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Profile of Gabrielle Kirk McDonald

by Kitty Felde*

Some say Gabrielle Kirk McDonald was the most powerful African-American woman in the world. She was presiding judge for the first international war crimes trial in half a century, but because the International Criminal Tribunal for the Former Yugoslavia (ICTY) conducts its trials with little attention from the American media, few people have ever heard of her.

This past November, McDonald packed up her red judicial robes and said her good-byes to the hard-working clerks and legal staff who toil inside the art deco insurance building that serves as a courthouse for war criminals. McDonald, a former U.S. federal judge, had come to The Hague in The Netherlands in 1993 to help create a new criminal justice system at the ICTY. She was returning to the United States to see in the new millennium after resigning from the ICTY's highest post.

Her message:
that there is a powerful link between the struggle for civil rights in the United States and the battle for human rights around the world. People in the former Yugoslavia lived as neighbors, married each other's brothers and sisters, and built each other's houses. Yet they turned into mortal enemies almost overnight.

Gabrielle Kirk was born in St. Paul, Minnesota in 1942. After her parents divorced, she moved to New York City with her mother, Frances. It was in New York that McDonald felt her first brush with discrimination. Her mother was very light complexioned, born of a Swedish mother and an African American father. When the new landlord discovered that Frances had two black children, he made it clear they were no longer welcome there. Frances refused to move. When reluctant beauticians balked at working on McDonald's hair, Frances calmly but firmly insisted. In New York, McDonald encountered the word "nigger" for the first time. That led to fist-fights McDonald did not like and did not win. She wanted to find another way to fight bigotry—using her brains instead of her fists. The law was a perfect match.

McDonald graduated first in her law school class at Howard University in Washington, D.C. just as the landmark Civil Rights Act of 1964 was being tested in courtrooms across the United States. She became a staff attorney for the National Association for the Advancement of Colored People (NAACP) Legal Defense and Educational Fund. In 1967, the NAACP filed suit against the tobacco company Philip Morris, which had hired blacks for the most unpleasant, low-paying jobs, like preparing tobacco leaves for processing, where they had little chance for advancement. The court ruled the company had discriminated against black workers. McDonald, who served as a staff attorney on the case, had helped win the NAACP's first major victory against job discrimination. "I love the law," she says. "I like solving problems. And certainly for a racial minority, I think the use of our laws in the U.S. is the way we bring about equality and inclusion."

Her work with the NAACP took her to Texas, where she met and married a tall, handsome, recently divorced attorney named Mark McDonald. The two set up a private practice together in Houston—McDonald & McDonald, practicing civil rights law. Their biggest victory was a \$1.2 million dollar settlement for back wages for 400 employees of the Lone Star Steel Company. In between cases, they also produced two children.

In 1979, President Jimmy Carter named McDonald to the federal district court in Houston. She was the first African American to be appointed in Texas, and only the third African American woman federal judge in the country.

Her most famous case involved a group of Vietnamese immigrant shrimp fishermen who competed with long-time local Texas fishermen for the shellfish. Shots were fired across the bows of Vietnamese boats. One Texas fisherman was killed. Tensions grew. Then the Ku Klux Klan (KKK) held a rally, claiming it was time to reclaim this country for the white people. Louis Beam, the Grand Dragon of the KKK and one of the defendants, demanded that McDonald take herself off the case because it was well known Negroes don't like the Klan. McDonald refused, insisting she would be fair and impartial. That is when the death threats began, and the one-way tickets to Africa—one for each member of the family. Metal detectors were set up at the courthouse for the first time. Trial spectators showed up in Nazi uniforms. In the end, McDonald ordered the KKK to stop harassing the Vietnamese fishermen and shut down their paramilitary camps.

McDonald left the federal bench in 1988 to return to law school—this time to teach at several Texas colleges. In 1993, she accepted a Visiting Professorship at the Thurgood Marshall School of Law at Texas Southern University. But a phone call changed those plans. It was a former colleague from her days with the NAACP Legal Defense and Educational Fund, now working for the U.S. State Department. He asked her if she would like to return to the bench, this time as a judge for a new court the United Nations created to deal with the atrocities of the war in the former Yugoslavia.

Like most Americans, McDonald had seen pictures of the Yugoslav war on television—the bombed out apartment buildings, the prisoners of war thin as skeletons, and the mass graves where hun-

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In addition, in December 1999, Mandesi attended the "Inter-regional Seminar and Symposium on International Norms and Standards Relating to Disabled Persons," held in Hong Kong, which drew representatives from approximately 50 countries. The seminar's main agenda was to advocate for the establishment of a binding international instrument on disability rights, similar to the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, which the Organization of American States (OAS) enacted. This convention seeks to prohibit employment and other forms of discrimination against disabled people. In Hong Kong, Mandesi presented three papers: *Legal Rights in Africa*; *International Protection and Advancement of Disabled Children*; and *International Norms and Standards on Disability Rights*.

Mandesi attributes his experience in the United States and his study at WCL as a major resource for his future work with DOLASED and the Centre. He credits the legal safeguards enumerated in the Americans with Disabilities Act of 1990 as a framework for disabled people in the United States. He appreciates WCL as a place where

structural facilities have been designed and constructed to accommodate the needs of the disabled. He praised the support and social integration with staff, faculty, and the student community at WCL as friendly and socially responsive.

Having returned to Tanzania, Mandesi plans to spearhead efforts in the Ministry of Labor to develop a code modeled upon the Americans with Disability Act. The act would prohibit private employees, local governments, employment agencies, and labor unions from discriminating against qualified disabled people in job application procedures, hiring, firing, and in all other matters pertaining to employment. He also hopes such a code will encompass the notion of reasonable accommodation. Additionally, he continues to expand the Centre's and DOLASED's programs to benefit more disabled people within Tanzania. On the international level, he plans to keep abreast of developments pertaining to the rights of the disabled, while at the same time continuing to advocate and lobby for them. ☺

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dreds of bodies were dumped after being shot in the head. It was those television pictures and other reports of atrocities that spurred the United Nations to create the ICTY. "But I don't know anything about international war crimes," she told Conrad Harper, the U.S. State Department's legal counsel. "That's not a qualification," he told her. "You'll learn." She was elected by the UN General Assembly, garnering the largest number of votes of all judges elected to the ICTY, and was the only American judge elected to sit at the tribunal. McDonald was chosen to preside over the ICTY's first trial—that of a Bosnian Serb karate teacher named Dusan Tadić.

The trial was difficult. Tadić was accused of helping to ethnically cleanse his hometown, killing two Muslim policemen, and beating and torturing prisoners at local prison camps. McDonald listened as witness after witness told stories of unimaginable brutality at the hands of former friends and neighbors. Sometimes she would take off her glasses, or reach for a glass of water, anything to distract herself from the gut-wrenching testimony. The stories often followed her home in the form of nightmares. McDonald and her two judicial colleagues, Judge Ninian Stephen from Australia and Judge Lal Vohrah from Malaysia, who act as both judge and jury at the ICTY, found Tadić guilty of 11 counts of crimes against humanity on May 7, 1997.

When it came time to sentence Tadić to 20 years behind bars, McDonald looked across the courtroom at the man surrounded by uniformed policemen. Tadić stared back without emotion. "You committed these offenses intentionally and with sadistic brutality," she told him, "using knives, whips, iron bars, the butt of a pistol, sticks, kicking the victims, and tightening a noose around the neck of one until he became unconscious. Why?"

Tadić did not answer. McDonald continued, reviewing the testimony about the organized plan for ethnic cleansing—rounding up neighbors and sending them to prison camps, leaving the region ethnically pure. "And that came to pass . . ." At that biblical-sounding phrase, her voice cracked.

McDonald choked back her emotions and continued. "You must bear responsibility for your criminal conduct. To condone your actions even when committed in this context . . . is to give effect to a base view of morality and invite anarchy." Tadić was escorted from the courtroom.

Behind the scenes, McDonald was respected by her fellow judges for her frank American way of speaking from the heart and her "just get it done" attitude. Both were needed at the ICTY's sister court, the International Criminal Tribunal for Rwanda (ICTR), located in Arusha, Tanzania. It was a courthouse without air conditioning, a place where the local red dust got into the copiers and

clogged their machinery, a court where there were not enough fax machines or computers. McDonald was dispatched to Africa in May 1997 to see what could be done.

This was McDonald's first trip to Africa, the continent where some of her ancestors had been captured as slaves and brought to America. She wanted to learn all she could about how the people lived today, how they supported their families, and what it was that caused people to raise a machete against their neighbors, as happened during the Rwandan genocide. She asked herself the same question she had asked Tadić back in the courtroom in The Hague. "Why?"

When she returned to The Hague, full of ideas about how to assist the fellow tribunal in Rwanda, McDonald was offered another challenge. Her fellow judges elected her president of both the ICTY and ICTR in November 1997.

As president, she battled for adequate resources for the ICTR, and for additional judges for both tribunals. She pressured officials in the former Yugoslavia for access to evidence. But her greatest battle on the bench is one she continues today: the court's invisibility. "Although the Tribunal was established to try cases for the former Yugoslavia," she says, "it has a greater mission. And that is to deter this behavior wherever it occurs. And in order for it to be deterred, we have to get the story out." McDonald is discovering that the best place to get that word out to Americans is back home in America. Her message: that there is a powerful link between the struggle for civil rights in the United States and the battle for human rights around the world. People in the former Yugoslavia lived as neighbors, married each other's brothers and sisters, and built each other's houses. Yet they turned into mortal enemies almost overnight. If it happened in Yugoslavia, couldn't it happen here the ethnically diverse communities in America as well?

"Everyone has the responsibility to talk about these issues, to say that they're wrong," she says. "They can't be permitted thousands of miles away and they can't be permitted in the United States. Because if somehow we condone that, then after seeing that, then stealing tennis shoes or stealing automobiles or maybe just shooting and killing one person or maybe just shooting and wounding them is not so bad in the big picture of things because look at what's going on. No. That's wrong over there and that's wrong in our country." ☺

**Kitty Felde is an award-winning public radio journalist who spent six months over the past four years covering both the International Criminal Tribunals for the Former Yugoslavia and for Rwanda for National Public Radio, Monitor Radio, the Los Angeles Times, and the Chicago Tribune, logging more time in the courtroom than any other American journalist. She hosts a weekly talk show on NPR affiliate KPPC in Pasadena, California.*