

Hague Tribunal: Truth, Justice - and Reconciliation Too?

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As court winds up its work, Bosnian communities don't all buy into the common historical narrative it was supposed to provide.

Alen Curtic met his father for the first and only time when he was eight years old.

He was taken to Kiseljak, the small town in central Bosnia and Herzegovina (BiH) where his father and extended family - all Croats - lived. He recalls seeing an ornamental knife on display in a shop window.

"Because I was a boy, I said, 'Oh, that's really nice - I'd love to have that.' My uncle said, 'I'll get it for you if you learn how to cut a Turk's throat.'"

Curtic was too young at the time to understand that the "Turks" were the Bosnian Muslims (Bosniaks), whom Croat forces fought during the 1992-95 war.

"That meeting wasn't a typical meeting between father and son. He and his family were trying to teach me how to hate other ethnicities, to be intolerant," said Curtic, now 21. "At that time, I didn't even know what it meant to belong to an ethnic group."

Three or four years later, he found a newspaper article that named his father as a member of a Bosnian Croat army unit which massacred 31 men, women and children in Stupni Do, a tiny village built into the steep mountains that surround the town of Vares, on October 23, 1993.

His father, Ermin Curtic, received a five-and-a-half year prison sentence in 2011 from a local court, but the verdict was later quashed by a higher court. After a retrial in 2013, he received the same sentence again.

Curtic has had no contact with his father since that first meeting because of a parental dispute about child support. His mother never wanted to talk about her ex-husband or about what happened during the war.

When his father was indicted by the cantonal court in Sarajevo, it was featured on the television news and the other kids at his school in his hometown of Vares teased him incessantly. For a while, Curtic said, he was afraid that one of the victims' relatives would try to take revenge on him.

"My biggest wish is to move away from this town and go somewhere no one knows about this," Curtic told IWPR.

Despite the pain and confusion caused by the situation, Curtic never attempted to deny what his father did.

"It would be stupid to say it isn't true, because there is evidence. That's why I have to believe it; I cannot deny the facts," he said.

"Maybe I'm telling my story to release this pressure that's inside me, but also because I want to say that nationalism and dividing people into categories are not good for the future, it isn't good for young people," he said. "We should not hate each other. All this really did inspire me to be a better person and a better man. When I'm a father, I'm going to be a good role model for my kids and I'm going to repair this legacy. I will prove that you can choose to be a better person."

Curtic is something of a rarity in a country where, nearly 20 years after the war in Bosnia ended, denial is widespread and each ethnic group tends to adhere to a narrative that often ignores judicially established facts, especially when these implicate them.

While Curtic's father stood trial at a local court in BiH, most of the higher-profile judgements have come from the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague.

Founded in 1993, when the war still raging, the Hague tribunal was established with an official mandate of "bringing justice to those responsible for serious violations of international humanitarian law committed in the former Yugoslavia since 1991, and thus contribute to the restoration and maintenance of peace in the region".

The tribunal, however, has always been about more than formal justice. The ICTY's website sums up its wider aims by saying its judgements have "contributed to creating a historical record, combating denial and preventing attempts at revisionism and provided the basis for future transitional justice initiatives in the region".

While intercommunal reconciliation is not explicitly mentioned in its mandate, ICTY officials have discussed it repeatedly over the years.

In 2011, Prosecutor Serge Brammertz told the UN News Centre that “we are only fulfilling one part of this job, which at the end of the day has to lead to reconciliation”.

In a Tufts University interview, Brammertz noted that “reconciliation must come from within society and cannot be achieved only by justice or imposed from the outside”.

ICTY President Theodor Meron told the United Nations General Assembly in 2012 that “the remarkable achievements of the tribunal have contributed to bringing peace and reconciliation to the countries of the former Yugoslavia, forging a new international culture of accountability”.

As the ICTY completes its last few trials and hands over the final elements of its work to its successor, the Mechanism for International Criminal Tribunals, justice experts are paying close attention to the impact it will leave behind on the ground, particularly in BiH, which was the subject of the most trials and which endured some of the worst carnage.

Have the facts established by the tribunal, then, made a difference in the places where the most gruesome crimes took place? Has the creation of a historical record helped to combat denial and promote reconciliation? Finally, should reconciliation ever have been cited as an aim in the first place?

CONTESTED HISTORY

Andricgrad rises up from the banks of the Drina River like a gleaming miniature Disneyland.

The pedestrian streets in this newly built city-within-a-city are made of polished, sand-coloured marble, with the stone facades on its main thoroughfare crafted in the style of the Ottoman Empire, which once ruled the eastern town of Visegrad and all of BiH.

There are gift shops, a bookstore, a cinema, a film school, a hotel, and two vast town squares – one of which has a replica of a famous Serbian Orthodox monastery in Kosovo. Clusters of locals gather at outdoor tables, drinking coffee and enjoying the afternoon sun.

In Andricgrad’s main square sits a prominent statue of Ivo Andric, the Nobel prizewinning author to whom the complex is dedicated. His 1945 book *The Bridge on the Drina* tells the story of Visegrad when it was under Ottoman and later Austro-Hungarian rule. The intricately arched stone bridge referred to in the book’s title was built at the end of the 16th century and is today a UNESCO World Heritage Site.

Above the curved top of the cinema is an elaborate mosaic depicting five men tugging on a rope, trying to loosen it from the grasp of other, invisible hands.

“This is symbolic of how Andricgrad was built,” said Ljubomir Jelesijevic, its project manager.

The figure standing at the very front of the rope is Milorad Dodik, president of one of BiH’s two entities, Republika Srpska (RS), and an outspoken Serb nationalist. His government financed the 20-million-euro project. Standing behind him is filmmaker Emir Kusturica, who will teach in Andricgrad’s film school and stage a version of *The Bridge on the Drina* at the newly constructed opera house. His company has a 51 per cent stake in the Andricgrad project.

“The city is meant to be a time machine showing 500 years of history,” Jelesijevic said enthusiastically. “It’s educational, historical, artistic and touristic.”

But more than 20 years after conflict ravaged the country, history itself remains a hotly contested topic. There are no references in this little city to the Bosnian war or the terror that engulfed Visegrad after Serb forces captured the town in May 1992.

Foreign tourists like the Koreans and Japanese who Jelesijevic says are beginning to arrive on tour buses would have no idea that Visegrad was anything other than a picturesque relic of the Ottoman and Austro-Hungarian eras.

“That’s true,” Jelesijevic mused. “We didn’t include anything about the war because those wounds are quite fresh. The courts will decide the truth.”

The truth about what happened in Visegrad has in fact been established in multiple judicial findings at both the ICTY in The Hague and at the State Court in Bosnia.

In the verdicts against two local Bosnian Serb men, cousins Milan and Sredoje Lukic, ICTY judges found that after the takeover of Visegrad, large numbers of non-Serbs were rounded up, beaten, raped and then forcibly expelled or killed.

Several witnesses testified that the historic bridge was used as an execution site from which bodies were

tossed into the water below.

“Many of those killed were simply thrown into the Drina River, where bodies could be seen floating,” the judgement states, adding that one witness recalled pulling nearly 200 bodies out of the river between May and September 1992.

Judges found that on two separate occasions in June 1992, large groups of Bosniak men, women and children were herded into barricaded houses and burned alive. The sole survivor of one of these burnings likened the sounds coming from the other victims to “the screams of cats”.

Milan Lukic was convicted of personally killing at least 132 people in Visegrad. He was found to have committed crimes of extermination, persecution, inhumane acts and cruel treatment, and sentenced to life in prison. His cousin Sredoje Lukic received a 30-year-sentence, reduced to 27 on appeal.

Andricgrad’s freshly-scrubbed newness provides a somewhat jolting contrast to the town it was built in. Tucked in a valley surrounded by green mountains, Visegrad enjoys staggeringly beautiful scenery, but there is a general feeling of decay in the town itself. As in other parts of BiH, the unemployment rate is high.

According to pre-war 1991 census data, Visegrad had a population of 21,000 people, 63 per cent Muslim and 32 per cent Serb. Now, in a pattern common to other parts of Bosnia that saw mass wartime atrocities, Visegrad is almost entirely Serb, except for a few Bosniaks who have returned to surrounding villages.

Jelesijevic said a lawsuit had been filed by a Bosniak family claiming that land on which Andricgrad had been built actually belonged to them, but he argued that there was no merit to the case.

“The property was sold to the municipality in the 1970s, and now the family wants it back,” he said.

Jelesijevic denied that Andricgrad was an attempt to whitewash history and impose a completely Serb narrative, but said the issue of what happened in the war “should be left for future generations” to deal with.

GENOCIDE ISSUE DIVIDES COMMUNITIES

The local government in Visegrad has taken an aggressive stance on attempts to memorialise the past. In January, police in riot gear arrived at the town cemetery to scratch the word “genocide” off a memorial erected by victims’ groups there. The groups returned and rewrote “genocide” in lipstick and pen.

“They are trying to hide the truth and rewrite history,” said Hida Kasapovic, the head of one of the victims associations. She has vowed to have the word “genocide” etched into all the tombstones of Bosniak victims whose bodies were recovered from mass graves after the war.

Kasapovic, along with several other victims IWPR spoke to, insisted that what happened to them was genocide and that no other term could adequately describe it.

Serbs counter that genocide charges were never included in the indictments against the Lukic cousins, much less established by the tribunal.

Events in Visegrad were originally included in a count of genocide against wartime Bosnian Serb president Radovan Karadzic, relating to several municipalities and separate from the count of genocide in Srebrenica. But Visegrad and other municipalities were later removed from this count in an effort to speed up the trial.

Because genocide charges relating to Visegrad were dropped from the allegations against Karadzic and were not part of the Lukic indictment, events in the town will never be categorised as genocide at the ICTY.

Tribunal prosecutors have not yet succeeded in establishing that genocide took place in any municipality except for Srebrenica, the site of the July 1995 massacre that left more than 7,000 Bosniaks dead. The crime of genocide in Srebrenica was established for the first time at the tribunal in 2001, with the judgement against wartime Bosnian Serb army general Radislav Krstic. The genocide finding has been upheld in other trials since then.

The trials of Karadzic and his army commander Ratko Mladic will be the last opportunities for prosecutors to secure a genocide conviction for municipalities outside Srebrenica.

The word “genocide” has huge emotional and historical weight for victims. At the ICTY, however, it is a strictly legal category that specifically defines “the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”. For that reason, it is incredibly difficult to prove in court.

“It’s not a black-and-white thing. Reasonable people can disagree about whether a particular set of events is properly characterised as genocide or not,” said Marko Prelec, executive director of the Balkans Policy

Research Group.

Prelec, who has worked in the prosecutor's offices at both the ICTY and the State Court of BiH, says the fixation on genocide by both survivors and politicians – even when a slew of other crimes have been established, as they were in Visegrad – creates a situation where “if it doesn't have the seal of approval of genocide from an international body, then in some way it didn't happen”.

Some experts say that while the ICTY's establishment of genocide in Srebrenica was a major milestone in legal terms and for the victims, it has led to confusion and resentment among survivors of other acts of mass violence in BiH.

“If the court finds that your group was a victim of genocide, that's [seen as] far more significant than the court saying that your group was a victim of crimes against humanity. I think it's dangerous. It can create rivalry between victims,” said Janine Clark, a lecturer in international politics and ethnic conflict at the University of Sheffield who will soon release a book about the ICTY's impact on reconciliation.

The victims in Visegrad were subjected to unthinkable violence, but the real history of what happened “gets submerged under this genocide debate”, said Rachel Kerr, a senior lecturer at King's College in London.

It is a debate that is unlikely to go away any time soon.

“The essence of the ‘G word’ – its attraction, its danger, its efficacy – is that if you take it away, so many victims feel like you're taking away their right to be who they are,” said Christian Nielsen, a historian at Aarhus University in Denmark who has testified as an expert witness in several ICTY trials.

In Visegrad, Serbs interviewed by IWPR prickled at the use of terminology like “genocide”.

“In Visegrad, we didn't commit crimes – we just defended ourselves,” said Bojana Sikiras, a 27-year-old school counselor. Her family moved to the town after the war ended, and their home in Vogosca, a suburb of Sarajevo, became part of the Federation, the larger, mainly Bosniak- and Croat-populated entity in BiH.

Sikiras said that most people did not have a problem with memorials being built, just with the use of the word “genocide”.

However, she finds terms like “extermination”, “mass murder” and “ethnic cleansing” just as unacceptable. “Because those things didn't happen,” she said. “If we really killed them all, how is it even possible that five or six buses [full of Bosniaks] are coming for the commemorations?”

The current mayor of Visegrad is a member of the Serbian Democratic Party (SDS), which was headed by Karadzic during the war. Today, the SDS is pitted against Dodik's party, the Alliance of Independent Social Democrats (SNSD). The two parties have similar nationalist platforms.

The deputy mayor, Milan Nikolic, told IWPR that the municipal authorities no longer support the Andricgrad project because they have not received financial reports or information about the ownership structure, despite numerous requests.

Asked about the current demographic makeup of Visegrad compared with the pre-war situation, Nikolic bristled.

“I know why you're here. You really want to reopen the issue of removing the word ‘genocide’. We're sick of that story. It was the media that constructed the whole campaign in the first place. I do not wish to comment on that,” he said.

Nikolic said that according to the 2013 census, the full results of which have not yet been released, there are actually 5,000 Bosniaks registered as resident in Visegrad.

“The fact that they only apply for residence here in order to reclaim their property, whereas in fact they live elsewhere, is not the municipality's problem. It's their personal choice,” Nikolic said.

He declined to comment further on what happened in Visegrad in 1992. Asked whether Andricgrad would encourage tourism, he again declined to comment. He added that he and other officials were “sick and tired of the media which can constantly generate negative publicity” about the municipality.

RECONCILIATION A DISTANT PROSPECT IN FOCA

In other parts of Bosnia where atrocities occurred, landmark legal decisions have had a questionable effect on attitudes and community relations.

In 2001, rape as a crime against humanity was defined under international law for the first time, when the ICTY convicted three Bosnian Serb army soldiers – Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic –

of raping and sexually enslaving women and girls in Foca, after this eastern town was taken over by Serb forces in 1992.

The judgement was not only a legal breakthrough, but also brought attention to the horror suffered by women in war. The case allowed victims to tell their stories in court for the first time, with face and voice distortion to protect their identities.

“Of the women and girls so detained, one was a child of only 12 years at the time. She has not been heard of since she was sold by one of the accused,” Judge Florence Mumba said when she read out the verdict in February 2001. “The women and girls were either lent or ‘rented out’ to other soldiers for the sole purpose of being ravaged and abused. Some of the women and girls were kept in servitude for months on end.”

Besides detailing the systematic rape and enslavement of women, the judgement also found that “as a consequence of the concerted effect of the attack upon the civilian population of Foca and surrounding municipalities, all traces of Muslim presence in the area were effectively wiped out. Muslim civilians, but for a handful, had been one way or another expelled from the region.”

Today, it is difficult to gauge what - if any - impact the judgement has had on the town itself, especially since two of the three convicted perpetrators have already been released from prison.

When IWPR visited the town recently, a main road featured a red-and-white banner celebrating the Foca Brigade and the “liberation” of the town in April 1992, when Bosnian Serb forces took over.

While the town’s former mayor Zdravko Krsmanovic was praised for his efforts to promote reconciliation between Serbs and Bosniaks, he was replaced in 2012 by Radisav Masic, who ran on a more nationalist platform for a SDS/SNSD coalition, with Dodik’s support.

As in Visegrad, the few Bosniaks who have come back to the area live not in the town itself, but in surrounding villages. All of Foca’s mosques were destroyed during the conflict, including the Aladza mosque, dating from 1551. Some people, mainly elderly, come to pray on Fridays at a mosque that was subsequently rebuilt.

The Partizan Sports Hall - the location of one of the “rape camps” - was renovated after the war and is now a table tennis school. Ten years ago, when victims tried to place a memorial plaque there, TV cameras captured local Serb women screaming at them.

“They must have had such a great time that they came back for more,” onlookers shouted.

Today there is nothing to indicate what happened at the Partizan hall in 1992.

Veljko Lasica, an 87-year-old Bosnian Serb army veteran who now lives in Visegrad, said he resided in Foca for a time and followed wartime events there.

“I don’t deny that sporadic rapes took place, but not rape camps. It wasn’t organised. I would have heard about that,” he said.

What about the judgements in The Hague that established otherwise?

“The Hague was tricked by false testimony. Those women were lying,” Lasica said.

IWPR approached numerous people in Foca’s leafy town centre for their views on the tribunal and the legacy of war in their town. None agreed to be interviewed except for Sonja Pavlovic, 35, who grew up in Foca and now works for the municipality. She does not deny that rape camps existed here.

“During the war, I was young, and I didn’t realise what was going on in terms of the rape cases. The fact is, rape and crimes did happen on all sides. I’m saying that personally as a woman, not as a Serb,” she said.

Pavlovic said that in general, people in Foca were “completely unsatisfied” with the tribunal, and that it had not contributed to reconciliation at all.

“Everyone has their own story. Of course Serbs will say Muslims are the worst, and vice versa,” she said, noting that there was still virtually no interaction between Serbs and Bosniak returnees.

But she does not deny what happened here during the war, nor does she reject the tribunal’s judgements.

“I cannot explain the denial. I don’t see the point. The fact is, we had a war, and it was a difficult period. We cannot forget, but we should move forward.”

GRASSROOTS RECONCILIATION NEEDED

In some areas, communities live alongside each other in uneasy coexistence. The village of Stupni Do lies wedged into the side of a mountain in central Bosnia. A few Croat villages sit further up the hillside, while

below is the town of Vares, which is also Croat-majority now.

Stupni Do has always been a Bosniak hamlet, and even before the war it consisted of only about 50 houses, according to Mujcin Likic, 59, a lifelong resident.

In the early morning hours of October 23, 1993, the village was attacked by Bosnian Croat forces. Everyone who did not flee was forced out of their homes, robbed of valuables and – in the case of several women – sexually assaulted.

After that, most of the village was burned to the ground. At least 31 civilians were killed that day, including five children and two elderly women.

In 2005, Ivica Rajic, a commander in the Croatian Defence Council (HVO), pleaded guilty at the ICTY to wilful killing, appropriation of property and extensive destruction not justified by military necessity.

Rajic offered his apologies to the victims' families but maintained that he did not order the attack on Stupni Do. Since the attack was carried out by "individuals and groups to which I was superior", he told judges, "that is why I am held accountable".

In their sentencing decision – which resulted in a 12-year prison term – the bench concluded that Rajic's guilty plea "helped to establish the truth surrounding the crimes committed in Stupni Do and Vares. This may contribute to the reconciliation of the peoples of the former [Yugoslavia] and to the restoration of a lasting peace in the region".

However, residents of Stupni Do scoff at the notion that the court's findings might aid reconciliation.

"It's made no difference," said Likic, who survived the massacre and later returned to the village, which was rebuilt after the war with international assistance. "His apology made no difference. It was a tactical play to get less prison time. We don't have a willingness from the other side to say what happened."

Likic's friend Saban Beganogic pointed up the mountainside towards a few Croat houses and said, "On the day when we have our commemoration, [they] have a celebration."

Some Croats in Vares, a dilapidated town that was once a vibrant mining centre, have a more positive view of community relations than their neighbours in Stupni Do.

Sitting with friends in a small café, Sasa Sormaz, 45, said, "We don't look at who is who any more. Vares was always multiethnic. What happened [in the war] was political."

He acknowledged that Croats celebrated the day Vares was taken back from Bosnian government forces, but said this event was usually held in early November, well after the annual Stupni Do commemoration on October 23.

At the same time, Sormaz acknowledged that Bosniak and Croat children living in the area are still educated separately and that there are sporadic outbreaks of nationalist fever, especially during football matches.

Sormaz, who was an HVO soldier during the war, claims to have saved three or four Bosniak women who fled from Stupni Do during the massacre. He does not deny the crimes committed by Croats and says he sympathises with the victims in a "human" way.

"I think many people are aware that this happened and no one wants to forget the victims, but I think it's possible to reconcile. There is willingness," he said.

However, according to Sormaz, this is not something the Hague tribunal can assist with.

"The tribunal is a political institution that hasn't contributed to reconciliation. This needs to happen on a grassroots level. What's important is that there is peace and people aren't killing each other," he said.

EXPECTATIONS TOO HIGH?

When it comes to defining the legacy of the ICTY in Bosnia, some analysts say it is an impossible task, and it is far too early to even attempt it.

"I don't think you can measure it. I don't think it's productive or even possible to quantify whether the ICTY succeeded or not," said historian Nielsen.

He compared the situation in BiH to Germany in the 1960s, when there was still a lot of denial about Nazi crimes and some former SS officers were still in positions of power.

"How long did it take the French to acknowledge Algeria? How long did it take Spain to acknowledge Franco-era crimes? You have to put it in some context. It's incredibly difficult to deal with the past. Nobody

really wants to do it," Nielsen said.

All the experts interviewed by IWPR said that the expectations which victims and civil society placed on the tribunal were always too high, but that this was in part due to lofty statements made by ICTY officials about reconciliation and the historical record.

"Entrenched ethnic narratives exist, and the ICTY was quite naive to think that when you have a court which establishes an official record, this is suddenly going to change everything on the ground. It isn't like this at all," said Clark, the University of Sheffield lecturer.

And while the court went from having no outreach at all to a robust programme that today includes youth, media and grassroots initiatives, there is still a problem of explaining the more controversial judgements to the public, especially if they radically change on appeal. (See **Do Overturned Convictions Undermine Hague Tribunal?** on this issue.)

"The judgements are so complex, and people aren't going to look on the internet to read 500 pages of what the judges said, and there is not enough effort to properly explain those judgements," Clark said. "When a judgement is controversial for one side, the result is often an entrenchment of that group's version of truth. Clinging onto a particular ethnic narrative becomes a form of resistance to the tribunal. It's hugely problematic."

According to Prelec of the Balkans Policy Research Group, "there is still a feeling of unfairness in each community".

"Bosniaks feel that way too much attention has been focused on their crimes, given how few of them there were. Serbs feel like way too much attention is focused on them and too little on their victims. Croats feel like there are too many Croats [indicted] since they are a small part of Bosnia," Prelec said, adding that each group had a legitimate point.

"It's impossible to open these kinds of issues without traumatising people," he said.

The view that the tribunal is anti-Serb remains extremely widespread, despite the acquittal of some high profile Serb leaders including former Yugoslav army chief Momcilo Perisic.

"Trying to make the case that the ICTY has conducted these trials and established the truth - it just becomes part of the victimisation narrative that the ICTY is an anti-Serb conspiracy, and therefore its judgements are seen in that light," said Kerr of King's College.

She said that in terms of the historical record, "the tribunal itself can't change attitudes if something else isn't happening on the ground to change attitudes".

"Maybe the focus of thinking about the legacy and the impact should be, what does this mean to the victims?"

"MORAL SATISFACTION" OF SUCCESSFUL PROSECUTIONS

For many family members and survivors, the ICTY has provided a measure of justice and closure that would have otherwise never have come.

Hatidza Mehmedovic lost two sons and her husband at Srebrenica.

"We victims cannot have our loved ones returned to us, but those verdicts provide us with a form of moral satisfaction [because] those who planned and committed crimes against our loved ones are serving their sentences and are in prison," she told IWPR. "It is important that the ICTY exists so that future generations will know what happened here during the war in Bosnia and Herzegovina. A huge archive of evidence will be left to testify instead of us, the victims, when we are gone."

She said that despite its flaws, "the Hague tribunal contributed to the pursuit of the truth and made our suffering at least a little bit easier".

Hasan Nuhanovic, a former interpreter for Dutch UN peacekeepers in Srebrenica who lost his parents and brother in the massacre, says his views on the ICTY have "evolved" over the years.

"My expectations were much higher 15 years ago than now. It took us - the victims, survivors and families - years to realise how much we are ever going to get in terms of justice," Nuhanovic said. "It is our duty to be unhappy. We will never be able to say we are satisfied - never, ever.

"But it has always been my position that we should never do anything that undermines the credibility of the ICTY, because there is no alternative to the ICTY when it comes to the Srebrenica genocide, for example. Why should we undermine the only ad hoc international institution that exists on this planet that should do the job? They can always rely on me, on people who survived the Srebrenica genocide. They can

always rely on us for support.”

Nuhanovic said the ICTY must ensure that the BiH State Court – established in 2005 with international assistance – and other local BiH courts can successfully try war crimes cases themselves.

“My message to ICTY has always been, you can never say you completed your work and closed down without making sure that the State Court and prosecutor’s office are properly equipped to continue their work. So the ICTY has the responsibility to do everything in its power to provide [them] with financial support, political support and any kind of support to continue the work,” Nuhanovic said.

LEGAL RECORD AN ACHIEVEMENT

The tribunal has accomplished a great deal over the last 20 years. It has managed to catch every single fugitive on its list, including Karadzic and Mladic. Both men were arrested in Serbia after evading arrest for 13 and 16 years, respectively, and are currently standing trial.

“The fact that we have a country that is at peace – though still struggling with a lot of problems – but still a normal-ish country where people are talking about when they can join the EU, is a legacy of the ICTY and the fact that all these people like Radovan Karadzic, Ratko Mladic and [Bosnian Croat political leader] Dario Kordic were driven out of political life and new people not associated with war crimes took their place,” Prelec said.

He also noted that the ICTY has uncovered massive amounts of information that makes the Bosnian conflict “probably one of the most well-documented wars in history.”

In the course of its work, the tribunal has amassed an estimated five million pages of judicial documents and more than 70,000 hours of courtroom audio-visual recordings. In addition, the Office of the Prosecutor has accumulated an estimated ten million pages of documentary evidence, almost 14,000 artifacts and nearly 10,000 other audio-visual items.

According to ICTY spokeswoman Magdalena Spalinska, despite statements made by court officials over the years, lofty goals like reconciliation are “not a function of courts, much less in the context of the tribunal, which has a very specific and limited mandate”.

“As experiences in other situations, such as with the Truth and Reconciliation Commission in South Africa, have shown, reconciliation often requires much more than a court verdict and is more a matter for civil and community leaders,” she told IWPR via email. “While what occurs in a courtroom may be relevant to the process, especially by contributing to increasing respect for and understanding of the rule of law and establishing facts about crimes, there needs to be a broader dialogue in post-conflict regions, at the national and sometimes trans-national level. It is the local communities who are the real drivers of reconciliation.”

Although the tribunal’s website speaks of its contribution to the historical record, Spalinska said this was “not a primary mandate of a court”.

“Trials before the tribunal concern specific allegations made about the criminal responsibility of individuals. The tribunal’s judgements are based upon an adjudication of the charges by applying the law to the evidence adduced by the parties,” she said. “It is not the role of the tribunal to create a definitive record of the conflict; its concern is with individual criminal responsibility.”

While the ICTY’s legacy on the ground is sure to be debated for many years to come, there is a consensus among experts that the court has been a force for good.

“I do think [the institution] is valuable. Obviously Serbs are most implacably opposed to it. When I was doing my research with Bosniaks, they are very critical about the [short] length of sentences and the fact that in their eyes, the court hasn’t tried enough people, but there was also a widespread sense that ‘we are glad it exists’,” said Clark. “You still have war criminals walking around freely, but there would have been far more of them had it not been for the ICTY.”

Historian Nielsen said, “We cannot do what our lucky colleagues in the biology department do, which is, just rerun this experiment and see how it works if we remove this one factor. I can’t know what a world without the ICTY would look like, but I’m pretty certain it would look worse.”

Rachel Irwin is IWPR’s Senior Reporter in The Hague. Velma Saric is an IWPR-trained reporter in Sarajevo.

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