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International
Criminal Tribunal
for the Former
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Tribunal Pénal
International pour
l'ex-Yougoslavie

ADDRESS

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The Hague, 14 November 2017

Keynote Speech by ICTY President, Judge Carmel Agius Launch of the International Institute for Justice Excellence

Excellencies and honourable guests,
Dear colleague Judges, Registrars and staff members of the ICTY,
as well as other courts and tribunals,
Distinguished representatives of civil society,
Ladies and gentlemen,

Good afternoon to you all. It is my pleasure to address this distinguished audience and to mark the launch of the International Institute for Justice Excellence. I sincerely thank the organisers, as well as the ICTY Registrar for his warm words about me.

On behalf of the International Criminal Tribunal for the former Yugoslavia, I receive this honour with deep gratitude and great humility. It is an award that speaks to the ICTY's lifetime achievements over 24 years of operation. This award is also an acknowledgement of its Judges, Principals, and staff members, past and present who have excelled in the performance of their duties, as well as promoted accountability and inspired excellence in others.

Since 1993 the ICTY has come a long way, ushering in a new era of accountability for international crimes. The ICTY has shown that it is possible to hold perpetrators of the most heinous crimes accountable, and to bring them to justice, regardless of their position or level. It has demonstrated that trials of genocide, war crimes, and crimes against humanity are possible, and that no-one is immune from accountability - not even sitting Heads of State. In my view, the Tribunal's most fundamental contribution and legacy is its groundbreaking role in the fight against impunity. While the ICTY has certainly not been universally liked, and in fact has been roundly criticized in some quarters, I believe that its contribution in this and many other respects will stand the test of time. History will indeed judge us all.

This award comes at a very auspicious moment, when the ICTY is winding down, with only two substantive cases left and both in their very last stages, and less than seven weeks until the Tribunal closes its doors for the final time. Another chapter in the history of international criminal justice is thus coming to an end. I have mixed feelings about this moment, on the one hand I am immensely proud of all of our achievements over the past quarter of a century; on the other hand, I also think about all that remains to be done - not only in the region of the former Yugoslavia, but in the field of international criminal justice generally, and across the world in all those places where conflicts still rage and impunity reigns. I say this with a deep sense of responsibility, as someone who has dedicated sixteen years of his life to the delivery of international justice, and many more years in the domestic legal sphere. I say this also in my capacity as the Tribunal's last President, who has been entrusted to close down the first international criminal tribunal of the modern age.

Excellencies, ladies and gentlemen

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I wish to commend the newly established International Institute for Justice Excellence, which aims to enhance global administration of justice efforts. Your commitment to developing excellence and efficiency in the delivery of justice is very much appreciated. Indeed this is an important initiative that consolidates and advances the acquis offered by judicial institutions, such as the ICTY. In the case of the ICTY, being the first tribunal of its kind since Nuremberg and Tokyo, an entire international institution had to be built from scratch. There were no other organisations upon which the Tribunal could model its operations, and initially no rules of procedure and evidence in place to govern its practices and processes. These had to be developed by the Tribunal itself. Over the years the ICTY recruited a highly talented and diverse staff from around the world, put in place its administrative framework, drafted and amended rules of procedure and evidence, developed witness protection programmes, modernised information technology, and established court management practices, among others. It is our hope that the ICTY's many lessons learnt and best practices will continue to assist and inspire others.

Allow me to say a few words on justice excellence. Even in its final years, and despite facing challenges caused by downsizing and staff attrition, the Tribunal has continued to function at full capacity. During my term as President, which started in November 2015, I have been concerned with the quality of justice that the Tribunal is able to dispense, despite the difficulties faced because of our closing down. With this in mind I have been committed to constantly monitoring and increasing the transparency, accountability and efficiency of our work.

In the ICTY's case, the development of our Completion Strategy many years ago was, in my view, an example of the Tribunal's determination and proactivity in these respects. Indeed the Strategy helped to reset our compass and improve transparency. Its true value rests in that it was originally an initiative of the ICTY Judges, not the United Nations, and was developed by all Tribunal organs. The Completion Strategy has served as a guide, rather than as a straightjacket, and has required the Tribunal to continually look for ways to expedite and improve its processes across all sections. It has also allowed for more detailed reporting on our work and practices. These ICTY's progress reports have not only been important for the United Nations as our parent body, along with its Member States, but also for the region of the former Yugoslavia. Indeed, one of the best protections against the politisation of justice, is transparency. It is vital that courts and tribunals communicate clearly, effectively, and openly about their proceedings and decisions, as well as their administrative operations. It is also vital in addition to the stakeholders, that journalists and civil society follow developments regularly and seek to hold courts and tribunals to high standards of performance and efficiency.

This leads me to my next point concerning accountability. I would start by saying that the quest for accountability should take place in full respect of the independence of the institution and their judges. However these notions are not at odds or irreconcilable. Last year the ICTY Judges unanimously adopted a Code of Professional Conduct at a Plenary held on 6 July 2016, with immediate effect. The Judges also considered desirable the need to have a disciplinary mechanism, which unfortunately due to the lack of time and resources could not materialise at this late stage in the Tribunal's life. Yet, what we should all remember, and I would like to emphasise here today, is that Judges are not above the law; they are custodians of the justice system and ought to be held accountable for any breaches of their ethical and professional duties.

In relation to efficiency, we all know that international trials are by their very nature complex and lengthy, but that is no reason not to make every effort to ensure that they are efficiently run. Indeed, while fair trial rights and due process must be the paramount consideration for any tribunal or court, it should be remembered that the right to a fair trial includes the right to an expeditious trial. The ICTY has worked very hard on improving its efficiency and the expeditiousness of proceedings while fully respecting the procedural and human rights of the accused. Throughout our 24 years we have developed numerous efficiency

measures. Many of these have been mentioned in our reports to the United Nations (I refer in particular to our November 2016 Completion Strategy report, as well as our upcoming November 2017 report), in order to make them more accessible to both stakeholders and the general public, and to serve as best practices for other courts and tribunals.

Excellencies, ladies and gentlemen

While we commemorate the ICTY's legacy as it nears its closure, we should not forget the unimaginable atrocities that continue around the world. In solidarity, we must recognise the obstacles that remain on the path toward ending impunity, and redouble our commitment to further strengthening accountability efforts on both international and domestic levels. Even if international courts and tribunals operate in locations remote from the conflicts and relevant communities, we must always be responsive to the realities of those most affected by the crimes that we investigate and adjudicate. We must not let down the countless victims who have placed their hope in the ICTY, the United Nations, as well as other international courts and tribunals. With joint efforts and determination, we slowly move ever closer to fulfilling our ultimate goal, being to prevent terrible suffering before it takes place.

In closing, I wish to thank the International Institute for Justice Excellence for its support and recognition of the ICTY, and again to commend you on your laudable aims. I wish you all the best in your very important work.

Thank you for your attention.
