

# COMPELLING WAR CORRESPONDENTS TO TESTIFY: A PREROGATIVE OF INTERNATIONAL CRIMINAL TRIBUNALS?

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## ABSTRACT

*A qualified testimonial privilege for war correspondents was recognized by the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia in the case of Prosecutor v. Brdjanin. This article examines whether war correspondents should enjoy such a privilege in international criminal tribunals.*

*The author illustrates that, to maintain their legitimacy, international criminal tribunals must be able to make factually accurate findings. She further illustrates that the ability of international criminal tribunals to make factually accurate findings is dependant upon their ability to obtain reliable evidence, including witness testimony. The suggestion is made that, as testimonial privileges reduce the evidence that is available to international criminal tribunals, and thereby impair the tribunals' fact-finding abilities, they should be granted sparingly and construed narrowly.*

*The author recognizes that it is necessary to protect the public interest in the work of war correspondents and acknowledges that a testimonial privilege may be necessary to protect war correspondents from being compelled to testify about confidential sources and materials. She argues, however, that the qualified testimonial privilege established in Prosecutor v. Brdjanin – which seeks to protect war correspondents from being compelled to testify about non-confidential sources and materials – is unwarranted. In the author's opinion, measures short of a testimonial privilege will suffice to avoid any adverse consequences that might flow from compelling war*

*correspondents to testify about non-confidential sources.*

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