

## **SCL Lecture: ‘Launch of the book *Victim Participation in International Justice – Practitioners’ Guide*, followed by a panel discussion’**

On 12 September 2017, the T.M.C. Asser Instituut hosted the first Supranational Criminal Law lecture of the 2017-2018 series, co-organised by the International Humanitarian and Criminal Law (IHCL) Platform and T.M.C. Asser Press. The SCL lectures have been organised since 2003 by the Asser Institute, in cooperation with the Coalition for the ICC and the Grotius Centre for International Legal Studies of Leiden University and relate to topical issues of international criminal law. This lecture launched the book [“Victim Participation in International Justice – Practitioners’ Guide”](#) and was followed by a panel discussion.

Following opening remarks by Dr. Christophe Paulussen, Senior Researcher and coordinator of both the Asser research strand ‘Human Dignity and Human Security in International and European Law’ and the IHCL Platform, Judge Ivana Hrdličková, the President of the Special Tribunal for Lebanon (STL), began her keynote address with a powerful quote: “Justice means more than bringing perpetrators to the Court”. She then outlined the international criminal law paradox by explaining that international criminal tribunals have been created specifically to respond to the pain of victims, but that in the beginning, victims have been left outside of the courtroom. Judge Hrdličková called for improvement regarding the sources of compensation funds, the outreach efforts to engage (more) victims, and the pace of international tribunals.

Megan Hirst, co-editor of the book and barrister at Doughty Street Chambers in London, addressed questions regarding the victims’ application process, discussed in the book. From her experience in the Registries of the International Criminal Court and the STL as well as in a Legal Representative of Victims team in *Prosecutor v. Dominic Ongwen*, Hirst highlighted several challenges, especially as seen at the ICC. She emphasised that any reform of the application process should provide victims with a real and equal opportunity to participate in proceedings. According to her, the current ICC process is difficult, resource intensive and the strict time limits imposed prevent some victims from applying to participate. She identified the right of parties to make observations on victims’ applications as one of the main reasons for the lack of efficiency of the process and also for the imposition of time limits. She argued that allowing parties to have input on individual applications is disproportionate and unnecessary in light of the limited and collective rights granted to participating victims. Megan Hirst recommended the STL approach, which moved away from allowing parties to make observations, or the *Ntaganda* case before the ICC, in which the Registry was only required to transmit applications in which victim status was likely to be controversial or was unclear. Lastly, she spoke about legal representation of victims and called for the creation of a mechanism for effective monitoring of legal representation, including consideration of objective criteria by which representation can be assessed.

Finally, Dr. Kinga Tibori-Szabó, co-editor of the book and currently working for the Kosovo Specialist Chambers, spoke about issues which go beyond the legal aspects of participation and fundamentally concern the well-being of the victims. Relying on her experience as a member of a Legal Representative of Victims team at the STL, she highlighted the aspects of victims’ participation that are still unregulated and/or receive less attention from

legal practitioners. First, she mentioned the importance of understanding victims' testimony by pointing at factors, such as socio-cultural barriers or trauma, which may affect the ability of victims to recall and construct a coherent account of events. Dr. Tibori-Szabó advised that legal practitioners be trained and have recourse to expert clinical witnesses when hearing testimonies. Second, she noted that, while Article 12(4) of the STL Statute and Article 68(1) of the ICC Statute provided for an obligation on behalf of the courts to offer psychological support to testifying victims, such psychological support was mostly unregulated for participating victims who did not testify. After comparing the practices of the ECCC, ICC and STL, she suggested that courts should consider questions such as whether and to what extent offering psychological support is their responsibility or what the purpose of such support is. Third, Dr. Tibori-Szabó discussed the need for improvement in the legal practitioners' communication with participating victims and highlighted some of the tools for verbal and non-verbal communication. She concluded by stating that "while developing the procedural rights of the victims is intrinsic to participation, taking a stance and adopting measures for their well-being is equally important".

The lecture was followed by a Q&A session and concluded by Mr. Frank Bakker, publisher of T.M.C. Asser Press, who invited the audience to a reception.

Please note that Megan Hirst and Dr. Kinga Tibori-Szabó also provided a lecture on 7 June 2017, entitled 'The right of victims to a fair trial: fiction or reality? Comments on ICC and STL practice'. See [here](#) for the report and [here](#) for the video.