**Lecture 7: Safeguarding the rights of the accused and Self-representation - 26 February 2020 (Defence)**

Outline of Presentation:

1. Basic Rights of the Accused under ICTY Statute
   1. Article 19: Review and Confirmation of Indictment
      1. *Prima facie* case
      2. Rule 47 on Submission of Indictment by Prosecutor
   2. Article 21: Fair Trial Rights
      1. Highlights of some of the more important aspects
         1. Equality of Arms
         2. Presumption of Innocence
         3. Specificity of Indictment (Notice)
            1. Motions alleging Defects in Indictment
         4. Adequate time and Facilities to Prepare & Counsel of Own Choosing
         5. Presence of Accused (no *Trial in Abstentia*)
         6. Compulsory Process/Cross Examination
         7. Tried without undue Delay
         8. Right not to testify
   3. Article 29: Cooperation of States
      1. Does it Apply to Accused?
      2. Later will look at Rule 54*bis,* Rule 56
   4. Article 30: Privileges and Immunities of those working on investigations/cases
   5. Article 25: Appeal as of right
   6. Article 10: *Non-bis-in-idem*
      1. Protection against Double Jeopardy
      2. Also Rule 13
2. Basic Rights of the Accused under the ICTY Rules of Procedure and Evidence
   1. Rules 42/43: regarding rights of suspects during investigation/questioning
      1. Problems?
         1. Ex-SFRY law – right to lie?
   2. Rule 44/45: Counsel for Suspects/Accused
      1. Qualifications
      2. ADC-ICT & Registry
   3. Public Indictment/Trial (Rule 52)
   4. Rule 62: Initial Appearance - Meaning and purpose
   5. Rule 63: Questioning of Accused
   6. Pre-Trial Disclosure (Rule 65*ter*)
   7. Rule 66: Inculpatory
   8. Rule 68/68*bis*: Exculpatory
   9. Conduct of the Trial (various Rules)
3. Legal Aid Policy for Indigent Accused
   1. “Equality of Arms” revisited
   2. Travel & Investigations
   3. Limitations on Experts
   4. Appeal and Rule 115 New Evidence
4. Different Approaches taken to Fair Trial Rights for Self-Represented Accused
   1. Article 21(4)(D) Right of Self Representation
   2. Rule 45*ter*: Appointment of Counsel in the Interests of Justice
   3. Amicus
   4. Legal Consultants
   5. Standby teams
5. Other Relevant Sources of Protection of Rights of Accused
   1. *In Dubio Pro Reo* 
      1. Burden of Proof on Prosecution, Beyond Any Reasonable Doubt)
   2. Standards of Professional Conduct for Prosecution Counsel (14 September 1999)
      1. Integrity and Duty of Candor
   3. Guidelines on the Role of Prosecutors Adopted by the Eighth United Nations Congress on the Prevention on Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990
   4. ICCPR? ECHR? ECtHR?
   5. Laws of the Former Yugoslavia in place during the period 1991-1999?