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**Address to the IBA Annual Conference on International Criminal Law on
“The Next Big Questions for International Criminal Justice”**

13th April 2019

The Peace Palace, The Hague, The Netherlands

Ladies and Gentlemen, I am honored to be with you this morning.

I would never have imagined, growing up as a child within the former Yugoslavia, that I would one day be invited to speak here at the Peace Palace in The Hague, before an audience of this distinction, and on the subject of international criminal justice. I am extremely grateful to the International Bar Association War Crimes Committee for this privilege.

I am not a legal expert, nor do I have a formal background in human rights. My views on this subject are formed by my personal experience of war and its aftermath, and by twenty years spent working in the field of foreign policy, security and defence, in government and in Parliament, in my adopted country, the United Kingdom.

The first rule of good policy-making, in my experience, is to put aside personal considerations and to strive to give objective advice, based on facts and analysis of available evidence. But I found myself bending the habits of a lifetime in thinking about my address to you today.

Because justice is personal. Our sense of justice and injustice is at the core of who we are as human beings. It shapes our identity, our relationships with others, and our view of our place in the world.

In my early twenties - in my most hopeful and idealistic years, straight out of university - I witnessed my country of birth, Bosnia-Herzegovina, ripped apart by the forces of nationalism, and subjected to the horrors of mass rape and murder, ethnic cleansing, and genocide.

The country that I knew as innocent and beautifully uneventful, became a symbol of the worst atrocities on European soil since the Second World War.

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I remember vividly the day the war came to my hometown, in 1992, and we had to flee. I was convinced, in my naivety, that the international community would act as soon as it saw what was happening.

As city after city fell under siege, and the months of conflict turned into years, that illusion gradually crumbled.

It took the massacre of over 8,000 men and boys in the genocide of Srebrenica before NATO finally intervened.

The conflict killed more than 100,000 people and displaced 2.2 million people, among them, my own family.

As much as I blamed the world for not coming to Bosnia's aid sooner, the experience did not break my faith in the ideal of the international community and a world bound by the rule of law.

It left me convinced that international mechanisms to prevent and respond to conflict can and must always be strengthened, which is the theme of my remarks to you today.

I am on the side of those who believe that international justice has a critical role to play: defending the rights of victims who have no other protection, upholding universal human rights and the international rule of law, helping other countries to develop their own legal systems and – over time – creating a framework of laws and norms to deter aggression.

It will always be the case, as the Rome Statute of the International Criminal Court recognizes, that it is preferable to try to achieve justice at a national level wherever possible.

But we need the credible prospect and possibility of international justice as a last resort, in situations where national leaders cannot or will not defend the rights of their citizens, and for this deterrent to grow stronger over time.

To be here in The Hague, and to read the records of the different proceedings, is to be reminded of the horrendous nature of the crimes that are judged here.

It is to be silenced in consciousness of what each victim has had to endure, and what they and their families still endure.

And it is to be reminded of the inherent nobility of the effort involved in prosecuting these crimes and trying to make reparations to the afflicted.

Those who commission or carry out war crimes and crimes against humanity aim to dehumanize whole peoples. Justice is the means by which we restore the dignity and humanity of victims and lay the basis for a more secure peace.

So I would like to express my respect and gratitude towards all those who have played a part in the slow, painstaking work of building the international criminal justice system, including, from my personal perspective, the International Criminal Tribunal for the Former Yugoslavia set up during the war in 1993.

Yes, the ICTY did not prevent the genocide in Srebrenica two years later. Yes, the tribunal took twenty-four years to complete its work, and even the judgments it handed down have not stopped those who are trying to rewrite the historical record in Bosnia-Herzegovina to this day. And yes, some of the very people who divided Bosnia still preside over its politics, and still try to complete through political means the project they begin in the 1990s, seeking to dismember the country.

But all 161 ICTY indictees have been accounted for. 90 individuals were sentenced. Hundreds of victims had the opportunity to tell their stories. And a measure of justice, however imperfect, has been served.

And I do not think anyone could possibly argue that Bosnia-Herzegovina would have been in a better place today if the Tribunal had not been established – or deny the role it played in paving the way for the Rwanda and Cambodia tribunals and the creation of the International Criminal Court.

In your discussions today, you will consider “the next big questions in international criminal justice”.

I believe that these are likely to be heavily influenced by the ‘big questions’ facing the international community as a whole.

It is clear that we face turbulent times, with the rise of a nationalist, populist politics which encourages fear and division, including attacks on the legitimacy of international institutions - from the European Union to NATO to the United Nations and of course the ICC.

It comes at a time when we also face a series of protracted conflicts that we seem unable to resolve, whether in Libya or Syria or Yemen or Myanmar, which suggest that our institutions are not working as effectively as they should.

There is also a very visible ‘justice gap’, in the form of the significant number of situations involving mass human rights violations for which there is no immediate prospect of either peace or accountability: because of the actions of the governments directly concerned, and also the willingness of some permanent Security Council Members to veto referrals to the ICC or to oppose the creation of new courts or tribunals.

There is understandable concern that international commitment to human rights and international justice will be weakened across the board; and that the current trend of countries withdrawing from international bodies and treaties may continue.

But nonetheless, I remain hopeful about our ability to strengthen the international criminal justice system.

My view is that the glass is half full, not half empty. Huge expertise in international criminal justice has been built up over the last two decades, landmark convictions have been secured, new legal precedents set, and we have made progress towards reparative justice for victims, including through the ICC Trust Fund for Victims, on whose board I am proud to serve.

While impunity is still too often the norm, leaders can no longer simply assume that they will get away with crimes against their citizens. And I believe that there may well be greater demand for accountability and justice over time.

I never cease to be struck, meeting victims of conflict worldwide, who often lack the basic means of survival, but whose constant refrain is their desire for justice and accountability.

Of course, justice takes many forms. But the instinct, yearning and demand for justice is hardwired into human DNA. People want accountability. It is at the bedrock of who we are as human beings. And for all the current negative politics, I have faith in the younger generation in particular, who I believe will rally to a positive vision of the future, and who want their countries to stand for human rights and a more just and equitable world.

So for me, there is everything to fight for as we look ahead to the next decade. But it will take perseverance and inventiveness.

I use the word inventiveness deliberately, because of my experience over the last seven years developing and working on the Preventing Sexual Violence in Conflict Initiative, PSVI.

This is a global diplomatic campaign to eradicate impunity for the use of rape and other sexual and gender-based violence as weapons of war, begun in 2012 by the-then UK Foreign Secretary William Hague and UNHCR Special Envoy Angelina Jolie.

The idea behind PSVI is to elevate this issue to the level of international peace and security, based on a growing understanding of the link between sexual violence and ethnic cleansing, refugee flows, the operations and ideology of armed groups including terrorist organisations, and its impact of gender inequality and the rights of women and girls worldwide.

We have focused specifically on the issue on impunity, trying to help develop new political will and new tools to support an increase in prosecutions, as well assist survivors and shift taboo and stigma from the victims to the perpetrators.

Furthermore, we work on the basis of bringing together governments, civil society and survivors in a new way, so that what the United Kingdom and other governments can deliver at the diplomatic level is informed by civil society expertise and the perspective of survivors from the outset, and therefore has a better chance of succeeding.

Although lasting change will be the work of decades, we have made some progress. What began as initiative launched by one country now has the support of 157 nations, all of which have made specific commitments, such as the pledge not to include amnesty for sexual violence in peace agreements.

PSVI has led to the adoption of the first International Protocol on how to document and investigate crimes of sexual violence; national action plans in some of the worst affected countries, including South Sudan, the DRC and Colombia; the deployment of teams of experts to gather evidence; and the launch of Principles for Global Action on Tackling the Stigma of Sexual Violence.

Seven years later, we are now seeing an increased willingness among militaries to reform their doctrine and training and to deploy more women on the frontline, including within NATO.

The UK recently announced the creation of a new Centre of Excellence for Human Security, which will provide military training on preventing and responding to sexual violence in conflict, and help militaries from around the world to integrate into their military planning and the conduct of operations UN Security Council Resolutions linked to human security.

When we began PSVI, I remember the surprise and occasionally mockery the British Foreign Secretary would treat this subject as a matter for discussion with his counterparts, at the G8 and UN Security Council, and in all bilateral meetings; and a concern within the Foreign and Commonwealth Office itself that this was an issue for aid workers and women's groups not diplomats.

There are now an increasing number of countries that are ready to show leadership on this issue at Foreign and Defence Minister level.

I particularly welcome the fact that negotiations are underway this month on a new UN Security Council Resolution, introduced by Germany, that aims to strengthen accountability for conflict-related sexual violence.

The problem, of course, is that the situation on the ground has deteriorated in many contexts, including in Myanmar, in Syria, in South Sudan and the Central African Republic.

This is where the need for inventiveness comes in.

In relation to Myanmar and Syria, where there is currently no credible prospect of accountability at a national level and yet no possibility of a Security Council Referral to the International Criminal Court either, the international community has shown inventiveness in trying to prepare the ground for future prosecutions.

The International, Impartial and Independent Mechanism for Syria established by the UN General Assembly, and the Independent Mechanism for Myanmar set up by the UN Human Rights Council, are important attempts to preserve the possibility of justice in the future.

But the limitations of the current situation are obvious. Both mechanisms took time to establish, required the recruitment of new staff, lack permanent and reliable funding streams, and are confined to investigating one conflict situation.

They were also established months or years after the beginning of the violence they are investigating, increasing the risk that crucial evidence will have been lost or destroyed.

And while I am not a legal expert, I am also aware of the concerns that have been raised about the proliferation of evidence-collection by a growing range of organisations, and the potential in some cases for the re-traumatisation of survivors and the damaging of evidence that could be used in future prosecutions.

We are therefore calling, instead of a long-term approach involving temporary investigative mechanisms, for the creation of a permanent or standing investigatory body, as a way of increasing the possibility of successful prosecutions, including for sexual and gender-based violence.

We argue that this body could also serve as an international centre of excellence and best practice to help develop the capacity and standards of national authorities.

There will be a PSVI review conference in the UK in November this year. We are calling on all countries involved to support the creation of this standing investigative mechanism.

I was delighted to see a report from experts with the International Commission of Jurists in the last few days calling for the creation of such a body. I hope that many other organisations and countries will now lend their support to make it a reality.

It is not the sole answer or only action that is needed, but it gets to the heart of the central issue of impunity: unless we address that we will also simply be left treating the symptoms and consequences of these crimes, and be no closer to creating the deterrent we need.

But of course, Courts and other legal institutions cannot do the work of political leaders, just as humanitarian aid cannot solve problems that are the work of diplomacy. We need political will.

We need leaders who believe in upholding universal values and standards to make the case for strengthening and funding the instruments of international justice, including the ICC Trust Fund for Victims, and to support these institutions when it really matters, for instance, in relation to arrest warrants.

I also think that many of us working within or alongside international institutions have perhaps been complacent in assuming that their benefits and value would be obvious to all our citizens. There is a greater need than ever before to communicate effectively, demonstrate relevance, and to mobilize public opinion.

And finally, we need perseverance, or what you might call strategic patience.

If we are able to strengthen the mechanisms of international criminal justice and to narrow the gaps in accountability in the current crises we face, we will be able to look back on and speak very differently of this era: as one in which we

didn't give up in the face of persistent challenges, but strengthened the international rule of law for future generations.

I will never forget my first visit to The Hague four years ago. I arrived at night, and my first glimpse of the city was when I opened the curtains in my hotel room the next morning. My attention was caught by a large grey building that filled much of the view. When I later asked my Trust Fund colleagues what it was, I learnt that it was where the ICTY indictees were held.

I reflected on the fact that some of those responsible for the destruction inflicted upon my country of birth, were awaiting trial or sentencing at that very moment. After everything that they had tried to do, they were there, and I was standing free.

So I am someone who believes that the arc of the moral universe does bend towards justice: but only if there are brave men and women in each generation who are willing to lend their weight to push it in that direction.

Our times call for inventiveness, perseverance and patience.

But above all we need to find the political will that is needed to prevent conflicts and atrocities from occurring in the first place.

I recall the words of the Bosnian writer, Alexander Hemon.

Writing at the time of the arrest of Radovan Karadzic in 2008, and speaking, I believe, for a whole generation of people in the Balkans, he wrote the following words:

“Justice is good, but a peaceful life would have been much better”.