

Evidence in the International Court of Justice

Several fact-intensive cases have recently brought fact-finding in the International Court of Justice into the spotlight. BIICL's major study on the issue of evidence before the International Court of Justice, due to be published in July 2008, has examined the Court's relationship with facts in detail, from the recently refined procedure for submitting late evidence, to the hearing of live witness testimony in the Peace Palace.

The latter was a topic of contention in the recent *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia Herzegovina v Serbia and Montenegro)* case, given that both parties originally proposed hearing an unprecedented number of witnesses. The Court, having only heard witness evidence in relatively few cases, and lacking a well-developed procedure for doing so, was forced to examine how it would cope with such evidence. Considerations of flexibility and respect for the sovereignty of the State Parties before it have traditionally deterred the Court from constructing concrete rules on matters of evidence, but the increasing numbers of cases such as this have highlighted that some detailed procedural guidance is necessary in order to ensure a well-functioning system of adjudication. It is apparent that the Court has paid an increasing amount of attention to its evidentiary proceedings as a result, often encountering difficulties in the inherent tensions between the common and civil law traditions and thus a divergence of opinions on the Bench.

The forthcoming book which is a result of this study examines the history and development of the treatment of evidence since the early days of the Permanent Court of International Justice up to the recent *Nicaragua v Honduras* judgment, critically analysing the Statute and Rules of the Court, dicta from judgments and separate and dissenting opinions, the newly developed Practice Directions and academic writings on the subject. It aims not only to provide an academic discussion of the subject, but also to act as a guide to practitioners appearing before the Court. The book will be launched at BIICL in July 2008. Please check our website www.biicl.org for further news.