International Criminal Justice at the Crossroads

Reflecting upon the Past, Discussing the Present, and Imagining the Future

BRIEF SUMMARY

In celebration of the ten-year anniversary of the interdisciplinary Master programme International Crimes, Conflict and Criminology offered at the VU, on 17 May 2019 the CICJ hosted an international conference under the title ‘International Criminal Justice at the Crossroads’. The successful event attracted a large audience of journalists, academics, practitioners, NGOs and students, who were during the day presented with a variety of perspectives from a variety of speakers reflecting on the past, discussing the present, and imagining the future of international criminal justice.

In the opening speech, CICJ directors, Joris van Wijk and Barbora Hola invited the audience and the conference speakers, coming from different areas of practice and academia, to reflect on the question whether the project of international criminal justice, while only past its mid-twenties, is already encountering an existential crisis. The ensuing, at times very passionate, discussions during the three roundtables, which focused on the ICTY, the ICC, and hybrid and domestic courts, respectively, were at the same time critical and dismissive, as well as appreciative and celebratory.

Keynote speaker Judge Christine Van den Wyngaert and the roundtable participants did not shy away from an open, constructive criticism of the international courts and tribunals while also reflecting upon their successes and important achievements, and inviting the audience to think ‘out of the box’ and look for an inspiration for justice after mass atrocities elsewhere, outside of The Hague and outside of the courtrooms. All in all, the discussions and reflections during the day provided a balanced and varied appreciation of the lessons of the past, the perils of the present and the outlook for the future of international criminal justice. With this brief summary report, we hope to bring forward and detail the most important points of these engaging and sometimes heated discussions.
Amsterdam, 17 May 2019

Conference notes

Opening

‘The project of Modern International Criminal Justice: just past its mid-twenties and already in an existential crisis?’

While opening the conference, CICJ directors Barbora Hola and Joris van Wijk acknowledged that in the past they – as well as many other observers and commentators – had perhaps been a bit too naïve as to what international criminal courts and tribunals can and cannot deliver. With only a very limited number of successful prosecutions and a number of recent very controversial decisions, many commentators argue the ICC is in crisis. Whereas the ICTY and ICTR have also had their share of controversies, the ICC is increasingly and arguably even more fervently criticized. This raises many questions:

“Is the project of modern international criminal justice having an existential crisis’? Is the project doomed? Is the system falling apart? Can and should we already judge the ICC at this stage? Is it, although it has been operational for about 17 years by now, not too soon? Or too late? Increasingly, it is argued that the future of international criminal justice is domestic. But is it? Aren’t the challenges experienced at the international level also looming for domestic courts? Isn’t seeking justice after the commission of atrocity crimes, given the political and social realities in the aftermath of such crimes, by definition doomed to be a disappointing, controversial, and contested exercise? No matter where and when, or carried out by whatever institution?”

By bringing together presenters from practice and different disciplines of academia, they expressed the hope that this conference would promote a constructive and engaged dialogue about the past, the present and the future of international criminal justice.

Keynote Christine Van den Wyngaert

‘The honeymoon may be over, but the marriage not yet broken....’

Judge Van den Wyngaert started her keynote address with a thoughtful, comprehensive, albeit brief historical overview of international criminal justice. She highlighted the successes of the ad hoc tribunals, but also stressed that the ICTY has – contrary to what had been hoped for – not changed existing, often denialist, narratives regarding the 1990’s conflict, the violence and the crimes in the region. Stating that the ICC-honeymoon may be over, Van den Wyngaert stressed that this did not mean that the marriage is broken. There is a need to ‘fix’ the ICC. Given the current geopolitical context there is no way that another international criminal court would be established in a foreseeable future. We have to work with what we have, and in order to do so, a reality check is needed. Being politically correct will not help the Court, according to Judge Van den Wyngaert.
That said, she discussed a number of topical and systemic challenges the ICC is facing, drawing attention to the problems of constructive ambiguities in the ICC Statute, warning of false comparisons with the ad hoc tribunals, and discussing potential procedural reforms of the institution. *Inter alia,* she referred to the recent decision in which the ICC’s Pre-Trial Chamber rejected the request of the Prosecutor to proceed with an investigation in Afghanistan, as it would not serve the interests of justice. She questioned whether such evaluation should be done by judges at all. The decision on what is and is not in the interests of justice in essence entails a policy decision relating to the ‘peace versus justice debate’, rather than a purely legal, judicial determination. She furthermore mentioned that the ICC has so far prosecuted only a limited number of cases compared to the ad hoc tribunals. In terms of ‘performance’, one could argue the ICC is not successful. Yet, she stressed, it is very difficult to compare these institutions: the work of the ‘ad hocs’ was more straightforward and limited to one situation. The ICC is simultaneously dealing with many more cases from different contexts, and there is much more litigation. One of the problems in this regard is what Van den Wyngaert referred to as ‘constructive ambiguities’. As the ICC Statute in some instances is not clear enough, many aspects are being litigated. For example, litigations relating to the issues of victims’ participation and victims’ reparations are putting a lot of pressure on the ICC system. Ideally, the victim participation system should be reformed, victims taken out of the courtroom, out of litigation, and fully addressed by the Trust Fund for Victims, according to Van den Wyngaert. Additionally, the oftentimes ambiguous regulation of the ICC Statute means that judges from different jurisdictions and different professional and cultural backgrounds come to different outcomes and disagree on fundamental questions. Judgments and decisions are therefore more often than not outcomes of compromises, resulting in the decisions no one is happy with. Furthermore, turning attention to more procedural issues, Van den Wyngaert believes that the way in which the ICC Pre-trial Chambers currently function is fundamentally wrong and too time consuming. She suggested, similar to the system implemented at the ad hoc tribunals in the past, to consider having only one pre-trial judge instead of three. All in all, judge Van den Wyngaert called for a ‘reality check’ as to what can be reasonably expected of the ICC: the ICTY already had a hard time dealing with just one situation. For the ICC, the perspective of having to deal with an indeterminate number of cases from very different situations might not be realistic. Although a number of fundamental changes and reforms may be needed for the institution, Van den Wyngaert stressed that it would be difficult to realize them. This would require changing the Statute and for this, approval of the Assembly of State Parties following a complicated procedure envisaged in the ICC Statute for any amendments would be needed, which might at the moment not be very realistic.

Although critical, Van den Wyngaert is not cynical or pessimistic about the state of international criminal justice. Since the 1980s, with some hiccups, a lot of progress has been made and a lot has been done. She called upon the audience to think out of the box to improve or change the system of international criminal justice. Many valuable lessons can be learned by looking at domestic prosecutions. Perhaps domestic or regionally based prosecutions are the way forward? European countries could come together and create an ‘ICC-lite’ type of institution at the EU level, a regional court, trying to correct the structural errors of the ICC. At the Kosovo Specialist Chambers, Van den Wyngaert and her colleagues are already trying to implement lessons learned from her abundant experience over the years. Her closing words expressed optimism, hope and perseverance. She called upon the audience to keep
believing in the project. Referring to the Nuremberg prosecutor Benjamin Ferencz, she had three lines of advice for those willing to improve the system and fight impunity: “1. never give up, 2. never give up, and 3. never give up!”

### Roundtable I: ICTY and Lessons of the Past

‘A family with young children, having sleepless nights....’

Judge Van den Wyngaert’s reflective and inspiring keynote address was followed by the first roundtable focusing on the ICTY and lessons learned from the past. The, at times ‘heated’, discussions during the panel animating quite differing views on the legacies of the ICTY among the roundtable participants were masterfully chaired by criminal defense counsel Kate Gibson.

ICTY senior trial attorney Douglas Stringer kicked off the conversation by providing a personal account about his early years at the ICTY, stressing the importance of the fact that the ICTY – in contrast to the ICC – was established after a unanimous resolution by the United Nations Security Council. Stringer noted that one cannot overstate the importance of having this mandate and strong political support which, for example, required states to cooperate and facilitated easier access to evidence/witnesses and apprehension of the accused.

Referring to the earlier made parallels to family life, former ICTY-judge Alphons Orie used another metaphor for the state of international criminal justice in general, and the ICC more specifically: it is like a family with young children. You have sleepless nights, but you are aware that there is a need to survive this period, knowing that things will eventually improve. Orie stressed that the international community created the ICTY based on ‘embarrassment’ over what had happened in the Balkans, expecting it to never actually function properly. As we all know, however, it did function. Orie stressed that, in particular, the hard work, the perseverance of a number of dedicated individuals, the UN backing, and at times also luck were the defining success factors.

The dynamics of the conversation changed when historian Vladimir Petrovic was given the floor. Whereas Orie and Stringer emphasized the achievements of the ICTY, Petrovic cast a shadow over the its achievements by questioning the Tribunal’s legacy in the Balkans. How to measure if it has been a success? A recent tour through the region taught him that ‘the ICTY managed to reconcile the Balkan people only in one way: they all agree that the ICTY was a disaster.’ ‘Statistics wise’, the ICTY did great; it prosecuted 161 people, there are thousands of witness statements, and an abundance of evidence has been gathered. Yet, Petrovic argued, the devil lies in the qualitative assessment of its results. If one takes the five accomplishments mentioned on the ICTY’s website as a yardstick and juxtaposes this to the realities in the Balkans, he stressed, it cannot be considered a success. Convicted – and by now released – generals partake in military parades and teach in military academies, political
dissent is silenced, the rule of law is still very weak, and much of the evidence that has been gathered by the ICTY is not publicly available. Referring to the earlier made statements that the future of international criminal law may be domestic, he stressed that based on the experiences with domestic prosecution of international crimes in Serbia, there is much to worry about. Domestic prosecutions in a third country may very well be possible, but prosecuting in the affected region, with perpetrators and victims living side by side and political pressures put on the criminal justice systems, is a whole different ballgame.

Criminologist Mina Rauschenbach continued on this more critical note, arguing that the ICTY may have delivered a ‘legal truth’, and that this truth may one day be incorporated into the ‘larger’ common narrative on and in the Balkans. However, so far, no such ‘larger’ narrative exists. All over the Balkans, ‘memory entrepreneurs’ compete and actively try to influence public opinion regarding the ICTY and the past by presenting different narratives of the conflict, oftentimes incorporating denial of crimes. Their voice is legitimate at certain places – even though not all may agree with the content of their messages. Unfortunately, outreach activities by the ICTY did not manage to counter these different narratives, despite the increase in intensity and scope of outreach over the years. The consequence of all this is that expectations of many constituencies in the Balkans, including the victims, regarding the ICTY were often not met and that counter-narratives could develop. In this sense, acquittals, according to Rauschenbach, did not help, as they feed into the existing counter-narratives. For instance, the memorial museum in Srebrenica presents the ICTY-based narrative; it shows the whole evolution of legal reasoning and details the history as established by the ICTY. When you come out, as a visitor, you believe: these are the guys who committed the genocide, while others (who have been acquitted) are war heroes.

The individual presentations were followed by a lively discussion among the panellists. Judge Orie brought up that non-lawyers often forget what criminal trials are about and that is one thing, and one thing only: on the basis of the available evidence judges decide whether there is sufficient proof that someone has committed a crime. Criminal justice is about trials, convictions, and acquittals of people suspected of crimes. It is not there to ‘please’, and international criminal justice, in particular, oftentimes generates widely different reactions from different constituencies (for instance, while Croats were happy when Gotovina was acquitted on appeal, a couple of years earlier, Serbs were similarly delighted when he had been convicted by trial judges). Even after an ordinary criminal trial, if everyone would be happy, something would be wrong. Any claim that these tribunals are there to ‘end impunity’ and deter criminals is ‘idiotic’ according to Orie; it is the language of diplomats. Every single criminal lawyer knows that murders, despite prosecutions, will still be committed. Stringer agreed, stressing that if you want people who are otherwise not likely to be prosecuted to stand trial, you should set up tribunals; if you want more, you will be disappointed. With Petrovic agreeing that no court should – indeed – be judged according to perceptions and public opinion, but questioning what the point of such a court is when war criminals who return to their societies are deemed heroes, the roundtable came to an end.
Roundtable II: ICC and Perils of the Present

‘International criminal justice is not in crisis, the ICC is...’

The second roundtable had perhaps a bit gloomier focus from the outset: the current functioning of international criminal justice, and the ICC in particular. The discussion was opened by chair Sergey Vasiliev, assistant professor in criminal law, who provided an excellent introduction on the current state of affairs. Professor Vasiliev invited the panellists to consider the controversies and scandals surrounding the ICC: the Office of the Prosecutor’s inability to carry out investigations and bring strong cases to trial; the Judiciary’s politicized decisions; litigation at the International Labor Organization over judges’ salaries; and the Registry’s debated ‘ReVision project’. Is the attention for these issues fair and does it do justice to the ICC’s work?

The first panellist to respond, senior analyst at the ICC Office of the Prosecutor (OTP), Xabier Agirre acknowledged that a sober assessment of the current situation and the ICC was needed. There indeed are many problematic issues at the Court at the moment for a number of reasons. However, to his judgment, the situation is by far not apocalyptic. He added that many of the challenges discussed at the conference are already being addressed internally, for instance in the new draft Strategic Plan of the OTP. To continue improving their work and bring more visible results, the new strategy is moving towards a “safer game”: investing in more conservative, stronger investigations and higher systems of quality control. On the other hand, some of the issues are caused by external factors, such as inadequate management of expectations. Criminal justice is not a solution for everything, as already explained by Judge Orie, and furthermore, the ICC was never meant to be the best or the primary solution, but rather a Court of last resort. While discussing the downsides of the administration of justice at the ICC, Agirre also stressed that not all the outcomes have been negative, and some were actually better than initially expected: examples are the Security Council referral in the Libya situation, or the number of Statute ratifications. Moreover, the OTP is seeking appropriate remedies for Bemba, Afghanistan, and Gbagbo ‘failures’, which were ‘bad’ judicial decisions for the OTP and for the court as a whole, according to Agirre. On the other hand, there are two ongoing trials: Ongwen and Ntaganda, which are solid cases.

Mr. Agirre also addressed the question of the large scope of potential situations and cases, as it is operationally simply impossible to fulfil the current ICC mandate. He provided three options: Option 1) would be to revise admissibility standards, so situations could be dismissed by the Prosecutor; cut down from 10-15 situations to half or less than half of that; more cases in each situation; and a gradual build up, similar to the ad hoc tribunals, which would give the ICC more opportunity for doing a better job. Option 2): continuing in line with Art. 53 and putting the onus on the States parties to support all these investigations; for this option, resources would have to be increased substantially. Option 3): treat the Art. 53 duties as a formal duty, so that investigations are formally initiated whenever it is required, but in reality, there would be a sort of a waiting list of the situations waiting for the necessary resources to become available.

The practical issues raised by Xabier Agirre were followed by a more conceptual intervention of Mikkel Jarle Christensen, associate professor of Legal Sociology. His perspectives on international criminal justice as a sociological phenomenon provided a different viewpoint: the international criminal courts and tribunals in a way have been separated from the world of police, the usual supporting force for
While the ICCTs do conduct investigations in cooperating states, a lack of police force is a huge shortcoming, which may also explain why the ICTY has been more of a success than the ICC so far: it could rely on the support of the EU, the NATO and the CIA. In lieu of their own police forces, the ICCTs depend on ‘justice sites’: NGOs, national governments and police forces, and private law firms. In order to understand how international criminal justice functions, we need to study these various sites, as they are interdependent. We need to look at the space of international criminal justice policing, and the social spaces it operates in. Overall, there has been too much focus on the ICC, as an institution, and too little on the context in which it operates.

Broadening the perspective further, Thierry Cruvellier, editor-in-chief of Justiceinfo.net (an e-journal, keeping the finger on the pulse on everything related to justice after mass atrocities), stated that from the standpoint of a reporter in the field, the ICC today is a side-show: it is not where the important (and interesting) developments are taking place. There is very little substance that comes out of the Court, and when it does come out, it ‘looks bad or worse’. More prominent and interesting nowadays are the universal jurisdiction cases, or the ‘alternative’ justice mechanisms implemented at the domestic level, such as the Truth Commission in the Gambia, or the Special Jurisdiction for Peace in Colombia. Cruvellier, however, noted an obvious paradox: while the ICC is a side story, it is the only story that gets picked up by the global media – it is very difficult to find newspapers outside of Colombia or the Gambia to report their stories. And therefore, due to this rather exclusive media attention, the ICC remains a symbolic space, an echo chamber, and in such a way, it remains useful. The Court is, indeed, in a very serious crisis, but the whole international justice model is in trouble as well. The crisis is, according to Cruvellier, more of an internal character, as external factors were always there (such as a lack of state cooperation or a hostile investigative environment). He challenged the audience and commentators with a question: why then focus on the external factors, if nothing can be done about them, and why not concentrate on internal reform?

Mariana Pena, senior legal officer for international justice at the Open Society Justice Initiative, also acknowledged the ‘crisis’ that the ICC is in, focusing on the demonstrated lack of common purpose visible in the latest ICC-issued decisions. It is not the acquittals that are the problem, but they are a manifestation of a deeper crisis: the lack of will to fund the court, the lack of interstate cooperation, and a divided and compartmentalized Court which, potentially, impacts the way in which it operates. Ms. Pena acknowledged the issues regarding the judiciary outlined in his opening by professor Vasiliev, and highlighted the internal leadership problems. The infighting in the Chambers is manifest in the way dissenting and separate opinions are written, while at the same time there is no sense of self-criticism.
and acknowledgement of the crisis by the Court. On the other hand, there are positives to acknowledge as well. The ICC still stands as a reference, a standard that other jurisdictions refer to. For instance, it is not clear where Colombia would have currently been if it was not for the ICC and the pressure it had put on the Colombian government during the peace negotiations and thereafter. In a number of countries, domestic legislation regarding prosecutions of international crimes has been implemented following ratification of the ICC Statute. However, all that being said, Pena wondered, whether the ICC will continue to be that reference point? What would happen to the system if the ICC is not strong enough? Responding to remarks by Thierry Cruvellier, Pena stated that the ICC, in a way, concerns us all, and the Gambia, for instance, does not. We have a sense of connection to the Court. We see more and more hybrid initiatives, more tailored tribunals, and without the ICC we would maybe not be seeing those situation-related initiatives.

Professor Vasiliev continued to probe the panellists to address the most essential questions: in the end, what is to be done? How can the system be fixed? What about the proposed review panel for the ICC? Both, Ms. Pena and Mr. Cruvellier were quite sceptical about any benefits of such a panel. A review panel had been set up before, with its recommendations being either ignored or not followed upon. Mr. Cruvellier highlighted the responsibilities of the ICC States parties. As the States finance the Court and can take action, they can pressure the Court to change. However, he also believes, that even supporting States while having been happy with a weak Court from the outset, may consider it now to be too weak. It is important to be honest about the ICC’s potential and goals, to move away from only having symbolic power. Picking up on the Court’s goals, Mr. Agirre discussed the possibility of moving towards lower-level and notorious perpetrators, highlighting that doing so would not be entirely new (see e.g. the Al-Werfalli case in the Libya situation). However, how much can the Court realistically ‘move downwards’ in the perpetrator hierarchy without raising new questions regarding its legitimacy? And what indeed would the operational consequences of such a move be? Again, with limited resources, taking up more smaller cases would mean less focus on the larger ones; can such a trade-off be justified? It could be beneficial, but it could also be a distraction from prosecuting ‘the big fish’, which is in the spirit of the ICC. Mr. Cruvellier closed the discussion with a call for a more creative approach to international criminal justice, such as universal jurisdiction prosecutions. The international intervention model is on the retreat, but not international criminal justice overall.

**Roundtable III: Imagining the Future - Moving away from The Hague?**

‘Growing up means giving up...’

Professor of Comparative Criminal Law and International Justice Caroline Fournet opened the last roundtable with an intriguing observation: Those most critical of the ICC now, are precisely the individuals who actually strongly support the ICC. In the first intervention, professor of Public International Law Mark Drumbl followed with a similarly thought-provoking statement that ‘sometimes growing up, means giving up’. With that, he started a conversation on whether the future of international criminal justice means ‘moving away from The Hague, in terms of place and space, but also in terms of mentality’. Perhaps, he suggested, we should be talking less about the failures of the ICC, and instead talk and study more what is happening at the national level, in particular also locally. Speaking to the students who were attending the conference – ‘those in the back of the room’ – he suggested moving away from The Hague. When talking
about the future of international criminal justice, we have to explicitly disconnect ‘the project’ from the institution of the ICC. To some extent the domain has turned into the institutional, but the project is well beyond the institution. If the institution is punching under its weight, Drumbl argued, it is a shame if thereby the whole project goes under because of an institutional failure. On a different note, Drumbl stressed that in many ways international criminal law associates the greatest security threats to ‘mens rea offences’. Professor Drumbl is, however, not convinced that the future challenges in the world order are going to be caused by specific ‘mens rea conduct’, i.e. by international crimes as currently stipulated in the ICC Statute. Rather: climate change, pollution, the (non-)availability of medicines and other more systemic and structural challenges are the future threats to the global order and security. Stepping away from criminal law, Drumbl believes we need to think much more about constructing a regulatory institution that is not ‘mens rea based’. He sees a smaller role for ‘The Hague’ in the imagined future world.

Historian Thijs Bouwknegt, referring to the remarks in roundtable 2 on the rise and importance of alternative investigative mechanisms, shared that this, in a way, brings us back at the stage where and when the field of international criminal justice started. Bringing the discussion over a century back in time to the then still Belgian-ruled Congo, he reminded the audience that a commission of inquiry was installed to look into possible crimes against humanity committed under the rule of Belgian King Leopold. The magistrates went on a trawler, from village to village, to gather victims and witness testimonies and ended up writing a damning report, forcing Leopold to give up the Congo. Many more historical examples followed, illustrating that commissions of inquiry (Namibia) and domestic prosecutions (1990s Equatorial Guinea, 1990s Ethiopia) have taken place throughout history. And similar processes continue. To Bouwknegt, with the challenges the ICC faces, international criminal justice is not dead, it will just be different, outside the ‘elitist justice’ of the ‘The Hague bubble.’ One final advice for the ICC: we have so far never seen ‘in situ’ trials (in the affected countries), while the Statute actually allows for this. This could be done much more often.

Peace activist Dion van den Berg, with reference to the discussions on the merits of international trials and expectations about international criminal justice, unambiguously argued that “of course” the social impact of tribunals matters. That is why he considers outreach and inclusiveness so important. In this respect, Van den Berg critiqued the establishment of the Kosovo Specialist Chambers for not being sufficiently inclusive. Similarly, he warned that the plans for setting up tribunals in the Middle East that will exclusively focus on prosecuting Islamic State would be a really bad idea, noting he was ‘failing to understand why that would help’ from a peace building perspective. Additionally, he stressed that merely focusing on individuals and individual accountability is not logical from a peace building standpoint, as it fails to address the collective responsibility. To revitalize legal instruments in holding atrocity actors accountable, we need to look beyond the existing institutions. Van den Berg applauded the work of commissions of inquiry around the world – mostly civic activists, who are heavily under threat – doing very valuable work. In post-conflict situations, more attention should be given to memory activism and the ever-stronger movement to hold corporations accountable for their involvement in atrocity crimes.
Lily Rueda Guzman, Judge of the Special Jurisdiction for Peace in Colombia, as the last presenter of the day discussed some valuable and thought provoking ‘lessons learned’, but also dilemmas associated to providing justice after an incredibly complex 50 year-conflict in her home country. The case of Colombia is special, Rueda argued, because for the first time in history a peace agreement was reached, where enemies agreed to a peace deal that includes a prosecutorial structure and accountability system, while it is at the same time under preliminary examination by the ICC. Acknowledging that ‘The Hague’ may become less the centrepiece of international criminal justice – as illustrated by the many visitors coming to Colombia from e.g. Nepal or Sri Lanka looking for lessons learned – Rueda presented a number of innovations and examples of ‘out of the box thinking’. For example, rather than handing out ‘retributive’ sentences, Colombia experiments with handing out ‘restorative’ sanctions. This was an idea, now it is a reality. But what does it mean in reality? A truth commission was set up, as well as a reparations scheme, the focus of the accountability system is not on punishment of perpetrators but rather on their reintegration; Judge Rueda argued it is an integral, holistic and elaborate system of transitional justice. Before, Colombia only focused on prosecutions, and this failed. Rueda emphasized that clear and honest communication about these efforts, but also about their challenges, is very important. From the beginning, it was recognized and communicated that the system would not be able to prosecute every suspect. Reflecting on her role as a judge in the process, Rueda added that she and her colleagues concluded that they cannot act as traditional criminal judges, but need to communicate in a different way with the people. This, for example, means that judges cannot ‘communicate solely through their decisions’. Instead, there is a need to engage directly with society, to write plain-worded, less-technical, decisions that are understandable to victims, and useful as a basis to construct a common narrative of the past. Colombian judges at the Special Jurisdiction will conduct in-situ hearings in the regions to bring justice closer to the crime scenes and consideration is given how to deliver outcomes in different ways than just written decisions. Rueda Guzman, therefore, using the example of Colombia emphasized specific contextual characteristic and specific needs, which should be considered and reflected upon by any a criminal justice system responding to atrocities in a transitioning society.

In the ensuing final discussion, a student – from the back of the room, indeed – observed that on days like these it is difficult not to grow cynical. Should he? Is the project of international criminal justice doomed? Referring to the 1969 Rolling Stones song, Mark Drumbl spoke some encouraging words: “You
can't always get what you want, but if you try sometimes, you might find, you get what you need”. ‘Crisis’ has its roots in the Greek word for ‘shift’, for ‘change’. That is the headspace here: maybe at this moment, we do not have the international criminal justice model we naively envisaged and wanted, but if we try hard, we actually may end up with what we need.