witnessed exceptional solidarity and a real commitment to the improvement of human rights and efficiency in the courts. I wish that all judges could have the opportunity to benefit from such an experience, one that so poignantly allows us to rethink our values and priorities.

Deputy Director

Me Manon Montpetit

Me Manon Montpetit joined the Project for the Independence and Impartiality of the Judiciary in the Southeast Adriatic Region in August 2003. She works as Deputy Director, alongside Caroline Meilleur, Project Director, and Judge Michèle Rivet, Director of International Projects. In particular, Me Montpetit is responsible for the academic and pedagogical aspect of the Project's activities and has participated in missions to Serbia and Montenegro. She also oversees the planning and organization of special events related to the Project, in conjunction with Canadian judges, with our local partners in the Southeast Adriatic region, with European and international organizations, and with ICJ Canada.

Local meetings held across Canada

Conference on Human Rights and National Security Held in Ottawa

A conference entitled “Bridging Human Rights and National Security” was held at the University of Ottawa Faculty of Law on October 17, 2003, co-sponsored by CLAIHR (Canadian Lawyers Association for International Human Rights) and ICJ Canada.

The conference was the result of a student-led initiative at the Faculty of Law. Over the last few months, several student members of CLAIHR began working on a project designed to be a dialogue between Canadian and American law students on issues pertaining to the International Criminal Court, human rights, and security. The conference focused on two central questions: 1) Are our domestic and international responses to terrorism safeguarding national security and human rights in an effective manner? and 2) Can a bridge be established between human rights and national security, resulting in true human security?

The conference featured two moderated panel discussions and a keynote address by Mr. Alan Borovoy of the Canadian Civil Liberties Association. The morning meeting focused on domestic issues and whether national security and human rights can be reconciled within the concept of human security. Speakers on this panel included ICJ Council member Professor Errol Mendes (University of Ottawa), Mr. Ziyaad Mia (Muslim Lawyer’s Association), Ms. Hadar Harris (American University), Ms. Shirley Heafey (Commission for Complaints Against the RCMP), and Mr. Alex Neve (Amnesty International).

The afternoon discussion approached the subject from an international perspective, focusing specifically on whether multinational bodies such as the United Nations and the International Criminal Court have dealt effectively with the concept of human security. Speakers on this panel included Dean Claudio Grossman (American University), Mr. Jean-Louis Roy (International Centre for Human Rights and Democratic Development), Ms. Necla Tschirgi (International Peace Academy), Ms. Peggy Mason (Norman

Paterson School of International Affairs), and Mr. Darryl Robinson (Department of Foreign Affairs). ICJ Canada is supportive of CLAIHR, which has objectives similar to ours. This report was provided by Heather Watts and Amy Groothuis, who are members of CLAIHR and ICJ Canada. Law students are encouraged to support both organizations.

Judge Radmila Dacic in Alberta



*Judge Rosemary Nation
Court of Queen’s Bench of
Alberta*

After a fairly hectic schedule speaking in central Canada, Serbian Judge Radmila Dacic arrived in Calgary on October 15, 2003, somewhat surprised at the length of the flight from Ontario. She attended lunch with the Queen’s Bench justices and then spoke to approximately 100 grade 10 students at a Calgary high school.

In her talk to the students, Judge Dacic emphasized that democracy can be fragile, commenting that had she, at their age, been told that her country (then Yugoslavia) would experience a civil war and be subject to United Nations sanctions and eventually to bombing by United Nations forces, she would have been shocked and disbelieving. She discussed the Milosovic regime and the break-up of Yugoslavia with the associated warfare and strife, including the fact of judges protesting in the street with the students after the local elections in Serbia were disregarded. She told students that she and 14 other judges from the National Assembly of Serbia had been dismissed without any legal procedure and that they had been reinstated following the fall of the Milosovic regime and the new elections. Judge Dacic talked about the inter-relationship between a lack of democracy and the presence of organized crime and about her work since 2003 on the special chamber for organized crime cases, formed after the assassination of Prime Minister Zoran Djindjic. Her story was an eye-opener for many of the students, educational for everyone, and particularly interesting in terms



Meetings

of discussing judicial independence.

I drove Judge Dacic up to Banff to the annual CIAJ conference, on October 17, 2003, where she was joined by Judge Michèle Rivet for a panel discussion on the development of the rule of law and the experience of the Canadian judiciary abroad, primarily in the context of the ongoing ICJ Canada Project for the Independence of the Judiciary in Southeastern Adriatic Countries.

Judge Dacic spoke to the judges about her experience with the Project and addressed some of the specific issues that faced her as a judge in Serbia, such as the problems that arise when some judges are co-opted to provide the results wished by a certain regime, and the consequent dilemma of what to do, once that regime has fallen, about re-establishing credibility for the judiciary, including whether steps should be taken against justices who compromised their actions at the request of a political regime.

During the lively question period that followed the panel, topics included whether judicial appointments have to be for a life tenure and whether the prosecution of Milosevic should have been in Serbia as opposed to out of the country under U.N. auspices.

All in all, Judge Dacic's appearances in Calgary and Banff were very interesting and educational. Not only was there discussion about a number of issues that are close to our judicial system, but all were also impressed with Judge Dacic's willingness to discuss so candidly her personal experiences as a citizen, mother, and judge in her country through such a dramatic period of political upheaval and transition.

Local ICJ Meeting Held in Halifax

In January, the ICJ Canada community in Atlantic Canada had the good fortune to host a visit to Halifax by the Honourable W. Ian Binnie of the Supreme Court of Canada, who is one of Canada's two ICJ Commissioners in Geneva. Justice Binnie's visit was characterized by his apparently endless good will and enthusiasm in light of numerous requests to speak during his time in Halifax.

Justice Binnie's meetings with members of ICJ Canada were arranged to coincide with Dalhousie

Law School hosting the National Law Games – an annual student-organized event that brings together hundreds of students from across Canada for a week of sports and competitive moots. Justice Binnie had kindly agreed to join Nova Scotia Justices Thomas Cromwell and Jamie Saunders in judging the Final Round of the national competitive moot. Following the moot, Justice Binnie addressed the audience of over 100 students on the work of the ICJ and the importance of staying involved in broader human rights and other concerns throughout one's career, irrespective of the nature of one's practice.

This event was co-sponsored by the Atlantic Branch of ICJ Canada and the student law games committee and was part of an ongoing ICJ Canada initiative to raise the profile of the ICJ with students. On the day before the Moot finals, Justice Binnie addressed a packed auditorium at the Law School at the student-organized Law Hour.


In addition, Justice Binnie kindly agreed to speak on the work of the ICJ at a special public event organized by ICJ Canada Atlantic Council members Chief Justice of Nova Scotia Constance Glube, Justice William Kelly, and Atlantic Vice-President Professor Moira McConnell. This event was co-sponsored and co-organized by student members of the Canadian Lawyers Association for International Human Rights (CLAHR), Dalhousie Branch.

Justice Binnie's talk was followed by a reception hosted by the Dean of Law, Professor Dawn Russell, which drew a crowd from the local bar, judiciary, faculty and students.

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From left to right, Dr. Moira McConnell, Hon. Ian Binnie and Dean Dawn Russell.





After the reception, Justice Binnie was the guest of honour at a lively and memorable dinner attended by 20 members of the Nova Scotia bar, judiciary, and ICJ members.

The significance of Justice Binnie's visit for Atlantic members of ICJ Canada was noted by Atlantic Vice-President, Moira McConnell: "Organizing these events around ICJ Commissioner Binnie's visit provided the Atlantic Region members with a good opportunity to send personal letters of invitation to existing members along with membership applications. Although many of our out-of-province members could not attend, there were a number of responses indicating interest the event and in having more ICJ activities in the region."

Professor McConnell commented that, in the days following Justice Binnie's visit, she received several inquiries about membership and ICJ activities, along with requests that the ICJ organize more talks in the region on these important issues. The overall result, she said, was very positive in terms of raising the profile of the ICJ in the Law School and local community and that, in fact, one student is now exploring spending the summer as a volunteer with the ICJ in Geneva. It is hoped that similar events can be organized in New Brunswick, PEI and Newfoundland.

Justice Ian Binnie Speaks to ICJ Members in Vancouver

Vancouver members of ICJ Canada held a wine and cheese reception on March 9, 2004, to mark the visit to Vancouver of Justice Ian Binnie of the Supreme Court of Canada and an ICJ Commissioner. Justice Binnie was in Vancouver for the week of March 7 as Judge in Residence at Green College in the University of British Columbia.

The reception was hosted by Fasken Martineau Dumoulin LLP, and those attending included members of the ICJ, the judiciary and the bar.

Justice Binnie spoke at the reception about the origins, purposes and some of the recent and present activities of the ICJ. The International Commission of Jurists, he reminded listeners, was founded in Berlin in 1952 "by a very experienced group of lawyers, judges and academics, who dedicated themselves to making a practical reality the human rights movement that

had grown out of the Nuremberg War Crimes Tribunal and the adoption of the United Nations Declaration of Human Rights. There was a concern that these vaguely worded texts would become purely symbolic, a monument to unfulfilled good intentions." While the ICJ maintains a permanent staff of about 15 people, "its principal strength lies in the large group of volunteers who work in the human rights area and who are much in demand by other non-governmental organizations, governments, and international organizations for their expertise in human rights."

Justice Binnie commented on the work of the ICJ in the ongoing development of international human rights law, particularly in measures addressing gender discrimination. He also spoke of the ICJ's Center for the Independence of Judges and Lawyers, which monitors the problem of corruption in judiciaries and harassment of lawyers on an international level. A third concern of the ICJ, in which ICJ Canada has been particularly active, is in the context of observer missions and panels of experts convened in connection with human rights enquiries.

Justice Binnie also spoke of ICJ Canada's activities, including its three projects on judicial reform and judicial independence in the Southeast Adriatic region and its sponsorship of Canadian speaking tours of jurists who have experienced first hand significant threats to the rule of law, including former Pakistan Chief Justice Nasir Zahid, the Honourable Anthony Gubbay, who was forced to resign as Chief Justice of Zimbabwe, and Judge Radmila Dacic, whose Canadian visit is covered in this newsletter.

Justice Binnie closed his talk by describing ICJ Canada as "a vehicle by which interested Canadian lawyers and judges can get involved in international work. ICJ Geneva has an active intern program and is always looking for volunteers with expertise to assist in its projects."

Justice Binnie was thanked by the Honourable Lance Finch, Chief Justice of British Columbia. Among other things, Chief Justice Finch observed that Justice Binnie had provided the best short description of the ICJ and its activities he had ever heard.



Member News



The Honourable Louise Arbour Appointed UN High Commissioner for Human Rights

Madam Justice Louise Arbour, formerly of the Supreme Court of Canada, has been named UN High Commissioner for Human Rights. She took up her new post in Geneva at the end of June. Justice Arbour served from 1996 to 1999 as Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda.

The post of UN High Commissioner for Human Rights was established by the UN General Assembly in 1993. The responsibilities of the position are daunting: to monitor and oversee human rights activities throughout the world. Former Ecuadorean Foreign Minister José Ayala Lasso was the first High Commissioner, and Mary Robinson, former President of Ireland, the second. Madam Justice Arbour will be the fourth UN High Commissioner for Human Rights, succeeding Sergio Vieira de Mello of Brazil, who was killed during a terrorist bombing of UN headquarters in Baghdad last August, having taken a four-month leave of absence from his position as High Commissioner in order to serve in Iraq as a Special Representative of the Secretary-General.

According to Justice Ian Binnie, Justice Arbour's appointment is a sad loss for the Supreme Court of Canada but a huge gain for the international community. "No one could come to that job with better qualifications, more common sense, higher integrity, and greater intelligence," he said. "The United Nations is very fortunate to get her."

Justice Arbour is a longtime member of ICJ Canada. In November 2002, she addressed 60 ICJ members and law students from the University of Ottawa at a meeting organized by Professor Errol Mendes and hosted by Lang Michener. She spoke primarily on the challenges facing the International Criminal Court, which was then just a few weeks shy of becoming fully operational. A video of her presentation is available for loan to members.



ICJ Canada President Receives 2004 CCAT Medal

Professor Ed Ratushny, President of ICJ Canada, has won the CCAT Medal awarded by the Council of Canadian Administrative Tribunals. Professor Ratushny is the first-ever recipient of the Medal, which will be awarded annually to a person or persons who make an outstanding contribution to the administrative justice system in Canada. The Medal was presented at CCAT's International Conference in Toronto in June.

Professor Ratushny has been a longtime member of the Council of ICJ Canada and has served as its President since 2001. During his presidency, Professor Ratushny has worked to promote ICJ Canada's visibility through more ICJ local meetings and a revamped Newsletter and web site. He has been committed to involving more of the ICJ Canada community in the workings of the organization, notably through the creation of new Executive positions. Professor Ratushny also served on ICJ missions to Northern Ireland in 1999 and to Swaziland in 2003.

Of his work with ICJ Canada, Professor Ratushny says, "It is an honour to serve as President and to have the co-operation and support of so many of our members. I never fail to be impressed by the quality and stature of our members in the judiciary, legal profession, and academic community."

The Annual General Meeting of the International Commission of Jurists (Canadian Section) will be held on August 14, 2004, at 3:00 p.m. in Room 18 of the Winnipeg Convention Centre, Winnipeg, Manitoba.

AGENDA

1. Welcome and Approval of Minutes of 2003 Meeting
2. President's Report
3. Report on International Projects
4. Financial and membership matters
5. Report of the nominating committee
6. Address by the Hon. Rosalie Abella, 2004 recipient of the Tarnopolsky Award
7. Other business

A short meeting of Council will be held following the Annual Meeting.

NB: The actual presentation of the Walter S. Tarnopolsky Award will take place as part of the joint meeting of ICJ Canada and the Canadian Judges' Forum, whose subject is "The Borders of Disability." This meeting will take place at 8:30 a.m. in Presentation Room, 2nd level.



T. Bradbrooke ("Brad") Smith, Q.C., former Secretary-Treasurer of ICJ Canada, was recently surprised when an invitation to lunch at the residence of Como van Hellenberg Hubar, Netherlands Ambassador to Canada, turned into an investiture of knighthood. On behalf of Queen Beatrix of the Netherlands, Mr. van Hellenberg Hubar conferred on Mr. Smith the title of *Commander of the Order of Orange-Nassau*. The award was made in recognition of Mr. Smith's work with the Hague Conference for Private International Law, which promotes, according to the Ambassador, "an international legal system, the rule of law in all international relations, be they public or private in nature, between states or between citizens and their different activities and incorporations." Mr. Smith has served the Conference in a variety of capacities, including Chair of the Special Commission on Private International Law on Intercountry Adoption.



Georgette Gagnon, international human rights lawyer and 2003 recipient of the Walter S. Tarnopolsky Award for her outstanding contribution to the field of human rights, has been named Deputy Director of the Sub-Saharan Africa Division of Human Rights Watch, a non-governmental organization based in Washington. Ms. Gagnon was formerly the Director of Human Rights and the Rule of Law for the Organization for Security and Cooperation in Europe (OSCE) Mission to Bosnia and Herzegovina. We hope that we will be able to persuade Ms. Gagnon to write something about her current work for an upcoming newsletter.

We are proud of the achievements of our ICJ Canada members. To share your experiences and achievements, please contact Pat Whiting.