

## TRIBUTE TO HON. PATRICIA M. WALD

*KELLY ASKIN\**

It is such a pleasure to join you here today to recognize Judge Patricia Wald and to celebrate a few of her achievements during a most remarkable career. She personifies everything I love about the law and how it can be a force for good in our world. And she exemplifies why we need more great women in positions of power on domestic and international courts. At the International Criminal Tribunal for the Former Yugoslavia, where she served as a judge after retiring from twenty years of service on the United States Court of Appeals for the D.C. Circuit, Judge Wald was regarded as a trailblazer. She works fast; she works hard; she works competently; and, quite simply, she works with an intellect far superior to most.

Upon arrival at the Yugoslav Tribunal in 1999, Judge Wald was assigned to Trial Chamber 1 to sit with fellow international judges from Portugal and Egypt. Awaiting her first cases, Judge Wald did what she always does: she prepared and then she prepared some more. Before stepping foot in the international courtroom, she had already gone a long way toward mastering the jurisprudence of the tribunal, as well as the history of the conflict and the court's establishment. She learned the rules of procedure and evidence, the elements of crimes, basic international law texts, and other materials needed to perform the unique and complex task assigned to the tribunal in providing justice to tens of thousands of victims of war crimes, crimes against humanity, and genocide committed in the former Yugoslavia. Assigned to sit on both the *Krstic* genocide trial<sup>1</sup> and *Omarska* camp persecution trial,<sup>2</sup> as well as on half a dozen appeals, Judge Wald soon gained a court-wide reputation for fairness, integrity, and efficiency.

With blurring speed and uncanny accuracy, Judge Wald pinpoints the most critical issues and makes decisive and sound decisions. These are wonderful qualities, unless, that is, you happen to be the poor soul who works for her. As but one example, I vividly recall an incident in the fifth week of a six-week consultancy I was doing with Judge Wald in The Hague. We had been working night

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1. Prosecutor v. Krstic, Case No. IT-98-33-T, Judgment (Aug. 2, 2001).

2. Prosecutor v. Kvočka, Case No. IT-98-30/1-T, Judgment (Nov. 2, 2001).

and day and functioning on but a few hours of sleep while drafting the *Omarska* judgment after a year-and-a-half-long trial for five individuals accused of war crimes and crimes against humanity. When I walked into Judge Wald's office to hand her the draft, there was not a scrap of paper on her desk, the computer was off, and she had her hands clasped behind her back, pacing back and forth on the carpet. She grabbed the paper out of my hand with scarcely a word. And as I glanced back at her as I was leaving the office, mere seconds after entering, she was already turning over the first page and on to the second, concentration evident on her face.

Exhausted, I headed to the cafeteria, profoundly grateful for a break. I had some coffee and socialized with friends before gradually making my way back to my office, calculating that I still had a good couple of hours to recharge. As I walked into my office, the phone was ringing. My brain registered several emotions in rapid succession, and ended up, logically enough, on denial, since it should not be humanly possible to read, digest, and critique a 250-page document in forty-five minutes. But my gut knew it was the good judge calling. Without bothering to wait for the message, somewhat begrudgingly and a bit awestruck I walked back to her office wondering how, yet again, Judge Wald had managed to surprise me with her ability to work at such a high level of competency at such breathtaking speed.

At the Yugoslav Tribunal, Judge Wald served as a role model for many who were amazed at her accessibility, her pragmatism, and her eagerness to engage in detailed discussions and debate on a range of legal issues. She made her unique mark on an assortment of groundbreaking decisions, most notably the landmark *Krstic* judgment, which was the first time the Yugoslav Tribunal recognized genocide had occurred at Srebrenica for the systematic slaughter of over 7700 men and boys;<sup>3</sup> the highly-regarded *Kupreškic* appeals chamber judgment, which acquitted three individuals who had been convicted by the trial chamber;<sup>4</sup> and the *Kvočka* trial chamber judgment, which set out standards for liability under the enterprise theory of responsibility,<sup>5</sup> and which recognized sexual violence as part of the persecution committed against women at *Omarska* prison camp.<sup>6</sup>

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3. *Kvočka*, Case No. IT-98-30/1-T, ¶ 84.

4. *Prosecutor v. Kupreškic*, Case No. IT-95-16-A, Appeal from Judgment, ¶¶ 246, 304 (Oct. 23, 2001).

5. *Kvočka*, Case No. IT-98-30/1-T, ¶¶ 265–312.

6. *Id.* ¶¶ 98–109.

Since her retirement from the bench, Judge Wald has stayed in high demand and has thrown herself into a slew of good causes. As but a few examples: she has worked on amicus briefs for Guantanamo detainees; given advice on a rape case in Colorado; trained Iraqi judges on Iraq's High Tribunal; served on the Intelligence Commission on Weapons of Mass Destruction; the ASIL's [American Society of International Law] International Criminal Court Task Force; and, my personal favorite, she sits on the board of the Open Society Justice Initiative, where I head the international justice program.

In addition to our time together in The Hague, it has been a richly rewarding experience to travel with Pat Wald to places like Tanzania to assist the International Criminal Tribunal for Rwanda; to Cambodia to work on the Extraordinary Chambers in the Courts of Cambodia, which is trying Khmer Rouge leaders;<sup>7</sup> and hopefully soon to the Democratic Republic of Congo to work on establishing a mobile court for gender justice. We co-taught a course on international courts at Yale Law School, where students lined up to hear from a legend whose pioneering cases they read in other courses at the law school.

It would be difficult to know Pat Wald and not have huge affection for her. Despite having risen from humble beginnings to sit on two of the highest domestic and international courts in the world, she is nonetheless without conceit, without presumption, and without guile. It would be impossible to know Pat Wald and not have enormous respect for her. She does not just have smarts, she has wisdom. More importantly, she has goodness and a deeply ingrained sense of right and wrong. It has been a special treat for me to share some holidays with Pat and Bob Wald, and to also have the opportunity to join them on family vacations at the beach with their five kids and numerous grandkids.

Brilliant but fun, pessimistic yet inspiring, Pat Wald's personal and professional life is lived to the fullest. Whether it has been work or pleasure, whether in a distinguished courtroom or a seedy pool hall, it has been discomfiting to know that somebody thirty-five years my senior can run circles around me. This wonderful and extraordinary woman is an important part of my life, for which I am deeply grateful. If we had more women like Pat Wald, women would rule the world, and the world would be better off for it.

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7. PATRICIA M. WALD, *TYRANTS ON TRIAL: KEEPING ORDER IN THE COURTROOM* 19 (Open Society Institute 2009), *available at* [http://www.soros.org/initiatives/justice/focus/international\\_justice](http://www.soros.org/initiatives/justice/focus/international_justice).

