

For example, the incessant claims that the International Criminal Tribunal for the Former Yugoslavia (ICTY) is anti-Serb result from a distorted view of reality. The ICTY is not anti-Serb. Why do some people in Belgrade, and even elsewhere, perceive it as such? There are several reasons, some of which are unrelated to any rational discourse. But it is also, in part, because there is no satisfactory answer to the question of why there are only two international criminal tribunals. The fact that other individuals who may be just as guilty are not being prosecuted, does not make those who are prosecuted any less guilty, but it does make targeting them less fair. When you are engaged in the business of justice, it is very costly, and even dangerous, to be less than fair, or even to be perceived as such. And when you are engaged in the business of truth, you have to tell it all.

When a major international trial is held, problems of access to information and evidence will arise at every turn. When the aim is to lay out the entire warp and weft of a war and expose the sordid role played by powerful leaders, traditional investigative methods are scarcely sufficient, and even those methods are often unavailable. It would be an unimaginable task to try to reconstruct military operations and political discussions at the highest levels of government without having access either to the records of the parties directly involved in the conflict or to the intelligence in the hands of those who were observing them at the times in question. Plainly, this is not the environment in which a criminal investigation is traditionally conducted. This means that countries that take the interests of international criminal justice to heart will have to adjust to the new constraints within which investigators must operate by facilitating access to the information needed, and by re-evaluating the ways in which national interests are traditionally protected. In addition, proceedings in an international criminal court should be responsive to states' concerns, while relying on evidence that is verifiably reliable. Proceedings before the *ad hoc* tribunals are a clear example of this. In this regard, I would like to cite two documents. First, while Article 70 of the ICTY Rules of Procedure and Evidence, which allows the Prosecutor to receive information on a confidential basis and to use it solely for the purposes of investigation, not as evidence before the Court, has led to much greater co-operation on the part of some states, it puts the Prosecutor in a somewhat unenviable position. Prosecutors cannot use information without the consent of the state or person who provided it to them under the protection of Article 70. This makes it very difficult to bring indictments, and even more difficult to initiate a trial, without knowing in advance what evidence will actually be available when the critical time comes.