



United Nations  
Nations Unies



International  
Criminal Tribunal  
for the former  
Yugoslavia

Tribunal Pénal  
International pour  
l'ex-Yougoslavie

**Opening Remarks, Legacy Conference**  
*Sarajevo, Bosnia and Herzegovina, 22 June 2017*

**By John Hocking**  
Assistant Secretary-General, Registrar  
International Criminal Tribunal for the former Yugoslavia

*Borrowed robes, no seat, no courtroom, no prison, no budget, no computers, no staff and no rules. Widespread scepticism about the viability of the institution. For months, “I lived under the distinct impression that I was at the helm of a ship that would probably never depart from the yard in which it was being built, piece by piece, day by day. The year and a half that I spent alone in The Hague...were marked by alternating periods of nerve-racking longing to succeed and excruciating fear of total failure.”*

This was the International Criminal Tribunal for the former Yugoslavia (ICTY) at its beginning in the recollections of the late Judge Antonio Cassese, our first President. However, not long afterwards, and in no small part thanks to his efforts, the ship was built and major figures appeared in the dock. The ship started sailing and chartered new waters. The map that the ICTY drew marked a new frontier in accountability for atrocity crimes.

As innate as humankind's urge to explore, we all also share an inherent sense of justice which calls us to hold accountable whomever disrupts peace and order. Yet, bringing to book those who hold the reins of power, even when suspected of heinous crimes, was for a long time considered impossible. And, for the most part, it was.

But today we live in a new world. The ICTY demonstrated that also the powerful can be brought to justice. In our courtrooms, the shields that protected Heads of State, Ministers, or Generals were pierced by the humble truth of their often powerless victims. Today we naturally assume, and demand, that leaders committing atrocities be called to account for their wrongs, like everyone else. And today we know that this is possible. The ship crossed the Pillars of Hercules, the frontier of the ancient world and the limit of what was considered possible.

From here there is no turning back. International, hybrid, domestic and transitional courts across the globe have demonstrated beyond reasonable doubt that this new world of accountability is not just an ideal, an experiment, or a one-off. With the ICTY's voyage coming to an end, it is these courts, and significantly the courts in the region, that will continue to charter these new waters and push beyond the frontiers of the possible.

Supporting domestic proceedings for genocide, war crimes and crimes against humanity, and inspiring efforts for justice outside the courtroom, is to me one of the most significant aspects of the ICTY's legacy. I wish to commend, in particular, President Carmel Agius, who has ensured that this conference discuss the ICTY legacy in and out of the courtroom, across institutions and amongst international, regional and national contributors, because justice and peace can only endure with joint action and mutually reinforcing commitment.

In the year 2000 then-President Claude Jorda raised for the first time the possibility to transition certain ICTY cases to national jurisdictions in the region. This would eventually become a cornerstone of the ICTY Completion Strategy, endorsed by the Security Council in 2003. In a sense, as Judge Fausto Pocar, another of our esteemed former Presidents, put it, the Completion Strategy effectively meant returning cases back to where they belonged.

At that time, however, communities were emerging from conflict, daunting rebuilding efforts were underway, and the technical complexities and potential political implications of war crimes trials required consideration. It was clear to all that for this endeavour to succeed a concerted and sustained effort was necessary.

This was a challenge that not one party alone could address. National ownership had to drive the process. The ICTY would not only transfer cases, but must also transfer the extensive knowledge it had gained. International partners - such as the European Union (EU), Organization for Security and Cooperation in Europe (OSCE), United Nations Interregional Crime and Justice Research Institute (UNICRI), the International Bar Association (IBA) - and domestic actors - from defence counsel to civil society - had to enrich the process with their comparative strengths and unique advantages.

The ICTY was not born as a capacity building institution. We had to learn how to be helpful. Year after year, we refined early singular efforts into a more systematic approach to support and foster sustainable benefits. The entire ICTY became engaged in this institution-building exercise, in this sort of positive complementarity, if you will.

As early as 2001, from digital to physical fora, the ICTY began promoting the diffusion of knowledge and inter-state and inter-institution cooperation. Imagine, in less than 2 years, through the EU-funded War Crimes Justice Project, the ICTY, OSCE-Office for Democratic Institutions and Human Rights, and UNICRI International Criminal Law Series alone reached 800 judges, prosecutors, defence lawyers, investigators and witness support providers through some 62 knowledge transfer events. With new curricula, e-learning, and online training on international criminal law and practice, we reached countless more.

Theoretical knowledge was deepened in hundreds of peer-to-peer meetings, working visits from the region to the ICTY and vice-versa. New horizontal partnerships were forged amongst interpreters, court officers, communication specialists, and many more. Liaison prosecutors, young professional programmes, and short-term exchanges were designed to foster productive dialogue and bring lasting impact.

As domestic procedures began to include the possibility of using ICTY evidence and established facts in local cases, the ICTY made an even greater effort to make its records more accessible. We reviewed our own internal procedures, and strengthened our capacity to respond to requests for assistance from national courts. We translated over 300,000 pages from ICTY proceedings into Bosnian/Croatian/Serbian. And we make more and more of our collection available and searchable by the day.

All of these initiatives, directly or indirectly, assisted the creation and the strengthening of specialised courts for the prosecution of war crimes in Bosnia and Herzegovina, Serbia, and Croatia. The ICTY offered input in their design, models for their functioning, and tools to improve their efficiency.

The ICTY Registry's contribution in this effort has been significant. From supporting Judges, parties and witnesses, to securing resources and cooperation, the Registry of an international court is the service provider that performs many of the operations that make trials possible. First of its kind, the ICTY Registry has generated over the years best practices and solutions that have been used as a reference or even as a model by later international tribunals or domestic courts, particularly in the region. As my colleagues will discuss some of these contributions during the conference, I thought I would lay out four traits that these contributions share.

### The Idea

5,000 witnesses testified before the ICTY. Particularly in our early days, some had never taken a plane, rarely left their village, or testified in court. Yet there they were, before international judges in a different country, some of them facing those they considered responsible for death and atrocities. There were emotional strains and security concerns. To tackle these logistical, support and protection issues, our Victims and Witnesses Section was born.

The idea of a witness-centred approach combining protection, counselling and practical support was exported to the region, when there was limited practice to build on. To provide services to victims and witnesses before, during and after the witnesses' testimony; to strive to ensure that the experience of testifying does not result in further harm, suffering or trauma to the witness; and to operate with the highest levels of integrity, impartiality and confidentiality. These are the principles at the heart of our witness service and these have also become a blueprint for regional witness services.

The Head of the Department for Victims and Witness Support at the Higher Court of Serbia said, "This ICTY [witness] service has been an ideal to all of us in the region. It was a model on which we tried to establish our own services to help the people coming before the court to share their most horrible experiences."

### A Model to Mould

Beyond the idea, the ICTY Registry also offered a model. Initially, operations in the regional war crimes chambers often followed closely the ICTY Registry model. For instance, the Bosnia and Herzegovina War Crimes Chamber's court management services drew heavily from ICTY practice and systems. But, over time, the regional chambers shaped and moulded their services based on their growing experience to better tailor them to their specific needs.

### Practical Tools

Beyond ideas and models, the ICTY Registry also shared technological and practical tools for the day-to-day life of a court. For instance, the possibility of testifying by video-link, voice distortion, and audio or

video recording of proceedings started to be introduced in regional courtrooms, and have almost become an expected feature – so much so that a local journalist noted, “[n]ow it seems intolerable not to have words recorded.”

Reference tools to disseminate practical knowledge were also created. A well-received example is the Manual on International Criminal Defence, developed by UNICRI and the Association of Defence Counsel Practicing before the ICTY. From how to use and challenge ICTY-generated evidence to how to conduct an effective plea bargain, this first-of-its-kind publication compiles ICTY defence counsel expertise for colleagues in the region.

### Expansion of the Rule of Law

When I think of the ICTY Registry’s legacy, I also see a larger impact, a spill over effect in the strengthening in the rule of law, even beyond our direct or intended efforts.

Today, in the Court of Bosnia and Herzegovina, support and protection are not only offered to witnesses in war crimes cases, but also to witnesses of Organized Crime, Economic Crime and Corruption, and, when necessary, in other criminal cases. Fair trial guarantees for the accused of war crimes strengthens the rights of all accused. Beyond the courtroom, tens of thousands of students across the region have discussed in our Outreach events how justice and rule of law make communities more resilient. The careful watch of journalists, the countless strides of national and global NGOs, and the dozens of artists who explore the ICTY legacy and its impact on the region each contribute to justice and to the expansion of the rule of law.

After two decades of my life dedicated to the ICTY and its quest for justice, I thought I would conclude with some words that may assist some as they continue to help me.

Look back on the course chartered so far, for we can. Cherish and take strength from the many miles travelled and the many milestones reached.

Look out for partnership and cooperation, for sometimes the problems of one are the achievements of another, for success can always be accompanied by setbacks, and for progress, which requires constant fine-tuning.

And look forward to what there is still to achieve. Our innate urge for justice has pushed beyond the boundaries of what seemed possible, and then pushed further. A ship that might never have left its dock ended up sailing in new waters and found a new frontier for accountability. You are now sailing these waters. Push beyond and then push further.