

A second difficulty encountered by the Tribunals and the more general effort to pursue justice at the international level has been the strong commitment on the part of the UN, other IGOs, and most NGOs to a culture of neutrality. A culture of neutrality does not support the production of evidence to support the prosecution of war criminals. While adopted in good faith, a culture of neutrality limits the willingness of these actors to support the work of the Tribunals for fear that the actors will be tainted with being on one side or the other during the conflict. The Tribunals and prosecutor's office took great pains to explain that they were pursuing criminals – not Serbs or Croats or Hutus – but criminals, and further, that the only side they took was the side of justice and truth. They refused to participate in the discourse of ethnic communities and instead stood firm on the discourse of justice and criminals. The culture of neutrality is, however, pervasive throughout most international institutions and will be one of the most significant challenges confronting future efforts in this area such as the work of the International Criminal Court (ICC). Also on the matter of the ICC, Arbour noted the significant challenges facing the ICC and cautioned against harbouring unrealistic expectations. National courts will retain their primacy. The ICC will also need to establish its credibility, by impartially pursuing truth and justice, rather than being influenced by political considerations. The Court has obvious strengths over the adhoc Tribunals, but is by no means a panacea for human rights abuses.

In the long term, Kosovo might prove to be one of the most useful case studies for the work of international criminal tribunals in demonstrating both the potency and the limits of such instruments. One of the most noteworthy limits was the fact that the Tribunal no longer had jurisdiction once the war was over, yet while the war was on the Tribunal actually had a much clearer mandate than it did during the undeclared war in Bosnia. As an experiment in the application of international justice, the war crimes tribunals provide a valuable lesson for the international community in responding to crimes against humanity.